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**ORDINANCE
NUMBER 2022-01**

**AN ORDINANCE OF THE CITY OF LABELLE, FLORIDA;
AMENDING CHAPTER 5, BUILDINGS AND BUILDING
REGULATIONS, ARTICLE VI, UNSAFE BUILDING, OF
THE LABELLE CODE; PROVIDING FOR CODIFICATION,
SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.**

RECITALS

WHEREAS, the City of LaBelle, Florida has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida; Chapters 162, 166, and 553, Florida Statutes; and

WHEREAS, pursuant to the Article VIII of the Florida Constitution, the City of LaBelle Charter and Section 166.021, Florida Statutes, the City Council is authorized to adopt ordinances necessary for the exercise of its powers in for health, safety, and general welfare; and

WHEREAS, the City Commission has determined that it is in the best interests and welfare of the City of LaBelle and its residents to enact this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of LaBelle, Florida:

Section 1. Recitals. The forgoing recitals are hereby ratified and confirmed as being true and correct and hereby made a part of this Ordinance and adopted as legislative findings.

Section 2. Amendments to Code. The LaBelle Code, Part II, is hereby amended with deletions depicted with ~~strikethroughs~~ and underlined language as additions below:

**Chapter 5 Buildings and Building Regulations
Article VI. Unsafe Building**

Sec. 5-81. General provisions; administration and enforcement.

(a) *Title and scope.*

- (1) The provisions included within this article shall constitute and be known and may be cited as the "LaBelle Unsafe Building Code".
- (2) This article is hereby declared to be remedial and shall be construed to secure the beneficial interests and purposes thereof, which are public safety, health and general

41 welfare, through structural strength, stability, sanitation, adequate light and ventilation
42 and safety to life and property from fire and other hazards incident to the construction,
43 alteration, repair, removal, demolition, use and occupancy of buildings, structures or
44 premises.

45 (3) The provisions of this article shall apply to all unsafe buildings or structures, as defined
46 in this article, and shall apply equally to new and existing conditions.

47 (4) This article was developed to provide the city with a concise set of procedures to effect
48 the elimination of unsafe buildings in a legal and timely manner.

49 (5) This article is applicable to all occupancies; however, it should not be substituted for
50 the city housing code.

51 (6) This article is designed to work hand in hand with the Florida Building Code, Florida
52 Plumbing Code, Florida Mechanical Code, Florida Fuel Gas Code, and any other codes
53 officially adopted and administered by the city.

54 (7) All unsafe buildings are hereby declare to be a public nuisance and illegal.

55 (b) *Applicability of standards to existing buildings.*

56 (1) Alterations, repairs or rehabilitation work may be made to any existing building
57 without requiring the building to comply with all the requirements of the Florida
58 Building Code, as adopted by the city, provided that the alteration, repair or
59 rehabilitation work conforms to the requirements of the Florida Building Code ~~for new~~
60 ~~construction.~~ The building official shall determine, ~~subject to appeal to the board of~~
61 ~~appeals,~~ the extent, if any, to which the existing building shall be made to conform to
62 the requirements of the Florida Building Code ~~for new construction.~~

63 (2) Alterations, repairs or rehabilitation work shall not cause an existing building to
64 become unsafe as defined in section 5-82.

65 (3) Repairs and alterations restoring a building to its condition previous to damage or
66 deterioration, or altering it in conformity with the provisions of this article or in such
67 manner as will not extend or increase an existing nonconformity or hazard, may be
68 made with the same kind of materials as those of which the building is constructed, but
69 not more than twenty-five (25) percent of the roof covering of a building shall be
70 replaced in any period of twelve (12) months unless the entire roof covering is made to
71 conform with the requirements of the Florida Building Code ~~for new buildings.~~

72 (4) The provisions of this article may be waived by the building official for existing
73 buildings and structures classified by the state as an historic building or identified on
74 the federal register as an historic building or as a contributing structure within an
75 historic district if the building official determines the building or structure to be safe
76 and in the public interest of health, safety and welfare. The building official may

77 require plans sealed by a professional architect or engineer to verify that the building
78 or structure is safe.

