

**MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF ELMHURST, ILLINOIS
HELD ON MONDAY, AUGUST 16, 2010
209 NORTH YORK STREET
ELMHURST, ILLINOIS**

CALL TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL

Attendance: 3

1. The Regular Meeting of the Elmhurst City Council was called to order by Mayor DiCianni at 11:24 p.m.

Present: Diane Gutenkauf, Paula Pezza, Pat Shea, Norman Leader, Michael J. Bram, Stephen Hipkind, Kevin L. York, Chris Nybo, Chris Healy, Steve Morley, Jim Kennedy, Mark A. Mulliner, Patrick Wagner

Absent: Susan J. Rose

Also in Attendance: City Treasurer Dyer, City Attorney Storino, Assistant City Manager/Fire Chief Kopp

RECEIPT OF WRITTEN COMMUNICATIONS AND PETITIONS FROM THE PUBLIC

2. None.

PUBLIC FORUM

3. No one spoke.

CONSENT AGENDA

4. The following items on the Consent Agenda were presented:

- a. MINUTES OF THE REGULAR MEETING HELD ON MONDAY, AUGUST 2, 2010 (City Clerk Spencer): Approve as published
- b. MINUTES OF THE EXECUTIVE SESSION MEETING HELD ON MONDAY, AUGUST 2, 2010 (City Clerk Spencer): Receive and place on file
- c. ACCOUNTS PAYABLE – AUGUST 16, 2010, TOTAL \$ 1,586,714.68
- d. BID RESULTS, 2010 SIDEWALK REPLACEMENT PROGRAM, PROJECT NO. 10-04 (City Clerk Spencer): Refer to the Public Works and Buildings Committee

August 12, 2010

TO: Mayor DiCianni and Members of the City Council
RE: 2010 Sidewalk Replacement Program, Project No. 10-04

In response to an invitation to bid for the City of Elmhurst 2010 Sidewalk Replacement Program, Project No. 10-04 advertised in the Elmhurst Independent on Wednesday, July 21, 2010, bids were received from two contractors. All bid packages were complete.

Bids were opened at 10:00 a.m. on Tuesday, August 3, 2010 by the Deputy City Clerk. The following is a summary of the bids received:

<u>Contractor</u>	<u>Total Price</u>
Strada Construction, Inc. Addison, IL	\$ 48,817.00
Globe Construction Addison, IL	\$ 60,370.00

Respectfully submitted,
/s/ Patty Spencer
City Clerk

e. BID RESULTS, 2010 STREETScape PROGRAM, PROJECT NO. 10-14 (City Clerk Spencer):
Refer to the Public Works and Buildings Committee

August 12, 2010

TO: Mayor DiCianni and Members of the City Council
RE: 2010 Streetscape Program, Project No. 10-14

In response to an invitation to bid for the City of Elmhurst 2010 Streetscape Program, Project No. 10-14 advertised in the Elmhurst Independent on Wednesday, July 21, 2010, bids were received from four contractors. All bid packages were complete.

Bids were opened at 10:00 a.m. on Tuesday, August 3, 2010 by the Deputy City Clerk. The following is a summary of the bids received:

<u>Contractor</u>	<u>Total Price</u>
Landmark Contractors, Inc. (Huntley, IL)	\$179,486.53
Alliance Contractors, Inc. (Woodstock, IL)	\$186,613.45
Martam Construction, Inc (Elgin, IL)	\$190,182.50
Kovilic Construction Co. (Franklin Park, IL)	\$227,595.00

Respectfully submitted,
/s/ Patty Spencer
City Clerk

f. BID RESULTS, CITY OF ELMHURST WEST ELEVATED TANK INTERIOR WET PAINTING & EXTERIOR PRESSURE WASHING PROJECT 10-18 (City Clerk Spencer):Refer to the Public Works and Buildings Committee

August 12, 2010

TO: Mayor DiCianni and Members of the City Council
RE: West Elevated Tank Interior Wet Painting & Exterior Pressure Washing Project 10-18

In response to an invitation to bid for the City of Elmhurst West Elevated Tank Interior Wet Painting & Exterior Pressure Washing Project 10-18 advertised in the Elmhurst Press on Friday, July 23, 2010, bids were received from five contractors. All bid packages were complete.

