

December 1, 2020 Council QA

Monday, November 30, 2020 8:16 AM

A. CALL TO ORDER:

B. ROLL CALL:

C. CLOSED SESSION - 6:15 p.m.

OPEN SESSION - 7:00 p.m.

D. ROLL CALL:

E. PLEDGE TO THE FLAG:

F. AWARDS AND RECOGNITIONS:

G. PUBLIC FORUM:

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

I. CONSENT AGENDA:

1. **20-1403** Approve the regular City Council meeting minutes from November 17, 2020
2. **20-1410** Approve the City Council meeting schedule for December 2020 and January & February 2021
3. **20-1321** Approve the award of Option Year Three to Contract 18-013, Tree Planting Services, to The Fields of Caton Farm for an amount not to exceed \$433,000
4. **20-1397** Approve the award of RFP 20-012, Strategic Planning Consultant Services, to Shockey Consulting for an amount not to exceed \$124,520

Q:	It was my honor to work with Councilwoman Brodhead and staff on these interviews that focused on resident and business input through surveys and polls during as examples local events, at churches, passing pedestrians,	Gustin
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	<p>downtown visitors, and online polls. With the onset of COVID a factor not considered during deliberation of interviewees, COVID's in-person limitations, as evidenced by school districts, churches and councils own in-person meeting restrictions, what level of inclusion, interaction and actual resident and business responses can be guaranteed by the company? Would staff recommend the delay of this project to better reflect and respect current times, irrespective of any election.</p>	
<p>A:</p>	<p>At this time, staff does not recommend further delaying the start of the project. This initiative was originally set to be a five-ten year strategic plan with community engagement and DLT/Council work sessions beginning in spring 2020. COVID restrictions forced a one-year postponement of award approval and a reduction in plan scope to three years. With the election of new councilmembers and the impact of COVID still present in Naperville, it is critical that a collective vision and unified workplan for post-COVID recovery be established.</p> <p>Upon approval, Shockey will partner with staff from January-March to develop a baseline of community information and data. During this time we will remain cognizant of any changing COVID restrictions and adjust the plan for engagement efforts accordingly. Community input and workshop exercises (Phase 3) are not scheduled to begin until April-May. If, at that time, it is determined that the project will be negatively affected by COVID regulations, this phase may be delayed or further refined.</p> <p>Throughout 2020, staff has remained in contact with Shockey to discuss revisions to the scope of work and learn how they have implemented COVID-authorized engagement efforts in other municipalities. While there is not a one-size-fits-all method, staff is confident that Shockey's knowledge of the Naperville community and strategic creativity will provide for a varied and inclusive engagement effort while respecting any COVID protocols in place next spring.</p>	<p>Gallahue</p>

- 5. **20-1276B** Approve the award of Option Year One to Contract 18-285, Water Meter Replacement Program, to HBK Water Meter Service, Inc. for an amount not to exceed \$561,246 plus a 3% contingency and for a one-year term

- 6. **20-1385B** Waive the first reading and pass the ordinance amending Section 6-7E-3 to allow daycare centers, preschools, primary schools, and secondary schools as conditional uses in the B5 (Secondary Downtown) zoning district (PZC 20-1-106) (requires 6 positive votes)

<p>Q:</p>	<p>Did Staff obtain input from NDP, DNA and DAT (formerly known at DAC)? Will staff be asking those stakeholders as this change particularly drop-off & pick-up, is along the downtown corridor and part of the City future plans.</p>	<p>Gustin</p>
<p>A:</p>	<p>The proposed text amendment was shared with NDP and DNA (DAC was not directly notified). Neither group expressed any concerns with the amendment as drafted. TED Engineers have reviewed the proposed plan and do not have concerns that the proposed drop off/pick up procedures will have a negative impact on Washington Street.</p>	<p>Kopinski</p>

