



**CITY COUNCIL MEETING OF AUGUST 16, 2011
UNOFFICIAL PRIOR TO CITY COUNCIL APPROVAL
APPROVED BY THE CITY COUNCIL ON
September 6, 2011 AS WRITTEN.**

CALL TO ORDER:

6:00 P.M.

A Mayor A. George Pradel
Councilman Judy Brodhead
Councilman Steve Chirico
Councilman Robert Fieseler
Councilman Paul Hinterlong
Councilman Douglas Krause
Councilman Joe McElroy
Councilman Kenn Miller
Councilman Grant Wehrli

Absent

Also Present

City Manager, Doug Krieger
Assistant City Manager, Bob Marshall
City Clerk, Pam LaFeber
City Attorney, Margo Ely
Fire Chief, Mark Puknaitis
Deputy Police Chief, John Gustin
Finance Director, Karen DeAngelis
Director of Public Works, David Van Vooren
Director of T.E.D., Marcie Schatz
Development Team Leader, Dick Dublinski
Community Planner, Suzanne Thorsen
T.E.D. Engineering Team Leader, Bill Novack
Transportation Team Leader, Karen Robles
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:

Wehrli moved to recess to Closed Session to discuss 5ILCS/120(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 as mandated by Section 2.06; (1) The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body; (2) negotiating matters between the public body and its employees or their representatives; (6) Setting of a price for sale or lease of property owned by 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. Second, Krause.

ROLL CALL:

Ayes: Pradel, Brodhead, Chirico, Fieseler, Hinterlong, Krause, McElroy, Miller, Wehrli

Nays: None
Motion declared carried.

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

CLOSED SESSION ENDED AT 6:58 P.M.

OPEN SESSION

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

ROLL CALL to determine Quorum:

Present: Pradel, Brodhead, Chirico, Fieseler, Hinterlong, Krause, McElroy, Miller, Wehrli

Absent: None

C. PLEDGE TO THE FLAG:

PLEDGE GIVEN

D AWARDS AND RECOGNITIONS:

D1 Literally Ending Hunger Together Day

Councilman Chirico proclaimed September 15, 2011 as Literally Ending Hunger Together Day and presented the proclamation to Charles McLimans, Loaves and Fishes, and Tina Tatnall, Literacy DuPage.

LITERALLY ENDING
HUNGER TOGETHER DAY

D2 Fire Chief's Citizen Award

Chief Puknaitis presented the Fire Chief's Citizen Award to Michael Bevis for performing life-saving efforts to a fellow employee.

FIRE CHIEF'S CITIZEN
AWARD

D3 Employee of the Month -- August

Councilman Brodhead presented the August Employee of the Month award to Bureau Chief Bob Bush.

EMPLOYEE OF THE MONTH
- AUGUST

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E PUBLIC FORUM:

E1 SMART Grid

Chuck Schlabach, 809 Rainsgate Court, spoke in favor of SMART Grid and directed people to the city's website to become better informed on the initiative.

Joanne St. Yves, 2315 Lexington, spoke against the meter selected and asked to keep analog meters as the work around option.

Krieger said the work around option was structured in response to resident concerns and it is not the city's intention to allow residents to keep their current meters.

Curran discussed the cost of the meters with and without communication cards, the cost of reads, and that possible quarterly reads of non-wireless meters will be placed on the agenda for the next Steering Committee meeting.

Jennifer Stahl, 1427 Westglen, spoke against the SMART Grid initiative and reviewed components of the RFP.

Krieger explained that her concerns were addressed in the Customer Bill of Rights and the city selected the feature that only allows remote turn on/off.

Richard Hutter, 1059 E. Gartner, spoke against the SMART Grid initiative and the RF output.

Krieger explained that the statistics have demonstrated that a person will have to spend 100 years in front of a smart meter to equal the RF output of a three minute cell phone call.

E2 Triathlon Traffic Control

Rod Randall, 956 Savannah Circle, complained about the enforcement of traffic control plans during the triathlon.

Gustin stated he would discuss this issue with officers that were assigned to the area and report back.

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.

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I CONSENT AGENDA:

Miller moved to approve the Consent Agenda with the exception of items I3, I5, I6, I12, I13, I16, and I24. Second, Krause.

ROLL CALL:

Ayes: Pradel, Brodhead, Chirico, Fieseler, Hinterlong, Krause, McElroy, Miller, Wehrli

Nays: None

Motion declared carried.

