

REGULAR CITY COUNCIL MEETING MINUTES

June 23, 2004 - 7:00 P.M.

Mayor Henning called the City Council meeting to order and led the pledge to the flag. Clerk Wells called roll. Aldermen present: Nolan, Marzahl, Hinterlong, Berg, Dikun, Bellon, Perkins and Hay. Also present were Treasurer Meseck, City Administrator Nelson, Building Inspector Santeler, Lt. Oparyk, Atty. Mike Cortina, Gary Rozwadowski of Smith Engineering and members of the press and audience.

AUDIENCE PARTICIPATION: NONE

CITIZEN AWARD OF APPRECIATION

Mayor Henning presented Citizen Awards of Appreciation to Cassie Johnson, Alina Lashure and Ashley Munoz for their assistance to the Police Department on February 23, 2004, in helping a 6 year old boy who was lost and had been reported missing. The young girls found the boy and located police officers who reunited the boy with his family.

CITY COUNCIL MINUTES OF 06/02/04 - APPROVED

Moved by Berg, seconded by Nolan to approve the Regular City Council Meeting Minutes of June 2, 2004. Aldermen voting aye: Nolan, Marzahl, Hinterlong, Berg, Dikun, Bellon, Perkins and Hay. All ayes. Motion carried.

PLANNING & ZONING HEARING/ANTHONY REZONING/VARIATIONS – ORD. 2004-122 APPROVED

Alderman Berg left the room for the discussion on the Anthony petition. Alderman Hay read a letter from Don Moede, Chairman of the Planning and Zoning Commission which met on June 21, 2004, in the petition of Danny and Rosetta Anthony for property located at 701 E. Diggins St. The petitioners are requesting reclassification of subject property from "O" Office District to "R-2" Single Family and Two Family Residence District. Subject property was rezoned in 1997 from "R1B" Residential to "O" Office District. Since that time, the petitioners have been unable to rent the property for office use. The petitioners are requesting "R-2" Residential because the "R1B" Zoning District no longer exists. The property will be used as a single family residence. There is an easement that addresses off street parking that was done during the previous rezoning. The petitioners are also requesting front yard and abutting street variations as follows: front yard from 25' to 18.78' and abutting street from 25' to 23.34'. Adjoining property owners Jeanette Fuerte, 702 E. Diggins St. and Jerry Brus, 401 Hayes St. inquired whether the home could be used as a two family residence. Chairman Moede noted that the subject property does not have sufficient square footage for lot size to be used as a multi-family home. The Planning and Zoning Commission unanimously recommends to the City Council that the reclassification and variations for property located at 701 E. Diggins St. be approved as requested with the stipulation that two dedicated parking spaces be installed at the petitioner's expense in the existing parking lot in Lot 2 as "resident only parking".

There was discussion on how the existing retention pond would affect people living in the home and what would happen in the event the property were sold. Administrator Nelson clarified that an easement was filed that would still be in place in the event the property was sold. Alderman Dikun noted a discussion with Chairman Moede after the meeting about the lot size which is actually two lots not one and would meet the square footage for a duplex. After discussion, Administrator Nelson suggested that the property be re-zoned to R-1 Single Family instead of R-2. Attorney Cortina indicated that the City Council could reject the Planning and Zoning Commission's recommendation and approve something different with a two-thirds majority. This would not require a new public hearing before the Planning and Zoning Commission. Attorney Papp stated that if the reclassification to R1 was the consensus, that the petitioner would amend the petition on it's face and request a reclassification to R1. Moved by Nolan, seconded by Dikun to deny the Planning and Zoning Commission's recommendations for the reclassification of the subject property from O Office to R-2 Single Family and Two Family Residence District. Roll call vote: Nolan, aye; Marzahl, aye; Hinterlong, aye; Berg, absent; Dikun, aye; Bellon, aye; Perkins, aye and Hay, aye. Motion approved seven to zero.

Moved by Hay, seconded by Dikun to reclassify the subject property from O Office District to R-1 Single Family Residence District; the front yard and abutting street variations and two dedicated parking spaces will be pursuant to the Planning and Zoning Commission's recommendation. Roll call vote: Marzahl, aye; Hinterlong, aye; Berg, absent; Dikun, aye; Bellon, aye; Perkins, aye; Hay, aye and Nolan, aye. Ordinance 2004-122 approved seven to zero. Alderman Berg returned to the meeting.