- 7. **20-1382B** Receive the staff report regarding the properties located at 24 N. Washington Street and 20 E. Franklin Avenue (Guidepost Montessori) - PZC 20-1-092 (Item 1 of 3)
- 8. **20-1383B** Pass the ordinance approving a conditional use for a daycare center, preschool, and primary school on the properties located at 24 N. Washington and 20 E. Franklin, and a variance to eliminate the ten stacking spaces required for curbside drop-off/pick-up areas (Guidepost Montessori) - PZC 20-1-092 (Item 2 of 3)
- 9. **20-1384B** Pass the ordinance abrogating the declaration of restrictions pertaining to real property located at 24 N. Washington Street (Guidepost Montessori) - PZC 20-1-092 (Item 3 of 3)
- 10. **20-1113B** Pass the ordinance amending Title 1 (Administrative) Chapter 8 (Municipal Departments) Article B (Fire Department) of the Municipal Code related to ambulance and emergency response services

J. PUBLIC HEARINGS:

- 1. **20-1412** Conduct the public hearing for the 2021 Annual Operating Budget (Item 1 of 2)

Q:	<p>As in past budget years staff provided a percentage reduction by department to help take pressure off an increased budget will that same be provided to council?</p> <p>Has or will staff reach out to the Naperville Township Assessor office to verify the proposed 5-6% equalized assessed value (EAV) on real estate values to cover some of the budget increases to make sure decisions are well founded.</p>	Gustin
A:	<p>Prior to City Council review, the proposed 2021 budget went through two levels of review, one with the Finance Department and another with the City Manager's Office. During those reviews, staff reduced expenditures by \$4.9 million. That included both operating and capital expense reductions. Included in that amount was the reduction of \$0.5 million related to the request for five additional police personnel, which were subsequently added back into the budget upon further review by Council. After incorporating all changes discussed during the three budget workshops, the total budget increase for 2021 is 7.5% from the amended 2020 budget and just a 2.2% increase over the original 2020 budget. General Fund expenditures for 2021 increase by 4.0% from the prior year, with 0.5% of that increase being attributable to increased staffing that was requested during workshop three. Primary drivers of the remaining cost increase are pension contributions, contractual and non-contractual wage increases, and health and dental insurance premium increases. Staff sought to maintain current service levels when developing the 2021 budget and further reductions would impact service levels.</p>	Munch

Staff received EAV estimates from all five townships in DuPage and Will counties. When combined, those estimates equate to a 6.18% increase in citywide EAV. As staff noted in the third workshop, township assessors had not applied final exemptions or board of review changes to those estimates. Applying historical exemption rates to those estimates results in a final EAV increase closer to 5.5%. After the third budget workshop, staff increased the EAV growth assumption to 4.5% from the previous assumption of 3.5%. This additional 1.0% growth nets just over \$500,000 in additional property tax revenue without negatively impacting the tax rate. Staff believes the 4.5% growth estimate is still conservative. Under this assumption, the average homeowner will still see a flat tax rate that will result in a small decrease of about \$4 for the average homeowner.

- 2. **20-1413** Pass the ordinance adopting the 2021 Annual Budget in the amount of \$502,423,551 (Item 2 of 2)

K. OLD BUSINESS:

L. ORDINANCES AND RESOLUTIONS:

- 1. **20-1433** Adopt the resolution in support of the Naperville Police Department Law Enforcement Professionals

Q:	Why isn't the police resolution in the awards and recognitions part of the agenda? I believe this should be publicly read into the record.	Coyne
A:	Since the format is a resolution as opposed to a proclamation, it is placed under Ordinances and Resolutions on the agenda instead of Awards and Recognitions. It can be read into the record during the meeting at the direction of City Council.	Schatz
Q:	Please explain this resolution's origin and its timing. Does it change any current operations or city processes? If we also wanted to consider a resolution thanking all of our first responders, medical personnel, social service groups and the city staff members in electric, water, DPW, IT and TED that have kept the City running throughout the pandemic, what is the appropriate process to get that on an agenda?	Sullivan
A:	There was a request to place the resolution on the agenda by Councilmembers Gustin, Hinterlong and Coyne last week. The resolution is modeled after a resolution recently passed by the Village of Woodridge and does not change current city operations or processes. Per Council Rules, the appropriate process to get a resolution, or any other agenda item, on the agenda is to have three Councilmembers submit a request to the City Manager.	Schatz

