



**CITY COUNCIL MEETING OF MARCH 1, 2011
UNOFFICIAL PRIOR TO CITY COUNCIL APPROVAL
APPROVED BY THE CITY COUNCIL ON
March 15, 2011 AS WRITTEN.**

CALL TO ORDER:

5:00 P.M.

A Councilman James Boyajian
Councilman Judy Brodhead
Councilman Robert Fieseler
Councilman Richard R. Furstenau
Councilman Paul Hinterlong
Councilman Douglas Krause -Arrived at 5:20 p.m. via teleconference
Councilman Kenn Miller
Mayor Pro Tem Grant Wehrli

Absent

Mayor A. George Pradel

Also Present

City Manager, Doug Krieger
Assistant City Manager, Robert Marshall
City Clerk, Pam LaFeber
Deputy City Clerk, Nancy Bright
City Attorney, Margo Ely
Assistant City Attorney, Mike DiSanto
Fire Chief, Mark Puknaitis
Police Chief, David Dial
Finance Director, Karen DeAngelis
Director of Public Works, David Van Vooren
Director of T.E.D., Marcie Schatz
T.E.D. Operations Manager, Allison Laff
Community Planner, Amy Emery Graunke
T.E.D. Development Team Leader, Dick Dublinski
T.E.D. Engineering Team Leader, Bill Novack
Director of Public Utilities-Electric, Mark Curran
Director of Public Utilities-Water, Jim Holzapfel

Press

Chicago Sun Times, Daily Herald, Naperville Sun

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B. CLOSED SESSION:

Furstenau moved to recess to Closed Session to discuss 5ILCS/120/2(c)(21) Discussion of minutes of meetings lawfully closed under this Act, whether for the purposes of approval by the body of the minutes or semi-annual review of the minutes; (11) Litigation, when action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that an action is probable or imminent, (2) Collective negotiating matters between the public body and its employees or their representatives; (1) The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body. Second, Boyajian.

ROLL CALL:

Ayes: Wehrli, Miller, Krause, Hinterlong, Furstenau, Fieseler, Brodhead, Boyajian

Nays: None

Absent: Pradel, Krause

Motion declared carried.

Clerk's Note: Councilman Krause arrived at 5:20 p.m. via teleconference

THE MEETING RECESSED TO CLOSED SESSION AT 5:04 P.M.

CLOSED SESSION ENDED AT 6:52 P.M.

OPEN SESSION

MAYOR PRO TEM WEHRLI CALLED THE MEETING BACK TO ORDER AT 7:00 P.M.

ROLL CALL to determine Quorum:

Present: Wehrli, Miller, Krause, Hinterlong, Furstenau, Fieseler, Brodhead, Boyajian

Absent: Krause, Pradel

Furstenau moved to allow Councilman Krause to participate via phone at 7:11 p.m. Second, Miller.

VOICE VOTE: Motion declared carried.

C. PLEDGE TO THE FLAG:

PLEDGE GIVEN

D AWARDS AND RECOGNITIONS:

D1 Nichols Library 25th Anniversary Week – March 5-11, 2011
Councilman Jim Boyajian proclaimed March 5-11, 2011 as Nichols Library 25th Anniversary Week and presented the proclamation to Sue Prindville, Nichols Library Manager.

NICHOLS LIBRARY 25TH
ANNIVERSARY WEEK

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D2 Contributions of Naperville Citizens with Developmental Disabilities

Councilman Jim Boyajian proclaimed March 2011 as Developmental Disabilities Awareness Month and presented the proclamation to Margie Sillery, representing Naperville Works, and her son Adam Sillery, and Peter Berg, Chairman of the City's Advisory Commission on Disabilities.

CONTRIBUTIONS OF
NAPERVILLE CITIZENS
WITH DEVELOPMENTAL
DISABILITIES

D3 Employee of the Month – March

Councilman Kenn Miller recognized Kalah Considine, Acting Communications Section Manager, as the Employee of the Month for March.