HARVARD MERCY HOSPITAL CONDITIONAL USE & VARIATIONS - ORD. 2004-123 APPROVED

Mayor Henning noted a letter signed by George Pries withdrawing his objection to the petition of Mercy Harvard Hospital because an agreement has been reached for installing a 6' wrought iron fence along the common border between Mr. Pries property and the subject property at 907 Garfield St. Mr. Pries also agrees not to file any lawsuit challenging the City's approval of the petition. Moved by Dikun, seconded by Hay to approve Ordinance 2004-123, Granting a Conditional Use Permit and Variation to Permit an Off-Premises Parking Lot at 907 Garfield St. After discussion, Alderman Dikun amended his motion, seconded by Hay for the an additional provision that language is put into the ordinance with respect to the fence provisions. Roll call vote: Hinterlong, aye; Berg, no; Dikun, aye; Bellon, aye; Perkins, aye; Hay, aye; Nolan, aye and Marzahl, aye. Ordinance 2004-123 approved seven to one.

PASQUINELLI DEVELOPMENT FINAL PLAT OF SUBDIVISION – ORD. 2004-124 APPROVED

Moved by Nolan, seconded by Bellon to approve the Pasquinelli Development Final Plat of Subdivision for Country Brook, Unit 1 and Unit 2. Roll call vote: Berg, aye; Dikun, aye; Bellon, aye; Perkins, aye; Hay, aye; Nolan, aye; Marzahl, aye and Hinterlong, aye. Ordinance 2004-124 approved eight to zero.

PAR DEVELOPMENT FINAL PLAT OF SUBDIVISION – ORD. 2004-125 APPROVED

Moved by Dikun, seconded by Perkins to approve the Par Development Final Plat of Subdivision for Harvard Commons. Roll call vote: Dikun, aye; Bellon, aye; Perkins, aye; Hay, aye; Nolan, aye; Marzahl, aye; Hinterlong, aye and Berg, aye. Ordinance 2004-125 approved eight to zero.

CLASS B LIQUOR LICENSE/LA LONCHERITA TAQUERIA & GROCERY STORE - APPROVED

Moved by Berg, seconded by Dikun to approve a Class B Liquor License to Felix Salas/La Loncherita Taqueria and Grocery Store. Roll call vote: Bellon, aye; Perkins, aye; Hay, aye; Nolan, aye; Marzahl, aye; Hinterlong, aye; Berg, aye and Dikun, aye. Motion approved eight to zero.

CITIZEN AWARD OF APPRECIATION

Mayor Henning presented a Citizen Award of Appreciation to Allison Kick who was absent during the initial presentation.

PRESBYTERIAN CHURCH REQUEST TO USE PICNIC TABLES - APPROVED

Mayor Henning noted that picnic tables have been loaned to various not-for-profit organizations and churches in the past. Moved by Hay, seconded by Dikun to approve the Presbyterian Church's request to use City picnic tables and trash bins for their Folk Fest on August 29th. The City Council discussed loaning picnic tables as general policy irregardless of whether it is for business or not-for-profit and requiring that the borrower be responsible for the property in the event it were damaged. The general consensus was to proceed with the request as presented, but to revisit the City's policy loaning picnic tables and other city property to businesses and not-for-profit organizations. Aldermen voting aye: Nolan, Marzahl, Hinterlong, Berg, Dikun, Bellon, Perkins and Hay. All ayes. Motion carried.

STING PUB & EATERY REQUEST FOR OUTDOOR LIQUOR AUXILIARY LICENSES - APPROVED

Administrator Nelson noted that he remembers talking about setting limits on the number of outdoor events allowed although there isn't a limit in the code book. The issue will be referred to a committee meeting for discussion to set limits. Alderman Dikun noted some noise complaints received during Milk Days from the neighbors. Moved by Berg, seconded by Perkins to approve the Sting Pub & Eatery's request for outdoor liquor auxiliary licenses on July 17th and August 29th, 2004, for benefit bike runs, subject to the following conditions: 5' fence, single entrance/exit, person(s) manning the entrance to check IDs, with the sound system not put up before 3 p.m. and no outside speakers or entertainment after 10 p.m.; with a \$100 per

event fee. Roll call vote: Perkins, aye; Hay, aye; Nolan, aye; Marzahl, aye; Hinterlong, aye; Berg, aye; Dikun, aye and Bellon, aye. Motion approved eight to zero.

