



**CITY COUNCIL MEETING OF FEBRUARY 16, 2010
UNOFFICIAL PRIOR TO CITY COUNCIL APPROVAL
APPROVED BY THE CITY COUNCIL ON
March 2, 2010 AS WRITTEN.**

CALL TO ORDER:

5:00 P.M.

- A** Mayor A. George Pradel
Councilman James Boyajian – Teleconference at 5:05 p.m.
Councilman Judy Brodhead
Councilman Robert Fieseler
Councilman Richard R. Furstenu
Councilman Paul Hinterlong
Councilman Douglas Krause – Arrived at 5:23 p.m.
Councilman Kenn Miller
Councilman Grant Wehrli

Furstenu moved to approve Councilman Boyajian's attendance of the meeting by teleconference. 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
Director of Public Utilities, Allan Poole
Director of Public Works, David Van Vooren
Information Technology Dept. Team Leader, Larry Gunderson
Director of T.E.D. Business Group, Marcie Schatz
T.E.D. Operations Manager, Allison Laff
T.E.D. Engineering Team Leader, Bill Novack
T.E.D. Transportation Team Leader, Karyn Robles
T.E.D. Development Team Leader, Dick Dublinski

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; (5) The purchase or lease of real property for the use of the public body; (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; (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 as mandated by Section 2.06.

Second, Miller.

ROLL CALL:

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

Nays: None

Absent: Boyajian, Krause

Motion declared carried.

THE MEETING RECESSED TO CLOSED SESSION AT 5:05 P.M.

CLOSED SESSION ENDED AT 6:57 P.M.

OPEN SESSION

MAYOR PRADEL CALLED THE MEETING BACK TO ORDER AT 7:05 P.M.

ROLL CALL to determine Quorum:

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

Absent: None

Furstenau moved to approve the teleconference of Councilman Boyajian for inclusion in the meeting. Second, Miller.

VOICE VOTE: Motion declared carried.

C. PLEDGE TO THE FLAG:

D AWARDS AND RECOGNITIONS:

E PUBLIC FORUM:

E1 Why Funding of Culture is a Core Government Service

W. Brand Bobosky, 948 Anne Road, gave examples of how the city has been involved with and funded many cultural amenities through the years and that providing these amenities is a core service.

F HOLDOVER ITEMS:

G PETITIONS AND COMMUNICATIONS TO THE COUNCIL:

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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 I6 and I9. Second, Krause.

ROLL CALL:

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

Nays: None
Motion declared carried.

I1 Cash Disbursements – 02/03/10

Council moved to approve the cash disbursements for February 3, 2010 in the amount of \$6,740,109.19.

CASH DISBURSEMENTS –
02/03/10

I2 Award of Option Year One to Contract 08-121, Janitorial/Custodial Services

Council moved to approve the award of Option Year One to Contract 08-121, janitorial/custodial services, to Mlady Maintenance for an amount not to exceed \$253,925.00 and to Smith Maintenance for an amount not to exceed \$128,925.00.

CONTRACT 08-121,
JANITORIAL/CUSTODIAL
SERVICES

I3 Option Year One to Contract 09-159, Street Light Maintenance

Council moved to approve the award of Option Year One to Contract 09-159, Street Light Maintenance, to Meade Electric for an amount not to exceed \$900,000.00 with a 3% contingency.

CONTRACT 09-159,
STREET LIGHT
MAINTENANCE

I4 Award of Extension to Contract 07-073, Riverwalk Professional Services

Council moved to approve the award of an extension to Contract 07-073, Riverwalk Professional Services, to Engineering Resource Associates; Inc., for an amount not to exceed \$180,000.00; for the two year contract period.

CONTRACT 07-073,
RIVERWALK
PROFESSIONAL SERVICES

I5 Authorize the City Manager to hire one firefighter/paramedic to fill a vacancy

Council moved to authorize the City Manager to hire one firefighter/paramedic to fill the vacancy created by a retirement of a Fire Lieutenant.

