

**BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD**

| | | |
|---------------------------|---|-------------|
| FOX MORaine, LLC |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 07- 146 |
| |) | |
| UNITED CITY OF YORKVILLE, |) | |
| CITY COUNCIL |) | |
| |) | |
| Respondent. |) | |

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on this 24th day of September, 2008, George Mueller, one of the attorneys for Petitioner, Fox Moraine, LLC, filed via electronic filing of the attached **Motion to Compel Production of Transcripts and Videos** with the Clerk of the Illinois Pollution Control Board, a copy of which is herewith served upon you.

Respectfully submitted,

FOX MORaine, LLC

By: /s/ George Mueller
One of its Attorneys

George Mueller
Mueller Anderson, P.C.
609 East Etna Road
Ottawa, Illinois 61350
(815) 431-1500 – Telephone
(815) 431-1501 - Facsimile
george@muelleranderson.com

Charles Helsten
Hinshaw & Culbertson LLP
100 Park Avenue
Rockford, Illinois 61101
(815) 490-4900 - Telephone
(815) 490-4901 - Facsimile

Electronic Filing - Received, Clerk's Office, September 26, 2008

Fox Moraine, LLC v. United City of Yorkville
PCB No. 07-146

SERVICE LIST

PCB 2007-146
Bradley Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
1000 West Randolph Street
Suite 11-500
Chicago, IL 60601

PCB 2007-146
Derke J. Price
Ancel, Glink, Diamond, Bush & Krafthefer
P.C.
140 South Dearborn Street
Sixth Floor
Chicago, IL 60603

PCB 2007-146
Charles Helsten
Hinshaw & Culbertson
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P.O. Box 1389
Rockford, IL 61105-1389

PCB 2007-146
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Jeep & Blazer, LLC
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Suite A
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PCB 2007-146
Ms Valerie Burd, Mayor
City of Yorkville
800 Game Farm Road
Yorkville, IL 60560

PCB 2007-146
Michael Roth, Interim City Attorney
City of Yorkville
800 Game Farm Road
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PCB 2007-146
Eric Weis
Kendall County State's Attorney
Kendall county Courthouse
807 John Street
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PCB 2007-146
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Walsh Knippen Knight & Pollick
2150 Manchester Road
Suite 200
Wheaton, IL 60187-2476

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CERTIFICATE OF SERVICE

I, Sharon Twardowski, a non-attorney, certify that I served a copy of the foregoing **Notice of Filing and to Compel Production of Transcripts and Videos** to the Hearing Officer and all Counsel of Record listed on the attached Service list, by sending it via Electronic Mail on September 24, 2008, before 5:00 p.m.

/s/ Sharon Twardowski

- [x] Under penalties as provides by law pursuant to ILL. REV. STAT. CHAP. 110-SEC 1-109, I certify that the statements set forth Herein are true and correct

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Mueller Anderson, P.C.
609 East Etna Road
Ottawa, Illinois 61350
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MOTION TO COMPEL PRODUCTION OF TRANSCRIPTS AND VIDEOS

NOW COMES Fox Moraine Landfill, LLC hereinafter (“Fox Moraine”), by its attorneys, George Mueller and Charles Helsten and moves for an order compelling the City of Yorkville to produce certain transcripts and videos previously requested herein and in support thereof states as follows:

1. Between September 25, 2006 and February 13, 2007, the City of Yorkville had multiple meetings of the city council, the planning commission and the committee of the whole of the city council which dealt with various subjects closely related to the Fox Moraine Landfill siting proposal and the siting application which was filed with the City on December 1, 2006. These subjects included but were not necessarily limited to annexation of the subject property, execution of a host agreement, comparison of the City’s host agreement with the host agreement executed between Waste Management, Inc. and Kendall County, the landfill siting process, introduction of the City’s technical staff and experts, approval of the annexation agreement, adoption of a pollution control facility siting ordinance, vacating a road which ran through the subject property and re-annexing the subject property after the first annexation had been declared null and void.

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2. Because of intense public interest in the aforesaid subjects, which the public generally understood as being preliminary and necessary to the siting of a landfill in Yorkville, a number of the meetings during the subject timeframe were held in large venues such as the Beecher Community Center, the high school auditorium and a junior high school gymnasium.

