# MINUTES

## OF THE REGULAR MEETING CLAYTON CITY COUNCIL

#### TUESDAY, March 19, 2019

- 1. CALL TO ORDER & ROLL CALL The meeting was called to order at 7:00 p.m. by Mayor Catalano in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Catalano, Vice Mayor Pierce and Councilmembers Diaz, Wan and Wolfe. Councilmembers absent: None. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, Police Chief Elise Warren, City Engineer Scott Alman, and City Clerk/HR Manager Janet Calderon.
- PLEDGE OF ALLEGIANCE led by Mayor Catalano.

#### CONSENT CALENDAR

It was moved by Vice Mayor Pierce, seconded by Councilmember Wan, to approve the Consent Calendar as submitted. (Passed; 5-0 vote).

- (a) Approved the minutes of the City Council's regular meeting of March 5, 2019.
- (b) Approved the Financial Demands and Obligations of the City.
- (c) Adopted Resolution No. 08-2019 awarding a low-bid contract to Cratus, Inc., in the amount of \$453,810.00 for the El Molino Drive Sanitary Sewer Improvements Project (CIP No. 10422).
- (d) Adopted Resolution No. 09-2019 recognizing the importance of the 2020 U.S. Census.
- RECOGNITIONS AND PRESENTATIONS None.

#### REPORTS

- (a) Planning Commission Vice Chairman Peter Cloven indicated the Commission's agenda at its meeting of March 12, 2019, included a Municipal Code Amendment ZOA-01-19 regarding temporary noncommercial signs up to 16' sign with no aggregate. The Planning Commission was unable to agree on a recommendation to the City Council. The Planning Commission also welcomed Frank Gavidia and said goodbye to Community Development Director Mindy Gentry.
  - (b) Trails and Landscaping Committee No meeting held.
  - (c) City Manager/Staff
    - City Manager Napper advised the City Council can expect its requested revisions to the Sign Ordinance at its next regular meeting on April 2, 2019.

## (d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.

Councilmember Diaz attended the Contra Costa Water District's Board meeting.

Councilmember Wolfe attended the Contra Costa County Mayors' Conference in San Ramon, the Clayton Library Foundation Board meeting, Bob Hoyer's Birthday celebration, the joint Legislative Town Hall meeting with Assembly Member Tim Grayson and Senator Steve Glazer, the farewell luncheon for former Community Development Director Mindy Gentry, and attended the Community Emergency Preparedness meeting.

Vice Mayor Pierce attended the Contra Costa Transportation Authority's Administration and Projects Committee meeting, the Contra Costa County Mayors' Conference in San Ramon, the Association of Bay Area Governments joint meeting of the Legislation Committee and Administration Committee, and the Community Emergency Preparedness meeting.

Councilmember Wan spoke with a local Cub Scout troop about the "Rule of Law" and with constituents about this meeting

Mayor Catalano attended the Contra Costa County Mayors' Conference in San Ramon, held Mayor's office hours this past Saturday and announced upcoming Mayor's hours this Friday at City Hall from 4:00 pm to 5:00 pm.

(e) Other - None.

## PUBLIC COMMENT ON NON - AGENDA ITEMS

Marci Longchamps expressed her continued concern of parolee housing noting it was clearly indicated the re-entry programs from the County are not imposing any mandatory requirements on the City of Clayton. By the Council's veto on conducting further research regarding the private park on Coyote Circle and the Oakhurst Country Club, the City Council is admitting Coyote Circle and Shell Lane will indeed be found exempt from parolee housing ordinance. She finds the veto a lack of the City performing its due diligence. She asked that residents of Clayton fight Ordinance 483 together for the safety of our children and elderly, not political gain. She concluded with a definition of deceit: "the action or practice of deceit someone by concealing or misrepresenting the truth"; dishonesty: "deceiving someone's character or behavior; deception: "the action of deceiving someone"; and integrity: "the quality of being honest and having strong moral principle."

Ann Stanaway, 1553 Haviland Place, directed her concerns to Councilmember Wolfe, as he was in attendance at the Emergency Preparedness community meeting, asking how he felt about continued blockage of fire lanes. She also expressed concerns about political motivation and political patronage.

