

REGULAR CITY COUNCIL MEETING MINUTES

September 28, 2005 - 7:00 P.M.

Mayor Nolan called the City Council meeting to order and led the pledge to the flag. Clerk Wells called roll. Aldermen present: Leyden, Marzahl, Ulmer, Berg, Logan, Perkins and Hay. Also present were Treasurer Meseck, City Administrator Nelson, Building Inspector Santeler, Chief Oparyk, Public Works Supt. Carbonetti, Utilities Supt. Gibson, City Attorney McArdle, Gary Rozwadowski of Smith Engineering and members of the press and audience.

AUDIENCE PARTICIPATION: NONE

REGULAR AND CLOSED SESSION CITY COUNCIL MINUTES OF 09/07/05 - APPROVED

Moved by Berg, seconded by Marzahl to approve the Regular and Closed Session City Council Meeting Minutes of September 7, 2005. Aldermen voting aye: Leyden, Marzahl, Ulmer, Berg, Logan, Perkins and Hay. All ayes. Motion carried.

MCHEMRY COUNTY TREASURER BILL LEFEW

McHenry County Treasurer Bill LeFew gave a brief presentation and passed out a brochure outlining services offered by the Treasurer's office.

PLANNING & ZONING COMMISSION RECOMMENDATION AND FINDING OF FACTS

Chairman Hay reported on the recommendations submitted by the Planning and Zoning Commission, which met on September 13, 2005, for hearings on the following petitions:

Estate of Jeannette Ward - 700 N. Division St.- Ordinance 2005-150 Approved

Chairman Hay read the recommendations and Findings of Fact submitted by Harry Stafford, Chairman of the Planning and Zoning Commission, in the petition of the Estate of Jeannette Ward, for property located at 700 N. Division St., Harvard. The petitioner is requesting that the subject property be reclassified from B-1 Business District to R-2 Single Family Residence District; a text amendment for the 2nd floor to be used as a residential apartment and the following variations: Accessory Use Size increased from 576 to 646 sq. ft.; Reduce Accessory Use Setback from 4' rear and 4' side to 0' rear and 0' side; Reduce Lot Size Requirement from 8712 sq. ft. to 8,359 sq. ft. and a Reduced Front Yard Setback from 25 feet to 22.1 feet. The Planning and Zoning Commission recommends approval of the petitioner's requests to reclassify the parcel and for lot size, accessory use and setback variations as specified in the petition based on the findings of fact as presented. With respect to the petitioner's request for a text amendment to allow the second floor of the residence to be used as a residential apartment, the Planning and Zoning Commission recommends that the request be denied.

Moved by Berg, seconded by Logan to approve the Planning and Zoning Commission's recommendations and Ordinance 2005-150. Roll call vote: Leyden, aye; Marzahl, aye; Ulmer, aye; Berg, aye; Logan, aye; Perkins, aye and Hay, aye. Ordinance 2005-150 approved seven to zero.

Harvard Community School District #50 – Ordinance 2005-151 Approved

Chairman Hay read the recommendations and Findings of Fact submitted by Harry Stafford, Chairman of the Planning and Zoning Commission, in the petition of Harvard Community School District #50, for property located at Blaine and Jefferson St. (old school board office). The petitioners are requesting a conditional use permit for a parking lot in a residential district. The Planning and Zoning Commission recommends approval of the petitioner's request for a conditional use for a parking lot in a residential district pursuant to the submitted site plan titled "New Parking Lot" and dated 08/15/05.

Moved by Hay, seconded by Perkins to approve the Planning and Zoning Commission's recommendation and Ordinance 2005-151. Roll call vote: Marzahl, aye; Ulmer, aye; Berg, aye; Logan, aye; Perkins, aye; Hay, aye and Leyden, aye. Motion approved seven to zero.

Duane Leard/Marilyn Harper - 406 and 406½ N. Garfield – Appeal of Zoning Officer’s Decision Denied

Chairman Hay read the recommendations and Findings of Fact submitted by Harry Stafford, Chairman of the Planning and Zoning Commission in the petition of Duane Leard and Marilyn Harper, for property located at 406 and 406½ N. Garfield St. The petitioners are appealing the Zoning Officer’s Decision that the two-family, non-conforming use for the subject property has been discontinued due to vacancy of said property for a period of twelve months. The Planning and Zoning Commission recommends denial of the petitioner’s petition, affirming the zoning officer’s determination, and refers said recommendation to the City Council for final review and approval. Moved by Hay to approve the Planning and Zoning Commission’s recommendation to deny the petitioner’s request. Further discussion ensued.