Bids were opened at 10:00 a.m. on Tuesday, August 3, 2010 by the City Clerk. The following is a summary of the bids received:

<u>Contractors</u>	<u>Bid</u>	
Bullseye Contractors (Lombard, IL)	Base Bid	
	Interior Wet Area Painting	\$ 29,400.00
	Exterior Pressure Washing	\$ 5,200.00
	Base Total	\$ 37,600.00
	Alt Bid	
Deduct – Spot Blast	\$ 4,700.00	
	Alt Bid Total	\$ 32,900.00
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Classic Protective Coatings (Menomonie, WI)	Base Bid	
	Interior Wet Area Painting	\$ 140,800.00
	Exterior Pressure Washing	\$ 14,800.00
	Base Total	\$ 155,600.00
	Alt Bid	
Deduct – Spot Blast	\$ 57,000.00	
	Alt Bid Total	\$ 83,800.00

Maxcor (Lockport, IL)	Base Bid	
	Interior Wet Area Painting	\$ 87,800.00
	Exterior Pressure Washing	\$ 16,700.00
	Base Total	\$ 104,500.00
	Alt Bid	
Deduct – Spot Blast		\$ 33,300.00
	Alt Bid Total	\$ 54,500.00

Jetco, Ltd (Prospect Heights, IL)	Base Bid	
	Interior Wet Area Painting	\$ 81,880.00
	Exterior Pressure Washing	\$ 10,000.00
	Base Total	\$ 91,880.00
	Alt Bid	
Deduct – Spot Blast		\$ 22,890.00
	Alt Bid Total	\$ 68,990.00

Teacorp, Inc. (Joliet, IL 60433)	Base Bid	
	Interior Wet Area Painting	\$ 85,650.00
	Exterior Pressure Washing	\$ 7,350.00
	Base Total	\$ 93,000.00
	Alt Bid	
Deduct – Spot Blast		\$ 20,000.00
	Alt Bid Total	\$ 65,650.00

Respectfully submitted,
/s/ Patty Spencer
City Clerk

- g. ALTERNATIVE RESIDENTIAL STORMWATER MANAGEMENT TECHNIQUES (City Manager Borchert): Refer to the Committee of the Whole

August 9, 2010

To: Mayor DiCianni and Members of the City Council
Re: Alternative Residential Stormwater Management Techniques

It is respectfully requested that the attached request from Alderman Gutenkauf be forwarded to the Committee of the Whole for their review and subsequent recommendation for City Council action.

Respectfully submitted,
/s/ Thomas P. Borchert
City Manager

- h. SALT CREEK GREENWAY TRAIL – USE OF RESIDENTIAL STREETS – ALDERMEN NYBO, HEALY, WAGNER & MULLINER (Fire Chief/Assistant City Manager Kopp): Refer to the Public Affairs and Safety Committee

August 12, 2010

To: Mayor DiCianni and Members of the City Council
Re: Salt Creek Greenway Trail – Use of Residential Streets Aldermen Nybo, Healy, Wagner and Mulliner

It is respectfully requested that the attached request for a review of the Salt Creek Greenway Trail – Use of Residential Streets be referred to the Public Affairs and Safety Committee for evaluation and recommendation back to the City Council.

Respectfully submitted,
/s/ Michael D. Kopp

Assistant City Manager/Fire Chief

- i. REPORT – CITYWIDE EVANGELICAL CHURCH COMMUNITY REQUEST FOR TEMPORARY USE AND EVENT PERMIT AND USE OF CITY PROPERTY The following report of the Public Affairs and Safety Committee was presented for passage:

August 9, 2010

To: Mayor DiCianni and Members of the City Council
Re: Citywide Evangelical Church Community Request for Temporary Use and Event Permit and Use of City Property

The Public Affairs and Safety Committee met on August 9, 2010 to discuss the request from the evangelical Elmhurst church community to unite together in a day of worship and commitment to serve the City on Sunday, August 22, 2010 in the Addison Street Parking Lot. A representative from the evangelical Elmhurst church community was available to answer the Committee's questions.