Terri Denslow once again encouraged the City Council and residents to be respectful to one another with compassion, accountability, and respect. When City, residents and Council come together and ponder the development and adoption of loopholes in the name of safety and comfort, it apparently prohibits others from residing amongst us. At the last meeting she heard a resident question the Planning Commission if they could review parolee housing applications with additional scrutiny beyond the laws of the ordinance. She also heard a Councilmember suggest additional certifications as requirements for the associated Conditional Use Permit; whether it be discussions about sign size limitations, parolee housing or parking near Mt. Diablo, downtown development

and such, when we seek policy development in fear of the unknown, fear of blight, fear of legal ramifications, we lose our basic moral compass.

## PUBLIC HEARINGS – None.

#### 8. ACTION ITEMS

(a) Consider a Resolution establishing a preferential parking permit pilot program at designated portions of the Regency Drive and Rialto Drive neighborhoods to alleviate on-street parking issues associated with hikers and users of the nearby Mt. Diablo State Park Regency Gate trailhead. (Chief of Police)

Chief of Police Elise Warren presented the staff report based on residents' concerns initially brought to the City Council at its meeting of May 15, 2018. On January 15, 2019 the City Council heard the residents' concerns of the parking impacts of visitors and hikers in their neighborhood and formed a Council ad-hoc Committee. That ad-hoc committee met on January 30 and then presented its findings at the February 5th City Council meeting where the City Council directed staff to prepare a preferential parking permit pilot program based on its findings as a guideline.

Staff researched other cities' preferential parking programs and came up with the proposed pilot program. In summary the preferential parking pilot program is to run for twelve months commencing upon the completion of all administrative tasks along with installed signage and permit distribution, upon approval by the City Council. The pilot program includes portions of Regency Drive and Rialto Drive as determined by Council as either Option 1 or 2. In basic terms the pilot program would allow the residents of the affected area to purchase parking permits from the City allowing them to park on the streets during restricted days and times, and prohibiting non-permitted vehicles from doing so. The proposal includes Saturdays, Sundays, and Federal Holidays from 8:00 am to 5:00 pm. The recommended cost of the permit would be \$75.00 for the first permit including two guest permits and \$55.00 for additional permits. That cost also includes four special event permits including up to 10 permits for each residence. The recommended violation is \$45.00 for parking in the restricted area without a permit, Chief Warren also noted another option for City Council consideration is to allow all Clayton residents who do not live in the restricted areas to obtain these parking passes as one annual permit and/or allow the purchase of one-day temporary permits by anybody who wants one up to a maximum of fifty per day. In the pilot program there are some decision points to be made including the boundaries of the program, the number of permits, whether or not quest permits should be allowed, and if the Council wants to consider Options A & B.

Councilmember Wan inquired on the rationalization of allowing one or two permits per residence. Chief Warren advised when staff conducted the inventory of street parking there is approximately 115 available parking spaces on Regency Drive with fifty homes. That ratio would allow every resident two permits and two guest parking permits. Essentially, every home already has a minimum of four on-site parking spaces available on the real property; she felt two parking permits is a reasonable number. She noted another option to consider is to allow the maximum number of parking permits to be the number of registered vehicles per residence, noting the more permits that are issued the more the streets will remain impacted.

Councilmember Wan inquired on the costs of the permits, suggesting the signage is the main cost factor. Chief Warren advised the main cost factor is actually staff time and supplies needed to implement the program.

Councilmember Wan also inquired on what constitutes a violation in permit terms. Chief Warren provided several examples of a violation such as purchasing a permit for a vehicle that is registered to one's home but displayed that permit in another vehicle by giving it to a friend or relative; other examples are not filling out the paperwork properly, refusing to provide information on the application form, or providing false information on the application form.

Councilmember Wan asked if this plan is enacted and it is found to cause spillover to another neighborhood, could that matter be addressed during or at the end of the pilot program. City Manager Napper responded yes, adjustments can be made to this pilot program impacting other neighborhoods, if necessary. As this pilot program is introduced and once in place there could be pushout to other areas based on how far people are willing to walk; if additional blocks of neighborhoods advise the City Council of a new parking issue, the City Council has full ability to amend the pilot program to include additional areas without waiting for the conclusion of the pilot program.

