

Minutes - June 17, 2002

A WORK SESSION WAS CALLED TO ORDER AT 7:05 P.M. BY MAYOR CARMEN SOLDATO FOR THE PURPOSE OF REVIEWING ITEMS ON THE JUNE 17, 2002 AGENDA WITH THE CITY COUNCIL. THE WORK SESSION ADJOURNED AT 7:10 P.M.
EXECUTIVE SESSION

It was moved by Alderman Durkin and seconded by Alderman Weaver to move into Executive Session for the purpose of discussing Personnel as prescribed by Section 2(c)(1) of Public Act 88-621 at 7:10 P.M.

Roll Call: Ayes: Biehl, Cotten, Durkin, Hagen, Marchese, Tikalsky, Weaver

Nays: None

Absent: None

Results: Ayes 7, Nays 0, Absent 0

MOTION DULY CARRIED

Upon reverse roll call, the City Council adjourned into open session at 7:25 P.M.

Minutes of the Regular Meeting of the City Council of the
CITY OF DARIEN
JUNE 17, 2002

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 Carmen D. 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 City Clerk Coleman was as follows:

Present: Richard Biehl Joseph Marchese

Morgan Cotten James Tikalsky

Sean P. Durkin Kathleen Moesle-Weaver

David Hagen

Also in Attendance: Carmen D. Soldato, Mayor

Joanne F. Coleman, City Clerk

Arthur P. Donner, City Treasurer

John B. Murphey, City Attorney

Bryon Vana, City Administrator

Terry Abma, Deputy Chief of Police

JoEllen Charlton, Director Community Development

Robert Mengarelli, Asst. Director of Public Works

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

5. APPROVAL OF MINUTES - June 3, 2002

It was moved by Alderman Hagen and seconded by Alderman Durkin to approve the Minutes of the Regular Meeting of June 3, 2002 as presented.

Roll Call: Ayes: Biehl, Cotten, Durkin, Hagen, Marchese, Tikalsky, Weaver

Nays: None

Absent: None

Results: Ayes 7, Nays 0, Absent 0
MOTION DULY CARRIED

6. RECEIVING OF COMMUNICATIONS

Alderman Durkin spoke with Charlene Kuglin, 1510 71st Street, regarding standing water in the rear of her property.

Alderman Marchese advised of the following communications:

- * e-mail from Carl and Maria Knecht regarding additional mowing of the Tara Hill wetlands.
- * e-mail from John Sime, who resides in the Tara Hill Subdivision, regarding a cat in the area and would like a leash law for cats enacted.
- * spoke with Mary Carrino, Villas of Carriage Greens, who stated that a baseball field was constructed behind her home by School District 63 .She advised that home plate was fifty feet from her property and is concerned about her lack of privacy.
- * spoke with Greg Pierce, who was concerned with stormwater and possible illegal sewer hook-ups.
- * was contacted by Christine DiGiorgio, south of I-55, who was concerned about the development of the property adjacent to hers.

7. MAYOR'S REPORT

A. AMERICAN CANCER SOCIETY PRESENTATION BY JOANNE ECKERMAN

Ms. Eckerman, a volunteer with the American Cancer Society, addressed the audience and Council regarding the "Relay for Life of Woodgrove", which encompasses the communities of Darien, Downers Grove, Westmont and Woodridge. The event was scheduled for June 21 and 22 at Downers Grove North High School track; the relay would be a fourteen-hour, non-competitive, overnight, fundraising event that celebrated life and honored cancer survivors. She invited all to join and participate in the festivities. Mayor Soldato updated Council about potential ramifications on the City's budget due to State financial problems, which amounted to approximately \$50,000 in loss of telephoto tax funds.

B. CONSIDERATION OF A MOTION TO APPROVE RESIGNATION/ SEVERANCE AGREEMENT - EDWARD S. MUSIAL DATED JUNE 17, 2002

Mayor Soldato noted the City Council met in Executive Session and Council asked that this item be placed under the Mayor's Report for consideration.

It was moved by Alderman Cotten and seconded by Alderman Hagen to approve a Resignation/Severance Agreement - Edward S. Musial dated June 17, 2002, as presented.

