

**MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF ELMHURST, ILLINOIS
HELD ON TUESDAY, JANUARY 20, 2009
209 NORTH YORK STREET
ELMHURST, ILLINOIS**

CALL TO ORDER/ PLEDGE OF ALLEGIANCE/ROLL CALL

Attendance: 13

1. The Regular Meeting of the Elmhurst City Council was called to order by Mayor Marcucci at 7:33 p.m.

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

Absent: Michael J. Regan (arrived at 7:35 p.m.), John Gow, Mark A. Mulliner

Also in Attendance: Assistant City Attorney Spiroff, City Manager Borchert, PZED Director Said, Economic Development Manager Corner

RECEIPT OF WRITTEN COMMUNICATIONS AND PETITIONS FROM THE PUBLIC

2. Ms. Mimi Black submitted a handout entitled, "How to Solve the Rapidly Growing Problem of Feral Cats in Elmhurst, Illinois." The handout discusses the TNR (Trap/Neuter/Return) program as a solution to the growing problem of feral cats.

PUBLIC FORUM

3. Jeff Houston
857 Linden Ave.
Elmhurst, IL 60126

Spoke regarding the robberies in the 6th Ward at SBT and Harris banks and Domino's Pizza and the slow response time of the Police Department.

Mimi Black
275 E. Cayuga Ave.
Elmhurst, IL 60126

Spoke regarding the growing problem of feral cats. She would like the TNR program referred to the Public Affairs and Safety Committee. She stated TNR is a solution to this growing problem. The only cost to the City is that of the attorney's fees to put the TNR program into action.

Bill Trudeau
558 Fairview
Elmhurst, IL 60126

Spoke regarding un-enforced ordinances in regards to dump trucks, eight (8) or more cars in a driveway, cars parked on lawns, port-o-lets on property for over a year, real estate signage and tow zones.

CONSENT AGENDA

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

- a. MINUTES OF REGULAR MEETING HELD ON MONDAY, JANUARY 5, 2009 (City Clerk Spencer): Approve as published
- b. ACCOUNTS PAYABLE – JANUARY 20, 2008 TOTAL \$ 1,707,375.59
- c. YORK & VALLETTE BUSINESS ASSOCIATION FARMER'S MARKET 2009 (City Manager Borchert): Refer to the Public Affairs and Safety Committee

January 15, 2009

To: Mayor Marcucci and Members of the City Council
Re: York & Vallette Business Association Farmers Market - 2009

It is respectfully requested that the attached correspondence from the York/Vallette Business Association for a Farmers Market (every Wednesday) starting June 3rd through October 14th, 2009 be referred to the Public Affairs and Safety Committee for their review and recommendation.

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

- d. REQUEST FOR TRAFFIC ISSUES AND EVALUATIONS SURROUNDING NORTH AVENUE – ALDERMAN BRAM (City Manager Borchert): Refer to the Public Affairs and Safety Committee

January 15, 2009

To: Mayor Marcucci and Members of the City Council
Re: Request for Traffic Issues and Evaluations Surrounding North Avenue – 3rd Ward Alderman Michael Bram

It is respectfully requested that the attached memorandum from Alderman Michael Bram regarding evaluating traffic issues off of North Avenue be referred to the Public Affairs and Safety Committee for their evaluation and recommendation back to the City Council.

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

- e. REPORT – BERKLEY & ADAMS SANITARY LIFT STATION GRINDER REPLACEMENT
The following report of the Public Works and Buildings Committee was presented:

January 12, 2009

To: Mayor Marcucci and Members of the City Council
Re: Berkley & Adams Sanitary Lift Station Grinder Replacement

The Public Works and Buildings Committee met on January 12, 2009 to discuss bids for the replacement of the Berkley & Adams Sanitary Lift Station grinder. The existing grinder (comminuter) has been in operation since its installation in 1964. It has had two major overhauls but is now obsolete and must be replaced.

This project will replace the existing comminuter style grinder with a channel grinder. The lift station grinder reduces the size of influent debris to reduce the chances of pump plugging and debris build up in the station wet well. The channel grinder design has easily removable cutter blades and is a fully submersible design that will operate during high flow conditions.

Bids were opened on December 9, 2008. The lowest qualified bid was higher than the amount budgeted. (Bid \$99,840 vs. budget \$83,000). The difference is \$16,840. Staff have reviewed the bids and found that two factors contributed to the higher than expected bid. The first is materials costs have increased and labor has increased.

Bids were opened on the same day for another project in the Municipal Utility Fund that was \$35,000 under budget. Staff are asking that funds be transferred to cover the difference and allow this project to proceed.