The Elmhurst City Centre downtown site will be used by the evangelical church community for a day of worship and commitment on Sunday, August 22, 2010, starting at 8:00 a.m. and concluding at noon. The united service will commence at 10:00 a.m. and conclude by 11:30 a.m. It would consist primarily of music and story, with an emphasis on involvement by persons from each church hosting this occasion. The community would like to request use of the Park District bandwagon for this event and they will provide portable toilets.

The event will be open to the public and attendance is anticipated to be approximately 1,000 members from the involved churches.

Proof of insurance will be provided to and approved by the City Attorney prior to the event.

All layout/staging plans and operational parameters will be finalized only after ongoing consultation and discussion with the approval of the Elmhurst Police, Fire and Public Works Departments.

It is, therefore, the recommendation of the Public Affairs and Safety Committee that the City Council approve the evangelical Elmhurst church community's request to use the Addison Street Parking Deck for a day of worship and commitment to serve the City on Sunday, August 22, 2010, starting at 8:00 a.m. and concluding at noon.

Respectfully submitted,
Public Affairs and Safety Committee
/s/ Patrick Wagner
Chairman
/us/ Chris Nybo
Vice-Chairman
/s/ Paula Pezza

- j. REPORT – IMMACULATE CONCEPTION PARISH BLOCK PARTY REQUEST FOR TEMPORARY USE The following report of the Public Affairs and Safety Committee was presented for passage:

August 9, 2010

To: Mayor DiCianni and Members of the City Council
Re: Immaculate Conception Parish Block Party Request for Temporary Use

The Public Affairs and Safety Committee met on August 9, 2010 to discuss the request from Immaculate Conception Parish to hold a Block Party on Saturday, September 11, 2010 following an outdoor Mass at 4:00 p.m. A representative from the Immaculate Conception Parish was available to answer the Committee's questions.

The Parish Block Party will be located on Immaculate Conception Parish Property, with boundary streets being Cottage Hill on the west, York Road on the east, Arthur Street on the north and the Immaculate Conception High School driveway on the south. Cottage Hill between Arthur Street and Church Street and Arthur Street between York Road and Cottage Hill will be closed from 3:00 p.m. until 10:00 p.m. to allow for set up and removal of the event

After Mass at 4:00 p.m., there will be games and Moon jumps for children, food vendor (Fratello's), a D.J. Magician and Balloon Artist and a Beer Garden. The Beer Garden will be enclosed by orange construction fencing. MG Concessions or Knights of Columbus will sell beer and wine for the event. They use licensed and bonded bartenders. They hold an Illinois liquor license and will name Immaculate Conception Parish and the Diocese of Joliet as additional insured's on their policy. MG Concessions will also provide a security guard that is Blue Card Certified to oversee all that enter and leave the beer garden. Immaculate Conception will provide volunteers to help the security guard.

There will be only one way in and out of the beer garden. All that have been "carded" and are of age will receive a wristband to wear for entrance into the beer garden. Beer and wine will be sold from 5:00 p.m. until 9:30 p.m.

Proof of insurance will be provided to and approved by the City Attorney prior to the event.

All layout/staging plans and operational parameters will be finalized only after ongoing consultation and discussion with the approval of the Elmhurst Police, Fire and Public Works Departments.

It is, therefore, the recommendation of the Public Affairs and Safety Committee that the City Council approve the Immaculate Conception Parish's request to close Cottage Hill between Arthur Street and Church Street and Arthur Street between York Road and Cottage Hill from 3:00 p.m. until 10:00 p.m. for their Parish Block Party to be held on Saturday, September 11, 2010 following an outdoor Mass at 4:00 p.m.

Respectfully submitted,
Public Affairs and Safety Committee
/s/ Patrick Wagner
Chairman
/us/ Chris Nybo
Vice-Chairman
/s/ Paula Pezza

- k. REPORT – FOREIGN FIRE INSURANCE BOARD CHANGES The following report of the Public Affairs and Safety Committee was presented for passage:

August 9, 2010

TO: Mayor DiCianni and the Members of the City Council
RE: Foreign Fire Insurance Board Changes

The Public Affairs and Safety Committee met on Monday, August 9, 2010 to discuss the implementation of the changes as required by Public Act 96-0505 that was signed by Governor Quinn regarding Foreign Fire Insurance Boards.

