



City of Naperville

400 S. Eagle Street
Naperville, IL 60540

Meeting Minutes

City Council

Tuesday, September 3, 2019

7:00 PM

Council Chambers

A. CALL TO ORDER:

B. ROLL CALL:

C. CLOSED SESSION - CANCELED

OPEN SESSION - 7:00 p.m.

Chirico called the meeting to order at 7:00 p.m.

D. ROLL CALL:

Present: 9 - Mayor Steve Chirico
Councilwoman Judith Brodhead
Councilman Kevin Coyne
Councilwoman Patty Gustin
Councilman Paul Hinterlong
Councilman Patrick Kelly
Councilman John Krummen
Councilwoman Theresa Sullivan
Councilman Benjamin White

Also Present

City Manager, Doug Krieger; Deputy City Manager, Marcie Schatz; City Attorney, Mike DiSanto; City Clerk, Pam Gallahue; Fire Chief, Mark Puknaitis; Police Chief, Robert Marshall; Director of Finance, Rachel Mayer; Director of IT, Jacqueline Nguyen; Director of TED, Bill Novack; Deputy Director of TED, Jennifer Loudon; Deputy Director of TED, Allison Laff; Deputy Directors of Public Utilities - Electric, Brian Groth and Olga Geynisman; Director of Public Utilities - Water, Darrell Blenniss, Jr.; Director of Public Works, Dick Dublinski

Daily Herald, Naperville Sun, NCTV-17

E. PLEDGE TO THE FLAG:

The pledge was given.

F. AWARDS AND RECOGNITIONS:

G. PUBLIC FORUM:

September 3, 2019 Agenda

Mary Lou Wehrli, Naperville, requested that the Council exercise the authority to hear agenda items out of order.

Chirico read rules regarding speaker instructions and meeting decorum.

H. CONSIDERATION OF MOTION TO USE OMNIBUS METHOD FOR THE CONSENT AGENDA:

A motion was made by Councilwoman Brodhead, seconded by Councilman Hinterlong, to use the Omnibus method to approve the Consent Agenda. The motion carried by the following vote:

Aye: 9 - Chirico, Brodhead, Coyne, Gustin, Hinterlong, Kelly, Krummen, Sullivan, and White

I. CONSENT AGENDA:**Approval of the Consent Agenda**

A motion was made by Councilwoman Brodhead, seconded by Councilman Hinterlong, to approve the Consent Agenda with the exception of items I10 and I12. The motion carried by the following vote:

Aye: 9 - Chirico, Brodhead, Coyne, Gustin, Hinterlong, Kelly, Krummen, Sullivan, and White

1. Approve the regular City Council meeting minutes of August 20, 2019
Council approved.
2. Approve the City Council meeting schedule for September, October & November 2019
Council approved.
3. Approve the award of Option Year One to Contract 17-097, Holiday Lighting and Decorations, to Holiday Creations Pro, Inc. for an amount not to exceed \$165,000
Council approved.
4. Approve the award of Cooperative Procurement 19-233, Transformer Remanufacturing and Tap Changer Board Replacement, to WESCO for an amount not to exceed \$141,596
Council approved.
5. Waive the applicable provisions of the Naperville Procurement Code to set prices for 2019/20 and award Procurement 19-254, Roadway Snow Removal, to various contractors for an amount not to exceed \$390,000 and for the period of October 1, 2019 through April 30, 2020 (Requires six positive votes)

Council approved.

6. Accept the public watermain improvements at Naperville IPT Subdivision and authorize the City Clerk to reduce the corresponding public improvement surety.

Council approved.

7. Pass the ordinance granting an extension to the temporary use for parking facilities located at the Calamos Headquarters and CityGate Centre to remain in place until commencement of Phase 2 construction or until October 7, 2022, whichever occurs first - PZC 19-1-052

Enactment No.: ORD 19-111

Council passed.

8. Waive the first reading and pass the ordinance amending Title 11, Chapter 2, Article B of the Naperville Municipal Code to establish regulations for the City's Commuter Park-and-Ride Parking Lots (requires six positive votes)

Enactment No.: ORD 19-112

Council passed.

