



ILLINOIS STATE BAR ASSOCIATION

# LOCAL GOVERNMENT LAW

*The newsletter of the Illinois State Bar Association's Section on Local Government Law*

## Congratulations! You've been elected: Now what do you do? A practical guide to local government

*By Richard G. Flood and Ruth A. Schlossberg*

In anticipation of the April 2009 election season, Rich Flood and Ruth Schlossberg of the municipal law firm Zukowski, Rogers, Flood & McArdle have written a new guidebook for newly elected officials to be published this spring. The book, entitled "Congratulations! You've Been Elected: Now What Do You Do?" is intended to serve as a practical guide to local government both for newly elected and for more experienced officials. In addition to providing a wealth of information on substantive topics such as municipal finance, how to run a meeting, the Illinois Sunshine Laws, contracts and ethics law, land use and zoning and the like, the first part of the book provides a helpful introduction to the mechanics of local government along with some thoughts on basic people and communication skills. The following excerpts are from chapters 3 and 4 of that book. For more information or to obtain a copy of the guidebook, contact them through Ruth Schlossberg at [rschlossberg@zrflmlaw.com](mailto:rschlossberg@zrflmlaw.com)/815-459-2050.

### CHAPTER THREE

#### WHO'S WHO: AN INTRODUCTION TO THE OTHER PLAYERS IN LOCAL GOVERNMENT

You have been elected and will assume office soon. What do you do until then? The answer is: PLENTY. Unlike the President of the United States, you do not have a three-month interval between election and assuming office. Most local elected officials assume office within weeks of the election. Moreover, unlike officials assuming national or even statewide office, you will not have the luxury of a transition staff to expedite your orien-

tation or to assist you in becoming familiar with the issues and your responsibilities. Nor will you be selecting a new administration. Instead, you will be inheriting managers, department heads, administrative staff, and veteran employees of the previous administration. Your first tasks will involve familiarizing yourself with the complexities of your local government and understanding your place (including your opportunities and limitations) within that structure.

Familiarizing yourself with the issues and players in three or four weeks can be a huge task. Often, in larger units of local government, the administrator or manager will have an orientation session for newly elected officials. If not, or if your governmental unit does not have a paid staff, then you must orientate and educate yourself. First, obtain a copy of the budget and study it. The budget reveals the revenue sources and expenditures of your local government. Next, if you have not been attending meetings, review the last six months of meeting minutes. With respect to issues of greater importance or frequency as revealed in the minutes, ask the staff for further documentation or briefing on these issues. After reviewing these materials, meet with staff or, as appropriate, (and if you are already sworn in, in a manner consistent with the Open Meetings Act), with your fellow incumbent carry-over elected officials. Ask them questions. Remember there is no such thing as a dumb question. Better to ask the question before you take office than to raise it for the first time at a meeting or to stay silent and then cast a poorly considered vote because you do not have correct informa-

### LEARNING TO GET ALONG

Rather than breeding contempt, familiarity can create a common bond among elected officials. Columnist William F. Buckley, Jr. once wrote about a story that the actor Carroll O'Connor had told him. Apparently, Mr. O'Connor had traveled to Rome with a friend who was a long-standing anti-fascist activist in America. His friend loved jazz piano and when out walking the streets of Rome near midnight, they heard a piano playing, and stopped in the establishment. After listening, O'Connor's friend asked the head waiter who the piano player was. The Maitre'd answered that his name was Romano Mussolini. O'Connor's friend, the anti-fascist froze and asked if it was any relation to Benito Mussolini. The Maitre'd responded yes, he was Il Duce's son. Nonetheless, the two men stayed. As they did, they moved closer to the piano and began asking for favorite tunes. O'Connor related that after about the fourth scotch and soda, at approximately 2:00 in the morning, his friend leaned over and said to the piano player, "You know that was a hell of a thing they did to your father."

If an avid anti-fascist can overcome his hatred of the Mussolini name, then surely municipal board members can get along with each other and with other governments.

tion.

