

## REGULAR CITY COUNCIL MEETING MINUTES

November 23, 2010 - 7:00 P.M.

Mayor Nolan 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, Musgrove, Adams, Logan, Perkins and Opper. Alderman Ulmer was absent. Also present were Treasurer Meseck, City Administrator Nelson, Supt. Public Works Kruckenberg, Supt. Utilities Grant, City Attorney Carlos Arévalo and members of the audience.

### AUDIENCE PARTICIPATION: NONE

### CITY COUNCIL MEETING MINUTES OF 10/26/2010 - APPROVED

Moved by Logan, seconded by Marzahl to approve the minutes of the Regular City Council Meeting of October 26, 2010, as presented. Aldermen voting aye: Leyden, Marzahl, Musgrove, Adams, Logan, Perkins and Opper. All ayes. Motion carried.

### RELINQUISH CLASS B LIQUOR LICENSE & TOBACCO LICENSE JIM OLSON BP – APPROVED

Moved by Logan, seconded by Perkins to approve Jim Olson's request to relinquish the Class B Liquor License and Tobacco License for Jim Olson BP, 501 S. Division Street, effective upon the approval of the Class B Liquor License Application submitted by Sam Makim. Aldermen voting aye: Leyden, Marzahl, Musgrove, Adams, Logan, Perkins and Opper. All ayes. Motion carried.

### CLASS B LIQUOR LICENSE & TOBACCO LICENSE SAM MAKIM, SMR GAS & FOOD, INC. – APPROVED

Mayor Nolan stated that the fees have been paid. Chief Kazy-Garey confirmed that the background check came back satisfactorily. Moved by Logan, seconded by Marzahl to approve a Class B Liquor License and Tobacco License to Sam Makim, SMR Gas and Food, Inc., 501 S. Division St. Roll call vote: Leyden, aye; Marzahl, aye; Musgrove, aye; Adams, aye; Logan, aye; Perkins, aye and Opper, aye. Motion approved seven to zero.

### TRINITY LUTHERAN CHURCH SIGN VARIATION/WAIVER OF FEES – ORD 2010-122 APPROVED

John Tody, 301 W. Thompson St., Harvard addressed the City Council and reviewed Trinity Lutheran Church's request for a sign variation and waiver of permit fees to erect a sign on church property located at 504 E. Diggins St. pursuant to plans that were submitted to the Community Development Dept. The proposed sign consists of 2 vinyl clad posts standing 6' tall and 8' long, with lattice work between them, to allow the church to display vinyl banners for upcoming church events and activities. The church will also landscape around the sign. Administrator Nelson indicated that the proposed sign meets all the required setbacks. Moved by Marzahl, seconded by Opper to approve Trinity Lutheran Church's request and Ordinance 2010-122 granting a variation with a waiver of the permit fees. Roll call vote: Marzahl, aye; Musgrove, aye; Adams, aye; Logan, aye; Perkins, aye; Opper, aye and Leyden, aye. Ordinance 2010-122 approved seven to zero.

### MERRYMAN AGGREGATE/MCGUIRE RD STONE PIT ANNEXATION AGREEMENT AMENDMENT- DENIED

Attorney Jay Filler, representing Elvis and Carolyn Henson, 21007 McGuire Rd., Harvard referred to his written letter outlining the reasons for their objections. The Henson's are not concerned with the terms of any amendment, but are only concerned with the gravel pit being in compliance with appropriate laws and their agreement with the City. Attorney Filler summarized the Henson's concerns with specific issues of excessive noise and dust, lack of sprinklers installed on any of the crushers, lack of fencing, hours of operation outside of the hours permitted by the annexation agreement and the private entrance has not been paved a distance of 300' as required.

Rick Zirk, Project Manager of Merryman Aggregates, 14212 Washington St., Woodstock, addressed the City Council reference Merryman Aggregates' request for an amendment to Section B23 of the annexation agreement to modify the extraction fee obligation so that a fee of \$0.30 per ton of sold materials to be paid on a quarterly basis in lieu of the current flat fee. Rick stated that according to Merryman's operations

people, the fence and driveway have been completed. Mr. Zirk stated that the bottom line is that Mr. Merryman has struggled this year to stay open and that the project is upside down with more money going into the facility than coming out of the facility. Mr. Zirk referred to the violation notice from the EPA and indicated that he is putting together a CCA (Compliance Commitment Agreement), a copy of which will be provided to the City once it is approved. Mr. Zirk indicated that there aren't any types of construction jobs on the radar screen for next year and Merryman does not anticipate an increase in stone at the facility or any local big jobs on the horizon that would utilize that pit for stone. Mr. Zirk indicated that there isn't any way for Merryman to generate less stone next year than this year and be able to stay open and pay the fee.

