



**CITY COUNCIL MEETING OF JANUARY 4, 2011  
UNOFFICIAL PRIOR TO CITY COUNCIL APPROVAL  
APPROVED BY THE CITY COUNCIL ON  
January 18, 2011 AS WRITTEN.**

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**CALL TO ORDER:**

**6:00 P.M.**

**A** Mayor A. George Pradel  
Councilman James Boyajian  
Councilman Judy Brodhead.  
Councilman Robert Fieseler  
Councilman Richard R. Furstenau  
Councilman Paul Hinterlong  
Councilman Douglas Krause  
Councilman Kenn Miller  
Councilman Grant Wehri

**Absent**

**Also Present**

City Manager, Doug Krieger  
Assistant City Manager, Robert Marshall  
City Clerk, Pam LaFeber  
City Attorney, Margo Ely  
Acting Deputy Fire Chief, Robert Bush  
Police Chief, David Dial  
Director of Finance, Karen DeAngelis  
Director of Public Works, David Van Vooren  
Director of T.E.D., Marcie Schatz  
T.E.D. Operations Manager, Allison Laff  
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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FINAL AGENDA  
CITY COUNCIL MEETING  
JANUARY 4, 2011  
PAGE 2

**B. CLOSED SESSION**

Furstenau moved to recess to Closed Session to discuss 5ILCS/120/2(c)(2) Collective negotiating matters between the public body and its employees or their representatives; (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; (21) Discussion of minutes of meetings lawfully closed under this Act. Second, Krause.

**ROLL CALL:**

**Ayes:** Pradel, Boyajian, Brodhead, Fieseler, Furstenau, Hinterlong, Krause, Miller, Wehrli.

**Nays:** None  
Motion declared carried.

**THE MEETING RECESSED TO CLOSED SESSION AT 6:05 P.M.**

**CLOSED SESSION ENDED AT 7:04 P.M.**

**OPEN SESSION**

**MAYOR PRADEL CALLED THE MEETING BACK TO ORDER AT 7:12 P.M.**

**ROLL CALL to determine Quorum:**

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

**Absent:** None

**C. PLEDGE TO THE FLAG:**

PLEDGE GIVEN

**D AWARDS AND RECOGNITIONS:**

**D1 January "Meter Estimation Response" Team Award**

Councilman Miller presented the January Team Award to members of the Finance Department for Meter Estimation Response.

"METER ESTIMATION  
RESPONSE" TEAM  
AWARD

**E PUBLIC FORUM:**

**E1 Downtown Encampment Ordinance**

Dr. Kathy Borchardt, 4 N. Washington, urged Council to take action against disruptive protests that are occurring outside of the downtown at her business and stated that Mr. Huber has disrupted other businesses at Ogden and Washington.

Krieger stated that staff is not avoiding the issue with Mr. Huber but because of free speech the city must proceed cautiously.

Ely explained that this topic would be placed on the agenda if three Councilmen requested it after they reviewed the Manager's Memorandum prepared by the Legal Department.

Dr. Christine Hibbard, 1121 East Main, St. Charles, discussed what happens to the clients she refers to Dr. Borchardt and what they will encounter at the office.

FINAL AGENDA  
CITY COUNCIL MEETING  
JANUARY 4, 2011  
PAGE 3

**E1**     Downtown Encampment Ordinance   Continued

Mike Borchardt, 1782 Iona Avenue, stated that his family is being harassed and have purchased a home security system. He also said that his family has received threatening mail and that statements are being posted on the Internet that are not true.

Mike Cooper, 1749 E. Bailey Road, owns a home business outside of downtown Naperville and urged Council to fix the encampment ordinance because he could have a protestor at his residence.

Dr. David Skarin, 4 N. Washington, proposed making individual businesses their own entities with their own rights, give them buffer zones, and apply restrictions to each business. He also suggested that the city establish protest areas.

Dial said that the online comments have been reviewed by the DuPage County State's Attorney's Office and they have declined to prosecute. He also said that Mr. Huber denied sending the letter to the Borchardt home and that the police department does not know who sent it.

Council stated that the current ordinance revolves around the impact to commercial business in the downtown, not free speech, and asked counsel to bring back recommendations to change the ordinance so it can be applied citywide.

Council discussed relying on existing ordinances that allow for the confiscation of material that encroaches the sidewalk or limiting the prohibited activity to zoning districts. Council also discussed tailoring the ordinance to commerce, not free speech, and the enforcement of any infractions.

