

**MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF THE ELMHURST, ILLINOIS
HELD ON MONDAY, DECEMBER 1, 2008
209 NORTH YORK STREET
ELMHURST, ILLINOIS**

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EXECUTIVE SESSION 7:00 P.M. – LITIGATION AND LAND ACQUISITION

1. Executive session was called to order at 7:00 p.m. by Mayor Marcucci for the purpose of discussing Land Acquisition.

Present: Diane Gutenkauf, Norman Leader, Michael Bram, Susan Rose, John Gow, Moira Moriarty, Chris Nybo, George Szczepaniak, Donna Lomnicki, Mark A. Mulliner

Absent: Michael J. Regan (arrived at 7:03 p.m.), Pat Shea (arrived at 7:02 p.m.), Stephen Hipskind (arrived at 7:06 p.m.), Steve Morley (arrived at 7:04 p.m.)

Also in attendance: City Treasurer Pigoni, City Attorney Kubiesa, City Manager Borchert

Alderman Bram moved to convene into executive session for the purpose of discussing Land Acquisition. Alderman Mulliner seconded. Roll call vote:

Ayes: Bram, Mulliner, Gutenkauf, Leader, Rose, Gow, Moriarty, Nybo, Szczepaniak, Lomnicki

Nays: None

10 yeas, 0 nays, 4 absent
Motion duly carried

Alderman Gutenkauf moved to adjourn executive session. Alderman Mulliner seconded. Voice vote. Motion carried. Executive session adjourned at 7:39 p.m.

CALL TO ORDER/ PLEDGE OF ALLEGIANCE/ROLL CALL

Attendance: 18

2. The Regular Meeting of the Elmhurst City Council was called to order by Mayor Marcucci at 7:43 p.m. Mayor Marcucci stated for the record, tonight Deputy Clerk Erin Van De Walle will be taking the minutes as Clerk Spencer is out of town.

Present: Michael J. Regan, Diane Gutenkauf, Norman Leader, Pat Shea, Michael Bram, Susan J. Rose, John Gow, Stephen Hipskind, Moira Moriarty, Chris Nybo, George Szczepaniak, Steve Morley, Donna Lomnicki, Mark A. Mulliner

Absent: None.

Also in Attendance: City Treasurer Pigoni, City Attorney Kubiesa, City Manager Borchert

RECEIPT OF WRITTEN COMMUNICATIONS AND PETITIONS FROM THE PUBLIC

3. Mr. Todd Benson, 391 River Glen, submitted a letter regarding the York Radio Club. The letter outlines a Community Grant request to help the group expand their effort to augment communications within the City of Elmhurst during times of natural and/or man made disasters.

PUBLIC FORUM

4. Mark Wilson
365 River Glen
Elmhurst, IL 60126

Spoke regarding a number of issues with the development at northeast corner of IL Route 83 & North Ave. including more cut thru traffic, the affect of greed on this gateway to the City, failure to enforce no left turns and blocking of intersections. He also spoke against District 205's eminent domain of property in downtown Elmhurst, the need for more funding at Emerson school and the destructive nature of the deer that reside in the Cricket Creek forest preserve area. Mr. Wilson thanked the Council for their work fighting the Gypsy moth.

Lena Benson
391 River Glenn
Elmhurst, IL 60126

Stated she was confused and concerned due to the tree cutting in the property zoned CR at IL Route 83 & North Ave. She stated CR is for green space and residents of the neighborhood have been told that more parking is coming to the development where the trees once were.

Laura Wilson
365 River Glen
Elmhurst, IL 60126

Held up a piece of a tree that was cut down in the property zoned CR at IL Route 83 & North Ave. She stated that the trees in the CR zone were to act as a buffer to the residential area and now they are gone. She stated that this development was to act as a gateway to the City and the neighbors wish to see this project become a success without destruction. Currently the distinctive gateway has only one tenant, is unfinished, has overflowing dumpsters and shuns passer bys with backdoors facing North Avenue.

Tim Newell
398 River Glen
Elmhurst, IL 60126

Spoke regarding the plan that the neighbors of the IL Route 83 & North Ave. development acquiesced to when it was first presented stating in the commitment to residents there was no mention of the clear cutting of trees in the CR zoned property. He asked why the trees were taken down virtually in the middle of the night if everything was being handled properly; he stated it appears to be a big cover up. He stated X-Sport employees are telling members that more parking is coming.

Todd Benson
391 River Glen
Elmhurst, IL 60126

Thanked the Mayor and the City Council for their service to the City, their long hours and careful consideration of issues before them. He thanked all the public servants of the City who volunteer to serve on Commissions and Committees. He stated that there are many streets in Elmhurst and no one is greater than the other, he thanked Council for not thinking about a single street but the City as a whole.

Lance Martin
414 Shady Lane
Elmhurst, IL 60126

Thanked the City staff for their response to the Gypsy Moth problem in North Graue Woods. He asked for the issue to be on an agenda in the Spring as he fears the worst next season. He also spoke regarding the trees lost on IL Route 83 and the information being given out by X-Sport employees that there will soon be more parking and better access to the development at IL Route 84 & North Ave.

CONSENT AGENDA

5. The following items on the Consent Agenda were presented:
 - a. MINUTES OF REGULAR MEETING HELD ON MONDAY, NOVEMBER 17, 2008 (City Clerk Spencer): Approve as published
 - b. MINUTES OF THE EXECUTIVE SESSION HELD ON MONDAY, NOVEMBER 17, 2008 (City Clerk Spencer): Receive and place on file
 - c. ACCOUNTS PAYABLE – NOVEMBER 30, 2008 TOTAL \$ 1,888,768.68

- d. REPORT – ILLINOIS ROUTE 56 AT COMMONWEALTH LANE INTERSECTION IMPROVEMENTS PHASE I ENGINEERING – TRANSYSTEMS PROPOSAL The following report of the Public Works and Buildings Committee was presented:

November 24, 2008

TO: Mayor Marcucci and Members of the City Council
RE: Illinois Route 56 at Commonwealth Lane Intersection Improvements Phase I Engineering - TranSystems Proposal

The Public Works and Building Committee met on Monday, November 24, 2008 to discuss a proposal received from TranSystems Corporation for professional engineering services for design of Illinois Route 56 (Butterfield Road) at Commonwealth Lane intersection improvements.

