

**League of Women Voters of the Monterey Peninsula  
Carmel Valley Property Owners Association  
Sierra Club, Ventana Chapter  
LandWatch Monterey County**

March 24, 2000

Louis Calcagno, Chair  
Monterey County Board of Supervisors  
County Courthouse  
Salinas, CA 93901

RE: Ordinance to Limit Development within the Carmel Valley Master Plan Area Agenda--  
March 28, 2000--10:00 a.m.

Dear Board Members:

Our organizations wrote you last October, urging prompt action to implement Policy 39.1.6 of the Carmel Valley Master Plan. We are delighted that the Board is now prepared to limit development within the Carmel Valley Master Plan area, as that Master Plan policy requires.

The ordinance before you today does not limit development to the extent urged in our letter of October 1999. It does, however, respond to many of the concerns we raised--and that the public has raised. We appreciate the efforts made by both the Board and the County staff to address the extremely legitimate concerns of Carmel Valley residents.

Our organizations are urging you to make several changes to the ordinance contained in your agenda packet--and then to adopt the ordinance with those changes, placing the revised ordinance on the consent agenda of your next meeting, for final approval. The recommendations we make achieve all of the following:

- They respond appropriately to the legal mandate contained in the Carmel Valley Master Plan that the Board take action to limit development in the Carmel Valley Master Plan area.
- They allow property owners to construct a single family dwelling on an existing lot of record, with no additional burdens imposed in this ordinance.
- They allow for new or expanded facilities to meet the educational, religious, recreational, public health, and social service needs of Carmel Valley residents. They also allow the owners of commercial properties to change commercial uses with no additional burdens imposed in this ordinance--as long as those changes are for uses that primarily serve Carmel Valley residents.

For the Board's convenience, we have highlighted our proposed changes by using underline and strikeout on the 3-20-00 version of the ordinance that is in your agenda packet. We will be happy to discuss each proposed change with you, should you desire. In general, the significant changes to the ordinance that we request are as follows:

1. Our proposal simplifies the "definitions" section of the 3-20-00 draft, to establish a "fixed target," instead of a "moving target" with respect to how the "impact area" will be defined. Under our proposal, Highway One between Rio Road and Carpenter Street, and all those portions of the Carmel Valley Road located within the Master Plan area, are part of the "impact area."

2. Our proposal requires a review of the ordinance after three years, if the Carmel Master Plan has not been amended by that time, and eliminates the automatic termination provisions contained in the 3-20-00 version.

3. Our proposal establishes clarity and certainty with respect to the "regulations" section. Many developments are "exempted" by the ordinance--but if a development is not exempted, our proposed language makes clear that the development will be blocked if it would add incremental traffic to the impact area. The 3-20-00 version invites the preparation of costly and controversial "traffic studies" in connection with proposed developments. Our proposal avoids that.

4. Our proposal adds to the exemption section, to make the ordinance more workable for Carmel Valley residents and businesses:

- Our proposal exempts applications for the development of facilities to meet the social service, health, religious, educational or recreational needs of persons residing within the Carmel Valley Master Plan area, providing that the development will not have an adverse effect on traffic.
- Our proposal exempts changes in the use of existing commercial and industrial facilities, as long as the new uses are intended primarily to serve residents of the Carmel Valley Master Plan area. New uses primarily directed to attracting additional visitors to Carmel Valley will have to be reviewed for their traffic impact.
- Our proposal specifically exempts new commercial or industrial development, or additions or expansions to commercial or industrial facilities, when these will not cause an incremental increase in traffic. We also specifically exempt habitable accessory structures, or proposed intensifications of use, when these will not cause an incremental increase in traffic. While such exemptions are implied in the 3-20-00 version, we believe that the exemptions should be made explicit.

In conclusion, our organizations believe that adoption of the 3-20-00 version of the ordinance, with the changes we propose, will go a long way toward addressing the traffic problems that are harming the quality of life for residents, businesses, and visitors alike.

As you know, this development limitation ordinance is intended to be temporary--and the restrictions it contains should only apply until the time that the Carmel Valley Master Plan is amended so as to balance development potential with the available transportation infrastructure

(and also, of course, to eliminate references to the Hatton Canyon Freeway). We trust that the Board will not forget, as it adopts a development limitation ordinance, that it needs to make sure that such a revision of the Carmel Valley Master Plan is promptly initiated, and is systematically pursued to completion.

