

## REGULAR CITY COUNCIL MEETING MINUTES

July 27, 2010 - 7:00 P.M.

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

### AUDIENCE PARTICIPATION: NONE

### CITY COUNCIL MEETING MINUTES OF 06/22/2010 - APPROVED

Moved by Logan, seconded by Marzahl to approve the minutes of the Regular City Council Meeting of June 22, 2010, as presented. Aldermen voting aye: Leyden, Marzahl, Ulmer, Szczap, Logan, Perkins and Opper. All ayes. Motion carried.

### ORDINANCE AUTHORIZING EXECUTION OF THE FIRST AMENDMENT TO MERRYMAN ANNEXATION AGREEMENT

Mayor Nolan noted that the First Amendment to the Merryman Annexation Agreement has been scratched from the agenda.

### RESOLUTION ON MERRYMAN RECLAMATION BOND - APPROVED

City Attorney Arévalo reviewed outstanding issues relative to Merryman including the screening and other requirements with the driveway as well as the issue of the reclamation bond. The bond company that issued the bond gave the City a notice of expiration. Attorney Arévalo drafted a proposed resolution in the event that the City needs to move forward and take action on a claim for the reclamation bond. Moved by Logan, seconded by Marzahl to approve a *Resolution Authorizing Making a Claim on the Reclamation Bond Relative to Thomas Merryman and McGuire Road Stone, LLC, in the City of Harvard*. Roll call vote: Leyden, aye; Marzahl, aye; Ulmer, aye; Szczap, aye; Logan, aye; Perkins, aye and Opper, aye. Motion approved seven to zero.

### PLANNING & ZONING COMMISSION RECOMMENDATION AND FINDING OF FACTS

Guaranteed Automotive, Inc. Petition for a Conditional Use for Operation of Automobile Repair and Detailing Facility for Property located at 1442 S. Division St., Harvard – Petition Withdrawn

Chairman Szczap noted the Recommendations/Findings of Fact submitted by Terry Smith, Chairman of the Planning and Zoning Commission which met on June 1<sup>st</sup> and July 6<sup>th</sup>, 2010 for a hearing in the petition submitted by Richard Martin, Guaranteed Automotive, Inc. and Joe Hogel for a conditional use to permit the operation of an automobile repair and detailing facility at property located at 1442 S. Division St., Harvard. The Planning and Zoning Commission finds that the petition was withdrawn by the petitioner pursuant to written correspondence dated June 23, 2010. No action is required.

Joshua Somerville/Amanda Edmonds Petition for a Conditional Use Permit for Operation of a Tattoo Parlor at 45 N. Ayer St., Harvard – Ordinance 2010-111 Approved

Chairman Szczap noted the Recommendations/Findings of Fact submitted by Terry Smith, Chairman of the Planning and Zoning Commission which met on July 6<sup>th</sup>, 2010 for a hearing in the petition submitted by Joshua Somerville, Amanda Edmonds and Peter Parhas for a conditional use permit to operate a tattoo parlor at Second Sights Studio located at 45 N. Ayer Street, Harvard, Illinois. After reviewing the evidence and testimony presented, the Planning and Zoning Commission recommends that the proposed conditional use be granted with the condition that it meets all city, state and county requirements. In further support of this conclusion, the Planning and Zoning Commission has the following findings:

1. *Effect on the General Welfare.* The operation of the conditional use will not be detrimental to nor endanger the public health, safety and general welfare if they follow city, county and state regulations governing tattoo parlors.
2. *Effect on surrounding property:* The subject property is located in the central business district and this conditional use should be compatible with surrounding uses.

3. *Adequacy of roads and parking:* The proposed conditional use should not have a negative impact on existing roads and parking.
4. *Conformity to Regulations:* In all other respects the conditional use will conform to all B-2 district zoning regulations.
5. *Additional Conditions.* Approval of a conditional use to permit the operation of a tattoo parlor at 45 N. Ayer Street, Harvard, Illinois, subject to language provided by the City Attorney as to time limits and state and county requirements for a tattoo parlor.

