

**Call To Order:**

The regular meeting of the Lansing City Council was called to order by Mayor Mike Smith at 7:00 p.m.

**Roll Call:**

Mayor Mike Smith called the roll and indicated which councilmembers were in attendance.

**Councilmembers Present:**

**Ward 1:** Dave Trinkle and Gene Kirby  
**Ward 2:** Andi Pawlowski and Don Studnicka  
**Ward 3:** Kerry Brungardt  
**Ward 4:** Tony McNeill and Gregg Buehler

**Councilmembers Absent:** Jesse Garvey

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**OLD BUSINESS:**

**Approval of Minutes:** Councilmember Buehler moved to approve the regular meeting minutes of September 7, 2017, as presented. Councilmember Pawlowski seconded the motion. The motion was approved, with Councilmember Brungardt abstaining from the vote.

**Audience Participation:** Mayor Smith called for audience participation and there was none.

**Presentation**

**COUNCIL CONSIDERATION OF AGENDA ITEMS:**

**Ordinance No. 988 – Condemnation for DeSoto Road Project:** Councilmember Kirby moved to adopt Ordinance No. 988 as presented. Councilmember Pawlowski seconded the motion.

- City Administrator Tim Vandall stated we did have one more property owner verbally agree to terms, we don't have that signed contract yet so we left it on here, so this is down to two. We're actually pretty close with one more property owner, so we feel pretty good about having this down to one.

The motion was unanimously approved.

**Public Hearing on Consideration of the creation of a Community Improvement District for 555 N.**

**Main Street:** Councilmember McNeill moved to open the public hearing for the consideration of the Community Improvement District. Councilmember Buehler seconded the motion. The motion was unanimously approved.

- Peggy Tunink of 126 Fairlane stated mainly I came because I saw in the newspaper, in the weekly addition, I saw that they were going to be doing a hearing about a 1% sales tax for community development and even though it's talking about the car dealership there are nine properties that border that and we are affected by that car dealership. When I bought it it was just a little nothing, it was just the RV part, with half of that cinderblock building and then it expanded and actually they put up a wall before it expanded, the retaining wall, it's got cracks but it's holding on and that was in '77. The main problem happened in '91-'92 when they bought properties. It was just behind the Subway and like our four houses and then they bought everything else and there are now nine properties: three apartments, our five houses, and the Subway. So in '93 is when we had lots and lots of rain; I have, I don't know if anybody wants to look, but I have pictures, but these are some of the pictures from '93. This is my property and this is what it looked like after every rain. The next thing was in '95 Tom Larkins bought the property and he was very nice, I went to school with him for eleven years, he was a year ahead of me, and I actually worked for his car dealership for a year, and he decided to build a curb and that curb had deterred the water. The curb is here and is falling apart, but that's the curb. It's eight inches tall and it's about twenty inches away from the wall, and it's supposed to stop the water running. Three years ago they did resurfacing on the car dealership from Subway to the three houses, they stopped at my house, and resurfacing sounds like a good idea. It's not like what the Streets does, they don't chunk out asphalt and put new asphalt back in, they just resurface, and that's what had happened in '91 and '92 when they added all that property. They put new asphalt down on the old part, but then they added it to the new. The wall originally was like this and the asphalt down here, and then it rose like this. So three years ago in September, this is multiple pictures, but that's what happened the last rain.
- Councilmember Kirby asked so you're saying last week.
  - Peggy Tunink replied yeah, with that last rain. Actually anytime it rains hard you can go out and watch it, it doesn't happen everywhere but each of those lamp posts act like if you put a cup inside your gutter and it gets filled up and it goes up and over, and that's what's happening and it's digging a hole every time. Right now you can look at the curb and the wall and it's still that far but on the other side of the curb it is now this big so it is pouring over the curb into the properties and this community development was talking about was resurfacing, which I'm thinking would be the rest of the property all the way up, which would put all the water back in my yard again. So I'm just concerned about that and since we are part of the community I was hoping that; the car dealership is a vital part of the community and I know it's very important to give them the money that they need for repairs, but I

would hope that they would be encouraged to remember the properties that are directly behind them that their improvements will destroy our yard.

