

**REGULAR SESSION – APRIL 6, 2009**

The Cape Girardeau City Council convened in regular session on Monday, April 6, 2009, at 7:00 p.m., with Mayor Jay B. Knudtson presiding and Council Members Charlie Herbst, Mark Lanzotti, Marcia Ritter, Loretta Schneider, Debra Tracy and John Voss present.

Reverend Daniel Johnson of the Evangelical United Church of Christ presented the invocation, and the Pledge of Allegiance was recited.

Prior to the regular session, the City Council convened in closed session for purposes of discussing property acquisition, litigation, personnel and confidential communications with the City Attorney pursuant to RSMo. Sections 610.021(1), (2) and (3) upon Mrs. Schneider's motion, Mrs. Tracy's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none.

The minutes of the March 16, 2009, regular and closed sessions were approved upon Mrs. Schneider's motion, Mr. Herbst's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none.

The agenda was approved as distributed upon Mrs. Tracy's motion, Mrs. Schneider's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none.

**COUNCIL COMMUNICATIONS**

Mr. Herbst announced that the Storytelling Festival held on the weekend of April 3-5, 2009, in downtown Cape Girardeau was very successful. Business owners reported an increase in foot traffic and sales over the weekend. Mr. Voss agreed, commending Mr. Chuck Martin and the Convention and Visitor's Bureau staff.

Mayor Knudtson said that he had attended the Cape Girardeau Special Olympics event on April 4, 2009, and he commended Mr. Scott Williams and Mrs. Penny Williams, as well as the entire Parks and Recreation Department staff, for coordinating that major City event.

Mrs. Tracy stated that she was encouraged by the DREAM Strategic Planning Process results as discussed in the study session, and she thanked the staff and community organizations that assisted with this Plan.

**PUBLIC HEARINGS**

This being the date set for a public hearing regarding the petition for voluntary annexation from John A. Drury, Trustee of the John A. Drury Revocable Trust Agreement dated June 29, 2006, Anita J. Drury, and MidAmerica Hotels Corporation for property located on the south/west side of County Road 620 across from Whispering Oaks Subdivision, the hearing was opened. There being no appearances, the hearing was closed.

This being the date set for a public hearing regarding the petition for voluntary annexation from Bryan and Nancy Greaser for property located on the south/west side of County Road 620 across from Whispering Oaks Subdivision, the hearing was opened. There being no appearances, the hearing was closed.

This being the date set for a public hearing regarding the request of Southeast Missouri Hospital for a special use permit to construct a parking lot on the southwest corner of Sunset Boulevard and Broadway, in an R-3, two-family residential district, the hearing was opened by Mayor Pro Tempore Herbst. The City Planner's Council Letter in the agenda packet presented for the record a certified copy of the following items: (1) Section 30-39 entitled "Special Use Regulations" from the City Code; (2) the application for special use permit; and (3) the application file.

Mr. Dan Berry of Southeast Missouri Hospital, and Mr. Chris Buerck of Bowen Engineering, appeared in support of the hospital's request and displayed an architectural rendering of the proposed parking lot that will hold 30 vehicles. Mr. Buerck discussed the proposed improvements to the property, including landscaping to conceal the lot from the surrounding residential area.

Mr. Lanzotti noted that landscaping was not diagramed on the site plan attached with Southeast Missouri Hospital's application for a special use permit. Mr. Berry answered that representatives had met with area residents and wanted to provide a natural screen from the neighbors. Research was being done to determine what types of trees to plant as a barrier. He said that the proposed parking lot would meet lighting standards and would be monitored by security personnel.

Mr. Berry also noted that 25' lights located at the perimeter and on islands in the lot would be directional and would be on timers, lit only when the lot is being used. He said that the parking lot would be used to serve the Medical Arts building, and would mostly be used during the day. Mr. Voss asked if any consideration had been given to traffic turning westbound onto Broadway. Mr. Buerck replied that no signage was planned for that purpose.

Mr. Lanzotti noted that one of the conditions of the special use permit is that the lot is developed in accordance with the site plan, and asked if the submitted site plan included the landscaping. Mr. Eftink stated that the plan submitted to City staff only addressed the screening between the lot and properties to the South. Mr. Buerck answered that the lighting plans are included on the site plan submitted with the special use permit application, and the landscaping plans would be submitted when finalized.