- 2. **20-1393** Conduct the first reading of an ordinance decommissioning the Downtown Advisory Commission of the City of Naperville and deleting Chapter 20

(Downtown Advisory Commission) of Title 2 (Boards and Commissions) of the Naperville Municipal Code

Q:	What's the fiscal impact if we make this a task force? Will there be a staff member that still attends the meetings?	Hinterlong
A:	All of the staff time currently dedicated to supporting DAC (preparing and posting agendas, scheduling meetings, taking minutes, etc.) will be eliminated if DAC is moved to a taskforce. While staff may attend taskforce meetings depending on the topics being discussed and at the request of the taskforce, staff attendance at each of the taskforce meetings will not be mandatory. In its current commission format, Novack, Laff, and Louden currently attend all DAC meetings.	Laff
Q:	With DAC recommendation to a taskforce what, if any, city staffing will be required or in light of this change will staffing be assigned elsewhere?	Gustin
A:	Allison Laff is the current staff liaison to DAC. If DAC is moved to a taskforce, the time previously spent supporting DAC will be reallocated to continued work on pending TED projects, such as the Master Land Use Plan Update, housing efforts, text amendments, etc.	Laff

3. 20-1415 Consider two options concerning wearing protective face coverings in public within the City of Naperville:

OPTION 1: Waive the first reading and pass the ordinance amending the Naperville Municipal Code to require protective face coverings in public within the City of Naperville (six positive votes required)

OPTION 2: Adopt the resolution affirming and encouraging the wearing of protective face coverings in public within the City of Naperville

Q:	<p>1) Have any of the benchmark or local municipalities that staff has communicated with passed a resolution, instead of an ordinance, encouraging the wearing of protective face coverings?</p> <p>2) Of the municipalities staff communicated with that have passed an ordinance, have any of the municipalities expressed an opinion that passing their ordinance resulting in increased wearing of protective face coverings?</p> <p>3) Does the city currently have the legal authority to issue fines or other penalties if; (a) individuals are not wearing protective face coverings in public when they cannot socially distance from people who do not live in their home; or (b) businesses do not require individuals to wear protective face coverings when at their business if they cannot socially distance from people who do not live in their home? If so, what are the currently allowable penalties, and how would the proposed ordinance change the currently allowable penalties, if at all?</p>	Kelly
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A:	<ol style="list-style-type: none"> 1. The question sent to communities only asked if they had passed an ordinance so we do not have information about whether they have passed resolutions. General research suggests that the approach to the issue of protective face coverings varies widely among communities in Illinois and nationwide. It appears some communities have taken no local action (many instead choosing to rely on state or public health department actions), some have gone the encouraging and promotion route via resolution or executive order and others have adopted stricter mandates via ordinance that are able to be enforced locally. 2. None of the communities surveyed opined on whether having adopted a protective face covering ordinance increased the use of protective face coverings. 3. Governor Pritzker issued an executive order that mandates the use of protective face coverings statewide. To date, the City has referred complaints of violations of the Governor's executive order to the state or county health departments, which have clear enforcement authority relative to businesses. Whether a local violation of the Governor's executive order could be a violation of an existing local ordinance would have to be analyzed based on specific facts. It is possible that a violation could rise to constitute disorderly conduct under the municipal code (see, 10-2-1-1, NMC), but any such charge would likely require a complaint from a cooperative, independent witness (not an enforcement officer). It is also possible that a violation could rise to constitute a general health regulation violation under the municipal code (see, 4-1-1, NMC) which makes it "unlawful to commit or do any act which endangers the public health or results in annoyance or discomfort to the public." Violations of those municipal code sections are subject to a minimum fine of \$100 and a maximum fine of \$500. Under the protective face covering ordinance provided for Council consideration, individuals are subject to a minimum \$50 fine per violation and businesses are subject to a minimum \$250 for first violations and \$500 for subsequent violations. 	DiSanto
Q:	A number of people have asked how a mask mandate will be enforced and what the penalties would be for noncompliance? Hoping staff can clarify these points at the meeting for the public.	Coyne
A:	<p>If the ordinance is adopted, staff will work on an enforcement plan likely using police (community service officers as well as police officers) and code enforcement officers depending on the nature and egregiousness of violations and personnel availability. Enforcement officers will be able to use their discretion to issue verbal or written warnings prior to issuing formal citations.</p> <p>If a formal citation is issued, the ordinance provides that individuals are subject to a minimum \$50 fine per violation and businesses are subject to a minimum \$250 for first violations and \$500 for subsequent violations.</p> <p>Staff anticipates formal citations will be able to be paid through the mail or adjudicated through the DuPage County Circuit Court.</p>	DiSanto
Q:	Could Chief Marshall comment on the pros and cons of the enforcement structure to his department operations contained in the ordinance? (e.g., will more police be needed to enforce? If someone refuses to show ID or evades a police officer trying to give a citation for breaking this ordinance, would that result in further infractions in our code and could that lead to consequences beyond citation? If people call 911 or the police	Sullivan

