

Observer report of the League of Women Voters of Elmhurst, Illinois
By: Edgar Pal, League Observer

**Development, Planning, and Zoning Committee of the City of Elmhurst
Monday, May 14, 2018**

7:00 pm

City Council Chambers

209 N. York St.

Elmhurst, IL 60126

Note that the Observer Corps does not guarantee the accuracy or completeness of its reports. Official documents are on [BoardDocs](#).

1. Call to Order

- a. Time: 7:03 PM

2. Roll Call

- a. Members present: Mike Honquest (Chairman), Noel Talluto (Vice Chairman), and Mark A. Mulliner
- b. Other officials: Steven Morley (Mayor), James Grabowski (City Manager), Andrew Acker (City Attorney), Eileen Franz (Assistant Planning and Zoning Administrator), 1 recording secretary
- c. Public: Around 72 members of the public.

3. Written Communications from the Public

- a. Nicole Virgil submitted a written communication.

4. Public Comments (24 speakers)

- a. Stacey Nault – Here to address hoop house situation. Discussed allegations that there has been slandering between neighbors. She has been speaking to the Virgils over the past two years, and has never heard anything unkind or disrespectful about anyone. Everyone has been just focused on hoop houses, and getting the City to listen. She

lives behind the Virgils, two houses down. She can see their yard from her background, and said the hoop house posed no disturbance to her family. It's not ugly.

She heard that flooding is a possible concern. The whole neighborhood slopes down towards Salt Creek. Several homes sit higher than hers, and some have structures like swimming pools, driveways, patios, sheds. She can't imagine that the hoop house causes flooding in comparison to other structures. Virtually all neighbors are in support of the hoop house.

- b. Chris Gazetti – Walks dogs all the time down the road. She said the street is very quiet, and she hears no noise. By comparison, her daughter lives in Chicago near an El track, which is much louder. When the hoop house was put up, she didn't even notice it, and she can barely see the hoop house. She has lived on Fairview for over a decade, with no flooding. For newer homes, she has not experienced any water problems. No neighbor has ever complained or expressed any problem about it. Hopes that the Committee would listen.
- c. Nicole Virgil – Mentioned some communications that she's had with a few aldermen, who are concerned that she's misrepresenting facts or trying to put the City in a negative light. Wants to explain some of the intensity, and provide some context.

She provided several documents during "Receipt of Written Communications" portion of the meeting. Started off with letter requesting Council action in November 15, 2016. Asks Committee to appreciate that long before there was a judicial case, they were just asking for a discussion. Also submitted adjudication findings and order to the Committee. Talked about lot coverage. City asserted that hoop house exceeds allowable coverage. However, Nicole provided evidence suggesting she was well below the coverage limit. Lastly, she provided two photos of membrane structures already in Elmhurst. Also included

two ordinances that the City said she broke. One being a zoning ordinance, the other being a building code.

- d. Caryn Rivadeneira – Here to support the Virgils and push for liberty and equality. Read letter from other residents/neighbors in support of the Virgils. Their properties are right next to the Virgils, and they have not had any concerns about noise or appearance. Not aware of anyone that has said anything negative about it. Never encountered flooding problems as a result of the hoop house. Rainwater flows downwards towards Salt Creek, with no excessive runoff.

Read another letter from other neighbors, who have not had any concerns or emotional duress. Very supportive of efforts to grow food.

- e. Nancy Abbott – Neighbor of Virgils. Lived there for 28 years. Supports hoop house. Has no objections. It's their property, and should have right to do whatever they please as long as there is no harm. Hoop house is not obnoxious. What about other tent structures currently in Elmhurst? Some are permanent, some are not. It's not loud. Allows the garden to extend its growing season. Either create an ordinance that applies to all, or leave it to residents to use good judgement.
- f. Liz White – Read email from Rachel Gabuzda. Supporting hoop house. Has no issues. Has never been disruptive or loud.

Liz has also visited the Virgils home, and is shocked that specific rules apply to specific people.

- g. Dorothy McGuire – Resident for 43 years. Neighbor. Hoop house wasn't loud. There are other things (e.g. wind chimes, generators) that also produce noise, but aren't complained about. Hoop houses are an educational opportunity.
- h. Wendy Brazes – Resident of Ward 4. Emailed Committee members earlier today. 45-year resident. Mother was VP of the Elmhurst Garden Club. Would hope the Committee would have discussion about hoop houses and set guideline or ordinance. Elmhurst has always been a progressive community, and has prided itself in its sustainability. As

stated in last Monday's Council meeting, Chicago is already at the forefront of sustainability, allowing for hoop houses. Elmhurst could easily look to other municipalities for guidance. Recognizes that flooding was mentioned in other meetings. Glass greenhouses could have been erected, but that requires a concrete foundation, therefore causing more flooding. Also acknowledged other membrane structures that were either illegal or permitted. At this point, this needs to be discussed in some meaningful way.