Bids were opened on December 9, 2008 and proposals were received from six contractors. The bids were;

<u>Contractor</u>	<u>Total Price (incl. option 1)</u>
Maxim Construction Volo, Illinois	\$99,840

JJ Henderson Gurnee, Illinois	\$99,900
Mosele & Associates Ingleside, Illinois	\$112,000
Bowen Engineering Corp. Fishers, Indiana	\$116,000
Bullseye Construction Kewaskum, WI	\$148,000

Staff has checked the references provided by Maxim Construction Corp. and all report acceptable work.

It is the recommendation of the Public Works and Buildings Committee that the low bid from Maxim Construction Corp. of Volo Illinois for \$99,840 is accepted.

Funds for this project are budgeted in the capitol expenditures budget, 510-6057-502.80-20.

Respectfully submitted,
Public Works and Building Committee

/s/ John E. Gow
Chairman

/s/ Michael Regan
Vice-Chairman

/s/ Donna Lomnicki

/s/ Pat Shea

- f. REPORT – WWTP AERATOR DIFFUSER REPLACEMENT PROJECT The following report of the Public Works and Buildings Committee was presented:

January 12, 2009

To: Mayor Marcucci and Members of the City Council
Re: WWTP Aerator Diffuser Replacement Project

The Public Works and Buildings Committee met on January 12, 2009 to discuss bids for the replacement of the wastewater treatment plant aeration tank diffusers. The current diffusers were installed in 1996-98 and have reached their operational limits and are less efficient than needed.

This project will replace the existing membrane diffusers with a ceramic style that has a proven operational efficiency in many wastewater applications. The ceramic disc retains the consistent small pore size that will provide an efficient fine bubble to the aeration tank. The fine bubble has the greater oxygen transfer efficiency and will save on electrical costs at the plant. Included with the project is a gas cleaning system that will allow staff to acid wash the ceramic while keeping the tank in service which will help limit fouling of the disc and thereby maintain the higher efficiency of the ceramic.

Staff have applied for and received approval for this project under the 'Public Sector Electric Efficiency Incentive' offered from the Illinois Department of Commerce and Economic Opportunity. The qualified grant is \$122,640 which will be reimbursed to the City after the project is completed. The amount is the expected annual savings in electrical costs to operate the aeration process.

Bids were opened on December 9, 2008 and proposals were received from six contractors. The bids were;

<u>Contractor</u>	<u>Total Price (incl. option 1)</u>
Bowen Engineering Corp. Fishers, Indiana	\$664,800
Kovilic Construction Franklin Park, Illinois	\$806,000

Dahme Mechanical Arlington Heights, Illinois	\$875,870
JJ Henderson Gurnee, Illinois	\$881,000
Mechanical, Inc. Mundelein, Illinois	\$898,750
Morrison Construction Hammond, Indiana	\$941,000

Staff has checked the references provided by Bowen Engineering and all report acceptable work. The City has used Bowen several times for smaller projects and found their work acceptable as well.

It is the recommendation of the Public Works and Buildings Committee that the low bid from Bowen Engineering Corporation of Crown Point Indiana including the optional gas cleaning system for \$664,800 is accepted.

Funds for this project are budgeted in the capitol expenditures budget, 510-6057-502.80-20. The 2008/2009 projected budget for this project is \$700,000.

Respectfully submitted,
Public Works and Building Committee
/s/ John E. Gow
Chairman
/s/ Michael Regan
Vice-Chairman
/s/ Donna Lomnicki
/s/ Pat Shea

- g. REPORT – SANITARY SEWER PRIVATE PROPERTY PROTECTION PROGRAM The following report of the Public Works and Buildings Committee was presented:

January 12, 2009

To: Mayor Marcucci and Members of the City Council
Re: Sanitary Sewer Private Property Protection Program

The Public Works and Buildings Committee met on November 24, 2008 to discuss modifications to the Sanitary Sewer Private Property Protection Program. The program is intended to assist homeowners who wish to modify their home to reduce the chances of sanitary sewer backups due to surcharged conditions in the city collection system.

Sewer backups occur when the collection system is overstressed due to heavy rain, overland flooding, or sewer blockages. Sewer backups are considered a violation of the Clean Water Act, are a health hazard, and can reduce property values in the community. For those reasons the city implemented a program that will reimburse property owners provided they install a system that has the greatest chance of successfully eliminating a backup.