Alderman Szczap turned the floor over to City Clerk Wells who reviewed additional conditions that were discussed at the hearing, specifically requirements contained in Ordinance 92-107 which was approved for a prior tattoo parlor. City Clerk Wells referred to a memo from City Attorney Arévalo on language to be included should the petition be approved that the conditional use is restricted to the petitioners until such time as their lease interest in 45 N. Ayer Street shall cease to exist. In the event a new tenant would intend to operate a tattoo parlor, said tenant would be required to seek approval of a conditional use permit. Also, that the petitioners shall operate the tattoo parlor in compliance with the Illinois Tattoo and Body Piercing Establishment Registration Act statutory requirements found in 410 ILCS 54/1 et. seq. and 77 Ill Adm Code 797.100 et. seq. City Clerk Wells suggested including additional language requiring petitioners to operate in compliance with any McHenry County Health Dept. and local code/ordinances pertaining to tattoo parlors. The majority of conditions included in the 1992 ordinance are covered under the Illinois Code and Administrative Code with the exception of the following which the Planning and Zoning Commission would recommend:

1. Minimum size of room of 150 sq. ft.
2. No person under the age of 18 shall be tattooed.
3. Hours of operation. No new customers may begin the tattooing procedure after 10 p.m. or before 6 a.m.
4. Illinois requires records to be held for a period of one year; the Commission would like to see the requirement at two years.
5. Illinois code requires an authorized special waste hauler for the disposal of used needles, dressing and other medical waste generated by the tattooing procedure; the Commission would like the City to have a copy of said contract.
6. Language that would authorize the Building and Zoning Department to conduct periodic inspections of subject property at any time.
7. Penalty clause that any violation will result in immediate revocation of conditional use permit and a fine of not more than \$500 for each offense.

The Planning and Zoning Commission recommends to the City Council that the proposed application for a conditional use permit to operate a tattoo parlor at 45 N. Ayer Street be granted subject to the conditions set out above.

Moved by Szczap, seconded by Logan to approve the Planning and Zoning Commission's recommendations and recommendations as submitted by City Attorney Arévalo and City Clerk Wells. The petitioner Joshua Somerville, 17419 Hebron Rd., Harvard was in attendance and requested a copy of the executed ordinance. Mr. Somerville indicated that he has a complete understanding of all the requirements and conditions that were brought forth. Chief Kazy-Garey had no reservations. Roll call vote: Marzahl, aye; Ulmer, aye; Szczap, aye; Logan, aye; Perkins, aye; Opper, aye and Leyden, aye. Ordinance 2010-111 approved seven to zero.

#### **L.A.W. PUBLICATIONS PEDDLAR & SOLICITOR'S PERMIT REQUEST**

John Beckman, 10116 Headly Hill Rd., Louisville, KY presented a request from L.A.W. Publications for a Peddler's and Solicitor's permit from August 2 – 13, 2010, with a waiver of permit fees in exchange for the Harvard Police Dept. receiving educational materials equivalent to the cost of the permit fee. Chief Kazy-Garey indicated that L.A.W. Publications has publications that he would like to utilize. Moved by Logan, seconded by Opper to waive the peddler's and solicitor permit fee in exchange for the City receiving the equivalent value in publications. Roll call vote: Ulmer, aye; Szczap, aye; Logan, aye; Perkins, aye; Opper, aye; Leyden, aye and Marzahl, aye. Motion approved seven to zero.

**CHAMBER OF COMMERCE REQUEST/CIRCUS @ MILKY WAY PARK SEPT. 12<sup>th</sup>, 2010 - APPROVED**

Mayor Nolan reviewed the Chamber of Commerce's request to use Milky Way Park from Saturday, September 11<sup>th</sup> through Monday, September 13<sup>th</sup>, 2010, to host the Kelly-Miller Circus with a waiver of fees for park reservation, police service and water usage for the circus to hook to the fire hydrant. Chairman Logan noted that in the past the City Council has also granted a waiver to allow large circus animals in the park. Moved by Ulmer, seconded by Marzahl to approve the Chamber of Commerce's request, with a waiver of fees and allowing large circus animals in the park. Roll call vote: Szczap, aye; Logan, aye; Perkins, aye; Opper, aye; Leyden, aye; Marzahl, aye and Ulmer, aye. Motion approved seven to zero.

**WAIVE BUILDING PERMIT FEES FOR FOOD PANTRY/SR CITIZEN CENTER - APPROVED**

Moved by Logan, seconded by Perkins to waive the building permit fees for the Food Pantry/Sr. Citizen Center to be located at 6817 Harvard Hills Rd., Harvard. Roll call vote: Logan, aye; Perkins, aye; Opper, aye; Leyden, aye; Marzahl, aye; Ulmer, aye and Szczap, aye. Motion approved seven to zero.

