OneNote

### Council QA – Jan 21, 2021

Monday, January 18, 2021 9:43 AM

### A. CALL TO ORDER:

### B. ROLL CALL:

### C. CLOSED SESSION - CANCELED

OPEN SESSION - 7:00 p.m.

### D. ROLL CALL:

E. PLEDGE TO THE FLAG:

### F. AWARDS AND RECOGNITIONS:

1. 21-0036 Commemorate and honor the 60th anniversary of Martin Luther King Jr.'s visit to Naperville

### G. PUBLIC FORUM:

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

### I. CONSENT AGENDA:

1.	21-0033	Approve the cash disbursements for the period of 12/01/2020 through 12/31/2020 for a total of \$28,030,414.65
2.	21-0039	Approve the regular City Council meeting minutes of January 5, 2021
3.	21-0076	Approve the City Council meeting schedule for February, March & April 2021
4.	20-1517	Approve the award of Cooperative Procurement 21-009, Oracle Support Renewal, to Mythics, Inc. for an amount not to exceed \$107,853 and for a one year term
5.	20-1532	Approve the award of Cooperative Procurement 21-043, Police Department Roof Restoration Phase 2 to Tremco Weatherproofing Technology Inc. for an amount not to exceed \$283,999.22 and a 5%

Q:	I think Tremco is a supplier. So, if that is true, who will be the company actually doing the roof work?	Hinterlong
A:	Tremco Weatherproofing Technologies, Inc. (WTI) is a full service supplier of roofing materials and equipment, and also offers turnkey general contracting services under the Omnia partners cooperative contract. They will be providing the supplies as well as the labor for the installation.	Lang / Catalano

- 6. 21-0037 Approve mayoral appointments to the Human Rights and Fair Housing Commission
- 7. 21-0051 Waive the first reading and pass an ordinance amending Section 6-7F-3 of the Naperville Municipal Code to allow eating establishments, when located within a Planned Unit Development, as a conditional use in the Office, Commercial, and Institutional zoning district (PZC 20-1-124) (requires 6 positive votes)
- 8. 21-0052 Waive the first reading and pass an ordinance amending Chapter 2 (General Zoning Provisions) of Title 6 (Zoning Ordinance) regarding Bed and Breakfast Establishments (PZC 20-1-123) (requires 6 positive votes)
- 9. 21-0053 Conduct the first reading regarding an ordinance amending Chapter 3 (Administration and Enforcement) and Chapter 4 (Planned Unit Developments) of Title 6 (Zoning Regulations) related to deviations, zoning decisions by the City Council, and PUD revocations PZC 20-1-122
- **10. 21-0025B** Pass the ordinance approving a variance to Section 6-2-10:6 for the property located at 1516 Mya Court PZC 20-1-112

Q:	I10. Can you include an aerial view of these parcels please?	Hinterlong
A:	Please see the attached.	Mattingly

### 11. 21-0059 Pass the ordinance reserving the City's 2021 Volume Cap

**12.** 21-0055Adopt the resolution of Official Intent for Reimbursement of CapitalProjects

### J. PUBLIC HEARINGS:

### K. OLD BUSINESS:

### L. ORDINANCES AND RESOLUTIONS:

**1. 21-0111** Adopt the resolution regarding HB 3653 (Criminal Justice Reform Bill), disapproving of the legislative process and recommending Governor Pritzker's veto

