



**CITY COUNCIL MEETING OF OCTOBER 5, 2010
UNOFFICIAL PRIOR TO CITY COUNCIL APPROVAL
APPROVED BY THE CITY COUNCIL ON
October 19, 2010 AS WRITTEN.**

CALL TO ORDER:

6:02 P.M.

- A** Mayor A. George Pradel – Teleconference to 9:16 p.m.
Councilman James Boyajian
Councilman Judy Brodhead
Councilman Robert Fieseler
Councilman Richard R. Furstenau
Councilman Paul Hinterlong
Councilman Douglas Krause
Councilman Kenn Miller
Councilman Grant Wehrli

Furstenau moved to allow Pradel to participate via phone. Second,
Miller.

VOICE VOTE: Motion declared carried.

Absent

Also Present

City Manager, Doug Krieger
Assistant City Manager, Robert Marshall
Records Management Team Leader, Pam LaFeber
City Attorney, Margo Ely
Fire Chief, Mark Puknaitis
Police Chief, David Dial
Financial Reporting Team Leader, Chris Smith
City Prosecutor, Jill Pelka-Wilger
Director of Public Works, David Van Vooren
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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B. CLOSED SESSION

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

ROLL CALL:

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

Nays: None

Absent: Pradel

Motion declared carried.

THE MEETING RECESSED TO CLOSED SESSION AT 6:06 P.M.

CLOSED SESSION ENDED AT 7:02 P.M.

OPEN SESSION

MAYOR PRO TEM KRAUSE CALLED THE MEETING BACK TO ORDER AT 7:11 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 Fireman's Fund Heritage Grant Program to present check to Naperville Fire Department

**FIREMAN'S FUND
HERITAGE GRANT
PROGRAM**

Members of the Fireman's Fund Heritage Grant program presented a check to Chief Puknaitis and the Naperville Fire Department for \$25,000 for the purchase of 6 new self-contained breathing apparatus.

E PUBLIC FORUM:

E1 Protest Regulation

Dr. Kathy Borchardt, 4 N. Washington, stated that Ordinance 09-121 which addresses encampment is a start, however it has not gone far enough and that the city should expand the ordinance to protect all businesses from disruptive protests. She suggested a protest zone and urged Council to thoroughly review the e-mails and letters asking them to act on this item.

E2 Protest Regulation

Mike Cooper, 1212 S. Naper Blvd, discussed protests that have been conducted in Naperville and stated that he is concerned that someone is allowed to protest outside his home business on a topic that has nothing to do with the business. He said that there are no city regulations that protect him from intrusive, disruptive protests and litter. He urged Council to regulate disruptive protests and stated that the ordinance protecting downtown businesses should be expanded to offer protection to the entire city.

Ely explained that Ordinance 09-121 does not regulate speech, but does regulate conduct. She said that the legal ability to regulate speech is different because of the First Amendment and that the city cannot ban protests. She said that some governments have implemented protest zones.

Borchardt said that she is regularly bothered by what is put on the Internet by a protester, and that the presence of the protester is disruptive to business when it is done on a daily basis.

Council discussed the delineation between exercising free speech and encampments, that there isn't an ordinance which limits free speech, considered extending the current ordinance to prohibit camping anywhere in Naperville and implementing protest zones.

Council also said that the city has regulations that address encampments and focus on the public ways which should have been applied instead of creating Ordinance 09-121.

Dial stated that there is a free speech pavilion on the Riverwalk.

Ely clarified that protest zones are created when traffic concerns are expected from the protest and other permits are required. She said that she will draft a memo to include in the Manager's Memorandum which addresses protest case law and a review of why 09-121 was enacted.

E3 Smart Grid

H. Tom O'Hale, 620 W. Gartner, spoke against funding public relations firm that was hired for the Smart Grid initiative and offered a communication alternative.