The committee discussed several options for modifications including allowing alternatives to a 'true' overhead sewer such as valves or flood gates, identifying a single contractor who would provide property owners with the lowest cost for the installation, and increasing the city reimbursable participation for each project. After much discussion the committee agreed to not modify any aspect of the program except the reimbursable amount a property owner is eligible for after the completion of the project. The current amount is 50% of the project cost to a maximum of \$3000. This is the same amount that has been allowed since the program began in 1997. The average cost of a typical project has increased to over \$8000. In response to that increase the committee decided to increase the reimbursable amount to 50% of the project not to exceed \$5000. Also the committee agreed that the budget amount for the program should remain at \$15,000 since the total budgeted amount has never been completely spent reimbursing residents.

It is the recommendation of the Public Works and Buildings Committee that the Sanitary Sewer Private Property Protection Program reimbursable amount be increased to 50% of the total project costs not to exceed \$5000.

Funds for this program are budgeted in the capitol expenditures budget, 510-6056-502.30.89.

Respectfully submitted,
Public Works and Building Committee

/s/ John E. Gow
Chairman

/s/ Michael Regan
Vice-Chairman

/s/ Donna Lomnicki

/s/ Pat Shea

- h. REPORT –PROSPECT AVENUE ANNEXATION AND SSA (PROPOSED SEWER AND WATER IMPROVEMENTS) The following report of the Development, Planning and Zoning Committee was presented:

January 13, 2009

TO: Mayor Marcucci and Members of the City Council

RE: Prospect Avenue Annexation and SSA (Proposed Sewer and Water Improvements)

The Development, Planning and Zoning Committee met several times to review this issue, most recently on January 12, 2009. To prepare for this discussion, the Committee reviewed a background memorandum dated January 6, 2009 from Assistant City Attorney Spiroff, and a letter dated October 17, 2008 from City Manager Borchert to the owners of the one lot on Prospect Avenue who have not agreed to voluntarily annex.

Mr. Spiroff explained to the Committee that the area along Prospect Avenue between Butterfield and Brush Hill Roads contains 17 individual properties, all but one of which is improved with a single-family home, the remaining lot being vacant. Fourteen of the seventeen property owners were annexed in May, 2008 pursuant to an annexation agreement with the City.

Upon inquiry of, or contact with, these 3 remaining properties, the City Attorney learned that one property owner has agreed to voluntarily annex (OS 740 Prospect), one property's ownership is currently in flux due to deaths of the owner and the only immediate heir (OS 741 Prospect), making contact with an owner impossible because the heirs, if any, are unknown and one property, the owners of which, have thus far declined to voluntarily annex (OS 730 Prospect). The attached map illustrates the location of these properties.

In order to properly fund and install water and sewer services to the homes in this area, an SSA (special service area) would need to be established. Due to the location of one piece of property whose owners decline to be annexed (in the middle of the block), its inclusion would best allow the SSA to be implemented and lines installed. Annexation of the three currently unincorporated lots can only proceed if the owners agree, or if the City pursues forcible annexation of those lot(s) whose owners have not agreed to voluntarily annex. Through the efforts of the City Manager and the Attorney's office, every attempt has been made to encourage the one declining property owner to agree to annexation but to no avail.

While the Committee did not wish to seek forcible annexation of the two remaining lots, it ultimately determined that it was necessary and appropriate to do so in order to serve the interests of the larger group of Prospect Avenue homeowners who have already annexed and who wish to proceed with the SSA. The Committee directed the City Manager and City Attorney to provide a last opportunity for the one declining property owner to be made aware of the deadlines and consequences related to the annexation and SSA process. It is hoped that one last effort will encourage them to agree to annexation.

Therefore it is the recommendation of the Development, Planning and Zoning Committee that the property at OS 740 Prospect be voluntarily annexed through an amendment to the existing annexation agreement, and that the same procedure be used to annex the property at OS 730 Prospect, if the owners agree, and if not, that such property, along with the one located at OS 741 Prospect, be forcibly annexed.

Respectfully submitted,
Development, Planning and Zoning
Committee

/s/ Susan J. Rose

Chairman

/s/ Norman Leader

Vice-Chairman

/s/ Diane Gutenkauf

i. R-03-2009 – A RESOLUTION APPROVING AN IDENTITY THEFT PROGRAM AND PREVENTION POLICY

Resolution R-03-2009 was presented for passage.

Alderman Gutenkauf pulled item **4h. Report –Prospect Avenue Annexation and SSA (Proposed Sewer and Water Improvements)**.

