

REGULAR CITY COUNCIL MEETING MINUTES

August 11, 2009 - 7:00 P.M.

Clerk Wells called the City Council meeting to order at 7:00 p.m. and led the pledge to the flag. Clerk Wells called roll. Aldermen present: Leyden, Marzahl, Ulmer, Szczap, Logan, Perkins and Opper. Alderman Adams was absent. Also present were Treasurer Meseck, Administrator Nelson, Community Development Director Santeler, Police Chief Kazy-Garey, Supt. Public Works Kruckenberg, City Attorney Carlos Arévalo and members of the audience.

In Mayor Nolan's absence, moved by Logan, seconded by Opper to appoint Alderman Marzahl as Mayor Protem for the meeting. Aldermen voting aye: Leyden, Marzahl, Ulmer, Szczap, Logan, Perkins and Opper. All ayes. Motion carried.

AUDIENCE PARTICIPATION: NONE

CITY COUNCIL MEETING MINUTES OF 07/28/09 - APPROVED

Moved by Logan, seconded by Perkins to approve the minutes of the Regular City Council Meeting of July 28, 2009, as presented. Aldermen voting aye: Leyden, Marzahl, Ulmer, Szczap, Logan, Perkins and Opper. All ayes. Motion carried.

PLANNING & ZONING COMMISSION RECOMMENDATION AND FINDING OF FACTS

Gorman Variation Height & Size of Accessory Use at 305 N. Jefferson – Ord. 2009-124 Approved

Chairman Szczap noted the recommendation submitted by Terry Smith, Chairman of the Planning and Zoning Commission which met on August 4th, 2009, for a hearing in the petition of Charles and Gayle Gorman for variations from Section 17.36.050, Size of Accessory Use and Section 17.20.080(K), Height of Accessory Use for property located at 305 N. Jefferson Street, Harvard, Illinois. The Planning and Zoning Commission recommends to the City Council approval of the petitioner's requests, with the condition that the petitioner install drainage pipe and driveway grading subject to final approval by the Community Development Department, as follows:

1. Variation of Single Accessory Use Size requirements of 576 sq. ft. expanded to 901 sq. ft.
2. Variation of Accessory Use Height requirements of 15' increased to 16'

Moved by Szczap, seconded by Logan to approve the Planning and Zoning Commission's recommendation and Ordinance 2009-124 granting the requested variations. Roll call vote: Leyden, aye; Marzahl, aye; Ulmer, aye; Szczap, aye; Logan, aye; Perkins, aye and Opper, aye. Ordinance 2009-124 approved seven to zero.

Sullivan's Foods/Conditional Use for Fueling Facility at 1299 S. Division - Ord. 2009-125 Approved

Chairman Szczap noted the recommendation and findings of fact submitted by Terry Smith, Chairman of the Planning and Zoning Commission which met on August 4th, 2009, for a hearing in the petition of JB Sullivans, Inc., d/b/a Sullivan's Foods and Fund 601 LLC for a Conditional Use to construct a fueling facility on property located at 1299 S. Division Street, Harvard, IL. The Planning and Zoning Commission hereby recommends approval of the Petitioner's request as submitted subject to the condition that the total maximum signage allowed is 200 sq. ft.

Moved by Szczap, seconded by Logan to approve the Planning and Zoning Commission's recommendation and Ordinance 2009-125, granting the conditional use for a fueling facility.

Representatives from Sullivan's Foods were present to answer any questions.

