MUSTANG CITY COUNCIL
APRIL 16, 2013

The Mustang City Council met in regular session on Tuesday, April 16, 2013 at 7:00 p.m. in the Mustang Municipal Building Council Chambers. Notice of the meeting was posted on the Bulletin Board outside the Mustang Municipal Building on Friday, April 12, 2013 at 3:15 p.m. in compliance with the Open Meeting Law, 25 O.S., Section 301, et. seq.

A. CALL TO ORDER

Mayor Adams called the meeting to order at 7:35 p.m.

B. PLEDGE OF ALLEGIANCE/INVOCATION *(Pastor Robert Gregg, Lakehoma Church of Christ)*

Pastor Clyde Slimp led the assembly in the Pledge of Allegiance and Prayer. He also talked about the activities that were going on at the church.

C. ROLL CALL

Councilmembers Present:	**Taylor**
	Grubbs (left about 7:45 p.m.)
	Bowers
	Hagan
	Mount
	Adams
Councilmembers Absent:	**Jones**

D. INTRODUCTION OF GUESTS/HEARING OF CITIZENS OR DELEGATES

Former Councilman Darrel Noblitt 2214 E. SH 152 spoke to Council regarding their positions as Councilmembers. He stated that from personal experience the newspapers love the fighting between the Councilmembers but the citizens do not. He stated that Council has a public relations problem. He stated when you run without an opponent especially when it's for the first time it is not a compliment. It's because those of us who are watching don't want to be a part of this and when you are elected with less than a hundred people in the vote that is less than 1 in 10 of the eligible voters. That is not good news. We are a pleasant friendly group of folks in Mustang and we won't tell you to your face that you are doing a bad job.

He stated that Council is not very popular right now but they should be and they can be but they are going to have to make some changes. This should be an honorable body, a body that protects our property rights and makes plans for the future and compels us to draw more people to call Mustang home but it is not happening right now.

Noblitt asked the Mayor to explain why Council is going into executive session for those who are watching it on television. He also talked about the voting lights like they use to have. Roll Call looks like Taylor makes a decision and then everyone else follows.

Noblitt mentioned the fighting between the Mayor and Councilman Mount and stated it sounded like his relationship with the former Mayor Chad McDowell.

Adams stated that he would work better to make sure they don't look like that and Mount agreed.

Noblitt stated Mount stated last week that he didn't know the differences in the codes but he voted to table it. If you don't have enough information to vote for it then abstain.

Noblitt said to either get the voting lights up that Council use to use or say something that says where you stand.

Noblitt also stated that he is about as far right as you can get and he explained why and then he said to Councilman Taylor that he finds it ironic that he uses this chamber to try to peddle HB 1412 and while you do so you claim a worldwide conspiracy to push our thoughts about our freedoms. He stated that the seat where you sit is not yours, it belongs to the citizens. He stated this is our Chamber. At the last Council Meeting you said that staff knows what is best for Mustang and it does not get better than Robert Coleman. That is very high praise but then you went into a very lengthy debate but you never mentioned the details of the code.

If we have an issue regarding the fire or police department we should call the fire chief or the police chief. If the community development staff is not up to the task you need to replace them. You need to hire the right staff then follow their recommendations. If not the right folks, get rid of them.

If you watch the tape you will hear yourself saying, can you believe it, People helping People to Build a Safer World is their slogan. Noblitt asked what in the world is wrong with a safer world. Why would we want to use antiquated codes because someone wants to make a safer world?

Noblitt stated that he is very familiar with Agenda 21. The Patriot Channel is on his radio and he has listened to those guys for years, Glen Beck, etc. Agenda 21 is 21 years old, it was passed in Rio de Janiero in 1992 and it never has had one ounce of an effect on his life and it is not suddenly more important than it has been.

He thanked Council for doing this thankless job. He stated that your job though is to conduct the city's business. There are ordinances that prohibit you from profiting from your position. In his opinion that includes promoting political agendas, fighting personal vendettas and most of all using this for a platform for your next gig. Please change those minor things and direction and re-take control or consider a new sign for Mustang. Instead of Mustang a City with a Vision, consider Mustang a backwards little village with antiquated codes where you can build to whatever standards you please because we seek conspiracies behind every tree.

