

REGULAR CITY COUNCIL MEETING MINUTES

August 25, 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 Kruckenberg, Chief Mrozek, Supt. Public Works Carbonetti, Atty. McArdle, Gary Rozwadowski of Smith Engineering and members of the press and audience.

AUDIENCE PARTICIPATION

Judy Grandmaison of Harvard Main Street addressed the City Council to request volunteers to assist in setup for the Farmers Market on September 18, 2004.

CITY COUNCIL MINUTES OF 08/04/04 - APPROVED

Moved by Perkins, seconded by Nolan to approve the Regular and Closed Session City Council Meeting Minutes of August 4, 2004. Aldermen voting aye: Nolan, Marzahl, Hinterlong, Berg, Dikun, Perkins and Hay. All ayes. Motion carried.

PLANNING & ZONING HEARING/RUSCELLO REZONING @ 106 PAGE ST. - APPROVED

Alderman Hay read a letter from Don Moede, Chairman of the Planning and Zoning Commission which met on March 22, 2004, for a hearing in the petition of Dina and Frank Ruscello, 6286 N. Louise St., Chicago, Illinois. Attorney Craig Krandel addressed the Planning and Zoning Commission on behalf of the petitioners who are requesting reclassification of property located at 106 Page St. from M-1 Industrial to R-2 Residential and a front yard setback variation from 25' to 18.9'. Said property has been vacant since 1997 and pursuant to our zoning code lost its legal non-conforming status to be used as a residential home because it was vacant longer than one year. Building Inspector Santeler noted that the lot size of the subject property is 8,491 sq. ft. which does not meet the minimum lot size requirement of 20,000 sq. ft. in an M1 Zoning District. Adjoining property owner Ken Hartman was recorded as an objector to the petition. The Planning and Zoning Commission recommends to the City Council by a vote of three to two that the petition for reclassification and the front yard setback variation be denied.

Attorney Krandel thanked the City Council on behalf of the petitioners for their patience in the matter and reported on conversations with his client who would like to request the rezoning/variation on the property to rebuild a home on the lot, using the same foundation if possible, but not to do the renovation that was originally discussed. Moved by Berg to approve the petitioner's request for rezoning of property located at 106 Page Street from M-1 Industrial to R-2 Residential and a front yard setback variation from 25' to 18.9' with the rezoning to be contingent on, within twenty-four months, the petitioner demolishing the structure from at least the foundation up and replacing the structure in accordance with the then existing building codes of the City. Also that if there is a foundation, it be properly and safely secured until such time as the structure be completed, but in no event be longer than a twelve month period. Alderman Dikun felt the motion was too vague and no real plan had been presented. After discussion about the necessity of a variation if the existing foundation is not used, Alderman Berg amended his motion that if the petitioner does not use the existing foundation, the variation would be denied and the petitioner would have to meet the setback requirements. There was additional discussion reference the property being a corner lot. Administrator Nelson clarified that the square footage requirement in an R-2 Zoning District for a single family home is 8,300 sq. ft. Attorney McArdle noted he would draft an ordinance for the next City Council meeting to reclassify the subject property and to grant the variation up to the point that the home is demolished and the foundation removed; the petitioner would lose the variation at that point. After a site plan is prepared, if setback variations are needed, the petitioner can come back in. Dina Ruscello stated she could have the existing home demolished within twelve months but wasn't sure about rebuilding in the immediate future because of cost factors. Alderman Hay seconded the motion. Clerk Wells noted that Alderman Berg's motion was different from what Attorney McArdle stated and clarified that the motion was to reclassify the property with the variation contingent on, within 24 months, the demolition of the structure from at least the foundation up and replacing the structure in accordance with the then existing building codes of the City. The motion was then amended that the setback variation

would be rescinded if a new foundation is needed. In the event that the structure is not demolished and rebuilt within twenty-four months, the zoning would revert back to M-1 and the variation rescinded. Attorney McArdle asked the petitioners to find out whether or not the existing foundation can be used. Roll call vote on amended motion as stated by the City Clerk: Nolan, aye; Marzahl, aye; Hinterlong, aye; Berg, aye; Dikun, no; Bellon, aye; Perkins, aye and Hay, aye. Motion approved seven to one.

