



Town Clerk  
Leonard J. Perfetti

# Town of Union

**Town Board**  
Richard A. Materese, *Supervisor*  
Thomas R. Augustini, *Councilman*  
Frank J. Bertoni, *Councilman*  
Sandra C. Bauman, *Councilwoman*  
Heather R. Staley, *Councilwoman*

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## TOWN OF UNION BOARD MEETING

August 7, 2019

The Regular Meeting of the Town Board of the Town of Union was held on Wednesday, August 7, 2019 at 7:00 P.M. in the Town Board Room, 3111 East Main Street, Endwell, New York.

BOARD MEMBERS PRESENT: Supervisor Richard A. Materese, Councilman Thomas R. Augustini, Councilman Frank J. Bertoni, Councilwoman Sandra C. Bauman, Councilwoman Heather R. Staley.

TOWN OFFICIALS PRESENT: Town Attorney Alan J. Pope, Deputy Town Attorney Rosemarie Pope, Town Clerk Leonard J. Perfetti, Deputy Town Clerk Rebecca Kruczkowski.

Supervisor Richard A. Materese opened the meeting with the Pledge of Allegiance to the Flag.

### PUBLIC HEARINGS:

A Public Hearing was called for on Wednesday, August 7, 2019 at 7:00 P.M. to consider input regarding the Change of Zone request for the rear portion of 1553 Union Center-Maine Highway from Rural Residential (RR) to General Commercial (GC).  
Pub. & Posted: July 21, 2019.

Jeff Ayres, 1963 Bradley Creek Road, Endicott, and Steven McElwain, McElwain Engineering, explained that there are two zoning areas on the property and they want it changed to be commercial property on both portions to allow for two projects that Mr. Ayres wants to do; the lower property is for an auto sales lot and detailing shop and the upper portion is where he wants to build a building to store his trucks and trailers for his trucking business.

Councilman Frank J. Bertoni said the public hearing is for the rezoning of the property, not for the site plans for the construction of any buildings.

As no one else wished to speak, Supervisor Richard A. Materese closed the Public Hearing.

BIDS: None.



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## APPROVAL OF MINUTES:

Moved by Augostini, seconded by Bertoni to approve the Minutes of the Regular Town of Union Board meeting held on Wednesday, July 10, 2019 and the Special Meeting held on July 18, 2019.

Carried.

## HEARING OF VISITORS:

David Judkovics, 1409 Rochester Street, Endicott, gave the Board copies of a drawing that was approved in 1970 by the Town of Union Engineering Department for a French drain that was installed behind houses on Rochester Street; and that also identifies the drain to be on an easement approved by the Town. He said the houses on Elmira Street were allowed at that time to plumb their downspouts into the drain. He explained that the French drain has now failed, causing severe flooding to the four houses on Rochester Street, which includes his own. He said that residents have said this easement is referenced on their deeds, but the Town Engineering Department said the paperwork was never finalized to create this easement. Mr. Judkovics said he has seen many attorneys regarding this and is willing to fix the French drain himself, but the drain is on the Elmira Street properties and one owner will not give permission for him to go on their property to do it. He is asking Town Attorney Pope to research this and to complete the easement paperwork to fix the issue that was supposed to be covered many years ago.

Town Supervisor Richard A. Materese asked if it is possible the French drain is just blocked.

Town Attorney Alan J. Pope said the Town Attorney cannot do legal work for a private citizen any more than a Town employee can go on private property to do work. He also said the Town cannot create an easement to benefit a limited amount of people and have all of the taxpayers pay for it. He further said that the documents were not completed years ago to make this a legal easement, and the Town does not have any obligations to do it now. He suggested that Mr. Judkovics have an attorney get in touch with him to see what can or cannot be done.

Councilwoman Heather R. Staley said she agrees with Mr. Judkovics that the Town should find a way to make this happen.

Councilman Frank J. Bertoni said the Town cannot break the law by spending public money on private property. He said the plans for the easement may have been submitted, but if the work was not properly done, the Town could not accept them.

Councilwoman Heather R. Staley said there should be papers filed somewhere in the Town indicating that the work was not completed properly.

