

## **Minutes - August 15, 2005**

### EXECUTIVE SESSION

It was moved by Alderman Poteraske and seconded by Alderman Marchese at 7:00 P.M. to move into Executive Session for the purpose of discussing Litigation as prescribed by Section 2(c)(11) of Public Act 88-261.

Roll Call: Ayes: Biehl, Gattuso, Marchese, McIvor, Poteraske, Weaver

Nays: None

Absent: Durkin

Results: Ayes 6, Nays 0, Absent 1 MOTION DULY CARRIED

It was moved by Alderman Marchese and seconded by Alderman Weaver at 7:28 P.M. to move into Open Session.

Roll Call: Ayes: Biehl, Gattuso, Marchese, McIvor, Poteraske, Weaver

Nays: None

Absent: Durkin

Results: Ayes 6, Nays 0, Absent 1 MOTION DULY CARRIED

### Minutes of the Regular Meeting

of the City Council of the

CITY OF DARIEN

AUGUST 15, 2005

#### 1. CALL TO ORDER

The regular meeting of the City Council of the City of Darien was called to order at 7:30 P.M. by Mayor Soldato.

#### 2. PLEDGE OF ALLEGIANCE

Mayor Soldato led the Council and audience in the Pledge of Allegiance.

#### 3. ROLL CALL — The Roll Call of Aldermen by Ms. Ragona was as follows:

Present: Richard A. Biehl Sylvia McIvor Carolyn A. Gattuso John F. Poteraske, Jr. Joseph A. Marchese Kathleen Moesle-Weaver

Absent: William R. Durkin

Also in Attendance: JoAnne E. Ragona, Clerk's Office Supervisor Kevin P. Monaghan, City Treasurer John B. Murphey, City Attorney Bryon D. Vana, City Administrator David Skala, Deputy Chief of Police Daniel Gombac, Director of Community Development/Public Works

4. DECLARATION OF A QUORUM — There being six Aldermen present, Mayor Soldato declared a quorum.

5. APPROVAL OF MINUTES — August 1, 2005

It was moved by Alderman Biehl and seconded by Alderman Poteraske to approve the Minutes of the Regular Meeting of August 1, 2005, as presented.

Roll Call: Ayes: Biehl, Gattuso, Marchese, Mclvor, Poteraske, Weaver

Nays: None

Absent: Durkin

Results: Ayes 6, Nays 0, Absent 1 MOTION DULY CARRIED

6. RECEIVING OF COMMUNICATIONS

Alderman Biehl read into the record and submitted for the record a letter from Don and Carol McDowell, 450 67th Street, regarding postal service. They live in Darien but have a Willowbrook zip code and requested to be identified as Darien.

Alderman Marchese: \* received email from John & Colleen Hauppa, 2300 Oakmont Way, regarding high weeds/grass on the Sokol property. \* received email from Mark Wojcik, 8401 Creekside Lane, who was concerned about the use of the police force during the recent power outage. \* spoke with Brian Broderick, Carriage Greens Country Club, regarding vandalism; golf carts had been driven into ponds. Deputy Chief Skala indicated that the matter was pending.

Alderman Mclvor received an email from Michael Kott, 3325 Pitcher Drive, who was concerned with outdated information contained on the City's web site.

7. MAYOR'S REPORT

A. COM ED LITIGATION

Mayor Soldato spoke about the presentation ComEd made at the August 1st Council meeting and the recent three-day ComEd crisis/power outage. He indicated that Council was concerned and directed Attorney Murphey to review the franchise agreement because of unreliable electrical service to residents and businesses. He stated that staff found old correspondence from 1996 that referenced electrical problems in the area of Stevens and 77th Street and that the systemic problems were still on-going. Mayor Soldato recommended and Council agreed to direct Attorney Murphey to authorize the necessary procedural steps and litigation against ComEd; he said that Attorney Murphey had drafted the Motion.

