

**Official Administrator Report
Review and Approval of Council Meeting Minutes**

Regular Council Meeting: October 31st, 2023

Resolution No.	Motion	Council Decision	OA Response	Comments
231031-01	Motion that Council accept the Agenda for the October 31, 2023, Regular Council Meeting.	<p>5-0-1 CARRIED For Mayor Jeff Colvin Deputy Mayor Stephen Hanley Councillor Shannon Dean Councillor Mel Foat Councillor Shannon Dean NOT RECORDED Councillor Ritesh Narayan</p>	ALLOWED	
231031-02	Motion that Council accept the May 2023 Library Board Minutes as information.	<p>5-0-1 CARRIED For Mayor Jeff Colvin Deputy Mayor Stephen Hanley Councillor Shannon Dean Councillor Mel Foat Councillor Shannon Dean NOT RECORDED</p>	ALLOWED	



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		Councillor Ritesh Narayan		
231031-03	Motion that Council accept the September 2023 Library Board Minutes as information.	5-0-1 CARRIED For Mayor Jeff Colvin Deputy Mayor Stephen Hanley Councillor Shannon Dean Councillor Mel Foat Councillor Shannon Dean NOT RECORDED Councillor Ritesh Narayan	ALLOWED	
231031-04	Motion that Council accept the Rocky View Regional Handibus Year-to-Date Report 2023 as information.	5-0-1 CARRIED For Mayor Jeff Colvin Deputy Mayor Stephen Hanley Councillor Shannon Dean Councillor Mel Foat Councillor Shannon Dean NOT RECORDED Councillor Ritesh Narayan	ALLOWED	



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231031-05	Motion that Council accept the October 24, 2023, Special Council Meeting Minutes, and acknowledge the Official Administrator’s comments.	<p>5-0-1 CARRIED For Mayor Jeff Colvin Deputy Mayor Stephen Hanley Councillor Shannon Dean Councillor Mel Foat Councillor Shannon Dean NOT RECORDED Councillor Ritesh Narayan</p>	ALLOWED	
231031-06	Motion that Council accept the October 17, 2023, Regular Council Meeting Minutes, and acknowledge the Official Administrator’s comments.	<p>5-0-1 CARRIED For Mayor Jeff Colvin Deputy Mayor Stephen Hanley Councillor Shannon Dean Councillor Mel Foat Councillor Shannon Dean NOT RECORDED Councillor Ritesh Narayan</p>	ALLOWED	
231031-07	Motion that Council accept the September 12, 2023, Regular Council Meeting Minutes, and	<p>5-0-1 CARRIED For</p>	DISALLOWED	See below



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	acknowledge the Official Administrator’s comments.	Mayor Jeff Colvin Deputy Mayor Stephen Hanley Councillor Shannon Dean Councillor Mel Foat Councillor Shannon Dean NOT RECORDED Councillor Ritesh Narayan		
231031-08	Motion that Council open the Public Hearing for Bylaw 015-23, Planned Lot Cap MDP Amendment Bylaw at 9:10 a.m.	5-0-1 CARRIED For Mayor Jeff Colvin Deputy Mayor Stephen Hanley Councillor Shannon Dean Councillor Mel Foat Councillor Shannon Dean NOT RECORDED Councillor Ritesh Narayan	ALLOWED	
231031-09	Motion that Council close the Public Hearing for Bylaw 015-23, Planned Lot Cap MDP Amendment Bylaw at 10:50 a.m.	CARRIED UNANIMOUSLY	ALLOWED	