The Foreign Fire Tax program mandates that any foreign or out-of-state insurance company that writes fire insurance in Illinois must contribute 2% of the fire premiums written on property located in Illinois to be distributed to the fire departments and fire districts within the State of Illinois.

The Foreign Fire Insurance Board shall manage and administer the money in the foreign fire insurance fund as required by state statute for the maintenance, use and benefit of the fire department.

Prior to the new act, the board was made up of four sworn members, elected by sworn members. New language requires that the board consist of seven members. One of them is the Fire Chief and the other six are sworn members that are elected by sworn members.

It is therefore, the recommendation of the Public Affairs and Safety Committee to authorize the City Attorney to revise Elmhurst City Code to reflect the changes outlined in Public Act 96-0505.

Respectfully submitted,
Public Affairs and Safety Committee
/s/ Patrick Wagner

Chairman
/s/ Chris Nybo
Vice-Chairman
/s/ Paula Pezza

l. O-38-2010 – AN ORDINANCE AUTHORIZING THE SALE BY AUCTION OF PERSONAL PROPERTY OWNED BY THE CITY OF ELMHURST

Ordinance O-38-2010 was presented for passage.

m. O-39-2010 – AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF A NON-EXCLUSIVE LICENSE AGREEMENT BY AND BETWEEN PATHWAY COMMUNITY CHURCH AND THE CITY OF ELMHURST, DUPAGE AND COOK COUNTIES, ILLINOIS

Ordinance O-39-2010 was presented for passage.

n. O-40-2010 – AN ORDINANCE APPROVING AND ACCEPTING A PLAT OF DEDICATION FOR THE RELOCATED EAST HARVARD STREET CONNECTION TO YORK STREET IN THE ELMHURST MEMORIAL HEALTHCARE SUBDIVISION PLAT IN THE CITY OF ELMHURST, ILLINOIS

Ordinance O-40-2010 was presented for passage.

o. O-41-2010 – AN ORDINANCE VACATING PORTIONS OF THE FILLMORE STREET, HARVARD STREET AND KIRK AVENUE RIGHTS-OF-WAY

Ordinance O-41-2010 was presented for passage.

p. MCO-25-2010 – AN ORDINANCE AMENDING SECTION 31.257 ENTITLED “TAXI STANDS” OF ARTICLE XX, ENTITLED “TAXICABS” OF CHAPTER 31 ENTITLED “BUSINESS LICENSING REGULATION AND REGISTRATION” OF THE CITY OF ELMHURST MUNICIPAL CODE

Ordinance MCO-25-2010 was presented for passage.

q. ZO-17-2010 – AN ORDINANCE APPROVING A FINAL PLANNED DEVELOPMENT PLAN FOR THE PROPERTY COMMONLY KNOWN AS THE ELMHURST MEMORIAL HEALTHCARE YORK STREET CAMPUS, BOUNDED GENERALLY BY BRUSH HILL ROAD, EUCLID AVENUE, LEXINGTON STREET, KIRK AVENUE, HARVARD STREET AND YORK STREET (ELMHURST MEMORIAL HOSPITAL)

Ordinance ZO-17-2010 was presented for passage.

r. R-42-2010 – A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT BETWEEN THE CITY OF ELMHURST, ILLINOIS, AND CORRECTIVE ASPHALT MATERIALS, LLC, FOR THE 2010 ASPHALT REJUVENATING TREATMENT PROGRAM

Resolution R-42-2010 was presented for passage.

s. R-43-2010 – A RESOLUTION APPROVING THE FINAL MODIFIED PLAT OF SUBDIVISION FOR THE ELMHURST MEMORIAL HEALTHCARE YORK STREET CAMPUS (ELMHURST MEMORIAL HOSPITAL)

Resolution R-43-2010 was presented for passage.

t. R-44-2010 – A RESOLUTION TO APPROVE AND AUTHORIZE THE EXECUTION OF A CONSTRUCTION ENGINEERING SERVICES AGREEMENT FOR FEDERAL PARTICIPATION BY AND BETWEEN TRANSYSTEMS CORPORATION AND THE CITY OF ELMHURST

Resolution R-44-2010 was presented for passage.

u. R-45-2010 – A RESOLUTION AUTHORIZING THE PURCHASE OF ROCK SALT FOR USE WITHIN THE CITY OF ELMHURST

Resolution R-45-2010 was presented for passage.