PLANNING & ZONING HEARING/WILKENING VARIATION @ 22222 OAK GROVE RD.- ORD. 2004-133 APPROVED

Alderman Hay read a letter from Don Moede, Chairman of the Planning and Zoning Commission which met on August 16, 2004, for a hearing in the petition of Allen and Lois Wilkening. The petitioners are requesting a variation from Section 17.20.130 to allow more than one principal building on a zoning lot for property located at 22222 Oak Grove Rd. The petitioners would like to build a new pre-fab home on the property. There is an existing frame house which is to be removed within six months after occupancy of the new construction. The petitioners have agreed to provide the City of Harvard a Letter of Credit in the amount of \$20,000 prior to the issuance of a building permit. The existing trailer on the property will be removed when the petitioner's mother either moves or is no longer able to be self-sufficient. The property in question is a five acre parcel which is part of a 52 acre commercial farm and is zoned agriculture. Adjoining property owner Judy Koch, 7324 Oak Grove Road was recorded as an objector to the petition and requested clarification on whether or not the petition was for five acres or for the whole 52 acre parcel which was annexed in 1995. The 52 acre parcel was legally split between Al and his brother two months ago, although not subdivided or rezoned. Clerk Wells advised the petitioners that no other residence could be built on the entire 52 acre farm unless a petition were submitted for a conditional use or to subdivide the property pursuant to the City's Harvard's Subdivision and Zoning Codes. The Planning and Zoning Commission unanimously recommends to the City Council that the petition be approved for a variation to allow more than one principal building on a zoning lot for the entire 52 acre parcel.

Moved by Hay, seconded by Dikun to approve the Planning and Zoning Commission's recommendation and to approve Ordinance 2004-133 granting a variation to allow more than one principal building on a zoning lot for property located at 22222 Oak Grove Rd. Roll call vote: Marzahl, aye; Hinterlong, aye; Berg, aye; Dikun, aye; Bellon, aye; Perkins, aye; Hay, aye and Nolan, aye. Ordinance 2004-133 approved eight to zero.

ORDINANCE COMM. RECOMMENDATION /WILKENING PETITION FOR VARIATIONS - APPROVED

Chairman Hay reviewed the Ordinance Committee Meeting Minutes of August 11, 2004, pertaining to Allen and Lois Wilkening's petition for a variation from Section 19.15 (B) Driveways & Parking Area Requirements, Section 13A.02C, Use of Sewers required and Section 13B.03A, Use of Water Facilities required, for property located at 22222 Oak Grove Rd. City water/sewer services are about 4,200' from this location. The petitioners are requesting variations from the requirement to hard surface the driveway and parking area, to maintain the existing well and to install septic pursuant to the McHenry County permit until such time as the City water/sewer services are available. The petitioners agree to the stipulation that they be required to tap-on to the City's water and sewer services within one year after becoming available. The Ordinance Committee recommends to the City Council to approve the petitioner's request for a variation to maintain the existing well and install a new septic, with the condition that the petitioners tap-on to City sewer and water if and when they become available. Further that the petitioner may continue to do so without any further petition to the City Council. Should a new septic system be required in the future before water and sewer is available, the petitioner would not have to come before the City Council for another variation.

Moved by Hay, seconded by Dikun to approve the Ordinance Committee's recommendation to grant a variation from water/sewer requirements. Roll call vote: Hinterlong, aye; Berg, aye; Dikun, aye; Bellon, aye; Perkins, aye; Hay, aye; Nolan, aye and Marzahl, aye. Motion approved eight to zero.

The Ordinance Committee also recommends to the City Council to approve the petitioner's request for a variation from the requirement to hard surface the driveway/parking area so long as the property continues to be used as a commercial farm; at such time as that use ceases, they will have one year to

hard surface; further that a memorandum be recorded for this property at the petitioner's expense. Alderman Berg noted that he could draft the memorandum.

Moved by Hay, seconded by Nolan to approve the Ordinance Committee's recommendation and that an ordinance be drafted granting the variation. Attorney McArdle indicated that all three items pertaining to the Wilkening property will be incorporated into one ordinance. Roll call vote: Berg, aye; Dikun, aye; Bellon, aye; Perkins, aye; Hay, aye; Nolan, aye; Marzahl, aye and Hinterlong, aye. Motion approved eight to zero.