The improvements include the addition of a northbound left turn lane on Commonwealth Lane, providing dual left turn lanes onto westbound Butterfield Road. In addition, a southbound left turn lane and shared through/right turn lane on the north approach of Commonwealth Lane will be provided. A new eastbound right turn lane will be constructed along Butterfield Road. Pavement widening will be required to accommodate the additional lanes. Traffic signal equipment and pavement markings shall be modified and restriped, respectively, to accommodate the addition of the left and right turn lanes into the operational configuration. Pavement resurfacing on Commonwealth and Butterfield will be performed.

TranSystems has assisted the City in the preparation of Federal Surface Transportation Program (STP) funding application. This project received \$798,700 in STP funding for construction through the DuPage Mayors and Managers Conference (DMMC). At this time Phase I and II engineering are locally funded. DMMC does not allow STP dollars to be used for engineering. In 2009, TranSystems will prepare a Congestion Mitigation Air Quality (CMAQ) funding application requesting 80% funding for Phase II and III engineering. Completing the Phase I engineering will increase the project readiness score and subsequently the chances for being successful at obtaining additional funding.

Phase I engineering services will include project coordination and data collection, field surveys, traffic and accident analysis, preliminary design studies, drainage studies, environmental studies, a preferred improvement plan, City, IDOT and public meetings, and a project development report. STP funds will be utilized for construction, therefore a Phase I engineering study in accordance with Illinois Department of Transportation procedures for Federal-Aid project implementation will be required. This project is anticipated to be bid through the Illinois Department of Transportation in January 2011.

TranSystems has proposed to do this work for a fee calculated using the direct labor method, not to exceed \$112,522.03. See attached proposal for consultant services and fees. These rates are consistent with fees for professional services on similar projects. TranSystems has completed similar work for the City in the past on various City projects in a satisfactory and professional manner. Monies for this project have been provided in the FY 2008/09 Budget, Account Number 110-6041-432-80-15 in the amount of \$150,000.00.

It is, therefore, the recommendation of the Public Works and Building Committee that the Phase I Engineering Proposal from TranSystems Corporation for the Illinois Route 56 (Butterfield Road) at Commonwealth Lane Intersection Improvements in the amount not to exceed \$112,522.03, be accepted.

Respectfully submitted,
Public Works and Building Committee

/s/ John E. Gow
Chairman

/s/ Michael Regan
Vice-Chairman

/s/ Donna Lomnicki
/s/ Pat Shea

- e. REPORT – SUNDAY LIQUOR SALES – HOURS OF OPERATION The following report of the Public Affairs and Safety Committee was presented:

November 24, 2008

To: Mayor Marcucci and Members of the City Council
Re: Sunday Liquor Sales – Hours of Operation

The Public Affairs and Safety Committee met on November 10, 2008 and again on November 24, 2008 to discuss a request by Jewel Osco and several other liquor distributing establishments located in Elmhurst to change the hours of operation for Sunday liquor sales. Representatives from Jewel Osco and other establishments were present to explain their request and answer the Committee's questions.

Package liquor distributing establishments which are located in Elmhurst, would like to expand the hours of operation for Sunday liquor sales from noon to 10:00 a.m. for these specific liquor license establishments: Package Liquor (PL), Convenience (store) Beer and Wine (CBW), Retail Wine and Beer only (WB), and Retail Sale of Bottled Wines and Premium Beers only (WBB). This request was based on an observed change in shopping trends in today's society. Many families have family commitments on Saturday and are now doing their weekly shopping on Sundays, making Sunday the #1 day for shopping.

In an attempt to meet the needs of their customers, amending the Sunday liquor sales restrictions will promote one-stop shopping and prevent tax dollars from leaving the city and going to neighboring communities.

This request was reviewed and the Public Affairs and Safety Committee agreed with this request and feels that a change in Sunday liquor sales hours of operation would be appropriate.

It is, therefore, the recommendation of the Public Affairs and Safety Committee that the City Attorney be authorized to prepare the appropriate ordinance to change the hours of operation for Sunday package liquor sales only from noon to 10:00 a.m. for these specific liquor license establishments: Package Liquor (PL), Convenience (store) Beer and Wine (CBW), Retail Wine and Beer only (WB), and Retail Sale of Bottled Wines and Premium Beers only (WBB).

Respectfully submitted,
Public Affairs and Safety Committee

/s/ Mark A. Mulliner
Chairman
/s/ Michael Bram
Vice-Chairman
/s/ Chris Nybo

- f. REPORT – REDUCTION OF THE NUMBER OF AUTHORIZED LIQUOR LICENSES The following report of the Public Affairs and Safety Committee was presented:

November 24, 2008

To: Mayor Marcucci and Members of the City Council
Re: Reduction of the Number of Authorized Liquor Licenses

The Public Affairs and Safety Committee met on November 24, 2008 to discuss the reduction in the number of Class "B" (Bar) License, "RL" (Restaurant) License and "RSB" (Restaurant and Recreational Facilities – Consumption) Licenses. Currently the following four liquor licenses are not in use: Finn McCool's, NeeNee & Nana's and Nana's Pastarante and a Class "B" (Bar) liquor license formerly held by the Knights of Columbus located at 537 S. York St. which has ceased operations and is now closed.

