

**\*\*\* DES MOINES CITY COUNCIL MEETING REPORT \*\*\***

**The City Council took the following action on items listed in the attached meeting agenda summary. Copies of ordinances, resolutions and other Council action may be obtained from the City Clerk's Office (515) 283-4209. The six-digit number beginning with '06-' preceding each item on the agenda is a roll call number assigned by the City Clerk. Please refer to this number when requesting information or copies.**

**SUMMARY OF DES MOINES CITY COUNCIL MEETING**

**February 6, 2006 4:30 P.M.**

**INVOCATION:** Pastor Tony Thurston  
College Avenue Christian Church

- 06-230 1. ROLL CALL: **Present: Cownie, Brooks, Coleman, Hensley, Kiernan, Mahaffey, and Vlassis.**
- 06-231 2. APPROVING AGENDA, AS PRESENTED AND/OR, AS AMENDED: **Moved by Vlassis to adopt. Motion Carried 7-0.**

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**\*Note:** These are routine items and will be enacted by one roll call vote without separate discussion unless someone, Council or public, requests an item be removed to be considered separately.

- 06-232 3. APPROVING CONSENT AGENDA – items 3 through 38: **Moved by Vlassis to adopt the balance of the consent agenda. Motion Carried 7-0.**

## LICENSES AND PERMITS

- 06-233 4. Approving Alcoholic Beverage License applications for the following: **Moved by Vlassis to adopt. Motion Carried 7-0.**

### NEW APPLICATIONS

(A)	ALLIED INSURANCE	1100 LOCUST ST	C Liquor
(B)	CYCLES WALNUT TAP	2401 E WALNUT ST	C Liquor
(C)	OLD WORLD PUB & PIZZERIA	4138 FLEUR DR	C Liquor
(D)	SCOOTER AND BABS	918 E EUCLID AVE	C Liquor
(E)	SELECT SERVICE PARTNER	5800 FLEUR DR Terminal	C Liquor
(F)	SELECT SERVICE PARTNER	5800 FLEUR DR Concourse	C Liquor

### RENEWAL APPLICATIONS

(G)	CENTERPLATE	1 LINE DR	C Liquor
(H)	COONEYS TAVERN	3708 BEAVER AVE	C Liquor
(I)	EL AGUILA REAL AUTHENTIC	3600 BEAVER AVE	C Liquor
(J)	EL DORADO MEXICAN REST	4345 MERLE HAY RD	C Liquor
(K)	FACES LOUNGE	416 E WALNUT ST	C Liquor
(L)	FAREWAY STORE #900	100 E EUCLID AVE	C Beer
(M)	FAREWAY STORE #975	3000 SE 22ND ST	C Beer
(N)	KUM & GO #440	821 E EUCLID AVE	C Beer
(O)	NAT FOOD MART	1443 2ND AVENUE	C Beer
(P)	SHANGRI LA BUFFET	4349 MERLE HAY ROAD	B Beer
(Q)	YEE HO GARDEN	520 ARMY POST RD	C Beer/Wine

- 06-234 5. City Clerk to issue Cigarette Licenses. **Moved by Vlassis to adopt. Motion Carried 7-0.**

- 06-235 6. City Clerk to issue Coin Operated Machine Licenses. **Moved by Vlassis to adopt. Motion Carried 7-0.**

## PUBLIC IMPROVEMENTS

7. Approving completion and recommending acceptance of the following Private Construction Contracts:

- 06-236 (A) Manatts, Inc. and Jerry's Homes for paving improvements in Carman Estates Plat 4. **Moved by Vlassis to adopt. Motion Carried 7-0.**

- 06-237 (B) McAninch Corporation and Silver Oak, LLC for sanitary sewer improvements in Carman Estates Plat 4. **Moved by Vlassis to adopt. Motion Carried 7-0.**

- 06-238 (C) McAninch Corporation and Silver Oak, LLC for storm sewer improvements in Carman Estates Plat 4.