At Mayor Nolan's inquiry as to hours of operation on November 12<sup>th</sup> at 8:30 p.m., Mr. Zirk responded that he would look into it. Mayor Nolan noted that this is the second time that Merryman has appeared before the City Council asking for a favor and have not done what they're supposed to do. Mayor Nolan noted that their letter didn't ask for a change in the time frame which is eight years. Mr. Zirk clarified Merryman's goal to maintain the extension of time and pay a tonnage fee. Administrator Nelson confirmed that the fencing has been installed and that the entrance has been paved a distance of 300' as required. Mr. Zirk testified that in 2010 Merryman exceeded the 10 acre of encumbrance area and the DNR Permit has been secured and forwarded to the City. At Mayor Nolan's inquiry, Mr. Zirk stated that Merryman has all the necessary state operating permits for this site and is not aware of anything outstanding. If approved, Merryman would submit a report to the City and pay the tonnage fee based on scale tickets with the scale house located on site. There was considerable discussion as to Merryman not living up to the original annexation agreement and not following through on obligations as requested by the City Council.

Moved by Marzahl, seconded by Adams to deny the proposed request for an amendment to the annexation agreement to reduce the fees to a per ton basis and an extension of the mining time. Mayor Nolan asked for any further discussion. There was none. Roll call vote: Musgrove, aye; Adams, aye; Logan, aye; Perkins, aye; Opper, aye; Leyden, aye; Marzahl, aye and Mayor Nolan, aye. Motion to deny the request was approved eight to zero.

**TAX LEVY – ORD. 2010-123 APPROVED**

Moved by Logan, seconded by Perkins to approve Ordinance 2010-123, Tax Levy. Roll call vote: Adams, aye; Logan, aye; Perkins, aye; Opper, aye; Leyden, aye; Marzahl, aye and Musgrove, aye. Ordinance 2010-123 approved seven to zero.

**ABATE TAXES SERIES 2000, 2004, 2006 BONDS - ORD. 2010-124 APPROVED**

Moved by Logan, seconded by Opper to approve Ordinance 2010-124, Abating a Portion of Taxes Levied to Pay Principal of and Interest on Certain General Obligation Bonds, (Waterworks and Sewerage System Alternate Revenue Source), Series 2000, 2004 and 2006 of the City of Harvard. Roll call vote: Logan, aye; Perkins, aye; Opper, aye; Leyden, aye; Marzahl, aye; Musgrove, aye and Adams, aye. Ordinance 2010-124 approved seven to zero.

**BLUE CROSS/BLUE SHIELD OF ILLINOIS HEALTH INSURANCE RENEWAL – APPROVED**

Administrator Nelson recommended approval of the BC/BS of Illinois renewal as presented with a premium increase of 3.05%. Moved by Adams, seconded by Logan to approve the health/dental/prescription drug and life insurance renewal with Blue Cross/Blue Shield of Illinois for calendar year 2011 as presented. Roll call vote: Perkins, aye; Opper, aye; Leyden, aye; Marzahl, aye; Musgrove, aye; Adams, aye and Logan, aye. Motion approved seven to zero.

**ICRMT LIABILITY INSURANCE RENEWAL - APPROVED**

Administrator Nelson reported that staff has worked with ICRMT to make some changes on how we handle our risk liability and property insurance limiting the city's increase to 1.6%. Moved by Adams, seconded by Marzahl to approve the ICRMT Liability Insurance Renewal for 2011 as presented. Roll call vote: Opper, aye; Leyden, aye; Marzahl, aye; Musgrove, aye; Adams, aye; Logan, aye and Perkins, aye. Motion approved seven to zero.

**ADOPT MCHENRY CO. NATURAL HAZARDS MITIGATION PLAN – RESOLUTION APPROVED**

Administrator Nelson stated that adopting the plan will allow the City to apply for federal funding in the future for the mitigation of natural hazards i.e. flooding and possibly storm warning tornado sirens or something else high tech. Moved by Marzahl, seconded by Adams to approve a resolution to adopt the McHenry County Natural Hazards Mitigation Plan and appointing Administrator Nelson to continue as the City’s representative on the Planning Committee. Roll call vote: Leyden, aye; Marzahl, aye; Musgrove, aye; Adams, aye; Logan, aye; Perkins, aye and Opper, aye. Resolution approved seven to zero.

**PROCLAMATION DESIGNATING DECEMBER AS DRUNK & DRUGGED DRIVING PREVENTION MONTH – APPROVED**

Moved by Logan, seconded by Perkins to approve the IDOT Proclamation Designating December as Drunk and Drugged Driving Prevention Month. Aldermen voting aye: Leyden, Marzahl, Musgrove, Adams, Logan, Perkins and Opper. All ayes. Motion carried.