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231031-10	Motion that Council reschedule the November 7, 2023 Regular Council Meeting to November 14, 2023.	CARRIED UNANIMOUSLY	ALLOWED	
231031-11	Motion that Council direct Administration to take into consideration the feedback and suggestions Council and Administration received during the Public Hearing for Bylaw 015-23 and to come back to Council with suggested amendments to the MDP for November 2023.	CARRIED UNANIMOUSLY	ALLOWED	
231031-12	Motion that Council table second and third reading of Bylaw 015-23 sine die.	CARRIED UNANIMOUSLY	ALLOWED	
231031-13	Motion that Council authorize the retention of legal counsel for the purposes of all existing and future legal matters involving the Alberta Government arising from any Ministerial Order. Further, Council authorizes the City to pursue the recovery of all legal and operations expenses incurred as a result of any Ministerial Order. City Director of Corporate Services has authority to reallocate funds from existing budgets if required.	4-2 CARRIED FOR Mayor Jeff Colvin Deputy Mayor Stephen Hanley Councillor Mel Foat Councillor Blaine Funk OPPOSED Councillor Shannon Dean Councillor Ritesh Narayan	DISALLOWED	SEE BELOW REASONS
231031-14	Motion that Council approve policies, as presented: <ul style="list-style-type: none"> 023-14 Parks and Recreation Committee 	5-1 CARRIED FOR Mayor Jeff Colvin	ALLOWED	



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	<ul style="list-style-type: none"> • 023-15 Family & Community Support Services Advisory Committee • 023-16 Protective Services Communications Committee 	Deputy Mayor Stephen Hanley Councillor Mel Foat Councillor Blaine Funk Councillor Ritesh Narayan OPPOSED Councillor Shannon Dean		
231031-15	Motion that Council rescind the following policies: <ul style="list-style-type: none"> • 022-02 Aging in Place Committee • 022-04 Chestermere Accessibility and Streetscape Advisory Board • 022-05 Chestermere and Area Welcoming and Inclusion Committee • 022-12 Social Master Plan Committee • 022-08 Lake Recreation Committee • 022-09 Mayors' Youth Task Force • 022-10 Minor Sports Committee • 022-13 Watershed Advisory Committee • 022-11 Police Communications Committee 	<p style="text-align: center;">5-1 CARRIED FOR</p> Mayor Jeff Colvin Deputy Mayor Stephen Hanley Councillor Mel Foat Councillor Blaine Funk Councillor Ritesh Narayan OPPOSED Councillor Shannon Dean	ALLOWED	



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231031-16	Motion that Council direct Administration to open the Committee application process and to return to Council for November 14, 2023.	CARRIED UNANIMOUSLY	ALLOWED	
231031-17	Motion that Council approve Administration to engage an experienced municipal consultant who is an independent third party and is not currently an employee or contractor of the City, to provide advice and guidance in the development of protocols to address intra-council conflict and promote collaborative governance.	CARRIED UNANIMOUSLY	ALLOWED	THE OA WILL LEAVE IT TO THE MINISTER TO DETERMINE IF THIS IS COMPLIANT WITH THE DIRECTIVES
231031-18	Motion that Council agree to a Council workshop, to develop and adopt protocols for intra-council conflict and promote collaborative governance, on January 16th, 2024	CARRIED UNANIMOUSLY	ALLOWED	
231031-19	Motion that Council accept the Summer Events Review 2023 presentation as information.	CARRIED UNANIMOUSLY	ALLOWED	
231031-20	Motion that Council accept the Emergency Management Exercise presentation as information.	CARRIED UNANIMOUSLY	ALLOWED	
231031-21	Motion that Council accept the Community Growth & Infrastructure Projects Update presentation as information.	CARRIED UNANIMOUSLY	ALLOWED	
231031-22	Motion that Council accept the Chestermere Social Needs	CARRIED UNANIMOUSLY	ALLOWED	



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	Assessment presentation as information.			
231031-23	Motion that Council direct Administration to provide the Social Needs Assessment Report to Council and the Public by end of day November 1, 2023	CARRIED UNANIMOUSLY	ALLOWED	
231031-24	Motion that Council accept the Municipal Affairs + Directives Update presentation as information.	CARRIED UNANIMOUSLY	ALLOWED	
231031-25	Motion that Council confirm that Council approves the engagement of MJM LLP to commence Judicial Review proceedings in KB Action No. 2301-11946.	4-1 CARRIED FOR Mayor Jeff Colvin Deputy Mayor Hanley Councillor Mel Foat Councillor Blaine Funk OPPOSED Councillor Shannon Dean	DISALLOWED	SEE BELOW REASONS
231031-26	Motion that Council direct Administration to investigate items listed in Agenda Item 8.6 and to return to Council with feedback addressing the issues, if needed.	CARRIED UNANIMOUSLY	ALLOWED	
231031-27	Motion that Council table Item 8.7 Bylaw 022-10 Land Use Bylaw discussion until November 14, 2023.	CARRIED UNANIMOUSLY	ALLOWED	