Vice Mayor Pierce clarified the City would absorb the cost of the signage and installation; the permit fees only cover the issuance costs of staff time and supplies. City Manager Napper advised the signage, poles and installation costs are estimated as there is no contract as of yet. Furthermore, it is not only signs that show there is "no parking allowed"; additional poles and signs will direct non-permitted people where they can park in those areas, such as at the end of the spur line on Regency Drive. Whether the City Council wishes to fold in these costs to the permittees is a policy decision for the City Council. Staff heard at the last Council meeting the initial intent was to recover full cost recovery but that is a determination by the City Council. Chief Warren added staff costs are approximately \$46.00 per hour; at this point in time, since the City has not conducted such a program before, it is estimated to take about an hour per permit issuance from start to finish with some cost built in to cover signs.

Councilmember Diaz remarked the proposed signage must include verbiage that violators will be subject to citation and fines or towing, and the signs be visible and readable enough so people can understand them. City Manager Napper advised the sign will read "Parking Permit Required on Saturdays, Sundays and Federal Holidays 8:00 am to 5:00 pm, Violators will be ticketed". He noted the City Attorney was involved in the verbiage expressing concerns about the towing aspect. Chief Warren added this information was included in the staff report; the way she reads the Vehicle Code when permitting vehicle towing, it cannot be a fine and a tow; the City must fine or tow. She advised towing is very time consuming for a tow truck to be dispatched and arrive, for the officer to fill out the paperwork, then somebody must come down to the Police Department during business hours for a release, which process leaves a bunch of people stranded on Regency and Rialto Drive without transportation; there is no public transportation nearby. The City Council can elect to impose the parking penalty as a tow: however, staff recommends the penalty be a fine. When she reviewed other programs throughout the state, she did not find any similar program where the penalty was a tow. The fine staff set at \$45.00 was based on other cities' fines within Contra Costa County. and she considers that fine is a sufficient deterrent that most people would choose not to park there. The Clayton Police Department does not have sufficient resources to enforce the towing as the penalty.

Councilmember Diaz suggested the Chief look into hiring a reserve officer specifically to patrol the area on Regency and Rialto Drives and pay them four hours per day on Saturday, Sunday or Federal Holidays so as not to interrupt the regular law enforcement of the Clayton Police Department, Councilmember Diaz believes there is funding available in the Police Budget as the department is authorized for eleven officers: however, recently it had twelve officers and asked the City Manager directly how that occurred without City Council authorization. City Manager Napper advised the twelfth officer is not a permanent position; the City Council determines permanent positions. When the City Council approves the annual City Budget, the Budget Resolution specifically authorizes him as city manager to hold to the bottom line of expenditures and the Police Department has stayed within its budget with attrition and vacancies. The City Manager is charged with the responsibility keep the budget balanced; when knowing some police officers were perhaps leaving or going to other police agencies, he authorized the Chief of Police to commence recruitment in advance because it takes a while to hire sworn law enforcement individuals, screen them, and go through POST certifications; once brought onboard they must go through field training prior to being released to field work on their own. City Manager Napper indicated he was trying to work within the confines of the monetary budget the City Council approved and still provide sustained full deployment of sworn personnel to protect our community.

Vice Mayor Pierce inquired on the fee, if vehicles were towed. Chief Warren advised the vehicle release fee is \$161.00; in addition there is a fee paid to the tow yard which can be a total cost of \$300 - \$400.

Vice Mayor Pierce noted if the vehicle was towed Saturday, Sunday or on a Federal Holiday, that vehicle would not be able to be released the same day as the Police Department's Administration is closed. Chief Warren confirmed Vice Mayor Pierce's understanding.

Mayor Catalano inquired in terms of a parking ticket, the City does not really earn any money out of those, and it is a deterrent. She further inquired on the amount retained by the City for a \$45.00 ticket, for example. City Manager responded a recent study has not been conducted but considering time and motion calculations, by the time the officer arrives and the equipment or vehicle pulls over, the officer gets out the car, runs the license plate, writes up the ticket, it is not a money maker for the City. In fact, people mistakenly think a city can create budget revenues by issuing speeding tickets, noting the largest portion of a speeding ticket now funds the court system as determined by state law. The City actually loses money when speeding tickets are issued, particularly when an officer must appear at traffic court for a contested ticket.