After a brief discussion, the Committee noted that it has been the City Council's policy to reduce the number of authorized liquor licenses when any such licenses are not assigned to a particular liquor establishment. It was the Committee consensus that this policy should be continued.

It is, therefore, the recommendation of the Public Affairs and Safety Committee that the number of authorized liquor licenses be reduced by one Class “B” (Bar) License, one “RL” (Restaurant) License and two “RSB” (Restaurant and Recreational Facilities – Consumption) Licenses, and that the City Attorney be authorized to prepare the necessary ordinance.

Respectfully submitted,
Public Affairs and Safety Committee

/s/ Mark A. Mulliner
Chairman
/s/ Michael Bram
Vice-Chairman
/s/ Chris Nybo

- g. REPORT – CASE NUMBER 08 P-13 / ELMHURST PRESBYTERIAN CHURCH SIGN @ 367 S. SPRING ROAD The following report of the Development, Planning and Zoning Committee was presented:

November 25, 2008

TO: Mayor Marcucci and Members of the City Council

RE: Case Number 08 P-13 / Elmhurst Presbyterian Church Sign @ 367 S. Spring Road

Request for a Conditional Use Permit for the purpose of installing a Permanent Bulletin Board sign with LED message center pursuant to Section 11.12-1.b of the Elmhurst Zoning Ordinance on property commonly known as 367 S. Spring Road (PIN: 06-11-207-027), said property being wholly located within the R2 Single Family Residence district.

The Development, Planning and Zoning Committee met on November 24, 2008 to review the Zoning & Planning Commission report dated November 17, 2008 regarding the subject request. The Committee also reviewed the documents supplied by the applicant, and the transcript of the public hearing. The applicant, Elmhurst Presbyterian Church, is requesting approval of a conditional use for a new sign with LED message center to replace their existing identification sign. The subject site is located at 367 S. Spring Road, at the southeast corner of Spring Road and St. Charles Road.

The Committee noted the following factors in their review of this request:

- The proposed sign meets applicable placement (location), area and height requirements. The Zoning Ordinance allows for bulletin board signs as conditional uses.
- The new sign will help update the appearance of the site, and the applicant is making the sign color brown to match the building.
- This is a high visibility location at a major intersection in Elmhurst, and this new sign will help convey a positive community image. There are similar existing signs on other similar institutional facilities in the community.
- The bulletin board nature of the sign will help limit its content to church-related activities and announcements. The applicant agreed to a condition of approval that upon installation of the sign, the Church will not place banners outside.

In conclusion, the Committee reviewed the applicable factors for conditional uses and concluded that the requested sign meet these factors; therefore the DPZ Committee supports the request. Therefore, the Development, Planning and Zoning Committee recommends approval of this conditional use request, subject to a Condition of Approval that, upon the sign’s installation, there shall no longer be exterior display of banners on the subject site. The City Attorney is hereby directed to prepare the necessary documents for City Council approval.

Respectfully submitted,
Development, Planning and Zoning
Committee

/us/ Susan J. Rose
Chairman
/s/ Norman Leader
Vice-Chairman
/s/ Diane Gutenkauf

- h. REPORT – CASE NUMBER 08 P-12/CRICKET COMMUNICATIONS CONDITIONAL USE The following report of the Development, Planning and Zoning Committee was presented:

November 25, 2008

TO: Mayor Marcucci and Members of the City Council

RE: Case Number 08 P-12/Cricket Communications Conditional Use

Request for Conditional Use Permit for the purpose of co-locating a cellular antenna on an existing tower, and increasing the height of the existing tower from 75' to 90' on property commonly known as 211 W. Spangler (PIN 03-26-406-021), said property being wholly located in the I1 Restricted Industrial district.

The Development, Planning and Zoning Committee met on November 24, 2008 to review the Zoning & Planning Commission report dated November 14, 2008 regarding the subject request. The Committee also reviewed the documentation supplied by the applicant, and the transcript of the public hearing. The applicant, Cricket Communications, is requesting approval of an increase in tower height, from the existing height of 75' to the proposed height of 90', for the purpose of co-locating a cellular telephone antenna.

The Committee noted the following factors in their review of this request:

- There is a 75 foot tower currently in use for cellular antenna service at this site; the existing provider is Nextel. The tower is owned by American Tower.
- The existing tower is located in the rear of the property commonly known as 211 W. Spangler, behind the office/warehouse building in the rear of the lot on a leased sub parcel.
- The subject site is south of and immediately abutting the Commonwealth Edison high power transmission lines; the Commonwealth transmission towers are approximately 100 feet high.
- The Zoning Ordinance allows communication towers, supported from the ground, that do not extend more than 15 feet above the maximum building height restriction of the zoning district. The maximum building height in the I1 district is 45 feet. Therefore, the maximum tower height permitted as-of-right is 60 feet. Communication towers exceeding these regulations (60 feet) may be constructed under a Conditional Use Permit.
- The application complies with all other Zoning Ordinance requirements.
- The Committee included a condition of approval that should any new user replace Cricket for use of the tower above 75 feet, that new user shall be required to obtain a new conditional use approval from the City.

The DPZ concluded that the requested conditional use meets the applicable standards, and therefore should be approved. Therefore, the Development, Planning and Zoning Committee recommends approval of this request, subject to the Condition of Approval that any new user (after Cricket) for that portion of the tower above 75 feet shall be required to obtain conditional use approval from the City of Elmhurst. The City Attorney is hereby directed to prepare the necessary documents for City Council approval.