ORDINANCE COMM. RECOMMENDATION/CHAMBER OF COMMERCE REQUEST - APPROVED

Chairman Hay reviewed the Ordinance Committee Meeting Minutes of August 11, 2004, pertaining to the Chamber of Commerce request for a waiver of police officers and water usage during the circus which will be held on September 24th at Milky Way Park. Administrator Nelson estimated that the water usage would be less than \$100 and the requirement for three police officers would cost about \$1,000.00. Chamber representative Mike Bannwolf noted that it is the Chamber's responsibility as sponsor to supply 3,500 gallons of water, the dumpster and the cost for the police officers. Mike indicated that although police presence would be appreciated, the Chamber didn't see a specific need for police officers on premises during the family oriented shows which start at 4:30 and 7:30 p.m. Each show lasts about two hours and police assistance would be needed for traffic control when the shows let out. The Ordinance Committee recommends to the City Council that the fee for water usage be waived and an exception be granted to the ordinance requirement for three police officers but having two officers present from 4 p.m. - 10 p.m. for traffic control with the Chamber and City each paying half the expense.

Moved by Hay, seconded by Berg to approve the Ordinance Committee's recommendation. Roll call vote: Dikun, aye; Bellon, aye; Perkins, aye; Hay, aye; Nolan, aye; Marzahl, aye; Hinterlong, aye and Berg, aye. Motion approved eight to zero.

ORDINANCE COMM. RECOMMENDATION/GARAGE SALE REQUIREMENTS - APPROVED

Chairman Hay reviewed the Ordinance Committee Meeting Minutes of August 11, 2004, pertaining to garage sale requirements. Alderman Dikun felt the problems weren't with garage sales but the one individual that is violating the current regulations and recommended collecting fines. Scott Logan addressed the Committee and recommended that the City enforce the regulations that are already in place. Moved by Berg, seconded by Dikun to recommend to the City Council that an ordinance be drafted to amend Section 21.10, Garage Sales, to limit garage sales to two per year; cleanup allowed only 24 hours before and after garage sale; the fine provision to be \$250 per day each day the violation exists and to amend Section 1.14, Settlement of Offenses, to include fine provisions. Clerk Wells noted he has looked into standardizing signs similar to what is being done in Walworth which could be printed at a cost of .29 each and could be distributed when applicants come in for garage sale permit. Clerk Wells requested that this be looked at for next fiscal year budget and/or see if the Shopper Service would underwrite the cost.

Moved by Hay, seconded by Berg to approve the Ordinance Committee's recommendation to draft an ordinance amending garage sale requirements. Alderman Dikun suggested that the fine provision be amended to provide for a first offense of \$50 and \$250 for subsequent offenses. The general consensus was not to make any changes in the fine provision. Aldermen voting aye: Nolan, Marzahl, Hinterlong, Berg, Dikun, Bellon, Perkins and Hay. All ayes. Motion carried.

TREE BANK PARKING - 502 SECOND ST. - ORD. 2004-134 APPROVED

Administrator Nelson reported that, at the City Council's direction, he sent a letter to the property owners and to each address notifying them of the City's intent to revoke the tree bank parking at 502 Second St. Jose Rey addressed the City Council and indicated he was present to help translate on behalf of the property owners. Alderman Berg inquired if the property owner understood the City's intent to revoke the authorization for the tree bank parking at 502 Second St. that is currently blacktopped which was allowed by a 1992 ordinance. Further that there is a vacant lot adjacent to 502 Second St. offered for sale by the City that could be converted to off-street parking. Jose indicated that the property owner tried to purchase the property but was put under a lot of restrictions with the lot on what he had to do and when he had to

do it in. Administrator Nelson clarified there was a contingency in the contract to construct an off-street parking area with a time limit of eighteen months. Alderman Berg inquired whether or not the property owner would be in a better position to effectuate the improvement within twenty-four months. The property owner indicated that would be acceptable. Moved by Berg, seconded by Bellon that the City of Harvard revoke the tree bank parking in front of 502 Second St. effective twenty-four months from 08/25/04. Roll call vote: Bellon, aye; Perkins, aye; Hay, aye; Nolan, aye; Marzahl, aye; Hinterlong, aye; Berg, aye and Dikun, aye. Ordinance 2004-134 approved eight to zero.