On Tuesday, March 28, 2000, we hope that the Board will adopt the ordinance in concept, including the amendments we propose, and direct that the ordinance return on the consent agenda of your next meeting, for final approval. We also hope that you will direct the CAO to return to the Board on or before April 25, 2000, with a proposed work plan to revise the Carmel Valley Master Plan, as contemplated in the development limitation ordinance.

Very truly yours,

League of Women Voters of the Monterey Peninsula

Carmel Valley Property Owners Association

Sierra Club

LandWatch Monterey County

cc: CAO

County Counsel

[Rev. 3/20/2000; clean copy]

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Ordinance No.

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, ADDING CHAPTER 18.64 TO THE MONTEREY COUNTY CODE, IMPOSING CERTAIN LIMITATIONS OF LIMITED DURATION ON DEVELOPMENT IN THE CARMEL VALLEY MASTER PLAN AREA PURSUANT TO POLICY 39.1.6 OF THE CARMEL VALLEY MASTER PLAN, PENDING CONSIDERATION OF APPROPRIATE AMENDMENTS TO THE CARMEL VALLEY MASTER PLAN AND IMPLEMENTATION OF TRANSPORTATION INFRASTRUCTURE IMPROVEMENTS IN THE IMPACT AREA AS DEFINED.

County Counsel Summary

This ordinance imposes certain limitations of limited duration on development in the Carmel Valley Master Plan area, pursuant to Policy 39.1.6 of the Carmel Valley Master Plan. This ordinance will be in effect pending Board of Supervisors' adoption of appropriate amendments to the Carmel Valley Master Plan eliminating references to the Hatton Canyon Freeway, and ensuring that development potential is balanced with the available transportation infrastructure. If after three years, the Carmel Valley Master Plan has not been so amended the Board of Supervisors will be required to review this ordinance, and to consider either modifying or repealing it. This ordinance will expire unless it is extended by action of the Board of Supervisors. This ordinance prohibits both the creation of new parcels and the creation of additional building sites through lot line adjustments. This ordinance precludes the approval of any new commercial or industrial development or expansions thereto, which will add, incrementally, any new traffic to the identified impact area within the Carmel Valley Master Plan area. However, after the actual construction of a dedicated climbing lane on Highway 1 between Carmel Valley Road and Morse Drive, and safety improvements on segments 6 and 7 of the Carmel Valley Road, the ordinance provides that the following development applications may be granted provided they will not cause an adverse effect on traffic in the impact area: accessory structures or uses to existing residential, commercial, or industrial development; and, any application for intensification of use of existing residential, commercial, or industrial development. This ordinance contains various exemptions, including

- (1) construction of the first single-family dwelling on a vacant legal lot of record;
- (2) tentative or parcel map applications which have been submitted on or before October 19, 1999 (the date on which the Board of Supervisors adopted Resolution No. 99-379 directing staff and providing guidance to the Planning Commission to disapprove residential subdivisions in the Carmel Valley Master Plan area);
- (3) any application for subdivision of property which has been designated as a Comprehensive Planned Use area and for which a Comprehensive Development Plan has been accepted by the Board of Supervisors on or before Oct. 19, 1999;
- (4) any development which has received approval of all discretionary development entitlements on or before the effective date of this ordinance, providing that the application for such development was filed on or before October 19, 1999, and any development not requiring any discretionary development permit for which a building permit has been applied for and fees have been paid on or before October 19, 1999 the effective date of this ordinance, provided the permit has not lapsed during the period this ordinance is in effect;
- (5) additions to or remodeling of existing single-family dwelling for single family dwelling purposes;
- (6) applications for replacement of structures destroyed by natural disaster provided certain requirements are met;
- (7) projects undertaken as emergency measures to protect life and property during and immediately following a natural disaster or accident;

(8) any development for which a building permit is required in order to comply with an order of a County officer the Director of Planning and Building Inspection to repair an unsafe or substandard condition; and