3. Meetings related to the aforesaid subjects during the aforesaid time period were marked by numerous loud and hostile public expressions of sentiment against siting of a landfill and against one of the landfill's owners, Donald Hamman. The City generally failed to control and limit these expressions, which allowed the meetings to often deteriorate into lengthy and off topic public debates about the merits of a landfill in the community. This created an intimidating atmosphere and an atmosphere that galvanized a number of aldermen politically to take advantage of the situation and inspired a number of citizens to run for aldermen in the April 2007 election.

4. That on May 5, 2008, Fox Moraine tendered to the City its second request to produce, in which it asked for copies of all videotapes and/or transcripts of City Council, Committee, Board or Agency meetings between September 1, 2006 and June 1, 2007. A copy of said request is attached hereto as Exhibit A.

5. That on May 21, 2008, the City responded to the aforesaid request essentially denying the same and indicating that the materials are public records and would be available to Fox Moraine through a Freedom of Information Act request whereby Fox Moraine could obtain the materials at their own cost. A copy of said response is attached hereto as Exhibit B.

6. That on May 29, 2008, counsel for Fox Moraine sent correspondence to one of the attorneys for the City asking him to reconsider his position regarding production of the requested items. Said letter is attached hereto as Exhibit C.

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7. That subsequently some of the requested items were produced with the representation that the production was complete.

8. That on August 27, 2008, counsel for Fox Moraine contacted counsel for the City, advising them of missing transcripts and videos and the incomplete nature of the production. The missing items included videos for four meetings and transcripts for nine meetings. A copy of said request is attached hereto as Exhibit D. On September 8, 2008, one of the attorneys for the City replied to Fox Moraine advising that transcripts and videos as the case may be, did not exist for any of the meetings referenced in the August 27th request. Said letter specifically represented that there were no transcripts for city council meetings at which there were no public hearings. Said letter also indicated that videos were missing or not available for certain meetings with no explanation as to why. Said letter lastly alleged that Fox Moraine had the transcripts of the city council meetings of October 24th, October 30th and February 13, 2007. Said letter is attached hereto as Exhibit E.

9. Attached hereto as Exhibits F, G and H are the city council's minutes for its meetings of October 24, 2006, October 30, 2006 and February 13, 2007, along with the transcripts of the brief public hearings which took place at said meetings. These are the transcripts referred to in the City's letter of September 8, 2008, and they are totally unrelated to the general subject matter of the meetings, they do not represent a transcript of the entire city council meeting and they are unrelated to Fox Moraine's request. Accordingly, the transcripts for the city council meetings of October 24, 2006, October 30, 2006 and February 13, 2007 remain missing.

10. That Fox Moraine previously received from the city a request for reimbursement of an invoice from a Marlys Young in the amount of \$138.25, which request invoices \$61.25 for

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her attendance at the November 30, 2006, city council meeting between 7:00 p.m. and 10:20 p.m. and which invoices the additional sum of \$77.00 for seven hours of typing. The invoice is attached as Exhibit I. This would appear to be an invoice for transcription of the November 30, 2006 city council meeting. The city had previously represented in Exhibit E that no transcript existed for this meeting.

11. On information and belief, Fox Moraine alleges that the City had all of its city council meetings transcribed by a court reporter and that all the same were videotaped.

12. That Fox Moraine does not know what the City is attempting to hide, but clearly the transcripts and videos of the missing meetings would contain substantial evidence of prejudicial conduct and prejudgment by city council members and by those city council candidates at that time who were subsequently elected and became voting members of the city council.

WHEREFORE, Fox Moraine prays for an order compelling the City to produce the subject transcripts and videos and for an order sanctioning the City for its wrongful and ingenuous representations that these materials did not exist.

Respectfully submitted,

FOX MORaine, LLC

By: /s/George Mueller
 One of its attorneys

George Mueller
MUELLER ANDERSON, P.C.
609 East Etna Road
Ottawa, Illinois 61350
Telephone (815) 431-1500
Facsimile (815) 815-1501
Gmueller21@sbcglobal.net

Charles Helsten
Hinshaw and Culbertson, LLP
100 Park Avenue
Rockford, Illinois 61101
Telephone (815) 490-4900
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chelston@hinshawlaw.com

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NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on this 26th day of September, 2008, George Mueller, one of the attorneys for Petitioner, Fox Moraine, LLC, filed via electronic filing of the attached **Fox Moraine's Exhibit List and Fox Moraine's Witness List** with the Clerk of the Illinois Pollution Control Board, a copy of which is herewith served upon you.