**SANCTION APPROVAL OF HVD BOYS LEAGUE ONE-DAY LIQUOR LICENSE 07/24/10 - APPROVED**

Moved by Perkins, seconded by Logan to sanction the Mayor's approval of the Harvard Boy's League One Day Liquor License on July 24, 2010. Alderman voting aye: Leyden, Marzahl, Ulmer, Szczap, Logan, Perkins and Opper. All ayes. Motion carried.

**LION'S CLUB REQUEST FOR DISC GOLF TOURNAMENT AT LIONS PARK 08/14/10 - APPROVED**

Moved by Logan, seconded by Marzahl to approve the Lion's Club request to host a Disc Golf Tournament at Lion's Park on August 14, 2010. Alderman voting aye: Leyden, Marzahl, Ulmer, Szczap, Logan, Perkins and Opper. All ayes. Motion carried.

**CARL OPPER ONE DAY LIQUOR LICENSE/MILKY WAY PARK AUGUST 14, 2010 - APPROVED**

The City Council reviewed Carl Opper's request for a one day liquor license at Milky Way Park. All appropriate fees have been paid and a Certificate of Insurance has been provided. Moved by Perkins, seconded by Ulmer to approve a one day liquor license for the consumption of alcohol at Milky Way Park on Saturday, August 14<sup>th</sup>, 2010, from 11 am - 8 p.m. Aldermen voting aye: Leyden, Marzahl, Ulmer, Szczap, Logan and Perkins. All ayes. Motion carried. Alderman Opper abstained.

**GARFIELD ST. ADA SIDEWALK REQUIREMENTS**

Mayor Nolan reported that the bids for the Garfield Street ADA Sidewalk Improvements were opened on Monday, July 26<sup>th</sup>, 2010. The apparent low bid was submitted by Hometown Landscaping, P.O. Box 68, Harvard, Illinois. Moved by Logan, seconded by Perkins to authorize Mayor Nolan and staff to award the bid to Hometown Landscaping as the apparent low bidder in the amount of \$29,356.00. Administrator Nelson noted this is part of the CDBG Grant that was awarded to the City a couple years ago. Roll call vote: Perkins, aye; Opper, aye; Leyden, aye; Marzahl, aye; Ulmer, aye; Szczap, aye and Logan, aye. Motion approved seven to zero.

**RESOLUTION SUPPORTING "SPIRIT OF '45" DAY - APPROVED**

Moved by Logan, seconded by Opper to approve a resolution *Supporting the Observance of "Spirit of '45 Day"* on Sunday, August 8<sup>th</sup>, 2010. Aldermen voting aye: Leyden, Marzahl, Ulmer, Szczap, Logan, Perkins and Opper. All ayes. Motion carried. Mayor Nolan presented the resolution to Gary Swanson of the American Legion.

**RESOLUTION AUTHORIZING THE DESTRUCTION OF CERTAIN AUDIO RECORDINGS OF CLOSED SESSION MEETINGS - APPROVED**

Moved by Perkins, seconded by Marzahl to approve a resolution *Authorizing the Destruction of Audio Recordings of Closed Session Meetings*: August 26, 2008 and November 11, 2008. Aldermen voting aye: Leyden, Marzahl, Ulmer, Szczap, Logan, Perkins and Opper. All ayes. Motion carried.

**ORDINANCE AUTHORIZING SALE OF SURPLUS PARK PROPERTY – ORD. 2010-112 APPROVED**

Administrator Nelson reported the proposed ordinance is a follow through from the last City Council meeting with respect to the property around the Park Pointe detention pond with bids to be opened at the next City Council meeting. Moved by Perkins, seconded by Logan to approve Ordinance 2010-112, Declaring Certain City Owned Real Estate as Surplus Property and Authorizing the Sale of the Surplus Property. Roll call vote: Opper, aye; Leyden, aye; Marzahl, aye; Ulmer, aye; Szczap, aye; Logan, aye and Perkins, aye. Ordinance 2010-112 approved seven to zero.

**ORDINANCE AUTHORIZING SALE OF SURPLUS PERSONAL PROPERTY – ORD. 2010-113 APPROVED**

Moved by Perkins, seconded by Marzahl to approve Ordinance 2010-113, Authorizing the Sale of Personal Property Owned by the City of Harvard. Roll call vote: Leyden, aye; Marzahl, aye; Ulmer, aye; Szczap, aye; Logan, aye; Perkins, aye and Opper, aye. Ordinance 2010-113 approved seven to zero.