(9) projects undertaken by public utilities operating under authority of the Public Utilities Commission, public agencies, and special districts, to construct permanent or temporary structures and facilities necessary for the maintenance or improvement of public works and utility infrastructures;

(10) applications for new commercial or industrial development, or additions to or expansion of existing commercial or industrial development, which will not cause an incremental increase in traffic within the impact area defined in this ordinance;

(11) Applications for additions to or expansions of existing commercial or industrial development which consist only of a change of use of facilities existing on October 19, 1999, when such facilities were used for commercial or industrial purposes on or before that date, and when the new use or uses proposed for such facilities will be primarily directed to providing goods and services to residents of the Carmel Valley Master Plan area, as opposed to being directed primarily to providing goods and services for visitors to or non-residents of the Carmel Valley Master Plan area;

(12) applications for habitable accessory structures including caretaker units or other accessory uses to existing residential, commercial, or industrial development which will not cause an incremental increase in traffic within the impact area defined in this ordinance;

(13) applications for intensification of use of existing residential, commercial, or industrial development which will not cause an incremental increase in traffic within the impact area defined in this ordinance; and

(14) applications for the development of facilities to meet the social service, educational, public health, religious or recreational needs of persons residing within the Carmel Valley Master Plan area, provided that the Board of Supervisors makes a finding that such development will not have an adverse effect on traffic. This ordinance also contains standard enforcement and severability provisions. Finally, this ordinance takes effect on the thirty-first day after its adoption.

The Board of Supervisors of the County of Monterey ordains as follows:

**SECTION 1. Chapter 18.64 is added to the Monterey County Code to read as follows:**

**Chapter 18.64**

**CARMEL VALLEY MASTER PLAN AREA DEVELOPMENT LIMITATIONS**

**Sections:**

18.64.010 Findings.

18.64.020 Definitions.

18.64.030 Applicability.

18.64.040 Regulations.

18.64.050 Exemptions.

18.64.060 Enforcement.

18.64.070 Severability.

18.64.080 Actions Held in Abeyance.

18.64.090 No Taking of Property Intended.

18.64.100 Effective Date.

#### **18.64.010 FINDINGS.**

A. Pursuant to Article XI of the California Constitution, the County of Monterey may adopt and enforce ordinances and regulations to protect and promote the public health, safety, and welfare of its citizens. Along with these powers, the County of Monterey is charged, among other things, with the responsibility of planning for and managing the future growth and development of the County.

B. Policy 39.1.6 of the Carmel Valley Master Plan provides, in relevant part, that "[a]fter five years of allocation the Board [of Supervisors] shall review local level of service and the status of the Hatton Canyon Freeway. If the Freeway has not been built, the Board shall limit further development until the freeway is under construction."

C. There have now been five years of allocation pursuant to the Carmel Valley Master Plan; and, the Hatton Canyon Freeway has not been built. Further, upon recommendation of the Transportation Agency for Monterey County, the California Transportation Commission removed funding for the Hatton Canyon Freeway from the State Transportation Improvement Program on June 7, 1999. The California Department of Transportation has not developed an alternative project to increase capacity on State Highway 1 in the vicinity of the impact area as defined in this chapter.

D. As a result of the foregoing, the Hatton Canyon Freeway is no longer planned for construction, and further development in the Cannel Valley Master Plan area will need to be limited in accordance with Policy 39.1.6 of the Carmel Valley Master Plan. On October 19,

1999, the Board of Supervisors adopted Resolution No. 99-379 directing staff and providing guidance to the Planning Commission to disapprove residential subdivisions in the Carmel Valley Master Plan area. On November 2, 1999, the Board of Supervisors directed the preparation of an ordinance to avoid foreseeable adverse impacts to State Highway 1 capacity, to ameliorate traffic conditions in the impact area, and to ensure compliance with Policy 39.1.6.

E. In view of the levels of service in the impact area as defined in this ordinance, it is necessary for the County to consider ways to mitigate traffic impacts resulting from development in said area, and to impose appropriate limits on development pursuant to Policy 39.1.6 of the Carmel Valley Master Plan.

F. Additional dwelling units resulting from residential subdivisions in the Cannel Valley Master Plan area would foreseeably increase daily traffic on already deficient highway segments in the impact area, and already approved but unbuilt projects from previous years will significantly and certainly increase daily traffic on such already deficient highway segments in the impact area.