FIREFIGHTER/PARAMEDIC
VACANCY

I7 Resolution No. 10-007, Intergovernmental Agreement between the City of Naperville and Will County for the operation of the regional Household Hazardous Waste Facility

Council moved to adopt Resolution No. 10-007, authorizing the City Manager to execute the Intergovernmental Agreement between the City of Naperville and Will County for the operation of the regional Household Hazardous Waste Facility.

RESOLUTION NO. 10-007,
HOUSEHOLD HAZARDOUS
WASTE FACILITY

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| I8 | <u>Ordinance No. 10-010, Springbrook Square Lot 1, Final PUD Plat, PC 09-1-173</u>
Council moved to pass Ordinance No. 10-010, approving a final PUD Plat for Lot 1, Springbrook Square, PC 09-1-173. | ORDINANCE NO. 10-010,
SPRINGBROOK SQUARE
LOT 1, PC 09-1-173 |
| I10 | <u>Ordinance No. 10-011, Land Use Permit for Installation of Electrical facilities at Knoch Park</u>
Council moved to pass Ordinance No. 10-011, approving acceptance of a Land Use Permit from the Naperville Park District for installation of electrical service lines at Knoch Park. | ORDINANCE NO. 10-011,
KNOCH PARK-
ELECTRICAL
INSTALLATION |
| I11 | <u>Resolution No. 10-008, Designating FOIA Officers and Individuals who will complete Open Meetings Act Training</u>
Council moved to adopt Resolution No. 10-008, designating FOIA Officers and designating individuals who will complete required Open Meetings Act Training. | RESOLUTION NO. 10-008,
OPEN MEETINGS ACT
TRAINING |
| <hr/> | | |
| I6 | <u>Temporary/Seasonal Personnel</u>
Council stated that the costs are minimal and that it is important for students and young adults to get work experience at the seasonal level to help them succeed in the job market.

Council clarified that the goal is to manage to a number and having seasonal/temporary workers helps get to that goal.

Miller moved to authorize the City Manager to recruit externally and hire 27 temporary/seasonal personnel. Second, Boyajian.

ROLL CALL:
Ayes: Boyajian, Brodhead, Fieseler, Hinterlong, Krause, Miller, Wehrli, Pradel
Nays: Furstenau
Motion declared carried. | TEMPORARY/SEASONAL
PERSONNEL |
| I9 | <u>Ordinance No. 10-012, 2009 International Energy Conservation Code</u>
Miller moved to pass Ordinance No. 10-012, amending Title 5 (building regulations), Section 5-1C-1 (Energy Conservation Code) of the Municipal Code to comply with the State of Illinois mandated adoption of the latest (2009) International Energy Conservation Code. Second, Hinterlong.

ROLL CALL:
Ayes: Brodhead, Fieseler, Hinterlong, Krause, Miller, Pradel, Boyajian
Nays: Furstenau, Wehrli
Motion declared carried. | ORDINANCE NO. 10-012,
INTERNATIONAL
ENERGY
CONSERVATION CODE |
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J OLD BUSINESS:

- J1** Ordinance No. 10-013, Club Homes of White Eagle, PC 09-1-171
Len Monson – Petitioner’s Attorney, 552 S. Washington, reviewed the previous Council concerns, including proper notification questions and the timeline of the project. He discussed the ten multi-family and seven single family units (17 total units) and stressed that this project mirrors the Manor Home concept which was previously approved for another development.
Meg Phillips, 3937 White Eagle Drive, stated that there have been too many discrepancies with the project including property documents and zoning issues.
Patricia Fee, 1530 White Eagle Drive, stated her concerns of safety and liability of building homes close to the golf course.
Steve Lawrence, 1472 Frenchmans Bend Drive and President of White Eagle Golf Club, stated that he and the board of directors worked with the developer, believes the variances are reasonable, and supports the project.
Greg Farber, 2603 Saddlebook Drive and Vice President of White Eagle Golf Club, stated that R1A is much less desirable because it does not provide maintenance-free housing and that he supports the proposed R1B development.
Monson stated that there is no plan to remove the burm unless directed by the City of Naperville due to storm water issues.
Council stated that manor homes are desirable and a form of housing stock that is lacking in Naperville.
Council explained their concerns about homeowner safety because of the development’s proximity to the driving range and also stated that this proposal may change the ambiance of the club because of its density.
Boyajian moved to pass Ordinance no. 10-013, rezoning the Club Homes of White Eagle, Inc. from R1a to R1b, approving a major change to the PUD with certain deviations, and a preliminary PUD and Subdivision Plat, PC 09-1-17. Second, Miller