Alderman Gutenkauf moved to accept the contents of the Consent Agenda less item **4h. Report –Prospect Avenue Annexation and SSA (Proposed Sewer and Water Improvements)**. Alderman Hipskind seconded. Voice vote unanimous, motion carried. Alderman Morley moved to approve the contents of the Consent Agenda less item **4h. Report –Prospect Avenue Annexation and SSA (Proposed Sewer and Water Improvements)**. Alderman Bram seconded. Roll call vote:

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

Nays: None

Results: 12 ayes, 0 nays, 2 absent
Motion duly carried

Alderman Rose moved to approve item **4h. Report –Prospect Avenue Annexation and SSA (Proposed Sewer and Water Improvements)**. Alderman Leader seconded.

Alderman Gutenkauf stated she pulled item **4h. Report –Prospect Avenue Annexation and SSA (Proposed Sewer and Water Improvements)** to add her signature to the report and to ask Alderman Rose to explain the reason behind the forced annexation discussed in item **4h. Report –Prospect Avenue Annexation and SSA (Proposed Sewer and Water Improvements)**.

Alderman Rose reviewed item **4h. Report –Prospect Avenue Annexation and SSA (Proposed Sewer and Water Improvements)**. She explained that the property in question is an island of un-annexed land which is problematic. She stated two (2) properties are in danger of “spot zoning” which is not desirable. Alderman Rose stated the annexation of this property is best for the property owners and the City, she suggested Council move forward with the annexation.

Roll call vote on item **4h. Report –Prospect Avenue Annexation and SSA (Proposed Sewer and Water Improvements)**:

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

Nays: Morley

Results: 11 ayes, 1 nays, 2 absent
Motion duly carried

REPORTS AND RECOMENDATIONS OF APPOINTED AND ELECTED OFFICIALS

5. a. UPDATES (Mayor Marcucci)

Mayor Marcucci stated that he has been asked what affect will the court findings relative to O'Hare Airport expansion have on Elmhurst. He replied, he doesn't know how it will affect the City. He said many communities are scared and worried about what will happen next and hopes it has a major impact to benefit Bensenville.

ORDINANCES

6. a. O-01-2009 – AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH 603-635 ROGERS, LLC, YORK SECOND (SCHILLER COURT FAÇADE)

Alderman Rose moved to approve item **6a. O-01-2009 – An Ordinance Approving a Development Agreement With 603-635 Rogers, LLC, York Second (Schiller Court Façade)**. Alderman Bram seconded.

Alderman Gutenkauf stated the passageway will be an improvement and tie in the businesses. She asked for clarification of section 4, paragraph c stating the description was unclear regarding signs.

Mayor Marcucci stated the concept is to have trump loi paintings inside the windows that will look like store fronts and include a sign.

City Manager Borchert stated the sign ordinance does apply and used as side yard a frontage banner would not be included as advertising.

Roll call vote on item **6a. O-01-2009 – An Ordinance Approving a Development Agreement With 603-635 Rogers, LLC, York Second (Schiller Court Façade)**:

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

Nays: None

Results: 12 ayes, 0 nays, 2 absent
Motion duly carried

OTHER BUSINESS

7. None.

ANNOUNCEMENTS

8. City Clerk Spencer announced that the January 14, 2009 edition of the Elmhurst Independent Newspaper printed the incorrect dates for candidate filing for the April 7, 2009 Consolidated Election. Clerk Spencer stated the last day to file petitions for office is Monday, January 26, 2009 by 5:00 p.m. in the Administration Office at City Hall.

EXECUTIVE SESSION – LAND ACQUISITION

9. Executive session was called to order at 8:08 p.m. by Mayor Marcucci for the purpose of discussing Land Acquisition. Mayor Marcucci stated there will be a short break prior to the start of executive session. Executive session was reconvened at 8:15 p.m.

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

Absent: John Gow, Mark A. Mulliner

Also in attendance: Assistant City Attorney Spiroff, City Manager Borchert, PZED Director Said, Real Estate Consultant Van Slyke

Alderman Shea moved to reconvene into executive session for the purpose of discussing Land Acquisition. Alderman Gutenkauf seconded. Roll call vote:

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

Nays: None

12 yeas, 0 nays, 2 absent
Motion duly carried

Alderman Morley moved to adjourn executive session. Alderman Leader seconded. Voice vote. Motion carried. Executive session adjourned at 9:14 p.m.

ADJOURNMENT

10. Alderman Regan moved to adjourn the meeting and enter into Executive Session. Aldermen Mulliner seconded. Voice Vote. Motion carried. Meeting adjourned 8:08 p.m.

Thomas D. Marcucci, Mayor

Patty Spencer, City Clerk