Attorney Joseph Gottemoller was present on behalf of the petitioners and gave a presentation outlining the history of the property and the details of the petition. Attorney Gottemoller further reviewed electric and water bills for subject property during the time frame in question and asked that the City Council deny the Planning and Zoning Commission’s recommendation and grant the petitioner’s request. Building Inspector Santeler reviewed the water bill history for the subject property which indicates that only nine units of water was used in a 3½ year period and from 09/01 through 03/04, there was a zero reading which means that no water was used whatsoever. Building Inspector Santeler noted that there is no provision in our code that the City has to give someone notice they are about to lose their non-conforming status, nor is the ordinance specific on which twelve month period or whether or not the use is started again.

After further discussion between the City Council and Attorney Gottemoller, the motion on the floor was seconded by Alderman Marzahl to deny the petitioner’s appeal of a zoning officer’s decision and affirming the zoning officer’s determination. Roll call vote: Ulmer, no; Berg, aye; Logan, aye; Perkins, aye; Hay, aye; Leyden, aye and Marzahl, aye. Motion approved six to one.

Anton and Shirley Stricker - 41 North Ayer St. – Ordinance 2005-152

Chairman Hay read the recommendations and Findings of Fact submitted by Harry Stafford, Chairman of the Planning and Zoning Commission, in the petition of Anton and Shirley Stricker for property located at 41 N. Ayer St. The petitioners are requesting a Conditional Use Permit for a residential dwelling on the second floor in a B-3 Use District. The Planning and Zoning Commission recommends the approval of said Conditional Use for property located at 41 N. Ayer St. for a single residential dwelling on the second floor in a B-3 Use District based on the findings of fact as presented.

Moved by Hay, seconded by Marzahl to approve the Planning and Zoning Commission’s recommendation and Ordinance 2005-152. Alderman Berg noted a similar petition before the City Council a year ago from the Franklin’s which was approved contingent that the apartment be owner occupied and that designated parking be provided and recommended that the Ordinance Committee discuss setting a policy pertaining to residential apartments above businesses in the B Districts. Roll call vote: Berg, aye; Logan, aye; Perkins, aye; Hay, aye; Leyden, aye; Marzahl, aye and Ulmer, aye. Ordinance 2005-152 approved seven to zero.

MRM Land Refinement – Ordinance 2005-153

Alderman Berg left the meeting. Chairman Hay read the recommendations and Findings of Fact submitted by Harry Stafford, Chairman of the Planning and Zoning Commission, in the petition of MRM Land Refinement and all owners of record for property located on the north side of McGuire Rd., east of U.S. Route 14. The petitioners are requesting acceptance of a preliminary plat of subdivision and that the property as outlined in the petition be classified as B-3 Use District. The Planning and Zoning Commission recommends the approval of the petitioners’ request for acceptance of the preliminary plat of subdivision and zoning classification of B-3 Use District based on the findings of fact as presented.

Moved by Hay, seconded by Perkins to approve the Planning and Zoning Commission’s recommendation and Ordinance 2005-153. Roll call vote: Logan, aye; Perkins, aye; Hay, aye; Leyden, aye; Marzahl, aye and Ulmer, aye. Motion approved six to zero.

Chairman Hay read the recommendations and Findings of Fact submitted by Harry Stafford, Chairman of the Planning and Zoning Commission, in the petition of MRM Land Refinement and all owners of record for

property located on the north side of McGuire Rd., east of U.S. Route 14. The petitioners are requesting a Conditional Use Permit for an inside and outside storage facility in an M1 Use District for the property identified as Lot 1 and for a shopping center with drive through abilities for the property described as Lot 2. The Planning and Zoning Commission recommends approval of said conditional use as described with the following conditions:

1. Said special uses shall become null and void upon failure of contract purchasers to obtain deed and title to subject property;
2. Architectural review and approval by Harvard City Council for all buildings and structures to be erected on subject property.

