

September 3, 2019 City Council QA

Wednesday, August 28, 2019 4:19 PM

I. CONSENT AGENDA:

1. **19-843** Approve the regular City Council meeting minutes of August 20, 2019

2. **19-842** Approve the City Council meeting schedule for September, October & November 2019

3. **19-625** 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

Q:	<p>A. Holiday lighting expenses are up 46% from two years ago, and this award is 33% over budget for this year. Please explain specifically what new expenses or cost increases are driving up this cost and over budget and explain why they are necessary?</p> <p>B. Are there practical ways that we can get this expense to be more closely aligned with the budgeted amount of \$123,500?</p>	Sullivan
A:	<p>Beginning in 2017, DPW has worked closely with the Downtown Naperville Alliance to develop a phased approach to holiday light improvements. The program over the past few years has included:</p> <p>Year 1 - Focused on replacing all of the roof top lighting with new LED lighting. A limited amount of street level displays were incorporated into the program as well. Tree lighting continued to be done in-house.</p> <p>Year 2 – Tree Lighting was added to the contract. The lighting consisted of a branch wrap and spritzers in place of the traditional canopy wrap. Additional street level displays were added to the program.</p> <p>Year 3 – Based on feedback received from residents and downtown businesses, the tree lighting will be a branch wrap of the entire tree with LED lighting. This involves a significant increase in the amount of lights that will be in each tree. Many felt that last year’s program of wrapping the trunk and adding spritzers did not provide the same amount of light as in years past with the canopy wrapped trees. The goal is to have the tree lighting brighten up the downtown during the winter months, and many felt that the tree lighting was the most important aspect of the overall program. The tree lighting is also in place from mid-November thru mid-March, as compared to the street level displays which are removed in early January. Lit garland on the streetlight poles has been used on Washington Street as a way to brighten up this area which does not have many trees. The existing garland needs to be replaced this year due to its age and condition. The award amount includes funding for the replacement garland. Street level displays and roof top lighting will also continue to be part of the program.</p> <p>The holiday lighting program is funded through SSA #26. This program continues into 2020 and the expenses for the removal and storage of all the items will occur in the new budget year. As such, the budget for holiday lighting could reflect the additional funding needed. If the award amount is reduced, staff will need to eliminate the street level</p>	Dublinksi

displays or reduce the number of trees that receive the holiday lighting.

4. **19-754** 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
5. **19-795** 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)
6. **19-838** Accept the public watermain improvements at Naperville IPT Subdivision and authorize the City Clerk to reduce the corresponding public improvement surety.
7. **19-501** 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
8. **19-774** 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)
9. **19-764B** 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
10. **19-763B** 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

Q:	<p>A. What is staff's position on this matter? B. Please explain if this ordinance passes, does it change the entire PUD standard, or just make an exception for this one project within the PUD? C. Please comment on the total amount of fines the petitioner will have to pay for improperly installing the pool, if this ordinance is granted.</p>	Sullivan
A:	A. Staff finds that the pool does not meet the standards for granting a variance as provided in the Municipal Code. However, staff also understands that it would be difficult and	Venard

impractical to relocate the pool.
 B. If approved, the deviation is only applicable to the subject property.
 C. The petitioner is required to pay double the cost for inspection and administrative fees. At this time, the petitioner has already paid \$132, which includes one inspection fee and one administrative review fee. The petitioner is required to pay an additional \$132. The petitioner also previously paid \$446 for the variance application.

- 11. **19-822** Pass the ordinance amending Section 1-9G-13 of the Naperville Municipal Code regarding the membership composition of the Emergency Systems Board.
- 12. **19-817B** 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
- 13. **19-665B** 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).
- 14. **19-832** 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.

Q:	Why is ten years being recommended for this property to comply with sprinklers installation?	Gustin
A:	Ten years is the period of time allowed by Section 901.1 of the Municipal Code. Established as early as 2002 (Ord. 02-031), the ten year window is thought to provide reasonable time for a property owner to plan and finance the installation of a fire suppression system. For many owners, it provides an opportunity to consider future building renovations and coordinate with existing tenants.	Zibble

- 15. **19-835** Adopt a resolution approving the settlement agreement between John Doe by and through his guardian Carolyn Clark and the City of Naperville.
- 16. **19-840** Adopt a resolution approving the settlement agreement between the Walgreens and the City of Naperville.
- 17. **19-772** Adopt the resolution adopting the City of Naperville's Title VI program for federally funded transit projects (Ride DuPage to Work Program)

18. **19-706B** 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).