FINANCE COMM. RECOMMENDATION RE ELECTED OFFICIALS COMPENSATION - APPROVED

Chairman Hinterlong reviewed the Finance Committee Meeting Minutes of June 7, 2004, as they pertained to discussion of elected officials compensation. The Finance Committee discussed health insurance benefits for newly elected officials. The general consensus was that the aldermen, city clerk and treasurer should have access to health insurance benefits but should pay 100% of the premium and that the Mayor's position should continue to have access to health insurance at the current 80/20 split. The Finance Committee recommends to the City Council that the compensation for health insurance for the mayor remain the same, but that for all other elected officials (aldermen, city clerk and treasurer), health insurance would be offered, but they would have to pay 100% of the premium. The Finance Committee also discussed aldermen's compensation for attending City Council Meetings, Committee Meetings and Special Meetings. The general consensus was to continue at the current rates for all elected officials until the City is in a better financial position with full staffing in every department.

Moved by Hinterlong, seconded by Berg to approve the Finance Committee's recommendation. At Alderman Marzahl's inquiry, Administrator Nelson clarified that elected official could participate in single, two-person or family coverage as long as they paid 100% of the premium. Roll call vote: Hay, aye; Nolan, aye; Marzahl, aye; Hinterlong, aye; Berg, aye; Dikun, aye; Bellon, aye and Perkins, aye. Motion approved eight to zero.

FINANCE COMM. RECOMMENDATION RE TRAIN REGULATIONS - APPROVED

Chairman Hinterlong reviewed the Finance Committee Meeting minutes of June 7, 2004, as they pertained to the train horn rule. The Finance Committee reviewed Administrator Nelson's memo pertaining to the train horn rule which will require all trains to blow their horns upon coming to an at-grade crossing with a road; this ruling will have an impact on four of the City of Harvard's six crossings - Diggins St., Ayer St., Jefferson St. and Brink St. and reviewed the options available. The Finance Committee recommends to the City Council that Administrator Nelson follow the federal government rules to apply for a quiet zone at the Ayer St. and Jefferson St. crossings and to wait and see what the impact is at the Diggins St. and Brink St. crossings; if there are problems and complaints about the train horns, the City will take a look at those crossings under the new rules. Moved by Hinterlong, seconded by Nolan to approve the Finance Committee's recommendation. There was brief discussion on the time frame to implement a ban at Diggins and Brink if there are problems which would be about eighteen months. The approximate cost for improvements at each crossing would be about \$180,000 for construction plus consulting fees. Aldermen voting aye: Nolan, Marzahl, Hinterlong, Berg, Dikun, Bellon, Perkins and Hay. All ayes. Motion carried.

ORDINANCE COMMITTEE RECOMMENDATION RE TRAILER PARKS

Chairman Hay reviewed the Ordinance Committee Meeting minutes of June 16, 2004. The Committee reviewed the proposed amendment to the Mobile Home Act which puts limits on set backs that do not include porches or other out buildings which was one of the main safety concerns expressed by the Fire Department. Alderman Berg asked that Attorney McArdle review the amendment to clarify the minimum/maximum setback requirements. The Committee discussed other potential safety hazards and code violations such as outside electrical, which may not meet code, unsafe porches, the distance between trailers. The Committee consensus was to direct city staff to compile more information including legal opinions, outside code violations from walk through and a list of residents. Administrator Nelson indicated that this could be done in thirty days and that he would report back to the committee at that time. It was also suggested that once a prioritized timetable is set that Mr. Nissen and the occupants of the parks be notified bilingually by mail as to the city's plan of action.

Alderman Hay indicated that a verbal legal opinion was received by Attorney McArdle reference the 10' setback requirement; the city can't require any more or any less than 10'. The only one who can is the owner of the trailer park. Administrator Nelson will proceed with the Building Department to conduct a walk through for a list of code violations.

INFORMATION: NOTICE OF HEARING BEFORE MCHENRY COUNTY ZBA

Mayor Henning reviewed the Notice of Hearing before the McHenry County ZBA in the petition of Harris Trust and Savings Bank (beneficiaries Mitchell and Marcia Weisz) for reclassification of property located at 72 A Lembcke Rd. from A-1 Agriculture to E-2 Estate. Said parcel falls within the City's 1½ mile jurisdiction; the City Council had no objection.