Alderman Pezza pulled item **4o. O-41-2010 – An Ordinance Vacating Portions of the Fillmore Street, Harvard Street and Kirk Avenue Rights-of-Way** from the Consent Agenda.

Alderman Healy moved to approve the contents of the Consent Agenda less item **4o. O-41-2010 – An Ordinance Vacating Portions of the Fillmore Street, Harvard Street and Kirk Avenue Rights-of-Way**. Alderman Morley seconded. Roll call vote:

Ayes: Healy, Morley, Kennedy, Mulliner, Wagner, Gutenkauf, Pezza, Shea, Leader, Bram, Hipkind, York, Nybo

Nays: None

Results: 13 ayes, 0 nays, 1 absent
Motion duly carried

Alderman Pezza moved to put item **4o. O-41-2010 – An Ordinance Vacating Portions of the Fillmore Street, Harvard Street and Kirk Avenue Rights-of-Way** on the floor. Alderman Mulliner seconded.

Alderman Pezza stated she pulled item **4o. O-41-2010 – An Ordinance Vacating Portions of the Fillmore Street, Harvard Street and Kirk Avenue Rights-of-Way** not to vote against it but because she has two concerns on procedure. She stated the ordinance requires a super majority vote of the corporate authority to pass and the Mayor is part of the corporate authority per the Municipal Code. She stated this ordinance should not be on the Consent Agenda, the Mayor and City Council need to vote properly.

Alderman Nybo asked if a super majority is $\frac{3}{4}$ of the votes, are 11 or 12 votes are needed.

City Attorney Storino confirmed 12 votes are needed for a super majority vote to pass. City Attorney Storino stated the corporate authority is used for calculation purposes, the Mayor is not required to vote unless his vote is needed to satisfy the $\frac{3}{4}$ of votes required by super majority.

Alderman Morley, point of order, wouldn't a unanimous vote on the Consent Agenda satisfy the needed 12 votes?

City Attorney Storino stated yes, in his opinion the Mayor does not have to vote to get to the majority, a unanimous vote on the Consent Agenda would have passed the ordinance.

Discussion ensued on when the Mayor is allowed to vote per City code and State law.

City Attorney Storino stated that when there are sufficient votes the Mayor is not required to vote, however there is no harm in calling on the Mayor for his vote on this item.

Roll call vote to approve item **4o. O-41-2010 – An Ordinance Vacating Portions of the Fillmore Street, Harvard Street and Kirk Avenue Rights-of-Way**:

Ayes: Pezza, Mulliner, Wagner, Gutenkauf, Shea, Leader, Bram, Hipkind, York, Nybo, Healy, Morley, Kennedy, Mayor DiCianni

Nays: None

Results: 14 ayes, 0 nays, 1 absent
Motion duly carried

COMMITTEE REPORTS

5. a. **MOTION TO ALLOCATE FUNDS TO THE OVERHEAD SEWER PROGRAM**

Alderman Bram, point of order, questioned the legitimacy of this item being on the City Council agenda for this evening as there was no referral and no written committee report.

City Attorney Storino stated the Municipal Code does not prohibit items coming out of committee meetings (Committee of the Whole or otherwise) from going on the agenda. There is nothing written that this is an inappropriate action. Council can choose not to act on the motion but since it was posted properly on the agenda it can be discussed and acted on.

Alderman Bram stated the Municipal Code does not state that you can proceed in this manner either. He stated the motion listed under Committee Reports is not listed on the Committee of the Whole (COW) meeting agenda.