Mayor Soldato stated that in good faith he could not reappoint Edward Musial to the position of Chief of Police due to the creation of an artificial administrative position, especially after the City Council voted 7-0 to let Rick Curneal go. Mayor Soldato advised Ed Musial's attorney contacted City Attorney John Murphey this afternoon to present a resignation/severance agreement that would permit Chief Musial to resign, retire and receive 75% of his \$100,000.00 salary, paid health insurance until the end of the year and an additional \$50,000 for unused sick and vacation days. Mayor Soldato reminded the Council, that Chief Musial contemplated retirement because he felt the Police Pension Plan was harming him financially. Mayor Soldato expressed his opposition to the payment of the \$50,000.00 for unused sick days stating in was inappropriate under the circumstances.

There being no comment from the City Council, there was a call for the question.

Roll Call: Ayes: Biehl, Cotten, Durkin, Hagen, Marchese, Tikalsky, Weaver

Nays: None

Absent: None

Results: Ayes 7, Nays 0, Absent 0

MOTION DULY CARRIED

Mayor Soldato stated that it was his intention to veto this agreement; but he recognizes that he does not have the 5 affirmative votes to do so and his efforts would be futile. He noted that it was a sad day in the City when the Council awards an additional \$50,000 to someone who was expected to be held to the highest standards of conduct in the City and did not.

C. APPOINTMENT OF DEPARTMENT HEAD - ROBERT PAVELCHIK, CHIEF OF POLICE

Mayor Soldato articulated Sgt. Robert Pavelchik's qualifications for the position of Chief of Police. He specifically noted his professional presentations during the City Council's budget discussions and his excellent supervisory work within the department. Mayor Soldato also expressed his belief that Robert Pavelchik would bring integrity and new life into the Police Department.

Mayor Soldato respectfully requested the City Council to advise and consent to his appointment of Robert Pavelchik as Chief of Police.

It was moved by Alderman Durkin and seconded by Alderman Weaver to advise and consent to the Mayor's appointment of Robert Pavelchik as Chief of Police.

MOTION TO TABLE

Alderman Hagen expressed his opinion that the City should proceed with a process to review other available candidates and motioned to table the appointment. Alderman Tikalsky seconded the tabling motion.

There being no discussion permitted on a tabling motion, Mayor Soldato called for the roll.

Roll Call: Ayes: Biehl, Cotten, Hagen, Marchese, Tikalsky

Nays: Durkin, Weaver

Absent: None

Results: Ayes 5, Nays 2, Absent 0

MOTION TABLED

D. APPOINTMENT OF ROBERT PAVELCHIK, ACTING CHIEF OF POLICE

Mayor Soldato said it was obvious that this Council just awarded over \$100,000.00 to a former employee and the Aldermen were not acting in the best interests of the City; therefore he had no choice but to exercise his unilateral authority.

Mayor Soldato then exercised his authority as Chief Executive Officer of the City of Darien and appointed Robert Pavelchik as Chief of Police in an acting capacity and requested the City Clerk to administer the oath of office.

POINT OF ORDER

As Clerk Coleman began to administer the oath of office, Alderman Hagen called for a Point Of Order. Alderman Hagen asked Attorney Murphey if the City Code authorized Deputy Chief(s) to act in the absence of a Chief of Police. Attorney Murphey explained that the City Council had already accepted the resignation of Edward Musial therefore creating a vacancy in the office and the Mayor had the authority to appoint an acting Police Chief until the City Council advises and consents to his appointment. He explained further that our City Code permits the Deputy Chief(s) to act should a Police Chief be out of town, sick or ill and away from the department for a short period of time.

Mayor Soldato strongly and firmly stated he had no intention of appointing or considering an appointment of another person other than Robert Pavelchik for the Chief of Police position, after which the audience erupted in applause.

Clerk Coleman then administered the Oath of Office to Robert Pavelchik. Chief of Police Pavelchik received congratulations from the Mayor, Clerk, Aldermen Weaver and Durkin and a resounding round of applause from those in attendance.

8. CITY CLERK'S REPORT

Clerk Coleman...