- Mayor Smith asked Tim the CID would cover that right, because it's so open.
  - City Administrator Tim Vandall replied yeah I believe the stormwater improvements would be covered with the CID. That would be something that we would have to coordinate with Speedway Dodge and probably add to the development agreement.
- Councilmember Kirby stated just because it could cover it are we going to tell him it's going to cover it.
  - Councilmember Buehler stated we'd have to add it.
    - City Administrator Tim Vandall replied we probably want to add something to the development agreement to assure.
      - Councilmember Studnicka stated it has to be a part of the development plan I would think, to mitigate that stormwater run-off.
        - Councilmember Kirby stated just to say he could do it doesn't mean it gets done.
          - City Attorney Gregory Robinson stated but you also have to remember that there are legal remedies if you create a nuisance on the other people's property and it's your doing, directing the water onto it, so there are other methods. I certainly understand why you want that in the agreement, but there are other mechanisms besides this that are available.
- Mayor Smith stated I guess what I'm saying is it's not that they would do it but it's possible that it could be included by the new statute CID that exists now and that would be up to the place and we would take that all into consideration before we went any further with this, so bringing it to our attention was the right thing to do now. Tim, do you or Jeff have anything else to say about this?
  - City Administrator Tim Vandall stated Jeff, Stefanie, and I went out there this morning to take a look at the issue, and it's true, it's an asphalt curb basically that blocks out a little bit of the water, so I think we were kicking around ideas of what can be done. We found out about this pretty recently so I don't think we have an estimate or anything on how to resolve it yet, but I think it's something that could be resolved and this would be an eligible expense.
- Peggy Tunink stated thank you for listening to me.
  - Mayor Smith stated thank you for coming in.
    - Councilmember Brungardt stated thank you ma'am.
- City Attorney Gregory Robinson asked Ms. Tunink, are the pictures for the council to keep or do you want us to make a copy because it is an open record, because we have to keep it as a record.
  - Peggy Tunink replied you can keep them if you want, but not the little ones.
    - City Attorney Gregory Robinson stated we can make copies.
      - Councilmember Pawlowski asked maybe Sarah do you want to copy them.
        - City Clerk Sarah Bodensteiner replied I will still need to make copies.
          - Councilmember Pawlowski asked can she just copy them and then bring them to you at work.
            - Peggy Tunink replied oh yes.
              - City Clerk Sarah Bodensteiner asked where does she work.
                - Councilmember Pawlowski replied at the water department.

Councilmember Studnicka moved to close the public hearing for the consideration of the Community Improvement District. Councilmember Brungardt seconded the motion. The motion was unanimously approved.

- Mayor Smith stated I need a motion to adopt Ordinance No. 989 and approve the Development Agreement.
  - Councilmember Pawlowski asked as it's written.
- Councilmember Kirby stated we need a motion to discuss.
  - City Administrator Tim Vandall replied we can discuss it without a motion.
- Councilmember Kirby asked this obviously isn't a new problem, ma'am, this is not a new problem Ms. Tunink?
  - Councilmember Studnicka replied no.
    - Councilmember Kirby stated this is an ongoing issue.
      - Peggy Tunink stated yes.
        - Councilmember Kirby asked have you went to the dealership.
          - Peggy Tunink replied yes.
            - Councilmember Kirby stated okay.