19. **19-734** \

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

20. **19-833** Designate Hillside Road between West Street and Webster Street as “J. Glenn Schneider Memorial Way” and permit installation of memorial signage on Hillside Road

K. OLD BUSINESS:

1. **19-844** 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

<p>Q:</p>	<p>Please provide a legal opinion as to the potential exposure of risks of federal funding because a short Wikipedia research on the internet identifies recreational marijuana is a federal schedule 1 narcotic restricted by the federal government. Are we guaranteed no future enforcement against the city for participating in its sale and distribution? Medical marijuana appears to have a different authoritative enforcement. Can staff reach out to the LEGAL staff of federal agencies such as HUD, Department of Transportation, Department of Energy and others to see if they have waive compliance of the federal law. The city receives funds from those sources and we should protect those funding sources and any potential future funding.</p> <p>With regard to the "(20% of the 6.25% state sales...)", is that all sales in the state by percentage of the population in Naperville?</p>	<p>Gustin</p>
	<p>The legal opinion requested will be confidentially provided to Council under the attorney-client privilege.</p> <p>The statement that the local government portion of the state sales</p>	<p>DiSanto</p>

<p>tax is 20% of the 6.25% state sale tax is misleading. It is more accurate to state that the City would receive 1% of the state's 6.25% sales tax applicable to the local retail sale of adult use cannabis. This is based on the state's standard sale tax split with local municipalities and it is not based on population.</p>	
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L. ORDINANCES AND RESOLUTIONS:

1. **19-804B** 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.

2. **19-834** 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.

3. **19-708C** 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)

Q:	What conversations have occurred with the school district and how will their concerns be addressed?	Gustin
A:	<p>On July 16, 2019, staff received a letter from Jay Strang, Chief School Business Official with Indian Prairie School District 204 regarding the proposed development; this letter was also sent to the petitioner's attorney on the same date. Staff understands that the petitioner met with School District 204 representatives on several occasions to discuss this issue; however, staff was not present at those meetings.</p> <p>Per the Naperville Municipal Code, if a formal objection is filed by the School District (which would include the submittal of all studies and documentation to support the objection), it would have to be raised and resolved prior to recordation of the final plat of subdivision for the subject property per Section 7-3-5:12 (Dedication of Park Lands and School Sites or for Payments or Fees in Lieu Of: Objections). The objection process includes an ability for the petitioner to formally respond to the objection, review of the materials by the Zoning Administrator, and a final determination on the objection by the City Council. Note: the current request is for a preliminary plat of subdivision.</p> <p>The Code also provides that the petitioner may negotiate an agreement with the school district with respect to a land cash dedication that deviates from the requirements of this Section. Any such agreement must be in writing, signed by the petitioner and the school district, and submitted to the City. Said agreement shall be recorded prior to the recordation of the final plat of subdivision for the development.</p>	Laff

Q:	Regarding the formula to assess the number of students that will be produced from multifamily dwellings - it seems the city and D204 have extremely different expectations. I assume possibly 203 does as well. What work is required, what stakeholders are involved, and is it already being addressed, to agree on an updated formula that the city and the district both support for future development?	Sullivan
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A:	<p>Objections to specific developments may be addressed on a case-by-case basis per Section 7-3-5:12 as described above. In order to amend the generation tables which would then be applicable to all residential developments, the park and/or school districts may request that City Council initiate an amendment to Section 7-3-5 of the Naperville Municipal Code. The requesting district would supply the City with all relevant documents to support their findings. If City Council concurs with the initiation of the text amendment, the proposed changes and documentation would then be reviewed by the Planning and Zoning Commission through a public hearing with final review by City Council.</p> <p>School District 204 has expressed concern regarding the City's generation tables specific to multi-family units for some time; however, they have not yet submitted a request for City Council to initiate an amendment to this Section of the Code.</p>	Laff
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4. **19-709C** 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)

5. **19-710C** 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)

6. **19-639B** 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)

O. REPORTS AND RECOMMENDATIONS:

1. **19-831** Receive the 2019 2nd Quarter Financial Report