Moved by Hay, seconded by Perkins to approve the Planning and Zoning Commission's recommendation to be included in Ordinance 2005-153. Roll call vote: Perkins, aye; Hay, aye; Leyden, aye; Marzahl, aye; Ulmer, aye and Logan, aye. Motion approved six to zero.

Alderman Berg returned to the meeting.

HARVARD MAIN STREET UPDATE

Judyanne Grandmaison, President of Harvard Main Street gave an update on the Farmer's Market and the Classic Car Show held on September 24, 2005 and thanked the City Council and City staff for their support.

PASQUINELLI LETTER OF CREDIT REDUCTION/COUNTRY BROOK, UNIT 1 AND 2 – APPROVED

City Administrator Nelson reported that City staff has reviewed the request and all public improvements indicated have been completed and meet the City's acceptance. Moved by Berg, seconded by Ulmer to approve Pasquinelli Homes' request for a Letter of Credit reduction for Country Brook Subdivision, Units 1 and 2 as follows:

- ❖ Unit 1 from \$956,806.00 to \$209,724.00
- ❖ Unit 2 from \$2,130,020.00 to \$618,961.00

Roll call vote: Hay, aye; Leyden, aye; Marzahl, aye; Ulmer, aye; Berg, aye; Logan, aye and Perkins, aye. Motion approved seven to zero.

HENSON RELINQUISH CLASS B LIQUOR, LICENSE CARDINAL WINE & SPIRITS – APPROVED

Moved by Berg, seconded by Logan to approve Leon Henson's request to relinquish the Class B Liquor License for Country Country Liquors, Inc. d/b/a Cardinal Wine & Spirits, 1001 S. Division Street, effective upon the closing transactions with Akshesh Patel, Matrooshree, Inc. Aldermen voting aye: Leyden, Marzahl, Ulmer, Berg, Logan, Perkins and Hay. All ayes. Motion carried.

CLASS B LIQUOR LICENSE MATROOSHREE INC., CARDINAL WINE & SPIRITS – APPROVED

Moved by Berg, seconded by Logan to approve a Class B Liquor License and Extended Sunday Hours Liquor License to Akshesh Patel, Matrooshree, Inc., d/b/a Cardinal Wine & Spirits, 1001 S. Division St., contingent upon the relinquishment of Mr. Henson's liquor license. Roll call vote: Leyden, aye; Marzahl, aye; Ulmer, aye; Berg, aye; Logan, aye; Perkins, aye and Hay, aye. Motion approved seven to zero.

SR. CITIZEN LEASE/DICK DOSS – 112 N. AYER ST. – APPROVED

Moved by Marzahl, seconded by Perkins to 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, 2005 through September 14, 2006. Roll call vote: Marzahl, aye; Ulmer, aye; Berg, aye; Logan, aye; Perkins, aye; Hay, aye and Leyden, aye. Motion approved seven to zero.

ORDINANCE 2005-146, AMENDING CHAPTER 16.52, DEDICATION OF SCHOOL LAND OR CASH CONTRIBUTIONS TO SCHOOL DISTRICT – TABLED TO 10/19/05

Alderman Berg noted that the School District is required to submit an annual summary of account with respect to developer impact fees pursuant to the indemnification agreement entered into with the School District several years ago; to date, the school district has not submitted such reports. Moved by Berg, seconded by Hay to table the ordinance until the next City Council Meeting of October 19, 2005. Aldermen voting aye: Leyden, Marzahl, Ulmer, Berg, Logan, Perkins and Hay. All ayes. Motion carried.

ANNUAL TREASURER’S REPORT – APPROVED

Treasurer Meseck noted a category correction in the Treasurer’s Report. Moved by Berg, seconded by Logan to approve the Annual Treasurer’s Report. Roll call vote: Ulmer, aye; Berg, aye; Logan, aye; Perkins, aye; Hay, aye; Leyden, aye and Marzahl, aye. Motion approved seven to zero.

AUTHORIZATION TO PURCHASE GENERATOR – APPROVED

Moved by Perkins, seconded by Ulmer to waive the bidding procedure for the purchase of a generator and to authorize the Mayor/City Administrator to order said equipment. Roll call vote: Berg, aye; Logan, aye; Perkins, aye; Hay, aye; Leyden, aye; Marzahl, aye and Ulmer, aye. Motion approved seven to zero.