ORDINANCE NO 10-013,
CLUB HOMES OF WHITE
EAGLE, PC 09-1-171

ROLL CALL:

- Ayes:** Fieseler, Hinterlong, Miller, Wehrli, Pradel, Boyajian, Brodhead
Nays: Furstenau, Krause
Motion declared carried.

- J2** Ordinance No. 10-014, Naperville Procurement Code Change
Boyajian moved to pass Ordinance No. 10-014, amending Section 1-9B-4 of the Naperville Municipal Code. Second, Wehrli.

ORDINANCE NO. 10-014
NAPERVILLE
PROCUREMENT CODE
CHANGE

ROLL CALL:

- Ayes:** Miller, Wehrli, Pradel, Boyajian, Brodhead
Nays: Furstenau, Hinterlong, Krause, Fieseler
Motion declared carried.

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K AWARD OF BIDS AND OTHER ITEMS OF EXPENDITURE:

K1 Request from DuPage County Forest Preserve District to assist in Funding a Trail Connection from 79th Street to the Greene Valley Forest Preserve

FUNDING A TRAIL
CONNECTION – 79TH ST.
TO GREENE VALLEY
FOREST PRESERVE

Carl Schultz, 2740 White Barn Road and Forest Preserve Commissioner, reviewed the project which proposes an equitable distribution between funding entities to improve the trail system's connectivity.

Council questioned if this item would come back for Council discussion under the new purchasing procedures approved in item J2.

Schatz stated that this item would come before Council for approval regardless of the dollar amount because it is an intergovernmental agreement.

Gary Kovener, 1651 Friar, supports the proposal.

Wehrli moved to authorize the expenditure of \$13,750.00 to fund a trail connection from 79th Street to the Greene Valley Forest preserve Trail System contingent upon financial participation from Lisle Township, Naperville Park District and the DuPage County Forest Preserve District. Second, Furstenau.

ROLL CALL:

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

Nays: None

Motion declared carried.

K2 Expenditure of Cy Pres Funds from Spratt v. the City of Wheaton Class Action Litigation pertaining to the imposition of a Telecommunication Fee

EXPENDITURE OF CY
PRES FUNDS

Furstenau moved to authorize the expenditure of \$195,000.00 of Cy Pres Funds for the OSSA traffic and parking citation module, AV equipment, new computers for the Emergency Operations Center (EOC), and one electronic driver feedback sign. Second, Krause.

ROLL CALL:

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

Nays: None

Motion declared carried.

L REPORTS AND RECOMMENDATIONS:

L1 Regular City Council Meeting Minutes of February 3, 2010

CITY COUNCIL MEETING
MINUTES

Furstenau moved to approve the Regular City Council Meeting Minutes of February 3, 2010. Second, Miller

VOICE VOTE: Motion declared carried.

Abstain: Boyajian

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L2 City Council Meeting Schedule

Miller moved to approve the City Council meeting schedule for February, March, and April 2010. Second, Krause.

VOICE VOTE: Motion declared carried.

CITY COUNCIL MEETING
SCHEDULE

L3 Pedicab Regulations for Downtown Naperville

Brett Dingeldein, 823 N. Center Street, stated that he was not able to keep three pedicabs busy all season however during special events the pedicabs were more busy.

Council questioned how pedicab locations would be assigned, what is the rationale behind not allowing one vendor, and whether pedicabs can travel outside of the downtown.

Robles stated that three pedicabs were approved for a trial period, that each pedicab or pedicab company will not be assigned a specific area, rather the pedicabs will wait in designated loading zones similar to taxis.

Dingeldein explained that the pedicabs will service the neighborhoods surrounding the downtown but will not travel to other parts of Naperville.

Council clarified that the current pedicab company does not charge for rides and works on tips only.