Respectfully submitted,

FOX MORaine, LLC

By: /s/ George Mueller
One of its Attorneys

George Mueller
Mueller Anderson, P.C.
609 East Etna Road
Ottawa, Illinois 61350
(815) 431-1500 – Telephone
(815) 431-1501 - Facsimile
george@muelleranderson.com

Charles Helsten
Hinshaw & Culbertson LLP
100 Park Avenue
Rockford, Illinois 61101
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Sixth Floor
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Richard Porter
Hinshaw & Culbertson
100 Park Avenue
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CERTIFICATE OF SERVICE

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/s/ Sharon Twardowski_____

- [x] Under penalties as provides by law pursuant to ILL. REV. STAT. CHAP. 110-SEC 1-109, I certify that the statements set forth Herein are true and correct

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FOX MORaine'S EXHIBIT LIST

NOW COMES Fox Moraine, LLC, ("Fox Moraine"), by one of its attorneys, and discloses the following exhibit list:

1. All documents tendered in discovery to City of Yorkville.
2. All documents received from the City of Yorkville in discovery.
3. Wildman, Harrold, Allen and Dixon invoice of June 17, 2007.
4. Deposition of Valerie Burd.
5. Deposition of Rose Spears.
6. Deposition of Joe Plocher.
7. Deposition of Marty Munns.
8. Deposition of Jason Leslie.
9. Deposition of Walter Werderich.
10. Minutes of city council, city council committee of whole and plan commission meetings on September 25, 2006, September 26, 2006, September 27, 2006, October 3, 2006, October 10, 2006, October 17, 2006, October 24, 2006, October 26, 2006, October 30, 2006, November 7, 2006, November 13, 2006, November 14, 2006, November 21, 2006, November 28, 2006, November 30, 2006,

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December 5, 2006, December 9, 2006, December 12, 2006, December 19, 2006,
December 26, 2006, January 2, 2007, January 9, 2007, January 16, 2007, January
23, 2007, February 6, 2007 and February 13, 2007.

11. Transcripts of all the meetings identified in Paragraph 10.
12. Video tapes of all the meetings identified in Paragraph 10.
13. Invoices of Depo Court Reporting.
14. Invoices of Diane Oakley.
15. Pleadings in PCB 08-95.
16. Pleadings in PCB 08-96.

Respectfully submitted,
FOX MORaine, LLC

By: /s/George Mueller
 One of its attorneys

GEORGE MUELLER
609 Etna Road
Ottawa, Illinois 61350
(815) 431-1500 – Telephone
(815) 431-1501 - Facsimile
george@muelleranderson.com

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FOX MORaine’S WITNESS LIST

NOW COMES Fox Moraine, LLC, (“Fox Moraine”), by one of its attorneys, and lists the following individuals which they intend to call as witnesses:

1. Larry Clark
2. Michael Roth
3. Todd Miliron
4. George Gilson
5. Valerie Burd
6. Rose Spears
7. Wally Werderich
8. Arden Plocher
9. Marty Munns
10. Jason Leslie
11. Robyn Sutcliffe
12. Gary Golinski
13. Heather Gillers
14. Joseph Besco
15. Charlie Murphy
16. Jesse Varsho
17. Don Hamman
18. Devin Moose
19. Jim Burnham
20. Brendon McLaughlin
21. Christine Vitosh

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- 22. Marlys Young
- 23. Derke Price
- 24. Diane Oakley
- 25. Teri Grandchamp

Respectfully submitted,

FOX MORaine, LLC

By: /s/George Mueller
 One of its attorneys

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Ottawa, Illinois 61350
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2

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One of its Attorneys

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APPROVED BY
CITY COUNCIL
ON 7/10/07

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL
OF THE UNITED CITY OF YORKVILLE, KENDALL COUNTY, ILLINOIS,
HELD IN THE CITY COUNCIL CHAMBERS,
800 GAME FARM ROAD ON
TUESDAY, FEBRUARY 13, 2007.

Mayor Prochaska called the meeting to order at 7:00 P.M and led the Council in the Pledge of Allegiance.