**RESOLUTION CDBG GRANT/METZEN STREET - APPROVED**

Moved by Perkins, seconded by Marzahl authorizing City Administrator Nelson to write a CDBG grant for federal funding to reconstruct Metzen Street between Howard and Blanchard Street. Aldermen voting aye: Leyden, Marzahl, Musgrove, Adams, Logan, Perkins and Opper. All ayes. Motion carried.

**ZONING, PLANNING & ORDINANCE COMMITTEE RECOMMENDATIONS**

Chairman Opper reviewed the Ordinance Committee Meeting Minutes of November 3, 2010.

Towing Ordinance – Ord. 2010-125 Approved

The Ordinance Committee reviewed the proposed Ordinance Amending Chapter 15, Traffic, to Provide Regulations for the Seizure and Impoundment of Motor Vehicles which provides for towing on the premise of being a nuisance and imposes a fee of \$500 plus towing expenses. The ordinance outlines procedures for preliminary hearing; plea hearing/evidentiary hearing and administrative review. Chief Kazy-Garey recommended that #46 on the list of public nuisances 625 ILCS 5/11-502(a) Illegal Transportation of Alcohol by a Driver be deleted from the ordinance. Chief Kazy-Garey also recommended that language be included in the ordinance, similar to Johnsburg, which allows the Chief discretion on the fine amount after the preliminary hearing once the probable cause has been determined to reduce the fine and settle the case in order to save hearing costs. The Ordinance Committee recommends to the City Council approval of the proposed ordinance as discussed deleting Section 15.21B(46) and adding language that would give the Chief discretion to settle the case after the preliminary hearing.

Moved by Opper, seconded by Logan to approve the Ordinance Committee’s recommendation as presented and Ordinance 2010-125, Amending Chapter 15, Traffic to Provide Regulations for the Seizure and Impoundment of Motor Vehicles. Roll call vote: Marzahl, aye; Musgrove, aye; Adams, aye; Logan, aye; Perkins, aye; Opper, aye and Leyden, aye. Ordinance 2010-125 approved seven to zero.

Review Chapter 25, Alcoholic Liquor Dealers - Ord. 2010-126 Approved

▪ Basset Program – No Action Taken

The Ordinance Committee reviewed the State of Illinois Liquor Commission model ordinance pertaining to the BASSET Program which is a seller/server education and awareness training program designed to teach sellers/servers how to recognize bad licenses, signs of intoxication, over serving, etc. After discussion, the general consensus was not to get involved until such time as it is mandated by the State of Illinois.

▪ Section 25.11 License Renewal

City Clerk Wells reviewed the liquor license renewal which is sent out six weeks before the license is scheduled to expire (around mid March). If the renewal is submitted less than six weeks before expiration, an additional 10-day notice is sent, after which the applicant is subject to an additional renewal fee of \$500. The renewals are sent in as a single packet for background checks and a late applicant can hold up the whole process. Staff recommendation is to adjust the dates and remove the 10-day notice so that renewal applications are due by April 1<sup>st</sup> with the late fee of \$500 effective on April

2<sup>nd</sup>. City Clerk Wells also recommended including language for a deadline of April 15<sup>th</sup> for the application to be considered at the year-end meeting. If a renewal is not submitted by April 15<sup>th</sup>, the applicant would have to wait until the next regular meeting in May.

▪ Beer Gardens - Tabled

The Ordinance Committee discussed licensing beer gardens. The restaurant license has provisions for a beer garden at no charge and the Committee discussed whether or not to license beer gardens for classifications other than restaurants. Administrator Nelson indicated that other communities allow this kind of activity not associated with food. After discussion, the consensus was to table with staff to conduct further research.

▪ Section 25.17, Liquor Fines

Chief Kazy-Garey brought up discussion on the scale for fines as outlined in Section 25.17 which is set at \$1,000 for the 1<sup>st</sup> violation, \$1,500 for a second violation and \$2,500 for a third or subsequent violation all within a 12 month time frame. The Chief recommended removing the 12 month period from the scale and/or changing the language so that the fines imposed would be determined by the Liquor Commissioner. After discussion, the consensus was to amend the language to remove the 12 month time frame and that the fine shall not exceed \$1,000 for the first violation and second or subsequent offenses the fines shall be determined by the Liquor Commissioner.