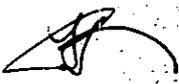
Ely explained that the current ordinance was limited to the downtown because that is where businesses abut sidewalks and at the time the ordinance was approved Mr. Huber was living in the downtown. The ordinance regulates living in the downtown, not free speech. She said that the Council was provided analysis from across the country that stated broad-based restrictions have been struck down. She said that the current ordinance has not been challenged and that no municipality has ever passed a Free Speech Zone ordinance.

Krieger stated that staff will present a memo to Council for the February 1, 2011 meeting which focuses on the options discussed and analyzes other available remedies.

**E2**     Water Bill Deposit

Remi Kelani, 2915 Portsmith, explained to Council that she must pay a deposit to have water service reinstated.

DeAngelis explained that the current ordinance requires a deposit after non-payment shut offs.



FINAL AGENDA  
CITY COUNCIL MEETING  
JANUARY 4, 2011  
PAGE 4

**E2**     Water Bill Deposit Continued

Council discussed the option of payment plan and stated that there is an organization that can help the speaker.

Fieseler left the dais at 8:27 p.m.

**E3**     Property Tax

Brand Bobosky, 948 Anne Road, reviewed an article in the Wall Street Journal about raising property taxes to fund pension and healthcare costs. He stated that the city has not increased property taxes in 13 years and urged Council to consider tax increases in sales, property or utility.

Fieseler returned to the dais at 8:35 p.m.

**E4**     Overtime

H. Tom O'Hale, 620 W. Gartner, stated that eliminating overtime will help balance the budget.

**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, Wehrli.

**VOICE VOTE:**       Motion declared carried.

**I**     **CONSENT AGENDA:**

Miller moved to approve the Consent Agenda with the exception of items I2, I5. Second, Krause.

**ROLL CALL:**

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

**Nays:**     None  
              Motion declared carried.

**I1**     Cash Disbursements – 12/21/2010

Council moved to approve the December 21, 2010 cash disbursements in the amount of \$14,014,783.10.

**CASH DISBURSEMENTS –  
12/21/10**

**I3**     Minutes of December 21, 2010 - Regular City Council Meeting

Council moved to approve the minutes of December 21, 2010 Regular City Council Meeting.

**12/21/10 REGULAR CITY  
COUNCIL MEETING  
MINUTES**

**I4**     Award of Bid 11-127, Oracle Database Software

Council moved to approve the award of Bid 11-127, Oracle Database Software, to Mythics, Inc. for an amount not to exceed \$345,925.00.

**BID 11-127, ORACLE  
DATABASE SOFTWARE**

FINAL AGENDA  
CITY COUNCIL MEETING  
JANUARY 4, 2011  
PAGE 5

- 16** Contract 07-067, Storm Water Consultants **CONTRACT 07-067,  
STORM WATER  
CONSULTANTS**
- Council moved to approve the award of an extension to Contract 07-067, storm water consultants, to Christopher B. Burke Engineering, V3 Companies of Illinois and Engineering Resource Associates, Inc., for an amount not to exceed \$251,730.00
- 17** Public street improvements for Avere Woods Subdivision **PUBLIC IMPROVEMENTS  
- AVERE WOODS**
- Council moved to accept the public street improvements at Avere Woods Subdivision and authorize the City Clerk to reduce the corresponding public improvements surety.
- 18** Resolution No. 11-001, Regional Transportation Authority (RTA) Community Planning Grant-Naperville Metra Station Bus Depot and Commuter Access Feasibility Study **RESOLUTION NO. 11-001,  
NAPERVILLE METRA  
STATION BUS DEPOT  
AND COMMUTER  
ACCESS FEASIBILITY  
STUDY**
- Council discussed potential cost savings by only studying either the north or south side of the tracks, not both.
- Robles said that splitting the study into two different phases (north side and south side) is not recommended because of the collective nature of commuter parking and access to the Metra Station. She said making a change to one of the commuter parking lots or access points would have the potential to impact some or all of the remaining lots and as a result they should be evaluated collectively. She also said that any improvements will be paid from the Burlington Fund.
- Council moved to adopt Resolution No. 11-001, authorizing the City Manager to enter into an agreement with the Regional Transportation Authority (RTA) to conduct the Naperville Metra Station Bus Depot and Commuter Access Feasibility Study.
- 19** Ordinance No. 11-001, United Car Care, PC #10-1-139 **ORDINANCE NO. 11-001,  
UNITED CAR CARE, PC  
#10-1-139**
- Council moved to pass Ordinance No. 11-001, approving a conditional use for an automobile repair facility in the "T" (Industrial District) for United Car Care, located at 1665 Quincy Avenue.
- 110** Season's Commons, PC #10-1-141 **SEASON'S COMMONS, PC  
#10-1-141**
- Rosanova, the petitioner's attorney, stated that there will not be a dirt pile on the property during the development. He said that the petitioner will run utilities through the lot to tap into sanitary and a storm water discharge line along the western side of the property; the property will then be restored.
- Novack stated that the petitioner will provide a grading plan that will show that the property is graded in accordance to his testimony.
- 110a** Ordinance No. 11-002, rezone from ORI (Office, Research, Light Industrial) to OCI (Office, Commercial, Institutional) **ORDINANCE NO. 11-002,  
REZONE TO OCI**
- Council moved to pass Ordinance No. 11-002, to rezone Season's Commons from ORI to OCI (Office, Commercial, Institutional), PC 10-1-141.
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FINAL AGENDA  
CITY COUNCIL MEETING  
JANUARY 4, 2011  
PAGE 6