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231031-28	Motion that Council move into Closed Session at 4:54 pm to discuss the following: <ul style="list-style-type: none"> 9.1 FOIP Division 1, Part 2, s. 29 – Information that is or will be available to the public – Directive 5.c 9.2 FOIP Division 1, Part 2, s. 25 – Disclosure harmful to economic and other interests of a public body – 11 Acres 9.3 FOIP Division 1, Part 2, s. 21 – Disclosure harmful to intergovernmental relations – Legal matters 	CARRIED UNANIMOUSLY	ALLOWED	
231031-29	Motion that Council come out of Closed Session at 6:00 pm.	CARRIED UNANIMOUSLY	ALLOWED	
231031-30	Motion that Council choose third-party investigator MNP to investigate the Code of Conduct investigation with Newleaf being an alternative as per Directive 5.c.	CARRIED UNANIMOUSLY	ALLOWED	
231031-31	Motion that Council table item 9.2 until the November 14, 2023 Special Council Meeting.	CARRIED UNANIMOUSLY	ALLOWED	
231031-32	Motion that Council accept item 9.3 on the October 31, 2023, Regular Council Meeting Agenda as information.	CARRIED UNANIMOUSLY	ALLOWED	
231031-33	Motion that Council adjourn at 6:02 p.m.	CARRIED UNANIMOUSLY	ALLOWED	



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I, Doug Lagore, have been appointed Official Administrator of the City of Chestermere (the “City”) by the Minister of Municipal Affairs pursuant to Ministerial Order MSD082/22. My appointment was extended to March 31, 2023 by Ministerial Order MSD008/23 and further extended to December 31, 2023 by Ministerial Order MSD022/23. Below are my reasons in respect of the following resolutions:

- Resolution 231031-07
- Resolution 231031-13
- Resolution 231031-25

Resolution 231031-07

The September 12, 2023, Regular Council Meeting Minutes were not revised as directed in my OA Report which directed that:

I allow Resolution 230912-28 with the addition that “to provide infill residential development standards” is also replaced so that the preamble to Bylaw 023-23 is coherent.

The September 12, 2023, Regular Council Meeting Minutes do not show this revision to Resolution 230912-28. As such, I disallow Resolution 231017-03 and direct that Council approve the September 12, 2023, Regular Council Meeting Minutes which have been revised in accordance with my report.

I note this same direction has been provided in my October 17, 2023 OA Report. The City has failed to comply with that direction. I am confused as to why. The amendments to the preamble in Bylaw 023-23 are nonsensical as contained in the minutes of September 12, 2023 and with Council’s amendments, Bylaw 023-23 would read:

A Bylaw of the City of Chestermere, in the Province of Alberta, to amend the Municipal Development Plan (Bylaw 015-15) of the City of Chestermere to provide infill residential development standards **to amend MDP Figure 8 – Land Use Concept.**

I directed in my OA Report on Council’s September 12, 2023 Minutes:

I am unclear why “to provide infill residential development standards” has remained in the preamble. I allow Resolution 230912-28 with the addition that “to



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provide infill residential development standards” is also replaced so that the preamble to Bylaw 023-23 is coherent.

I am unclear how the City can fail to amend revise the minutes as directed. Should Council not revise the minutes for September 12, 2023, I disallow Resolution 230912-28 from September 12, 2023.

Resolutions #231031-13

I have serious concerns regarding Resolution 231031-13 and the balance between the City’s constitutional right to judicial review and my obligation to ensure that the City is not governed in an irregular, improvident or imprudent manner.