Attorney Murphey stated that the franchise agreement required ComEd to provide reliable electricity, to upgrade and maintain the system as required. He indicated that the agreement required the City, in the event of violations of the franchise to provide notice to ComEd. He read specific verbiage from the agreement. He recommended the following language for Council consideration:

TO DIRECT THE CITY ATTORNEY TO TAKE SUCH ACTIONS AS ARE NECESSARY TO ENFORCE THE CITY'S FRANCHISE LICENSE AGREEMENT AND ORDINANCE AND TO PROVIDE FOR SERVICE AND RELIABLE ELECTRIC SUPPLY TO THE CITIZENS OF DARIEN. SUCH ACTIONS SHALL INCLUDE AMONG OTHER THINGS: 1) NOTICE OF VIOLATION AND DEMAND THAT ALL VIOLATIONS BE PROMPTLY CORRECTED AND THAT THE CITY AND OUR RESIDENTS BE COMPENSATED FOR ALL DAMAGES; 2) THE FILING OF AN APPROPRIATE BREACH OF CONTRACT LAWSUIT IF THE VIOLATIONS ARE NOT PROMPTLY REMEDIED; AND 3) THE FILING OF ALL SUCH NECESSARY COMPLAINTS WITH AGENCIES SUCH AS THE ILLINOIS COMMERCE COMMISSION

It was moved by Alderman Mclvor and seconded by Alderman Marchese to direct the City Attorney to take such actions as are necessary to enforce the City's Franchise License Agreement and Ordinance and to provide for service and reliable electric supply to the citizens of Darien. Such actions shall include among other things: 1) Notice of Violation and demand that all violations be promptly corrected and that the City and our residents be compensated for all damages; 2) the filing of an appropriate Breach of Contract lawsuit if the violations are not promptly remedied; and 3) the filing of all such necessary complaints with agencies such as The Illinois Commerce Commission, as presented.

Mayor Soldato noted that numerous emails were received from residents and other communities that supported the City's stance. He indicated that other elected officials had been contacted from the affected areas, which included Woodridge, Clarendon Hills, Westmont and Downers Grove. They were asked to join Darien; the City was awaiting their responses. Mayor Soldato commented that the City acted as best it could in order to be pro-active due to the crisis. He indicated that the City's employees went above and beyond the call of duty; they stopped their duties in order to help residents. He thanked all City staff for their efforts; they recognized the problem and acted upon appropriately.

Alderman Mclvor inquired if ComEd provided a timeframe for the sub-station work because the City was on 'temporary' power and that the City was highly at risk until the sub-station was completely up and running. Administrator Vana responded that ComEd had not communicated anything about the timeframe to complete the sub-station work. Director Gombac stated that the City was on temporary power and would be without power again; he indicated the City's intent was to notify residents when that would occur.

Roll Call: Ayes: Biehl, Gattuso, Marchese, Mclvor, Poteraske, Weaver

Nays: None

Absent: Durkin

Results: Ayes 6, Nays 0, Absent 1 MOTION DULY CARRIED

## 8. CITY CLERK'S REPORT

Supervisor Ragona...

... stated that the Environmental Committee meeting scheduled for August 16th and the Planning and Zoning Commission meeting scheduled for August 17th had been cancelled.

... invited everyone to have Coffee with Mayor Soldato on Saturday, August 20th, from 9:00 until 10:00 A.M. at City Hall in the Council Chambers.

## 9. CITY ADMINISTRATOR'S REPORT

Administrator Vana...

... commented that New Business Item F, an Intergovernmental Agreement regarding the Sound Wall, had been removed from the Agenda due to changes within the Grant. He indicated that the Administrative/Finance Committee would re-review the information and prepare a recommendation for Council.

... noted that Kevin McCanna from Speer Financial was in the audience if anyone had questions about New Business Item G, which was recommended for approval by the Administrative/Finance Committee.

Alderman Marchese inquired if residents in the area of the Sound Wall would have the opportunity to participate with the Administrative/Finance Committee and their re-review; Administrator Vana commented that the resident coordinators had been contacted and that they would be updated. He said that the Committee may schedule a 'Special Meeting', which would be dependent on the Grant Agreement timeframe.

10. DEPARTMENT HEAD REPORT - No Report.

11. TREASURER'S REPORT

A. WARRANT NUMBER 05-06-07

It was moved by Alderman Gattuso and seconded by Alderman Biehl to approve payment of Warrant Number 05-06-07 in the amount of \$220,097.02 from the General Fund; \$40,622.75 from the Water Fund; \$25,331.91 from the Motor Fuel Tax Fund; \$1,043.94 from the Darien Area Dispatch Fund; \$262,341.19 from the General Fund Payroll for the period ending 07/21/05; \$27,573.35 from the Water Fund Payroll for the period ending 07/21/05; \$29,060.98 from the D.A.D.C. Fund Payroll for the period ending 07/21/05; for a total to be approved of \$606,071.14.