Respectfully submitted,
Development, Planning and Zoning
Committee

/us/ Susan J. Rose
Chairman
/s/ Norman Leader

Vice-Chairman
/s/ Diane Gutenkauf

- i. ZO-21-2008 – AN ORDINANCE GRANTING A CONDITION USE PERMIT FOR A PYLON SIGN ON THE PROPERTY COMMONLY KNOWN AS 217 EAST BUTTERFIELD ROAD (BP OIL)

Ordinance ZO-21-2008 was presented for passage.

- j. ZO-22-2008 – AN ORDINANCE GRANTING A SIDE YARD VARIATION ON THE PROPERTY COMMONLY KNOWN AS 277 SOUTH BERKLEY AVENUE (WITZEL)

Ordinance ZO-22-2008 was presented for passage.

Alderman Rose pulled item **5h. Report – Case Number 08 P-12/Cricket Communications Conditional Use.**

Alderman Rose moved to accept the contents of the Consent Agenda less item **5h. Report – Case Number 08 P-12/Cricket Communications Conditional Use.** Alderman Hipskind seconded. Voice vote unanimous, motion carried. Alderman Gow moved to approve the contents of the Consent Agenda less item **5h. Report – Case Number 08 P-12/Cricket Communications Conditional Use.** Alderman Mulliner seconded. Roll call vote:

Ayes: Gow, Mulliner, Regan, Gutenkauf, Leader, Shea, Bram, Rose, Hipskind, Moriarty, Nybo, Szczepaniak, Morley, Lomnicki

Nays: None

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

Alderman Rose complimented her fellow committeemen for their work with item **5h. Report – Case Number 08 P-12/Cricket Communications Conditional Use.** She stated that she felt there was more to discuss on this issue before bringing the committee report before the full Council. Alderman Rose stated as Chairman of the DP&Z Committee, she pulled item **5h. Report – Case Number 08 P-12/Cricket Communications Conditional Use** from the Consent Agenda to request it go back to committee for further discussion. Alderman Leader seconded.

COMMITTEE REPORTS

6. a. REPORT – 2008 TAX LEVY The following report of the Finance, Council Affairs and Administrative Services Committee was presented for passage:

November 25, 2008

To: Mayor Marcucci and Members of the City Council
Re: 2008 Tax Levy

The Finance, Council Affairs and Administrative Services Committee met twice, most recently November 24, 2008, to review the 2008 tax levy.

The proposed City of Elmhurst 2008 tax levy of \$6,140,446 represents a 4.5% increase compared to the 2007 tax levy (see attached schedule). The Elmhurst Public Library proposed 2008 tax levy of \$6,350,000 has been submitted by the Library Board of Trustees, and represents a 4.0% increase over the prior year levy. Inasmuch as the Library levy requested is estimated to be within the .400 tax rate limit authorized by the March 1986 Library referendum, the City Council is obligated to approve the Library levy as submitted by the Library Board.

A five-year history of the City of Elmhurst tax levy (excluding Library) is as follows:

	<u>Tax Levy</u>	<u>Increase/ Prior Year</u>	<u>Tax Rate***</u>
2003	4,951,098	4.5%	.326
2004	5,173,897	4.5%	.308
2005	5,380,852	4.0%	.296
2006	5,622,990	4.5%	.280
2007	5,876,025	4.5%	.264
2008*	6,140,446	4.5%	.252**

* Proposed.

** Based on an estimated 8.0% increase in assessed valuation.

*** Tax rate represents the tax levy divided by the EAV.

The components of the proposed tax levy change are as follows:

	<u>\$ Increase (Decrease)</u>	<u>% Increase (Decrease)</u>
General Fund:		
Fire Protection	\$ (48,545)	(2.34%)
Retirement Expense	49,250	5.00%
Ambulance	<u>14,600</u>	3.97%
Total General Fund	\$ 15,305	.45%
Firefighters Pension	\$ 90,143	8.41%
Police Pension	<u>158,973</u>	11.54%
Total Pension	\$ 249,116	10.17%
Total Increase	\$ 264,421	4.50%

The proposed 2008 tax levy reflects an increase in the General Fund portion of the tax levy. The ambulance component of the General Fund portion increased due to the provisions of the ambulance services contract that was effective September 2008. The portion of the levy allocated to fire protection represents 35.3% of the City's fire protection budget, and the portion allocated to retirement expenses represents 81.3% of the City's retirement expense budget. As the Council will recall, firefighters and police pension contributions are mandated by State legislation, and are determined by an independent actuary. The City has no input or control in the process, and the police and fire pension contributions represent \$249,116 of the \$264,421 increase or 4.2% of the 4.5% increase. The Committee believes that the proposed 4.5% increase tax levy is justified and prudent due to economic conditions that continue to negatively impact major revenue sources such as sales tax, real estate transfer tax, building permit fees and motor fuel tax. The Committee also noted the impact of current economic conditions on the City's future revenues and budget.

A 4.5% increase will result in a decrease in the City's tax rate, assuming an 8.0% assessed valuation increase. The City's property tax rate has decreased every year since 1997 (see attached Tax Levy History schedule). When fire district rates are taken into account for those municipalities that do not have fire departments, Elmhurst's 2007 city tax rate is the second lowest in DuPage County (see attached comparison of 2007 city tax rates for DuPage County). The City's portion is less than 6% of the total Elmhurst tax bill, and the City tax rate has been less than the Elmhurst Park District tax rate for the past four years. For the homeowner of a \$500,000 home, the proposed tax levy increase represents an additional \$18.

The Finance Committee also reviewed the annual debt service obligation for the City's outstanding general obligation bonds, which totals \$4,979,060. The City Council has traditionally abated the debt service obligations for general obligation bonds. Debt service obligations are funded by the General, Redevelopment, Capital Improvement, Municipal Utility and Parking System funds. The debt service for the 2002 bond issue and portions of the 2003, 2004 and 2005 bond issues will be funded by the Library tax levy. If the debt service obligation is not abated, the debt service, per bond ordinance, would be placed on Elmhurst tax bills. This would nearly double the City's tax levy. The Finance Committee recommends the abatement of the current debt service obligations for the 2008 tax levy year.