- I1** Cash Disbursements – 7/20/2011 CASH DISBURSEMENTS – 7/20/11
Council moved to approve the July 20, 2011 cash disbursements in the amount of \$19,017,662.15.
- I2** Cash Disbursements – 8/03/2011 CASH DISBURSEMENTS – 8/03/11
Council moved to approve the August 3, 2011 cash disbursements in the amount of \$6,021,089.71.
- I4** Regular City Council Meeting Minutes – 7/19/11 REGULAR CITY COUNCIL MEETING MINUTES – 7/19/11
Council moved to approve the Regular City Council Meeting Minutes of July 19, 2011.
- I7** Procurement 12-068, Sale of Surplus Motorola Radio Equipment PROCUREMENT 12-068, SALE OF SURPLUS MOTOROLA RADIO EQUIPMENT
Council moved to approve Procurement 12-068, sale of surplus Motorola Radio Equipment by Internet Auction to Espe Auctioneers.
- I8** Bid 12-044, Curbside Leaf Collection Services BID 12-044, CURBSIDE LEAF COLLECTION SERVICES
Council moved to approve the award of Bid 12-044, curbside leaf collection services to Western Gradall for an amount not to exceed \$129,600.00 for a three-year-contract term.
- I9** Contract 11-131, 2011 Bituminous Patching Program CONTRACT 11-131, 2011 BITUMINOUS PATCHING PROGRAM
Council moved to approve Change Order #1 to Contract 11-131, 2011 Bituminous Patching Program, CIP MP009, to Geneva Construction Company for an amount of \$25,000.00.
- I10** Contract 12-053, Roadway Snow Plowing CONTRACT 12-053, ROADWAY SNOW PLOWING
Council moved to waive the applicable provisions of the Naperville Procurement Code and set prices for FY11-12 and award Contract 12-053, roadway snow removal, to various contractors, for an amount not to exceed \$383,250.00 for the period of November 1, 2011 through April 30, 2012.
- I11** Contract 12-060, Leaf Disposal CONTRACT 12-060, LEAF DISPOSAL
Council moved to waive the applicable provisions of the Naperville Procurement Code and set prices for fiscal year 2011 – 2016 and award Contract 12-060, leaf disposal, to various contractors, for an amount not to exceed \$539,000.00 for the period of October 1, 2011 through April 30, 2016.

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- I14** BMW/Mini Automotive Facility Public Improvements BMW/MINI AUTOMOTIVE FACILITY PUBLIC IMPROVEMENTS
Council moved to accept the public underground improvements and public street improvements at the new BMW/Mini Automotive Facility, and authorize the City Clerk to reduce the corresponding public improvement surety.
- I15** Ordinance No. 11-109, Prohibiting the Use of Groundwater as a Potable Water Supply ORDINANCE NO. 11-109, PROHIBITING THE USE OF GROUNDWATER AS A POTABLE WATER SUPPLY
Council moved to pass Ordinance No. 11-109, providing for an institutional control prohibiting private wells for 4, 15, 19, and 24 North Washington Street.
- I17** Ordinance No. 11-110, Caribou Coffee, PC 11-1-084 ORDINANCE NO. 11-110, CARIBOU COFFEE, PC 11-1-084
Council moved to pass Ordinance No. 11-110, granting a variance from Section 6-7C-7 (B3 yard requirements) of the Naperville
- I18** Ordinance No. 11-111, McDowell Place Apartments, PST 11-1-089 ORDINANCE NO. 11-111, MCDOWELL PLACE APARTMENTS, PST 11-1-089
Council moved to pass Ordinance No. 11-111, approving a minor change to the Prairie Lake Manor Units 1 and 2 PUD (commonly known as McDowell Place Apartments) and revised final PUD plat to allow for the construction of 80 tenant garage units with deviations to the 50-foot platted setback.
- I19** Ordinance No. 11-112, Springbrook Square Lot 4&6- PST 11-1-092 ORDINANCE NO. 11-112, SPRINGBROOK SQUARE LOT 4&6- PST 11-1-092
Council moved to pass Ordinance No. 11-112, approving a minor change to the Springbrook Square Lot 4&6 PUD to allow all uses permitted in the B2 Community Shopping Center District (e.g. retail, restaurant, office, services) on Lot 4.
- I20** Children's World Subdivision (1190 S. Naper Blvd., PC 11-1-057) CHILDREN'S WORLD SUBDIVISION, PC 11-1-057
- I20a** Ordinance No. 11-113, Rescinding existing PUD for Children's World Subdivision (1190 S. Naper Boulevard), PC 11-1-057 ORDINANCE NO. 11-113 – RESCINDING EXISTING PUD
Council moved to pass Ordinance No. 11-113, rescinding the existing planned unit development for Children's World/Meadows PUD, PC 11-1-057.
- I20b** Ordinance No. 11-120, Rezoning 1190 S. Naper Blvd., PC 11-1-057 ORDINANCE NO. 11-120, REZONING
Council moved to pass Ordinance No. 11-120, rezoning the property from R1a (low density single-family district) to OCI (Office, Commercial, and Institutional District).
- I21** Ordinance No. 11-114, CityGate Center Resubdivision, PC 11-1-076 ORDINANCE NO. 11-114, CITYGATE CENTER RESUBDIVISION, PC 11-1-076
Council moved to pass Ordinance No. 11-114, approving a final plat of resubdivision for Lot 1 of City Gate Centre Subdivision.