- i. Larry Patron – Lived in Elmhurst since 2013. Has lived elsewhere in the US. Ward 6 resident (Honquest constituent). Has 10 signatures from 8 households, all signing petitions in support of hoop houses. One neighbor shouldn't get to decide what is visually pleasing. Honquest represents all Ward 6 constituents, and Patron asks that he consider all perspectives. This issue is about taking pride in the pursuit of sustainable living and in something that you've built. Chicago Botanical Garden has an entire webpage concerning benefits of hoop houses. Loyola University also has one.
- j. Susan Smentek – Ward 1 resident. Read letters from other residents supporting hoop house. One grows their own vegetables and donates to Elmhurst Food Pantry. Saw membrane structures in other lots, and hopes the Virgils can enjoy the same privilege.

Message from another Ward 1 neighbor. Supports hoop house structure and any other practice supporting green living, like composting. Fully supports growing one's own food.

Message from another Ward 1 neighbor. Hoop house consistent with sustainable initiatives to make Elmhurst more progressive.

- k. Kim Messina – 30-year resident of Elmhurst. Supports sustainability and extending gardening. Hoop house is not visible from the road. Virgils have offered educational opportunities to neighbors. Has sparked positive energy for those who want to learn more. Noted variances granted to other developers to overbuild homes. These have led to

more flooding issues. Property taxes has increased. Park land and community gardens have gone away due to flood mitigation. Developers get incentives to build more. Elmhurst has lost charm and quality of life. Gardening is therapeutic, and supports the opportunity to garden year-round.

- l. Lisa Gerhold – Ward 1 resident. Represents Elmhurst Cool Cities Coalition. ECCC supports hoop houses for sustainability reasons previously expressed to Committee and Council. Shared personal experience visiting hoop house in January 2017. Considering doing something similar in her own garden. One of the complaints was about noise, and when Lisa visited there was not much noise at all. Just a gentle flapping of the fabric. Pleased to see hoop house topic on Committee agenda.
- m. Sheryl Mayer – Ward 3 resident. Concerned with misapplication of municipal ordinances. Committee is in position to correct things now. Nobody was living in hoop house. Nobody was storing personal property. Building code citation applies to permanent structures. Code was not applied to any other membrane structure, just the Virgils'. Committee is asked to rectify this. All structures that don't exceed maximum lot coverage should be allowed.
- n. Jolana Kakavas – Ward 4. Supports hoop houses throughout all of Elmhurst. Mentioned Chicago Botanical Garden website.
- o. Patty Spencer – Expressed opposition to oversized temporary membrane structures. Have heard from others who feel the same way. (Note: Ms. Spencer is the City Clerk but spoke in her capacity as a private citizen.)
- p. Theresa McCarthy – Fremont resident. Supports hoop houses. Finds hoop houses much less objectionable than Elmhurst Extended Care.
- q. Elizabeth Ambrogi – Ward 1 resident. Shows support for the hoop house. Why hasn't Committee explained why this wasn't on the agenda for so long? Hoop house is no different from plastic cover on barbecue grills and patio covers. We have one opposition member here, after two years of supporters showing up. Daughter will show up soon to speak as

well. She doesn't want to spend much more time in Elmhurst because of the way it was handled sustainability and quality of life issues. Committee should be listening to our youth, and do what's necessary to pass an ordinance.

- r. Eileen Oeser – Fremont resident. First heard about hoop house through another case that was going through the city. Hoop house is an extension of sustainability. Supports it, thinks it's a great idea. City needs to embrace alternatives that make sense.
- s. Juliette Ambroggi – Read Native American proverb. Committee should leave planet in better position for children.
- t. Michelle Oiaconti – Ward 1 resident. Let Virgils get their hoop house.
- u. Edgar Pal – Discussed semi-annual review of closed session minutes. Committee held 4 closed meetings in 2017, concerning litigation. Closed sessions appeared to be about hoop house lawsuit and Elmhurst Extended Care. Those cases are over, so minutes should be released. Committee has always been required by Open Meetings Act to conduct this vote. Why hasn't it been done? Also, they missed their deadline. Committee has another OMA violation, by appointing Ald. Mulliner to Economic Development Commission.
- v. Brian Lambrecht – Representing DuPage Libertarians. If there's no victim, then there's no crime here.
- w. Dan Virgil – Thank Chairman Honquest for placing this on meeting agenda. Fully supportive of membrane structures as long as you stay within allowable coverage. Structure is meant to be temporary only. Has heard about some aldermen who have reached out to learn more about hoop houses. Every time he comes to City Hall, he finds more and more people who have been supportive.
- x. Claude Pagacz – Committee is confronted by numerous builders who desire change. We have a Code, and the Committee should read it. Code doesn't quite fit with what builders want to do. Situation with a church. Not just a few changes, not just a few modifications. A whole, complete change. Committee is asked to do it, asked to consider it. Spoke about various buildings going up around town. New car wash on York. All

readily agreed to by this Committee.