It is, therefore, the recommendation of the Finance, Council Affairs and Administrative Services Committee that the City Council approve the City of Elmhurst 2008 tax levy in the amount of \$6,140,446, with a total estimated increase of \$264,421 compared to the prior year levy. Furthermore, it is the recommendation of the Committee that the City Council approve the abatement of the current debt service obligation for the City's general obligation bonds.

Respectfully submitted,
Finance, Council Affairs and
Administrative Services Committee

/s/ George Szczepaniak

Chairman

/s/ Stephen Hipskind

Vice-Chairman

/us/ Moira Moriarty

/s/ Steven Morley

Alderman Szczepaniak moved to approve item **6a. Report – 2008 Tax Levy**. Alderman Hipskind seconded.

Alderman Szczepaniak reviewed item **6a. Report – 2008 Tax Levy** stating the original recommendation from staff was an increase in 4.95% and after much discussion at the committee level the recommendation before Council tonight is for an increase of 4.5%. A 4.5 % increase is consistent with previous years and is the equivalent of \$18 per household for a \$500,000 home. He stated that information was provided to the Finance, Council Affairs and Administrative Services Committee (F,CA&AS) that this years budget will be very difficult and there are concerns. Alderman Szczepaniak said that City Manager Borchert assured F,CA&AS Committee that as Council goes forward with the new budget the focus will be on cuts, not new revenue enhancers.

City Manager Borchert stated direction from the Mayor was to present a budget without looking for policy revenue enhancements.

Alderman Szczepaniak explained that the 2008 Tax Levy funds the Police & Fire Pension funds, which are controlled by the State of Illinois. 4.2% (\$249,000) of the proposed increase is directly related to the Pension funds the remaining .3% (\$16,000) will go to the General Fund. Alderman Szczepaniak stated that the F,CA&AS Committee recognizes that this is a tough time and this was a tough decision but this money has to come from somewhere as pension contributions are mandated by the State.

Alderman Leader related stories of several persons in the Second Ward who have reached out to him regarding their financial sufferings during today's economy worldwide. He stated he hopes and believes that past mistakes will not be repeated but the United States is experiencing the largest recession since the *Great Depression* and this is not a time to increase property taxes. He stated he understands that the amount is equivalent to \$18/household for the City portion however the School Board and Park District have both recently announced higher percentage raises for their portion of the property tax and all residents see is a huge lump sum raise. He acknowledged that Elmhurst currently has the 2nd lowest property tax rates in DuPage County and residents receive great service. Alderman Leader stated he knows that the Police & Fire Pension funds need to be funded and he challenged the Council to find the money somewhere else. He stated that he will not vote for a tax levy increase of any amount, even 1¢.

Alderman Rose echoed her concerns about raising property taxes during these economic times. She stated she knows it is not a large amount but is concerned by the cumulative amount stating this is not a good time to take more from home owners. She suggested the alternative of increasing “sin taxes,” luxury items such as liquor. She stated that the mandated money required to fund the Police & Fire pensions can be found during the budget process. She stated she does not support a tax levy increase.

Alderman Nybo thanked the F,CA&AS Committee for indulging him at their last meeting where a good argument was had discussing alternatives to revenue enhancers. He stated he agrees with Aldermen Leader and Rose that this is a difficult decision but alternatives can be found without increasing revenues. He stated the F,CA&AS Committee has done fantastic work with this issue but he cannot support an increase in the tax levy at this time.

Alderman Moriarty stated she does not support a tax levy increase, stating it is only \$264,000 and can be found elsewhere.

Alderman Morley thanked Alderman Szczepaniak, stating he has the toughest chairmanship in today’s economy. Alderman Morley stated he reluctantly signed item **6a. Report – 2008 Tax Levy** because 94% of the money is budgeted for an uncontrollable cost to the City. The Police & Fire Pension funds can be funded with two options 1) An increase in the tax levy or 2) The Committee of the Whole collectively working together to find this money in the budget, which will mean service cuts. It is not an option not to pay into the pension funds. Alderman Morley stated he would support the will of the Council.

Alderman Bram stated Council just approved a ½% increase in the home rule sales tax which he deemed above and beyond. He stated why can’t the pension funding come out of those dollars?

City Manager Borchert thanked Council for their comments and stated staff will move forward full speed ahead no matter what Council decides this evening. The City Manager stated staff is working on an operating budget without new policy revenue enhancements. The new budget must reflect reasonable revenue as approved. The City Manager reviewed anticipated decreased revenue flows of approximately \$700,000 over the next two (2) years: Motor Fuel Tax down \$200,000, Real Estate Transfer Tax down \$100,000, Income tax down \$108,000 and proposed Senate Bill 2083 which if approved will allow Governor Blagojevich to remove an additional \$320,000 in funds currently earmarked for the City of Elmhurst. He stated budget cuts will be difficult with a 4.5% tax levy increase and significantly more difficult without one. The City Manager stated there will be service cuts.

Alderman Gow stated there was a lot of financial information in front of the F,CA&AS Committee when they made the determination to recommend a 4.5% increase. He stated this is a relatively modest impact and supports the recommendation of the committee.

Alderman Hipskind thanked Alderman Gow for his comments stating this is not an ideal situation, the pension dollars garnered by the tax levy are mandated by the state and cannot be ignored. To not approve the tax levy increase today puts Council in the position to find \$500,000 next year. The proposed increase is equivalent to \$1.50/month. He stated this is a consistent increase, putting it off puts the City in jeopardy.