	department's regular numbers to report someone breaking the ordinance, will we send police resources? How does the City ensure that police officers are not put in any additional danger for enforcing this ordinance?)	
A:	<p>If the city council passes a city ordinance mandating mask wearing in the City of Naperville the current police enforcement structure for city ordinance violations is in place and positioned to carry out that responsibility.</p> <p>No additional police resources would be required.</p> <p>If an individual is detained for not wearing a mask and refuses to provide identification for the purpose of the warning or citation the individual would be subject to arrest and potentially additional charges depending on the totality of the circumstances.</p> <p>We would encourage via public service messages for citizens to report mask violations via the non-emergency number, not 911. The police department would dispatch police officers which is our practice as with other citizen generated complaints.</p> <p>Our police officers are exceptionally trained and equipped to respond to all types of situations. Police officers would address violations of a mandated mask wearing ordinance safely and professionally.</p>	Marshall

M. AWARD OF BIDS AND OTHER ITEMS OF EXPENDITURE:

- 20-1323** Approve the award of Cooperative Procurement 20-239, Microsoft Enterprise, to Dell USA, LP for an amount not to exceed \$1,981,380 and for a three-year term

Q:	Does staff recommend individual charges by department such as electric relating to BizTalk, Visio relative percentage to Police a Department, etc. where applicable for more transparent department breakdown. I understand there will be some programs and storage applications that will crossover department or be used by the general overall staff.	Gustin
A:	In some instances, staff does allocate IT software and hardware expenses to various budget lines; however, greater focus is placed on the fund rather than the department. Some applications have very broad uses across the organization, and in those cases, we do not see a significant benefit to budgeting an application in each department. However, we do allocate appropriate amounts to the Electric and Water funds to ensure that those business-type enterprises pay their fair share of larger organization-wide costs.	Munch

N. PETITIONS AND COMMUNICATIONS:

- 20-1409** Consider a request by Shorewood Development Group, LLC to initiate an amendment to permit self-storage facilities in the B2 (Community Shopping Center District) - PZC 20-1-113

Q:	The Meadows shopping center is surrounded by residential to	
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	the west, north residential & daycare, east resident butting to Mariano's and south on 75th new residential subdivision. This area in the past has been very sensitive to storage facilities. Can staff please provide a synopsis of any past storage facility requests in this area and outcome?	Gustin
A:	Several years ago, a request was submitted to DuPage County to develop a storage facility on unincorporated property located on the south side of 75th Street, west of Wehrli Road. Both the City of Naperville and residents of Hobson Villas submitted letters of opposition to this request for consideration by the County. The request was ultimately withdrawn.	Laff