CONSENT AGENDA :

- Harvard Historical Society Raffle Request July 17th - September 18th, 2004
 - Main Street Request to use City Council Chambers on July 3rd in event of rain
- Moved by Berg, seconded by Bellon to approve the Consent Agenda. Aldermen voting aye: Nolan, Marzahl, Hinterlong, Berg, Dikun, Bellon, Perkins and Hay. All ayes. Motion carried.

COMMITTEE REPORTS

ALD. HAY - ORDINANCE COMMITTEE MEETING - 07/06/04

Alderman Hay called an Ordinance Committee Meeting for Tuesday, July 6th, 2004, at 7 p.m. to discuss Outdoor Liquor Auxiliary Licenses, use of City property by businesses and not-for-profit organizations and forcible annexations.

ALD. HINTERLONG - BILLS APPROVED

Moved by Hinterlong, seconded by Berg to approve the bills as presented in the amount of \$81,837.09. Roll call vote: Nolan, aye; Marzahl, aye; Hinterlong, aye; Berg, aye; Dikun, aye; Bellon, aye; Perkins, aye and Hay, aye. Motion approved eight to zero.

ALD. MARZAHL – WATER & SEWER COMMITTEE MEETING – 07/07/04

Alderman Marzahl called a Water & Sewer Committee Meeting for Wednesday, July 7, 2004, at 6 p.m. to discuss the WWTP Construction and Water/Sewer Rates and Tap On Fees.

MAYOR'S REPORT

Mayor Henning noted that the bid opening for the Ratzlaff St. Road Improvements is Friday, June 25th and Garfield St. will be in the fall.

ADMINISTRATOR'S REPORT

Administrator Nelson referred to his monthly report in the aldermen's folders and noted that the City has been working with the McHenry County Transportation Department over the Lawrence Road Extension. After the City Council approved the Intergovernmental Agreement with the County, the City received a seven page review letter with numerous changes and criticisms to the project. Administrator Nelson recommended that each alderman contact the County Board Chairman, other County Board Members as well as the Chairman of the Transportation Committee urging them to pass the agreement and follow through on the original agreement which has been executed by Mayor Henning and forwarded to Chairman Tryon for his execution.

Administrator Nelson also noted the development plan in the aldermen's folders for the TIF South for the aldermen's input. The City is looking to conduct public hearings as soon as possible.

CLERK'S REPORT - UPCOMING MEETING DATES

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| July 6 | Ordinance Committee Meeting, 7 p.m. |
| July 7 | Water & Sewer Committee Meeting, 6 p.m. |
| July 12 | Planning & Zoning Commission Hearing, 7 p.m., Killeen Conditional Use |
| July 14 | Regular City Council Meeting, 7 p.m. |

DEPARTMENT HEADS REPORTS

Dept. Heads and Smith Engineering: Reports as submitted.

NO REPORTS

Attorney Cortina, Treasurer Meseck and Aldermen Perkins, Bellon, Dikun, Berg and Nolan had no reports.

At 8:10 p.m., moved by Dikun, seconded by Bellon to go into closed session to discuss Section 2(c)(6) Sale of Real Estate. Roll call vote: Nolan, aye; Marzahl, aye; Hinterlong, aye; Berg, aye, Dikun, aye; Bellon, aye; Perkins, aye and Hay, aye. Motion approved eight to zero.

At 8:25 p.m., moved by Berg, seconded by Hay to reconvene the open session. Clerk Wells called roll. Roll call vote: Nolan, aye; Marzahl, aye; Hinterlong, aye; Berg, aye; Dikun, aye; Bellon, aye; Perkins, aye and Hay, aye. Motion approved eight to zero.

Moved by Berg, seconded by Dikun to ratify Administrator Nelson's execution of a contract and authorizing the sale of Lot 5 in Block 69, which is off Ayer Street, south of the Ayer Street bridge in the amount of \$800.00. Roll call vote: Marzahl, aye; Hinterlong, aye; Berg, aye; Dikun, aye; Bellon, aye; Perkins, aye; Hay, aye and Nolan, aye. Motion approved eight to zero.

At 8:27 p.m., moved by Berg, seconded by Bellon to adjourn the meeting. Aldermen voting aye: Nolan, Marzahl, Hinterlong, Berg, Dikun, Bellon, Perkins and Hay. All ayes. Motion carried.

Submitted by:

Andy Wells,
City Clerk

Date