EMPLOYEE OF THE MONTH
- MARCH

E **PUBLIC FORUM:**

E1 Issues of protest and ordinances

Scott Huber, Burlington and Ogden, discussed his current location.

E2 Smart Grid/Meters

G H Schilling, 908 Court, discussed core beliefs of the Tea Party Patriots and said that Smart grid is antithetical to those beliefs.

Alice Whaley, 511 Aurora Ave #316, explained the health issues she and others have suffered from electrical output.

Joanne St. Yves, 2315 Lexington, summarized the issues raised at the February 15, 2011 Council meeting and asked what has been done to address the questions, how concerned residents will be informed, and when should they expect to receive the information. She urged the Council to approve hardwired Smart meters and asked why health issues are not listed in the Bill of Rights.

Krieger stated that Naperville has learned from others' mistakes which moved the Council to develop a Bill of Rights that creates a framework highlighting the issues that are important to residents and that health is considered a part of the privacy right.

James J. Rooney, 2690 Wabash Court, discussed a remote monitoring system that was used in the Hilton organization. He said that as a result of the beta test the Hilton organization selected a wired system. Rooney asked why a beta test wasn't done for Naperville.

Krieger said that conducting a beta test is standard protocol and Naperville intends to do it.

Council discussed the reasons that meters were pulled from other parts of the country and requested that project status reports be sent to all members of the Council.

Krieger said questions regarding the discontinuing of installation will be addressed in the Smart Grid Committee meeting at 10:00 a.m. at the Electric Department on March 4, 2011.

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E2 Smart Grid/Meters Continued

David Bendis, 2207 Mercer Court, asked what data will be evaluated and how will project success be determined. He questioned the validity of a 15 or 100 meter beta study and stated that the data referencing RF output that was shown at the last Council meeting is skewed.

Jim Gura, 2317 River Woods Drive, discussed adverse health effects of the Smart meters.

Lisa Rooney, 2690 Wabash Court, stated she doesn't want residents to participate in the Smart meter experiment, discussed reasons to not continue, asked about the status of fiber optic installation, and urged Council to install hardwired meters.

Jen Stahl, 1427 Westglen Drive, discussed health issues that occur from Smart meters.

Kim Bendis, 2207 Mercer Court, stated that she is concerned that the marketing of the project is being done before the cyber security plan is in place.

Council stated that all concerns are valid concerns and that the Council and the Smart Grid Committee will research and address all issues.

F HOLDOVER ITEMS:

G PETITIONS AND COMMUNICATIONS TO THE COUNCIL:

H CONSIDERATION OF MOTION TO USE OMNIBUS METHOD FOR REMAINING ITEMS:

Miller moved to use the Omnibus method to approve the Consent Agenda. Second, Krause.

VOICE VOTE: Motion declared carried.

I CONSENT AGENDA:

Miller moved to approve the Consent Agenda with the exception of items I2, I10, I13. Second, Krause.

ROLL CALL:

Ayes: Wehrli, Miller, Krause, Hinterlong, Furstenau,
 Fieseler, Brodhead, Boyajian

Nays: None

Absent: Pradel

 Motion declared carried.

II Cash Disbursements – 2/16/2011

Council moved to approve the February 16, 2011 cash disbursements in the amount of \$7,393,238.46.