Alderman Lomnicki asked when projects that go out for bid come in under the budgeted price, as many have done this year, where does the excess of budgeted money go?

City Manager Borchert stated when money is budgeted and not spent that creates a gap between the budget and the fence of spending. The Finance Department is tracking the YTD 3% Savings Goal and has identified 3% savings from authorized spending, this includes dollars that were originally budgeted and not spent and budgetary cuts.

Discussion ensued regarding the proposed tax levy increase, budget cuts, 3% fence of spending and the mandated Police & Fire Pension funds.

Alderman Hipskind stated he understood his constituent's reluctance in increasing the tax levy during these economic and political times however the expense of the pension funds will still be here. He stated the levy is a complicated part of the City as a taxing body but 4.5% is a consistent increase over the last eight (8) years. The only community in DuPage County with a lower tax levy than Elmhurst is Oak Brook. Alderman Hipskind stated he is committed to cutting next year's budget but it is not good to take away from a consistent budget item.

Discussion ensued regarding the need for Council to pass the committee report either as it stands or amended to recommend a different percentage of increase.

Alderman Hipskind moved to suspend the rules to amend item **6a. Report – 2008 Tax Levy**. Alderman Moriarty seconded. Voice vote, unanimous. Motion carried.

Alderman Rose moved to amend item **6a. Report – 2008 Tax Levy** to recommend a 0% increase, approving the tax levy at \$5,876,025 and approving the abatement of the current debt service obligation for the City's general obligation bonds. Alderman Moriarty seconded.

Discussion ensued on the implications of voting to amend item **6a. Report – 2008 Tax Levy**.

City Attorney Kubiesa explained that as in the case when there is a majority and minority report, if the minority report is approved to replace the majority report the majority report is not voted on. In this case if the amendment is approved the original report recommending a 4.5% tax levy increase, will not be voted on by Council.

Discussion continued as to what a "no" vote meant in terms of item **6a. Report – 2008 Tax Levy**.

Alderman Hipskind moved to call the question. Alderman Moriarty seconded. Voice vote, unanimous. Motion carried.

Roll call vote to amend item **6a. Report – 2008 Tax Levy** to recommend a 0% increase, approving the tax levy at \$5,876,025 and approving the abatement of the current debt service obligation for the City's general obligation bonds:

Ayes: Rose, Moriarty, Gutenkauf, Leader, Shea, Bram, Nybo, Lomnicki

Nays: Regan, Gow, Hipskind, Szczepaniak, Morley, Mulliner

Results: 8 ayes, 6 nays, 0 absent
Motion carried

REPORTS AND RECOMENDATIONS OF APPOINTED AND ELECTED OFFICIALS

7. a. UPDATES (Mayor Marcucci)

Mayor Marcucci stated that this weekend the Immaculate Conception High School football team won the IHSA state championship in their division. He stated this was a Cinderella story as the I.C. team was the first team in state history to win the championship with four (4) losses during the season.

He stated that he has invited the team to come to a Council meeting for recognition and congratulations, the team will be present at the meeting on Monday, December 15, 2008.

ORDINANCES

8. a. O-34-2008 – AN ORDINANCE VACATING A PORTION OF SOUTH STREET

Ordinance O-34-2008 was presented for passage.

Alderman Gow moved to approve item **8a. O-34-2008 – An Ordinance Vacating a Portion of South Street**. Alderman Mulliner seconded.

Alderman Gow stated item **8a. O-34-2008 – An Ordinance Vacating a Portion of South Street** was discussed at great length when it came before Council as a committee report. He briefly reviewed the ordinance stating this is for a vacation of right-of-way at South St. and Arlington Avenue for \$20,000. He stated that the property owner has 180 days to accept the offer.

Alderman Morley referred to a memo Council received from Assistant City Attorney Spiroff regarding the need for a *Super Majority* vote which referenced the Corporate Authority. He asked if the Mayor is included in the Corporate Authority.

City Attorney Kubiesa replied yes, the Mayor is included in the Corporate Authority. This item needs 12 voted to pass.

Mayor Marcucci clarified that if the item only receives eleven (11) votes, he may cast a vote. The Corporate Authority is the fourteen (14) Aldermen and the Mayor, $\frac{3}{4}$ majority is 11.25 which rounds up to 12 votes.

Alderman Morley stated the owner of the property has stated that they do not wish to purchase the property for \$20,000. He stated he will not support the ordinance knowing the homeowner will not pay for the vacation.

Mayor Marcucci stated voting for the ordinance is voting for the property owner to have the choice.

Alderman Gow asked for clarification on the memo from Assistant City Attorney Spiroff, stating the memo discusses the Oneida vacation ordinance and asked if *Super Majority* applies for the South Street vacation as well.

City Attorney Kubiesa stated yes.

Roll call vote on item **8a. O-34-2008 – An Ordinance Vacating a Portion of South Street**:

Ayes: Gow, Mulliner, Regan, Gutenkauf, Leader, Shea, Bram, Rose, Hipskind, Moriarty, Nybo, Szczepaniak, Lomnicki

Nays: Morley

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

b. O-35-2008 – AN ORDINANCE VACATING A PORTION OF THE PUBLIC ALLEY LOCATED BETWEEN 166 AND 172 EAST ONEIDA AVENUE

Ordinance O-35-2008 was presented for passage.

Alderman Mulliner moved to approve item **8b. O-35-2008 – An Ordinance Vacating a Portion of the Public Alley Located Between 166 and 172 East Oneida Avenue**. Alderman Gow seconded.

Alderman Mulliner stated this item has been fully vetted.

Alderman Morley stated that on the dais tonight was an email communication between Alderman Shea and the Carr family at 166 E. Oneida which appears to present contradictory information from what was given to Council previously.