- 06-239 Carman Estates Plat 4. **Moved by Vlassis to adopt. Motion Carried 7-0.**  
(D) Eco-Tech Construction, LLC and Brook Run, LC for street improvements in Brook Run Village Plats 13, 14 & 15. **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-240 (E) McAninch Corporation and Brook Run, LC for sanitary sewer improvements in Brook Run Village Plats 13, 14 & 15. **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-241 (F) McAninch Corporation and Brook Run, LC for storm sewer improvements in Brook Run Village Plats 13, 14 & 15. **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-242 (G) Nuckolls Concrete Services, Inc. and Sterling Trace Development, L.C. for street improvements in Sterling Trace Plat 1. **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-243 (H) McAninch Corporation and Sterling Trace Development, L.C. for sanitary sewer improvements in Sterling Trace Plat 1. **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-244 (I) McAninch Corporation and Sterling Trace Development, L.C. for storm sewer improvements in Sterling Trace Plat 1. **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-245 (J) Neumann Brothers, Inc. and Science Center of Iowa for street improvements, Main Street from SW 4<sup>th</sup> to SW 5<sup>th</sup> Streets. **Moved by Vlassis to adopt. Motion Carried 7-0.**
8. Accepting completed construction and approving final payment for the following:
- 06-246 (A) C.A.C. Properties, Inc. - 2005 Sanitary Sewer Repair Program. **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-247 (B) Herberger Construction Co., Inc. – Flagg Parkway Floodgate Sill Replacement. **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-248 (C) Des Moines Asphalt & Paving Co. – 2005 HMA Pavement Scarification and Resurfacing. **Moved by Vlassis to adopt. Motion Carried 7-0.**

## **SPECIAL ASSESSMENTS**

- 06-249            9.    Levying assessments for costs of Nuisance Abatement-NAC Emergency Orders (Public Works) for Schedule No. 2005-21. **Moved by Vlassis to adopt. Motion Carried 7-0.**

## **LAND/PROPERTY TRANSACTIONS**

- 06-250            10.   Accepting Noise and Avigation Easement for Property at 5875 Fleur Drive and 2 Highview Drive. **Moved by Vlassis to adopt. Motion Carried 7-0.**

## **COMMUNICATIONS FROM PLANNING AND ZONING**

- 06-251            11.   Regarding request from Iowa State Bank for vacation and conveyance of air rights segments adjoining 517 E. Locust Street, subject to conditions. **Moved by Vlassis to receive and file, and to refer to the City Manager for further processing in accordance with standard City property disposition procedures. Motion Carried 7-0.**
- 06-252            12.   Regarding request from RICON, LLC for vacation and conveyance of adjoining segments of right-of-way in vicinity of SW 5<sup>th</sup> and West MLK Jr. Parkway, subject to conditions. **Moved by Hensley to receive and file, and to refer to the City Manager for further processing in accordance with standard City property disposition procedures. City Manager to prepare a letter on behalf of the Mayor and Council to the Iowa Department of Transportation, requesting that the City be informed and allowed to participate in sale of excess I-235 and ML King right-of-way. Motion Carried 7-0.**
- 06-253            13.   Regarding request from Hubbell Realty Company for approval of preliminary subdivision plat for property in vicinity of 4615 Hubbell Avenue titled "Summersfield Plat 1" to allow 129 lots for single-family residential and 2.88 acres for commercial development, subject to conditions. **Moved by Vlassis to receive and file. Motion Carried 7-0.**
- 06-254            14.   Regarding request from Woodside Estates South, LLC for approval of preliminary subdivision plat, 400 block of NW 54<sup>th</sup> Avenue in unincorporated Polk County, titled "Woodside Estates West Plat 4" (within City's 2-mile jurisdiction for subdivision review). **Moved by Vlassis to receive and file. Motion Carried 7-0.**