**CASH DISBURSEMENTS –
2/16/11**



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- I3** Contract 08-146, Fuel Tank Wagon CONTRACT 08-146, FUEL TANK WAGON
Council moved to approve the award of option year one extension to Contract 08-146, fuel tank wagon, to Feece Oil for an amount not to exceed \$180,000.00
- I4** Bid 11-151, Tree Planting BID 11-151, TREE PLANTING
Council moved to approve the award of Bid 11-151, tree planting, to St. Aubin Nursery and Landscaping for an amount not to exceed \$222,019.00 (\$139,519.00 of this award amount pending CIP approval).
- I5** Bid 11-147, Bulk Road Salt BID 11-147, BULK ROAD SALT
Council moved to approve the award of Bid 11-147, bulk road salt, to North American Salt for Option 1, summer delivery, for an amount not to exceed \$755,880.00.
- I6** Resolution No. 11-010, Loaves and Fishes Community Pantry – ZBA #11-1-006 RESOLUTION NO. 11-010, LOAVES AND FISHES COMMUNITY PANTRY – ZBA #11-1-006
Council moved to adopt Resolution No. 11-010, granting a variance from Section 5-4-3:5 (prohibited signs, off premises signs) of the Naperville Municipal Code in order to allow Loaves & Fishes Community Pantry, located at 1871 High Grove Lane, to install a new sign cabinet on top of the existing monument sign located at 1855 High Grove Lane.
- I7** Ordinance No. 11-030, Women’s Club 52nd Annual Juried Fine Art Fair ORDINANCE NO. 11-030, WOMEN’S CLUB 52ND ANNUAL JURIED FINE ART FAIR
Moved to pass Ordinance No. 11-030, to establish temporary traffic controls for the Naperville Women’s Club 52nd Annual Juried Fine Art Fair, June 4-5, 2011, and approve the issuance of a Special Event Permit for the event.
- I8** Ordinance No. 11-031, 2011 NCO Spring Ahead Run ORDINANCE NO. 11-031, 2011 NCO SPRING AHEAD RUN
Council moved to pass Ordinance No. 11-031, to establish temporary street closures for the 2011 NCO Spring Ahead Run on April 17, 2011, and approve an amplifier permit and special event permit for the event.
- I9** Ordinance No. 11-032, MJK Retail Development, PC 10-1-151 ORDINANCE NO. 11-032, MJK RETAIL DEVELOPMENT, PC 10-1-151
Moved to pass Ordinance No. 11-032, approving a major change to the PUD, approval of a final PUD plat and a deviation from Section 6-2-14 (major arterial setback requirements) and Section 6-9-2:4.6 (off-street parking facilities) of the Naperville Municipal Code in order to develop a multi-tenant commercial building on Lot 3 of the Bailey and Satchel’s Subdivision.
- I11** Resolution No. 11-011, Capital Improvement Program (CIP) RESOLUTION NO. 11-011, CAPITAL IMPROVEMENT PROGRAM (CIP)
Council moved to adopt Resolution No. 11-011, authorizing the 2012-2016 Capital Improvement Program.



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- I12** Ordinance No. 11-033, Parking Restrictions on Danlaur Court ORDINANCE NO. 11-033,
Council moved to pass Ordinance No. 11-033, to establish a no PARKING RESTRICTIONS
parking, stopping or standing zone on both sides of Danlaur Court ON DANLAUR COURT
from the center line of Mistflower Lane to the terminus from 7:30
a.m. – 8:30 a.m. and 2:30 p.m. – 3:30 pm. On school days, and
rescind that part of Ordinance No. 10-100, which established no
parking, stopping or standing on both sides of Danlaur Court from
the center line of Mistflower Lane to a point 100 feet west of the
center line of Mistflower Lane from 7:30 a.m. – 8:30 a.m. and 2:30
p.m. – 3:30 p.m. on school days.
-
- I2** Regular City Council Meeting Minutes – February 15, 2011 REGULAR CITY COUNCIL
Furstenau moved to table the Regular City Council Meeting MEETING MINUTES –
Minutes of February 15, 2011. Second, Boyajian. 2/15/11
VOICE VOTE: Motion declared carried.
- I10** Ordinance No. 11-, Speed Limit of 25 mph for Ford Lane and ORDINANCE NO. 11-, SPEED
Baker Lane LIMIT OF 25 MPH FOR FORD
Council discussed the effort of this change and the number of LANE & BAKER LANE
homes in the area.
Robles stated that this is common practice when a resident request
is submitted and the street does not have a designated speed limit.
She said a speed study is conducted and this agenda item is
establishing the speed limit. She said that when a street does not
have a designated speed limit a default limit is set at 30 mph, this
agenda item is setting the speed at 25 mph.
Council requested the cost of the speed study and the process of
speed limit evaluations.
Boyajian moved to deny establishing various traffic controls for
Ford Lane and Baker Lane. Second, Furstenau.
ROLL CALL:
Ayes: Miller, Krause, Furstenau, Boyajian, Wehrli
Nays: Hinterlong, Fieseler, Brodhead
Absent: Pradel
Motion declared carried.
- I13** Liquor sales beginning at 8:00 a.m. on Sundays – Text LIQUOR SALES BEGINNING
Amendment AT 8:00 A.M. ON SUNDAYS
Boyajian moved to direct staff to draft a text amendment to
Section 3-3-17-1.1.1 ending the six-month pilot program and
permanently allowing package liquor sales to start at 8a.m. on
Sundays. Second, Miller.
Connie Zaio –Jewel/Osco and 150 Pierce Road, Itasca, stated that
the data she provided only reflected liquor sales during the pilot
program.