- I10b**     Ordinance No. 11-003, preliminary/final plat of subdivision for Season's Commons, PC 10-1-141  
Council moved to pass Ordinance No. 11-003, approving a preliminary/ final plat of subdivision for Season's Commons, PC 10-1-141.
- I10c**     Ordinance No. 11-004, conditional use for convalescent and nursing home for Season's Commons, PC 10-1-141  
Council moved to pass Ordinance No. 11-004, approving a conditional use for a convalescent and nursing home per Section 6-7F-3 of the municipal code and variances to Section 5-10-3 relating to building foundation, interior parking lot and perimeter site landscape requirements.
- I11**     Resolution No. 11-002, Mill and Commons Intersection Improvement  
Council moved to adopt Resolution No. 11-002, authorizing the City Manager to execute the Intergovernmental Agreement between the County of DuPage and the City of Naperville for CH32/Mill Street improvements (from Diehl Road to Bauer Road) County Section 10-00220-04-CH.
- I12**     Ordinance No. 11-005, Country Commons Parks, PC 10-1-136  
Council moved to pass Ordinance No. 11-005, approving a subdivision plat for Country Commons Park, PC 10-1-136.
- I13**     Ordinance No. 11-006, DuPage River Park, PC 10-1-135  
Council moved to pass Ordinance No. 11-006, approving a subdivision plat for DuPage River Park, PC 10-1-135.
- I14**     Ordinance No. 11-007, Waterworks and Sewerage Revenue Refunding Bonds  
Council moved to pass Ordinance No. 11-007, providing for the payment of outstanding Waterworks and Sewerage Revenue Refunding Bonds, Series 2002 and authorizing the execution of an Escrow Deposit Agreement by and between the city and Amalgamated Bank of Chicago.
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- I2**     Minutes of November 16, 2010 - Regular City Council Meeting  
Council stated that the minutes are too detailed and that with the increase in government transparency via Internet streaming and television broadcasts such detail is not necessary.  
Krieger said there are minimum standards for minutes and that this will be a topic for the Council Rules Workshop.  
Miller moved to approve the Regular City Council Meeting Minutes of November 16, 2010. Second, Hinterlong.  
**VOICE VOTE:**            Motion declared carried.

ORDINANCE NO. 11-003,  
PRELIMINARY/FINAL  
PLAT OF SUBDIVISION

ORDINANCE NO. 11-004,  
CONDITIONAL USE

RESOLUTION NO. 11-002,  
MILL AND COMMONS  
INTERSECTION  
IMPROVEMENT

ORDINANCE NO. 11-005,  
COUNTRY COMMONS  
PARKS, PC 10-1-136

ORDINANCE NO. 11-006  
DUPAGE RIVER PARK, PC  
10-1-135

ORDINANCE NO. 11-007,  
WATERWORKS AND  
SEWERAGE REVENUE  
REFUNDING BONDS

11/16/10 REGULAR CITY  
COUNCIL MEETING  
MINUTES

FINAL AGENDA  
CITY COUNCIL MEETING  
JANUARY 4, 2011  
PAGE 7

**I5**     Award of Bid 11-100, 3/4" Short Water Meters

**BID 11-100, 3/4" SHORT  
WATER METERS**

Council questioned the number of complaints over the years, the number of years the city has contracted with the supplier, if the new contractor has met the accuracy specifications, and the balance of meters still left to be installed.