E4 General Ordinances/Regulations

Rod Randall, 956 Savannah Circle, spoke on behalf of his neighbor who wanted to replace his driveway but was instructed that a survey was necessary to obtain a permit. The survey cost was \$600 and Mr. Randall questioned the process and the survey requirement.

Novack stated that often times GIS is used if the resident does not have a survey. A survey, or like information, is necessary in order to determine such issues as current location of driveways and potential encroachments. He said that the city does not have a survey on every property in Naperville, but a GIS view can be obtained, however the GIS view can be off a few feet.

Council discussed using a project check list and the implementation of process improvements.



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E5 Chicago Avenue Traffic

Jeff Oken, 400 E. Chicago, shared information from a 1992 traffic study which addressed the amount of traffic and speed limits on Chicago Avenue. He said that the study identified safety concerns and that no further research be done on traffic flow on Chicago Avenue. He concluded that Chicago Avenue is a gateway to the city and shouldn't be changed.

F **HOLDOVER ITEMS:**

G **PETITIONS AND COMMUNICATIONS TO THE COUNCIL:**

N1 DuPage Children's Museum

**DUPAGE CHILDREN'S
MUSEUM**

John Schmitt, Naperville Chamber of Commerce at 55 S. Main Street, stated that he is not advocating for or against the purchase, that it is a wonderful amenity, however there has been ample debate and discussion by various community stakeholders about the purchase. He said there is also confusion about the purchase. Mr. Schmitt reviewed the questions that were asked in a letter that the Chamber sent to the Council which was included in the agenda packet.

Mary Ann Bobosky, 948 Anne Road, believes the DuPage Children's Museum (DCM) is an educational resource, spoke about its history, stated that kids learn by having fun, and urged Council to approve the purchase.

David Kelsch, 112 Bridgewater, stated that museum visitors provide great economic impact to the area and urged Council to approve the sale.

Steve Rubin, 990 Timber Lee Court, believes the DCM is important, that our most precious asset is the children, that the museum serves as the north side anchor in past and future strategic plans, and urged Council to approve the sale.

Kathryn Pegorsch, 1410 Chestnut Ridge Court, urged Council to approve the sale.

Marc Blackman, 728 Colorado Court, recognized the tremendous efforts of the city, DuPage County, State of Illinois, Chase Bank and the museum donors.

Tim Messer, 6 N. Huffman Street, spoke in favor of the city's purchase of the property and highlighted the benefits of the purchase.

Council discussed renegotiating the lease when the rent goes to \$1/year and questioned the phased-in commuter parking option, the subtle language, and board representation.

Krieger explained that the existing parking configuration goes north to south and that spaces can be picked up in 15 space increments, that the eastern most row of 15 parking spaces would be added first and then spaces would continue to be added to the west. The city is cognizant of parking premiums and will continue to arrive at solutions that don't have an adverse affect on either party.

N1 DuPage Children's Museum Continued

**DUPAGE CHILDREN'S
MUSEUM**

Council stated that while the DCM is for the children the purchase cannot be turned into an emotional decision, that the impact of the purchase on the city should be examined, that the museum has not presented a business plan, that the strategic plan goals that have been presented are not the same as a business plan, that other not-for-profit organizations may begin to expect similar financial partnerships, that the money used for the purchase should be used to pay down the CIP debt, that six days is not enough time for public deliberation, and that the DCM may eventually begin to transfer operating responsibilities to the city to save more money.

Council further discussed the purchase of the museum property and said that the city is buying a piece of property far in excess of what is being paid, that the city is providing a mechanism for the museum to exist, that roughly 40% of those that come to the DCM do not live in Naperville and they shop/dine in town, and that it is a proven enterprise that brings more than 300,000 visitors from 280 different zip codes to the city each year.

Council said that the lease warrants further review and should not be finalized.

Council stated that there are few museums of any kind that operate without public support and that it is still the responsibility of the DCM to operate efficiently. Council also said that the location is very critical as it is the gateway to downtown and is next to the railroad, that it has been in the black for the last three years and quite possibly will continue to be in the black without the overhead mortgage.