O. REPORTS AND RECOMMENDATIONS:

- 20-1406** Approve the proposed Affordable Housing Work Plan for priority Action Items 1, 2, 3, and 6

Q:	<p>1) The legislative text references the possibility of including \$25,000 in the 2021 budget to hire a consultant to begin work on an IZO. If a majority of Council would like to hire a consultant to begin work on an IZO, does that have to be addressed through the general fund budget, or could the funds and process be handled separately using funds previously procured to specifically address affordable housing?</p> <p>2) If Council provides direction on December 1, 2020 to hire a consultant to begin work on an IZO, would community stakeholders be engaged to discuss the details of any potential ordinance and would other municipalities who have IZOs in place be consulted to determine what has worked and what has not worked for their municipalities before an actual IZO would be drafted for Council to consider and vote on?</p>	Kelly
A:	<p>1. A line item is currently included in TED's budget for the IZO consultant work. If City Council approves the budget as presented on 12/1/20, the necessary funds will be considered allocated for this project.</p> <p>2. Once a consultant is hired, they will be tasked with completing research on potential IZO ordinance components and their level of success. These options will be presented to the City Council for initial feedback and direction as they will be largely policy based (i.e., how is affordability defined? Should a fee-in-lieu be an option? What percentage of units will be required as affordable? etc.) Once Council feedback is gained, the general ordinance framework will be presented to the public and interested stakeholders for feedback. Staff will then share the feedback received with City Council for final direction on the proposed ordinance components. Because the ordinance is extremely detailed, the ordinance itself will not be drafted until Council final direction on the ordinance components is received.</p>	Laff
Q:	Is the \$25K placeholder for the IZO consultant included in the current 2021 budget (agenda item J2)?	Sullivan
A:	A line item is currently included in TED's budget for the IZO consultant work. If City Council approves the budget as presented on 12/1/20, the necessary funds will be considered allocated for this project.	Laff

Q:	In recall of the Housing Board recommendation and minutes the assistance #6 included low income of seniors, teachers and those in public service. Does staff not recommend same and reasoning?	Gustin
A:	Action Item No. 6 is the same as the recommendation approved by the Housing Advisory Commission on June 8, 2020: "Establish a Revolving Rehabilitation Loan Fund specifically targeted towards low income seniors who currently own in Naperville so that they can make the necessary repairs to their homes and age in place." The language regarding seniors, teachers and those in public service is included in Action Item No. 7, also approved on June 8, 2020: "Establish a Housing Trust Fund specifically targeted towards helping veterans, seniors, the population with special housing needs, and first responders including nurses, police, and fire in purchasing a home." Action Items Nos. 1, 2, 3 and 6 were prioritized for inclusion in the Work Plan based on consensus reached at the September 29, 2020 City Council Workshop. Action Item No. 7 is linked to Action Item No. 8: "Implementation of an Inclusionary Zoning Ordinance (IZO)." If Council approves an Inclusionary Zoning Ordinance, establishment of a Housing Trust Fund (#7) is likely to be reconsidered.	Broder

2. **20-1391** Provide feedback regarding the residential approach proposed in the Land Use Master Plan update