- Alderman Opper asked if provisions were in place in the event someone drives off with a pump handle causing a fuel spill. The petitioners stated the state requires a break-away on all retail fueling operations.
- Alderman Logan inquired what happens if the automatic shutoff in the nozzle fails while someone is fueling their vehicle causing a fuel spill. The petitioner noted there is an emergency shut off which would have to be tripped by an individual. There was continued discussion about the possibility of a spill when the grocery store isn't open as the fuel facility will be open 24/7. The petitioner noted there is

a security system that goes to the fire department if an alarm goes on but there isn't any sensor equipment which would sense that gas has been spilled on the ground. Per state code, there has to be signage in place for the fueling operation instructions, per law individuals aren't supposed to leave the nozzle unattended. At Administrator Nelson's inquiry, the petitioner noted that Sullivan's has other stores with fueling facilities that are open 24/7, one that's been open since November and one open for about 4 years. The petitioner related a single incident where they had a vehicle drive off at the most where the hose was broke off, in which case whatever is in the hose would spill (about a gallon or two).

- Alderman Szczap reiterated that there would be no backing up of trucks when they deliver fuel.
- At Alderman Marzahl's inquiry, the petitioner confirmed that access would be either off Hereley Dr. or Route 14.

There were no further questions. Roll call vote: Marzahl, aye; Ulmer, aye; Szczap, aye; Logan, aye; Perkins, aye; Opper, aye and Leyden, aye. Ordinance 2009-125 approved seven to zero.

FRAN WEBB/1601 8TH STREET

Fran Webb, 1601 8th St. complimented both the City on the great job downtown and the Community Development Dept. in addressing weed issues at Turtle Crossing. Fran inquired about the future of the subdivision. Administrator Nelson responded that the bank does not have title to the property and the subdivision is still in foreclosure and receivership; ultimate plans have not been identified. Other areas of concerns were pot holes and snow removal at the train station parking lot both of which are taken care of by the City, the lack of a dry cleaners and movie theater, noise in the subdivision and wi-fi computer intruders.

TRINITY EVANGELICAL LUTHERAN CHURCH REQUEST FOR WAIVER OF FEES – APPROVED

Moved by Logan, seconded by Opper to approve Trinity Evangelical Lutheran Church's request for a waiver of building permit fees in the amount of \$53.75 to construct a lift for handicapped accessibility. Roll call vote: Ulmer, aye; Szczap, aye; Logan, aye; Perkins, aye; Opper, aye; Leyden, aye and Marzahl, aye. Motion approved seven to zero.

CARL OPPER ONE DAY LIQUOR LICENSE/MILKY WAY PARK AUGUST 22, 2009 - APPROVED

Alderman Opper recused himself from the meeting. The City Council reviewed the request for a one day liquor license at Milky Way Park. Carl has provided a Certificate of Insurance listing the City of Harvard as an additional insured and paid the appropriate fee amount. Moved by Logan, seconded by Perkins to approve a one day liquor license for the consumption of alcohol at Milky Way Park on Saturday, August 22nd, 2009, from 2-8 p.m. Roll call vote: Szczap, aye; Logan, aye; Perkins, aye; Opper, absent; Marzahl, aye and Ulmer, aye. Motion approved six to zero. Alderman Opper returned to the meeting.

GALVIN/COOL MUSIC STOP BAR & GRILLE VARIATION FOR HOURS OF OPERATION - DENIED

Tim Galvin, 19707 Oak Grove Rd., Harvard reviewed his petition for a variation to allow Cool Music Stop Bar & Grille, 10 N. Ayer St., to open for breakfast at 5:30 a.m. daily. Current liquor code does not allow customers on premise other than employees outside of the hours of operation. Chief Kazy-Garey noted his objections from an enforcement standpoint and monitoring the serving of alcohol. Tim noted that it would not be in his best interest to allow individuals to drink with fines and the possibility of losing his liquor license. Administrator Nelson noted there are seven other establishments that the City Council would have to give the same consideration. Alderman Marzahl called for the question. Moved by Logan, seconded by Perkins to deny the variation request. Mayor Protem Marzahl asked if there was any further discussion. Alderman Szczap noted that while she understood that times are tough, the best interest of the whole community is at stake and didn't think it was a good idea. Roll call vote: Logan, aye; Perkins, aye; Opper, aye; Leyden, aye; Marzahl, aye; Ulmer, aye and Szczap, aye. All ayes. Motion approved seven to zero to deny the petition.