ANNUAL LEASE/SR. CITIZENS CENTER, 12 N. AYER ST. - APPROVED

Moved by Berg, seconded by Perkins to authorize the execution of the Annual Lease with B. Richard Doss for the Sr. Citizens Center at 12 N. Ayer St., at a cost of \$475 per month. The term of the lease is from September 15, 2004 through September 14, 2005. 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.

SALVATION ARMY REQUEST RE HANDICAP PARKING ON AYER ST. - ORD. 2004-135 APPROVED

Moved by Berg, seconded by Dikun to approve the Salvation Army's request to reinstate the two handicap parking spaces in front of the Senior Center at 12 N. Ayer St. Roll call vote: Hay, aye; Nolan, aye; Marzahl, aye; Hinterlong, aye; Berg, aye; Dikun, aye; Bellon, aye and Perkins, aye. Ordinance 2004-135 approved eight to zero.

HENSON REQUEST RE SEPARATE WATER METERS FOR SOUTH DIVISION PROPERTY - DENIED

Moved by Dikun, seconded by Berg to deny Kelly Henson's request for separate water meters at 360 S. Division St. until such time as separate shutoffs are installed for each business. Aldermen voting aye: Nolan, Marzahl, Hinterlong, Berg, Dikun, Bellon, Perkins and Hay. All ayes. Motion carried.

HOGEL REQUEST FOR FLEA MARKET AT RUSH CREEK - DENIED

Kenneth and Karen Kaehn, 1472 Division St., addressed the City Council and indicated they are working with Joe Hogel and requested permission for a flea market/resale shop at Rush Creek, to be open on Saturday and Sunday from 9 a.m. - 5 p.m. The Building Dept. issued a letter to Mr. Hogel on August 10th, 2004, that the flea market use must be discontinued until safety issues were addressed such as large holes in the roof, roof drains disconnected, no electricity or emergency lighting, no plumbing or bathrooms, no HVAC, broken and boarded up windows, ADA accessibility, paving and repairing the parking lot and a structural analysis of the building. Mr. Kaehn stated that the proposed flea market would be located in the front portion of the building which they feel is structurally safe, porta-potties would be located in the back, and torpedo heaters would be used in the winter. Administrator Nelson inquired if an architect or structural engineer had reviewed the structure and declared it to be safe and a report written. Mr. Kaehn stated Mr. Hogel had indicated the front portion was deemed safe a couple years ago. However, the building has been vacant since that time unheated with no electricity. Building Inspector Santeler's letter stated that the building, in its current condition is in no shape for any type of use. Moved by Nolan, seconded by Dikun to deny the request. Aldermen voting aye: Nolan, Marzahl, Hinterlong, Berg, Dikun, Bellon, Perkins and Hay. All ayes. Motion carried.

AMEND SECTION 25.06, OUTDOOR LIQUOR AUXILIARY PERMIT - ORD. 2004-136 APPROVED

Moved by Nolan, seconded by Bellon to approve Ordinance 2004-136, Amending Section 25.06 Regarding the Parameters for an Outdoor Liquor Auxiliary Permit. Roll call vote: Nolan, aye; Marzahl, aye; Hinterlong, aye; Berg, aye; Dikun, aye; Bellon, aye; Perkins, aye and Hay, aye. Ordinance 2004-136 approved eight to zero.

SCHEDULE DATE FOR PUBLIC HEARING ON PROPOSED HARVARD INDUSTRIAL PARK REDEVELOPMENT PROJECT AREA (TIF) - ORD. 2004-137 APPROVED

Moved by Nolan, seconded by Marzahl to approve Ordinance 2004-137, Scheduling the Date for a Public Hearing on the Proposed Harvard Industrial Park Redevelopment Project Area which shall be held on October 20th, 2004, at 7:00 p.m. at City Hall. Roll call vote: Marzahl, aye; Berg, aye; Dikun, aye; Bellon, aye; Perkins, aye; Hay, aye; Nolan, aye and Marzahl, aye. Ordinance 2004-137 approved eight to zero.