79 (5) All buildings or structures, both existing and new, and all parts thereof, shall be
80 maintained in a safe and sanitary condition (refer to article IV of this chapter ~~and~~
81 ~~article IX [article VIII] of this chapter~~). All devices or safeguards which are required
82 by the Florida Building Code in a building when erected, altered or repaired shall be
83 maintained in good working order. The owner or his designated agent shall be
84 responsible for the maintenance of buildings and structures.

85 **Sec. 5-82. Unsafe Buildings.**

86 All buildings, structures, or electrical, gas, mechanical or plumbing systems which are
87 structurally unsound, unsanitary or not provided with adequate egress, or which constitute a fire
88 hazard, or are otherwise dangerous to human life, or unpermitted, or which in relation to existing
89 use constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation,
90 obsolescence or abandonment, are declared unsafe and defined to be *unsafe buildings* within this
91 article.

92 **Sec. 5-83. Inspection, ~~and~~ notice of noncompliance, and enforcement.**

93 (a) Inspection; notice; and initiation of proceedings. The building official or designated city
94 code inspectors shall inspect or cause to be inspected any building, structure or portion
95 thereof which is or may be unsafe. After the building official or designee has inspected or
96 caused to be inspected a building, structure or portion thereof and has determined that such
97 building, structure or portion thereof is unsafe, they shall properly notice the property owner
98 pursuant to Chapter 162, Florida Statutes, and initiate proceedings under section 5-84 to
99 cause the abatement of the unsafe condition by repair, vacation or demolition, or a
100 combination thereof.

101 (b) Enforcement. The provisions of this article shall be enforced before the special magistrate
102 for code enforcement pursuant to Section 2-5 of the LaBelle Code and Chapter 162, Florida
103 Statutes.

104 ~~(b) Notice.~~

105 ~~(1) Contents.~~ The building official shall prepare and issue a notice of unsafe building
106 directed to the owner of record of the building or structure. The notice shall contain but
107 shall not be limited to the following information:

108 a. ~~The street address and legal description of the building, structure or premises.~~

109 b. ~~A statement indicating that the building or structure has been declared unsafe by~~
110 ~~the building official, and a detailed report documenting the conditions determined~~

111 to have rendered the building or structure unsafe under the provisions of this
112 article.

113 e.—A statement advising that if the following required action as determined by the
114 building official is not commenced within or completed by the time specified, the
115 building will be ordered vacated and posted to prevent further occupancy until the
116 work is completed and the building official may cause the work to be done and all
117 costs incurred charged against the property or the owner of record.

118 1.—If an unsafe building or a fire hazard is determined to be a public nuisance,
119 the building official shall require that the property owner secure the building
120 within forty-eight (48) hours. If the property owner does not secure the
121 building within forty-eight (48) hours, the building official shall cause the
122 building to be secured and the cost thereof shall be billed to the property
123 owner. The property owner is responsible for maintaining the building in a
124 secured fashion.

125 2.—If the building or structure is to be repaired, the notice shall require that all
126 necessary permits be secured and the work commenced within sixty (60)
127 days and continued to completion within a ninety-day period, which may be
128 extended by the building official in accordance with section 5-86(b). The
129 notice shall also indicate the degree to which the repairs must comply with
130 the provisions of the Florida Building Code.

131 If the building or structure is to be vacated, the notice shall indicate the time
132 within which vacation is to be completed.

133 4.—If the building or structure is to be demolished, the notice shall require that
134 the premises be vacated within sixty (60) days, that all required permits for
135 demolition be secured, and that the demolition be completed within such
136 time as determined reasonable by the building official.

137 d.—A statement advising that any person having any legal interest in the property may
138 appeal the notice by the building board of appeals, and that such appeal shall be in
139 writing in the form specified in section 5-84 and shall be filed with the building
140 official within thirty (30) days from the date of the notice and that failure to
141 appeal in the time specified will constitute a waiver of all rights to an
142 administrative hearing.