ROLL CALL

Clerk Milschewski called the roll.

| | | |
|----------|--------|---------|
| Ward I | James | Present |
| | Leslie | Present |
| Ward II | Burd | Present |
| | Wolfer | Present |
| Ward III | Bock | Present |
| | Munns | Present |
| Ward IV | Besco | Present |
| | Spears | Present |

Also present: City Clerk Milschewski, City Treasurer Powell, City Attorney Wyeth, Interim City Administrator Crois, Assistant City Administrator Olson, Police Chief Martin, Director of Public Works Dhuse, Director of Park & Recreation Mogle, and Finance Director Mika.

QUORUM

A quorum was established.

INTRODUCTION OF GUESTS

Mayor Prochaska asked the staff and guests to introduce themselves. He welcomed the guests and asked them to enter their names on the attendance sheet provided.

AMENDMENTS TO THE AGENDA

A motion was made by Alderman Burd to move the City Council Report to before the Citizens Comment section of the agenda; seconded by Alderman Munns.

Motion approved by a roll call vote. Ayes-7 Nays-0
Wolfer-aye, James-aye, Munns-aye, Burd-aye,
Spears-aye, Bock-aye, Besco-aye, Leslie-aye

COMMITTEE MEETING DATES

| | |
|--------------------------------|--|
| Public Works Committee | Committee of the Whole 7:00 P.M., Tuesday, February 20, 2007 City of Yorkville Conference Room |
| Economic Development Committee | Committee of the Whole 7:00 P.M., Tuesday, February 20, 2007 City of Yorkville Conference Room |
| Administration Committee | Committee of the Whole 7:00 P.M., Tuesday, March 6, 2007 City of Yorkville Conference Room |
| Public Safety Committee | Committee of the Whole 7:00 P.M., Tuesday, March 6, 2007 City of Yorkville Conference Room |

PRESENTATIONS

None.

PUBLIC HEARINGS

Rush Copley Medical Center, Inc.

Mayor Prochaska entertained a motion to go into public hearing for the purpose of discussing PC 2006-93 Rush Copley Medical Center, Inc., petitioner, as filed an application with United City of Yorkville, Kendall County, Illinois requesting rezoning from United City of Yorkville O-Office District to United City of Yorkville Planned Unit Development Zoning and Preliminary PUD plan. The real property consists of approximately 44.12 acres, located south of Veteran's

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The Minutes of the Regular Meeting of the City Council – February 13, 2007 – page 2

Parkway, adjacent to the Fox Hill Subdivision, Yorkville, Kendall County, Illinois. So moved by Alderman Bock; seconded by Alderman Leslie.

Motion approved by a roll call vote. Ayes-8 Nays-0
Bock-aye, Spears-aye, Burd-aye, Munns-aye
James-aye, Wolfer-aye, Leslie-aye, Besco-aye

Please see attached Report of Proceedings by Christine Vitosh, C.S.R. from Depo Court Reporting Service for the transcription of this portion of the public hearing

Mayor Prochaska entertained a motion to close the public hearing. So moved by Alderman Spears; seconded by Alderman Burd.

Motion approved by a roll call vote. Ayes-8 Nays-0
Spears-aye, Burd-aye, Munns-aye, James-aye,
Wolfer-aye, Leslie-aye, Besco-aye Bock-aye

CITY COUNCIL REPORT

Resolution 2007-07

Approving Letter of Intent to School District Rehabilitation of Tennis Courts

A motion was made by Alderman Burd to approve a resolution approving a Letter of Intent to School District 115 for the rehabilitation of tennis courts on Game Farm Road not to exceed \$40,000.00; seconded by Alderman Munns.

Alderman James expressed his concern about approving something that is not a budgeted item. He recommended that it be approved contingent on the approval of the revised budget.

Alderman Burd stated that she brought this item forward because there is an April 20, 1995 agreement which states that the City will maintain the tennis courts and she felt that this was the obligation of the City. She asked that the rehabilitation of the tennis court be included in the budget. She suggested that funds be taken from the White Oak sidewalk project which residents have objected to and be applied to the project.