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I13 Liquor sales beginning at 8:00 a.m. on Sundays – Text
Amendment Continued

LIQUOR SALES BEGINNING
AT 8:00 A.M. ON SUNDAYS

Council requested data from the second six months of early liquor sales from Jewel/Osco.

ROLL CALL:

Ayes: Krause, Hinterlong, Fieseler, Brodhead, Boyajian,
Wehrli, Miller

Nays: Furstenuau

Absent: Pradel

Motion declared carried.

J OLD BUSINESS:

J1 B4 (Downtown Core), PC 10-1-160

B4 (DOWNTOWN CORE), PC
10-1-160

Patrick Skarr, Naperville Chamber of Commerce at 55 S. Main Street #351, stated that this item and the *Downtown2030 Plan* are related, that the Chamber does not support making banks a conditional use in the downtown.

Council clarified that the purpose of the amendment is not to prohibit first floor banks but to review their location in relation to the retail shopping mix.

Laff stated that the conditional use standards have been modified based on input from the Chamber and explained that the categories are: total square footage of the proposed use, presence of similar uses, ability of the proposed use to contribute to the tax generating potential of the Zoning District, extent to which the proposed use furthers the objectives of *Naperville Downtown2030*, location of the proposed use on the block, and extent to which the location contributes to the objectives of *Naperville Downtown2030*

Council commented that the conditions are liberal and not too stringent to prohibit conditional use applications. Council also asked about accessory structures and the six-month non-conforming rule.

Laff explained that there is a 25% standard in the Code for accessory uses, that the proposal allows for an ATM on the first floor, and that the proposal is not prohibiting first floor banks, just that there is an additional review.

Laff stated that the six month provision currently applies to all non-conforming uses in the city, she said that a person can apply for a conditional use after the property is vacated and be approved thereby not being restricted by the six month limitation and having a legal use. She stated that staff has notified all B4 property owners in writing and explained the changes.

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J2

Historic Preservation Ordinance Revisions , PC 10-1-14
Continued

**HISTORIC PRESERVATION
ORDINANCE REVISIONS,
PC 10-1-144**

Carol Schmidt, 204 N. Wright and representing East Central Homeowners Organization, ECHO, stated that staff has provided two options for consideration, but urged Council to approve a third option which is Option A with the addition of an extra point added to Section 6-11-8 on page 23 which is the consideration of whether the structure maintains its historic and architectural significance after the remodel project is complete.

Laff stated that it could be added, but would be in conflict with the unified recommendation because the primary goal is that the project maintain the character of the district, not integrity of the historic structure.

Council asked if ECHO's recommendation could be added to the text amendment and if such a requirement would be economically feasible for the homeowner.