143 (2) ~~Service.~~

144 a.—The notice and all attachments thereto shall be served upon the owner of record
145 and posted on the property in a conspicuous location. A copy of the notice and all
146 attachments thereto shall also be served on any person determined from official
147 public records to have a legal interest in the property. Failure of the building
148 official to serve any person required in this section to be served other than the

149 owner of record shall not invalidate any proceedings under this article, nor shall it
150 relieve any other person served from any obligation imposed on him.

151 b. ~~The notice shall be served either personally or by certified mail, postage prepaid,
152 return receipt requested, to each person at the address as it appears on the official
153 public records. If addresses are not available on any person required to be served
154 the notice, the notice addressed to each person shall be mailed to the address of
155 the building or structure involved in the proceedings. The failure of any person to
156 receive notice, other than the owner of record, shall not invalidate any
157 proceedings under this section. Service by certified or registered mail as described
158 in this section shall be effective on the date the notice was received as indicated
159 on the return receipt.~~

160 e. ~~Proof of service of the notice shall be by written declaration indicating the date,
161 time and manner in which service was made and signed by the person served on
162 by the return receipt. If two (2) certified mail notices are refused, it shall be
163 considered received by the owner.~~

164 (3) ~~Recording. If the notice is not complied with nor an appeal filed within the allotted
165 time, the building official shall file an affidavit with the county clerk of courts and city
166 clerk describing the property and certifying that the building or structure is unsafe and
167 that the owner of record has been served. This certificate shall remain on file until such
168 time as the conditions rendering the building or structure unsafe have been abated. At
169 such time, the building official shall file a new certificate indicating that corrective
170 action has been taken and the building or structure is no longer unsafe from that
171 condition.~~

172 (c) ~~Action by building official. The following action shall be taken by the building official when
173 ordering the repair, vacation or demolition of an unsafe building or structure:~~

174 (1) ~~The building shall be ordered repaired in accordance with the Florida Building Code or
175 demolished at the option of the owner.~~

176 (2) ~~If the building or structure poses an immediate hazard to life or to the safety of the
177 public it shall be ordered vacated immediately.~~

178 (d) ~~Posting of notice to vacate. Every notice to vacate, in addition to complying with subsection
179 (b) of this section, shall be posted at each exit and entrance to the building or structure and
180 shall state:~~

181 ~~THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN
182 PROHIBITED BY THE BUILDING OFFICIAL.~~

183 ~~Such notice shall remain posted until the required repairs are made or demolition is completed. It
184 shall be unlawful for any person or agent to remove such notice without written permission of
185 the building official, or for any person to enter the building except for the purpose of making the
186 required repairs or of demolishing the building.~~

187 **Sec. 5-84. Emergency ActionsRight of appeal.**

188 (a) Emergency action. Notwithstanding the standard enforcement procedure of section 5-83(b),
189 whenever the building official determines that an emergency exists that requires immediate
190 action in order to protect the public health, safety, or welfare, the building official may post
191 an emergency order requiring the occupants of an unsafe structure to vacate; temporarily
192 closed for use or occupancy such structures or the rights-of-way thereto, sidewalks, streets,
193 or adjacent buildings or nearby area; institute such other necessary temporary safeguards as
194 deemed necessary under the circumstances; and employ the necessary labor and materials to
195 perform the required work as expeditiously as possible.

196 (1) Notice. Whenever the building official has determined that during the pendency of the
197 enforcement action or if required repair or demolition requires the vacation of the
198 building, structure or premises such facility shall be posted:

199 UNSAFE BUILDING
200 DO NOT OCCUPY

201 Building Official City of LaBelle

202 (2) Costs. Costs incurred in the performance of such emergency work shall constitute a
203 lien against the property upon the recording of a certificate executed by the building
204 official certifying the amounts expended in the Official Records of Hendry County as
205 provided by Section 28.222, Florida Statutes, as amended.