Bevis explained that the city has contracted with the previous vendor for seven years, there are 500 meters yet to be installed, and noisy meters that are removed from service are placed back into inventory to be installed in locations where noise is not an issue such as meter pits for irrigation lines, they are not returned to the supplier. He also said that meters that are returned are not accepted by the vendor and no credit is given to the city. He said that as a result of the complaints and performance issues, the city has selected a vendor who uses different technology to design meters.

Furstenau moved to approve the award of Bid 11-100, 3/4" short-water meters, to Badger Meters, Inc. for an amount of \$270,250.00. Second, Miller.

**ROLL CALL:**

**Ayes:**     Fieseler, Furstenau, Hinterlong, Krause, Miller, Wehrli,  
              Pradel

**Nays:**     Boyajian, Brodhead  
              Motion declared carried.

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**J**     **OLD BUSINESS:**

**K**     **AWARD OF BIDS AND OTHER ITEMS OF EXPENDITURE:**

**K1**     Bid 11-098, Insulated Conductors

**BID 11-098, INSULATED  
CONDUCTORS**

Bevis clarified that the award is for a maximum two-year supply and that staff will only purchase what is needed for projects.

Council stated that shrinking inventory will help bring down the cost of capital projects and requested that that topic be added to the upcoming CIP workshop discussions.

Wehrli moved to approve the award of Bid 11-098, insulated conductors, to General Cable and Okonite for a total award amount of \$2,621,740.00. Second, Miller.

**ROLL CALL:**

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

**Nays:**     None  
              Motion declared carried.

FINAL AGENDA  
CITY COUNCIL MEETING  
JANUARY 4, 2011  
PAGE 8

**K2** RFP 10-139, Naperville Smart Grid Initiative Consultant (NSGI) – Phase 3 – 2011

RFP 10-139, NAPERVILLE  
SMART GRID INITIATIVE  
CONSULTANT (NSGI) –  
PHASE 3 - 2011

Council questioned the Phase I and Phase II deliverables and asked the number of remaining phases.

Bevis answered that the city has received system design, specifications for contract awards, direct support for contract negotiations, models for cyber security, and project management plans. He said that the vendor provided a product superior to what was originally promised.

Curran said that Phase III will be performed in 2011 and early 2012. Migration toward using all city staff will occur in late 2012.

Council asked how many city staff will be assigned to this project and what responsibilities could be assigned to city staff to save outside costs.

Curran stated that approximately six FTE's will be dedicated to this project during the next several months. He said that West Monroe provides technical expertise in the system integration and cyber security areas.

Bevis stated that the city must do a rate study because of the new IMEA contract, as part of the rate study the firm has to consider the total cost of system operation and in order to consider everything they will need information from West Monroe.

Wehrli moved to approve the award of RFP 10-139, Naperville Smart Grid Initiative Consultant – Phase 3 for 2011, to West Monroe Partners for the amount of \$1,930,734.00. Second, Brodhead.

**ROLL CALL:**

**Ayes:** Fieseler, Furstenuau, Hinterlong, Krause, Miller, Wehrli, Pradel, Brodhead

**Nays:** Boyajian  
Motion declared carried.

**L** **REPORTS AND RECOMMENDATIONS:**

**L1** City Council Meeting Schedule

CITY COUNCIL MEETING  
SCHEDULE

Miller moved to approve the City Council Meeting Schedule for January, February and March 2011. Second, Hinterlong.

**VOICE VOTE:** Motion declared carried.

FINAL AGENDA  
CITY COUNCIL MEETING  
JANUARY 4, 2011  
PAGE 9

**M PUBLIC HEARING:**

**M1** Kensington School, PC 09-1-195

KENSINGTON SCHOOL,  
PC 09-1-195

**M1a** Public Hearing to consider annexation agreement for Kensington School

Mayor opened the public hearing at 9:31 p.m.

Wehrli moved to close hearing at 9:32 p.m. Second, Miller.

Boyajian moved to use the Omnibus method to approve items M1b, M1c, M1d, M1e, and M1f. Second, Furstenau.

**VOICE VOTE:** Motion declared carried.

Miller moved to pass Ordinance No. 11-008, 11-009, 11-010, 11-011, and 11-012. Second, Furstenau.

**ROLL CALL:**

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

**Nays:** None  
Motion declared carried.

**M1b** Ordinance No. 11-008, authorizing execution of the annexation agreement for Kensington School

ORDINANCE NO. 11-008,  
ANNEXATION  
AGREEMENT

Council moved to pass Ordinance No. 11-008, authorizing execution of the annexation agreement for Kensington School, PC 09-1-195.