Alderman Spears asked what the terms of the 1995 agreement are. Dr. Engler, Superintendent for School District #115, explained that the agreement was developed in the 1970's for the joint use and maintenance of the tennis courts and parking lot. The agreement does not have an end date. He explained that the parking lot was paved in 1992 without any contribution by the City. He indicated that these are the only tennis courts in the City and the cost to rehabilitate them is between \$60,000.00 and \$120,000.00. He explained the process needed to rehabilitate them and indicated that this summer the area will be cordoned off due to the rehabilitation of Yorkville Middle School and Yorkville Grade School. It was felt that this would be a good time to address the tennis courts.

Alderman Leslie asked what the cost would be to the City. It was indicated that the shared expense would be approximately \$40,000.00 for the rehabilitation plus an additional cost for the expansion of the courts.

Alderman Bock asked if there was urgency for this project and felt that the funding should be found first. Dr. Engler explained that the School District would like to begin the project in May 2007 so that the courts will be completed by August 2007. He stated that the School District could go ahead with the project and would accept a letter of intent for funds after the City's budget is revised.

Mayor Prochaska asked Finance Director Mika to see if funds were available in the contingency fund. Director Mika stated that there are funds available in contingency however other issues have developed and it would be a matter of prioritizing projects. She stated the sidewalk option suggested by Alderman Burd is a possibility.

Alderman Munns commented that the City should partner with the School District and that it was a good time to address the courts.

Alderman James reiterated that the letter of intent should be contingent on funding.

Alderman Spears reminded Dr. Engler that the City asked the School District to participate in a School Study but was told that the School District did not have the funds. She requested a letter of intent from the schools indicating they will give the City \$9,000.00 to share in the cost of

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participating in the study. Dr. Engler stated that he did not have a problem with this however he would have to ask the School Board for approval.

Alderman Burd reiterated that the City already has a contractual obligation to participate in the rehabilitation of the tennis court and this is not something that the Council should be deliberating. She felt that it would be pathetic if the City couldn't find the funding.

Alderman Wolfer commented that he did not have a problem moving ahead with the project but he agreed with Alderman James that the letter of intent should be contingent on funding.

Mayor Prochaska stated that he did not feel that the City's contribution was excessive. He noted that there may be funds left at the end of the year that could be applied to the project however he noted that the funding of other projects such as the Sycamore light signal have been discussed. He did not recommend taking funds from the sidewalk project. He stated he would take a look at the budget with Director Mika and would make sure funds were available to use for the courts.

Alderman Besco stated that when this subject first came to the City it was suggested that the grant writer could take a look to see if there were any grants available for the City or School District that would apply to this. Mayor Prochaska noted that Director Mogle has done some investigation however the City cannot apply for grants because the courts are not on City property.

Alderman Wolfer stated he spoke with the White Oak Homeowner Association and was told that they are against the sidewalk coming into their subdivision but they do not have a problem with a sidewalk along Fox Road.

Alderman Leslie commented that he did not understand the need for a letter of intent if an agreement already exists. Dr. Engler noted that the letter was not necessary. He stated that he wanted to bring the agreement to the City's attention and make the Council aware of the obligation that exists.

Alderman Burd stated that she felt that the reason Dr. Engler wants a commitment is because some members of the Council are not quite comfortable with moving ahead with financing the rehabilitation of the courts and she understood his concern. She noted that students and the community would benefit from the rehabilitation and she encouraged the Council to move forward in getting this accomplished.

Motion defeated by a roll call vote. Ayes-3 Nays-5
Burd-aye, Spears-nay, Bock-aye, Besco-nay,
Leslie-nay, Wolfer-nay, James-nay, Munns-aye

A motion was made by Alderman James to approve a resolution approving a Letter of Intent to School District 115 for the rehabilitation of tennis courts on Game Farm Road contingent upon funds being identified in the budget; seconded by Alderman Spears.

Alderman Burd asked Attorney Wyeth if this motion leaves things opened ended in the event funds are not found. Attorney Wyeth stated that this issue will come back to the City Council when it fails to find funds.

Alderman James noted that the agreement dates back to the 1970's without an end date or any clause for contingency. He stated that he did not want to pass another document without identifying funds. He stated that he supported the rehabilitation of the courts however he does not want to approve anything until staff has time to investigate this further.

Dr. Engler asked why the funds couldn't be put into next year's budget. Mayor Prochaska stated that this was a possibility as the new budget is due in May.