DECLARE SURPLUS PROPERTY – ORD. 2009-126 APPROVED

Moved by Logan, seconded by Perkins to approve Ordinance 2009-126, Authorizing the Sale of Personal Property Owned by the City of Harvard. Roll call vote: Perkins, aye; Opper, aye; Leyden, aye; Marzahl, aye; Ulmer, aye; Szczap, aye and Logan, aye. Ordinance 2009-126 approved eight to zero.

MCCOG AGREEMENT/LOCAL GOVERNMENT VEHICLE & EQUIPMENT AUCTION- APPROVED

Moved by Perkins, seconded by Opper to authorize the Mayor to sign the McHenry County Council of

Governments Local Government Vehicle and Equipment Auction Agreement. Roll call vote: Opper, aye; Leyden, aye; Marzahl, aye; Ulmer, aye; Szczap, aye; Logan, aye and Perkins, aye. Motion approved seven to zero.

CONSENT AGENDA:

- Harvard Hospital Foundation Raffle Request August 10th – September 3rd
- Harvard Booster Club Raffle Request Home Games starting August 21st, 2009
- Harvard High School Homecoming Parade October 2nd, 2009

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

COMMITTEE REPORTS

ALD. LOGAN - BILLS APPROVED

Moved by Logan, seconded by Perkins to approve the bills as presented in the amount of \$262,425.38. Roll call vote: Leyden, aye; Marzahl, aye; Ulmer, aye; Szczap, aye; Logan, aye; Perkins, aye and Opper, aye. Motion approved seven to zero.

ALD. LOGAN – FINANCE COMMITTEE MEETING

Chairman Logan noted the 1st quarter financial reports from Administrator Nelson in the aldermen's folders and called a Finance Committee Meeting for Thursday, August 20, 2009, at 6:30 p.m. to review the reports. Chairman Logan encouraged all of the City Council members to attend.

ADMINISTRATOR'S REPORT

Administrator Nelson indicated he would reserve his comments until the Finance Comm. Meeting.

CLERK'S REPORT - UPCOMING MEETING DATES

August 18	Regular Events Committee Meeting, 5 p.m.
August 20	Finance Committee Meeting, 6:30 p.m.
August 25	Regular City Council Meeting, 7 p.m.

ATTORNEY'S REPORT

City Attorney Carlos Arévalo updated the City Council on the status of the escrow created in May, 2008, in relation to the Walgreen's development to guarantee construction of improvements which have been completed. Carlos has prepared a letter of direction to the escrow to release the remaining funds back to the City. In Mayor Nolan's absence, Alderman Marzahl has signed the letter of direction.

DEPARTMENT HEADS REPORTS

Smith Engineering & Dept. Heads: Reports as submitted.

Chief Kazy-Garey reported that Sgt. Krause, Officers Bauman and Kohn did the National Night Out Program on Tuesday, August 4th at the swimming pool with about 250 in attendance.

Supt. Kruckenberg updated the City Council on the status of road work in Ward 2.

The Garfield Street Water Main Replacement Project will start on August 13th; the project will take about a month to complete.

Marengo/McKinley and Ayer St. Resurfacing Projects have been let. The contract has been awarded with a pre-construction meeting on August 17th and an anticipated September construction schedule.

Garfield Resurfacing (part of the federal stimulus) Project is set for letting in September. The project may or may not be completed this year.

NO REPORTS

Treasurer Meseck and Aldermen Opper, Perkins, Szczap, Ulmer, Leyden and Marzahl had no specific report at this time.

At 7:36 p.m., moved by Perkins, seconded by Marzahl to adjourn the meeting. Aldermen voting aye: Leyden, Marzahl, Ulmer, Szczap, Logan and Perkins. All ayes. Motion carried

Submitted by:


Andy Wells,
City Clerk

8-13-09
Date