## SETTING DATE OF HEARINGS

- 06-255 15. On amendment to the Annual Budget for current fiscal year ending June 30, 2006, (3-6-06). **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-256 (A) On proposed Annual Budget for fiscal year ending June 30, 2007, (3-6-06). **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-257 16. On proposed permanent easement for ingress and egress of vacated 18<sup>th</sup> Street right-of-way between Olive Street and School Street, to Olive Street Development Co., L.L.C., (2-20-06). **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-258 17. On vacation and conveyance of City-owned street and alley rights-of-way adjacent to 1<sup>st</sup> E. 6<sup>th</sup> Street to Des Moines Independent School District, \$3,200, (2-20-06). ([Council Communication No. 06-059](#)) **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-259 18. On request from Wyckoff Industries to rezone a portion of the property at 1201 E. D Street from “R1-60” (One-Family Low-Density Residential) to “C-2” (General Retail Highway-Oriented Commercial) to allow construction of an accessory storage building subject to conditions, (2-20-06). **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-260 19. On request from ST Investments to rezone property at 301 E. Court Avenue from “M-1” (Light Industrial) to “C-3” (Central Business) to allow renovation and expansion of existing structure for mixed-use residential and commercial use, subject to conditions, (2-20-06). **Moved by Vlassis to adopt. Motion Carried 6-1. Nays: Brooks.**
- 06-261 20. On request from American Fence Company to rezone property in vicinity of 1<sup>st</sup> Delaware Avenue from “C-2” (General Retail and Highway-Oriented Commercial) to “C-1” (Light Industrial) to allow an outdoor contractor equipment storage yard, subject to conditions, (2-20-06). **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-262 21. On Sublease Agreement between Compass Group USA, Inc. d.b.a. Select Service Partners and Aero Service Partners, a subsidiary of Orient Restaurant Inc. to operate a “Friedrich World Coffee” concession at the airport, (2-20-06). ([Council Communication No. 058](#)) **Moved by Vlassis to adopt. Motion Carried 7-0.**

## LEGAL DEPARTMENT - CLAIM SETTLEMENTS & BILLINGS

- 06-263 22. Approving payment of \$756 to Ahlers, Cooney, Dorweiler, Haynie, Smith & Allbee, P.C. for services on various issues regarding the Des Moines International Airport. **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-264 23. Approving payment of \$4,336 to Myers & Jenkins for representation in the U.S. Bankruptcy Court, ATA Holdings Corporation, Delta Air Lines, Inc., et. Al. (Comair, Inc.) and Northwest Airlines Corporation, et.al. bankruptcies. **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-265 24. Approving payment of \$1,036.75 to Nyemaster, Goode, West, Hansell & O'Brien, P.C. for consultation services in conjunction with collective bargaining and related matters. **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-266 25. Approving payment of \$3,026 to Hansen, McClintock & Riley for representation of Officer Christopher Huffman in case Beveridge v. Wal-Mart Stores, et al. **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-267 26. Approving payment of \$217,173.13 to Richard C. Summy for a jury verdict affirmed by the Supreme Court of Iowa in case of Summy v. City of Des Moines. **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-268 27. Approving payment of settlements by City Attorney, not exceeding \$5,000. **Moved by Vlassis to receive, file and affirm settlements made by City Attorney. Motion Carried 7-0.**

## CITY MANAGER COMMUNICATIONS

- 06-269 28. Submitting out-of-state travel requests for Dave Warren and Michele Bischof and Mark Sparks. ([Council Communication No. 06-051](#)) **Moved by Vlassis to adopt. Motion Carried 7-0.**

## APPROVING

- 06-270 29. City Economic Development Forgivable Loan to Two Rivers Marketing Resources Corporation for the Metro Center Urban Renewal Area, not to exceed \$60,000. ([Council Communication No. 06-052](#)) **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-271 30. Merger of Professional Account Management, LLC with Reino Parking Systems, LLC continuing as our contracted collection agency under the terms of the Service Vendor Agreement, dated February 1, 2004. ([Council Communication No. 06-062](#)) **Moved by Vlassis to adopt. Motion Carried 7-0.**