Alderman Bock agreed with both Aldermen James and Wolfer. He noted that the City has an obligation with the School District and it should be honored. He suggested that it be approved because the \$40,000.00 will most likely be found.

Alderman Spears asked Director Mika if she could provide the Council with a list of the priorities that the City is facing. Director Mika stated she would get this information to the City.

Administrator Crois noted that there is a "wish list" however it is based on commercial development. Unfortunately, the City will not see the effect of commercial development until 2008. At this point, all the requests for budgeted items cannot be done in next year's budget; some things will have to be denied.

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Alderman Burd stated that she found this discussion hypocritical. She stated that she went over the minutes from the last budget discussion and some of the aldermen who are balking against meeting this contractual obligation were willing to vote for a project manager for the Engineering Department without documentation as to why this was needed. She noted that a whole year later this person has not been hired. Now these aldermen want a caveat on a contractual obligation. She stated that the Council needed to vote to pay the bill.

Mayor Prochaska noted that the City has entered into a partnership regarding the tennis court in the past; they paid for half the cost for lights for the tennis courts. Dr. Engler agreed and stated that this was done in 1994.

Alderman Wolfer stated that he agreed that the City has an obligation however he asked if the original agreement could be reviewed by the Administration Committee to see if it needs to be renegotiated or amended. He felt that the City Council was in agreement to participate in the rehabilitation however most of the Council wanted to find the funds first. He felt that this could be done in time for the School District to meet their time frame.

Motion approved by a roll call vote. Ayes-8 Nays-0
Burd-aye, Spears-aye, Bock-aye, Besco-aye,
Leslie-aye, Wolfer-aye, James-aye, Munns-aye

**Approving Letter of Intent to School District
Construction of Tennis Courts**

Alderman Burd reported that this item is a request for the City to enter into a new Intergovernmental Agreement to build four new tennis courts. She stated that if the courts are built now, there will be a savings. Also, this would provide the City with tennis courts for tournaments. She stated that she has discussed this with the Park Board who was under the misconception that the City owned property across the street from the current tennis courts. This property actually belongs to the cemetery and because the property is not owned by the City, matching grants are not available for the construction of the courts. She stated that she has brought this forward to the Council and indicated that the School District does not expect the Council to approve this however it is on their "wish list" and they would like it to be considered. She stated that \$110,000.00 would build four new courts on Game Farm Road as compared to \$400,000.00 to build the courts in a different location. She asked the City to find the funding so the courts could be constructed by fall.

A motion was made by Alderman Burd to approve a resolution approving a Letter of Intent to School District 115 for the construction of tennis courts on Game Farm Road in an amount not to exceed \$110,000.00 depending on the City finding funding; seconded by Alderman Munns.

Alderman Spears asked the Director of Park & Recreation Mogel what the Park Board recommendation was. Director Mogle stated that the Park Board discussed both issues regarding the tennis court and was open to the refurbishing of the current courts however they did not endorse the new courts because they need more time to gather information in order to research the project. They had concerns regarding the location, parking and congestion in the area.

Alderman Bock indicated that he attended the Park Board meeting where this was discussed and agreed with what Director Mogle reported. He stated that the Board also felt funds should be identified before a commitment was made. He stated that in order to give the Park Board time to do their research he was going to vote against the resolution.

Alderman Wolfer asked if there were any hard facts to support the cost figures for new courts. Dr. Engler explained that the School District and Parks Department have been working well together to share sites. There is a site in the Raintree Subdivision for a new middle school with a park next to it. In the planning process for the site, tennis courts were investigated. However, in the process of the reconstruction of Yorkville Middle School and Yorkville Grade School, the area of the current tennis courts will be closed down. Dr. Engler suggested to Director Mogle that the Parks Department consider adding four tennis courts in the parking pod in front of Yorkville Grade School. He stated that \$110,000.00 would cover most of the cost of the courts, fencing, parking and landscaping. He stated that this was just a suggestion; the School District has not intention of building the courts themselves because the funds are not available. The School District thought it might be a way for everyone to save money if the School District and City joined resources.

Mayor Prochaska asked if anyone had a dollar amount if the tennis courts were built somewhere else. Director Mogle stated that the cost per court is approximately \$35,000.00. He did indicate there could be a savings to build the courts in this area because the parking lot is an established

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base. He further stated that the Park Board has suggested an alternative idea which would be a ten court complex however they need more time to research this.