206 ~~Filing.~~ Any person entitled to service in accordance with the provisions of section 5-83 may
207 appeal any action of the building official under this article to the of appeals. Such appeal
208 must be filed in writing with the building official within thirty (30) days from the date of
209 service and must contain at least the following information:

- 210 (1) ~~Identification of the building or structure concerned, by street address or legal~~
211 ~~description.~~
- 212 (2) ~~A statement identifying the legal interest of each appellant.~~
- 213 (3) ~~A statement identifying the specific order or section being appealed.~~
- 214 (4) ~~A statement detailing the issues on which the appellant desires to be heard.~~
- 215 (5) ~~A statement stating what the correct interpretation should be.~~
- 216 (6) ~~The legal signature of all appellants and their official mailing address.~~

217 ~~Any designated representatives shall be identified.~~

218 (b) ~~Hearing date and location.~~ Upon receipt of an appeal, the date, time and location for the
219 hearing of the appeal shall be established, and the hearing date shall not be more than forty-
220 five (45) days from the date the appeal was filed. Written notice of the time and location of
221 the hearing shall be delivered personally or mailed to each appellant and their designated

222 representatives at the address on the appeal by certified mail, postage prepaid and receipt
223 requested. The hearing may be continued, prior to preparation and public posting of the
224 agenda for the initial hearing, upon mutual agreement between the building official and
225 appellant.

226 ~~(c) *Failure to appear.* Failure of any person to appear at the hearing set in accordance with the~~
227 ~~provisions of this section shall constitute a waiver of his right to an administrative hearing~~
228 ~~on the notice. Where an appellant has failed to appear, he may request to be reheard if he~~
229 ~~shows reasonable cause for not appearing.~~

230 ~~(d) *Scope of hearing.* The hearing shall offer the appellant reasonable opportunity to be heard~~
231 ~~on only those specific matters or issues raised by the appellant in his appeal. The appellant~~
232 ~~may appear at the hearing in person or through his attorney or other designated~~
233 ~~representative. The party or representative designated pursuant to subsection (a) of this~~
234 ~~section shall be at the hearing.~~

235 ~~(e) *Staying of notice under appeal.* Except for a vacation order issued in accordance with~~
236 ~~section 5-83(e), enforcement of any notice issued by the building official under the~~
237 ~~provisions of this article shall be held in abeyance during the course of an appeal.~~

238 **Sec. 5-85. Procedure for appeals.**

239 ~~(a) *Appeals of Emergency Actions of the Building Official.* An aggrieved party may appeal an~~
240 ~~emergency action or order of the building official to the special master for code~~
241 ~~enforcement within ten (10) days of posting. Such appeal will be noticed for the next~~
242 ~~available hearing date and conducted according to the procedures established pursuant to~~
243 ~~section 2-5 of the LaBelle Code.~~

244 ~~(b) *Appeals of Decisions of the City's Special Master for Code Enforcement.* An aggrieved~~
245 ~~party, including the City Commission, may appeal a final order of the special master by writ~~
246 ~~of certiorari filled within 30 days of the rendition of the order.~~

247 ~~(a) *Conduct of hearing generally; form and service of notice.*~~

248 ~~(1) The board of appeals shall conduct the appeals hearing.~~

249 ~~(2) A permanent record shall be made of all hearings and proceedings using the method of~~
250 ~~recording designated by the board.~~

251 ~~(3) The board shall proceed with reasonable dispatch to conclude any matter before it,~~
252 ~~with due regard to the convenience and necessity of the parties involved.~~

253 ~~(4) The hearing notice shall include but not be limited to the following information:~~

254 ~~You are hereby notified that on the ___ day of _____, 20___, at ___ o'clock, at~~
255 ~~_____, a hearing will be held before the to consider the appeal from the order of the~~
256 ~~Building Official regarding property located at _____. You may choose to be~~
257 ~~represented by yourself or a designee. You may present relevant evidence and will be~~

258 given an opportunity to cross examine all witnesses. You may request the issuance of
259 subpoenas to compel witnesses to appear and/or for the production of other supporting
260 data or documentation, by filing a written report with the Board of Appeals.

261 (5) ~~The hearing notice shall be served personally or mailed as required in subsection 5-~~
262 ~~83(b)(2)b. at least fifteen (15) days prior to the hearing date.~~

263 (b) ~~Subpoenas.~~

264 (1) ~~Filing.~~ The board may obtain the issuance and service of subpoenas for the attendance
265 of witnesses or the production of evidence at the hearings. Subpoenas may be issued
266 upon the request of any member of the board, or upon the written request of any party
267 with legal standing on the issue of the hearing. The issuance and service of subpoenas
268 shall be in accordance with established law.