Q:	3. 4. 5.	Did DuPage mayor and managers have the opportunity to weigh in on the final bill? Did the Illinois municipal league have the opportunity to weigh in on the final bill? Can you confirm Illinois dem Senator Linda Holmes voted against the bill. Has our states attorney weighed in on the billwhat was his position? Has our county sheriff weighed in on the billwhat was his position? Please confirm our city police union opposed or opposes the final bill.	Coyne
<b>A</b> :	1.	Did DuPage mayor and managers have the opportunity to weigh in on the final bill? A: The bill was discussed at the DuPage Mayors and Managers Conference monthly board meeting on January 7 <sup>th</sup> . As a result of this discussion, the attached letter (Legislator letter DMMC) was sent to all DuPage County legislators. There was no opportunity to weigh in on the amended bill prior to the vote being taken in the Senate.	Krieger, Marshall, DiSanto
	2.	<ul> <li>Did the Illinois municipal league have the opportunity to weigh in on the final bill?</li> <li>A: Prior to the January 12, 2021 amendments to the Bill, the Illinois Municipal League's position on it was "oppose."</li> <li>Following the amendments and the Bill's passage IML made the following statement:</li> <li>"IML successfully advocated for the removal of all penalties against the Local Government Distributive Fund (LGDF) that had been in the legislation and maintained the preservation of qualified immunity. The collective bargaining provisions regarding discipline were also removed from the legislation, essentially maintaining the status quo, with the exceptions of removing issues of misconduct and use of force violations as bargained terms, according to the legislative sponsor's comments during floor debate in the House."</li> <li>A portion of the Bill concerns the passage of legislation to mandate the certification of law enforcement personnel. The legislation requires that law enforcement agencies will only be able to employ police officers that are certified through the Illinois Law Enforcement Training and Standards Board. IML was neutral on the certification proposal.</li> </ul>	

### 3. Can you confirm Illinois dem Senator Linda Holmes voted against the bill.

A: Illinois State Senator Linda Holmes voted against the passage of the Bill.

The Bill was passed by the Illinois Senate by a vote of 32-23. Record of Illinois Senate roll call:

https://www.ilga.gov/legislation/votehistory/101/senate/10100H B3653\_01122021\_014000T.pdf

The Bill was passed by the Illinois House by a vote of 60-50 Record of Illinois House roll call:

https://www.ilga.gov/legislation/votehistory/101/house/10100HB 3653sam002\_01132021\_002000C.pdf

### 4. Has our states attorney weighed in on the bill....what was his position?

A: The Illinois State's Attorney's Association issued the attached letter (Illinois State's Attorney's Association letter) dated January 8, 2021 opposing the original iteration of the Bill (HB 163).

Following the passage of the Bill, DuPage County State's Attorney Robert Berlin issued the attached letter (DuPage SAO letter) dated January 15, 2021 expressing concern over a number of provisions in the Bill that he describes as "extremely problematic."

### 5. Has our county sheriff weighed in on the bill....what was his position?

A: A coalition of law enforcement organizations was formed in March of 2020 to oppose certain police related legislative efforts in the General Assembly. The founding members of the Coalition of Public Safety (COPS) include: **Illinois Sheriffs' Association**, Illinois Fraternal Order of Police, Illinois Fraternal Order of Police Labor Council, Chicago Lodge 7 Fraternal Order of Police, Illinois Police Benevolent and Protective Association, Illinois Association of Chiefs of Police.

Following the passage of the Bill, the coalition issued the following statement:

"We are extremely disappointed and saddened in the process, the lack of discussion with members of the law enforcement community, and the ultimate outcome in the Illinois General Assembly today. The lawmakers who voted in favor of this criminal-favoring legislation ignored the pleas of more than 112,000 petition-signing citizens and refused to listen to the concerns of law enforcement. Our communities will be less safe if this legislation is signed into law. We urge Governor J.B. Pritzker to stand up for the majority of Illinois citizens who value their lives, possessions and well-being and veto this bill and its extreme provisions. Today's outcome, although it is ominous for Illinois, does not diminish our commitment. Our members will continue to use all authorized means to protect every community."

6.	Please confirm our city police union opposed or opposes the final bill.		
	A: See answer above. Additionally, Naperville Police		
	Department's officer union (Illinois Fraternal Order of Police		

Lodge 42) and sergeant's union (Illinois Metropolitan Alliance of Police) oppose the Bill and have recommended Governor Pritzker veto it.