G. Land use control measures, such as preclusion of subdivision of properties and the grant of certain discretionary permits as provided in this ordinance, are necessary for the purpose of preventing land use and development which will exacerbate the traffic conditions in the impact area in the Carmel Valley Master Plan and preventing the rate of development from exceeding an orderly and phased build-out while the Board of Supervisors considers appropriate traffic mitigations and limits on development in the area.

H. County land use policies and practices, as well as the Carmel Valley Master Plan, have consistently recognized the continued developability of existing legal lots of record for residential purposes---the The Board finds that exemption from this ordinance of the development of a single-family dwelling on a vacant legal lot of record, is consistent with the goals and objectives of the General Plan and the Cannel Valley Master Plan, and County land use policies and practices.

I. In order to promote and protect the public health, safety, and welfare, and to avoid the approval of discretionary development permits inconsistent with the land use actions and mitigation measures that may be taken upon consideration by the Board of Supervisors, it is necessary that this ordinance be enacted.

#### **18.64.020 DEFINITIONS.**

The following words, whenever used in this chapter, shall be construed as defined in this section. Words and phrases not defined herein shall be construed as defined in the Monterey County Code.

A. "Impact area" means that segment of State Highway 1 from and including its intersection with Rio Road to and including its intersection with Carpenter Street and those portions of Carmel Valley Road located in the Carmel Valley Master Plan area. The "impact area" also includes Carmel Valley Road in the event that the so-called traffic trigger under Policy 39.3.2.1 of the Carmel Valley Master Plan is reached such that traffic created by any proposed development,

except as otherwise provided herein, would impact the level of service along any segment of said Road to the point where the level of service would fall to the next lower level.

B. "Incremental increase in traffic" means the addition, over and above that associated with a use that is approved at the time this ordinance became effective, of greater than zero (0.000) vehicle trips per day to any road segment located within the impact area. that segment of State Highway 1 from and including its intersection with Rio Road to and including its intersection with Carpenter Street in the Carmel Valley Master Plan area.

C. "Adverse effect on traffic" means the addition of greater than zero (0.000) vehicle trips per day on any one of the 12 road segments in the Carmel Valley Road referenced in Policy 39.3.2.1 of the Carmel Valley Master Plan that are at Level of Service ("LOS") F; for said road segments that are at LOS C through E, it means any increase in traffic which would cause the LOS to fall to the next lower level.

D. "Intensification of use" means increased level of use of existing residential, commercial or industrial development over and above that approved or in existence at the time this ordinance became effective.

#### **18.64.030 APPLICABILITY.**

The regulations set forth in this chapter shall apply to properties located in the unincorporated area of Monterey County within the boundaries of the Carmel Valley Master Plan area. These This ordinance and the regulations contained herein refine and implement the policy set forth in Board of Supervisors Resolution No. 99-379, and These regulations are intended to be of limited duration and shall become inoperative as provided herein without further legislative enactment and associated environmental review. This ordinance will be in effect pending Board of Supervisors' adoption of appropriate amendments to the Carmel Valley Master Plan eliminating references to the Hatton Canyon Freeway, and ensuring that development potential is balanced with the available transportation infrastructure. If after three years from the effective date of this ordinance, the Carmel Valley Master Plan has not been so amended, the Board of Supervisors will review this ordinance will expire unless it is and shall determine whether to modify or repeal it extended by action of the Board of Supervisors.

#### **18.64.040 REGULATIONS.**

A. Except as provided in this chapter, the following discretionary permit applications shall not be granted while this chapter is in effect:

1. Development projects involving tentative or parcel maps, or lot line adjustments which would result in the creation of one or more additional building sites, where such projects will cause an incremental increase in traffic in that segment of State Highway 1 from and including its intersection with Rio Road to and including its intersection with Carpenter Street in the Cannel Valley Master Plan area, or an adverse effect on traffic on any one of the 12 road segments on Carmel Valley Road referenced in Policy 39.3.2.1 of the Cannel Valley Master Plan.