I have disallowed Resolution #231031-13. **However**, I recognize the City can judicially review decisions of the Minister. I do not wish to prevent the City from engaging in its judicial review of Ministerial Order MSD082/22, Ministerial Order MSD:002/23, Ministerial Order MSD008/23 or any other order from the Minister of Municipal Affairs arising from the investigation under s. 571 of the MGA into the management, administration and operation of the City.

Should the City pass a resolution:

- with a budget and process to authorize and verify the expenditures, including:
 - if the funds are being reallocated within the existing budget, which items are being reduced and where the funds are being reallocated to in the budget and the impact on the services for the budget items being reduced;
 - if the funds are being drawn from a Restricted Surplus Account, compliance with Policy 447, Restricted Surplus Account;
 - a limit on the amount the CAO(s) can authorize to be spent on the legal proceedings before seeking further authorization from Council;
- identifies when and if the City will be responsible for the legal costs of third parties to the legal proceedings such as Councillors and the compliance with Policy 801, Council Related Legal Proceedings;
- with a purpose which is specific to Ministerial Orders or other action arising from the investigation under s. 571 of the MGA into the management, administration and operation of the City, or such other specific purpose as the City identifies as appropriate and is reasonably specific;
- that provides direction to the CAOs(s) regarding reporting to Council on the legal proceedings and legal costs;



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I anticipate that I would allow that resolution. **To be very clear, I do not wish to hinder the City in seeking judicial review of the Ministerial Orders relating to investigation under s. 571 of the MGA into the management, administration and operation of the City.** The City must do so in a regular and prudent manner, including compliance with provisions of the *Municipal Government Act*, RSA 2000 c M-26 (the “MGA”).

Background

The City has sought judicial review of Ministerial Order in Court of King’s Bench Action No. 2301-11946 (the “Judicial Review”). The Judicial Review was filed on behalf of the City on September 12, 2023 by MJM LLP.

I have been provided with a copy of an unfiled Originating Application purporting to be on behalf of the City, the Mayor, Councillors Foat, Hanley, Funk, CAOs Wallace, Wong and Fillier by MJM LLP seeking, among other things, a injunction *quia timet* staying the operation of any forthcoming Ministerial Order to dismiss Councillors and the CAOs under s. 574 and 575.2 of the MGA (the “Stay Application”).

Reasons in respect of Resolution 231031-13

I have given significant consideration to Resolution 231031-13. On one hand, the City is entitled to seek judicial review of the Minister’s actions. Court’s have recognized that judicial review is constitutionally guaranteed. I do not wish to interfere with the City’s ability to seek judicial review of the Ministerial Orders, including that Ministerial Order which appoints me as the Official Administrator.

On the other, I have serious concerns regarding *how* the City has authorized legal action in Resolution 231031-13 in particular given the potential costs associated with the legal proceedings.

First, I have been provided no information as to how the legal proceedings including the Judicial Review are within the Council approved operating budget for 2023, were otherwise authorized by Council or are within the scope of authority of the CAOs. See below for my comments on the Judicial Review.

As noted above, the right to judicial review is constitutionally protected. I do not wish to interfere with the City’s right to engage in that judicial review process. However, Resolution 231013-13 appears highly irregular and improper.

Second, as noted above these legal proceedings do not appear to be in the City’s 2023 operating budget. Nor has Council followed a procedure to authorize and verify the expenditures relating to these legal actions. Council has not set any budget for the legal actions and does not appear to have given any consideration to



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the potential cost of the legal actions. Resolution 231031-13 is essentially a blank cheque to fund legal proceedings with no consideration for the potential costs. This is irregular and improvident conduct.

Council cannot delegate its power to adopt budgets (MGA, s. 203(2)(c)). Resolution 231031-13 appears to do just that, allowing the City Director of Corporate Services to in essence, rewrite the City's 2023 operating budget without supervision by Council.

The *Municipal Government Act*, RSA 2000 c M-26, provides the following limits as to when a municipality can make an expenditure:

Expenditure of money

248(1) A municipality may only make an expenditure that is

- (a) included in an operating budget, interim operating budget or capital budget or otherwise authorized by the council,
- (b) for an emergency, or
- (c) legally required to be paid.