### M. AWARD OF BIDS AND OTHER ITEMS OF EXPENDITURE:

### N. PETITIONS AND COMMUNICATIONS:

### **O. REPORTS AND RECOMMENDATIONS:**

1. 21-0050

Approve the 2021 Special Events calendar and designate the calendar as

Closed

Q:	Did some annual events cancel which allows for all these new events to be able to be held? Please list the events that canceled. I know some of these were on the calendar for last year, but got canceled due to the pandemic.	Hinterlong
A:	The Special Events Team was notified last week that four 2021 events have been canceled (Ale Fest, St. Paddy's Day 5K, ADOPT Walk, and MS Walk). Organizers of the St. Patrick's Day Parade will decide whether or not to host the event by February 1.	Gallahue
	The Team evaluated all applications and reviews staffing levels required, expected attendance, parking impact, length of event, footprint of event (including road closures), inspections, mutual aid potential, type of entertainment, community impact, and whether or not liquor is served. Based on those metrics, the Team decides whether or not the event can be supported. Of the eight new events, two are one day (one located at Naper Settlement) and three multi-day events are in Naper Settlement. Events at Naper Settlement do not require road closures and have a maximum attendee capacity which allows for fewer staff resources to be allocated.	
	With future gathering restrictions unknown at this time, events may be modified based on state regulations or canceled. Given this uncertainty, it is best to approve the calendar and plan for staffing resources rather than not approve events and rush event logistics.	

2. 21-0047 Adopt the resolution approving the establishment of a Temporary Utility Assistance Program in partnership with Loaves & Fishes Community Services and receive the staff report on the viability of additional assistance initiatives

1/18/2021	OneNote	
Q:	So do we get paid back for these credits or grants?	Hinterlong
	If we're partnering with loaves and fishes, we should have a hard number of their fees in this contract.	
A:	These funds will be sourced from the Electric and Water Utility Funds. Use of other sources, particularly CARES Act dollars, is not permissible because the City owns both utilities. This would be viewed as revenue replacement, which was expressly prohibited by the CARES Act. Utility assistance grants will be administered so that the funds are paid by Loaves & Fishes directly towards the balance of the recipient's City utility account. So, while the grant contributions are an expense, the funds come back to the City as utility revenue, less administrative fees. Loaves & Fishes proposed a 10% fee for administering the program. That 10% would apply only to funds actually disbursed by Loaves & Fishes. Thus, the maximum administrative fee would be \$30,000 if all funds allocated to the program were disbursed as grants.	Munch, R.

3. 21-0082 Receive the January 2021 Financial Report

The presentation slides for the January Financial Report are attached.

### P. NEW BUSINESS:

### **Q. ADJOURNMENT:**

Editor's note: 1516 Mya Court parcel size and location is not drawn to scale. Parcel location provided for reference only.





January 8, 2021

Dear Senator/Representative,

We commend your efforts during these extraordinarily challenging times and thank you for the work you do on behalf of our shared constituents. The 273 member municipalities of the DuPage Mayors and Managers Conference, Lake County Municipal League, McHenry County Council of Governments, Metro West Council of Government, Northwest Municipal Conference, South Suburban Mayors and Managers Association, Southwest Conference of Mayors, and Will County Governmental League are reviewing HB 163, Senate Floor Amendment 2; HB 5871; HB 2170, Senate Floor Amendment 1; and HB 5548, House Amendment 1, all of which were filed on January 5, 2021. The importance of these bills and the concepts found therein warrants additional time for stakeholder review and input. The 5-day schedule for the legislature to contemplate and act upon these foundational bills leaves little time for that input on bills totaling almost 1200 pages. Our memberships respectfully request additional time for conversation of issues and an opportunity to forge collaboration and consensus.

The legislative process on issues of this significance is important. We respectfully request an opportunity to provide input. Unfortunately, the legislative calendar and process for lame duck session makes this difficult.

We are also concerned about the fiscal implications of these bills. The ability of the state to assume this additional burden while carrying an existing budget deficit and bill backlog is of concern. Our members are also concerned that existing budget lines, such as LGDF, will be used to fund new expenditures without regard to existing obligations.

Our municipalities are looking to work together with you on the important topics addressed in these bills. We ask that you work with the COGs and others to open that dialogue and ensure the process allows for input from all stakeholders. To that end, please contact Suzette Quintell, Executive Director of the DuPage Mayors and Managers Conference at (630) 576-9134 or squintell@dmmc-cog.org with any questions or if additional information is needed.