Mark Roberts, 19176 6th Avenue, Covington, Louisiana who is the Regional Manager of the International Code Council spoke to Council. He was in Oklahoma today attending a Commission Meeting and he felt he should speak to Council today to help explain a few statements that he heard from the last Council Meeting that he felt were incorrect.

The International Code Council is an American Public Safety membership based organization. The Code Council uses the term International in its name as a means to export American knowledge and technology in order to do business in the world but he stated that they are and always have been an American based company.

He listed who develops the codes and it includes safety and fire officials and builders. He stated that their Board of Directors is made up of Building and Fire Officials. Our codes are model codes. If local governments choose to adopt they can amend them anyway they see fit. It is a pretty out in the open process.

Mr. Roberts also stated that they do not mandate that anyone adopt their codes. He stated that all 50 states have adopted at least one of our construction codes and Oklahoma has adopted six.

Mr. Roberts also stated that he would be glad to come and hold a work shop on the codes if Council would like for him to do that.

E. NEW BUSINESS, DELETIONS OR CONTINUANCES TO THE AGENDA

Item H-1 was considered right after roll call in order to allow Councilman Grubbs to vote since he had to leave the meeting early.

F. CONSENT AGENDA

1. Approval of **04/02/13** City Council Minutes.
*2. Claims List for **FY '13**
3. Approval of **Resolution No. 13-043**, Making Changes in the Street/Drainage Fund Budget by Making a Supplemental Appropriation to Increase the 2012-2013 Fiscal Year Budget by **$70,698.**
4. Approval of **Resolution No. 13-044**, Making Changes in the Limited Purpose Budget by Making a Supplemental Appropriation to Increase the 2012-2013 Fiscal Year Budget by **$19,701.**
5. Approval to Turn Past due Library Accounts Over to Collection Agency.
6. Approval of **Retirement** from Oklahoma Municipal Retirement Fund for Carolyn Hill Office Coordinator for the Mustang Fire Department.
7. Approval of **Retirement** from Oklahoma Municipal Retirement Fund for Trisha Winham, City Clerk.

Councilman Taylor asked that Item F-2 be pulled from the Consent Agenda for discussion.

MOTION was made by **Mayor Adams**, seconded by **Councilman Mount** to approve Items F-1, 3, 4, 5, 6 and 7 of the Consent Agenda.

AYE: Taylor, Bowers, Hagan, Mount, Adams
NAY: None

In reference to Item F-2 –

Councilman Taylor asked about the fees in the amount of $446.00 to Attorneys Rinehart, Rinehart and Rinehart.

Battles stated that was for researching a legal description for a roadway.

Taylor asked if that was not something that our attorneys could have done and Battles said no.

MOTION was made by **Mayor Adams**, seconded by **Councilwoman Bowers** to approve Item F-2 of the Consent Agenda.

AYE: Taylor, Bowers, Hagan, Mount, Adams
NAY: None

G. <u>INFORMATION/REPORTS</u>

1. <u>City Manager</u>

Interim City Manager Battles stated that he was disappointed that Council didn't pull the retirement item for the City Clerk and he asked the City Clerk to come forward.

The Mayor and Council presented the retiring ***City Clerk Trisha Winham*** with a plaque for her dedicated service to the City of Mustang and thanked her for a job well done with the Council.

The City Clerk was totally surprised and very much appreciated the thoughtfulness of the Mayor, City Manager, Staff and Council.

Pictures were taken with the Mayor and Council.

Battles reported that the City Clerk's retirement reception would be on Thursday, May 2nd from 4-6 PM at Town Center in Banquet Hall "B".

Battles stated that he would send out with his report where we are with DEQ Consent Orders, etc.

Battles reported on the Town Center Expansion and stated that he meets with the contractor and architect every two weeks and they are still on schedule.

Battles stated that the Notice to Proceed on baseball is being issued this week and they will have ten days to begin work after that.

Battles introduced Dennis Merrill who is the new Project Manager for Severn Trent and Mr. Merrill addressed the Council with information on his background and stated that he use to work here in Mustang with Arlon Hadlock; back in the day.

Battles stated that the dump site is open for free from 9 a.m. to 1 p.m. on Saturdays and it is located off of 59th street. He explained that you must bring your water bill and photo identification. It is in conjunction with OEMA for no additional cost and he thanked OEMA for helping us out.

