

City Council Meeting Monday, April 16, 2018

Attendance: 3 press, ~25 residents; City Mgr. Grabowski; Atty. Storino, Treasurer Libowicz, Clerk Spencer; ~4 City staff; members; 13 Aldermen; Fire Chief Freeman, Police Chief Ruth

7:30 p.m.

Steven M. Morley, Mayor

LWV observer: B. Lipton

PLEASE NOTE: Related documents can be accessed online at:

<http://www.boarddocs.com/il/coe/Board.nsf/Public>

and video recording of this meeting can be found at www.Youtube.com

1. Executive Session - for the Purpose of Discussing: Pending /Probable Litigation pursuant to the Open Meetings Act 5 ILCS 120/2 (c)(11)

2. Call to Order

Pledge of Allegiance; Roll Call: Ald. Brennan absent

3. Receipt of Written Communication from the Public none

4. Public Forum

- Sue Whitworth, LWV President, cautions the Council that they have not been observing the legal requirement to record and approve minutes of Council committees. The state Attorney General's office has opened an investigation of this issue. She also announces a public program next Thursday at the Library to address water concerns, to be jointly held with Elmhurst Cool Cities.
- Edgar Pal also speaks to the issue of noncompliance with the Open Meetings Act. There was an investigation 5 years ago, and now there are 4 distinct investigations. He specifies the lapses and regrets that this is so; he is stunned at the number of violations and the length of time they have been allowed to go on. He sets out 4 specific actions that City can take to remedy the situation. He thanks the committees for taking the first steps to take control and begin compliance.
- Claude Pagacz speaks in support of the residents of Fremont Avenue who worked for 18 months to prevent the erection of an inappropriately large nursing home building in a residential street of modest homes. The building was finally approved anyhow. Why does the City spend time and money creating

rules that they do not follow themselves? This is not the only situation where the City's own rules have been broken.

- Carol Ruda, a resident of Arlington Ave., speaks against Redeemer Lutheran Church's zoning waiver application to allow a crowded development which will negatively affect property values. The neighbors submitted independent evidence of property value effects and how it will unacceptably increase traffic. Finally she requests that the Council ensure that any homes that may be built comply with the 50 ft. setback from the street that is required by City code.
- Doug Manning, a resident of Kenilworth Ave., also speaks against the Redeemer waiver request. The Zoning Committee voted twice unanimously to reject it.
- Mickey Musinga of S. Kenilworth Ave. speaks against the Redeemer Church application for zoning waivers also. In 1970 the Church applied to build their recreation center; they promised many terms which were accepted by the 1971 Council. What would the 1971 council members say to today's application?
- Tom McKiernan also speaks against the application of Redeemer Lutheran to reconfigure their parking lot and sell off so many lots for home building. He feels that despite the pleas of the neighbors, they feel the Council has not heard them.
- Jim Hauser, a resident of St. Charles Rd., agrees with Dr. McKiernan's statement.
- Brian McKiernan adds to the above comments: a) Ald. York has a conflict of interest and should recuse himself; b) Redeemer Lutheran has never reached out to the neighbors; c) the City should not enact any zoning codes at all if they refuse to enforce them.
- Michael Musinga also speaks against the Redeemer Lutheran application.

5. Announcements

- Ald. Polomsky announces that on May 3 there will be a program on vaping in youth at the Public Library.