What do we have here? A little plastic building that one neighbor supposedly said made a racket. All we have are people who want to grow vegetables.

For church case, Committee considered changes that don't even come close to meeting the code. Doesn't know what Committee is going to do with this hoop house. People living in condos now have a gas station in front of them. City allowed condos to go in before the gas station was even there.

Committee has approved several buildings that don't even meet the code. But the hoop house isn't even approved.

5. Business Before the Committee

- a. Minutes of the April 23, 2018 meeting of the Development, Planning & Zoning Committee
 - i. Approved, 3-0.
- b. Determination of Meetings Lawfully Closed Under the Open Meetings Act, Whether to Be Released or Remain Closed by the Body of the Minutes or Semi-annual Review of the Minutes as Mandated by Section 2.06 pursuant to the Open Meetings Act 5 ILCS 120/5 (c)(5), (c)(21)

Minutes to be determined whether to release or remain closed:

5/22/17, 6/26/17, 7/10/17 and 8/14/17

- i. City Attorney is recommending not to release the minutes.
- ii. Attorney Acker: Lawsuits have not been filed yet. Time of filing has not yet passed.

Once Committee takes this vote and makes a recommendation on whether to release, motion may go to full Council. Committee must continue to have this vote every 6 months.

- iii. Motion to keep the minutes confidential. Approved, 3-0.
- c. Review of Municipal Code regarding Membrane Structures
 - i. Honquest stated that this won't be a Q&A session with public participation. Committee will discuss only amongst themselves and with staff.
 1. Honquest began with a personal story. Grew up in Texas. Moved there in 1980s. Not much zoning laws, where zoning viewed almost as a "nuisance".
 2. Ordinances have been in place longer than City officials have been on the Council.
 3. Currently, the Code prohibits membrane structures. There was a complaint, and City staff made a determination of a violation.
 4. After adjudication process was filed, lawsuit proceeded through the courts. This is why Committee didn't consider hoop house matter. End of 2017, Court concluded the case and found in favor of the City.
 5. People might not agree with the policy, but the process worked.
 6. This process of setting up a meeting has been in place for a while. This ends tonight, as they start to hear this case.
 7. Issues at play: Hoop houses, and business considerations. (Is it a small business?) Right now, they're just looking at residential properties.
 8. Committee is now considering a general referral from aldermen, not specifically the Virgils' case.
 9. Generally, Committee business starts from Zoning and Planning Commission. ZPC will hold public hearings.
 10. In current code, greenhouses are currently allowed.
 11. First, Committee report would go to Council for approval. Then, application will go to ZPC, and work its way back through Committee then Council again.
 - ii. Talluto acknowledged that aldermen have received many emails and phone calls. States that there have been differing points of view concerning the hoop houses.

Committee could refer this to ZPC for further review. That process includes a public hearing, with 5 minutes per person to speak. Also allows for more expert testimony.

- iii. Honquest thanked public for being organized during public comment.
- iv. Franz gave overview of residential zoning districts.

Purpose of zoning ordinances: establish adequate standards, minimize congestion, facilitate adequate transportation, protect residential/commercial/etc. usage from encroachment, define powers and duties of officers, implement Comprehensive Plan, etc. There are four single family residential districts: residential estate, R1, R1A, R2 (most common, single-family).

1. Zoning ordinance adopted in 1992. Permitted use is single-family detached dwelling. Can also include garages, carports, greenhouses, swimming pools, tool houses, sheds.
 2. As an “accessory use”, those structures would need to meet certain setbacks and coverage requirements. Allowed 30% building coverage in certain classes of districts. Discussed separation distances a bit more. Each property needs to be reviewed separately.
 3. In 2010, ordinance was passed to prohibit membrane structures. Intended to cover carport structures. There’s also a local amendment in the building code that prohibits membrane structures.
 4. Asked building inspector to look into what it would take to meet building requirements. If it’s a pre-fab structure, would need to meet manufacturer specifications and may need to be anchored. Otherwise, building plans need to be submitted, and structure may need foundation.
- v. Honquest: In the case of a greenhouse. Looked at from setback perspective?