... stated that the Zoning Board of Appeals meeting scheduled for June 18th had been rescheduled to Tuesday, June 25th at 7:00 P.M.

... noted that the Fire and Police Commission would have their rescheduled meeting on Wednesday, June 19th at 7:30 P.M. in the Police Facility.

... wished Chief Pavelchik "Good Luck" after which the audience again broke into applause

9. CITY ADMINISTRATOR'S REPORT

Administrator Vana...

... reminded everyone about the Dale Basin groundbreaking ceremony scheduled for June 22nd at 9:00 A.M.

... stated that he and Mayor Soldato discussed an up-coming Goal Setting Session; he asked Council to complete the survey by indicating available dates and topics.

10. DEPARTMENT HEAD REPORT

Community Development Director JoEllen Charlton...

... stated that she had been distributing weekly reports about developments to Council.

... spoke about the Tara Hill wetland issue. She noted that Engineer Lynch obtained information from the Army Corps of Engineers regarding status on the permit. She indicated that direction would be needed based on the findings.

... noted that she had been conversing with Mayor Soldato and that there were many issues related to development of South Frontage Road properties, including the Public Works facility and parcels to the east.

... commented that she spoke with Mr. Jopek regarding the use of his property.

... noted that she had spoken with Alderman Weaver regarding the proposed CVS store at 67th Street & Cass Avenue in Westmont. She asked Council to forward their comments to her on the project.

... expressed her appreciation and best wishes to outgoing Police Chief Ed Musial. She spoke about their unique working relationship and that she had learned and benefited from his wisdom, knowledge and compassion for the City of Darien.

Alderman Durkin inquired about the status of the Brookhaven Food noise issue. She responded that management had not received the report and that a meeting needed to be scheduled. He requested a written report regarding this matter.

11. TREASURER'S REPORT

A. WARRANT NUMBER 02-03-04

It was moved by Alderman Hagen and seconded by Alderman Cotten to approve payment of Warrant Number 02-03-04 in the amount of \$109,996.52 from the General Fund; \$117,139.69 from the Water Fund; \$9,757.66 from the Motor Fuel Tax Fund; \$8,384.04 from the Darien Area Dispatch Fund; \$153,234.41 from the General Fund Payroll for the period ending 06/13/02; \$18,634.09 from the Water Fund Payroll for the period ending 06/13/02; \$25,669.56 from the D.A.D.C. Fund Payroll for the period ending 06/13/02; for a total to be approved of \$442,815.97.

Roll Call: Ayes: Biehl, Cotten, Durkin, Hagen, Marchese, Tikalsky Weaver

Nays: None

Absent: None

Results: Ayes 7, Nays 0, Absent 0

MOTION DULY CARRIED

B. TREASURER'S MONTHLY REPORT - MAY 2002

City Treasurer Donner reviewed all sources of revenue and expenditures for the month of May 2002 with the following year-to-date fund balances: General Fund \$2,750,881; Water Fund \$(181,700); Motor Fuel Tax Fund \$984,759; Darien Towne Centre Sales Tax Fund \$345,559; and Hotel/Motel Tax Fund \$71,293.

12. STANDING COMMITTEE REPORTS

Administrative/Finance Committee - No report.

Planning/Development Committee - Chairman Hagen announced that the Committee was scheduled to meet on Monday, June 24th at 6:30 P.M.

Public Works Water/Streets Committee - No report.

13. QUESTIONS AND COMMENTS - AGENDA RELATED

Hamilton "Bo" Gibbons, 414 Maple Lane, noted he enjoyed working in the past with Ed Musial and former Administrator Curneal; however he stated they both paid a price for their wrongdoing. He referred to the

\$50,000 payment for unused sick days in the severance agreement with Ed Musial as "hush money" and warned the Council that this could be considered a benchmark for other terminations. Mr. Gibbon's stated he was most upset that some of the Council members did not shake Chief Pavelchik's hand after he was sworn in and felt this lack of good will was disrespectful especially to someone who could possibly save their life or that of a loved one.