Schmidt clarified that she is not suggesting that original materials be required, just that the scope of the project be considered as a factor in the approval process.

Council discussed that the enforcement or regulation of Schmidt's proposal is problematic because it is difficult to determine when a project has gone too far.

Schmidt responded that none of the proposed recommendations are quantifiable, they are all subjective. She said that her suggestion is asking the petitioner to think about the scope of the project and is not in conflict with the unified recommendation.

Laff clarified that the property in question is on Ellsworth and is incomplete due to financial hardship being experienced by the owner. She stated that the project is not a teardown, but rather a roof/siding replacement and a rear addition. Once the project is complete, it will be consistent with the unified recommendation.

Boyajian moved to approve Option A and concur with the Historic Preservation Commission and staff to pass Ordinance No. 11-034, to maintain the Unified Recommendation to require at least 51% of property owners' opposition to stop a Historic District designation process. Second, Hinterlong.

ROLL CALL:

Ayes: Fieseler, Brodhead, Boyajian, Wehrli, Miller, Krause,
Hinterlong

Nays: Furstenau

Absent: Pradel

Motion declared carried.

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N2

Naperville Downtown2030 Plan, PC 10-1-114

NAPERVILLE
DOWNTOWN2030 PLAN, PC
10-1-114

Amy Emery gave a presentation of *The Naperville Downtown2030 Plan* highlighting major plan sections including the future land use map and recommendations for land use, transportation, parking, and building design.

Rick Hitchcock, 1130 Omaha Court, stated that the 2030 Plan offers vision for the future which will allow downtowns to have a competitive advantage.

Council said that *The Naperville Downtown2030 Plan* is an excellent document with beautiful graphics, and a lot of detail. Council congratulated the Planning Team and stated that the document speaks to the professionalism and capabilities of staff. Council questioned the parking buy-in methodology and recommendations regarding parking garages, traffic flow, and building height.

Schatz stated that there are no recommendations for a specific location of a garage, that the Plan does discuss the need to have an adequate supply of parking, using the Continuous Improvement Model to gauge future parking demand, that there is language regarding application of parking fee-in-lieu formulas and private/public partnerships on page 66.

Schatz said 2000 Plan had grand ideas regarding traffic flow and road improvements, whereas the 2030 Plan stresses the importance of balancing pedestrian and transportation needs.

Laff responded that the north downtown area will have a 60' height restriction. She said that the 5th Avenue Study held that a 43' height restriction on the east side was appropriate because it is abutting residential property; for the west side the Downtown Advisory Commission (DAC) amended its recommendation so the southern block of the north downtown study area would be 60' and the northern block would be 50'. The 60' recommendation was made because the property is abutting the downtown core. She concluded stating that the topography of the area is a key consideration when evaluating new development.

First reading held.

N3

Telecommunication Tower, PC 1738

TELECOMMUNICATION
TOWER, PC 1738

Option 1

Deny Petition for Telecommunication tower at 2191 Plainfield-Naperville Road

Option 2

Concur with staff and pas the Ordinance approving a conditional use for telecommunication tower in R1a District and setback variance

Joe Suchecki, 2416 Kingsley Drive, asked that Council vote against the tower because there are no other tall structures in the area, the prairie provides nesting habitats for birds, and Plan Commission did not approve the tower.

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N3

Telecommunication Tower, PC 1738 Continued

**TELECOMMUNICATION
TOWER, PC 1738**

Lonnie Morris, 209 W. Sunset, Lombard, opposes the tower and discussed the effects on the animal habitats in the area.

Paul Mitchell, Forest Preserve, 11 E. Jefferson, discussed the setback requirement and the impossibility of getting a variance. Urged council to vote this down.

Council discussed the slight difference between the proposed cell tower and telephone poles, that this tower is necessary for the city's radio system to work efficiently, but the tower does interrupt the existence and preservation of the land. Council asked about placing the tower at the Springbrook Plant, Naperbrook Golf Course or at the quarry.