Sincerely,

Frank Trilla

Frank A. Tulk

President, DuPage Mayors and Managers Conference Mayor, Village of Willowbrook

Donny Schmit

President, Lake County Municipal League Mayor, Village of Fox Lake

Richard E. Mack

Richard E. Mark

President, McHenry Council of Governments President, Village of Ringwood

Kevin Burns

President, Metro West Council of Government Mayor, City of Geneva

Kathleen O'Hara

President, Northwest Municipal Conference President, Village of Lake Bluff

Tyrone Ward

Syme Ward

President, South Suburban Mayors and Managers Association Mayor, Village of Robbins

Gerald Bennett

President, Southwest Conference of Mayors Mayor, City of Palos Hills

Greg Szymanski

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President, Will County Governmental League President, Village of Beecher

Illinois State's Attorneys Association POST OFFICE BOX 115 SPRINGFIELD, ILLINOIS 62705-0115 ilstatesattorneysassociation@gmail.com



January 8, 2021

### Statement from the Illinois State's Attorney's Association regarding HB 163

We recognize and applaud the sponsor and all the legislators who have endeavored to tackle these very difficult issues. Democracy is not static - it is a vibrant process, and their efforts are an important part of all our efforts to have a more perfect union. We respect the efforts of the legislation and while we have concerns with aspects of the proposal, we do not take issue with the well-meant intentions of the effort.

Notwithstanding your efforts, the Illinois State's Attorney's Association wishes to voice our opposition to House Bill 163 and its many provisions that will profoundly undermine public safety and overturn long-standing common-sense policies and practices in the criminal justice system.

The Illinois State's Attorney's Association and its members wish to first make clear that it is not opposed to criminal justice reform efforts generally. Rather, we believe that collaborative, bipartisan efforts to make our justice system more equitable, accountable, and even-handed is worthwhile and should be pursued statutorily. However, we are gravely concerned that House Bill 163, sought to be quickly considered and enacted in a "lame- duck" session and days before a new legislature is sworn in, does not afford all stakeholders and lawmakers the opportunity to deliberate upon these issues and give them the reflection that they deserve.

Moreover, there are provisions of this bill that are deeply problematic and will only result in further significant increases in violent crime, undermine public safety, and deny justice to crime victims.

We do agree that some criminal justice reforms are necessary and in the wake of a year where we experienced an enormous increase in murders and armed carjackings, we are willing to work with the General Assembly in attaining such common-sense reforms. The proposed amendments to HB 163 however, simply go too far.

For our criminal justice system to function properly, those who commit crimes must be held responsible. Since the Bail Reform Act of 2017 became law, we have seen a substantial increase in defendants deciding to ignore the courts and simply not appear in court as ordered, thus avoiding responsibility. The elimination of a cash bail requirement to detain a defendant in favor of detention only when the defendant "poses a real and present threat to a specific, **identifiable** person or persons, or has a high likelihood of willful flight" would not only exacerbate this problem but would also put the victims of crime and their families at great risk. For example, a serial arsonist who sets fires to people's homes by law must be released because we cannot specifically identify the person in the home where the next fire will be. A husband who murders his wife must be released because we cannot determine the person poses a danger to a specific, identifiable person or persons. The same applies to heroin dealers, drunk drivers, gun traffickers, and felons in possession of a gun.

It would also allow defendants charged with violent crimes like rape and carjackings to be out on pre-trial release. This is unacceptable. In addition, society as a whole is victimized by violent crime, which not only terrorizes and destroys our communities, but also costs taxpayers millions of dollars every year.

The proposed amendment to HB 163 also seeks to expand Miranda Rights to anyone in custody on probable cause. Protection of an individual's Miranda Rights is fundamental when conducting investigations into crime. The proposed amendment however, if enacted, will essentially preclude law enforcement from questioning a suspect once in custody. In the 1963 United States Supreme Court landmark decision in *Miranda v. Arizona*, the Supreme Court noted that their decision was "not intended to hamper the traditional function of police officers in investigating crime. When an individual is in custody on probable cause, the police may, of course, seek out evidence in the field to be used at trial against him." The Supreme Court also noted that "The fundamental import of the privilege while an individual is in custody is not whether he is allowed to talk to the police without the benefit of warnings and counsel, but whether he can be interrogated." Criminal investigations must not be hampered in the name of reform which would occur if this amendment is passed.