Battles also stated that there will be a special curb side limb pick-up. He stated on April 23rd, April 25th and possibly April 29th if needed. The limbs must be stacked curb side and we will post how those are suppose to be stacked. We are able to operate under OEMA's contract for no additional funding.

Battles reminded everyone that Carolyn Hill's retirement reception will be on Friday, April 26th at 2 p.m. at the Mustang Fire Department.

2. <u>City Council</u>

Councilman Taylor stated that the citizens of Ward I are enjoying the new street signs as well as the LED lights. He stated that it is great to have those.

Taylor stated that he was disappointed to hear former Councilman Noblitt talk about this body stating that he would make a motion and everyone would follow him. He did not feel that Noblitt's comment was correct. He stated that maybe it's a back-handed compliment that they would all follow me, but I assure you that is not the case. Each one makes their own decisions. They know what is on the agenda and they take the time to form their own opinions and nobody on this Council is hesitant to voice their opinion.

Councilwoman Bowers stated that she attended the OEMA meeting this last week and they stated that they were preparing for chipping up the trees in Mustang. She stated that she didn't receive hardly any phone calls at all.

Councilwoman Hagan stated that she was very proud that OEMA is going to pick up these branches especially under the contract. She stated that she had some issues to take care of but the City Manager already took care of them and she appreciates him for that.

Councilman Mount stated that he had a number of inquiries regarding whether or not the City was going to go broke. His response was last he heard or knew about we still have a couple million dollars in the bank.

Mayor Adams stated that he was glad to meet the new Severn Trent Manager. He stated that he had a lot of calls this week. He is very happy that the LD project is moving along and he asked the engineer if we had anything we need to talk about. She stated that they haven't replaced the cabinets yet.

Adams stated that Noblitt was right in several things and he thanked him for coming. He stated that any thought he ever had about a political career, not a chance! This is it. He stated that he would do a better job of working with Councilman Mount. Councilman Mount agreed.

Mayor Adams stated that he would really miss the City Clerk and thanked her again.

H. DISCUSSION ITEMS

1. **Discussion, Consideration And Possible Action** With Respect To **Resolution No. 13-045** Approving The Incurrence Of Indebtedness By The Mustang Improvement Authority (The "Authority") Issuing Its Utility System Revenue Note, Taxable Series 2013 (The "Note"); Providing That The Trust Indenture, As Amended, Creating The Authority Is Subject To The Provisions Of The Indenture, As Supplemented, Authorizing The Issuance Of Said Note; Waiving Competitive Bidding And Approving The Proceedings Of The Authority Pertaining To The Sale Of Said Note; Ratifying And Confirming A Lease Agreement, As Amended (The "Lease Agreement") Between The City Of Mustang (The "City") And The Authority Whereby The City Leases Its Water And Sanitary Sewer Systems To The Authority; Ratifying And Confirming A Sales Tax Agreement Pertaining To The Year-To-Year Pledge Of Certain Sales Tax Revenues; And Containing Other Provisions Relating Thereto.

MOTION was made by **Mayor Adams**, seconded by **Councilman Taylor** to approve **Resolution No. 13-045** outlining the BB&T proposal for approval.

AYE: Taylor, Grubbs, Bowers, Hagan, Mount, Adams
NAY: None

Councilman Grubbs left the meeting.

2. **Discussion, Consideration and Possible Action** Regarding Approval of Final Plat for Magnolia Trace Addition Phase 5.

Melissa Helsel, City Planner reported that this plat contains 29 lots separated in two separate sections. This is not the final phase of Magnolia Trace there is still more area available. This directly conforms to the preliminary plat and the Master Development Plan. It meets the requirements of the Master Design Statement of the PUD which was approved in 2004. They have complied with all of the Fire Department's requests and the Engineer's requests. Staff recommends approval and the Planning Commission voted 6-0 to recommend approval of this Final Plat.

Battles stated that there is a five year process that is in our ordinance that says all final plats be submitted within five years of the preliminary plat approval but that is typically for if having water problems and cant honor a plat that was done 7 years ago so ask if make motion to grant time extension for the filing of the final plat.

MOTION was made by **Mayor Adams**, seconded by **Councilman Taylor** to approve Item H-2 and granting time extension for the filing of Final Plat.