Immediately following an election, we think it is a good idea to have a workshop introducing the newly elected officials to the workings of the local government. For instance, you can schedule a half day or day long session where each department, (e.g., public works, police, finance, personnel, business development, community development, legal, recreation, library, etc.), makes a presentation regarding how their department functions and its goals for the coming year. Before any such workshop, be sure that each elected official is given copies of pertinent material advising them of the workings of their department. Many times newly elected officials are unaware of the extent of the work performed by each department. If all board members are brought to a shared understanding of the operations and issues before the body, they will be able to function more effectively. Just remember, if a majority of a quorum of your board attends these meetings, you will need to comply with the Open Meetings Act which is discussed later in this book.

Before immersing yourself in your new duties, remember the campaign team (both yours and your opponent's), the electorate, and the government you have now joined are all made up of real people, most of them committed and hard-working, whether you have agreed with each other or not in the past. We offer here a few reminders about dealing with people. While nothing guarantees that you will never have principled disagreements or personality conflicts in the years ahead, following a few basic principles of kindness, decency, and respect will go a long way toward easing you through a successful transition.

**Your Supporters.** First, remember to thank your supporters. Whether your campaign staff was large or small, make sure to thank them. Meeting with each of them is best; calling or sending them thank you notes is an alternative. Remember, without them, you would not be in office. Also remember that, in a sense, your campaign never ends. Your supporters gave you their time, energy, and money for a reason. Most, if not all, of them are now your constituents, and they can serve as a valuable resource and sounding board as you move forward with your appointed tasks.

**Your Opponent.** If your opponent or opponents did not call to congratulate you, call

them instead to offer congratulations on a race well run. While it can be difficult to put a campaign behind you, especially one that was hard fought and difficult, the last thing you need is for the campaign to extend into your term of office. Your opponent may or may not agree to give you a honeymoon period@ by setting aside the sound and the fury of the campaign while you begin the very different task of governing, but in all events you, as the winner, should extend the olive branch and attempt to make peace. You will have enough to do in the days and years ahead without being forced to continually defend your actions to a disgruntled or bitter opponent. You can work to diffuse a potentially time-consuming and politically vocal opponent by acknowledging the opponent's hard work and commitment and seeking his or her support or, at least, acknowledging his or her input.

**Your Residents.** Never forget to thank the voters, both those who voted for you and those who voted for your opponent. A letter to the editor or even a small ad in the local paper is appropriate. It shows the electorate that you appreciate their support and do not take them for granted. Remember, after the voting is over, whether they voted for you or not, these are all your constituents now.

**Your Fellow Elected Officials.** The next calls you make should be to your fellow elected officials, both those already in office and those who were newly elected along with you. Much of politics, like life, is relationships. Start building them now. Whether you ran with or against your fellow elected officials and whether or not you share a similar outlook on issues of policy or politics, you will be spending the next several years working together for the common good. Call them; meet with them; speak with them; establish a relationship going forward. You need to do this sooner rather than later. Once you are sworn in, your ability to meet individually with one or more of your fellow elected officials in order to discuss municipal business will be controlled by the provisions of the Open Meetings Act (discussed later in this book) which will strictly limit your ability to engage in informal discussions with your fellow elected officials outside the context of official and public meetings.

We know it can be difficult working with some people. Whenever you have seven people thrown together, you will always have the potential for conflict. We also know

that the skills that are needed to be elected are not always the same skills that are needed to govern. There will be days when your tolerance for your colleagues ebbs and flows. Similarly, there will be days that you are sure you know the "right" answer and do not understand why everyone else is blind to it. We do not presume here to teach you how to get along, or when it is right to speak, and when to hold your tongue. However, we will take the opportunity to remind you to take a deep breath, keep the lines of communication open, and to remember this popular bumper sticker quote: "Why be difficult when with a bit of effort, you can be impossible." We leave it to you to decide whether or when this applies.

**Staff.** What should you do about staff? In short, give them a chance. After calling your opponents and fellow elected officials, call the staff (either the administrator or manager), any department heads, municipal attorney, municipal engineer, and the office manager or clerk. Before assuming office, initiate personal meetings with them. You are not likely to have the luxury (and the hard work) of hiring an entirely new staff and reinventing government in your own image. As will be discussed below, even if you do have this option, you could not exercise it without considerable human and operating costs. Instead, we recommend using this start-up time to get to know your staff – and let them get to know you. Use this time to ease the anxieties they may have regarding the change caused by an election. Work together to identify areas of consensus and identify other areas where change is warranted. You may be surprised to hear they have some thoughts of their own about where change might, in fact, be welcomed.