14. OLD BUSINESS

There was no Old Business to come before the City Council

15. CONSENT AGENDA

Mayor Soldato noted that Consent Agenda Item I was moved to New Business as Item C. It was moved by Alderman Durkin and seconded by Alderman Cotten to approve by Omnibus Vote the following items on the Consent Agenda:

A. CONSIDERATION OF A MOTION TO APPROVE SEPTEMBER 6, 7 AND 8 AS DATES FOR THE DARIEN CHAMBER OF COMMERCE TO HOLD THE DARIENFEST 2002 CELEBRATION

B. CONSIDERATION OF A MOTION TO APPROVE THE CLOSURE OF CLARENDON HILLS ROAD FROM PLAINFIELD ROAD TO 71ST STREET FROM NOON ON THURSDAY, SEPTEMBER 5, UNTIL 5:00 P.M. ON MONDAY, SEPTEMBER 9, 2002 (WITH MAINTENANCE OF LANE FOR EMERGENCY VEHICLES), TENNESSEE AVENUE AND 72ND STREET TO BENTLEY TO BE CLOSED EXCEPT FOR LOCAL TRAFFIC, NO PARKING ON THE NORTH SIDE OF 71ST STREET FROM CLARENDON HILLS ROAD TO THE WEST END OF DARIEN COMMUNITY PARK, NO PARKING ON BOTH SIDES OF CLARENDON HILLS ROAD FROM 71ST STREET TO 69TH STREET, AND NO PARKING ON THE EAST SIDE OF BENTLEY AVENUE FROM 71ST STREET TO 72ND STREET

C. CONSIDERATION OF A MOTION TO APPROVE THE PROVISION OF POLICE PROTECTION FOR THE DARIENFEST 2002 CELEBRATION

D. CONSIDERATION OF A MOTION GRANTING A WAIVER OF THE \$50.00 A DAY FEE FOR THE TEMPORARY LIQUOR LICENSE

E. CONSIDERATION OF A MOTION TO GRANT WAIVER OF THE RAFFLE LICENSE BOND REQUIREMENT FOR THE DARIEN YOUTH CLUB

F. CONSIDERATION OF A MOTION TO APPROVE THE PURCHASE OF A DESK AND CHAIR IN THE AMOUNT OF \$2,369.25 WITH DELIVERY NOT TO EXCEED \$346.25 FOR A TOTAL OF \$2,715.50

G. CONSIDERATION OF A MOTION TO APPROVE A DONATION IN THE AMOUNT OF \$250.00 TO THE DARIEN LIONS CLUB FOR SPONSORSHIP OF THE INDEPENDENCE DAY PARADE BUS TRANSPORTATION FOR THE HINSDALE SOUTH HIGH SCHOOL BAND

H. RESOLUTION NO. R-02-02 A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE MEMBERSHIP AGREEMENT BETWEEN JULIE, INC. AND THE CITY OF DARIEN

Roll Call: Ayes: Biehl, Cotten, Durkin, Hagen, Marchese, Tikalsky, Weaver

Nays: None

Absent: None

Results: Ayes 7, Nays 0, Absent 0

MOTION DULY CARRIED

16. NEW BUSINESS

A. CONSIDERATION OF A MOTION TO APPROVE A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE NEGOTIATED AGREEMENT BETWEEN THE METROPOLITAN ALLIANCE OF POLICE DARIEN POLICE CHAPTER #48 AND THE CITY OF DARIEN

It was moved by Alderman Biehl and seconded by Alderman Durkin to approve RESOLUTION NO. R-20-02 A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE NEGOTIATED AGREEMENT BETWEEN THE METROPOLITAN ALLIANCE OF POLICE DARIEN POLICE CHAPTER #48 AND THE CITY OF DARIEN as presented.

Roll Call: Ayes: Biehl, Cotten, Durkin, Hagen, Marchese, Tikalsky Weaver
Nays: None
Absent: None
Results: Ayes 7, Nays 0, Absent 0
MOTION DULY CARRIED

B. REAPPOINTMENT OF DEPARTMENT HEAD - JO ELLEN CHARLTON, DIRECTOR OF COMMUNITY DEVELOPMENT

It was moved by Alderman Weaver and seconded by Alderman Durkin to approve the reappointment of JoEllen Charlton as Director of Community Development, as presented.