Mr. Lanzotti stated that the landscaping design should be incorporated into the site plan and submitted before the permit is issued. Ms. Ritter asked if Condition #4 should be changed to address foliage screening instead of fencing, as well. Mr. Berry reiterated that after speaking with neighbors, the hospital had agreed to install a natural barrier, instead of fencing, and they were just deciding on the type of trees to plant to please the area residents.

There being no further appearances, the hearing was closed.

BILL NO. 09-58 was given first reading as follows:

AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO SOUTHEAST MISSOURI HOSPITAL ASSOCIATION FOR PURPOSES OF CONSTRUCTING, MAINTAINING AND OPERATING A PARKING LOT ON THE SOUTHWEST CORNER OF SUNSET BOULEVARD AND BROADWAY, IN THE CITY AND COUNTY OF CAPE GIRARDEAU, MISSOURI

The first reading of BILL NO. 09-58 was approved upon Mr. Voss' motion, Mrs. Schneider's second, and the following vote: Ayes, Herbst, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none. Mayor Knudtson abstained from voting on BILL NO. 09-58 for financial reasons because he is a member of the Board of Trustees of Southeast Missouri Hospital.

This being the date set for a public hearing regarding the request of Alfred Farrar for a special use permit to construct a manufactured home on a full basement at 804 North Fountain Street in an R-2, single family residential district, the hearing was opened by Mayor Knudtson. The City Planner's Council Letter in the agenda packet presented for the record a certified copy of the following items: (1) Section 30-39 entitled "Special Use Regulations" from the City Code; (2) the application for special use permit; and (3) the application file.

Mr. Dave Pruitt of Clayton Homes appeared to answer questions on the type of home proposed in the special use permit request. He said that the home would be permanently affixed to the basement, and gutters and downspouts would be added, as well as a permanent deck and sidewalks. Ms. Ritter stated that there had been questions about the difference between the applicable standards for modular as compared to manufactured homes, saying that manufactured homes meet Housing and Urban Development (HUD) codes, and modular homes more closely comply with local standards. Mr. Pruitt responded that he had spoken with Mr. Tim Morgan, Director of Inspection Services, and Mr. Morgan had said that the proposed manufactured home met all local building codes.

Upon questioning by Mayor Knudtson, Mr. Pruitt explained that when the existing home is demolished, all wheels and undercarriage would be removed from the manufactured home, and the frame affixed to the existing foundation. Mr. Pruitt stated that this unit bears the seal of the Public Service Commission (PSC).

Mr. Voss asked about long-term analysis of the value of manufactured homes, whether they appreciate or depreciate in value. Mr. Pruitt responded that he did not have exact figures, but since this manufactured home would be attached to an existing foundation, he thought it would likely appreciate in value with the property.

Mr. Pat Wissman, 5649 County Road 621, appeared before the Council in support of Mr. Farrar's requested special use permit. He stated that he owns a 20-year-old manufactured home attached to a permanent foundation. The home is considered part of the permanent real estate, and its value appreciates with the property. He expressed concerns with the zoning buffer the Planning and Zoning Commission is considering that will extend two miles outside the City limits and the impact this will have on those property owners with manufactured homes. He said that the City should allow this type of structure when considering peripheral zoning.

Mayor Knudtson remarked that the Habitat for Humanity home recently constructed and then moved to a permanent foundation at 1640 North Main Street. He stated that he thought this building was similar to the manufactured home Mr. Farrar is requesting to construct, and that it was continually inspected during its construction, and was found to meet City building codes. He said that he had received an email from Mr. David Harper of 933 North Lorimier. Mr. Harper was not completely opposed to the special use permit request but had brought up several issues. Mayor Knudtson also noted that the Planning and Zoning Commission unanimously denied this special use permit.

There being no further appearances, the hearing was closed.

BILL NO. 09-65 was given first reading as follows:

AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO ALFRED FARRAR FOR PURPOSES OF CONSTRUCTING AND MAINTAINING A MANUFACTURED HOME AT 804 NORTH FOUNTAIN STREET, IN THE CITY AND COUNTY OF CAPE GIRARDEAU, MISSOURI

Mr. Herbst made a motion, seconded by Mrs. Schneider, to approve the first reading of BILL NO. 09-65. Ms. Ritter said that Mr. Morgan had included a letter in the Council packet but did not indicate if the proposed construction would meet City codes. Mr. Morgan answered that Mr. Farrar had submitted the specs and foundation plans to the City, and the plans for connecting that unit to the ground comply with the requirements of Section 30-39(d)(37) for a special use permit. He said that the International Building Codes does address manufactured homes but not the construction of those homes. The manufactured home unit is constructed under another code and the City did not inspect it.