9. Pass the ordinance approving a major change to the Schweikert Square PUD in order to grant a conditional use to permit a cultural institution in B3 (General Commercial District) at the subject property located at 1568 W. Ogden Avenue, Naperville (Sri Panchamukha Hanuman Religious Social Club) - PZC 19-1-063

Enactment No.: ORD 19-113

Council passed.

10. Pass the ordinance approving a major change to the University Heights Unit 2 PUD in order to grant deviations at the subject property located at 1740 Rutgers Ct., Naperville - PZC 19-1-069

Tiffany Jasionowski, explained the project and the direction she received from the contractor.

Enactment No.: ORD 19-118

A motion was made by Councilman Coyne, seconded by Councilwoman Gustin, to pass the ordinance approving a major change to the University Heights Unit 2 PUD in order to grant deviations at the subject property located at 1740 Rutgers Ct., Naperville - PZC 19-1-069. The motion carried by the following vote:

Aye: 6 - Brodhead, Coyne, Gustin, Hinterlong, Krummen, and White

Nay: 3 - Chirico, Kelly, and Sullivan

11. Pass the ordinance amending Section 1-9G-13 of the Naperville Municipal Code

regarding the membership composition of the Emergency Systems Board.

Enactment No.: ORD 19-114

Council passed.

12. Pass the ordinance approving a variance from Section 6-2-12:1.1 and a variance from Section 6-2-12:1.2 in order to permit a 4' 6" tall steel open fence with 5' 6" tall brick piers within the required front and corner side yard setback at the subject property located at 1227 Olesen Drive, Naperville - PZC 19-1-073

Chirico recused himself and left the dais to avoid the appearance of impropriety from 7:12 p.m. - 7:13 p.m.

Coyne assumed Mayor Pro Tem.

Enactment No.: ORD 19-119

A motion was made by Councilwoman Gustin, seconded by Councilman Krummen, to pass the ordinance approving a variance from Section 6-2-12:1.1 and a variance from Section 6-2-12:1.2 in order to permit a 4' 6" tall steel open fence with 5' 6" tall brick piers within the required front and corner side yard setback at the subject property located at 1227 Olesen Drive, Naperville - PZC 19-1-073. The motion carried by the following vote:

Aye: 8 - Brodhead, Coyne, Gustin, Hinterlong, Kelly, Krummen, Sullivan, and White

Recused: 1 - Chirico

13. Waive the first reading and pass the ordinance to restrict parking on the west side of Cedar Glade Drive from the centerline of Ledgestone Court to a point 120' north of the centerline of Ledgestone Court (requires six positive votes).

Enactment No.: ORD 19-115

Council passed.

14. Pass the ordinance approving a variance to Section 901.1 of the 2018 International Building Code as amended by Naperville Municipal Code Section 5-1A-3 for 29 S. Webster Street. (sprinkler system installation deferral)

Enactment No.: ORD 19-116

Council passed.

15. Adopt a resolution approving the settlement agreement between John Doe by and through his guardian Carolyn Clark and the City of Naperville.

Enactment No.: RES 19-31

Council adopted.

16. Adopt a resolution approving the settlement agreement between the Walgreens and the City of Naperville.

Enactment No.: RES 19-32

Council adopted.

- 17. Adopt the resolution adopting the City of Naperville’s Title VI program for federally funded transit projects (Ride DuPage to Work Program)

Enactment No.: RES 19-33

Council adopted.

- 18. Waive the first reading and pass the ordinance remove two-way yield control and establish two-way stop control at the intersections of Birchwood Drive and Sunnybrook Drive, Birchwood Drive and Stonegate Road, and Birchwood Drive and Briarwood Drive; to establish two-way stop control at the intersection of Birchwood Drive and Brush Hill Circle; and to remove one-way yield control at the intersection of Birchwood Drive and Cottonwood Lane (requires six positive votes).

Enactment No.: ORD 19-117

Council approved.

- 19. Designate School Street between Washington Street and Ellsworth Street as “Chief Robert Worthel Memorial Way” and permit installation of memorial signage on School Street

Council approved.

- 20. Designate Hillside Road between West Street and Webster Street as “J. Glenn Schneider Memorial Way” and permit installation of memorial signage on Hillside Road

Council approved.