269 (2) ~~Failure to appear.~~ Any person who refuses, without legal excuse, to respond to any
270 subpoena lawfully issued and served may be prosecuted to the extent established by
271 law.

272 (c) ~~Rules of procedure.~~

273 (1) ~~Generally.~~

274 a. ~~Hearings shall not be required to be conducted in accordance with the technical~~
275 ~~rules relating to evidence and testimony.~~

276 b. ~~The board may grant continuance for good cause.~~

277 (2) ~~Evidence.~~

278 a. ~~In any proceedings under this article any member of the board shall have the~~
279 ~~power to administer oaths and affirmations and to certify official acts.~~

280 b. ~~Oral evidence shall be taken only on oath or affirmation.~~

281 e. ~~Hearsay evidence may be used for the purpose of supplementing or explaining~~
282 ~~any direct evidence. The further use of hearsay evidence shall be limited to that~~
283 ~~which would be admissible in civil court.~~

284 d. ~~Relevant evidence shall be admitted if it is the type on which responsible persons~~
285 ~~are accustomed to rely in the conduct of serious affairs, regardless of the existence~~
286 ~~of any common law or statutory rule which might make improper the admission~~
287 ~~of such evidence over objection in civil courts.~~

288 (3) ~~Inspections.~~ The board or individual members of the board shall inspect any building,
289 structure or premises involved in the appeal prior to or during the course of the
290 hearing, provided the following are complied with:

291 a. ~~Notice of such inspection shall be given to the parties prior to making the~~
292 ~~inspection. If the inspection is prior to hearing, one (1) day's notice shall be given.~~

293 If the inspection is during the course of the hearing, two (2) hours, or less, notice
294 shall be given if the appellant agrees;

295 b. The parties shall be allowed to be present during the inspection; and

296 c. The inspector shall state for the record, upon completion of the inspection, the
297 facts observed and any conclusions drawn therefrom.

298 ~~(d) Participation by board members in discussion and voting. When an appeal is heard before~~
299 ~~the board, any member who did not hear the evidence presented or has not read the entire~~
300 ~~record from any prior meeting dealing with this issue of the proceedings shall not vote or~~
301 ~~take part in the decision.~~

302 ~~(e) Appeal from decision of board. If the appellant is aggrieved by the decision of the board of~~
303 ~~appeals, nothing in this article shall be construed to deprive him seeking redress in the civil~~
304 ~~or other applicable court. The appeal must be filed within fifteen (15) days from the~~
305 ~~effective date of the board's final decision.~~

306 **Sec. 5-86. Compliance with official order or decision.**

307 ~~(a) Failure to comply.~~

308 ~~(1) Failure to respond. Any person who, after the order of the building official or the~~
309 ~~decision of the board becomes final, fails or refuses to respond to the direction of such~~
310 ~~order, shall be prosecuted to the extent provided for by law.~~

311 ~~(2) Failure to commence work.~~

312 ~~a. Whenever the required repair, vacation or demolition is not commenced within~~
313 ~~thirty (30) days after the effective date of any order, the building, structure or~~
314 ~~premises shall be posted as follows (this time limit does not supersede section 5-~~
315 ~~83(c)):~~

~~— UNSAFE BUILDING~~
~~— DO NOT OCCUPY~~

318 It shall be punishable by law to occupy this building or remove or deface this
319 notice (Specify the applicable local law and the penalty for violation thereof)

320 Building Official City of LaBelle

321 ~~b. Subsequent to posting the building, the building official may cause the building to~~
322 ~~be repaired to the extent required to render it safe, or, if the notice requires~~
323 ~~demolition, may cause the building or structure to be demolished and all debris~~
324 ~~removed from the premises. The cost of repair or demolition shall constitute a lien~~
325 ~~on the property and shall be collected in a manner provided by law.~~