Supervisor Richard A. Materese said we will look into this to see if there are any records.



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Nathaniel Robertson, 309 W. Main Street, Endicott, asked Councilwoman Heather R. Staley how long she has been on the Board, what committees she is a member of and if there has been any meetings for these committees since she has been elected.

Councilwoman Heather R. Staley said she has been on the Board since January 1, 2019; named the committees she is on and said there have not been any meetings for these committees that she is aware of other than some emergency Employee Committee meetings.

Mr. Robertson went on to ask Councilwoman Heather R. Staley if she has ever been threatened, yelled at or made intimidated or fearful enough to leave any meetings, and if so, by whom was she threatened by, yelled at or intimidated by. He also asked her what she was told when she left the meeting abruptly.

Councilwoman Staley indicated Councilmen Bertoni and Town Attorney Pope, along with a previous councilman as the ones who did these actions. Councilwoman Staley said she was told that "she would regret it if she left and that she better stick around" before she left the meeting.

Richard Cunningham, 2620 Laguna Drive, Endwell, spoke on behalf of the pickle ball players at Highland Park. He said there are seven outdoor courts at Highland Park, four of which are currently dual marked for tennis and pickle ball. He also said there are more players for pickle ball than the four courts support and asked if the players could paint the three remaining unmarked courts for pickle ball use.

Bill Kelly, 8 Paynter Avenue, Endicott, said there are more pickle ball players than tennis players and that pickle ball is one of the fastest growing sports today. He said it is hard to see the ball on the dual painted courts and asked that the three courts be designated as pickle ball courts only.

Councilwoman Sandra C. Bauman asked Mr. Kelly if he wanted the courts that are already dual painted to be pickle ball only.

Mr. Kelly said no, that he would like to see the three courts that are closest to the volleyball courts, be painted for pickle ball only and the remaining courts stay dual painted.

Robert Vieyra, 41 Sweet Briar Court, Endwell, suggested that if and when the 4 tennis courts are resurfaced, to consider turning the courts 90 degrees and making two pickle ball courts out of one tennis court. He also said he would be willing to fund that project.

Elizabeth Bossong, 910 Glendale Drive, Endicott, said the Board members have had a lack of respect and decency for each other and the public in their public and private meetings. She said that it is the responsibility of the Board to treat each person with respect and to be decent



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to others, whether they agree or disagree with them. She also said to Supervisor Richard A. Materese that it is his job to bring order and to control these meetings.

Sabra Nazar, 1000 Debonair Drive, Endwell, represents the tennis players who play at Highland Park. She said the tennis players accommodate the pickle ball players during the summer because they are able to play at the school tennis courts, but they will be back at Highland Park when school is back in session. She also said that they are often bumped off the courts because of the school teams using the park courts too. She further said that the courts cannot be dual marked for them and that it is hard to play on the dual marked courts.

Bill Kelly, 8 Paynter Avenue, Endicott, suggested that the number of courts be split up to have specific courts for each sport.

Diane Hunter, 519 East Main Street, Endicott, spoke about the article in the paper regarding Councilwoman Heather Staley and said she hopes that this situation does not go in the direction of a lawsuit, like the one with Rose Sotak. She said she was sure that it has cost the Town a lot of money in legal fees. Ms. Hunter said at the last meeting the discussion of the Meals on Wheels funding was addressed. She said she started a Go Fund Me account to help raise the money that was deducted from their grant payment; and is happy to say that \$2,300.00 of the \$2,400.00 has been raised through her account and a private donation.

Town Attorney Alan J. Pope said he is not going to let Councilwoman Heather R. Staley's comments about him go unanswered. He said the statements are untrue and he denies them. He further said he has many ways that he could be contacted and this is the first time he has heard of these accusations from Ms. Staley.

As no one else wished to speak, Supervisor Richard A. Materese closed the first Hearing of Visitors.