Roll Call: Ayes: Biehl, Gattuso, Marchese, McIvor, Poteraske, Weaver

Nays: None

Absent: Durkin

Results: Ayes 6, Nays 0, Absent 1 MOTION DULY CARRIED

B. TREASURER'S MONTHLY REPORT – JULY 2005

City Treasurer Monaghan reviewed all sources of revenue and expenditures for the month of July 2005 with the following year-to-date fund balances: General Fund \$4,517,731; Water Fund (\$213,919); and Motor Fuel Tax Fund \$664,508.

12. STANDING COMMITTEE REPORTS

Administrative/Finance Committee — Chairman Weaver submitted, for the record, Minutes from the June 13, 2005, July 11, 2005, and August 1, 2005 meetings.

Planning/Development Committee — Chairman Poteraske announced that the Committee would meet on Monday, August 22nd, at 6:30 P.M.

Public Works Water/Streets Committee — Chairman Biehl announced that the August 24th meeting had been cancelled; he indicated that a 'Special Meeting' would be scheduled for Tuesday, September 6th, at 6:45 P.M. prior to the Council meeting.

### 13. QUESTIONS AND COMMENTS — AGENDA RELATED

Alderman Weaver inquired about the Zoning Ordinance variation procedure that was previously considered by the Planning/Development Committee; Chairman Poteraske responded that the Committee discussed the issue and suggested verbiage recommendations/changes to the Zoning Ordinance. Administrator Vana commented that since there was a proposed change to the Zoning Ordinance, the Planning and Zoning Commission was required to conduct a public hearing, which needed to be scheduled.

Art Donner, 7548 Cambridge Road, commented about the ComEd outage. He asked why ComEd agreed to replace the equipment two weeks prior to the crisis since it had been a problem for the past six years and what their policy was for replacement of equipment. He requested that ComEd tell residents what they ingested from the smoke/fire at the sub-station. Lou Liska, Bruce Lake resident, stated that the newspaper reported that there were leaking batteries stored in the ComEd facility. He indicated that acid, lead, and plastic particles were discharged. He was concerned about the affect the event might have had on the adjoining wetlands because the wetlands discharge into Wards Creek, Bruce Lake, Des Plaines River, and Illinois River.

Bob Worley, 7517 Cambridge Road, stated that his neighborhood was without power for three days, that power was restored, and that they experienced another 4-hour power outage on Saturday around 1:30 PM.

Greg Kirsch, 2200 Green Valley Road, inquired if State Representatives or Senators helped Darien residents; Mayor Soldato responded 'no' but they were welcome to do so.

Mayor Soldato spoke about the environmental impact the ComEd crisis had; he said that the City received no explanation about the fire and could not respond to the questions posed. He suggested that the City approach the IEPA directly and ask questions. Mayor Soldato commented that ComEd contacted him and he invited them to the Council meeting to explain the situation but they obviously chose not to attend. Mr. Liska stated that he contacted the IEPA, had not received a response, and would follow-up. Mayor Soldato indicated that they would keep each other posted.

### 14. OLD BUSINESS

There was no Old Business to come before the City Council.

### 15. CONSENT AGENDA

There were no Consent Agenda items to come before the City Council.

### 16. NEW BUSINESS

#### A. CONSIDERATION OF A MOTION APPROVE APPOINTMENT TO ENVIRONMENTAL COMMITTEE - JAMES TIKALSKY

It was moved by Alderman Biehl and seconded by Alderman Poteraske to approve appointment to Environmental Committee - James Tikalsky, as presented.

Mayor Soldato thanked Mr. Tikalsky. He indicated that Jim was a past alderman, brought commitment to the community, and would provide additional knowledge.

Roll Call: Ayes: Biehl, Gattuso, Marchese, Mclvor, Poteraske, Weaver

Nays: None

Absent: Durkin

Results: Ayes 6, Nays 0, Absent 1 MOTION DULY CARRIED

Attorney Murphey administered the Oath of Office to James Tikalsky; he received congratulations and a round of applause.

**B. CONSIDERATION OF A MOTION TO APPROVE AN ORDINANCE APPROVING A VARIATION TO THE DARIEN ZONING ORDINANCE (PZC 2005-08: 1425 77th Street)**

It was moved by Alderman Poteraske and seconded by Alderman Mclvor to approve

ORDINANCE NO. O-21-05 AN ORDINANCE APPROVING A VARIATION TO THE DARIEN ZONING ORDINANCE (PZC 2005-08: 1425 77th Street) as presented.