N1a Ordinance No. 10-121, Purchase and Sale Agreement with DuPage Children's Museum

**ORDINANCE NO. 10-121,
PURCHASE AND SALE
AGREEMENT WITH
DUPAGE CHILDREN'S
MUSEUM**

Furstenau moved to pass Ordinance No. 10-121, authorizing the execution of a Purchase and Sale Agreement between the City of Naperville and the DuPage Children's Museum. Second, Boyajian.

ROLL CALL:

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

Nays: Wehrli
 Motion declared carried.

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N1b Ordinance No. 10-122, Lease Agreement with DuPage Children's Museum

ORDINANCE NO. 10-122,
LEASE AGREEMENT WITH
DUPAGE CHILDREN'S
MUSEUM

Boyajian moved to pass an ordinance authorizing the execution of a three month lease agreement between the City of Naperville and the DuPage Children's Museum as presented and further instructed staff to negotiate final lease terms for approval by the City Council within three months. Second, Miller.

ROLL CALL:

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

Nays: None
Motion declared carried.

CLERK'S NOTE: Mayor Pradel ended his teleconferencing at 9:16 p.m.

BREAK: 9:16 p.m.

Mayor Pro Tem Krause called the meeting back to order at 9:26 p.m.

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 item I2, I4, I8, I9, I11. Second, Wehrli.

ROLL CALL:

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

Nays: None

Absent: Pradel, Brodhead, Furstenau
Motion declared carried.

CLERK'S NOTE: Councilman Brodhead and Furstenau returned to the dais at 9:28 p.m.

I1 Cash Disbursements – 9/15/10

Council moved to approve the cash disbursements of 9/15/10 in the amount of \$23,329,613.97.

CASH DISBURSEMENTS –
9/1/10

I3 Fire Suppression Agreements

Council moved to delay the enforcement of Section 5-1A-3; 3403.1 of the Naperville Municipal Code to provide up to a three-year extension for ten properties with fire suppression deferral agreements in consideration of recording a uniform fire suppression agreement against each property.

FIRE SUPPRESSION
AGREEMENTS

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- I5** RFP 11-043, Natural Gas Requirements RFP 11-043, NATURAL GAS REQUIREMENTS
Council moved to approve the award of RFP 11-043, for providing natural gas requirements to select sites and natural gas contract administration to CenterPoint Energy Services, for an amount not to exceed \$290,988.00 for a one-year period with the option to extend for four additional one year terms.
- I6** Change Order #1 to Contract 09-143, Concrete Restoration CONTRACT 09-143, CONCRETE RESTORATION
Council moved to approve the award of Change Order #1 to Contract 09-143, Concrete Restoration, to Globe construction, in an amount not to exceed \$35,400.00.
- I7** Ordinance No. 10-123, Multi-Use Parking/Loading Zone – Jackson Avenue ORDINANCE NO. 10-123, MULTI-USE PARKING/LOADING ZONE – JACKSON AVENUE
Council moved to pass Ordinance No. 10-123, to establish 30-minutes, 6:00 a.m. to 6:00 p.m. parking/loading zone on the north side of Jackson Avenue from a point 95 feet from the centerline of Main Street to a point 140 feet west of the centerline of Main Street (2 parking spaces).
- I10** Ordinance No. 10--124, 126 and 130 Water Street, Extension of Stormwater Variance ORDINANCE NO. 10-124, 126 AND 130 WATER STREET, EXTENSION OF STORMWATER VARIANCE
Council moved to pass Ordinance No. 10-124, extending the stormwater variance for 126 and 130 Water Street for an additional period of two years, expiring on October 21, 2012.
- I12** Ordinance No. 10-125, Watermain Easement –Wagner Farms ORDINANCE NO. 10-125, WATERMAIN EASEMENT – WAGNER FARMS
Council moved to pass Ordinance No. 10-125, authorizing the execution of an agreement for a watermain easement at Wagner Farms.