The proposed amendment to HB 163 also seeks to drastically change Illinois' murder statute involving forcible felonies. Presently, if participants engage in a forcible felony other than second degree murder that results in the death of an individual, any participant in the crime can be charged with murder and held responsible for the foreseeable consequences of their actions. If passed, HB 163's proposed change in the law will no longer hold accountable participants responsible for the death unless it can be proven in court that the participant "**knew** that the other participant would engage in conduct that would result in death or great bodily harm." This new law would significantly reduce law enforcement's ability to fully hold participants responsible for violent crimes.

These examples only scratch the surface of many of the changes proposed that cannot be reconciled with the average person's views and expectations for their justice system. We

acknowledge that some criminal justice reforms are warranted. Just as we have worked with the General Assembly in the past, we will continue to work together to achieve this goal. While criminal justice reform is warranted, this attempt to pass a 611-page bill that will fundamentally change law enforcement and the criminal justice system in a five-day lame-duck session is not the way to responsibly do so.

Justin Hood President, Illinois State's Attorneys Association Hamilton County State's Attorney (618) 643-3021



ROBERT B. BERLIN STATE'S ATTORNEY DUPAGE COUNTY, ILLINOIS

January 15, 2021

John J. Millner John J. Millner and Associates, Inc. 600 South Second Street Suite 400 Springfield, IL 62704

Dear John:

As you know, there are a number of extremely problematic provisions in HB 3653, which passed out of both the House and Senate in the waning hours of the lame-duck session. Based on my conversations with DuPage County police chiefs, I believe the following issues with the bill have the most urgent priority:

• Page 283-284: Peace Officer's Use of Force in Making Arrest

In addition to a police officer being justified in using deadly force only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person, the bill adds the following language: or when he reasonably believes, based on a totality of the circumstances, both that (1) Such force is necessary to prevent the arrest from being defeated by resistance or escape; the officer reasonably believes that the person to be arrested cannot be apprehended at a later date, and the officer reasonably believes that the person to be arrested is likely to cause great bodily harm to another; and (2) The person to be arrested just committed or attempted to commit a forcible felony which involves the infliction or threatened infliction of great bodily harm...

Consider the change in the law in the following scenario: A police officer responds to an active shooter in a school. The officer sees the suspect shooting innocent children. The officer can use deadly force to stop the shooter, but if the shooter slips out the door of the school the officer is now only justified in using deadly force if he/she reasonably believes the shooter cannot be apprehended at a later date. Since almost anyone can be apprehended at a later date, the officer would be required to let the shooter go. Additionally, there is no definition of "just" in paragraph 2 of the bill. Does "just" mean 2 minutes? 5 minutes? 30 minutes? • Page 286: The bill adds a definition of "imminent" to the Peace Officer's Use of Force in Making Arrest law.

The bill states, "A threat of death or serious bodily injury is "imminent' when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but it is one that, from appearances, must be instantly confronted and addressed."

Consider the following scenario: The police respond to an armed offender that just committed a crime with a gun running towards a schoolyard with children. Under current law, they would be authorized to use deadly force to stop him. Under the new definition of "imminent" however, they cannot stop the subject and would have to wait for him to actually get to the school yard and threaten the children and potentially shoot one before they could use deadly force to stop the subject.

These drastic changes to the Officer's Use of Force statute will result in more bloodshed and more lives lost.

• Page 82-83: The bill amends the Body Camera Statute (50 ILCS 706/10-20) by stating that the recording officer may not access and review recordings prior to completing incident reports or other documentation.

This puts the recording officer in a precarious position. If the officer's report differs from the body camera video the officer is in jeopardy of being charged with the newly created offense of Law Enforcement Misconduct (page 306-307). We want officers to be truthful in their reports and include all relevant details. If they cannot review their body camera footage prior to writing their report, then every time an officer writes a report, they run the risk of incriminating themselves.