6. Consent Agenda All items below approved unanimously 13 – 0 except ** below, items 6.14, 6.16 (Bram)

6.1 Minutes of the Regular Meeting of the Elmhurst City Council on April 2, 2018

6.2 Minutes of the Executive Session of the City Council on April 2, 2018

6.3 Accounts Payable April 12, 2018 - Total \$ 1,792,135.41

6.4 Reappointment to the Economic Development Commission - LaBounty (Mayor Morley)

6.5 Report - Temporary HVAC Chiller for Police Department (PWB)

6.6 Report - 3M S70 Safety Window Film Application (PWB)

6.7 Report - One (1) Ford Transit Cargo Van (PWB)

6.8 Report - 2018 Pavement Striping Program (PWB)

6.9 Report - 2018 Crack Sealing and Seal Coating Program (PWB)

6.10 Report - 2018 Concrete Pavement Patching Program (PWB)

6.11 Report - Bids for Masonry Restoration & Roofing Replacement at West, South & North Reservoir Pump Buildings (PWB)

6.12 Report - Painting of West and North Elevated Storage Tank Bids (PWB)

6.13 Report - Addison Parking Deck Railing - Bid Award (PWB)

**6.14 Report - Vacation of Right of Way - West Avenue (PWB)

- Ald. Deuter explains that this regards a strip of City-owned land that is parallel to Rte. 83; properties fronting Rte. 83 used the property and subsequently sued to acquire ownership. The City successfully fought the action. Now a property owner proposes to buy this for approx. \$100k plus they will cover the approx. \$60k legal fees that the City incurred in defending the lawsuit. The City stipulates that if it sells, the City will retain a permanent easement, and the owner will observe all stormwater regulations as it is in a flood plain.
- Ald Kennedy thanks Ald. Deuter for her comprehensive explanation, and states that he supports this report.
- Ald. Bram explains that he pulled this item because of several objections; not least that \$5/sf is much too low a price for the property.
- Ald. Deuter clarifies that the legal agreement did not mandate that the City be reimbursed for its legal costs.
- Approved 12 – 1 (Bram).

6.15 Report - Proposed Amendments to the City of Elmhurst - Elmhurst Park District 1995 Lease (PWB)

**6.16 Report - Tower Construction and Lease Agreement - 910 N. Addison - Verizon Wireless (PWB)

- Ald. Deuter explains that this report deals with an application to build a cellphone tower on a City-owned parcel that is now used for firefighter training. Verizon wishes to lease the ground and antenna space from the City and once the tower is built it will be deeded over to the City. They project the lease will

yield the City \$18,000 in the first year; the lease will cover 10 years and may be extended to 25 years with rental amounts to increase steadily over time.

- Ald. Bram objects on several grounds, including the height of the tower, his objection to allowing 24-hour, 365-days access to public land by a private commercial entity, and that this goes against the City's comprehensive plan.
- Approved 12 – 1 (Bram).

6.17 Report - Bid, Two Utility Police Interceptors (PAS)

6.18 Report - Bid One (1) 2018 Ford Expedition EL (PAS)

6.19 Report - Knights of Columbus 4th Annual Car Show (PAS)

6.20 Report - Request for 2nd Extension - Case 16 P-13/Mladenoff Day Care Conditional Use (DPZ)

6.21 R-47-2018 - A Resolution Approving and Authorizing the Execution of a Settlement Agreement and General Release

Atty. Storino reads a statement regarding the property damage claim that was settled for \$25,000.

6.22 R-48-2018 - A Resolution Accepting the Proposal of Arthur J. Gallagher Risk Management Services, Inc. for Professional Insurance Broker Services for the City of Elmhurst for the Period of May 1, 2018 through April 30, 2019.

7. Committee Reports

7.1 Report - Agreement to Establish an Insurance Cooperative (FCAAS)

- Ald. York thanks City staff for their hard work in setting this up. He explains that this is to join a cooperative of 8 communities to pool insurance resources. This will save about \$250,000 annually in insurance costs.
- Ald Honquest thanks the staff and committee for their hard work, and supports this.
- Approved unanimously 13 – 0.

7.2 Report - Case Number 18 P-02/Redeemer Church Amended Conditional Use, Conditional Use for Land banking, Associated Variations and Subdivision 123 East St. Charles (DPZ)

- Ald. York has discussed with City Atty Storino his involvement with the Church and based on that he will recuse himself from this discussion and he will vote 'abstention'.
- Ald. Honquest explains that this is the application of Redeemer Lutheran Church to relocate their parking lot and sell off the remaining land subdivided into seven residential lots. He uses a projected image of the existing situation and

the proposed land use in explaining the proposed construction. He recognizes that the neighbors are against this. First, he discusses the parking considerations that would crop up if the existing parking lot is removed: 84 spaces will be replaced by 53. He moves on to discuss the sale of these 7 lots most of which have already been sold. These lots are all 60 x 155 ft. so they are not small lots. In Ald. Honquest's opinion these will be very expensive homes.

The requested variances include those about the parking, and others are to waive the 50' setback requirement. The DPZ committee agreed that this was an appropriate request but they had some conditions. The church would have to land-bank for overflow parking, and that they would need to finalize an agreement with Cityview Church to lease or access their lot when excess parking spots are needed for events. Another condition would be for sufficient landscaping around the parking lot to maintain the integrity of the neighborhood streetscape. He reminds everyone that the Church has been there since 1929 and he again opines that the homes will be nice ones.