- Peggy Tunink stated actually when they did the resurfacing he was nice because there was a big chunk of the curb that had broke away and he did weld that back in. But there are more cracks, but yes I have talked many times with Mr. Ladd.
- Councilmember McNeill stated I have a question on the enclosure which it says what it can be spent on, the tax money, and one of them is acquisition. The district only goes around the business only, so are we talking about buying the land the business is sitting on? Is it being leased currently?
  - City Administrator Tim Vandall replied money for the tax district can only be used to purchase property that is in the district.
    - Councilmember McNeill replied right, but this right around just one business, so you would only buy property on that business which is what property? This business.
      - City Attorney Gregory Robinson stated so you're asking if he can sell it to himself.
        - Councilmember McNeill stated or is it currently being leased?
          - City Administrator Tim Vandall stated Gina do you want to address that.
- Gina Riekhof of Gilmore & Bell stated good to see you all again, as a reminder our firm serves as special counsel to the City on this and assisted staff on the development agreement that you are referring to. So one of the things we had talked about was potential acquisition of other property that was adjacent to the district as being something that the applicant was interested in potentially in the future spending CID proceeds on if the property became available and there were proceeds there to help pay for it. Under Kansas law you're only allowed to acquire property within the district boundaries, and so what would have to happen is that there would have to be a petition to expand the boundaries of the district and we would have to go through this process again, the notice and the public hearing, to expand the boundaries of the district before that property was actually acquired in order for it to be paid for with proceeds of the CID. Based on some feedback we had gotten at the last meeting when we talked about this, we did carve out a couple of different types of land acquisition from being anything that would be eligible even if the district were expanded. Essentially the land that dealership is on right now is in a trust, is owned by a trust, we did say that none of the CID proceeds could be used to purchase the land from the trust because Speedway Auto is the entity that you are contracting with in order to facilitate CID, so we did say that none of the CID proceeds could be used to acquire the property from the trust. We also said that the CID proceeds couldn't be used to acquire property from any partner, member, shareholder, trustee, beneficiary, or family member, of any of those people, so you couldn't have any sort of insider dealing potentially by one of those people acquiring one of the adjacent properties and then holding onto it trying to sell it, or acquire it with the CID proceeds. Again that was based on some feedback that we heard after the last meeting, and hopefully that clarifies that provision in section three of the development agreement. Does that answer your question?
  - Councilmember McNeill stated maybe I was reading it a little bit differently, but I mean the asterisk by the property acquisition says that no property acquisition costs shall be reimbursed to the developer, unless the acquired property was included within the boundaries of the district as of the date of the acquisition, so it just seems strange that we would have anything even in there because the current boundaries are this. I mean if have something and you bring it up there that says this boundary is extended then you can purchase outside the original boundaries of the agreement. Maybe that's how you'd say it legally, it just doesn't make sense to me.
    - Gina Riekhof of Gilmore & Bell replied the point here is that we wanted to make it absolutely clear that the acquisition would have to occur after the district boundaries were expanded. So if Speedway Auto purchased a neighbor's property and then wanted to hold it and then petition for that property to then be included in the expanded district, and that happened the district was expanded, the purchase price from Speedway Auto to the neighbor would not be a cost that would be eligible to be reimbursed from the CID proceeds. The idea was that if CID sales tax proceeds built up in the account that the City was holding, you wouldn't want that money to be used, under State law it wouldn't be permitted to be used for that purpose, for a prior acquisition essentially.
      - Councilmember Pawlowski asked but he could put it under contract, come to the City and ask for the expansion and then could approve it and then he could close.
        - Gina Riekhof of Gilmore & Bell replied that is correct and that is the process we've talked about with Mr. Ladd.
          - Councilmember Pawlowski asked and he's okay with all that.
            - Gina Riekhof of Gilmore & Bell stated and it would have to be that property owner that would be the one, because the owner of the property has to be the one that petitions to add the property to the CID, so that would have to be part of the real estate purchase contract.
  - Councilmember Pawlowski asked and how long does that process take just out of curiosity.