(2) Each council must establish procedures to authorize and verify expenditures that are not included in a budget.

Where members of Council make expenditures not authorized under section 248, they are liable to the City for the expenditure.¹ Where more than one Councillor is liable to the City under s. 249(1)(a) in respect of a particular expenditure or vote, the councillors are jointly and severally liable to the municipality for the expenditure or amount spent.²

Third, Resolution 231031-13 of an unreasonably large purpose - "the purposes of all existing and future legal matters involving the Alberta Government arising from **any** Ministerial Order" [emphasis added]. Resolution 231031-12 authorizes legal action could be completely outside the scope of Ministerial Orders MSD082/22, MSD002/23, or MSD008/23 and could relate to a Ministerial Order issued by **any** Minister of the Alberta Government for any purpose.

¹ *Municipal Government Act*, RSA 2000, c M-26, s 249(1)(a).

² *Municipal Government Act*, RSA 2000, c M-26, s 249(3).



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Fourth, there is one law firm acting on behalf of the City, the Mayor, three Councillors and the three CAOs in the Stay Application. I am unclear on the basis that the City has entered into a joint retainer and would note the potential for a conflict between these parties.

I am also concerned that a single law firm is representing four members of Council and the City where there have been ongoing concerns regarding those four members of Council acting as a voting block. I have concerns regarding the reporting on the legal proceedings on behalf of the City to Council and individual Councillors and that information may be provided to individual Councillors but not Council as a whole. The three Councillors not named in the Stay Application have raised concerns that they had no knowledge of the City's legal proceedings, contrary to the CAOs have an obligation to provide information about the operation and administration of the City given to one Councillor to all other Councillors as soon as practicable (MGA, s. 153.1). I have grave concerns that this may not be occurring based on the information I have received from the three Councillors not named in the Stay Application.

I am unclear on what basis the parties are sharing the costs of the legal action. The City is not obliged to tell me the terms of its retainer with MJM LLP, however, I have serious concerns that the Mayor and Councillors named in the Stay Application have a pecuniary interest on the matter of these legal proceedings and must abstain from voting on resolutions at least involving the Stay Application commenced in part on their behalf. The four members of Council named in the Stay Application are parties to the action and as such, Resolution 231031-13 could monetarily affect those Councillors, in particular if City funds are being used to finance the legal proceedings. The four members of Council must, at least in respect of resolutions in respect of the Stay Application, disclose if they have a pecuniary interest, and if they do abstain from voting or any discussion of the matter pursuant to s. 172 of the MGA. Should members of Council fail to comply with s. 172 of the MGA, they are disqualified from Council under s. 174 of the MGA.

If all four named members of Council have a pecuniary interest, this will create an issue of quorum under s. 168(1)(c) of the MGA. If that is the case, the Minister may order the remaining councillors constitute a quorum or appoint an official administrator or order that all councillors may vote on a matter if otherwise eligible. (MGA, s. 168(2)-(3))

I note that the City does have a policy regarding when and how the City will provide legal representation and compensate Councillor expenses in legal proceedings (Policy 801: Council Related Legal Proceedings). This policy refers back to an internal City policy (Policy 146 Employment Related Legal Proceedings). I have not reviewed the internal policy; however, I would have serious concerns if this policy authorized the City to pay for actions commenced by Councillors on their own behalf.



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- (b) The official administrator may at any time within 30 days after the passing of any bylaw or resolution disallow it, and the bylaw or resolution so disallowed becomes and is deemed to have always been void.

Legend: Approved – Bylaw or resolution approved

Disallowed – Bylaw or resolution is void

Out of Scope – Council's bylaw or resolution does not require Official Administrator approval

Official Administrator Report Review and Approval of Council Meeting Minutes

Resolution #231031-25

I note that Resolution 231031-25 was addressed under Item 8.5 Municipal Affairs +Directives Update. I am unclear how Resolution 231031-25 relates to Agenda Item 8.5 (which I would note had no materials included in the Agenda Package).