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- I12** Ordinance No. 11-117, Increase the Cap on Class C Tavern Liquor Licenses **ORDINANCE NO. 11-117,
INCREASE THE CAP ON
CLASS C TAVERN LIQUOR
LICENSES**
- Fieseler moved to waive first reading and pass Ordinance No. 11-117, approving the text amendment to Chapter 3 (Liquor and Tobacco Control), Section 13-1 of Title 3 (Business and License Regulations) of the Naperville Municipal Code to increase the cap on Class C Tavern liquor licenses from five (5) to six (6). Second, Wehrli.
- ROLL CALL:**
Ayes: Hinterlong, Krause, McElroy, Miller, Wehrli, Pradel, Brodhead, Chirico, Fieseler
Nays: None
Motion declared carried.
- I13** 2012 Annual New Sidewalk Program **2012 ANNUAL NEW
SIDEWALK PROGRAM**
- Lynn Morgan, 1035 N. Main Street, urged Council to approve Programs A and B of the 2012 Sidewalk Program.
- Novack explained that Council is being asked to endorse the proposed sidewalk locations and that funding decisions will be made during the CIP process. He also stated that the city has applied for \$250,000 in grants that, if awarded, will be applied to eligible locations in the program.
- Brodhead moved to approve the Program A and Program B sidewalk locations for the 2012 Annual New Sidewalk Program. Second, Hinterlong.
- ROLL CALL:**
Ayes: Krause, McElroy, Miller, Wehrli, Pradel, Brodhead, Chirico, Fieseler, Hinterlong
Nays: None
Motion declared carried.
- I16** Ordinance No. 11-118, Brighton Car Wash, PC 11-1-056 **ORDINANCE NO. 11-118,
BRIGHTON CAR WASH, PC
11-1-056**
- Jason Morin, 1532 Sequoia Road, read a resident letter in support of his proposal, summarized the changes that have been made to the concept, and urged Council to approve the wind energy system at Brighton Car Wash.
- Council discussed its independent research on wind energy systems, that future technology improvements will possibly dictate changes to this system, and reminded the petitioner that, per the ordinance, the system must be maintained.
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I16 Ordinance No. 11-118, Brighton Car Wash, PC 11-1-056
Continued

ORDINANCE NO. 11-118,
BRIGHTON CAR WASH, PC
11-1-056

Wehrli moved to pass Ordinance No. 11-118, granting a conditional use to construct a ground-mounted small wind energy system in the B3 (General Commercial) District for Brighton Car Wash, PC 11-1-056. Second, Chirico.

ROLL CALL:

Ayes: McElroy, Miller, Wehrli, Pradel, Brodhead, Chirico,
 Fieseler, Hinterlong, Krause
Nays: None
 Motion declared carried.

I24 General Offenses related to Public Intoxication

GENERAL OFFENSES
RELATED TO PUBLIC
INTOXICATION

First reading held.

Council discussed the need for this ordinance, the proposed definition of public intoxication, the expansion of police powers, and other broad language that is being proposed.

Ely explained that the text amendment is being presented because the language in the existing ordinance is unconstitutional. She clarified that public intoxication alone is not an offense; rather it is public intoxication with another act or some other conduct that creates the offense.

Wilger explained that there is currently a law against interfering/obstructing a police officer which carries a possible one year prison sentence and a \$2,500 fine. She went on to explain that once someone's behavior becomes alarming or disturbing they may be arrested for disorderly conduct. However, with disorderly conduct the police officer can only act once a complaint has been made. In the proposed ordinance, the police officer can determine the inappropriateness of the behavior without a complaining witness.

Gustin stated that the proposed ordinance is another tool for police officers to address downtown revelers that may be disturbing the peace. He said that police department does not want to utilize greater staff resources than those already available.