Mayor Catalano remarked she performed some research noting San Francisco tows an average of 42,000 vehicles per year, spending approximately \$25 million per year to operate its towing program, inquiring if there is anything in code or state law today that allows for a towing violation for something like this. Recently Assembly Member Chu introduced AB 516 to prevent cities from using towing as a mechanism for any violation that does not serve a public safety purposes. City Attorney Subramanian responded Vehicle Code Section 22651 allows towing; however, it must be done by Resolution or Ordinance, requiring modification to the proposed Resolution to permit it.

Mayor Catalano also inquired on the two permits per residence: will City staff indicate a license number on the permit to prevent the permit from being sold or traded. Chief Warren advised the permits she has seen online come in a lot of varieties; most are done by zones. The City would likely have them serialized not by license plates; there would be a data base with a serial number indicating to whom that permit was issued and which vehicle it is assigned to.

Mayor Catalano inquired on one of the options allowing any Clayton resident the ability to purchase a permit, referencing Vehicle Code Section 22507 that preferential parking permits could only be issued to "adjacent streets" and therefore is this truly is an option. City Attorney Subramanian indicated it is not an option as there is a case in the City of Hermosa Beach where that city tried to create a preferential parking program near the beach wherein it wanted to allow the entire city to have these permits. There was an injunction issued because the court found that program was in conflict with the "adjacent to" requirement.

Mayor Catalano opened the matter for public comment.

Rick Lewis finds the proposed preferred parking program too restrictive and complex, finding two parking permits and two guest passes not enough for his residence. Mr. Lewis suggested parking permits for each vehicle at each residence and wanted more guest parking passes. He advised the parking problem is with the hikers and is spreading into the weekdays; he provided the City Council with photos he took earlier today.

John Hunt, 115 Regency Drive, advised there have always been hikers in the neighborhood yet over the last few years it has become more of a problem and additional litter. Mr. Hunt noted he is part of a large family and it is difficult to host an event at his home during the holidays; he is hoping the City can find a solution.

Ron Cerruti, 20 Rialto Drive, noted the problem has moved from Regency Drive over to Rialto Drive. He is in favor of a parking permit program, but would like to see an increase in the number of parking permits issued to each residence and more of a police presence. Mr. Cerruti moved specifically to Rialto Drive to be close to Mt. Diablo.

Mark Montijo, 127 Regency Drive, advised he has one of the original driveways which allows only for one vehicle while other neighbors have expanded their driveways to accommodate two vehicles. Mr. Montijo would like to see an increase in the number of guest permits issued.

Ray Grimmond, 79 Regency Drive, also feels two parking permits and guest permits are inadequate. He wondered about the distance placed between the signs as he has large frontage on his property. Mr. Grimmond added the problem is not with the neighbors, it is with the hikers.

Margaret Eraclio, 151 Regency Drive, believes the proposed parking permit should be issued with no annual fee; if anything, a one-time fee and the ability to obtain as many passes as they may need. Ms. Eraclio noted there are other streets with access to easier trails. She feels the residents are being penalized for seeking the restoration of their quality of life.

Margaret Eraclio then read a statement for her neighbor, Judy Hunt, 145 Regency Drive, who agrees with all points made and does not feel they need annual passes due to a large number of hikers infringing on the quality of life in her neighborhood. She feels visitor parking is not too much to ask for as no one else in Clayton has their problem.

Terri Denslow expressed concerns and provided suggestions regarding the proposed parking permit program noting the estimated cost of \$60,000 for signage seems expensive, the permit program may indeed move the problem elsewhere, and does not consider additional police officers would be beneficial due to the City's limited budget. She felt the proposal as designed blocks off the public street creating a member-only access and a possible division amongst Clayton residents. Ms. Denslow wondered if there is defined criteria to know if this parking permit plan is working, how will it measure success. She suggested the ad-hoc committee reconvene to discuss the proposal

further, outreach to the All Trails app to change the Regency gate location, and if Mt. Diablo State Park would consider installation of another long-term parking lot.