Q:	<p>1) Can staff point to any example of recent developments that were approved but might have been handled differently if the proposed land use master plan had been in place? Are there any developments that were rejected or significantly modified by staff that might have instead been supported by staff if the proposed master plan had been in place?</p> <p>2) If a single residential category is approved, what exactly would change compared to the current status quo, aside from making a general statement that the city is open to the possibility of increased housing diversity and density?</p>	Kelly
A:	<p>1. The recommendations included in the residential section of the proposed Land Use Plan update are largely consistent with the trend of residential developments that have been supported by Council in recent years. Accordingly, the proposed update would not have significantly altered those approvals. However, portions of the existing plans are 20+ years old, and as such, the weight of those recommendations can be easily discounted today. The proposed plan update will therefore better reflect current residential trends and provide updated guidance and criteria for where certain residential development types may/may not be appropriate. This will add transparency to the development process by defining, from the outset, from the City's vision and expectations.</p> <p>2. The change, as mentioned above, will be the general statement that the City is open to the possibility of increased housing diversity and density. No actual change in land uses or permissible housing densities will occur until development is pursued (which may include rezoning or variance requests); and/or, text amendments modifying the City's current zoning ordinance are developed, reviewed, and approved.</p>	Laff

3. **20-1405** Provide direction regarding amendments to Title 6 (Zoning Ordinance) pertaining to cannabis facilities other than dispensaries and medical cultivation facilities

Q:	<p>1) To staff's knowledge, are there any prohibited cannabis businesses currently operating in the city?</p> <p>2) In general, of nearby municipalities that decided to allow adult-use cannabis dispensaries, have they also allowed processing, transporting and infuser organizations?</p> <p>3) Approximately how many processing, transporting and infuser organizations are currently licensed by the Illinois Department of Agriculture, and how many licenses, if there is a cap, remain available?</p> <p>4) What additional taxes may apply to the contemplated cannabis business types?</p> <p>5) Have there been any complaints that required police involvement related to the Rise dispensary since it started adult-use sales?</p>	Kelly
A:	<ol style="list-style-type: none"> 1. Staff has not received any occupancy permit requests for cannabis businesses that were prohibited by Ordinance 20-088 (processing organizations, transporting organizations, and infuser organizations). Nor is staff aware of any businesses that were prohibited by Ordinance 20-088 operating in the City. 2. Staff has not yet conducted this research. 3. Under the CRTA/Cannabis Regulation and Tax Act, the Illinois Department of Agriculture was to issue up to 40 infuser licenses by July 1, 2020 with an additional 60 infuser licenses to be added by December 21, 2021. There is no limit on transporting organization licenses. Information on the number of processing organization licenses has been requested but not yet received. On June 29, 2020 Governor Pritzker issued Executive Order 2020-45 suspending the July 1st deadline for issuance of infuser licenses, craft grower licenses, and transporting organization licenses due to COVID. 4. Processing, Infuser, and Transporting Organizations do not pay a local tax to the City under the CRTA. 5. Rise has generated approximately 20 calls since opening; none of these calls were crime-related, but instead related to items such as traffic, alarms, extra patrol and building checks. 	Laff/Lord
Q:	I've been asked if these cannabis facilities will emit a smell? Will they?	Coyne
A:	Staff has not yet conducted this research.	Laff
Q:	Are there any tax related or financial benefits to the City for allowing these uses within Naperville? If so, what is the estimate?	Sullivan
A:	Processing, Infuser, and Transporting Organizations do not pay a local tax to the City under the CRTA.	Laff/Lord

Q:	<p>Does staff have knowledge of any businesses violating the current cannabis laws, if so what is the name and location?</p> <p>What are the hours of current cannabis businesses under the code in comparison to other non-cannabis businesses in the city, excluding bars, clubs and restaurants?</p>	Gustin
A:	<p>Staff has not received any occupancy permit requests for cannabis businesses that were prohibited by Ordinance 20-088 (processing organizations, transporting organizations, and infuser organizations). Nor is staff aware of any businesses that were prohibited by Ordinance 20-088 operating in the City.</p> <p>The hours of operation for Cannabis Dispensaries are regulated by the CRTA. Beyond the limitations on hours of operation established through liquor licensing, the City of Naperville Municipal Code does not provide any regulations regarding business hours of operations.</p>	Laff

P. NEW BUSINESS:**Q. ADJOURNMENT:**