The Ordinance Committee recommends to the City Council that Section 25.11, License Renewal and Section 25.17, Revocation or Suspension of License, Fines, Notice, Hearing, Appeal be amended as discussed. Moved by Opper, seconded by Logan to approve the Ordinance Committee's recommendation and Ordinance 2010-126, Amending Sections 25.11 and 25.17 as discussed. Roll call vote: Musgrove, aye; Adams, aye; Logan, aye; Perkins, aye; Opper, aye; Leyden, aye and Marzahl, aye. Ordinance 2010-126 approved seven to zero.

**EVENTS COMMITTEE/CHAMBER OF COMMERCE PROPOSAL TO HOST PROFESSIONAL RODEO ON JULY 30 & 31, 2010 - APPROVED**

Jim Olson, President of the Chamber of Commerce addressed the City Council and reviewed the proposal by the Harvard Events Committee and the Harvard Chamber of Commerce & Industry to present a professional rodeo in Harvard with the tentative dates of Saturday and Sunday, July 30<sup>th</sup> and 31<sup>st</sup>, 2011. All costs and profits from the event will be split between the Events Committee and the Chamber of Commerce. Lenora Calzavara Nolan of Big Hat Rodeo Co. in Hebron, Illinois addressed the City Council and stated that her parents' company has been in business for ninety years and produce professional rodeos throughout the Midwest. Alderman Logan reported that he has spoken with several of the references that were provided by Ms. Nolan and they were given glowing reviews.

Moved by Logan, seconded by Opper to authorize Mayor Nolan and staff to execute any contracts which will be required for the event and to waive any livestock requirements that might conflict with the contract. Roll call vote: Adams, aye; Logan, aye; Perkins, aye; Opper, aye; Leyden, aye; Marzahl, aye and Musgrove, abstain. Motion approved six to zero with one abstention.

**PUBLIC PROPERTY MEETING 12/07/2010**

In Chairman Ulmer's absence, Mayor Nolan called a Public Property Meeting for Tuesday, December 7<sup>th</sup>, 2010, at 6:30 p.m. to discuss the Illinois Power Agency Act.

**FYI: MCHENRY CO ZBA NOTICE OF HEARING WITHIN CITY'S 1½ MILE JURISDICTION**

The City Council reviewed the McHenry County ZBA Notice of Hearing for Reclassification and Conditional Use for property located at 20314 S. Route 14. There were no objections.

**FYI: MCHENRY CO BOARD OF REVIEW/ASSESSMENT REDUCTION REQUESTED**

Notices have been received from the McHenry County Board of Review for a Assessment Reduction for properties located at 308 S. Division St. and 1201-1299 S. Division St.

**CONSENT AGENDA: NONE**

**COMMITTEE REPORTS**

**ALD. LOGAN - BILLS APPROVED**

Moved by Logan, seconded by Perkins to approve the bills list as presented in the amount of \$152,066.18. Roll call vote: Logan, aye; Perkins, aye; Opper, aye; Leyden, aye; Marzahl, aye; Musgrove, aye and Adams, aye. Motion approved seven to zero.

Alderman Logan noted that Saturday, December 4<sup>th</sup> is Christmas in Harvard. Anyone interested in riding on the City float with Mayor Nolan should be at Washington School at 11:30 a.m.

**MAYOR'S REPORT**

- Set up for the Christmas in Harvard Gift Shoppe will be Friday, November 26<sup>th</sup> at 8 a.m. if any member of the Council has time to help out at 8 a.m.
- The next regular City Council meeting is December 14, 2010.

**ADMINISTRATOR NELSON**

Administrator Nelson noted his written report in the packet. Administrator Nelson encouraged all City Council members to attend the Public Property Committee meeting reference the Illinois Power Agency Act. Illinois law allows the city as a corporate authority to bid it's electricity on behalf of its residents.

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

December 7 Planning & Zoning Commission Meeting, 7 p.m. POST TO CANCEL  
Public Property Committee Meeting, 6:30 p.m.  
December 14 Regular City Council Meeting, 7 p.m.  
December 21 Regular Events Committee Meeting 5 p.m.

**TREASURER'S REPORT**

Treasurer Meseck noted that the monthly treasurer's report for November, 2010, was in the aldermen's folders. Bev thanked everyone that attended her retirement party.

**NO REPORTS**

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

**DEPARTMENT HEADS REPORTS**

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

Supt. Kruckenberg stated that Public Works is putting up all the Christmas decorations/wreaths downtown.

Chief Kazy-Garey referred to an announcement in aldermen's folders for a City Christmas Party to be held Tuesday, December 21<sup>st</sup>.

At 7:49 p.m., moved by Perkins, seconded by Opper to adjourn the meeting. Aldermen voting aye: Leyden, Marzahl, Musgrove, Adams, Logan, Perkins and Opper. All ayes. Motion carried.

Submitted by:

  
Andy Wells,  
City Clerk

  
Date