Do not try to change your staff's world overnight. As a newly elected official, you will inherit an organization that conducts the day-to-day operations of your local government. In order to be successful, your staff needs to get along with each other and with their elected officials. However, in your campaign for office, you or your supporters may well have been critical of the very staff that you now lead and rely upon to implement your policies. Whether you ran for office dedicated to making change or not, remember that the staff is responsible for performing the day-to-day functions of local government and is necessary for continuity in delivering those services. Moreover, they

are, in many ways, the real experts on the service they are delivering. These individuals are professionals. As employees, they are required to support the policies established by the elected officials, both the previous elected body (who are still in office) and now the newly elected ones. Often they live and work in your community and want the same thing you want - to make their community a better place to live, work, play and to raise a family. Here are some things to keep in mind as you shape your dealings with your staff:

- **Complexity.** Remember that once you are in the inside, things take on a different and often humbling perspective. Often, you will find that issues are more complex than you had imagined. It is, therefore, inadvisable to suggest any significant changes in the first six months. Get to know the staff and their perspective on the issues. Sometimes, you will find that they agree with your criticisms but were unable to make the changes you want because of lack of direction from the previous elected officials. In other instances, they may disagree with you. You may find that they can convince you of their point of view or you may convince them of your point of view, but their input may well improve or modify your proposed changes in light of the reality on the ground.
- **Professionalism.** In some instances, you may conclude that you and staff disagree and that you need to impose your point of view on them. In this case, you may be surprised to find that professional staff often can change direction quite rapidly. This is because they are professionals. For most staff, this is not only their livelihood, but also their profession. Rather than being affiliated with any particular ideology, they are dedicated to the mechanics and successful functioning of local government. You will find that given proper direction and respect, most staff will enact your policies and may even adopt your point of view in running the local government.
- **Change Is Natural For Local Government Staff.** You likely will find that professional governmental staff is often, surprisingly, accustomed to changes. After all, it is in the nature of local government to get "new management" on a regular basis. They are not the politicians. They are the administrators and implementers.

They do not necessarily have their own agenda and are, for the most part, extremely resilient and flexible. Otherwise, they could not stay in local government which changes bi-annually. They are accustomed to carrying out new directions from new boards.

- **Self-Preservation.** Remember that in addition to being professionals, your staff also works to earn their livelihood. Monetarily, it is in their best interests to take your direction and to work with you to accomplish your goals. Nonetheless, you will make their instinct for self-preservation and your own task easier, if you remember that these are real human beings with egos and feelings. You can expect them to react defensively if you plow in with a barrel full of criticism and little recognition for their previous hard work. In other words, you can expect cooperation, but it will help if you are not an insensitive jerk.

#### **Independent Professional Contractors.**

Upon election, be sure to meet with your appointed independent contractors including any planners, attorneys, and engineers. Clearly delineate your goals and invite communication. You may wish to reassure them that you are not going to make any immediate change, if that is the case. Indicate your interest in working with them and take the opportunity to identify any issues or concerns that you have and to seek their input and response. As mentioned earlier, an elected official often will need to rely on professionals in deciding issues. Most municipal professionals, be they lawyers, engineers, architects, or planners, are dedicated to local government and have your best interests at heart. Servicing local government is not the most lucrative field. Consequently, local government professionals are often similar to their in-house counterparts – dedicated to government service.

Having said that, when weighing the advice of an independent professional, remember that they have the obvious bias of being paid for their services. If you do not approve a project they are working on, they do not get hired and will not get paid. Independent professionals therefore have an obvious bias toward proceeding with a project. That having been said, the vast majority of independent professionals are honest and attempt to divorce themselves from this inherent bias. Moreover, the better ones are very busy. If

they are not working on your project, they have others. Finally, most independent professionals are in for the long haul. They are not just looking to work on this project but wish to build a long-term relationship with your municipality. Thus, there are counterbalancing influences that steer most independent professionals toward giving objective advice.

There is a reason to use specialists – and that is that they are specialists. Particularly in tough times, your instinct may be to try to do things in-house with your own staff. But the money you save upfront by avoiding consultants may well be small compared to the myriad problems you may encounter down the road when you find out what you wish you had known. This applies not just to your lawyers, who know about such things as notice requirements, proper procedures, and changes in law as well as the risks of litigation, but also to your engineers, architects, and planners who have a bigger picture perspective, have had lots of experience with the issues you face, and can see the risks and benefits of decisions that may elude your own staff who have different skill-sets.