Beth Walsh spoke on behalf of her neighbor, Sue Lloyd, 158 Regency Drive; she feels the cost of the parking permit is punitive to the homeowners and she does not agree with the proposal as written and it will have a negative impact on the core values. Ms. Walsh added the situation on Regency Drive is a unique one as the residents have lost the ability to have normal residential use of their neighborhood streets, adding the proposal penalizes the residents for circumstances out of their control that do not meet the definition of normal residential use. Ms. Walsh requested postponement of the vote for the residents to have an opportunity to discuss the proposal and its impacts, positive or negative.

Daniel Walsh spoke on behalf of Jeff Weiner who indicated their petition was conducted to get the City's help improving the quality of life regarding safety, and quality of life due to the increased speeding, litter, and bad behavior brought to their neighborhood with the influx of hikers parking on Regency Drive. Mr. Weiner felt the limitation of two parking passes per residence is actually worse than what is currently occurring and is at cost higher than Walnut Creek. Mr. Weiner wrote the special event passes make no sense as parking is not guaranteed, and he requested more time for the neighbors to meet to work out the issues with the proposed plan.

Kathy Benge, 139 Regency Drive, added the proposed parking permit program may not be workable based on the cost and limitations. She requested some more time to work out the issues and suggested closure of the State Park access gate with possible funding assistance from the residents.

Ann Stanaway commented there will not be any City enforcement as existing ordinances are not currently enforced. She agrees the residents on Regency Drive have a decreased quality of life; however, when one lives next to an attraction such as a state recreational facility, one will experience more of the public as it has become fashionable to be more physically fit and by hikers who enjoy more nature walks. Yet, people are not necessarily as considerate as they should be. That is the reality of the situation.

Dan Walsh requested the residents have an opportunity to meet prior to any City Council vote on this matter as the materials were not available until March 15th. He also requested use of a City facility to allow more residents to attend.

With no other speakers, Mayor Catalano closed the matter to public comment.

Vice Mayor Pierce summarized the residents desire to have more time to discuss the parking permit proposal and postpone the City Council's vote this evening. She also requested clarification on the 100' distance between signs asking if that is a State established statute. City Engineer Scott Alman advised the 100' distance is a recommendation from staff is from the sign code which is not mandated. Staff felt this distance would be adequate and not intrusive to the neighborhood, with the intent to install a sign where the permitted parking begins and ends without any encroachment on any particular parcel or lot.

Vice Mayor Pierce commented she is not convinced a parking permit program will solve the problem. She believes most residences have at least two parking spaces available on their lots; with addition of the possible two parking permits and two guest permits per residence, that option allows up to six parking spaces. She does not think there are very many neighborhoods in Clayton that have that capability. Vice Mayor Pierce noted she is struggling with the proposal and wants to find a solution that fits the situation.

Councilmember Wolfe agreed with Vice Mayor Pierce however he has more questions, preferring Option 2 as the best choice. He would also welcome the opportunity to meet with the ad-hoc committee again to talk about a solution. Councilmember Wolfe added the preferential parking permit pilot program was not intended to be a no-cost program; in looking at the time frame to order signs, installation and have a pilot program in place, there may not be relief to the residents in 2019. He would like to come up with a reasonable compromise.

Councilmember Wan wanted to move forward with a pilot program to gain additional information to focus on what works and propose any changes in the duration. He felt the Option 2 proposed program is the least intrusive and will provide some relief from the parking surge, although acknowledged spillover may occur. Councilmember Wan also advised the preferential parking pilot program is intended to be cost neutral, finding the cost could be recovered over a length of time that is fair and not requiring the residents to subsidize the program or it to be a revenue generator for the City. He suggested the proposal be modified for parking permit issuance to be equal to the number of vehicles registered at the residence and increase the number of guest parking passes which would resolve the disagreement heard during public comment. Councilmember Wan would like to track the data on how many citations are issued and the nature of the citation, inquiring is there a difference in issuing a citation under a Vehicle Code violation versus Clayton Municipal Code. City Attorney Subramanian advised she would have to conduct research to determine that answer.

Councilmember Wolfe understands the residents feel the cost of the parking permit is too expensive; he asked what is an acceptable cost to implement the program?

Councilmember Wan indicated there will be a cost to cover the pilot program, suggesting once the fees are recovered the cost would sunset.

Councilmember Diaz is not ready to make a final vote on this item as the proposal is complicated and he would be interested in a less restrictive program for the residents. He suggested increased police enforcement and requested BB&K to conduct further research.