326 e. ~~Any monies received from the sale of a building or from the demolition thereof,~~
327 ~~over and above the cost incurred, shall be paid to the owner of record or other~~
328 ~~persons lawfully entitled thereto.~~

329 ~~(b) *Extension of time.* The building official may approve one (1) or more extensions of time as~~
330 ~~he may determine to be reasonable to complete the required repair or demolition. Such~~
331 ~~requests for extensions shall be made in writing, stating the reasons therefore. If the~~
332 ~~extensions of time, in total, exceed one hundred twenty (120) days, they must also be~~
333 ~~approved by the board of appeals, which may act without further public hearing.~~

334 ~~(c) *Interference with official actions.* No person shall obstruct or interfere with the~~
335 ~~implementation of any action required by the final notice of the building official or the~~
336 ~~board. Any person found interfering with or obstructing such actions shall be prosecuted to~~
337 ~~the extent provided for by law.~~

338 ~~(d) *Standards for work.* The repair or demolition of an unsafe building as~~
339 ~~required in the notice by the building official or the final decision by the~~
340 ~~board shall be performed in an expeditious and workmanlike manner in~~
341 ~~accordance with the requirements of this article and all other applicable~~
342 ~~codes and accepted engineering practice standards.~~

343 **Sec. 5-87. Recovery of cost of repair or demolition.**

344 Whenever a building or structure is repaired or demolished in accordance with the
345 provisions of this article and the cost of such repair or demolition is borne by the city, procedures
346 for the budgeting, expenditure and recovery of such funds shall be established by placing liens
347 on property.

348
349 **Section 3. Codification.** This Ordinance shall not be incorporated into the City of
350 LaBelle. However, either the provisions of this Ordinance or an editorial notation to the City
351 Charter may be added by the codification publisher of the city. To accomplish the foregoing the
352 sections of this Ordinance can be renumbered or re-lettered to the appropriate word or phrase to
353 accomplish such publication. Omissions, grammatical, and typographical errors, as well as
354 clarifications of ambiguous wording that do not affect the intent of this ordinance, may be
355 authorized by the Mayor without need for a public hearing.

356
357 **Section 4. Severability.** In the event that any portion of this Ordinance is for any
358 reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall
359 be deemed a separate, distinct and independent provision, and such holding shall not affect the
360 validity of the remaining portions of this Ordinance.

361
362 **Section 5. Conflicts.** The provisions of this article shall supersede any provisions
363 of existing ordinances in conflict herewith to the extent of said conflict.

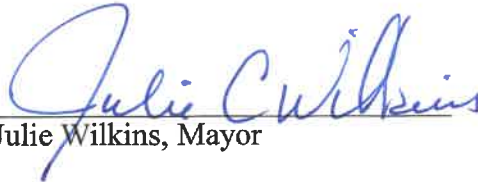
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365 Section 6. Effective Date. This Ordinance shall take effect immediately upon its
366 adoption by the City Commission.

367
368 **PASSED AND DULY ADOPTED** this 13th day of January, 2022.

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CITY COMMISSION OF THE CITY OF LABELLE,
FLORIDA

By: 
Julie Wilkins, Mayor

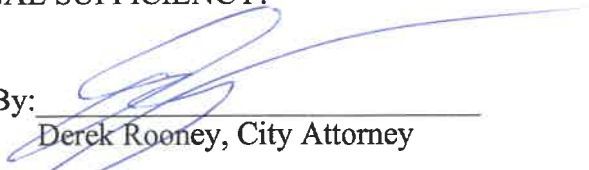
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379 ATTEST:

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382 By: 
383 Thomas A. Smith, Clerk-Commissioner

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APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

388
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By: 
Derek Rooney, City Attorney

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394	Vote:	AYE	NAY
395			
396	Mayor Wilkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>
397	Commissioner Smith	<input checked="" type="checkbox"/>	<input type="checkbox"/>
398	Commissioner Ratica	<input checked="" type="checkbox"/>	<input type="checkbox"/>
399	Commissioner Akin	<input checked="" type="checkbox"/>	<input type="checkbox"/>
400	Commissioner Spratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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