You will work with many independent professionals in municipal government. Here is a short introduction to those you will meet most frequently: the "Village Attorney," the "Village Engineer," the "Architect," and the "Planner":

**Attorney.** Sound legal advice from an experienced municipal attorney can be extremely helpful in making your decisions. Municipal lawyers routinely advise municipal officials on an array of issues including collective bargaining, bonding, personnel, the drafting of ordinances, taxation, board procedures, ethics, conflicts of interest, licensing, contracting, and litigation. This advice can be very valuable and you should carefully consider it. Many find legal advice overly conservative. Often people complain that lawyers "get in the way" of the deal. However, keep in mind the advice of lawyer and Nobel Prize winner, Elihu Root, who once observed "About half the practice of a decent lawyer consists in telling would-be clients that they are damned fools and should just stop." Having said that, remember law is not a science, but rather an art whose outcome is dictated not only by purportedly objective laws but also by subjective personalities of those entrusted to enforce and execute the law. Consequently, predicting outcomes of legal mat-

ters is notoriously unreliable.

This is especially true of litigation. Most people believe that our system of justice is solely about fairness, when in reality it is more about resolution and finality, with fairness being a desired but sometimes unattainable outcome. All litigation ends, but all of it does not necessarily end fairly. Consequently, opinions offered by lawyers who overconfidently predict particular outcomes in negotiations and/or litigation should be viewed by you with some skepticism. In deciding these issues, always assume the worst possible outcome and ask yourself if that is an outcome you can live with. If not, you may wish to alter your legal strategy. Also, litigation almost always costs more than you or your lawyer anticipated. Moreover, if you cannot afford the legal bills attendant to litigation, you should consider the settlement options before the litigation commences, not three years into it after you have already incurred the legal fees.

**Engineers.** Sound engineering advice from a qualified engineer or engineering firm should be sought and carefully considered in making decisions about municipal infrastructures. While engineering is a science, it is conducted and interpreted by human beings and consequently is not as predictable as we would hope. One thing we have learned in listening to engineering proposals over the years is that the predicted life of a facility is affected not only by normal wear and tear but also by two other factors:

- (1) Changing technology; and
- (2) Regulatory changes.

The former should be obvious. If you are building a sewage treatment plan which can physically last thirty years, that does not mean technology will not change sooner. Your computer may physically last twenty years, but because of changes in technology you will probably replace it in less than five years. The same is true of your sewage treatment plant. While you build it to last 30 years, when you decide to add on to it in 10 years, you may find that technology has changed so rapidly that you may need to start over. This is not the engineer's fault; this is the result of rapidly evolving technology.

Similarly, an engineer cannot predict changes in state and federal regulations. Both the United States Environmental Protection Agency and the Illinois Environmental Protection Agency may pass regulations

over the next ten years that make your plant obsolete. Consequently, when your engineer says that you are building a plant that is intended to last thirty years – take that with a grain of salt. It may be built to last thirty years, but because of regulatory and technology changes, do not be surprised if it lasts for less than its physical life.

**Architects.** A municipality should seek the advice of a professional architect when undertaking building construction. Architects' projections, much like predictions made by engineers about the life-span of a project, also must be tempered by regulatory and technology changes. For instance, handicap accessibility regulations have rendered some buildings essentially obsolete. Similarly, changes in building materials and styles can affect your ability to make additions in the future. Think just of the costs associated with asbestos removal if you need an example. Moreover, consider your future needs when planning a building. If you have a rapidly growing municipality, why plan city hall to last for 30 years. Why not plan for ten years? Similarly, why put a forty-year roof on a building that will likely undergo an extensive remodeling and renovation in ten years? Even the lifetime of furnaces, air conditioning units, and similar appliances should be questioned in buildings in those communities where needs and geographic boundaries of the municipalities are likely to change in five, 10, or 15 years as opposed to thirty or 40 years.

**Planners.** With planners, we would recommend the following:

- (1) You should be clear and unanimous (or nearly so) in your vision for what you expect; and
- (2) You should encourage and listen to honest feedback from the planner.