Roll Call: Ayes: Biehl, Gattuso, Marchese, Mclvor, Poteraske, Weaver

Nays: None

Absent: Durkin

Results: Ayes 6, Nays 0, Absent 1 MOTION DULY CARRIED

**C. CONSIDERATION OF A MOTION TO APPROVE AN ORDINANCE AUTHORIZING THE INTERGOVERNMENTAL TRANSFER OF CERTAIN PROPERTY TO THE DARIEN PARK DISTRICT (Holly Park/PIN 09-28-101-010)**

It was moved by Alderman Marchese and seconded by Alderman Gattuso to approve

ORDINANCE NO. O-22-05 AN ORDINANCE AUTHORIZING THE INTERGOVERNMENTAL TRANSFER OF CERTAIN PROPERTY TO THE DARIEN PARK DISTRICT (Holly Park/PIN 09-28-101-010) as presented.

Mayor Soldato noted that two Darien Park District Commissioners were present, Frank Noverini and Neil Christensen.

Roll Call: Ayes: Biehl, Gattuso, Marchese, Mclvor, Poteraske, Weaver

Nays: None

Absent: Durkin

Results: Ayes 6, Nays 0, Absent 1 MOTION DULY CARRIED

D. CONSIDERATION OF A MOTION TO APPROVE THE PURCHASE OF PARKWAY TREES AND THE CITY'S 50/50 PARKWAY TREE PROGRAM

It was moved by Alderman Poteraske and seconded by Alderman Biehl to approve the purchase of Parkway Trees and the City's 50/50 Parkway Tree Program, as presented.

Administrator Vana explained that the Parkway Tree Program had been in effect for years. He said that residents could request parkway tree replacement for the 50/50 cost share program; the City would order, purchase, and plant the trees but residents were requested to water the trees.

Alderman Gattuso inquired what the deadline was to notify the City; Director Gombac responded that it was September 16th but indicated that the date could be reasonably extended. Alderman McIvor asked if it was on a first come/first served basis or until the budget ran out; Administrator Vana responded 'yes' but the City would try to accommodate all residents. Director Gombac indicated that there was money budgeted; he did not anticipate going over the budgeted amount.

Roll Call: Ayes: Biehl, Gattuso, Marchese, McIvor, Poteraske, Weaver

Nays: None

Absent: Durkin

Results: Ayes 6, Nays 0, Absent 1 MOTION DULY CARRIED

E. CONSIDERATION OF A MOTION TO APPROVE PROJECT AND MATERIAL PURCHASE FOR THE DRAINAGE IMPROVEMENTS AT THE POLICE DEPARTMENT

It was moved by Alderman Biehl and seconded by Alderman Gattuso to approve project and material purchase for the Drainage Improvements at the Police Department, as presented.

Roll Call: Ayes: Biehl, Gattuso, Marchese, McIvor, Poteraske, Weaver

Nays: None

Absent: Durkin

Results: Ayes 6, Nays 0, Absent 1 MOTION DULY CARRIED

F. CONSIDERATION OF A MOTION TO APPROVE PROPOSAL FROM SPEER FINANCIAL TO PROVIDE FINANCIAL ADVISORY SERVICES FOR THE PLANNING OF CAPITAL PROJECTS

It was moved by Alderman Weaver and seconded by Alderman Gattuso to approve Proposal from Speer Financial to provide Financial Advisory Services for the Planning of Capital Projects, as presented.

Alderman Weaver indicated that the Administrative/Finance Committee recommended approval. She said that if there were questions, Mr. McCanna from Speer was in the audience.

Roll Call: Ayes: Biehl, Gattuso, Marchese, McIvor, Poteraske, Weaver

Nays: None

Absent: Durkin

Results: Ayes 6, Nays 0, Absent 1 MOTION DULY CARRIED

#### 17. QUESTIONS, COMMENTS AND ANNOUNCEMENTS — GENERAL

Alderman Marchese reiterated Mayor Soldato's comments about City staff; he complimented employees for their patience, helpfulness, and ability to deal with people in a calm manner during a difficult crisis.

Neil Christensen, 8525 Creekside Lane, thanked the City for their professionalism during the outage. As a Darien Park Board Commissioner, he spoke about the transfer of the Holly Park parcel, which would allow the Board to move forward with improvements to the park.

#### 18. ADJOURNMENT

There being no further business to come before the City Council, it was moved by Alderman Poteraske and seconded by Alderman Gattuso to adjourn.

VIA VOICE VOTE – MOTION DULY CARRIED

The City Council meeting adjourned at 8:14 P.M.

Mayor \_\_\_\_\_ City Clerk jr All supporting documentation and report originals of these minutes are on file in the Office of the City Clerk under File Number 08-15-05.