I have disallowed Resolution 231031-25 for the following reasons.

First, as noted in my report on Financial Irregularities to the Minister of Municipal Affairs dated September 20, 2023, I am deeply unclear *how* the City authorized Court of Kings Bench Action 2301-11946. There was no Council resolution authorizing this legal action at that time and it does not appear to be within the authority of the CAO's to authorize this legal action as it was not within a Council approved budget or otherwise authorized by Council. I note that the CAO may make an unbudgeted expenditure in accordance with Policy 451: Authorization and Verification of Unbudgeted Expenditures. This policy does not appear to have been followed and I would note there appears to conflict with the current version of the Designated Officer Bylaw. (Policy 451: Authorization and Verification of Unbudgeted Expenditures refers to Designated Officer Bylaw 025-20 which was repealed by Designated Officer Bylaw 06-2022).

Since my report on Financial Irregularities, the CAOs have provided correspondence stating that they authorized Court of Kings Bench Action 2301-11946, however Resolution 231031-25 states that "Council confirm that Council approves the engagement of MJM LLP to commence Judicial Review proceedings in KB Action No. 2301-11946." I am unclear how Council can confirm their approval of the engagement of MJM LLP to commence the Judicial Review if there is no previous Council resolution doing so. This Resolution raises concerns that Council is acting outside of Council meetings. Council may only act by bylaw or resolution (MGA, s. 180(1)).

I take no issue with the City's right to retain legal counsel or seek judicial review. Council or the CAO's may retain and instruct legal counsel as an exercise of natural person powers (MGA, s. 202) except where Council specifies otherwise, such as through the Designated Officer Bylaw No. 006-22, s. 6(10) which allows the CAOs to make expenditures within Council approved budgets or as otherwise authorized by Council. I see no authority for the CAOs to make expenditures outside of Council approved budgets or as otherwise authorized by Council (noting the conflict between the Designated Officer Bylaw No. 006-22 and Policy 451: Authorization and Verification of Unbudgeted Expenditures and that no attempt to follow Policy 451 appears to have been made).



OA Initials

November 8th, 2023

Date

Municipal Government Act,

Section 575(1) The Minister may at any time appoint an official administrator to supervise a municipality and its council.

Section 575(2) So long as the appointment of an official administrator under this section continues.

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I have disallowed Resolution 231031-25. Insofar as it seeks to retroactively authorize legal proceeding taken on behalf of the City, it falls into many of the same issues as Resolution 231031-13, namely the failure to identify a budget for the Judicial Review, the amount the CAO(s) may spend without reporting to Council and direction regarding reporting to Council on the legal proceedings.

It is for a Court to determine if the CAO(s) had authority to instruct MJM LLP to commence legal proceedings on behalf of the City in the Judicial Review filed September 12, 2023.

I want to be very clear, **I do not wish to prevent the City from engaging in judicial review of Ministerial actions.** Should Council pass a resolution which authorizes legal proceedings:

- with a budget and process to authorize and verify the expenditures, including:
 - if the funds are being reallocated within the existing budget, which items are being reduced and where the funds are being reallocated to in the budget and the impact on the services for the budget items being reduced;
 - if the funds are being drawn from a Restricted Surplus Account, compliance with Policy 447, Restricted Surplus Account;
 - an limit on the amount the CAO can authorize to be spent on the legal proceedings before seeking further authorization from Council;
- identifies when and if the City will be responsible for the legal costs of third parties to the legal proceedings such as Councillors and the compliance with Policy 801, Council Related Legal Proceedings;
- with a purpose which is specific to Ministerial Orders or other action arising from the investigation under s. 571 of the MGA into the management, administration and operation of the City, or such other specific purpose as the City identifies as appropriate;
- that provides direction to the CAOs regarding reporting to Council on the legal proceedings and legal costs;

I anticipate that I would allow that resolution. I also note that where expenditures are budgeted, the CAO(s) may not require Council approval. There has been no information provided to me to date that identifies that the costs of legal proceedings, including the Judicial Review and Stay Application are within the City's 2023 Operating Budget.



OA Initials

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