CITY COUNCIL COMMITTEE APPOINTMENTS – APPROVED

Mayor Nolan submitted the following changes for City Council Committees: Phillip Ulmer to Public Property as Chairman from Parks and Joel Berg to Parks from Public Property. Moved by Berg, seconded by Perkins to approve the changes to the City Council Committees as submitted. Aldermen voting aye: Leyden, Marzahl, Ulmer, Berg, Logan, Perkins and Hay. All ayes. Motion carried

ORDINANCE COMMITTEE RECOMMENDATIONS – ORDINANCE 2005-154 APPROVED

Chairman Hay reviewed the Ordinance Committee Meeting Minutes of September 21, 2005, as follows:

Noise Ordinance

The Committee reviewed a report from the League for the Hard of Hearing and a draft noise ordinance and recommends to the City Council that an ordinance be drafted and enacted to amend Chapter 27, Public Safety, and Chapter 1, General, pursuant to discussion and as attached to the Committee Meeting minutes.

Toy Vehicles

The Committee reviewed Administrator Nelson’s proposal to amend the toy vehicle section of Chapter 15 as directed by the committee at a previous meeting. The Committee recommends to the City Council that an ordinance be drafted and enacted amending Chapter 15 Traffic, pursuant to discussion and as attached to the Committee Meeting minutes.

Liquor License Review

The Committee discussed requests from several restaurant liquor license holders to amend the sales hours on Sundays, so that sales are allowed beginning at 11 a.m. instead of noon. The reason for this change would be to allow these businesses a better opportunity to draw and hold customers for special events such as football games and other sporting events. The Committee recommends to the City Council that an ordinance be drafted to amend Chapter 25 Liquor changing the closing hours from noon to 11 a.m. on Sunday and for a \$160 fee increase across the board pursuant to discussion and as attached to the Committee Meeting minutes.

Fence Ordinance

The Committee discussed amending the fencing requirements for swimming pools from four feet to six feet of solid fencing. After discussion on what constitutes solid fencing and how decking could be adapted to meet the code requirements, the city staff was directed to prepare a draft amendment to address these issues and to present this amendment back to the committee at a future meeting.

Littering

The Committee discussed the current fine for littering which is \$100.00; the fine for depositing garbage in other peoples’ dumpsters or on city property is \$500.00 and increasing the fine on littering to deter violators. The Committee recommends to the City Council that an ordinance be drafted and enacted to Amend Chapter 1, General, pursuant to discussion and as attached to the Committee Meeting minutes.

Moved by Hay, seconded by Perkins to approve the Ordinance Committee recommendations and Ordinance

2005-154 amending the following Chapters of the Harvard Municipal Code: Section 27.04, Noise; Section 1.14, Settlement of Offenses; Section 25.06, Liquor License Classifications and Section 25.08, Closing Hours. Roll call vote: Logan, aye; Perkins, aye; Hay, aye; Leyden, aye; Marzahl, aye; Ulmer, aye and Berg, aye. Ordinance 2005-154 approved seven to zero.

CONSENT AGENDA

- Harvard Hospital Foundation Raffle Request, September 28th, 2005
- Harvard Jaycees Raffle Request, September 29th – November 27th, 2005
- Harvard Lion’s Club Candy Days, October 14th and 15th
- Salvation Army Request to Solicit Donations on December 10th
- Proclamation Fire Safety Week, October 9th – 15th

Moved by Logan, seconded by Berg to approve the Consent Agenda. Aldermen voting aye: Marzahl, Ulmer, Berg, Logan, Perkins and Hay. All ayes. Motion carried.

COMMITTEE REPORTS

ALD. HAY – ORDINANCE COMMITTEE MEETING – 10/5/05

Alderman Hay called an Ordinance Committee Meeting for Wednesday, October 5, 2005, at 7 p.m. to discuss George Ambat’s request to create one additional Class B Liquor License, Alderman Berg’s request to set a policy pertaining to residential apartments in the B Use District and Swimming Pool Fence Requirements.