AYE: Taylor, Bowers, Hagan, Mount, Adams
NAY: None

3. **Discussion, Consideration and Possible Action** Regarding Acceptance of Bids for Voice, Data and Video Provider.

Janet Watts, Finance Director stated that proposals were requested and one was received for the service and staff recommends acceptance of the bids.

Battles stated that there are only two major service providers for this and only one submitted a bid.

Mayor Adams stated that we are getting a savings of almost a $1,000 a month when we do this and Watts said, yes.

MOTION was made by **Mayor Adams**, seconded by **Councilwoman Bowers** to accept the bids.

AYE: Taylor, Bowers, Hagan, Mount, Adams
NAY: None

4. **Discussion, Consideration and Possible Action** Regarding Awarding of Bid for Voice, Data and Video Provider, Approval of Contract and Authorization for Mayor to Sign Contract and Necessary Documents.

MOTION was made by **Mayor Adams**, seconded by **Councilwoman Bowers** to award the bid to Cox Business.

AYE: Taylor, Bowers, Hagan, Mount, Adams
NAY: None

Watts stated that this will be 15 times faster on internet speed and will save the City almost $1,000 a month.

5. **Discussion, Consideration and Possible Action** Regarding Authorization to Go Out for Bid for Armory Road Phase II.

Battles stated that he was asking authorization to go out for bid on the Armory Road, Phase II but can't deviate from the plans because it is the agreement that was made with the landowner. This is for the roadway only.

MOTION was made by **Mayor Adams**, seconded by **Councilwoman Hagan** to approve.

AYE: Taylor, Bowers, Hagan, Mount, Adams
NAY: None

6. **Discussion, Consideration and Possible Action** Regarding Rejection of Bids for Soccer and Baseball Concession/ Restroom Facilities and Authorization to Re-Bid the Project.

Battles explained that bids were opened and they were extremely high so he asked that they be rejected and re-bid the project. The architect will redo the drawings with no additional charge to the City. He explained that they just overshot what they wanted for the project.

Taylor asked what some of the additives were that made the price higher.

Battles stated stainless steel fixtures about $8,000 to $9,000 difference, fiber glass lining in women's and men's at $25,000 and a real good looking pitch system in the roof which added an additional $100,000 into the project. We are already in the process of cutting that down.

Taylor asked how many contractors came to the pre-bid and Battles said, thirteen.

MOTION was made by **Mayor Adams**, seconded by **Councilman Taylor** to reject the bids and authorize re-bid of the project on reduction of scope.

AYE: Taylor, Bowers, Hagan, Mount, Adams
NAY: None

J. CITY ATTORNEY'S REPORT

1. **Discussion, Consideration and Possible Action** Regarding Proposed Workers' Compensation Settlement Claim No. 2011-01 and Authorization for City Attorney and Staff to Take Action Necessary to Accomplish Same. **(Proposed Executive Session 25 O.S., Section 307 (B) (4)**.

2. **Discussion, Consideration and Possible Action** Regarding Cottonwood Development, LLC v. City of Mustang, Jay Adams, Mayor, Linda Bowers, Councilman; Mark Grubbs, Councilman; Linda Hagan, Vice-Mayor; Terry Jones, Councilman; Don Mount, Councilman and Matt Taylor , Councilman **(Proposed Executive Session as Authorized by 25 O.S., Section 307 (B)(1).**

*3. **Discussion, Consideration and Possible Action** Regarding ODEQ Consent Order Case No. 12-240 and Approval of Standard Operating Procedure **(Proposed Executive Session as Authorized by 25 O.S., Section 307(B)(4).)**

City Attorney Miller stated that there are three (3) items listed for executive session. Item No. 1 involves a workers comp claim that he recommended be conducted in executive session. Item No. 2 is a lawsuit filed by Cottonwood Development and because it is ongoing litigation he recommended that it be heard in executive session and Item No. 3 is DEQ Consent Order that is also pending litigation and recommends it be heard in executive session as well.

MOTION was made by **Mayor Adams,** seconded by **Councilwoman Bowers** to adjourn to executive session.

AYE: Taylor, Bowers, Hagan, Mount, Adams
NAY: None

In reference to Item G-1 –

MOTION was made by **Mayor Adams**, seconded by **Councilman Taylor** to proceed as discussed.