- Gina Riekhof of Gilmore & Bell replied we were here in August to set the public hearing, so thirty, forty-five days not very long.
  - Councilmember Pawlowski stated nothing unreasonable.
- Councilmember Kirby stated the water run-off hasn't been, I mean, it has been going on for years. She's approached them and we still have a problem.
  - Councilmember Pawlowski stated so we could put that in the development agreement.
    - Gina Riekhof of Gilmore & Bell replied yes, there could be a provision put into the development agreement that would make as a condition to pay out of the CID sales tax proceeds for eligible costs something to address the situation. The one thing I would say is that CID proceeds like we just talked about can only be spent within the boundaries of the district, so on this particular property. If there was money spent to make repairs on the neighbor's property or if that was necessary in order to solve the problem that would not be a cost that would be an eligible reimbursement from CID proceeds, but it would be something that you could contract, require, the Speedway Auto folks to undertake in order to be eligible for reimbursement for CID proceeds.
- Councilmember Trinkle asked when they originally put the higher curb did that take care of the problem, am I to understand that right.
  - Peggy Tunink replied it did sort of.
    - Councilmember Trinkle asked but it did until they started to overlay.
      - Peggy Tunink replied it did most of the time except where those light poles are. Every time it hits a light pole it's like a little damn, it's like putting a cup inside your gutter, it hits that light pole and pours over and that's been going on since '95, and I've asked him about moving the light poles and he said that's way too expensive we can't even think about that, so that was that answer, and behind my neighbor Fred Sloan lived there for thirty years he died two years ago he was eighty-nine and he was handicap and didn't get out, so I took care of his property back behind there and I built kind of a makeshift little dike, so the water pours over everywhere but the water runs down slowly and it doesn't pour into his property because it was making a creek. He had to hire to have the grass mowed and he couldn't get anyone in a lawnmower to get back there. You know you pay taxes on your property but you can't use it because it's flooded, that's why I've been dealing with it more because of his problem and then right next to him, after they cleared the brush away, Caitlyn she's a single mom, and she has got a major problem, it's a giant hole that goes under her fence and her little dog gets out, but it digs a hole every time it goes over and it was doing the same in '93 and every time it happened I would get out there and fill it with dirt and we'd put grass and gunny seed sacks and it would grow and then we'd have major problems again.
        - Mayor Smith asked and that's all from the run-off.
          - Peggy Tunink replied yeah.
            - Mayor Smith stated that's something we've got to look at.
  - City Administrator Tim Vandall stated I think part of the issue is like she had said, the curb, with each subsequent overlay the curb is not as high as it was and also there are a few cracks in it because it is an asphalt curb. We spoke about if there was some sort of concrete curbing we could do near there that might help out a little bit.
  - Councilmember Kirby asked we?
    - City Administrator Tim Vandall replied that would be CID eligible.
  - Councilmember Pawlowski asked can I ask Mr. Ladd a question. Do you have idea, have you looked at the problems and how you can solve it.
    - Daniel Ladd replied as a part of the initial parking lot resurfacing, when we do that with the CID funds it would be very easy to do and not real costly.
      - Councilmember Pawlowski asked would you have a problem if we put that in the development agreement that when you resurface the parking lot you take care of the problem.
        - Daniel Ladd replied no that would be fine, as long as we can stay timely is all.
  - Councilmember Pawlowski asked so do we need to table the development agreement.
    - City Administrator Tim Vandall replied I think we can still approve it with that condition.
      - Gina Riekhof of Gilmore & Bell stated I would recommend that if you would feel comfortable with it you could approve the ordinance as presented which approves the development agreement in substantially the form presented this evening. You could mention specifically that you want a provision related to the drainage issue addressed in the development agreement, and then we'll work together to make sure that we get that accommodated, the Mayor and staff will work on that and make sure that everything is acceptable, and then the

Mayor wouldn't sign until after we had that provision included. The one thing I would note in Mr. Ladd's comment about timing, in order for the sales tax to take effect on January 1, we need to provide notice to the Department of Revenue by the end of the month and the ordinance needs to be published before that time so that we can meet all of the statutory requirements. So delaying until another meeting would require us to basically wait another quarter before the sales tax could be in effect.

- Councilmember Trinkle stated it could be noted that it will pass and we accept it but with this provision.
  - Gina Riekhof of Gilmore & Bell stated absolutely and we'll work on making sure the language accommodates what you want and the Mayor won't sign the development agreement until after it has a provision that he knows is acceptable to all of you.

Councilmember Pawlowski moved to adopt Ordinance No. 989 creating the Community Improvement District and approve the Development Agreement with the inclusion of a provision regarding the remediation of the storm water issues affecting the properties to the south of the district. Councilmember Buehler seconded the motion.

- Councilmember Brungardt stated I just want to make sure that it's fixed to her standards. How do we have the assurance of that it's going to be fixed to her standards.
  - Councilmember Kirby stated we don't.
    - City Attorney Gregory Robinson replied I don't think we fix it to her standards, I think we fix it to our technical specs standards that would require Matt to review.
      - Councilmember Brungardt stated I understand that, but let me rephrase it then Greg, that it's fixed correctly, we could assure her that.
        - City Attorney Gregory Robinson replied and abates the problem.
- City Administrator Tim Vandall stated Jeff and I spoke about this too, so a reminder, instead of this water going into backyards, all of this water is going onto K-7 then so there is going to be more discharge then onto K-7.
  - Councilmember Pawlowski stated that's KDOT's problem.
    - City Administrator Tim Vandall replied it is and there is better stormwater on K-7 than there is there, but just something to keep in mind.
      - Councilmember Kirby stated it's not these people's backyards.
        - City Administrator Tim Vandall replied exactly.
          - Councilmember Pawlowski stated and we don't have those huge gulley washers all the time but when we do there is water coming from everywhere on K-7.
            - Councilmember Trinkle stated we have a chance to fix the problem so let's fix the problem.
- Councilmember Brungardt asked Matt do you have anything to say on this.
  - City Engineer Matt Harding replied I haven't really had a chance to look at it yet.
    - City Administrator Tim Vandall replied we just found out about this really recently.
      - City Engineer Matt Harding replied but I'd be happy to take a look at it.
        - Councilmember Brungardt responded please, thank you.