- 06-272 31. Extension of a five-year lease agreement with Jann Realty L.P. to provide vehicle storage space for the Police Department. ([Council Communication No. 06-053](#)) **Moved by Vlassis to adopt. Motion Carried 7-0.**
32. Communications from Downtown Community Alliance for the following:
- 06-273 (A) On behalf of the Civic Center of Greater Des Moines to approve banner design for banners in downtown on Locust Street, Walnut Street, 3<sup>rd</sup> Street and East Locust Street during February, March and April 2006. **Moved by Vlassis to receive, and approve banner design. Motion Carried 7-0.**
- 06-274 (B) On behalf of the State Historical Museum to approve banner design for 20 banners downtown on East Locust Street during February, March and April 2006. **Moved by Vlassis to receive, file and approve banner design. Motion Carried 7-0.**
- 06-275 33. Receipt of Quarterly Financial Report ending December 2005. ([Council Communication No. 06-063](#)) **Moved by Hensley to receive and file. City Manager to provide a report regarding trend for energy use and how it affects the franchise fee revenue. Motion Carried 7-0.**
34. Bids from the following:
- 06-276 (A) Ennis Paint for traffic paint to be used by the Traffic & Transportation Division, \$25,404.70. (Nine bids mailed, four received). **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-277 (B) Stivers Ford for one (1) new four-wheel drive utility vehicle to be used by the Fire Department, \$24,868. (Twelve bids mailed, three received), (continued from the January 23 meeting). ([Council Communication No. 06-064](#)) **Moved by Vlassis to adopt. Motion Carried 4-3. Nays: Cownie, Kiernan and Hensley.**
- 06-278 35. Receipt of the Legislative Update for the 81<sup>st</sup> Iowa General Assembly. **Moved by Vlassis to receive and file. Motion Carried 7-0.**
- 06-279 36. Authorizing Finance Director to draw checks on check registers for the weeks of February 6 and February 13, 2006; and to draw checks for bills of the Des Moines Municipal Housing Agency for the weeks of February 6 and February 13, 2006; and to draw checks for biweekly payroll due February 17, 2006. **Moved by Vlassis to adopt. Motion Carried 7-0.**

**ORDINANCES - FINAL CONSIDERATION**

- 06-280 37. Amending Chapter 114 of the Municipal Code submitting traffic regulation changes for installation of Parking Meters - Areas between Grand Avenue and Locust Street and from 10<sup>th</sup> Street to 13<sup>th</sup> Street. **Moved by Vlassis that this ordinance do now pass, #14,540. Motion Carried 7-0.**

**ORDINANCES - SECOND CONSIDERATION**

- 06-281 38. Amending Chapter 74 of the Municipal Code regarding fees for golf courses. **Moved by Vlassis that this ordinance be considered and given second vote for passage. Motion Carried 7-0.**

\* \* \* \* \* END CONSENT AGENDA \* \* \* \* \*

**ORDINANCES - FIRST CONSIDERATION**

- 39. Expanding the Downtown Des Moines Self-Supported Municipal Improvement District and providing for the continued levy of an annual operation tax on property:

WITHDRAWN

- 06-282 (A) **Alternate One** – The noticed boundary less only those properties that are located north of the east/west alley in the blocks bounded by Woodland Avenue, High Street, 15<sup>th</sup> Street and 19<sup>th</sup> Street, (generally properties already located within the existing Sherman Hill SSMID).

WITHDRAWN

- 06-283 (1) Final consideration of ordinance above, (waiver requested by City Manager requires 6 votes.