### COMMUNICATIONS FOR FILING:

Moved by Augostini, seconded by Bertoni to receive and file the following Communications:

1. Email from Gabriel Cicciarelli commending Chester Kupiec, Highway Superintendent and the Highway Department for a job well done on the repair of his mailbox stand that was hit by a snow plow.
2. Letter from Susan E. Reif, District Clerk, Union-Endicott Central School District, notifying the Town of the names and addresses for the 2019-2020 Union-Endicott Board of Education members for the Union-Endicott Central School District.



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3. Minutes of the Town of Union Citizens Advisory Council for Community Development Regular Meeting held on Wednesday, June 3, 2019.
4. Notice from Charter Communications regarding Upcoming Change – July 19, 2019.
5. Town of Union Planning Board Advisory Opinion to the Town Board regarding the Change of Zone Petition from Rural Residential (RR) to General Commercial (GC) Rear Portion of 1553 Union Center Maine Highway (SR26), Tax Map # 141.05-1-26, Applicant: Thunder Cloud Properties/Jeff Ayres.
6. Minutes of the Regular Meeting of the Village of Endicott Board of Trustees – July 9, 2019.
7. Resignation letter from Lisa Temple, Chairperson, Board of Assessment Review, effective July 28, 2019.
8. Resignation letter from Lisa Temple, Member, Town of Union Zoning Board of Appeals, effective July 28, 2019.
9. Letter from Alicia Beck, Lodge Chaplin, Johnson City Elks Lodge #2821, informing that the club will be holding “JC Boosters Day” on August 24, 2019 to bring non for profit and booster organizations together to raise funds that were previously raised through the Johnson City Field Days.
10. Letter from Frank Evangelisti, Director and Lora Zier, Sr. Planner, Broome County Department of Planning, Pursuant to Section 239-l & m of the General Municipal Law for Rezone & Commercial Development of 1553 Union Center Maine Highway, Town of Union. Carried.

### COMMUNICATIONS FOR ACTION:

1. Moved by Augustini, seconded by Bertoni to refer the Notice of Order Cancelling Lis Pendens and Discontinuing the Action – M & T Bank vs Matthew Ferris, Mortgaged Premises: 208 Union Street, Union a/k/a Johnson City, NY 13790, dated 7/22/19, and Amended Notice of Motion for Cancellation of Lis Pendens and Discontinuing of Action, M & T Bank vs Matthew Ferris, Mortgaged Premises: 208 Union Street, Union a/k/a Johnson City, NY 13790, dated 8/1/19 to Town Attorney Alan J. Pope, Comptroller Laura J. Lindsley and Planning Director Sara Zubalsky-Peer. Carried.
2. Move by Augustini, seconded by Bertoni to approve the letter from Tina Starchock, 706 Wilma Street, Endicott, requesting permission to hold a block party on Saturday, September 14, 2019 from 12:00 P.M. to 5:00 P.M.; and barricades to block off Wilma Street between Grippen Avenue and Swartwood Avenue and refer it to Commissioner of Public Works Louis V. Caforio, Highway Superintendent Chester Kupiec and Town Clerk Leonard J. Perfetti.



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Carried.

## PETITIONS:

1. Moved by Augostini, seconded by Bertoni to receive and file the Petitions in support of 2019 Ballot Referendum for George F. Johnson Memorial Library and Your Home Public Library.

Carried.

## COMMITTEE REPORTS, RECOMMENDATIONS AND RESOLUTIONS:

(Prepared Resolution filed as part of these minute to approve the twelve (12) month moratorium on wind turbine installations, allowing the Town of Union sufficient time to determine the appropriate code and land use laws and drafting of a wind turbine ordinance.)

Res. by Augostini, seconded by Bauman.

Vote: All yes.

The Resolution was adopted.

Moved by Augostini, seconded by Bauman to appoint Karen Klecar as Chairperson to the Board of Assessment Review to fill the unexpired term of Lisa Temple.

Carried.

(Prepared Resolution filed as part of these minutes to approve the extension of the moratorium on solar energy for four (4) additional months from August 20, 2019.)

Res. by Augostini, seconded by Bauman.

Vote: Yes

Augostini

Bauman

Bertoni

Materese

Vote: No

Staley

The Resolution was adopted.