Council discussed questions regarding enforcement of violations, the vendor cancellation process, the application procedure, and limiting the number of pedicabs to three.

Council stated that there needs to be more discussion on this topic.

Boyajian moved to table to the March 2, 2010 Council meeting. Second, Miller.

VOICE VOTE: Motion declared carried.

PEDICAB REGULATIONS-
DOWNTOWN
NAPERVILLE

BREAK: 8:42 P.M.

Mayor Pradel called the meeting back to order at 8:56 p.m.

M PUBLIC HEARING:

N ORDINANCES AND RESOLUTIONS:

N1 First Reading of Ordinances amending the Naperville Municipal Code related to revenues

AMEND MUNICIPAL
CODE RELATED TO
REVENUES

N1a First Reading of the Ordinance amending the Naperville Municipal Code related to Residential Refuse Fee

RESIDENTIAL REFUSE
FEE

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N1b First Reading of the Ordinance amending the Naperville Municipal Code related to Motor Fuel Tax

MOTOR FUEL TAX

Alvin Barnickel, 1331 Columbine Circle, opposes the proposed increase in gas tax and discussed other municipalities that do not have such taxes.

Gautam Patel, 1983 Brookdale Road, opposes the proposed increase in gas tax because the operators' profit will be affected and offered to show Council his accounting records.

Amit Patel, 901 N. Washington Street, urged Council to consider the psychological aspect of such an increase, that the increase will not be passed on to the public but will be paid out of the operators' profits, and asked if another revenue source was considered.

Krieger explained many alternate revenue sources were discussed including a sales tax. He stated that the increase in the gas tax is being considered tonight with two other revenue sources.

Council discussed the \$11 million Maintenance Improvement Program (MIP) deficit and that the fuel tax is very close to a user fee for those who travel the roads.

Joy Vachachira, 304 Plainfield Rd., opposes the proposed increase.

Noman Junejo, 4940 S. Rt. 59, discussed how gas is bought and sold, opposes the proposed increase, and stated that consumers will go to less expensive stations.

Krieger stated that while other municipalities may not have a fuel tax they do have a home rule sales tax, which Naperville does not, and that adds to the price at the pump.

Noor Tesany, 1303 Naperville Blvd., stated that by instituting this tax the Council is forcing people to stations outside of Naperville.

Sanil Mathew, 515 E. Ogden Avenue, stated that customers have no brand loyalty and they will go to stations that are less expensive.

Bob Estvander, 2428 Fawn Lake Circle, proposed that expiration dates be applied to all proposed revenue ordinances.

Council discussed incorporating sunset provisions to the ordinances, when a sunset would be appropriate and how it should be worded.

Krieger stated that Council cannot bind the hands of future Councils and that the ordinance can state that the city manager must bring the ordinances back on a predetermined date or when dollar amounts meet a specified level.

Council requested gasoline volume data and discussed reevaluating all ordinances in two years during the budget preparation process.

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N1c First Reading of the Ordinance amending the Naperville Municipal Code related to Food & Beverage Tax FOOD & BEVERAGE TAX

Robert Stelletello, 705 Lynwood Lane, Wheaton, and Summer Place Theater, stated that it is not the time to look at revenue the SECA fund because organizations depend on this money and the city will be creating a hardship when these types of services are most needed.

Council stated that service level is at the tipping point and while cultural events are nice to have, there is also a need for police protection. They said by diverting the amount of funds proposed approximately eight more layoffs could be avoided and that since the budget has been severely cut service levels will be affected if any more reductions are made.

Council stated that if there is going to be votes against the proposals or changes to the proposed amounts they must offer corresponding expenditure reductions.

Clerk's Note: Boyajian exited the meeting at 10:15 p.m.

N2 Ordinance No. 10-015, Von Oven Scout Reservation Property License Agreement

ORDINANCE NO. 10-015,
VON OVEN SCOUT
RESERVATION
PROPERTY

Diane Charles, 1621 Fender Road and President of Von Oven Scout Organization (the Organization), gave a historical review of Martin Mitchell and Von Oven properties, the Organization responsibilities and urged the Council to limit the use of the property to youth-related activities.