Ald. Talluto clarifies that the land banking condition would be agreed in perpetuity.

- Ald Polomsky notes that the Zoning & Planning Commission (ZPC) approved some of the variations, but it did not approve the change from 50 to 30 feet setbacks, nor to allow subdivision into 7 residential lots. The City Code requires a supermajority of Council to go against the ZPC recommendations. She is concerned about the setback request which is not consistent with decisions in the past, even when neighbors were in support and when the changes were minimal. She will not support this.
- Ald. Levin also is not in support based on the many, and significant, changes that are requested. These are excessive and extreme and are totally inconsistent with previous rulings which disallowed, for example, a request to subdivide a property into two lots which would have reduced the lot width by just one foot in violation of City code. Zoning changes are forever. Financial issues cannot be a basis for zoning variances. He goes on to enumerate many specific outstanding difficulties, including safety issues related to the relocation of parking. Landscaping as planned will obstruct drivers' vision when entering/exiting the new parking lot and therefore will cause unsafe conditions. Two standards for variances were not met so the ZPC did not approve the subdivision into seven lots. If Council now goes against the ZPC and if the neighbors go to court, the Council will be found to have acted illegally. Finally, if

there is land banking to allow for excess parking, setbacks will go from 50 ft. to 12 ft.

- Ald. Deuter supports many of the objections that have already been expressed. Individuals should be aware of the City Code and its standards should be strictly adhered to even though sometimes variations are necessary.
- Ald. Park thanks everyone for their detailed and thoughtful remarks. She echoes Ald. Levin's concerns and expresses further concerns about sidewalk and pedestrian traffic safety. She cannot support this report.
- Ald. Bram does not want to repeat the objections already expressed. He quotes the comprehensive plan that requires that the lots in question remain institutional. If Redeemer Lutheran moves forward in compliance with existing code it will not be as profitable but the changes requested are just too extreme.
- Ald. Honquest replies to several of the specific objections expressed.
- Ald. Bram asks if the committee has considered how the proposed changes would affect stormwater relief; he is concerned that the land banking plan might intrude on stormwater management. Ald. Talludo responds.
- Ald. Dunn speaks to the two main issues; parking and the concerns of neighbors. He will support the report.
- Mayor Morley reads from the City Ordinances regarding the vote of the Mayor in case of a tied vote. He also states that a supermajority is only required to approve an ordinance, not a committee report. So a simple majority will only be needed tonight.
- Approved 7 - 5 (Bram, Polomsky, Park, Levin, Deuter) with Ald. York abstaining, and Mayor Morley voting aye as well. Final vote tally is therefore 9 – 5 because the abstention is counted as a yes vote according to the City ordinance. The Mayor explains his vote: he feels the application requires a full Council discussion. When the matter comes back to council there will be 5 ordinances, two of which were not supported by the ZPC so they will require a supermajority of 10 aldermen in support.

8. Reports and Recommendations of Appointed and Elected Officials

- Mayor Morley announces a joint recycling event with EC on April 28.
- City Manager Grabowski announces that this Saturday will be the final spring cleanup day.
- Ald. Dunn updates everyone on the O'Hare Noise Communities Coalition meeting this past Friday where there was a very good presentation by Chicago

Aviation Commissioner Ginger Evans. He asks that her presentation be made available on the City website. Chicago just approved \$8.5 billion over the next 10 years to upgrade the airport. The number of gates will increase by 25% so there will be much more air traffic.

He also met with the Union Pacific Railroad officials and Ald. Leader and Mgr. Grabowski to discuss issues of concern to City residents. There are 60 freight trains and 60 commuter trains passing through Elmhurst each day.

- Ald. Mulliner notes that New Home Star, a recipient of City TIF funds, was just listed as one of the top employers in the area.
- Ald. Levin comments on the Open Meetings Act violation of 2013 and the 4 current violations. In 2013 although the City disagreed with the violation and felt it could successfully appeal, it was decided to just move on. At least one of the current violations is accurate. He feels that his committee was in error because the minutes were not formally approved, but they are always published and the committee always provides much more information to the public than what is required by law. He feels that Elmhurst and its elected officials are very open and he expects that this will continue.

9. Other Business None

10. Adjournment 9:55 pm