Often planners do not receive clear and consistent direction from a municipality. Even when they do, the planner may have a problem telling the elected officials what is achievable or the market may not support the dream. Not all new shopping centers will end up looking like upscale lifestyle malls or the frequently cited shopping center in the Village of Bannockburn with its cedar shingles, natural stone, and expensive stores. The result is money expended on plans that are never implemented.

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## IF YOU REMEMBER ANYTHING, REMEMBER THIS...

- Your transition into the office will often take place in only a matter of weeks.
- Thank your supporters, all voters, and make peace with your opponents.
- Get to know the issues, your fellow elected officials, staff, and professional and independent contractors.
- Learn to work with your fellow elected officials, staff, and professional and independent contractors and learn how to weigh their work product and advice.
- Remember that everyone you work with is only human, so remember people's feelings and hard work and proceed diplomatically no matter how "right" you might think you are. Disagree without being disagreeable.

## CHAPTER FOUR

### WORKING TOGETHER FOR A SHARED VISION

"If you don't know where you are going, you might wind up someplace else."—Yogi Berra

"It's better to look ahead to prepare than to look back and regret."—Jackie Joyner-Kersey

Once you are sworn into your new office, you no longer will be solely a private citizen running for office, or even solely a politician. By virtue of your victory in the election, you have now assumed the mantle of leadership. Every elected official has a different definition of what leadership means, and you will be forced to make many difficult decisions in the days ahead as you must choose between practical and principled solutions and try to find a way to balance competing demands with limited resources. This book does not contain all of the answers. However, we do have several suggestions for mobilizing your staff and citizenry behind a common goal and for helping to ensure that you and your colleagues find a way to lead together for the common benefit of the community regard-

less of your political or even personal differences.

It is hardly an original thought to suggest that leaders need to know where they are going in order to lead. Some of your leadership actually will involve following – that is, you need to know what you and your citizens want. And once you have a clear vision, it helps to have a community that wants to go in the direction that you have pointed. Here are some ideas for working through that process.

“If everything is equally important to you, nothing is important to you.”

—Joseph Robinette Biden, Sr.,  
father of Vice President Biden

Where Do You Want To Go? Elsewhere in this book we discuss the topic of Governance. Leading theoretician John Carver reminds boards to set the vision and broad parameters for your organization. Do you have such a vision? We urge you to work together to develop a vision shared by your board. You can start by annually holding strategic planning or visioning workshops. We became sold on the concept of strategic workshops when we were retained by a municipality as their attorney approximately 20 years ago and were impressed with the level of agreement among the board members when they considered major projects. We soon learned the municipality conducted annual strategic planning sessions where a common vision was hashed out in a day-long session. The elected officials left those sessions with goals for the year and a shared vision that made it much easier for the board to be unified in making the practical decisions about individual projects. With such planning, municipalities can be proactive rather than reactive in dealing with issues. Long-term strategic planning, self evaluation, and training sessions can take a number of forms.

- **Strategic Planning Or Visioning Workshops.** In one type of long-range visioning, a facilitator is hired to help the local government officials decide what they wish their community to be five, ten or twenty years forward; what obstacles are in the way of accomplishing that vision, and what strategies are available for overcoming those obstacles. Together, the group then develops an action plan. The strategic planning purists will tell you that the goals you arrive at in such a ses-

sion are secondary to the process you go through which requires working together and jointly deciding upon a vision for your community.

While most participants feel that just working together on this process can be worthwhile, for those seeking a more tangible outcome, developing an agreed upon 30 days, 90 days, and one-year action plan will be helpful. Following the session, a written summary of the results should be prepared for the local government. As part of your visioning strategy and something you should ask yourself whenever items come before you for consideration, it may be important to determine whether the item being identified is something that your residents or staff “want” as opposed to whether it is something that is actually “needed” by your municipality. This may help you shape priorities and allocate resources. It is important to note that the goals coming out of a strategic planning session of this type must include those which are unanimously agreed upon by participating council and staff and reflect input from all parties involved.