INFORMATION: NOTICE OF HEARING BEFORE MCHENRY COUNTY ZBA

Mayor Henning reviewed the Notice of Hearing before the McHenry County ZBA in the petition of Howard and Donna Mikkali for a variation to allow an accessory structure in a front yard for property located at 7112 Altenburg Rd. Said parcel falls within the City's 1½ mile jurisdiction; the City Council had no objection.

CONSENT AGENDA :

- Jaycees' Annual Candy Days - August 27th, 28th and 29th
- Rotary Club Candy Days - October 29th, 2004
- Kiwanis Peanut Days - September 24th & 25th, 2004

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. NOLAN

Alderman Nolan referred a request to the Public Property Committee from Frank Godo, 807 E. McKinley St. and Jim Mulvenna, 805 E. McKinley St. who would like to purchase a section of library property. Administrator Nelson indicated that according to his understanding, they would like to have access for additional driveway width along the entire length of the property. Alderman Berg requested the Library Board be able to review a site plan at their meeting which is scheduled for Thursday, September 16th, 2004, after which a Public Property Meeting could be scheduled. Chairman Bellon will call a meeting at the next City Council Meeting.

HINTERLONG - BILLS APPROVED

Moved by Hinterlong, seconded by Marzahl to approve the bills as presented in the amount of \$164,474.90. Roll call vote: Hinterlong, aye; Berg, aye; Dikun, aye; Bellon, aye; Perkins, aye; Hay, aye; Nolan, aye and Marzahl, aye. Motion approved eight to zero.

ALD. BERG - STREETS AND ALLEYS COMMITTEE MEETING - 09/01/04

Alderman Berg inquired what Alderman Dikun's request was reference Lincoln St. Alderman Dikun explained resident complaints with various issues with respect to the paving/water runoff on Lincoln St. between Dewey and Anderson St. Administrator Nelson noted two options: build curb and gutter or do a drainage study look at entire area with respect to drainage concerns not only on Lincoln St. but also on Anderson St. Alderman Berg called a Streets and Alleys Committee Meeting for Wednesday, September 1, 2004, at 7:00 p.m. to discuss No Parking on Northfield Ave. from 2nd to Rte. 14, Lincoln St. Paving/Water Runoff, Bridges, Road Program and Curb Program.

ALD. DIKUN

Alderman Dikun inquired if anything had transpired on Mike Clark's request to purchase property in Park Pointe. Administrator Nelson noted he hasn't heard anything from the resident. Alderman Dikun will contact Mr. Clark and requested that item to be placed on Public Property Agenda.

ALD. HAY - ORDINANCE COMMITTEE MEETING - 09/01/04

Alderman Hay called an Ordinance Committee Meeting for Wednesday, September 1, 2004, at 6:30 p.m. to discuss banquet hall license requirements.

MAYOR'S REPORT

Mayor Henning reported on the status of sidewalk program which is underway; Ratzlaff Street Improvements, PAR's Development and Pasquinelli's Development.

ADMINISTRATOR'S REPORT

Administrator Nelson noted his written monthly report in the packets.

CLERK'S REPORT - UPCOMING MEETING DATES

Clerk Wells reported on the Planning and Zoning Commission hearing which met on August 9, 2004, in the

petition of Cambridge Court Venture on Route 173 with the hearing continued to September 16, 2004. The petition has been tabled at the petitioner's request.

September 1 Ordinance Committee Meeting, 6:30 p.m.
Streets & Alleys Committee Meeting, 7:00 p.m.
September 15 Regular City Council Meeting, 7:00 p.m.

DEPARTMENT HEADS REPORTS

Dept. Heads and Smith Engineering: Reports as submitted.

NO REPORTS

Treasurer Meseck, Attorney McArdle and Aldermen Marzahl, Bellon and Perkins had no reports.

At 8:25 p.m., moved by Dikun, seconded by Perkins to go into closed session after a five minute recess to discuss Section 2(c)(2), Collective Bargaining. 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 8:34 p.m., moved by Dikun, seconded by Bellon 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.

At 8:35 p.m., moved by Dikun, seconded by Hay 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