AYE: Taylor, Bowers, Hagan, Mount, Adams
NAY: None

In reference to Item G-2 –

MOTION was made by **Mayor Adams**, seconded by Councilwoman **Hagan** to proceed as discussed.

AYE: Taylor, Bowers, Hagan, Mount, Adams
NAY: None

In reference to Item G-3 –

MOTION was made by **Mayor Adams**, seconded by **Councilman Mount** to approve the SOP regarding Consent Order Case No. 12-240.

AYE: Taylor, Bowers, Hagan, Mount, Adams
NAY: None

K. ADJOURNMENT

MOTION was made by **Mayor Adams**, seconded **Councilwoman Hagan** to adjourn.

AYE: Taylor, Bowers, Hagan, Mount, Adams
NAY: None

The meeting was adjourned at **9:10 p.m.**

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Mayor

Attest:

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City Clerk

MUSTANG IMPROVEMENT AUTHORITY
APRIL 16, 2013

The Mustang Improvement Authority met in regular session on Tuesday, April 16, 2013 at 7:00 p.m. in the Mustang Municipal Building Council Chambers. Notice of the meeting was posted on the Bulletin Board outside the Mustang Municipal Building on Friday, April 12, 2013 at 3:15 p.m. in compliance with the Open Meeting Law, 25 O.S., Section 301, et. seq.

A. CALL TO ORDER

Chairman Adams called the meeting to order at 7:00 p.m. He stated the Mustang Improvement Authority meeting would be held first in order to discuss Item F-1 so Trustee Grubbs can vote and leave early.

B. ROLL CALL

Trustees Present: **Taylor**
Grubbs
Bowers
Hagan
Mount
Adams

Trustees Absent: **Jones**

C. NEW BUSINESS

There was no new business.

D. CONSENT AGENDA

1. Approval of **04/02/13** MIA Meeting.
*2. Claims List for **FY '13**

MOTION was made by **Chairman Adams**, seconded by **Trustee Taylor** to approve the Consent Agenda.

AYE: Taylor, Grubbs, Bowers, Hagan, Mount, Adams
NAY: None

E. <u>INFORMATION/REPORTS</u>

1. Trustee Manager
2. Trustees

There were no reports.

F. DISCUSSION ITEMS

1. **Discussion, Consideration And Possible Action** Regarding Approval Of **Resolution No. 13-046** Of The Trustees Of The Mustang Improvement Authority (The "Authority") Authorizing The Issuance Of Its Utility System Revenue Note, Taxable Series 2013 (The "Note") In The Aggregate Principal Amount Of Not To Exceed $5,600,000.00, For The Purpose Of Currently Refunding The Authority's Utility System Revenue Bonds, Series 1998; Waiving Competitive Bidding And Authorizing The Note To Be Sold On A Negotiated Basis; Ratifying And Confirming A Lease Agreement, As Amended (The "Lease Agreement") By And Between The City Of Mustang (The "City") And The Authority Whereby The City Leases Its Water And Sanitary Sewer Systems To The Authority; Approving And Authorizing The Execution Of A Series 2013 Supplemental Note Indenture, As It Supplements And Amends A Series 1998 Revenue Bond Indenture, A Series 1999 Revenue Bond Indenture, And A Series 2006 Supplemental Bond Indenture (Collectively, " Indenture", Authorizing The Issuance And Securing The Payment Of The Note; Providing That The Trust Indenture, As Amended, Creating The Authority Is Subject To The Provisions Of Said Indenture; Ratifying And Confirming A Sales Tax Agreement By And Between The City And The Authority Pertaining To The Year-To-Year Pledge Of Certain Sales Tax Revenues; Approving And Authorizing The Execution Of An Escrow Deposit Agreement; Authorizing And Directing The Execution Of Note And Other Documents Relating To The Transaction Including, But Not By Way Of Limitation, Professional Services Agreements; And Containing Other Provisions Relating Thereto.

Jon Wolff with Municipal Finance spoke to the Trustees regarding the refinancing of the 1998 Bonds. He referred Council to a handout that they had and he explained how the process works and what he was asking for.

Wolff stated that they were involved in the 2006 refinancing of the 1999 Series which shortened the term of those Bonds a decade.