The local government official can then periodically review those goals at board or council meetings in order to keep the process moving forward, establish clear benchmarks and determine their success at meeting those goals. Moreover, you can ask if a particular problematic decision changes your vision or action plan. Some municipalities also memorialize their 10-year or 20-year plan and incorporate it into their other planning documents. For example, you can ask your plan commission to meet and incorporate your 10 or 20 year vision into the comprehensive plan. Similarly, you can incorporate your 10 or 20 year vision into your long range Capital Improvement Plan (see below). Indeed, you can include your 10 or 20 year vision plan as part of all budget documents in order to provide you with a set of long-term goals each time you prepare your budget.

- **Operational Review.** Still another form of planning and evaluation is one that emphasizes procedure as opposed to substance. This may take the form, for instance, of a half day seminar examining how the local government operates as opposed to what it intends to accomplish.

At such a seminar, the local government’s elected officials can discuss such topics as meeting agendas, governance, staff, and elected official relationships. Particularly if you feel that responsiveness and efficiency are concerns, if you are hearing from your residents that they are unhappy with government service or if your meetings feel too long, unproductive or unfocused, this type of meeting might be in order. At such a meeting, decisions can be made about how to structure an agenda, how to handle public comments, how to establish times for adjournment, and how to decide when more policy discussions are necessary.

“One of the basic causes for all the trouble in the world today is that people talk too much and think too little. They act impulsively without thinking. I always try to think before I talk.”—Margaret Chase Smith, former Senator from Maine, and first woman elected to both the U.S. House and U.S. Senate

- **Regular Reflection.** Too often local government officials spend most of their time reacting to issues that are brought up as opposed to setting the agenda and deciding what those discussions will be about. For instance, it is a good idea to consider setting aside an hour a month to discuss an important policy or goal issue as opposed to simply reacting to what staff and/or residents bring forward. This hour is meant as a time to be forward thinking and creative. Moreover, this hour should be set first on the agenda. It should not be left to the latter part of the agenda when people are tired and wish to adjourn.
- **Capital Improvement Plan (CIP).** Each municipality should develop and regularly update a long-range capital improvement plan. The plan should contain a list of all infrastructure projects envisioned by the municipality for at least the next five years. The plan also should contain an approximation of cost and the projects should be prioritized. Annually when the budget is prepared, the CIP should be updated and reviewed. Those projects at the top of the list should be considered for funding.

**Intergovernmental Cooperation.** Intergovernmental cooperation has become an increasingly important component of local government success. Problems are regional

and do not necessarily respect geographic boundaries, and citizens do not necessarily understand or care that geographic boundaries may limit your power. Indeed, many residents are unaware of the differences between the various entities and governments. Instead, they have a problem that they wish to see solved, and they turn to you to solve it. Consequently, the successful elected official is one who knows how to use intergovernmental agreements and how to work on a regional basis to accomplish goals. Moreover, intergovernmental cooperation can result in cost savings, efficiency, and the sharing of resources and ideas to the benefit of all. Find opportunities for cooperation and shared interest with your neighboring and overlapping governments.

Many municipalities throughout Illinois already belong to local Councils of Government ("COG") that are intentionally designed to facilitate intergovernmental cooperation, idea sharing, and efficiencies. In fact, these regional councils are specifically authorized by state statute, and they are given the pow-

er to study governmental problems common to two or more of their members, the authority to promote cooperative action and arrangements, and the power to recommend review or actions of their membership or other regional agencies. While these powers are only advisory, and each member reserves the right to act on them as appropriate within their municipality, information sharing and coordinated action can still have a significant impact on your region.

For instance, many members coordinate their legislative initiatives through their COG so that they speak with one, aggregated voice in Springfield—increasing the likelihood that they will be heard and their position will be considered. Many COGs also initiate resource sharing opportunities such as regional auctions of municipal equipment, public works or emergency services cooperative agreements between their members, joint purchasing opportunities, unified transportation planning and discussions, shared training programs, and technical assistance for all members. Some COGs even coordinate regional planning and development

## **PLANNING AND COOPERATION WILL HELP YOU SUCCEED**

- Local government involves working together.
- Strategies to encourage positive working environments for local governments include visioning sessions, comprehensive planning, development of a capital improvement plan, operational reviews and intergovernmental councils.
- Time for planning must be scheduled on a regular basis. If you do not, your term of office will be reactive rather than proactive.

and land use initiatives. This joint action can result both in significant cost savings for members as well as more effective advocacy on their behalf and training of their staff and elected officials. ■

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