Mrs. Tracy asked if the Planning and Zoning Commission had this information before the meeting and the vote. Mr. Morgan answered that the information was received before the meeting, and it was considered before the Commission's vote.

Mr. Lanzotti said that he did not feel that this decision would set a precedent, since it is for a special use permit. He suggested that they should look at the size of manufactured homes, and consider revising the zoning codes as part of the Comprehensive Plan process.

Mayor Knudtson noted that the Planning and Zoning Commission had asked the Council to delay its decision on this request because the Commission is in the process of reviewing the regulations concerning manufactured homes as a part of its review of the City zoning codes. However, Mayor Knudtson expressed his support for Mr. Farrar's request.

Ms. Ritter stated that notes show that the City had received telephone calls expressing opposition to the request. Mrs. Sarah Wallace, Community Planner, said that she had received two such phone calls. One caller had said they would send a letter and appear at the Planning and Zoning Commission meeting, but they did not appear.

Mrs. Tracy asked if staff had any comments about manufactured housing and current zoning codes. Mrs. Wallace stated that the Planning and Zoning Commission was reviewing the zoning codes based on what other similar communities are doing. The Commission is meeting on Tuesday, April 7, and Wednesday, April 8, 2009, to discuss these issues, and hope to clarify their position at those meetings.

Following discussion, the motion to approve the first reading of BILL NO. 09-65 was approved upon the following vote: Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none.

Mr. Lanzotti asked Mr. Pruitt to provide the Council with information on how manufactured home plans can incorporate garages and decks to match the home. Mr. Eftink stated that some areas of concern are: 1) the permanent foundation, 2) how the home is affixed to the permanent foundation, 3) how the construction of a manufactured home would effect real estate value in the neighborhood, 4) the location and distance of roof trusses, 5) the size of the manufactured home, and 6) whether the home will become permanent property for loan and tax purposes.

**APPEARANCES**

Mr. Allen Journet and Ms. Kathy Conway of 2812 Oakshire Circle appeared before the Council in support of BILL NO. 09-66 regarding the Girardeau Goes Green Advisory Board. Mr. Journet said that in March of 2007, he had started the Southeast Missouri Climate Protection Initiative. Ms. Conway stated that since that time, cooperative programs have been developed with various organizations to improve the community, and to reduce energy consumption and support greenhouse gas initiatives.

Ms. Ellen Dillon of 1419 Blue Ridge Road appeared in support of the proposed "Girardeau Goes Green Advisory Board". She stated that if BILL NO. 09-66 is approved by the Council, anyone interested in protecting the environment will be invited to serve on the Board.

Mr. Sean McClintock of 1816 Thilenius addressed the Council and commended the Parks and Recreation Department on their maintenance of the Cape Girardeau parks. He stated that Department of Energy reports break down energy consumption into three areas, and with proper methods, commercial consumption can be reduced by 40%. Mr. McClintock asked the Council to take a very conservative approach to energy consumption in public facilities.

BILL NO. 09-66 was given first reading as follows:

AN ORDINANCE ADOPTING A NEW SECTION 2-144 OF THE CODE OF ORDINANCES FOR THE CITY OF CAPE GIRARDEAU ENTITLED "GIRARDEAU GOES GREEN ADVISORY BOARD"

Mrs. Tracy made a motion, seconded by Mr. Herbst, to approve the first reading of BILL NO. 09-66. Mr. Lanzotti noted that the language presented in the City Council packet is different than the Ordinance being considered. Mayor Knudtson replied that the new Ordinance was distributed at the study session, and the difference in the final version of the Ordinance was in Section 2-144(g) regarding the purpose of the Board. The current Ordinance contains a list of specific purposes.

Mr. Lanzotti stated that he would vote in support of the Ordinance as it was now presented. He said that he understood the roll of the "Girardeau Goes Green Advisory Board" is to help the City government move towards improving environmentally friendly practices without costing the City more money.

Mr. Herbst stated that he had suggested a task force as a compromise, instead of a sitting Advisory Board, but was willing to move forward with whatever the Council feels is appropriate. Mayor Knudtson replied that a task force is a terminable committee and is difficult to keep engaged over a sustained period of time. He said that the City's response to environmental issues will not have a quantifiable beginning and end, but it will be a continuing issue of concern.