Wolff stated that what they look at is what is the timing and what interest rates are and does it make sense to do this.

He stated that there was some difference in the existing documents associated with the 1998 A and B Bonds on how this should be done and one document states that we could call the Bonds at any time and the other states they have to be called on the interest payment day and have to give Bond Holders thirty (30) days notice.

So the bonds will be called on June 1 and notice will have to be given to the Bond Holders by the end of this month.

Wolff went over the Level Savings document with the Trustees and explained that he had talked to two (2) Banks, B B & T Governmental Finance out of Charlotte, North Carolina with an offer of 2.06% and the other Bank was All-America Bank in Mustang with an offer of 2.09%.

He pointed out that would be a gross debt service savings of $268,000 which would be about $45,000 a year into the City's budget and could be used for any other capital needs in the MIA.

He stated that the interest rate now is 4.94% and there are five to six years left on that debt and if the City waits the chance for achieving a reasonable amount of savings is going to dwindle.

He also pointed out that we would lock in at either 2.06% or 2.09% whichever one we go with.

He stated that All America offered if the City at any point in time wanted to get out from under that 2.09% the City can cut a check to the bank and there would be no actual additional premium to the City. There is a slight difference in interest rate which equates to $5,000 in additional interest going with the 2.09% as opposed to going with the 2.06%.

Battles stated that this is called a level savings which is a yearly savings. There is another plan that was presented to us which is an upfront savings but we felt this would be the best way to go.

Wolff went over the Level Savings with Council page by page.

Wolff stated you are going to look at issuance of new note with one of these two banks potentially $5,525,000. You have dollars that are going to be at your trustee bank around $489,000. Basically coming to the table with funds you have on hand that are used to make the payments on the existing debt and you are going to borrow $5,525,000. To pay off the old debt you have to come up with $5,366,901.25 that will pay off $5,250,000 and will also pay the accrued interest through June 1st. Then you come down to Cost of Issuance. He stated everything he has shown Council up until now shows the savings up to the cost of issuance. He went over the costs with Council which included the Bond Counsel at $30,000 and Municipal Finance is $30,000 and he pointed out that it is not taken out of the savings. He listed all of the fees that are in the Cost of Issuance that comes to $95,072.60.

Wolff pointed out that this is a taxable rate and they have come down dramatically.

Mayor Adams talked about the 2.06% v. 2.09% and then the only other difference is one has a percentage payment if we try to pay off early and the other one doesn't. Does that balance out the difference of the 1.03%?

Wolff explained that the chance of you refunding this transaction is nil. He stated that he didn't see any reason to pay this off early.

Councilman Mount asked if over the term of five years the savings will be at $220,000 with a cost to us of $95,000 to do that and Wolff said, yes.

Mount stated that he thought that was a good way to save money.

It was explained to Council that under Oklahoma law it takes 6 Councilmembers to vote yes on this in order for it to pass and based upon the decision Council makes tonight will be what will be filled in the blanks of the Resolutions.

MOTION was made by **Councilman Mount,** seconded by **Councilwoman Hagan** to approve **Resolution No. 13-046** and go with **BB&T Governmental Finance.**

Bowers stated that she was looking at All America Bank because it is local.

Battles reminded Council that it will take all six of the Councilmembers to vote yes on the motion for it to pass.

Adams explained to Bowers if this motion fails then Council could go to a vote on All America as the bank but if that doesn't pass then neither one passes.

Taylor explained to her the savings if go with BB&T. There is a $5,000 difference.

Mayor Adams reminded Bowers that they are stewards of the taxpayer's dollars and they should try to save an additional $5,000.

Grubbs explained to her that it would be like if she was refinancing her house would she go with the local bank or go with the bank that would save her the most money she could save. He stated that he thought they should go with the one who would save the citizens the most money.

The vote was taken and it was as follows:

AYE: Taylor, Grubbs, Bowers, Hagan, Mount, Adams
NAY: None

G. ADJOURNMENT

MOTION was made by **Chairman Adams**, seconded by **Trustee Taylor** to adjourn.

AYE: Taylor, Grubbs, Bowers, Hagan, Mount, Adams
NAY: None

The meeting was adjourned at **7:35 p.m.**

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Chairman

Attest:

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Secretary