Bill Marineau, 1234 Oakton Lane and board member of the Organization, discussed the skills that can be learned at such a location, that the agreement should carry on the legacy of Emma Von Oven and be focused on youth.

Neil Goltermann, 212 S. Wright Street and attorney for the Organization, stated that the youth-centric focus was something on which the groups agreed to disagree but the organization stands committed to the legacy of Emma Von Oven.

Council questioned the definition of groups and what fees are charged for scouting groups.

Lord read the definition of group explained that the definition of groups will be more defined as the applications are submitted and who requests to use the property is better known, but the intent is to prohibit individuals from reserving the property.

Lord stated that because it is city property, city policy regarding prohibition of alcohol, amplification regulations, and other issues will apply.

Charles explained that current fees are based on how many people will be using the property and whether or not they stay overnight. She stated that if the group has 25 people the fee would be \$15. However, if a new group wanted to use the property and did not have money they would be allowed to use it for free.

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N2 Ordinance No. 10-015, Von Oven Scout Reservation Property License Agreement Continued

ORDINANCE NO. 10-015,
VON OVEN SCOUT
RESERVATION
PROPERTY

Lord stated that the current scout fee and the proposed non-scout fee is different and that the city proposes to give the Organization a percentage of the fee charged to help defray their maintenance costs.

Council stated that if the focus is to stay youth-centric the fees should be comparable to the Organization but if the property is opened up to adult groups and activities the fees should be higher.

Elaine Fisher, Sylvan Circle, stated the use of this property should be limited to youth groups.

Harry Tom O'Hale, 620 W. Gartner, stated that the agreement is complicating a simple situation and that the city should continue to let the Organization manage the property.

Furstenau moved to extend the meeting by 15 minutes to 11:15 p.m. Second, Krause.

VOICE VOTE: Motion declared carried.

Mary Denise O'Hale, 620 W. Gartner, stated that Emma Von Oven gave the city the property in trust and if the trustee can no longer carry out the wishes of the grantor power should transferred to someone who can.

Mary Lou Wehrli, 916 W. Jefferson Ave., urged Council to support the license agreement and remove the proposed age restrictions.

Council stated that the city became involved because this is public property and Council is a steward of the property and asked what was the rationale for staff's recommendation to not limit the use to youth groups.

Lord responded that it was Council direction to bring back an agreement that opened the property to the taxpayers of Naperville, which includes individuals over the age of 18.

Miller moved to pass Ordinance No. 10-015, approving the License Agreement between the City of Naperville and the Von Oven Scout Organization, Inc. Second, Wehrli.

Furstenau made a motion of substitution to pass Ordinance No. 10-015, approving the License Agreement between the City of Naperville and the Von Oven Scout Organization, Inc. and directed staff to bring back an agreement which limits the use of the property to youth groups. Second, Fieseler.

Furstenau moved to extend the meeting for 10 minutes to 11:24 p.m. Second, Miller.

VOICE VOTE: Motion declared carried.

ROLL CALL:

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

Nays: Pradel, Brodhead

Absent: Boyajian

Motion declared carried.

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O NEW BUSINESS:

O1 Property Tax

Wehrli requested a report showing parcels not paying taxes cross referenced with a list of non-profit organizations.

O2 FOIA

Furstenau requested that a report be provided monthly for three months, starting with January 2010 data, showing the number of FOIAs received, the number responded to within the 5-day period, what requests have been denied and why.

P CLOSED SESSION:

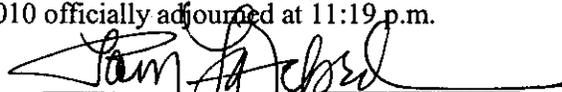
Q ADJOURNMENT:

Wehrli moved to adjourn the Regular City Council meeting of February 16, 2010 at 11:19 p.m. Second, Furstenau.

ADJOURNMENT – 11:19
P.M.

VOICE VOTE: Motion declared carried.

The Regular City Council Meeting of February 16, 2010 officially adjourned at 11:19 p.m.



PAM LAFEVER, Ph.D.
CITY CLERK

PL:BK