Moved by Augostini, seconded by Staley to approve the following 2019 Budget Transfers:

Decrease:	20 8120 2500	Other Equipment	\$ 2,040.00
Increase:	20 8120 2050	Capital	\$ 2,040.00
Decrease:	40 7110 4624	Site Improvement	\$ 3,000.00
Increase:	40 7110 4109	Chemicals	\$ 3,000.00
Decrease:	20 8120 4430	Sewer Line Repairs	\$ 15,000.00
Increase:	20 8120 4111	Parts	\$ 15,000.00



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Decrease: 20 8160 4512 Professional Service \$ 3,000.00  
 Increase: 20 8160 4112 Tires \$ 3,000.00.  
 Carried.

(Prepared Resolution filed as part of these minutes to authorize Supervisor Richard A. Materese to sign and execute the Mutual Non-Disclosure Agreement with Cerity Partners to provide an analysis of the Town's 457(b) Plan, including but not limited to, agreements, structure, fees and other information as compared to market trends. The Town Attorney has approved the agreement.)

Res. by Augustini, seconded by Staley. Vote: All yes.  
 The Resolution was adopted.

(Prepared Resolution filed as part of these minutes to approve the following 2018 Budget Modification

Increase: 20 4510 0000 Federal Aid \$ 28,931.30  
 Increase: 20 3310 2050 Capital Improvements \$ 28,931.30.)  
 Res. by Augustini, seconded by Staley. Vote: All yes.  
 The Resolution was adopted.

Moved by Augustini, seconded by Staley to approve the following 2019 budget transfers from the June 30, 2019 budget reconciliations.

Org	Object	Description	Incr. (Decr.)
10 1010	1090	Health Insurance Buy Out	1,500.00
10 1010	4099	Temporary - Non-payroll	(442.00)
10 1010	4601	Travel & Expense Reimbursement	110.00
10 1010	4605	Dues & Memberships	332.00
10 1220	1090	Health Insurance Buy Out	375.00
10 1315	4101	Office Supplies	(45.00)
10 1315	4603	Legal Notices	(100.00)
10 1315	4605	Dues & Memberships	245.00
10 1315	4628	Employee Physicals 40+ Yrs	(100.00)
10 1355	4603	Legal Notices	3.00
10 1355	4605	Dues & Memberships	(3.00)
10 1430	1010	Salary Base	(777.00)
10 1430	4403	Printing	777.00
10 1620	1090	Health Insurance Buy Out	1,500.00
10 7145	4162	Special Event Supplies	(24.00)
10 7145	4162	Easter Event Supplies	24.00



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10 9060	8004	Health Insurance	(3,375.00)
20 1490	4628	Employee Physicals 40+ Yrs	100.00
20 1989	4000	Miscellaneous Bonding Expense	(7,583.00)
20 5010	4000	Miscellaneous Bonding Expense	7,583.00
20 5010	4601	Travel & Expense Reimbursement	(44.00)
20 5010	4603	Legal Notices	44.00
20 8160	4603	Legal Notices	59.00
20 8160	4616	Freight & Expense	(59.00)
20 8989	2050	Capital Improvements	495.00
20 8989	4603	Legal Notices	(495.00)
20 9060	8004	Health Insurance	(100.00)
31 5110	1090	Health Insurance Buy Out	1,313.00
31 9060	8004	Health Insurance	(1,313.00)
40 7110	2500	Other Equipment	(3,384.00)
40 7110	4000	Miscellaneous Bonding Expense	3,384.00
40 7110	4301	Property Insurance	(610.00)
40 7110	4309	Miscellaneous Insurance	610.00
Carried.			

(Prepared Resolution filed as part of these minutes authorizing Supervisor Richard A. Materese to sign and execute the renewal with Constellation Energy Services of New York, Inc. for a term of 27 months as follows:

Town of Union			
Term Starting Oct 2019	Price 7/9 ALL IN	CES	FP/CES passed through
		(Clean Energy Standard)	
27months	\$0.04606	\$0.05370	\$0.04069.)
Res. by Augustini, seconded by Staley.			Vote: All yes.
The Resolution was adopted.			