Alderman Shea stated she wanted to research the vacation request and spoke with the Carr family. Mrs. Carr stated she felt misled as she thought that the MacAdoo's were paying a fair price for the property, not being gifted the property by the City. If the City is giving the property away Mrs. Carr stated that she would like her half. Per Alderman Shea's request, Mrs. Carr sent an email to Alderman Shea detailing her thoughts on the vacation of the property in question.

Alderman Moriarty asked if in light of this information, will the Carr family receive 50% of the property?

City Attorney Kubiesa stated no, this letter has no affect on the ordinance before Council tonight.

Alderman Moriarty asked Alderman Shea in her opinion if there was a charge for the property would the Carr family still be interested in acquiring half of the property.

Alderman Shea stated if the property is gifted the Carr's want their share but they are not interested in purchasing the property.

Alderman Gow moved to suspend the rules to amend item **8b. O-35-2008 – An Ordinance Vacating a Portion of the Public Alley Located Between 166 and 172 East Oneida Avenue** by adding subsection 2c. calling for the payment of \$5,000 for the value of the vacated right-of-way. Alderman Nybo seconded.

Alderman Gow gave a baseball analogy stating he has made this motion as it is clear that this vacation will not happen without a dollar amount attached to it. He asked Council to take into account that this discussion is in regards to a vacation of property the neighbor initially approved. He asked Council to consider the history of the property. He assigned a \$5,000 value on the property to resolve the problem and give the homeowners what they need and want.

Alderman Nybo asked to add a time provision of 180 days to the motion for an amendment of the ordinance as was stipulated in the previous ordinance in regards to South St.

Alderman Gow moved to add a time provision of 180 days to the motion for amendment that is currently before the Council. Alderman Nybo seconded.

Discussion ensued regarding allegations made in the email from the Carr family to Alderman Shea.

Mayor Marcucci stated this vacation request is for an alley that has only ever served as a driveway to a garage for one (1) home. The new builder removed the former driveway and garage at which point it was discovered that there was no vacation of City rights-of-way in the alley. Now the homeowner wants to do the right thing.

Alderman Gutenkauf stated she appreciates Alderman Gow's amendment but stated Council needs to consider what is a fair price. She stated you cannot pull a number from thin air, an appraisal needs to be done on the property. She stated the builder was in the wrong and she feels sorry for the MacAdoo family but she cannot support this ordinance or the amendment as recommended by Alderman Gow without assigning the proper dollar amount to this property.

Discussion ensued regarding the Carr family's swaying interest in the property, obtaining an assessment of the property, rights to the property and the desire to hear from the property owners.

Alderman Morley moved to suspend the rules to allow the homeowner of 172 E. Oneida to speak. Alderman Hipskind seconded.

Alderman Szczepaniak called for a point of order stating he objected to the use of the term homeowner as the MacAdoo's are not yet owners of the home, it is contract pending.

Mayor Marcucci stated that is not a point of order it is a matter of opinion.

Alderman Nybo stated it is unreasonable to ask the MacAdoos' to speak again. He stated the MacAdoos' played by the rules, it is too late for the Carr family to change their mind and would set a dangerous precedent. Alderman Nybo stated this issue was debated for over two hours at the last Council meeting, Council has more than enough information to vote. Somewhere under \$10,000 is a fair price for the property, \$5,000 is more than fair.

Discussion ensued on the value of hearing both sides of the story and allowing Mrs. MacAdoo to speak.

Roll call vote to suspend the rules and allow the homeowner of 172 E. Oneida to speak:

Ayes: Morley, Hipskind, Regan, Gutenkauf, Leader, Shea, Bram, Rose, Gow, Moriarty, Szczepaniak, Lomnicki, Mulliner

Nays: Nybo

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

Mrs. Nikia MacAdoo of 3 Elm Creek Drive #416, contract pending owner of 172 E. Oneida spoke to Council. She stated that she and her husband have been property owners and residents of Elmhurst for six (6) years and have a vested interest in the community. She stated in no way did she feel that the Carr family was misled by herself or her family. She stated that it was made clear to Mrs. Carr that the intention of the MacAdoos' is to have the property behind the Carr's fence vacated to build a driveway to their garage area and landscape the remaining property.

Alderman Szczepaniak stated this item should go back to committee and not be rushed. Fairness needs to be extended to all the taxpayers involved in this scenario.

Discussion ensued as to the validity of the statement that the Carr family was misled by the MacAdoo family about their intentions.

Alderman Morley stated for the record the letter from the Carr family does not use the phrase misled nor states that the Carr's think they were misled by the MacAdoo family.

Alderman Regan asked for clarification from the MacAdoos' on the dimensions listed in their letter to Public Works Director Hughes regarding the property they wish to have vacated.

Mrs. MacAdoo explained that early on in the process she thought that the driveway portion was not part of the request and that they only needed to request a vacation of the portion of property they wished to landscape beyond the concrete driveway.

Alderman Regan stated he is against charging one homeowner for a vacation that a homeowner on Madison Street will benefit from for free. He stated in the spirit of compromise he will vote for the amendment charging the homeowner's \$5,000 for the vacation even though the property in question has no functional value to the City.

Alderman Mulliner stated he was in agreement with Alderman Regan.

Alderman Moriarty stated all land has some value. She stated that the issue of greater concern is that the prospective homeowner was misled because there is currently no clear direction from the City when it pertains to vacations. A clear policy needs to be put in place so that this does not happen again.

Alderman Rose stated in absence of a policy, Council needs to move forward on this item and compromise at \$5,000 and put this property on the tax rolls.

Discussion ensued regarding the work that has been put into creating a policy for vacations over the last several years in the Public Works and Buildings Committee, the need to take into account the history and city involvement when looking at vacations as well as the need to have a clear policy, not just a procedure in place.