2. Applications for new commercial or industrial development or additions to or expansion of existing commercial or industrial development which will cause an incremental increase in traffic within the impact area defined in this ordinance in that segment of State Highway 1 from and including its intersection with Rio Road to and including its intersection with Carpenter Street in the Carmel Valley Master Plan area, or an adverse effect on traffic on any one of the 12 road segments on Carmel Valley Road referenced in Policy 39.3.2.1 of the Carmel Valley Master Plan.

3. Any application for habitable accessory structures including caretaker units or other accessory uses to existing residential, commercial, or industrial development which will cause an incremental increase in traffic within the impact area defined in this ordinance in that segment of State Highway 1 from and including its intersection with Rio Road to and including its intersection with Carpenter Street in the Carmel Valley Master Plan area, or an adverse effect on traffic on any one of the 12 road segments on Carmel Valley Road referenced in Policy 39.3.2.1 of the Carmel Valley Master Plan.

4. Any application for intensification of use of existing residential, commercial, or industrial development which will cause an incremental increase in traffic within the impact area defined in this ordinance in that segment of State Highway 1 from and including its intersection with Rio Road to and including its intersection with Carpenter Street in the Carmel Valley Master Plan area, or an adverse effect on traffic on any one of the 12 road segments on Carmel Valley Road referenced in Policy 39.3.2.1 of the Cannel Valley Master Plan.

B. After the actual construction of (1) a dedicated climbing lane on Highway 1 between Carmel Valley Road and Morse Drive, and (2) safety improvements on segments 6 and 7 of Carmel Valley Road (Robinson Canyon Road to Rancho San Carlos Road), the development applications listed below may be granted, provided they will not cause an adverse effect on traffic in the impact area

1. Any application for habitable accessory structures including caretaker units or other accessory uses to existing residential, commercial, or industrial development.

2. Any application for intensification of use of existing residential, commercial, or industrial development.

#### **18.64.050 EXEMPTIONS.**

The categories of development set forth in this section, none of which are mutually exclusive, are exempt from the provisions of this chapter. Exemption under this section provides for processing only, and does not necessarily exempt a project from the provisions of other applicable County ordinances or regulations and State or Federal law. Any application which is exempt under this section shall be submitted, processed and considered consistent with all applicable plans, laws and regulations, and nothing in this section shall be construed to limit the discretion of the County to modify or deny such application on any appropriate basis, including projected traffic impacts.

- A. Any application for construction of the first single-family dwelling on a legal lot of record.
- B. Any application which has been submitted to the Monterey County Planning and Building Inspection Department on or before October 19, 1999.
- C. Any application for subdivision of any property which has been designated as a Comprehensive Planned Use area for which a Comprehensive Development Plan has been accepted by the Board of Supervisors, provided that actual improvements were constructed or other expenditures made on the basis of such Comprehensive Development Plan on or before October 19, 1999, such that the County is legally required to accept that subdivision application.
- D. Any development for which an application has been submitted prior to October 19, 1999 and which has received approval of all discretionary development entitlements from the County of Monterey on or before the effective date of this ordinance, and any development which does not require any discretionary development permit but for which a building permit has been applied for and fees have been paid, on or before the effective date of this ordinance, provided such permit is in effect at the time this ordinance becomes effective and does not lapse nor become void for any reason during the period this ordinance remains in effect.
- E. Applications for additions to or remodeling of existing single-family dwellings for single-family dwelling purposes.
- F. Applications for replacement of any structures destroyed by natural disaster provided such replacement conforms to applicable zoning requirements, is for the same use as the destroyed structure, does not exceed either the floor area, height or bulk of the destroyed structure, and is sited in essentially the same location as the destroyed structure.
- G. Projects undertaken by an individual or public agency as emergency measures to protect life and property in imminent danger or to restore, repair, or maintain public works, utilities, and services during and immediately following a natural disaster or accident.
- H. Any development for which a building permit is required in order to comply with an order issued by a county officer the Director of Planning and Building Inspection Department to repair an unsafe or substandard condition.
- I. Projects undertaken by public utilities operating under authority of the Public Utilities Commission, public agencies, and special districts and their respective contractors to construct permanent or temporary structures and facilities necessary for the maintenance or improvement of public works, utility infrastructure, or the provision of public services.
- J. Applications for new commercial or industrial development, or additions to or expansion of existing commercial or industrial development, which will not cause an incremental increase in traffic within the impact area defined in this ordinance.
- K. Applications for additions to or expansions of existing commercial or industrial development which (1) consist only of a change of use of facilities existing on October 19, 1999, when such

facilities were used for commercial or industrial purposes on or before that date, and (2) when the new use or uses proposed for such facilities will be primarily directed to providing goods and services to residents of the Carmel Valley Master Plan area, as opposed to being directed primarily to providing goods and services for visitors to or non-residents of the Carmel Valley Master Plan area.