**MCCOG AGREEMENT/LOCAL GOVERNMENT VEHICLE & EQUIPMENT AUCTION- APPROVED**

Moved by Logan, seconded by Perkins to authorize the Mayor to sign the McHenry County Council of Governments Local Government Vehicle and Equipment Auction Agreement. Roll call vote: Marzahl, aye; Ulmer, aye; Szczap, aye; Perkins, aye; Opper, aye and Leyden, aye. Motion approved seven to zero.

**VENDING LICENSE APPLICATIONS – APPROVED**

Moved by Perkins, seconded by Ulmer to approve Vending License applications submitted as follows:

- J. Prokop Service, Inc. for South Side, 111 S. Ayer St.
- Redbox Automated Retail for Walgreen's, 395 South Division St. (Alderman Opper noted that the dates on the application are incorrect and should be for 2010 not 2009)

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

**CONSENT AGENDA:**

- Harvard Booster Club Raffle Request July 14<sup>th</sup>, 2010 and Home Games 2010/2011
- Harvard Jr. Tackle Raffle Request July 18<sup>th</sup> – November 7<sup>th</sup>, 2010
- Harvard Jr. Tackle Raffle Request Aug. 8<sup>th</sup>, 15<sup>th</sup>, & 22<sup>nd</sup>, Sept 5<sup>th</sup> & 26<sup>th</sup> & Oct 3<sup>rd</sup>, 2010
- Harvard Jr. Tackle Raffle Request September 25<sup>th</sup>, 2010

Moved by Logan, seconded by Ulmer 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 list as presented in the amount of \$279,271.87. Roll call vote: Szczap, aye; Logan, aye; Perkins, aye; Opper, aye; Leyden, aye; Marzahl, aye and Ulmer, aye. Motion approved seven to zero.

**ALD. LOGAN – “PORK FOR THE PANTRY” PIG ROAST FUNDRAISER**

Alderman Logan reminded the City Council that August 21<sup>st</sup>, 2010, is the Pig Roast at Milky Way Park which is being organized by the Events Committee as a fundraiser for the new Food Pantry/Sr. Citizen Center. Anyone interested in volunteering an hour or two to help should contact Crystal at the Chamber office at 943-4404.

**ALD. SCZAP – ORDINANCE COMMITTEE**

Chairman Szczap called an Ordinance Committee for August 4<sup>th</sup>, 2010, at 6:30 p.m. to discuss a call center for Marengo Fire and Rescue. City Clerk Wells has a text amendment to the Zoning Code from the Planning and Zoning Commission as well as a couple code book clean up matters to be included on the same agenda.

**MAYOR'S REPORT**

Mayor Nolan noted that he's been working on several things at City Hall, but everything is relatively slow.

**ADMINISTRATOR'S REPORT**

City Administrator Nelson noted his written report in the aldermen's folder. Dave stated he is participating in a wind energy task force with the McHenry County Planning Dept. to craft some type of uniform code. Also attached to the report is a list from IDOT on resurfacing projects.

**CLERK'S REPORT - UPCOMING MEETING DATES**

August 3 Planning & Zoning Commission Meeting, 7 p.m. POST TO CANCEL  
August 4 Ordinance Committee Meeting, 6:30 p.m.  
August 10 Regular City Council Meeting, 7 p.m. POST TO CANCEL  
August 17 Regular Events Committee Meeting 5 p.m.  
August 24 Regular City Council Meeting, 7 p.m.

**TREASURER'S REPORT**

Treasurer Meseck noted that the monthly treasurer's report for July, 2010, was in the aldermen's folders.

**NO REPORTS**

City Attorney Arévalo, Aldermen Leyden, Marzahl, Ulmer, Perkins and Opper had no specific report.

**DEPARTMENT HEADS REPORTS**

SEC Group, Inc., an HR Green Company and Dept. Heads: Reports as submitted.

Supt. Grant updated the City Council on the status of repairs for Well #7 which has been offline for the last year.

At 7:30 p.m., moved by Perkins, seconded by Logan to adjourn the meeting. Aldermen voting aye: Leyden, Marzahl, Ulmer, Szczap, Logan, Perkins and Opper. All ayes. Motion carried.

Submitted by:



Andy Wells,  
City Clerk

08/03/10  
Date