Wehrli moved to direct staff to draft a revised ordinance deleting the offense of public intoxication. Second, Miller.

ROLL CALL:

Ayes: Miller, Wehrli, Pradel, Chirico, Fieseler, Hinterlong,
 Krause, McElroy
Nays: Brodhead
 Motion declared carried.

BREAK: 9:09 P.M.
Mayor Pradel called the meeting back to order at 9:22 p.m.

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J OLD BUSINESS:

J1 Membership of Boards and Commissions

J1a Ordinance No. 11-119, Membership of Boards and Commissions

ORDINANCE NO. 11-119,
MEMBERSHIP OF BOARDS
AND COMMISSIONS

J1b Residency Requirement for Advisory Cultural Commission and Sister Cities Commission

RESIDENCY REQUIREMENT
- MEMBERSHIP IN
COMMISSIONS

Chirico moved to pass Ordinance No. 11-119, amending Section 2-1-5 of the Naperville Municipal Code to grant the mayor the authority to make appointments to unexpired terms without regard to term limits and conduct the first reading of the ordinance amending Title 2 to require residency for members of the Advisory Cultural Commission and the Sister Cities Commission. Second, Hinterlong

ROLL CALL:

Ayes: Wehrli, Pradel, Brodhead, Chirico, Fieseler, Hinterlong, Krause, McElroy, Miller

Nays: None
Motion declared carried.

J2 Appointment to Riverwalk Commission

RIVERWALK COMMISSION

Wehrli moved to approve the Mayoral appointment of Rick Hitchcock to the Riverwalk Commission to fill an unexpired term. Second, Hinterlong.

ROLL CALL:

Ayes: Pradel, Brodhead, Chirico, Fieseler, Hinterlong, Krause, McElroy, Miller, Wehrli

Nays: None
Motion declared carried.

K AWARD OF BIDS AND OTHER ITEMS OF EXPENDITURE:

L REPORTS AND RECOMMENDATIONS:

L1 Downtown Liquor Subcommittee Recommendation

DOWNTOWN LIQUOR
SUBCOMMITTEE
RECOMMENDATION

Wehrli moved to table this item to September 20, 2011. Second, Hinterlong.

VOICE VOTE: Motion declared carried.

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L2

Process for Drawing Districts for the City of Naperville

CITY OF NAPERVILLE -
DISTRICTS

Dick Furstenuau, 709 Zainiger, presented his recommendations for drawing districts and developing a subcommittee.

Jane A. Barnes, 1520 Aberdeen and the League of Women Voters, urged Council to implement a transparent and representative process for developing districts.

Council deliberated whether or not to participate in the drawing and review of the map. Council discussed the proposed subcommittee membership, using the proposed groups in the subcommittee to find people to participate in the process, the subjectivity of the Affidavit of Independence, and that a person cannot be prohibited from running for office in 2015 because of their participation on the subcommittee.

Chirico moved to consider the information provided regarding districts and adopt criteria, establish a timeframe and process, approve the eligibility and membership of the subcommittee to be approved by the City Council. Second, Krause.

Ely explained how the districts can be drawn on the computer, stressed that there is still a human element, and that the staff committee will be leading the process.

Council considered doing the mapping themselves with the help of staff and possibly a consultant or a college organization. It also discussed scheduling workshops to discuss drafts of maps.

Chirico Called the Question.

Wehrli objected.

ROLL CALL on the Objection:

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

Nays: Chirico, Krause

Motion declared not carried. Discussion continues.

Krieger suggested having staff put together a map, manipulated only not to separate precinct areas, then present it to Council. After review by Council the map can be given to a subcommittee and/or posted for public comment.

Wehrli made a Motion in Substitution to direct the staff committee to formulate a map meeting the state law requiring five districts of compact, contiguous and equal population; to bring the map to Council no later than December 31, 2011, and then distribute the map to the public for comment. Second, Hinterlong.

ROLL CALL on Motion in Substitution:

Ayes: Chirico, Fieseler, Hinterlong, McElroy, Wehrli, Pradel,
Brodhead

Nays: Krause, Miller

Motion declared carried.