Mrs. Tracy stated that she would agree to establishing the "Girardeau Goes Green Advisory Board" if the Board can be dissolved when its goals have been accomplished. Mr. Voss said that he preferred the originally worded Ordinance as presented in the packet on Friday as he believed the current wording of the Advisory Board's purpose to be too restrictive.

Following additional discussion, the first reading of BILL NO. 09-66 was approved upon the following roll call vote: Knudtson, aye; Lanzotti, aye; Ritter, nay; Schneider, aye; Tracy, aye; and Voss, nay; Herbst, aye.

**CONSENT ORDINANCES**

The following bills were given second and third readings:

BILL NO. 09-52            AN ORDINANCE AMENDING SECTION 26-246 OF THE CITY CODE, REGARDING PARKING NEAR SIGNALIZED INTERSECTIONS, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

BILL NO. 09-53            AN ORDINANCE ACCEPTING PERMANENT STORMWATER EASEMENTS FROM ROBERT W. GUM, JR., GLENDA D. GUM, CLYDE E. CLIPPARD AND DAVID WAYNE WILDE, FOR MAINTENANCE OF AN EXISTING DRAINAGE DITCH, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

BILL NO. 09-54            AN ORDINANCE APPROVING THE RECORD PLAT OF LAUREL GROVE SECOND SUBDIVISION

BILL NO. 09-55            AN ORDINANCE APPROVING THE RECORD PLAT OF A RE-SUBDIVISION OF GARRETT SUBDIVISION

The second and third readings of BILL NOs. 09-52, 09-53, 09-54 and 09-55 were approved and the Ordinances adopted upon Mr. Voss' motion, Mr. Herbst's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none. BILL NO. 09-52 is ORDINANCE NO. 4010; BILL NO. 09-53 is ORDINANCE NO. 4011; BILL NO. 09-54 is ORDINANCE NO. 4012; and BILL NO. 09-55 is ORDINANCE NO. 4013.

**NEW ORDINANCES**

BILL NO. 09-56 was given first reading as follows:

AN ORDINANCE AUTHORIZING ACCEPTANCE OF FEE SIMPLE INTEREST, PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FROM VARIOUS PROPERTY OWNERS FOR THE IMPROVEMENT OF MT. AUBURN ROAD BETWEEN INDEPENDENCE STREET AND KINGSHIGHWAY

The first reading of BILL NO. 09-56 was approved upon Mr. Herbst's motion, Mrs. Tracy's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none. Mrs. Schneider noted that the City of Cape Girardeau owns a lot at the intersection of Mt. Auburn and Hopper Roads, and she questioned what the plans there were for its use. In addition, she remarked that the current sidewalk abuts the street and asked if all sidewalks on Mt. Auburn would be done like that. Mr. Eftink, Interim City Manager, answered that there were no immediate plans in place for this lot. Mrs. Kelly Green, City Engineer, replied that the sidewalks would abut the street in this area due to limited right-of-way.

BILL NO. 09-57 was given first reading as follows:

AN ORDINANCE ACCEPTING A PERMANENT GRANT OF EASEMENT FROM MAYSON INVESTMENTS, LLC, FOR SANITARY SEWER SERVICES TO SERVE CAPE WEST CROSSINGS SUBDIVISION PHASE I, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

The first reading of BILL NO. 09-57 was approved upon Mr. Herbst's motion, Mrs. Schneider's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none.

BILL NO. 09-63 was given first reading as follows:

AN ORDINANCE AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE AN EMERGENCY RELIEF PROGRAM AGREEMENT WITH THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

The first reading of BILL NO. 09-63 was approved upon Mrs. Schneider's motion, Mr. Herbst's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none.

BILL NO. 09-67 was given first reading as follows:

AN ORDINANCE ACCEPTING A QUIT CLAIM DEED FROM THE MISSOURI DEPARTMENT OF TRANSPORTATION FOR REAL PROPERTY LOCATED ALONG ROUTE 74, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

The first reading of BILL NO. 09-67 was approved upon Mrs. Tracy's motion, Ms. Ritter's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none.