- 06-284 (B) **Alternate Two** – The noticed boundary less any properties located north of Ingersoll Avenue and west of 15<sup>th</sup> Street, (generally properties located within the boundary of the existing Sherman Hill Neighborhood Plan). **Moved by Hensley that this ordinance be considered and given first vote for passage. Motion Carried 7-0.**

- 06-285 (1) Final consideration of ordinance above, (waiver requested by City Manager requires 6 votes. ([Council Communication No. 06-057](#)) **Moved by Hensley that the rule requiring that an ordinance must be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass, #14,540. Motion Carried 7-0.**

- 06-286 40. Amending Chapter 114 of the Municipal Code regarding traffic regulation changes, to Four-Way Stops at the following intersections: **Moved by Vlassis that this ordinance be considered and given first vote for passage. Motion Carried 7-0.**



- (A) Lower Beaver Avenue and Bel Aire Road.
  - (B) Lawnwoods Drive and Twana Drive.
  - (C) Hillcrest Drive and Lyndale Drive.
- 06-287 (D) Final consideration of ordinance above. **Moved by Vlassis that the rule requiring that an ordinance must be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be finally passed be suspended that the ordinance be placed upon its final passage and that the ordinance now pass, [#14,541](#). Motion Carried 7-0.**
- 06-288 41. Amending Chapter 114 of the Municipal Code submitting traffic regulation changes as follows: **Moved by Hensley that this ordinance be considered and given first vote for passage. Motion Carried 7-0.**
- (A) Traffic signal control revisions.
  - (B) Prohibited/Limited parking revisions.
  - (C) Passenger Loading and Unloading Zone-Center Street from 6<sup>th</sup> Avenue to 7<sup>th</sup> Street
- 06-289 (D) Final consideration of ordinance above. **Moved by Hensley that the rule requiring that an ordinance must be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be finally passed be suspended that the ordinance be placed upon its final passage and that the ordinance now pass, [#14,542](#). Motion Carried 7-0.**

#### COMMUNICATIONS/REPORTS

- 06-290 42. From Angela Nemmers, 708 16<sup>th</sup> St., #4, to speak regarding sidewalks on S.E. 14<sup>th</sup> St. between Cummins Road and McKinley Avenue. **Moved by Brooks to receive and hear comments; refer to the City Manager to review the assessment policy and for the Engineering Department to begin the process; if the policy changes this project will be processed under the new policy. Motion Carried 7-0.**

\*\*Council considered Items 50 thru Board of Health next\*\*

**HEARINGS (OPEN AT 5:01 P.M.) (ITEMS 43 THRU 49)**

- 06-291 43. On appeal from Tan LoVan, 1501 Sampson Street, regarding recommended denial of Taxicab License. **Moved by Coleman to grant a 6 month probationary period with the applicant provides a letter of employment from the cab company. Motion Carried 7-0.**
- 06-292 44. On Application of Certificate of Public Convenience and Necessity to operate Limousine Services, requested by Ruby Denton, The Des Moines Shuttle Company, 2138 E. Cauldwell Avenue, Des Moines. **Moved by Vlassis to receive and file. The applicant withdrew the application at the meeting. Motion Carried 7-0.**
- 06-293 45. On conveyance of City-owned property at 5810 Winona Avenue, to LAB Investment Company, Inc., \$20,301. ([Council Communication No. 06-060](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**
- 06-294 46. On conveyance of City-owned property at 5712 Winona Avenue, to R. M. Madigan Construction, Inc., \$25,231. ([Council Communication No. 06-061](#)) **Moved by Hensley to continue the hearing to the February 20<sup>th</sup> Council meeting. Motion Carried 7-0.**
- 06-295 47. On Twelfth Amendment to Central Place Industrial Park Urban Renewal Plan to extend redevelopment controls and tax increment district until June 30, 2012. ([Council Communication No. 06-055](#)) **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-296 48. On 2<sup>nd</sup> Avenue Traffic Signal Improvements at Douglas & Madison Avenues: Resolution approving plans, specifications, form of contract documents, Engineer's estimate, and designating lowest responsible bidder as Iowa Signal Inc. (Wayne Lesley, President, DSM), \$128,238.24. **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- 06-297 (A) Approving contract and bond and permission to sublet. **Moved by Mahaffey to adopt. Motion Carried 7-0.**
- 06-298 49. On Great Western Trail Extension: Resolution approving plans, specifications, form of contract documents, Engineer's estimate, and designating lowest responsible bidder as Grimes Asphalt & Paving Corp, (J.M. Yonker, President, Grimes, IA), \$37,225. **Moved by Kiernan to adopt. Motion Carried 7-0.**
- 06-299 (A) Approving contract and bond and permission to sublet. **Moved by Kiernan to adopt. Motion Carried 7-0.**