J. PUBLIC HEARINGS:

K. OLD BUSINESS:

- 1. Option 1: Pass the ordinance amending Title 3 of the Naperville Municipal Code by the addition of Chapter 17 prohibiting adult use cannabis business establishments other than medical cannabis cultivation centers and medical cannabis dispensing organizations;
Option 2: Direct staff to proceed with plan to establish zoning for local adult use cannabis business establishments

Jim Haselhorst, spoke in favor of opting in.
Anna Ginecchio, spoke in favor of opting out.

The meeting went into recess from 7:20 p.m. - 7:26 p.m.

Dr. Aaron Weiner, spoke in favor of opting out.
Adam Russo, spoke in favor of opting out.
Dr. Albert Mensah, spoke in favor of opting out.

Rich Wistocki, spoke in favor of opting out.
Chris Leshock, spoke in favor of opting out.
William Ma, spoke in favor of opting out.
Zak Wu, spoke in favor of opting out.
Melinda Wong, spoke in favor of opting out.
Chris Wong, spoke in favor of opting out.
Jennifer Taylor, spoke in favor of opting out.
Kamala Martinez, spoke in favor of opting out.
Ann Gutierrez, spoke in favor of opting out.
Mike Rudolph, spoke in favor of opting out.
Kim Huffman, spoke in favor of opting out.
Jiyong Zhao, spoke in favor of opting out.
Ann Lu, spoke in favor of opting out.
Cheryl Greenman, Oakbrook, spoke in favor of opting in.
Jean Baker Page, spoke in favor of opting in.
Melissa Tomei, spoke in favor of opting in.
Lyndsey Kokoris, spoke in favor of opting in.
Barbara O'Meara, spoke in favor of opting in.
Phil Buchanan, spoke in favor of opting in.
Holly Hootman, spoke in favor of opting in.
Nicholas Kokoris, spoke in favor of opting in.
Nancy Turner, spoke in favor of opting in.
Dinkar Karumura, spoke in favor of opting out.
Dan Allen, spoke in favor of opting in.
Sheila Rutledge, spoke in favor of opting in.
Kristin Fitzgerald, spoke in favor of opting out.
James Laures, spoke in favor of opting out.
Nancy Laures, spoke in favor of opting out.
James Creamer, spoke in favor of opting out.
Sandy Lollini, spoke in favor of opting out.

The meeting recessed from 8:55 p.m. - 9:06 p.m.

Nancy Creamer, spoke in favor of opting out.
John Creamer, spoke in favor of opting out.
Joy Grainge, spoke in favor of opting in.
Christopher Susi, spoke in favor of opting in.
Nancy Chen, spoke in favor of opting out.
Cindy Morino, spoke in favor of opting out.
Paul Leong, spoke in favor of opting out.
Robert Miller, spoke in favor of opting in.
Laura Zeman, spoke in favor of opting in.
Dr. Salami, spoke in favor of opting in.
Marcus May, spoke in favor of opting out.
Patel, spoke in favor of opting out.
Kathryn Wezel, spoke in favor of opting out.
Susan Brown, spoke in favor of opting out.
Becky Rudolf, spoke in favor of opting out.

Additional speakers are shown on the attached list.

At 10:40 p.m. a motion was made by Councilwoman Sullivan, seconded by Councilwoman Gustin, to extend the meeting to midnight. The motion carried via Voice Vote.

Council discussed public input, law enforcement feedback, research, the existence of the black market, actions taken by neighboring communities, the appropriateness of a referendum, the legalization of marijuana in Illinois, causes of cancer, tax rates, the use of revenue to fund social service programs, the upcoming trailer bill, the need to bring the issue to a conclusion, that logical comments have been made on both sides, that this is a new and controversial issue with major implications, Tobacco 21, Illinois did not have a referendum on the subject, and that the priority is the protection and safety of the community.

Marshall explained that, in his professional opinion, Naperville should opt out and gather more information.

Council discussed the number of emails and petitions received, varying interpretations of the law, that medical marijuana will still be available, opting out now does not preclude the City from opting in later, when the tax/revenue will begin, which ballot to place a referendum question on, and the need to educate voters before going to the polls.

Enactment No.: ORD 19-120

A motion was made by Councilwoman Gustin, seconded by Councilman Coyne, for Option 1: Pass the ordinance amending Title 3 of the Naperville Municipal Code by the addition of Chapter 17 prohibiting adult use cannabis business establishments other than medical cannabis cultivation centers and medical cannabis dispensing organizations.