1. Franz: Correct. Inspector would look at setbacks. Engineering would look at impervious requirements.
 2. Honquest: Similar to a shed? (Franz: Yes.)
 3. Honquest: Regarding prefab, if it's manufactured to certain specifications that meet our Code, residents can install it. With or without a permit?
 4. Franz: We don't require permit for sheds less than 100 sq ft. Property owner still required to meet setbacks and coverage requirements. Over 100 sq ft, a permit would be required.
 5. Honquest: Resident would apply for a permit. It's a one-time fee? (Franz: Yes.) That can be installed on their lot?
 6. Franz: Accessory structure cannot be in front of the principle building.
 7. Honquest: Can be behind the house. Requirements on size?
 8. Franz: Can be up to 720 sq ft. But you'll be limited by size of lot and coverage requirements.
 9. Honquest: Treated similar to a garage or similar structure? (Franz: Correct.) It would be up to resident to decide what kind of greenhouse they want?
 10. Franz: Yes, there are different types of greenhouses, but they would need to meet our building requirements.
- vi. Talluto: We have not yet researched other municipalities?
1. Franz: Started doing research on other communities. Will bring to upcoming meeting.
 2. Talluto: Difference between conservatory and greenhouse?
 3. Franz: Zoning ordinance does not define everything. Need to look at 1988 dictionary. "Greenhouse" is a building or room used to extend the growing of plants. Can look up "conservatory" later.
 4. Talluto: Do we control what types of accessory uses are allowable? In downtown core, we have a list of uses: permitted or conditional uses.
 5. Franz: If you're zoned residential, you're limited to residential use on the property. There are conditional uses for schools and

churches, and they can have accessory structures. But other than storage or uses incidental to single-family use, City doesn't get into it. E.g. tool sheds, pools, garages

6. Talluto: City doesn't currently require permit for accessory structure less than 100 sq ft. Is there any mechanism for the City to know if someone is building or putting one up?
 7. Franz: People will call the City, and City will provide advice on setbacks. Otherwise, City won't be aware.
 8. Talluto: How would they control a small accessory structure that doesn't meet the setback requirement?
 9. Franz: Someone would need to submit a complaint.
 10. Talluto: Lot coverage requirement is cumulative of main home and accessory buildings, correct? (Franz: Yes)
- vii. Mulliner: Going back to greenhouse vs. conservatory. What do you envision the differences to be?
1. Franz: Intern did research on greenhouse vs hoop house. Greenhouse is more permanent, sits on solid foundation, equipped with fuel based heater, considered more durable. Hoop house is more of a temporary structure, heated by sunshine or ventilation, less durable, and plants are grown in soil or raised beds.
 2. Mulliner: How close are greenhouses to hoop houses?
 3. Franz: Needs to look at how well it's anchored.
- viii. Honquest: Greenhouses and hoop houses seem synonymous to a lot of people. Wants understanding of what greenhouse means today for our Code and our permit. How would hoop house contrast to greenhouse? If a hoop house is deemed a greenhouse, would it fit within our existing code? Can we redefine what greenhouse means for our Code? Real objection is the temporary nature of it, not necessarily the function. As long as it's past 100 sq ft, the owner would go through the permit process and needs to be reviewed by City staff.

- ix. Talluto: What are all of the options that exist? What are the pros and cons? If this goes to ZPC, would ZPC have authority to comment on process?
 1. Franz: ZPC would look at the text of the zoning ordinance. Process is within the purview of the Committee.
- x. Morley (speaking to the crowd): To further clarify the long process, the Committee is currently considering a referral that could result in a text change. Committee is not charged with coming up with a conclusion. Committee will not decide specifics of zoning code. What can be done, potentially? Hoop house is intended to extend the growing season. In cases like this, ZPC is looking for direction, not a conclusion. If the Committee decides that Code needs to be changed, then it will report that request to the ZPC. First, the Committee will gather facts, determine whether the Code should be changed, and ultimately, frame the question without creating a conclusion. ZPC does a lot of the heavy-lifting and research
- xi. Mulliner: If we just focus on hoop houses, then what if that's too restrictive? Ordinance should allow for extended growing season with a wide variety of options.
- xii. Honquest: This will be picked up in 2 weeks, on May 29th, the day after Memorial Day. Discussion concluded.

After the discussion on membrane structures, the League Observer left the meeting. The minutes will be posted on [BoardDocs](#).

- d. Case 18 ZBA 03 FFC Variations
 - e. Case 18 P 05 Verizon/City of Elmhurst Communication Tower Conditional Use and Variations
- 6. Other Business
 - 7. Adjournment

Observer's Remarks

The City moved the meeting from Conference Room #1 (the usual location) to Council Chambers, to accommodate high turnout. Such a move is required by the Open Meetings Act, when the public body anticipates higher than usual attendance.

The Committee members, officials, and staff were not seated at the Council's dais, but rather at a separate table set up in front of the dais. Only one microphone was used, and it was sometimes difficult to hear conversations involving multiple people.

On Tuesday, May 15, the League Observer sent an email to Mayor Morley, City Manager Grabowski, and Chairman Honquest, requesting that a sufficient number of microphones be used at the next meeting. On May 16, Mr. Grabowski responded that he will look into it.