Roll Call: Ayes: Biehl, Cotten, Durkin, Hagen, Marchese, Tikalsky Weaver
Nays: None
Absent: None
Results: Ayes 7, Nays 0, Absent 0
MOTION TABLED

Clerk Coleman administered the Oath of Office to Director JoEllen Charlton; she received the congratulations of the entire City Council and a round of applause from the audience.

C. CONSIDERATION OF A MOTION TO APPROVE A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A SETTLEMENT AGREEMENT AND RELEASE BETWEEN THE VILLAGE OF WOODRIDGE AND THE CITY OF DARIEN

It was moved by Alderman Durkin and seconded by Alderman Cotten to approve RESOLUTION NO. R-21-02 A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A SETTLEMENT AGREEMENT AND RELEASE BETWEEN THE VILLAGE OF WOODRIDGE AND THE CITY OF DARIEN as presented. Alderman Durkin stated that he was happy to see the agreement but was disappointed that the settlement did not include interest. He compared it to a three-year interest free loan; he would have preferred the agreement to have interest.

Attorney Murphey said that the Village of Woodridge would formally approve the agreement on Thursday, June 27, 2002. Mayor Soldato informed residents that the negotiated agreement was for Darien water utilized by Woodridge.

Roll Call: Ayes: Biehl, Cotten, Durkin, Hagen, Marchese, Tikalsky Weaver
Nays: None
Absent: None
Results: Ayes 7, Nays 0, Absent 0
MOTION DULY CARRIED

17. QUESTIONS, COMMENTS AND ANNOUNCEMENTS - GENERAL

Alderman Hagen stated he echoed Director Charlton's statements about Ed Musial. He noted Ed Musial was a fine employee, did a lot of outstanding things for the department and was a resident of Darien for many years. Alderman Hagen said he would miss former Chief Musial.

Alderman Marchese echoed Alderman Hagen's statements. Alderman Marchese noted he had known Ed Musial for many years and articulated their involvement in community and school organizations. He reminisced about Ed's severe accident in the 1980's and his determination to continue working as a

Darien policeman. He hoped that there would be no misunderstanding between Chief Pavelchik and the Council; he expressed concern about not being involved with the selection process. He congratulated Chief Pavelchik and said he would be happy to shake his hand after the meeting. Alderman Biehl said that he would have given Chief Pavelchik a congratulatory shake of the hand had he walked to that side of the dais. He said Ed Musial gave 31 years of dedicated service to the community and maybe during the last year he made a mistake. He wished him well.

Alderman Tikalsky, noted that although he was the junior alderman, he was an original Darien resident living here for 33 years. He shared stories about when he was young and Ed Musial was a patrolman. Alderman Tikalsky spoke about the confidential 2001 memorandum that led to the removal of the City Administrator and Chief of Police. He expressed his opinion that Mayor Soldato and Attorney Murphey were as culpable of the same omission of information to the City Council as former Administrator and Chief of Police. He told Mayor Soldato that he lacked integrity and not only made these two employees but the entire City look bad in the public eye. Alderman Tikalsky boldly asked for the resignation of Mayor Soldato and Attorney Murphey.

Mayor Soldato responded that during the course of this evening's meeting, Alderman Marchese and other Alderman keep asking to be included in a selection process; however after notifying the Council via e-mails of his decision to not reappoint Ed Musial and his recommendation of Robert Pavelchik, he requested their thoughts and comments. Mayor Soldato then read the following from Alderman Tikalsky's e-mail response: "Carmen, you do not know the meaning of the words honesty and integrity. You lack both of these qualities. Can not and will not support such a decision or appointment. Furthermore, I question your mental capacity to be making such decisions and request you seek psychological therapy." Mayor Soldato questioned how he could ask Aldermen to be part of a process when they request him to seek psychological therapy and let friendship guide their decisions. He reminded the City Council that they were expected to act as employers and not let their friendships with City employees influence their decisions, which he said was the case here.

He reminded Alderman Tikalsky that it wasn't until after the April 2002 meeting that Attorney Murphey found the confidential 2001 memo to Rick Curneal and Ed Musial in his files and the memo was then given to the City Council.