**RESOLUTIONS**

BILL NO. 09-61 was presented as follows:

A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE A CONTRACT WITH OLIPHANT GOLF, INC. FOR IMPROVEMENTS TO THE JAYCEE MUNICIPAL GOLF COURSE, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

The reading of BILL NO. 09-61 was approved and the Resolution adopted upon Mrs. Tracy's motion, Mrs. Schneider's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none. BILL NO. 09-61 is RESOLUTION NO. 2441. Mr. Lanzotti noted that the improvements at the Jaycee Municipal Golf Course were funded through the Parks/Stormwater Sales Tax.

BILL NO. 09-62 was presented as follows:

A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE AN AGREEMENT WITH ZOELLNER CONSTRUCTION CO., INC., FOR RENOVATIONS TO THE A.C. BRASE ARENA BUILDING, IN THE CITY OF CAPE GIRARDEAU, MISSOURI

The reading of BILL NO. 09-62 was approved and the Resolution adopted upon Mr. Voss' motion, Mr. Herbst's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none. BILL NO. 09-62 is RESOLUTION NO. 2442. Ms. Ritter noted that the renovations are scheduled to be completed in August, and she asked if the generator would be installed at that time. Mr. Dan Muser, Parks and Recreation Director, stated that the basic renovations will be completed by that date, but the generator may not yet be installed.

BILL NO. 09-64 was presented as follows:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE GIRARDEAU, MISSOURI, APPROVING A PROJECT OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE COUNTY OF CAPE GIRARDEAU, MISSOURI, TO BE LOCATED IN THE CITY OF CAPE GIRARDEAU

The reading of BILL NO. 09-64 was approved and the Resolution adopted upon Mr. Voss' motion, Mrs. Schneider's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none. BILL NO. 09-64 is RESOLUTION NO. 2443.

### **APPOINTMENTS**

Mr. A.M. Spradling III and Mr. Danny Essner were reappointed to the TIF Commission for terms expiring April 1, 2013, upon Mr. Voss' motion, Ms. Ritter's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none.

Mr. Bill Eddleman, Mrs. Sharon Giebler, Mr. Richard (Dick Kent) Withers and Mr. Wayne Bowen were appointed to the Historic Preservation Commission for terms expiring April 16, 2012, and Mrs. Charlotte Young Slinkard was appointed for a term expiring April 16, 2010, upon Mrs. Schneider's motion, Mr. Herbst's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none.

### **LIQUOR LICENSES**

Mrs. Schneider made a motion, seconded by Mrs. Tracy, to approve a change in managing officer for Alexander's of Cape, 433 South Sprigg Street, James T. Hudtson, Managing Officer. The motion was approved upon the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none. Ms. Ritter stated that she had concerns about the answers to a number of questions on the liquor license application submitted. Police Chief Carl Kinnison replied that Mr. Hudtson's criminal background check was returned with no problems.

Mr. Voss made a motion, seconded by Mrs. Schneider, to conditionally approve a retail liquor by the drink license for Raymond Rhymer, d/b/a Rhymer's 10 S. Plaza Way, Raymond Rhymer, Managing Officer. The motion was approved upon the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none. Chief Kinnison stated that there were issues with the prior owner and manager at the property that will be discussed with the new owner.

### **OTHER**

A motion accepting the sanitary sewer system improvements in Sewer District #1, located in the right-of-way corridor for the extension of Fountain Street from Morgan Oak to William Street was approved upon Mrs. Tracy's motion, Mrs. Schneider's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none.

A motion accepting the improvements completed for the installation of the generators at City Hall and the Osage Community Centre, and authorizing final payment to Cotner Electrical, Inc. was approved upon Mrs. Schneider's motion, Mr. Voss' second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none. Ms. Ritter asked if the cost of the installation of the generators would be reimbursed by the Federal Emergency Management

Agency (FEMA). Mr. Eftink answered that FEMA would not reimburse the cost of installation. The City's emergency fund was used to cover the expense, and those funds would be paid back over ten years.

A motion accepting improvements completed under the Lisa Street Detention Basin Project, and authorizing final payment to Jim Goggin Excavating, Inc. was approved upon Mrs. Tracy's motion, Mrs. Schneider's second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none.

There being no further business, the City Council adjourned upon Mr. Lanzotti's motion, Mr. Voss' second, and the following vote: Ayes, Herbst, Knudtson, Lanzotti, Ritter, Schneider, Tracy and Voss. Nays, none.

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Jay B. Knudtson, Mayor

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Gayle L. Conrad, City Clerk

**Regular**

**April 6, 2009**

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