The motion was approved, with Councilmember Kirby voting against the motion.

**Structure Removal Cost Share Request – 1102 N. Main Street:** Councilmember McNeill moved to approve the structure removal cost share application with the bid from Linaweaver Construction for the structure located at 1102 North Main Street. Councilmember Trinkle seconded the motion.

- Councilmember Studnicka asked isn't this structure already torn down, I think I saw them working on it this week.
  - City Inspector Rebecca Savidge replied that was for South Main, this is for North Main, the white house with all the outbuildings.
    - City Administrator Tim Vandall stated by the Chatterbox.
- Councilmember McNeill asked how many have we done Stefanie, what is this like the third.
  - City Inspector Rebecca Savidge replied yes this is the third.
- Councilmember McNeill asked how much do we have in the bank.
  - Councilmember Pawlowski replied we had forty thousand dollars.
    - City Administrator Tim Vandall replied so this would be twelve thousand.

The motion was unanimously approved.

**Request to Purchase – Replacement Control Systems for Belt Filter Press:** Councilmember Buehler moved to approve the quotation from Andritz Separation for the replacement of the control system in the belt filter press, at a cost of \$28,799.00. Councilmember Brungardt seconded the motion.

- Councilmember Studnicka this equipment that you're replacing is this equipment that was put in new when we built the plant.
  - Wastewater Utility Director Tony Zell replied yes exactly, this was the very first thing that was put in when we did the upgrade in 2004, this is the original system and its components.
- Councilmember Pawlowski asked I read this and absolutely understood like nothing about it, so we're replacing something that might break.
  - Wastewater Utility Director Tony Zell replied correct and that we can no longer get parts for.
    - Councilmember Pawlowski asked but we just went to one company.
      - Wastewater Utility Director Tony Zell responded it's the only company, it's there technology.
        - Councilmember Pawlowski stated and that was my question this is the only company that makes these things.
          - Wastewater Utility Director Tony Zell replied it's their system. It would be like replacing the Sync system in a Ford vehicle, you couldn't go to Chrysler and say hey give me a price for this Sync, because they're not going to do it, that's just how it works.
            - Councilmember Pawlowski asked it kills me that every time we do this we only have one person to go to and we have to do what they say because they are the only ones that have it. So next time we build a water treatment plant let's find somebody that makes a lot of things.
              - Wastewater Utility Director Tony Zell stated the components are available, it's the programming, the installation, coordination, and everything else that goes into it. We'll be able to buy new components now as replacement parts, but we're not going to be able to buy components hand them to somebody and say hey please put this in and oh by the way please warranty it and make sure it works.
  - Councilmember Pawlowski stated I just assumed since these are now thirteen years old that technology has changed and gone to something new, like my refrigerator.
    - Wastewater Utility Director Tony Zell replied absolutely.
  - Councilmember McNeill asked the old system, which I was reading the document you put together, you said we had a spare and that was the one that was actually being used or something.
    - Wastewater Utility Director Tony Zell replied right.
      - Councilmember McNeill asked so if that goes out.
        - Wastewater Utility Director Tony Zell replied we have no other spares.
  - Councilmember McNeill asked so the new system the way I read the contract says no spares will be included, so how is this any better than the current situation we're in since we don't have spares, I mean we can buy one I guess, but is that the only difference.
    - Wastewater Utility Director Tony Zell responded I'll be able to source those parts myself without a guarantee through the integrator, through the manufacturer and I'll be able to put those on my shelf as a spare, but I can get them cheaper than he can.
      - Councilmember McNeill stated if you can get them cheaper than he can, I just want to make sure that we buy a spare. I mean right now it's kind of like we're replacing it with something new but we still have a spare, so if it goes down it's a down time of a couple days.
        - Wastewater Utility Director Tony Zell stated so the bid is very vague as to the system components, so think of a desktop computer, we're buying the monitor, we're buying the hard drive, and we're buying twelve other hard drives that go with it, and then a processor, and then a keyboard and a mouse. That's not technically what we're buying but those are components; all of those things work together to form the system. I can go out and buy an extra monitor, I can go out and buy an extra hard drive and keep those parts on the shelf like I would for any other system, I just can't go out and source all of them, hand them over and say put this in and guarantee that it'll work. Does that make sense? Does that answer your question?
          - Councilmember McNeill replied well sort of, but if my mouse goes down my system isn't really bad, so I mean there's components that are critical to