Mayor Soldato further articulated that his decisions he made were based on honesty and integrity and were made for the betterment of the City of Darien.

Gene Kolling, a senior citizen and Darien resident since 1959, reminisced about the beginning of Darien. He stated that Ed Musial was the first police officer that he hired when he was Police Commissioner; he noted that he also hired Bob Pavelchik. He said that he was disappointed in the selection process utilized for both the City Administrator and Chief of Police; that the Mayor and Council had a responsibility to look at all available candidates. He commented that Darien was a great place to live and that it should be kept that way. He said that Council needed to standup to the Mayor.

Referring to Mr. Kolling's last statement, Mayor Soldato stated that this Council had five votes against him.

Patti Greenaburg, a Darien sworn officer, expressed support of the appointment of Bob Pavelchik as Chief of Police. She said that he was a leader who worked for and earned the respect of many people, that he possessed a level of ethics and morals, devotion to his family and faith, that all of these made him a roll model. She noted that morale increased when word spread that Sgt. Pavelchik was to be appointed Chief of Police. She encouraged the Council to approve the appointment.

Jay Gahagen, 1164 Bristlecone, spoke on behalf of the Woodlands residents; they were totally against the curb cut on 67th Street for the CVS Pharmacy in Westmont. They would like to keep 67th Street residential; they were concerned about increased traffic; three curb cuts within one hundred yards; widening of 67th Street; safety issues with children en route to school; and the lighting from the commercial property. He noted that the Woodland residents would like to be kept apprised of the development within the area.

Mayor Soldato stated that the City had communicated these issues to the Village of Westmont and that the City would continue to communicate with the residents.

Gloria Jiskra of the Woodlands thanked the Mayor for making the City a progressive one during his tenure as Mayor. She stated " Mayor, your integrity is above reproach."

Many people came forward to thank the Mayor for the appointment of Bob Pavelchik as Chief of Police. Former employees, Janet Vaughn (Farmingdale Village) congratulated the Mayor on his appointment of Sgt. Pavelchik in the face of the opposition he has on the City Council. Jeannie Dewar related the turn

around of employees was due to the low morale that had been present in the Police Department. She also stated that the patrol officers had high respect for Sgt. Pavelchik's fairness and responsibility to his job.

Officer Ed Rentka spoke in support of the appointment of Robert Pavelchik as Chief of Police noting that more officers would have been present here tonight to support Bob but were either working or on vacation. He related stories of how Sgt. Pavelchik treated those under his command fairly and encouraged them to become better officers.

Eva Lis, wife of a patrolman, expressed the happiness and support she and her husband felt since learning of the proposed appointment of Sgt. Pavelchik to Chief of Police. She encouraged the City Council to approve the appointment.

Kevin Monaghan, 922 Hickory Lane, thanked the City Council for the Fourth of July Parade contribution. He noted that the Parade would be held on July 4th at 9:00 A.M. that it would begin at Hinsdale South High School, continue down Plainfield Road to 75th Street and end at Eisenhower Junior High School.

Luke Peterson, 1026 Janet Avenue, commented that there was a noise problem in the evening at the 24-hour self-serve car wash on Plainfield Road.

Julio Check, business owner and President of Chestnut Court, spoke about American Freedom, Freedom of Speech, involvement, loyalty and the reputation of the City.

Bob Klein, 8515 Carriage Greens Drive, stated that the City had a crisis that it resolved; he was pleased to have been a witness to that resolution; and hoped that Council would continue to work together.

Mayor Soldato commented that even though there would always be agreement and disagreement, leaders had a responsibility to listen to the people. He thanked everyone for attending the meeting.

Alderman Biehl asked Clerk Coleman if a pre-DarienFest meeting would be scheduled with the residents; she responded affirmatively.

18. ADJOURNMENT

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

VIA VOICE VOTE - MOTION DULY CARRIED

The City Council meeting adjourned at 9:20 P.M.

Mayor

City Clerk

JFC/jr

All supporting documentation and report originals of these minutes are on file in the Office of the City Clerk under File Number 06-17-02. Minutes of 06-17-02 CCM

June 17, 2002