### Page 410-411: Right to Communicate with Attorney and Family

The bill states that persons who are in police custody have the right to make 3 phone calls within three hours of being taken into police custody. This will severely impede the ability of the police to question suspects. The insertion of an arbitrary time limit of 3 hours will prevent police from discovering additional evidence that may be critical in an investigation. The result will be fewer cases charged. This means many guilty suspects will get away with their crimes. The goal of the criminal justice system should be to hold criminals accountable for their actions and obtain justice for victims of crime and the community. This provision will have the opposite result.

There are also major inconsistencies in the Pretrial Release portion of HB 3653. On page 336 the bill states that "detention only shall be imposed when it is determined that the defendant poses a *specific, real and present threat to a person*, or has a high likelihood or willful flight." On page 337, the bill states that "at each subsequent appearance of the defendant before the Court, the judge must find that continued detention or the current set of conditions imposed are necessary to avoid the *specific, real and present threat to any person* or of willful flight from prosecution to continue detention of the defendant."

On page 370 the bill says that for forcible felonies, a person can be detained unless their pretrial release "poses a *specific, real and present threat to any person or the community.*" On page 372, in order to detain a person for a list of enumerated gun

offenses, the People must allege the defendant's pretrial release "poses a real and present threat to the physical safety of any specifically identifiable person or persons."

What is the correct standard? If judges are required to find that a defendant is a "specific, real and present threat to any person or persons," then a husband who murders his wife must be released because we cannot determine he poses a "specific, real and present threat to any person or persons," because his victim is dead. However, a husband who attempted to murder his spouse could be detained, because his victim is still alive.

In its current form, the bill all but mandates the release of sex offenders, drunk drivers with numerous priors, and drug dealers, irrespective of their likelihood of reoffending; and the most important factor, the danger they pose to the general public, cannot be considered under this legislation.

There are many more provisions in this bill that are problematic, but I have tried to outline what I believe are the areas that have the highest priority. Please call me if you have questions or need more information.

Sincerely,

MB RS

Robert B. Berlin DuPage County State's Attorney



# January Financial Report

## January 19, 2021

## Programs



Local Economy

## Overview

## Events shaping 2020 budget

Review of fluctuating financial environment

## Key revenue performance

Highlight closely followed revenue streams through year-end

## Budget outcomes

Review of overall budget and major funds



## **Pandemic Impact on 2020 Budget**

## January – March (pre-pandemic)

• Strong revenue streams continue 2019 trends

## April – June

- Pandemic's financial impacts begin to be felt
- Revenues enter period of decline; stay-at-home order significantly impacts dining/hospitality sectors, among others
- City spending also declines, including healthcare and overtime

## July – September

- Revenues reach lowest point in July and begin multi-month recovery
- City expenses return to normal levels

### **October – December**

- Revenues continue recovery, most fail to return to pre-pandemic levels
- Challenging to establish trends due to continued uncertainty around mitigation efforts and long-term impacts to spending habits
- Second wave of coronavirus cases raises new concerns



## **State Collected Revenues**



- State sales, home rule sales, motor fuel taxes fell short of budget projections
- Income and local use taxes exceeded budget projections •
- Performance of income and use taxes mitigated sales tax losses in General Fund



## **Locally Collected Revenues**



- Food & beverage and hotel & motel taxes suffered greatest impact on percent basis
- Real estate transfer tax supported by very strong residential sales/rising home values



## **Budget Outcome – Major Fund Category**





### \$ in millions

## **Budget Outcome – General & Utility Funds**

	Revenue	Expense	Margin
General Fund	128.2	123.4	4.8
Electric Fund	152.7	150.3	2.4
Water Fund	65.6	58.8	6.8
			\$ in millions



Three funds account for 75% of total City budget

Revenues exceeded expenses across all three funds

Initial review indicates improved cash position in major funds

Audit will determine actual yearend fund balances

## **Next Steps**

- 2020 audit process underway
- Monthly reporting continues in 2021
- Emphasis on long-term recovery
  - Analysis of local economy and City finances in context of global events
  - Continued evaluation of opportunities to support recovery