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- I2** Regular City Council Meeting Minutes of September 21, 2010 REGULAR CITY COUNCIL MEETING MINUTES – 9/21/10
Miller moved to approve the Regular City Council Meeting Minutes of September 21, 2010 with the correction to New Business Item O5. Second, Furstenau.

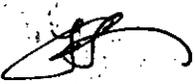
ROLL CALL:

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

Nays: None

Absent: Pradel

Motion declared carried.



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I4 Procurement 11-078, Cardiac Defibrillators/Monitors

PROCUREMENT 11-078,
CARDIAC
DEFIBRILLATORS/
MONITORS

Bevis explained that for this purchase several safeguards were put in place that were not fully explained in the agenda documents.

Furstenau moved to approve the award of Procurement 11-078, cardiac defibrillators/monitors, to Zoll Medical Corporation, through the cooperative Fire Rescue Group Purchasing contract, for an amount not to exceed \$505,397.78. Second, Boyajian.

ROLL CALL:

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

Nays: None

Absent: Pradel

Motion declared carried.

I8 Weekend Overnight Parking in Downtown Naperville

WEEKEND OVERNIGHT
PARKING IN DOWNTOWN
NAPERVILLE

Council discussed that during the past two years the Naperville Police Department (NPD) has issued six overnight parking tickets, asked if this program was approved how would it be regulated, and inquired as to why the count was taken at 9:00 a.m. instead of 10:00 a.m. when the stores are opening.

Robles stated that Transportation, Engineering and Develop staff will coordinate with NPD and the Downtown Naperville Alliance (DNA) to issue tickets.

Schatz stated that parking occupancy peak time is at 8:00 p.m., that staff needs to enforce the regulation by additional signage or additional notification, but there is no other way to encourage people to not park in the deck other than to issue tickets. She also clarified that the count was taken at 9:00 a.m. because that was when the Transportation Advisory Board meeting concluded.

Council stated that overnight parking should not be allowed, but people should not be discouraged from doing the right thing, and a \$15 overnight parking ticket is less expensive than a life-altering DUI.

Council discussed that the data shows the deck as having 750 available parking spaces when overnight parking is allowed, that the data is valuable intellectual property, however if parking cannot be enforced than the program should not continue.

Furstenau moved to pass an ordinance to establish weekend overnight parking at designated locations in downtown Naperville. Second, Brodhead.

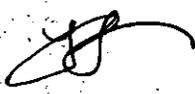
ROLL CALL:

Ayes: Furstenau, Krause, Brodhead, Fieseler

Nays: Hinterlong, Miller, Wehri, Boyajian

Absent: Pradel

Motion declared not carried.



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J1 Residential, Office and Limited Commercial (ROLC) District, PC 10-1-094 Continued

RESIDENTIAL, OFFICE
AND LIMITED
COMMERCIAL (ROLC)
DISTRICT, PC 10-1-094

Council stated that there are still issues with the set back requirements, that the city has been built on the current ordinances, and that the current zoning designations should not change.

Council discussed that the proposed ordinance addresses issues that have been omitted from current zoning designations, that ROLC offers a blending of different uses, and will allow a developer to develop with creativity.

Boyajian moved to pass an ordinance amending Title 6 to establish the Residential, Office and Limited Commercial (ROLC) District, PC 10-1-094. Second, Brodhead.

ROLL CALL:

Ayes: Boyajian, Brodhead
Nays: Miller, Wehri, Fieseler, Furstenau, Hinterlong, Krause
Absent: Pradel
Motion declared **not** carried.

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

K1 Bid 11-074, Directional Boring

BID 11-074, DIRECTIONAL
BORING

Boyajian moved to approve the award of Bid 11-074, directional boring to Buesing Brothers, for an amount not to exceed the budgeted amount of \$900,000.00. Second, Furstenau.