ALD. PERKINS – PARKS & RECREATION COMMITTEE MEETING – 09/20/05

Alderman Perkins reviewed the Parks and Recreation Committee Meeting Minutes of September 20, 2005. The Committee discussed future land acquisitions for parks and capital improvements for next fiscal year. No action taken at this time.

ALD. LOGAN – FINANCE COMMITTEE MEETING – 09/14/05

Alderman Logan reviewed the Finance Committee Meeting Minutes of September 14, 2005, to review the year-to-date finances. No action taken at this time.

ALD. LOGAN - BILLS APPROVED

Moved by Logan, seconded by Perkins to approve the bills as presented in the amount of \$788,067.10. Roll call vote: Perkins, aye; Hay, aye; Leyden, aye; Marzahl, aye; Ulmer, aye; Berg, aye and Logan, aye. Motion approved seven to zero.

ALD. MARZAHN – TOUR OF WWTP ON 09/28/00

Alderman Marzahl reported on the tour of the wastewater treatment plant.

ALD. MARZAHN – WATER & SEWER COMMITTEE MEETING 10/18/05

Alderman Marzahl called a Water and Sewer Committee Meeting for Tuesday, October 18, 2005, at 7 p.m. to review the WWTP Study and Potable Water Study.

ADMINISTRATOR’S REPORT

Administrator Nelson noted his written report and advised Alderman Berg that staff is ready for a Streets and Alleys Committee to discuss the bridge program, road program and curbing program.

ALD. BERG – STREETS AND ALLEYS COMMITTEE MEETING 10/12/05

Chairman Berg called a Streets & Alleys Committee Meeting for Wednesday, October 12, 2005, at 7 p.m.

CLERK’S REPORT - UPCOMING MEETING DATES

September 29	Sesquicentennial Committee Meeting, 7 p.m.
October 5	Ordinance Committee Meeting, 7 p.m.
October 11	Planning and Zoning Commission Hearing, 7 p.m.
October 12	Streets and Alleys Committee Meeting

October 18 Water and Sewer Committee Meeting, 7 p.m.

October 19 Regular City Council Meeting, 7 p.m.

TREASURER'S REPORT

Treasurer Meseck noted that the monthly treasurer's report is in the aldermen's folders.

ATTORNEY'S REPORT

Attorney McArdle noted one item to be discussed in closed session pertaining to litigation.

DEPARTMENT HEADS REPORTS

Smith Engineering Report as submitted.

Dept. Heads Reports as submitted.

Chief Oparyk reported that the new 911 system will be installed on October 24th; laptops for the squad cars will delivered in the next couple of weeks; the Live Scan fingerprinting equipment will be installed on October 6th; video cameras are being installed in four squad cars and Explorer Post would like to re-paint the no bicycle/skateboard signs on Ayer St. Chief Oparyk thanked everyone for their support of the K-9 Program and noted that Ray and Nancy's Poker run raised \$1,368 with total donations to date at approximately \$2,000.

NO REPORTS

Mayor Nolan and Aldermen Ulmer and Leyden had no reports.

At 8:00 p.m., moved by Berg, seconded by Hay to go into closed session after a five minute break to discuss Section 2(c) (11) Litigation. Roll call vote: Perkins, aye; Hay, aye; Marzahl, aye; Ulmer, aye; Berg, aye and Logan, aye. Motion approved seven to zero.

At 8:14 p.m., moved by Perkins, seconded by Marzahl to reconvene the open session. Roll call vote: Leyden, aye; Marzahl, aye; Ulmer, aye; Berg, aye; Logan, aye; Perkins, aye and Hay, aye. Motion approved seven to zero.

Moved by Berg, seconded by Logan to authorize the Mayor to sign the agreement to settle the litigation with MIG/DeWane Landfill Superfund Site at an amount not to exceed \$22,500 pending a consultation with Randy Blazier. Roll call vote: Hay, aye; Leyden, aye; Marzahl, aye; Ulmer, aye; Berg, aye; Logan, aye and Perkins, aye. Motion approved seven to zero.

At 8:15 p.m., moved by Berg, seconded by Marzahl to adjourn the meeting. Roll call vote: Hay, aye; Marzahl, aye; Ulmer, aye; Berg, aye; Logan, aye and Perkins, aye. Motion approved seven to zero.

Submitted by:

Andy Wells,
City Clerk

Date