The 27-month rate is in line with the Town's current rate (\$0.04059 CES passed through) when accounting for the Clean Energy Standard, which is related to the Governor's Green Initiative of 50% renewables by 2030.

At this time, Town Attorney explained the SEQRA process and reviewed the questions for Part 2 of the application that the Town Board must answer and discuss before a change in zoning can take place.

(Prepared Resolution filed as part of these minutes to make a Negative Declaration under SEQRA, per evaluation of the submitted short Environmental Assessment Form and Planning





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Board's Advisory Opinion for the Change of Zone request for the rear portion of 1553 Union Center-Maine Highway, tax map #141.05-1-26.)

Res. by Bertoni, seconded by Staley.

Vote: All yes.

The Resolution was adopted.

Town Attorney noted for the record, that Broome County in their 239 review response, has recommended denial of this application. Because of this denial, the Town Board must have a Super Majority vote, which is 4 out of 5, to approve the rezone application, if that is how they will vote.

(Prepared Resolution filed as part of these minutes to approve the Change of Zone request for the rear portion of 1553 Union-Center Maine Highway from Rural Residential (RR) to General Commercial (GC).)

Res. by Bertoni, seconded by Staley.

Vote: All yes.

The Resolution was adopted.

Moved by Bertoni, seconded by Staley to appoint Planning Director Sara Zubalsky-Peer as the Town of Union Community Rating System Coordinator.

Carried.

The Planning Department received Bids under the State Contract on July 9, 2019 for Two (2) light-duty mid-size sedans to replace the CDBG and Economic Development town vehicles.

Bids were received as follows:

Websmart Chevrolet, LLC.	2 - 2020 Chevrolet Malibu	Total Price:	\$32,961.96
Van Bortel Chevrolet, Inc.	2 - 2020 Chevrolet Malibu LS 1FL	Total Price:	\$33,080.64
Cappellino Chevrolet, Inc.	2 - 2020 Chevrolet Malibu LS w/1 FL	Total Price:	\$33,529.80
Van Bortel Ford, Inc.	2 - 2020 Ford Fusion S	Total Price:	\$36,552.38
NYE Automotive Group	2 - 2020 Ford Fusion S	Total Price:	\$36,766.00
Ford Lincoln of Queens	2 - 2020 Ford Fusion S	Total Price:	\$47,728.00

Moved by Bertoni, seconded by Staley to receive and file the Bids under the State Contract for Two (2) light-duty mid-size sedans to replace the CDBG and Economic Development town vehicles.

Carried.

(Prepared Resolution filed as part of these minutes to award the Bids under the State Contract for Two (2) light-duty mid-size sedans to replace the CDBG and Economic Development town vehicles to Websmart Chevrolet LLC for \$32,961.96. The Supervisor and



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Planning Director are further authorized to execute the contract and any other documentation required to complete the purchase.)

Res. by Bertoni, seconded by Staley.

Vote: All yes.

The Resolution was adopted.

(Prepared Resolution filed as part of these minutes to authorize the Supervisor and Planning Director to execute all documentation required for the submission of the Federal Emergency Management Agency 2019 Community Rating System program.)

Res. by Bertoni, seconded by Staley.

Vote: All yes.

The Resolution was adopted.

(Prepared Resolution filed as part of these minutes to approve the proposed amendments to the CDBG Citizen Participation Plan effective August 7, 2019.)

Res. by Bertoni, seconded by Staley.

Vote: All yes.

The Resolution was adopted.

(Prepared Resolution filed as part of these minutes to approve the combined notice of Finding No Significant Impact (FONSI) and Request for Release of Funds (RROF) for the Town of Union Community Development Block Grant Federal Fiscal Year 2019 Annual Action Plan, and authorize the Supervisor or Deputy Supervisor to execute all documentation required for submission to HUD. The Supervisor, Deputy Supervisor, and/or Planning Director are further authorized to prepare and submit any technical corrections to the FONSI/RROF that may be required by HUD.)

Res. by Bertoni, seconded by Staley.

Vote: All yes.

The Resolution was adopted.