END HEARINGS AT 5:36 P.M.

## APPROVING

- 06-300 50. Agreements with owners of Merle Hay Mall and Southridge Mall to host auditions during February, for the Youth Advisory Board's Metro Star Event which will be held on March 30. ([Council Communication No. 06-056](#)) **Moved by Vlassis to approve. Motion Carried 7-0.**
- 06-301 51. Grant application through the Governor's Traffic Safety Bureau (GTSB) to provide overtime and equipment for officers to have the ability to focus on OWI drivers, from August 1 – September 30, 2006, \$83,360. ([Council Communication No. 06-054](#)) **Moved by Kiernan to adopt. Motion Carried 7-0.**
- 06-302 52. Reconsideration of Application from LeMar Koethe for Voluntary Annexation of approximately 133 acres in Warren County, south of Iowa Highway 5 between County Highway R63 and 100<sup>th</sup> Avenue, to include the phase-in of City taxes. **Moved by Hennigan to adopt. Motion Carried 7-0.**

## EXTRA ITEMS

These extra items are filed after 5:00 P.M. on the Wednesday preceding a Council meeting and have been included upon the Amended Agenda by the City Clerk, with sponsorship of the Mayor or a City Council Member who shall deem the item of sufficient urgency to warrant immediate Council action – said statement of urgency from the City Manager and/or appropriate Department Director shall be placed on file with the City Clerk.

- 06-303 1. Recommendation from Council Sub-Committee regarding employment contract for City Manager Rick Clark. **Moved by Mahaffey to adopt. Motion Carried 7-0.**

## BOARD OF HEALTH

- 06-304 MOTION TO CONVENE. **Moved by Brooks that the City Council adjourn and convene at the Board of Health. Motion Carried 7-0.**

## AUTHORIZING

1. The Legal Department to proceed with court action for authority to abate the public nuisance at the following locations:
- 06-305 (A) 2248 George Flagg Parkway: Titleholders: Robert L. and Geneva H. Knudsen. Contract Buyer: Christina Heater. **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-306 (B) 1913 E. 24<sup>th</sup> Street, Titleholder: The Bank of New York, as Trustee under the Pooling and Servicing Agreement dated as of November 30, 1997, Series 1997-D. **Moved by Vlassis to adopt. Motion Carried 7-0.**

2. The Engineering Department to cause the removal of the following structures:

- 06-307 (A) 2301 Logan Avenue, Titleholders: Kenneth G. and Violet P. Sharon; Mortgage Holder: Ameriquest Mortgage Company. **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-308 (B) 1905 Des Moines Street (garage): Titleholders: Karen Weltzheimer and Alan G. Mortgage Holders: American General Finance, Inc. and Hearthside Lending Corporation. **Moved by Vlassis to adopt. Motion Carried 7-0.**
- 06-309 3. Release of demolition costs reserve held by State Farm Insurance Companies regarding property known as 4031 4<sup>th</sup> Street insured by Rebecca Fry and Randy Fry with a claim being made for enforcement costs. **Moved by Vlassis to adopt. Motion Carried 7-0.**

**\*\*Council considered Hearing Items 43 thru 49 and then adjourned\*\***

06-310 **MOTION TO ADJOURN. Moved by Brooks to adjourn at 5:36 P.M. Motion Carried 7-0.**

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