running that operating system, so whatever those components are I would think we'd need spares.

- Wastewater Utility Director Tony Zell stated we will get spares.
  - Councilmember McNeill stated that's all I wanted to hear, that's all, let's get some spares.
    - Wastewater Utility Director Tony Zell replied spares are coming.

The motion was unanimously approved.

- Wastewater Utility Director Tony Zell stated I always believe that two is one and one is none, so we'll have plenty of spares, thank you.

**REPORTS:**

**Department Heads:** Department Heads had nothing to report.

**City Attorney:** City Attorney had nothing to report.

**City Engineer:** City Engineer had nothing to report.

**City Administrator:** City Administrator Tim Vandall mentioned that the League of Municipalities Regional Supper is coming up on October 11<sup>th</sup> in Lawrence, and to please let him know if you want to attend. He also mentioned that the Volunteer of the Year dinner is October 2<sup>nd</sup> and to RSVP if you want to attend. He clarified that the Bid Opening date for the McIntyre Road project is actually on September 26<sup>th</sup> and not the September 19<sup>th</sup> date mentioned in his report. Once that day comes he will pass along the bid and add alternate amounts to the Council. Tim updated the Council on the water line construction to Bernard Park, per Lan-Del they are shooting for a construction start date of October 9<sup>th</sup> through October 16<sup>th</sup>. Tim also mentioned that the Tree Board may request a joint work session in the coming months to discuss an arboretum proposal. Tim discussed that staff is working on a code enforcement education campaign to help the community stay updated on what the rules are, bulky item pick up information, and keeping people informed of the citywide clean-up via social media and other avenues.

**Governing Body:** Mayor Smith gained consensus to review the Urban Growth Management area and what control the City has with that and discuss with the County. Mayor Smith asked Representative Debbie Deere to come to the podium as she was in the audience.

- Representative Deere mentioned that she got her dates mixed up and thought that the Planning Commission discussion on her request for renewal of the Conditional Use Permit for A Deere Place was this evening. She also mentioned that she will not be at the Council Meeting where they will take formal action and thanked the body for their consideration on the application and also noted that A Deere Place is in its twenty-fifth year of operation.

Councilmember Studnicka asked Chief Wayman to pass along an 'atta boy' to Office Linn, as he did a great job handling a situation he was called out for and he was very professional and courteous. He also mentioned that he fully supports mitigating the stormwater issue that is effecting Ms. Tunink's property behind Speedway Dodge and this is the right time to get it fixed.

Councilmember Trinkle mentioned that the Citywide Garage Sales are this weekend.

Councilmember Kirby congratulated the Wastewater Department for continuing their high standards, as it shows per the Compliance Ratio Letter that was included in the packet.

Councilmember Buehler provided a fun fact, on this day in 1937, *The Hobbit* was published.

Councilmember McNeill thank Ms. Tunink for coming to the Council to tell them about her issue, because if she hadn't come, they'd never know about it.

Councilmember Brungardt thanked Ms. Tunink for coming, preparing, and delivering a very good statement regarding her issue with run-off. He also thanked City employees who participated in Challenge Day at the Middle School it was really appreciated.

**ADJOURNMENT:** Councilmember Brungardt moved to adjourn. Councilmember Pawlowski seconded the motion. The motion was approved, with Councilmember Trinkle voting against the motion. The meeting was adjourned at 7:42 p.m.

**ATTEST:**

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Michael W. Smith, Mayor

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Sarah Bodensteiner, City Clerk