Alderman Leslie commented that he would not like to pull resources from the south side of the city however if building the courts near the presents courts would attract tournaments he would be in favor of the construction of the new courts. He did suggest that any new agreement with the School District have time restrictions.

Alderman Spears stated she would like to get more information from the Park Board such as if there was a way to use Land Cash Funds to construct new courts. She supported the possibility of the courts being located in another area of the City so things would be equal for all residents.

Alderman Besco stated that he liked the idea of all the courts being located in a group so tournaments could be held and that he was in favor of the new courts contingent on funding.

Alderman Munns agreed with Alderman Besco. He noted that if the courts are located together, it should reduce the cost of maintenance. He supported the resolution.

Alderman Bock noted that one of the concerns voiced by the Park Board was adequate parking in the area. He supported the Park Board's request to investigate the matter further.

Alderman Burd stated that Park Board meeting minutes quoted a \$400,000.00 figure to build tennis courts across the street from the existing courts. She also noted that according to Dr. Engler there are 500 parking spots in the area and she felt that this was more than enough. She noted that if tennis courts are built on the south side of town, students will have to be bused to the location which will cost taxpayers money. She stated that this is an opportunity that is available now and it will not last forever so she felt that the City Council needed to decide now.

Alderman Leslie stated that after hearing from Dr. Engler he was under the impression that this did not have to happen now. Dr. Engler explained that bids would have to go out in the next 35 to 40 days in order for the project to be done over the summer while the area is under renovation. Brian DeBolt with the School District explained that it would take 45 days to put together the bid package, make it available and to line up contractors.

Alderman James supported the Park Board's request for more time to investigate and he stated he would like to hear their research. He stated he did not support this resolution at this time. Alderman James stated that it sounded like the City Council had a little bit of time before making a decision. Mr. DeBolt agreed with this statement. A motion was made by Alderman James to table this item until after a recommendation is received from the Park Board; seconded by Alderman Wolfer.

Alderman Leslie asked if this should be a motion to postpone.

Alderman Wolfer withdrew his second; Alderman James withdrew the motion.

A motion was made by Alderman James to postpone this item until after a recommendation is received from the Park Board; seconded by Alderman Wolfer.

Alderman Munns asked for a time frame for the Park Board to research this matter. Director Mogle indicated that the Park Board's next meeting was February 22, 2007. Mayor Prochaska asked that the resolution be put on the March 6, 2007 Committee of the Whole meeting agenda.

Alderman Spears asked what the \$400,000.00 figure covered. Director Mogle explained that the figure was based on \$35,000.00/court for a ten-court complex. Alderman Burd corrected Director Mogle, stating that the Park Board minutes indicate that this figure was for five courts.

Motion to postpone approved by a roll call vote. Ayes-8 Nays-0
Spears-aye, Bock-aye, Besco-aye, Leslie-aye,
Wolfer-aye, James-aye, Munns-aye, Burd-aye

CITIZEN COMMENTS

Gene Sheeley of Yorkville addressed the City Council. He stated that he was in the Navy and proceeded to explain site lines. He also explained that he worked on electrical high tension towers and described what can be seen from the top of them. He related this to the landfill and questioned how far away the mountain will be visible. He felt that before anyone learned about Yorkville's good schools, neighborhoods or small town feel, they would know of Yorkville's mountain of trash.

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George Gilson of Yorkville asked the City Council to reflect on what the annexation of the proposed landfill property will do for the community. He read case law regarding annexations and their purpose (to expand urban areas, establish land use control, to encourage health controls, etc.). He asked what the purpose of this annexation was other than to benefit a private corporation. He asked what controls have been asserted in the agreement to address the potential of fragmented growth and overall health and sanitation. He quoted from state statute 65ILSC5/11-15.1.2 regarding the vacation of Sleepy Hollow Road and asked what the public interest was in giving up the rights of the roadway. He further noted that the statute indicates that no annexation made within 60 days of a general election shall be effective until the day after the election. He noted mistakes made in the process of the annexation and proposed landfill. He asked the Council to force Fox Moraine to withdraw the siting application and clear up the mishaps with the annexation until after the election. He stated that the approval of the annexation benefited Fox Moraine and will be giving the applicant what they want at the expense of Yorkville so he asked the City Council to vote against the annexation and the vacation of Sleepy Hollow Road.