A motion in substitution was made by Councilman Coyne, seconded by Councilman Hinterlong, for Option 1: to pass the ordinance amending Title 3 of the Naperville Municipal Code by the addition of Chapter 17 prohibiting adult use cannabis business establishments other than medical cannabis cultivation centers and medical cannabis dispensing organizations and to direct staff to bring back a report within 60 days that advises Council concerning including an advisory (non-binding) referendum question on a future election ballot. The motion carried by the following vote:

Aye: 6 - Coyne, Gustin, Hinterlong, Kelly, Krummen, and White

Nay: 3 - Chirico, Brodhead, and Sullivan

At 11:39 p.m. a motion was made by Councilwoman Gustin, seconded by Councilwoman Brodhead, to extend the meeting to 12:15 a.m. The motion carried via Voice Vote.

The meeting went into recess from 11:39 p.m. - 11:45 p.m.

L. ORDINANCES AND RESOLUTIONS:

1. Pass the ordinance amending Sections 3-3-5, 3-3-14 and 3-3-15 of the Naperville Municipal Code by prohibiting anyone under the age of 21 from possessing tobacco or alternative nicotine products.

Enactment No.: ORD 19-121

A motion was made by Councilwoman Brodhead, seconded by Councilman White, to pass the ordinance amending Sections 3-3-5, 3-3-14 and 3-3-15 of the Naperville Municipal Code by prohibiting anyone under the age of 21 from possessing tobacco or alternative nicotine products.. The motion carried by the following vote:

Aye: 7 - Chirico, Brodhead, Coyne, Gustin, Kelly, Sullivan, and White

Absent: 2 - Hinterlong, and Krummen

2. Pass the ordinance amending Sections 3-3-3 and 3-3-14 of the Naperville Municipal Code by placing age restrictions on the sale and possession of kratom.

Dr. Aaron Weiner, spoke in favor of placing age restrictions on the sale and possession of kratom.

Jack E. Henningfield, PhD., Pinney Associates, spoke in favor of placing age restrictions on the sale and possession of kratom.

Nina Ajdin, spoke in favor of placing age restrictions on the sale and possession of kratom.

Enactment No.: ORD 19-122

A motion was made by Councilman Krummen, seconded by Councilman Coyne, to pass the ordinance amending Sections 3-3-3 and 3-3-14 of the Naperville Municipal Code by placing age restrictions on the sale and possession of kratom. The motion carried by the following vote:

Aye: 9 - Chirico, Brodhead, Coyne, Gustin, Hinterlong, Kelly, Krummen, Sullivan, and White

3. Receive the report for Lincoln at CityGate Centre located at the northeast corner of CityGate Lane and Westings Avenue, Naperville, PZC 19-1-020 (Item 1 of 4)

Paul DeKruiff, Petitioner CityGate Centre Ventures LLC, explained the proposal to construct a 285-unit multi-family building with 38,000 sq ft roof-level event center on the five-acre property located at the northeast corner of Westings Avenue and CityGate Lane. The Petitioner requests the following: a major change to the PUD and a revised PUD plat with deviations to increase the building height and to reduce the number of parking spaces and lot area; a preliminary plat of subdivision including a deviation from the 30' platted setback along Westings Avenue; a conditional use to permit multi-family dwelling units; and, a variance to reduce the required amount of masonry on the building.

Council discussed school generation tables.

Vince Rosanova, Attorney for Petitioner, stated that the Petitioner is proposing to pay the land cash contribution to the school district, explained the development bedroom count, and the calculation used to arrive at the number of students generated.

Joe Segobiano, Lincoln Properties, discussed the affordable housing initiative and the offer of a \$200,000 contribution to the City to promote attainable or affordable housing as appropriate.

DiSanto discussed the proposed language change to the ordinance.

Laff explained the process should the school district object to the development and that a formal objection has to be filed and resolved before final plat is approved.

At 12:10 a.m. a motion was made by Councilman Krummen, seconded by Councilwoman Brodhead, to extend the meeting to 12:30 a.m. The motion carried via Voice Vote.

Council discussed including affordable housing in every development and the appropriateness of the donation.

DiSanto explained the donation is not a requirement and may be put in a City grant account.

Council discussed the need to formalize the process for the future.