L. Any application for habitable accessory structures including caretaker units or other accessory uses to existing residential, commercial, or industrial development which will not cause an incremental increase in traffic within the impact area defined in this ordinance.

M. Any application for intensification of use of existing residential, commercial, or industrial development which will not cause an incremental increase in traffic within the impact area defined in this ordinance.

N. Any application for the development of facilities to meet the social service, educational, public health, religious or recreational needs of persons residing within the Carmel Valley Master Plan area, provided that the Board of Supervisors makes a finding that such development will not have an adverse effect on traffic.

#### **18.64.060 ENFORCEMENT.**

A. It shall be the duty of the County Administrative Officer of the County of Monterey, or her designee, and all officers and employees of said County herein charged by law with the enforcement of this chapter, to enforce all provisions of this chapter.

B. Any person, firm, or corporation, whether as principal or agent, employee or otherwise, violating or causing or permitting the violation of any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable for a fine of not more than one thousand dollars (\$1,000) or by imprisonment in the County Jail of said County for a term not exceeding 180 days or by both such fine and imprisonment. Such person, firm, or corporation shall be deemed to be guilty of a separate offense for each day during any portion of which any violation of this chapter is committed, continued, or permitted by such person, firm, or corporation, and shall be punishable as herein provided.

C. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved, or maintained, contrary to the provisions of this chapter, and/or any use of any land, building, or premises, established, conducted, operated, or maintained, contrary to the provisions of this chapter, shall be, and the same is hereby declared to be, a violation of this chapter and a public nuisance.

D. The County may summarily abate the public nuisance and the County Counsel or the District Attorney may bring civil suit, or other action, to enjoin or abate the nuisance.

E. Each day any violation of this chapter continues shall be regarded as a new and separate offense. The remedies provided in this chapter shall be cumulative and not exclusive.

F. Any person, firm, or corporation, who creates or maintains a public nuisance in violation of this chapter, shall be liable for the costs of abatement, which shall include, but not be limited to:

1. Costs of investigation;
2. Court costs;
3. Attorneys fees;
4. Costs of monitoring compliance.

G. Upon a continuation of the public nuisance after notice from the County to cease the nuisance, any person, firm, or corporation shall be liable for the costs of abatement set forth above plus a civil penalty of fifty percent (50%) of those costs payable to the County in addition to any other costs of enforcement imposed by the Court.

#### **18.64.070 SEVERABILITY.**

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The Board of Supervisors hereby declares that it would have passed this chapter and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

#### **18.64.080 ACTIONS HELD IN ABEYANCE.**

Should any person, firm, or corporation violate the terms of this chapter and any action is authorized either by the Board of Supervisors, County Counsel, or District Attorney, or is in fact filed by said agencies for said violation, no other action shall be taken on any application filed by or on behalf of said person, firm, or corporation, until the litigation has been resolved.

#### **18.64.090 NO TAKING OF PROPERTY INTENDED.**

Nothing in this chapter shall be interpreted to effect an unconstitutional taking of property of any person. If the Board of Supervisors determines, based on specific evidence in the administrative record, that the application of one or more of the provisions of this chapter to a proposed project would effect an unconstitutional taking of private property, the Board shall disregard such provision or provisions to the extent necessary to avoid such unconstitutional taking.

#### **18.64.100 EFFECTIVE DATE.**

This Chapter shall take effect on the thirty-first day after its adoption.

PASSED AND ADOPTED this -- day of ,2000, by the following vote:

AYES:

NOES:

ABSENT:

LOUIS CALCAGNO, Chair, Board of Supervisors

ATTEST:

SALLY REED  
Clerk of the Board

By:

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Deputy