**M1c** Ordinance No. 11-009, annexing property

ORDINANCE NO. 11-,009  
ANNEXING PROPERTY

Council moved to pass Ordinance No. 11-009, annexing 4512 Walton Heath Drive, PC 09-1-195.

**M1d** Ordinance No. 11-010, zone 4512 Walton Heath Drive

ORDINANCE NO. 11-010,  
ZONE 4512 WALTON  
HEATH DR.

Council moved to pass Ordinance No. 11-010, to zone 4512 Walton Heath Drive to B3, (general commercial) upon annexation.

**M1e** Ordinance No. 11-011, conditional use for a nursery school/preschool/ daycare center

ORDINANCE NO. 11-011,  
CONDITIONAL USE

Council moved to pass Ordinance No. 11-011, approving a conditional use pursuant to Section 6-7-3 for a nursery school/preschool/daycare center at 4512 Walton Heath Drive.

**M1f** Ordinance No. 11-012, variances to the arterial setback for parking and signage, building foundation plantings and off-street parking

ORDINANCE NO. 11-012,  
VARIANCES

Council moved to pass Ordinance No. 11-012, approving variances to the arterial setback for parking and signage, building foundation plantings and off-street parking.

FINAL AGENDA  
CITY COUNCIL MEETING  
JANUARY 4, 2011  
PAGE 10

O NEW BUSINESS:

O1 Snow on Jefferson Avenue Bridge

Hinterlong discussed that residents are forced to walk in the street because the sidewalks have not been cleared.

Van Vooren stated that during normal working hours the Public Works staff clears the sidewalks on the bridge. He said he will check the schedules for clearing the structure. He said that the Park District is responsible for the maintenance of the path and he will ask what the cost would be to the city if they also cleared the sidewalks.

O2 Bridge on Ogden Avenue East of River Road

Miller stated that snow and ice cover the walk and people with wheelchairs are forced to go into the street to cross the bridge. He requested the city develop a solution to keep all bridges clear to ensure the safety of the residents which may include clearing the areas and billing the appropriate government entity.

O3 Signs in the Parkway

Krause stated that he was contacted by a homeowner's association because the city collected signs notifying the subdivision of a meeting. He said that the signs were in the parkway which is not allowed by ordinance and asked if the city can make an exception to homeowner's associations.

Ely said that signs in the right-of-way are uniformly banned and that the city could be legally challenged if it allows particular types of signs and not others. She said that the city can put signs in the right-of-way because it is the city's right-of-way. She suggested that the homeowner's association put meeting signs in residents' yard.

Schatz stated that TED will educate the homeowner's confederation on the proper, legal location of sign placement.

Furstenau said there are illegal signs on Ogden and Route 59 that should be removed.

Schatz explained that only signs in the right-of-way are pulled by staff during the normal course of their workday. If the signs are on private property the property owner is given notice. She said that staff removes approximately 6,000 signs annually.

O4 Board and Commission Contact

Krause said that contacts are not listed on the web site.

Lalvani clarified that each board and commission has a separate dedicated page on the city's website and a staff contact is given for each board and commission as well.

FINAL AGENDA  
CITY COUNCIL MEETING  
JANUARY 4, 2011  
PAGE 11

**O5**     Liquor Licenses

Krause proposed having the City Council vote on increases to certain types of licenses when a business applies for that license designation.

Krieger explained an item will be on the January 18 agenda requesting the Council to develop a subcommittee that will make liquor licensing recommendations.

**O6**     SMART Grid Bill of Rights

Furstenau requested the number of SMART Grid Bill of Rights hits on the web site and asked if the Bill of Rights has been advertised on television.

Lalvani responded that information regarding the Bill of Rights is scrolling on Channels 6 and 10.

**P**     **CLOSED SESSION:**

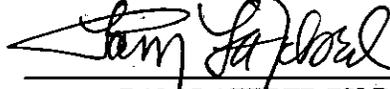
**Q**     **ADJOURNMENT:**

Wehrli moved to adjourn the Regular City Council meeting of January 4, 2011 at 9:55 p.m. Second, Hinterlong.

**VOICE VOTE:**       Motion declared carried.

ADJOURNMENT – 9:55  
P.M.

The Regular City Council Meeting of January 4, 2011 officially adjourned at 9:55 p.m.

  
\_\_\_\_\_  
PAM LAFFBER PH.D.  
CITY CLERK

PL:BK