(Prepared Resolution filed as part of these minutes authorizing the Supervisor to execute the form letter designating Planning Director Sara Zubalsky-Peer as the Entity Administrator for the Town of Union's System for Award Management (SAM) account. The Planning Director is further authorized to submit the executed form to the Federal Service Desk to complete the registration process.)

Res. by Bertoni, seconded by Staley.

Vote: All yes.

The Resolution was adopted.

## HEARING OF VISITORS:

Kaitlyn Harasta, 3102 Andover Road, Endwell, thanked the board for passing the ban on tobacco & smoking products in the Parks and asked when it will become effective.



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Supervisor Richard A. Materese said the local law was sent to Albany and as soon as they approve it, it will be in effect.

Mrs. Harasta also asked for clarification on the solar moratorium resolution that was not on the agenda.

Supervisor Richard A. Materese explained that the resolution was added late to the agenda and it is for an extension of the moratorium already in place. He said it pertains mainly for the solar panels placed in floodplains and that we want to get the law right before passing it. .

Councilman Frank J. Bertoni said the same thing is in place for the wind turbines.

Town Attorney Alan J. Pope said the solar moratorium is to cover the large scale and commercial solar projects on both the Town's and private properties and to make sure the right local law is in place to protect everyone.

Matthew Wahila, 2722 Robins Street, Endwell, asked what filing number 10 of this meeting is since it is not on the agenda that they have.

Supervisor Richard A. Materese said it is the 239 review from Broome County regarding the change of zone request for 1553 Union Center Maine Highway, rear portion that was approved this evening and that it was added at the last minute.

Nathaniel Robertson, 309 West Main Street, Endicott, asked if meetings were held for the Planning/Zoning and Economic Development committee to discuss the resolutions that are on this evening's agenda. Mr. Robertson asked Councilwoman Heather Staley if she feels like she was excluded in these discussions.

Councilwoman Heather R. Staley said when she sees the agenda, it is the first time she is hearing of these requests.

Supervisor Richard A. Materese said the resolutions are discussed in the work sessions and that the council members have the right to go to the departments to get information on their requests.

Elizabeth Bossong, 910 Glendale Drive, Endicott, asked Town Attorney Alan J. Pope how long it would take to look into the easement issue for Mr. Judkovics and how will she know it was done.

Supervisor Richard A. Materese said for her to call his office for an update and he said it would probably take less than a month to have an answer.



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Nathaniel A. Robertson, 97 North Street, Johnson City, said he feels these meetings are full of arguing and bickering; and that the Board should be setting aside differences to work together and not act like children.

Lori Wahila, 2722 Robins Street, Endicott, said not a year ago, she was verbally attacked at a Board meeting by Councilman Frank J. Bertoni from the bench. She said that if he wants the audience to follow the speaking rules, then he should be following them also.

As no one else wished to speak, Supervisor Richard A. Materese closed the second Hearing of Visitors.

## DEPARTMENT REPORTS ON FILE IN THE TOWN CLERK'S OFFICE:

Moved by Augostini, seconded by Bertoni to receive and file the following Reports:

1. Town of Union Planning Board Decision – Special Permit for Development in Floodplain Barton Avenue Levee Extension, 4311 and 4301 Watson Boulevard, Johnson City, Tax Map numbers: 126.04-1-10.111 and 142.02-1-19.
2. Comptroller's Monthly Report – 6/30/19.
3. Town Clerk's Monthly Report – June 2019.  
Carried.

Councilman Frank J. Bertoni said in his eleven years of being on the Board, he said Attorney Alan J. Pope has never acted unprofessionally or been discourteous to anyone. He said the attorneys have always acted in a professional manner.

Councilwoman Heather R. Staley thanked Diane Hunter for raising money for Meals on Wheels and Dr. Marita Florini from Lourdes Primary Care of Endicott for also raising money for Meals on Wheels.

## ADJOURNMENT:

Moved by Augostini, seconded by Bertoni to adjourn the meeting.  
Carried.



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The meeting was adjourned at 8:30 P.M.

Leonard J. Perfetti  
Town Clerk

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