Voiland explained that any other location does not address what the cell companies need.

Ray Schinkle, (T-Mobile) 1089 Onwentsia, explained that depending on the tower height it can only cover a one mile or 1.5 mile, that there is a pocket in that area that needs to be addressed, and that more carriers would express interest if the tower were approved.

Council questioned the required height for the city's radio system and if alternate locations would serve the city's needs.

Voiland responded that the city's height requirement is 130' and that Springbrook would meet the city's needs but not the cell carriers'.

Furstenau moved to approve Option 1) and Concur with the Plan Commission and deny the petition for a telecommunication tower on the city-owned property at 2191 Plainfield-Naperville Road. Second, Fieseler.

ROLL CALL:

Ayes: Boyajian, Wehrli, Miller, Krause, Hinterlong,
Furstenau, Fieseler, Brodhead

Nays: None

Absent: Pradel

Motion declared carried.

N4

Amendment to Liquor Code -- Increasing the cap for Class D

**AMENDMENT TO LIQUOR
CODE**

Allen Peterson – Petitioner, 1310 Danada Court, presented his case for increasing the cap, stated that he is established in the community, his stores focus on wine sales and provides an education to the shoppers.

Harshil Patel, 353 E. Bailey Road, manager at Extra Value Liquor, stated that when he opened his establishment he understood there was a cap on the license, he said it is hard to make money now, the police department is overwhelmed and urged Council to deny the additional license.

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N4 Amendment to Liquor Code -- Increasing the cap for Class D
Continued

AMENDMENT TO LIQUOR
CODE

Brad Jiwani, 1474 East Chicago Avenue, Solo Liquor owner, stated that opening a store just two blocks away will cripple his business and urged the Council to act in a manner consistent with the long standing ordinance.

Joseph Butera, 1290 E. Chicago Avenue, owner of Butera Market, explained that the liquor business is not exempt from the economic conditions, the addition of another Class D license will have a negative effect on his business because there is a strong overlap of similar products within a short distance from the proposed site.

At 10:52 p.m. Krause moved to extend the meeting 15 minutes. Second, Furstenau.

Basim Esmail, 1118 Johnson Drive, questioned the rationale of increasing the Class D cap in spite of a decline in population of 3,000 individuals.

Bratik Patel, 1292 Rickert Drive #108, JP Liquors, stated that he holds the last Class D license and that his business will suffer if more licenses are granted.

Council said that if the cap is lifted each application will be evaluated on a case-by-case basis, that the rationale for such a restrictive number of licenses is unclear, and that the market should be permitted to work itself out, but questioned at what point is there a saturation of D licenses because currently there are 29 establishments that hold this license classification.

Council requested the order in which Peterson's was granted D licenses, why the 60,000 square foot restriction was implemented, and what constitutes the 60,000 square foot make-up.

Bright responded that the square foot requirement is calculated based upon the PUD of the proposed location.

Ely said that that D licenses that will locate in properties over 100,000 square feet do not have to be reviewed by Council and that the city cannot regulate business interest.

First Reading Held.

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O NEW BUSINESS:

P CLOSED SESSION:

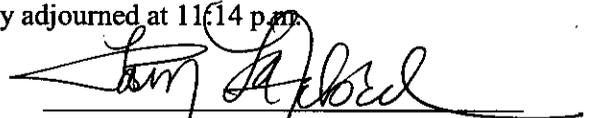
Q ADJOURNMENT:

ADJOURNMENT -11:14 P.M.

Boyajian moved to adjourn the Regular City Council meeting of
March 1, 2011 at 11:14 p.m. Second, Furstenau.

VOICE VOTE: Motion declared carried.

The Regular City Council Meeting of March 1, 2011 officially adjourned at 11:14 p.m.



PAM LAFERBER PH.D.
CITY CLERK

PL:BK