A motion was made by Councilwoman Brodhead, seconded by Councilman Coyne, to receive the report for Lincoln at CityGate Centre located at the northeast corner of CityGate Lane and Westings Avenue, Naperville, PZC 19-1-020. The motion carried by the following vote:

Aye: 9 - Chirico, Brodhead, Coyne, Gustin, Hinterlong, Kelly, Krummen, Sullivan, and White

- 4.** Pass the ordinance approving a major change to the CityGate Centre Planned Unit Development in order to permit a conditional use for multi-family dwelling units in OCI and approval of a preliminary PUD plat with deviations to increase the permitted height, to reduce the required number of parking spaces, and to reduce the required lot area at the subject property located at the northeast corner of CityGate Lane and Westings Avenue - PZC 19-1-020 (Item 2 of 4)

Enactment No.: ORD 19-123

A motion was made by Councilwoman Brodhead, seconded by Councilman Hinterlong, to pass the ordinance approving a major change to the CityGate Centre Planned Unit Development in order to permit a conditional use for multi-family dwelling units in OCI and approval of a preliminary PUD plat with deviations to increase the permitted height, to reduce the required number of parking spaces, and to reduce the required lot area at the subject property located at the northeast corner of CityGate Lane and Westings Avenue - PZC 19-1-020. The motion carried by the following vote:

Aye: 9 - Chirico, Brodhead, Coyne, Gustin, Hinterlong, Kelly, Krummen, Sullivan, and White

5. Pass the ordinance approving a preliminary/final plat of subdivision for the resubdivision of Lots 2 & 3 of CityGate Centre Subdivision - PZC 19-1-020 (Item 3 of 4)

Enactment No.: ORD 19-124

A motion in substitution was made by Councilman Coyne, seconded by Councilman Hinterlong, to pass the ordinance approving a preliminary/final plat of subdivision for the resubdivision of Lots 2 & 3 of CityGate Centre Subdivision - PZC 19-1-020 with no donation. The motion failed by the following vote:

Aye: 4 - Chirico, Coyne, Gustin, and Hinterlong

Nay: 5 - Brodhead, Kelly, Krummen, Sullivan, and White

A motion was made by Councilwoman Brodhead, seconded by Councilman Krummen, to pass the ordinance approving a preliminary plat of subdivision for the resubdivision of Lots 2 & 3 of CityGate Centre Subdivision - PZC 19-1-020 passed as amended by staff during the discussion to accept the \$200,000 donation. The motion carried by the following vote:

Aye: 8 - Chirico, Brodhead, Coyne, Hinterlong, Kelly, Krummen, Sullivan, and White

Nay: 1 - Gustin

6. Pass the ordinance granting a variance from Section 5-2C-3 (Exterior Wall Construction) of Title 5 (Building Regulations) for the subject property located at the northeast corner of CityGate Lane and Westings Avenue - PZC 19-1-020 (Item 4 of 4)

Enactment No.: ORD 19-125

A motion was made by Councilwoman Brodhead, seconded by Councilman Coyne, to pass the ordinance granting a variance from Section 5-2C-3 (Exterior Wall Construction) of Title 5 (Building Regulations) for the subject property located at the northeast corner of CityGate Lane and Westings Avenue - PZC 19-1-020 . The motion carried by the following vote:

Aye: 9 - Chirico, Brodhead, Coyne, Gustin, Hinterlong, Kelly, Krummen, Sullivan, and White

M. AWARD OF BIDS AND OTHER ITEMS OF EXPENDITURE:

N. PETITIONS AND COMMUNICATIONS:

O. REPORTS AND RECOMMENDATIONS:

1. Receive the 2019 2nd Quarter Financial Report

Mayer gave a brief overview of the City's financial position as it enters the upcoming 2020 budget season.

The report was received.

P. NEW BUSINESS:

Q. ADJOURNMENT:

A motion was made by Councilwoman Gustin, seconded by Councilman Krummen, to adjourn the Regular City Council Meeting of September 3, 2019 at 12:27 a.m. The motion carried by the following vote:

Aye: 9 - Chirico, Brodhead, Coyne, Gustin, Hinterlong, Kelly, Krummen, Sullivan, and White

/S/ Pam Gallahue
Pam Gallahue, PhD
City Clerk