Alderman Healy stated he asked for this motion to be placed on the agenda assuming a decision for or against this action would be decided at the COW meeting and confirmed at the Council meeting tonight. He stated he planned to make a motion to suspend the rules to discuss the allocation of funds to the overhead sewer program tonight.

Alderman Morley, point of order, City Attorney Storino is this a valid motion?

City Attorney Storino stated unless someone can cite a parliamentary procedure stating otherwise, it is his opinion that under the City's own rules it is not necessary to suspend the rules. He stated that under clear Illinois case law there is no question that the Council can deal with this issue tonight as it was properly stated on an agenda issued more than 48 hours prior to the meeting.

Mayor DiCianni clarified with City Attorney Storino once again that there is no need to suspend the rules.

Discussion ensued regarding the fact that although these are unique circumstances the legal requirements for discussion have been met.

Alderman Healy moved to put item **5a. Motion to Allocate Funds to the Overhead Sewer Program** on the floor. Alderman Wagner seconded.

Alderman Bram, point of order, stated he was not finished with the discussion.

Mayor DiCianni stated Alderman Bram did not have the floor.

Alderman Bram, point of order, stated he understands that Alderman Healy requested this item be placed under Committee Reports on tonight's agenda however it is his understanding that there needs to be an actual report before an item can be placed under Committee Reports on the agenda. He stated there was not a report, majority, minority or otherwise until a motion was made an hour ago. He asked how this is legitimate.

Alderman Healy stated in his time as an Alderman twice the Development, Planning and Zoning Committee has met on the same night as a Council meeting and at the Council meeting action was taken on a report coming out of the committee meeting.

Alderman Nybo stated the Municipal Code allows the City Manager to use broad discretion when putting together the agenda. He cited section Chapter 2.06 a(7) stating the code allows for a broad array of reports to be contemplated by Council other than what is common.

Alderman Mulliner moved to defer item **5a. Motion to Allocate Funds to the Overhead Sewer Program** until the next Council meeting so that he could prepare a minority report. Alderman Gutenkauf seconded.

City Attorney Storino stated per the Municipal Code, this motion is in order and a deferral of this nature can only be done once.

Alderman Nybo, point of order, does Council need to vote on whether or not to defer the motion.

City Attorney Storino stated no, it is not open for debate. City Attorney Storino reviewed the steps Council could take to suspend with the rules if they wanted to debate the deferral.

Alderman Nybo, point of order, asked City Attorney Storino to clarify that anytime two members of the Council do not want to vote on an item they can defer the item.

City Attorney Storino stated that is correct.

Item **5a. Motion to Allocate Funds to the Overhead Sewer Program** was deferred until the next City Council meeting.

REPORTS AND RECOMENDATIONS OF APPOINTED AND ELECTED OFFICIALS

6. a. UPDATES (Mayor DiCianni/City Manager Borchert)

Mayor DiCianni stated the City as well as the State of Illinois is still waiting for declaration of disaster area by the federal government. He urged citizens to continue checking the City website for new information.

The Mayor stated the City needs to secure a professional advocate to obtain money for infrastructure.

OTHER BUSINESS

7. None.

ANNOUNCEMENTS

8. Alderman Gutenkauf announced that she and Alderman Pezza will host a Ward 1 meeting on Wednesday, August 25, 2010 at the Elmhurst Public Library in Meeting Room #2, from 6:30-8:30 p.m.

Alderman Nybo announced that he and Alderman Healy will host a Ward 5 meeting this week on Thursday, August 19, 2010 at the Knights of Columbus Hall at 7:00 p.m.

Alderman Bram announced that per an article in the *Chicago Tribune*, car sales went up in the Chicagoland area for July 2010.

Alderman Kennedy announced that he and Alderman Morley will host a Ward 6 meeting on Thursday, September 2, 2010. The time and place are to be determined.

Alderman Morley asked interested Ward 6 residents to email him and/or Alderman Kennedy for more information on the upcoming meeting.

ADJOURNMENT

9. Alderman Morley moved to adjourn the meeting. Alderman Hipskind seconded. Voice vote. Motion carried. Meeting adjourned 11:49 p.m.

Peter P. DiCianni III, Mayor

Patty Spencer, City Clerk