Roll call vote to suspend the rules to amend item **8b. O-35-2008 – An Ordinance Vacating a Portion of the Public Alley Located Between 166 and 172 East Oneida Avenue** by adding subsection 2c. calling for the payment of \$5,000 for the value of the vacated right-of-way and add a time provision of 180 days:

Ayes: Gow, Nybo, Regan, Leader, Rose, Hipskind, Moriarty, Morley, Lomnicki, Mulliner

Nays: Gutenkauf, Shea, Bram, Szczepaniak

Results: 10 ayes, 4 nays, 0 absent
Motion failed

City Attorney Kubiesa explained that in order to suspend the rules $\frac{3}{4}$ of the Aldermen present (11) need to vote aye. In this instance that Mayor may not cast a vote.

Mayor Marcucci stated the original motion is back before Council.

Alderman Gutenkauf moved to suspend the rules to amend item **8b. O-35-2008 – An Ordinance Vacating a Portion of the Public Alley Located Between 166 and 172 East Oneida Avenue** by adding subsection 2c. calling for the payment of \$10,000 for the value of the vacated right-of-way and add a time provision of 180 days. Alderman Shea seconded.

Alderman Nybo stated for the record he suggested a charge of \$10,000 for the vacated property over three (3) hours ago and at the last meeting. He stated that the easement should drive the price down even more.

Discussion ensued on how Alderman Gutenkauf came up with \$10,000, the difference in property values on Oneida and South St. and the need for Council to provide direction to the MacAdoo family.

Alderman Mulliner stated he could support \$5,000 but asking \$10,000 is outrageous.

Alderman Gutenkauf withdrew her motion. Alderman Shea seconded.

Roll call vote to approve item **8b. O-35-2008 – An Ordinance Vacating a Portion of the Public Alley Located Between 166 and 172 East Oneida Avenue:**

Ayes: Mulliner, Gow, Regan, Leader, Rose, Hipskind

Nays: Gutenkauf, Shea, Bram, Moriarty, Nybo, Szczepaniak, Morley, Lomnicki

Results: 6 ayes, 8 nays, 0 absent
Motion failed

Alderman Nybo motioned to reconsider item **8b. O-35-2008 – An Ordinance Vacating a Portion of the Public Alley Located Between 166 and 172 East Oneida Avenue.** Alderman Moriarty seconded.

Alderman Nybo stated Council needs to remember that these are real people. He stated if the motion to reconsider passes he will make a motion to amend the ordinance to include a vacation price of \$10,000.

Alderman Morley called for a point of order, was a second made on the motion to reconsider.

Mayor Marcucci replied yes, Alderman Moriarty has seconded the motion.

Roll call vote to reconsider item **8b. O-35-2008 – An Ordinance Vacating a Portion of the Public Alley Located Between 166 and 172 East Oneida Avenue:**

Ayes: Nybo, Moriarty, Regan, Gutenkauf, Leader, Shea, Bram, Rose, Szczepaniak, Morley, Lomnicki

Nays: Gow, Hipkind, Mulliner

Results: 11 ayes, 3 nays, 0 absent
Motion duly carried

Alderman Nybo moved to suspend the rules to amend item **8b. O-35-2008 – An Ordinance Vacating a Portion of the Public Alley Located Between 166 and 172 East Oneida Avenue** by adding subsection 2c. calling for the payment of \$10,000 for the value of the vacated right-of-way and add a time provision of 180 days. Alderman Moriarty seconded.

Alderman Morley stated though he does not agree on the price, in the spirit of compromise he will support this motion as in the absence of a policy it leaves the decision in the hands of the homeowner and gives them a choice.

Alderman Rose stated the amount is capricious at best but will consider the motion.

Roll call vote to suspend the rules to amend item **8b. O-35-2008 – An Ordinance Vacating a Portion of the Public Alley Located Between 166 and 172 East Oneida Avenue** by adding subsection 2c. calling for the payment of \$10,000 for the value of the vacated right-of-way and add a time provision of 180 days:

Ayes: Nybo, Moriarty, Regan, Gutenkauf, Leader, Shea, Bram, Rose, Gow, Hipkind, Szczepaniak, Morley, Lomnicki

Nays: Mulliner

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

Roll call vote to approve item **8b. O-35-2008 – An Ordinance Vacating a Portion of the Public Alley Located Between 166 and 172 East Oneida Avenue** as amended:

Ayes: Gow, Regan, Gutenkauf, Leader, Shea, Bram, Rose, Hipkind, Moriarty, Nybo, Szczepaniak, Morley, Lomnicki

Nays: Mulliner

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

OTHER BUSINESS

9. Alderman Gutenkauf asked for some follow-up on the concerns stated by the North Graue Woods residents during the Public Forum portion of tonight's meeting.

Mayor Marcucci explained that the property in question is zoned CR but is also privately owned, which is unusual to the extreme. He stated he cannot give an official policy answer to a rumor. The

Mayor stated if and when the City is approached for permission to change the property in question to a parking lot the request will go through the proper procedural process which includes Public Hearings, etc.

Discussion ensued regarding how this property came to be zoned CR and the history of the development.

Alderman Shea stated that her concern is that the neighbors claim the developer promised that the trees would not be cut down. She asked if there was a way to check the validity of that.

Mayor Marcucci stated he was at that meeting and does not recall any discussion on the trees, and the meeting was not taped so it cannot be reviewed.

ANNOUNCEMENTS

10. None.

ADJOURNMENT

11. Alderman Morley moved to adjourn the meeting. Aldermen Moriarty seconded. Voice Vote. Motion carried. Meeting adjourned 11:12 p.m.

Thomas D. Marcucci, Mayor

Erin K. Van De Walle, Deputy City Clerk