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- L3** Procurement Code Changes – enhance local vendor participation **PROCUREMENT CODE CHANGES**
- Council discussed the proposed time of the meeting, explored alternatives that do not incur overtime, stated that boundary limits to define a “local” business should be a 10-mile radius, and debated how a business outside of the boundary will be evaluated.
- Bevis explained that the proposed language puts an affirmative burden on his office to recruit local participants, additional staff may be necessary to implement this program, and that the 15-mile radius local business definition is a market standard, but can be changed.
- L4** Recruit Externally - Electrical Engineer-Standards, DPU-E **ELECTRICAL ENGINEER-STANDARDS –DPU-E**
- Miller moved to approve the City Manager to recruit externally and fill one vacant Electrical Engineer-Standards position in the Department of Public Utilities-Electric. Second, Hinterlong.
- ROLL CALL:**
- Ayes:** Fieseler, Hinterlong, McElroy, Miller, Wehrli, Pradel, Brodhead, Chirico
- Nays:** Krause
- Motion declared carried.
- L5** Recruit Externally – Utility Technician 3-DPU-W **UTILITY TECHNICIAN 3-DPU-W**
- Wehrli moved to approve the City Manager to recruit externally and fill one vacant Utility Technician 3 position in the Department of Public Utilities-Water/Wastewater. Second, Hinterlong.
- ROLL CALL:**
- Ayes:** Hinterlong, McElroy, Miller, Wehrli, Pradel, Brodhead, Chirico, Fieseler
- Nays:** Krause
- Motion declared carried.
- L6** City Council Meeting Schedule **CITY COUNCIL MEETING SCHEDULE**
- Wehrli moved to approve the City Council Meeting Schedule for September, October and November 2011 and rescheduled the Revenue Workshop to Tuesday, September 13, 2011.
- VOICE VOTE:** Motion declared carried.
- M** **PUBLIC HEARINGS:**
- N** **ORDINANCES AND RESOLUTIONS:**
- O** **NEW BUSINESS**
- O1** Safety Report **SAFETY REPORT**
- Councilman Miller congratulated the city manager and city staff on the latest Safety Report which showed a 21% decrease in injuries and loss-work days are down 87%.

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- 02** Chicken Coop CHICKEN COOP – TEXT AMENDMENT
- Councilman Fieseler stated three councilmen have requested that a text amendment be placed on an upcoming agenda for consideration.
- Schatz responded that an agenda item will be included on the September 20, 2011 meeting.
- Clerk's Note:** At 10:55 p.m. Krause moved to extend the meeting to 11:30 p.m. Second, Wehrli.
- VOICE VOTE:** Motion declared carried.
- 03** Idling in Residential Areas IDLING IN RESIDENTIAL AREAS
- Councilman Krause requested information on trucks idling in residential areas.
- Marshall explained that the Police Department has been notified of this complaint and will report any violations.
- 04** SECA SECA RECIPIENT – DISCLOSURE OF GIFTS
- Mayor Pradel moved to reconsider the July 19, 2011 vote on requiring SECA recipients to disclose all gifts that are distributed. Second, Fieseler.
- ROLL CALL:**
- Ayes:** McElroy, Miller, Pradel, Brodhead, Fieseler, Hinterlong
- Nays:** Krause, Wehrli, Chirico
- Motion declared carried.
- 05** Downtown Hot Dog Vendor DOWNTOWN HOT DOG VENDOR
- Mayor Pradel requested that an agenda item be presented to Council which will extend hours from 2:00 a.m. to 2:30 a.m.
- By consensus, Council agreed to direct staff to draft a text amendment for consideration at the September 6, 2011 meeting.



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P **CLOSED SESSION:**

CLOSED SESSION

Wehrli moved to recess to Closed Session to discuss 5ILCS/120(c) (2) negotiating matters between the public body and its employees or their representatives; (6) Setting of a price for sale or lease of property owned by the public body. Second, Krause.

ROLL CALL:

Ayes: McElroy, Miller, Wehrli, Pradel, Brodhead, Chirico,
 Fieseler, Hinterlong, Krause

Nays: None
 Motion declared carried.

**THE MEETING RECESSED TO CLOSED SESSION AT
11:06P.M.**

CLOSED SESSION ENDED AT 11:30 P.M.

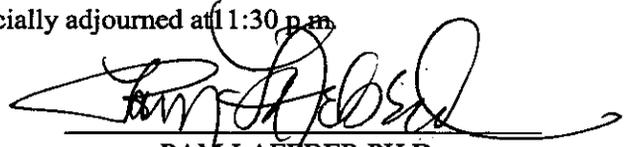
Q **ADJOURNMENT:**

ADJOURNMENT – 11:30 P.M.

Wehrli moved to adjourn the Regular City Council meeting of August 16, 2011 at 11:30 p.m. Second, Hinterlong.

VOICE VOTE: Motion declared carried.

The Regular City Council Meeting of August 16, 2011 officially adjourned at 11:30 p.m.



PAM LAFERBER PH.D.
CITY CLERK

PL: BK