ROLL CALL:

Ayes: Wehri, Boyajian, Brodhead, Fieseler, Furstenau,
 Hinterlong, Krause, Miller
Nays: None
Absent: Pradel
Motion declared carried.

L **REPORTS AND RECOMMENDATIONS:**

L1 City Council Meeting Schedule

CITY COUNCIL MEETING
SCHEDULE

Boyajian moved to approve the City Council meeting schedule for October, November and December 2010 with the correction to the location for the November 8 workshop. Second, Miller.

ROLL CALL:

Ayes: Boyajian, Brodhead, Fieseler, Furstenau, Hinterlong,
 Krause, Miller, Wehri
Nays: None
Absent: Pradel
Motion declared carried.

L2 2011 City Manager's Office Schedule

2011 CITY MANAGER'S
OFFICE SCHEDULE

Boyajian moved to approve the 2011 City Manager's Office Schedule. Second, Miller.

VOICE VOTE: Motion declared carried.



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M PUBLIC HEARING:

N ORDINANCES AND RESOLUTIONS:

O NEW BUSINESS:

O1 Electric Bill – Estimated Read

Krause stated he has received calls regarding the estimated read and that it is higher than the normal bill.

Smith said that this is the first year that usage is being estimated every other month, and that the Finance Department estimated to the same time during the prior year. She said that the bill reflects an estimated bill that was too low, a catch-up month, plus the current month's read. She said the department is looking at the process and this problem will be eliminated with the implementation of the Smart meters.

O2 Visitor Safety at the Children's Museum

Hinterlong questioned safety of the visitors at the DuPage Children's Museum due to the building's proximity to the intersection and Washington Street traffic. He asked about putting in a guard rail or barriers to protect the glass face of building and the visitors inside.

O3 Sound System

Hinterlong discussed the poor sound system in the building and during the meeting broadcasts.

Krieger stated that an overhaul of the sound system was placed in the CIP two years ago but not considered due to budget constraints. He said since that time small, less-costly improvements have been made.

Council said that the problem is not something that can be fixed with piecemeal improvements, that if people cannot hear what is being said the meetings should not even be broadcast, and that while the sound system is being evaluated, how to put the names of the Councilmen on the screen should also be researched.

O4 Mixed Use

Furstenau stated that the Council should give staff direction on whether efforts toward the mixed use zoning issues should continue.

Schatz explained that if staff does not continue with the mixed use topic it will affect the 5th Avenue Study and the Plank Road Study. She said that an agenda item will be presented that outlines options for moving forward.

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05 Mulch Program

Furstenau questioned why Council was not informed of the suspension of the mulch program and asked about the responsibilities of the three employees that worked on the program.

Krieger said that he makes operational decisions every day that does not require Council involvement.

Van Vooren said that the mulch program is service that could be stopped and would have no impact on core services. He said the program was suspended during the budget process when the decision was made to reduce brush pick up to once/year. After those decisions were made, the city started the Green Fuels Depot Project where the mulch can be sold as bulk or processed. He said that the three employees worked on the mulch program as a sub assignment to regular work. Since that program was suspended, they have been reassigned to core operational services.

P **CLOSED SESSION:**

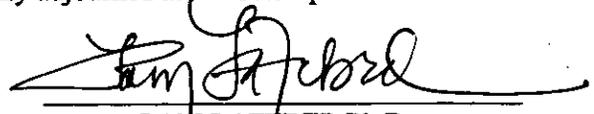
Q **ADJOURNMENT:**

Wehrli moved to adjourn the Regular City Council meeting of October 5, 2010 at 10:31 p.m. Second, Furstenau.

ADJOURNMENT – 10:31
P.M.

VOICE VOTE: Motion declared carried.

The Regular City Council Meeting of October 5, 2010 officially adjourned at 10:31 p.m.



PAM LAFIBER Ph.D.
CITY CLERK

PL:BK