Councilmember Wolfe requested more information on the gate issue that was brought up under public comment. Kathy Benge indicated an option to solve the parking problem would be to close off the State Park gate at Regency, and the residents sharing the cost of doing so is reasonable.

Mayor Catalano understands there could be a limitation in the issuance of parking permits as there are only so many spaces available to park on Regency and Rialto Drives; she expressed serious concerns over a likely spillover effect. She felt of the options presented this evening, she preferred Option 2, if she had to vote. Mayor Catalano advised she is open in delaying the Council vote on this item to allow the residents an opportunity to meet on this item prior to a permit parking pilot program taking place.

Vice Mayor Pierce noted some time factors to consider is preparation of bid materials, award of contract, and execution of contracts as she feels this is too large a job for City Maintenance crews to handle, requiring the use of an outside contractor. City Manager Napper responded this work is indeed considered a public works contract under state laws valued over \$5,000. That determination necessitates the preparation of project specifications so every contractor can bid on the same specifications. He added this cannot be done in-house as the City has a limited number of staff in its Maintenance Department and they are approaching a very busy season with the start of spring.

City Engineer Alman added staff envisioned the need of a public bid process for this project of approximately 60-90 days for ordering and installation to begin to take place. City Manager Napper further noted this bid process could take additional time as it is a small project and confronts the ever-present challenge the City has in finding interested contractors who are available to perform small profit-margin projects.

Mayor Catalano inquired if the cost of the sign is as indicated in the staff report at \$750.00 per sign, asking if there are less expensive options available. City Engineer Alman indicated labor, not materials, is the bulk of the installation cost per sign. City Manager Napper advised the sign cost in the staff report is an estimate only as there has been no formal bid; it may be more or less than the estimates when contractors actually bid.

Councilmember Wan favored boundary Option 2, suggested an increase to the number of guest passes and the elimination of special event passes.

At Mayor Catalano's discretion, Rick Lewis indicated he does not think the residents will mind paying for a permit parking program they find acceptable.

Vice Mayor Pierce noted she is uncomfortable in issuing parking permits beyond the number of available on-site parking spaces; she prefers a limit of two guests parking passes per residence.

Councilmember Wan disagreed, wanting to allow as many guest parking permits as residents would like. He believes the neighbors will work with one another to figure out the parking situation as more guest passes do not create the problem.

Vice Mayor Pierce understands the project's timing issue and would like to suggest staff go out to bid on signage installation for both Options, which time period then allows the residents an opportunity to meet and advise the Council ad-hoc committee on their preferred signage options and parking permit options.

City Manager Napper advised the proposal should be initiated by Resolution if inclined to actually start the parking permit pilot program; however, the City Engineer can prepare the scope of work and go out to bid, knowing the City Council is not compelled to award a bid while still allowing more time to decide on the number of permits to be issued per residence.

It was moved by Vice Mayor Pierce, seconded by Councilmember Wolfe, to direct staff to prepare a scope of work for contractor bids on Options 1 and 2 boundary signage and installation for a restricted parking district along portions of Regency Drive and Rialto Drive.

Councilmember Wan asked if the motion could be amended by requesting staff research tangible figures for time and materials required in establishing the cost of the preferential parking permit.

Vice Mayor Pierce restated the motion, seconded by Councilmember Wolfe, that staff prepare a scope of work for contractor bids on Options 1 and 2 boundary signage and installation for a restricted parking district along portions of Regency Drive and Rialto Drive, staff research tangible figures for time and materials required in establishing the cost of the preferential parking permit, that the award of contract for signage installation be placed on the same future Agenda with the City Council's continued consideration of the Resolution to enact the parking permit pilot program, and the Council ad-hoc committee can serve as the liaison to the neighborhoods' meetings and outcomes.

Motion passed (vote 5-0).

9. COUNCIL ITEMS - None. 10. CLOSED SESSION - None. ADJOURNMENT- on call by Mayor Catalano, the City Council adjourned its meeting at 11. 9:34 p.m. The next regularly scheduled meeting of the City Council will be April 2, 2019. Respectfully submitted, Janet Calderon, City Clerk APPROVED BY THE CLAYTON CITY COUNCIL Carr Tuija Catalano, Mayor

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