Arden Plocher of Yorkville commented to the City Council that the tennis courts need to be resurfaced and expanded. He recommended that the City Council consider this for the children in the community.

Sandy Spang of Millbrook asked the members of the City Council if they ever threw out something they weren't suppose to such as batteries, paint remover, etc. She noted that many people throw out things they shouldn't. She asked if the City could guarantee that the landfill won't leak into an aquifer and negatively impact wells.

Todd Milliron, 61 Cotswold Drive, wanted to know the difference between a contract with Fox Moraine and the School District. He stated that the Council vacated Sleepy Hollow Road because of the contract with Fox Moraine however the City Council is balking at \$40,000.00 for the tennis courts when the City has a contract with the School District. He stated that if the City's audit was finished, the Council would know if the money for the tennis courts was in the budget. He asked that Fox Moraine be left in the County and that the City use leverage to get a better Host Agreement and renegotiate the North Star annexation agreement. He asked the City Council to take control and vote against the annexation agreement. He stated that the landfill landscape has changed and the City should negotiate new, more favorable terms for the City including a new disposal fee.

Jim Friedrich, 7140 Oakbrook Road, Newark, indicated that he was the Fox Township Supervisor. He noted that his office prepared a letter regarding an opinion on the annexation and vacation however it may not have been received by the City. Members of the Council noted that they did not get the letter. He informed the Council of Fox Township's opinion; they oppose the annexation and vacation of Sleepy Hollow Road because the annexation does not represent an orderly movement of the community. He felt that the City Council had an obligation to work with Kendall County however he felt there is mistrust between the County and the City. He also noted that Millbrook is much closer to the annexation than Yorkville. He stated that it appears that the City has "turned its back" on neighboring communities because no one asked about their needs or concerns. He asked that the City Council vote against the annexation and reevaluate the situation.

Glen Poole, 487 Calvin, Yorkville read an email he sent to Alderman Wolfer asking him to consider what the people in his ward want in regards to the landfill. He stated that he has spoken to residents in the River's Edge subdivision and everyone he spoke with did not support a landfill. He stated that the decision regarding the landfill will impact the lives and lifestyles the citizens of Yorkville forever and he asked that the City Council vote no for the annexation and vacation of Sleepy Hollow Road.

Judy Gilmour of Yorkville asked the City Council to vote against the annexation because the vote is not just for an annexation but for a landfill. She stated that people are against the landfill so close to homes because they are fearful of the threat it poses to their health, safety and quality of life. She stated that residents are fighting to prevent the landfill and it is expensive and unfair that people have to spend their money to protect themselves from the harm the city is trying to do to them. She asked everyone who would like to help with the fight to buy a raffle ticket in order to raise funds that will be used for the legal battle to stop the landfill.

Tom Gilmour of Yorkville and member of Friends of Greater Yorkville stated that the effect of the landfill on property values has not been stressed enough. He stated that he has been told by Mayor Prochaska and Mr. Hammon that there are expensive homes near other landfills and he felt that this is due to their location. He felt that the dynamics in the real estate market have changed and a landfill will doom the area for development. He further noted that the landfill is closest to

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county residents however they do not have a voice in the process. He commented that if an indigent person commits a crime and he cannot afford an attorney, one is provided for him by law however residents opposing the landfill have to raise funds to fight it. He asked the City Council to put themselves in their shoes.

Randy Scott of Yorkville urged the City Council to think carefully about the annexation. He pointed out what he felt were a few mistakes; the error made with the Newark Library District and the lack of an expert to address the effect on property values. He asked the City Council to think of those living near the proposed landfill when they vote.

Bernie Volte of Millbrook commented that he lives about 1 ½ miles from the center of the landfill and he expressed his concern with its affects on the water quality of his private well. He explained that he is required to test his water however the typical tests do not address contaminates from a landfill. He stated that he trusted the Council to make a careful, judicial and fair decision regarding the landfill.

Tim Johnson of 213 Leisure Street and a realtor in the area commented that the annexation will negatively impact the value of homes for sale in the area. He noted that his own home is for sale and he has been asked by a realtor about the landfill. He also commented on the tennis court stating that this issue should be addressed. He noted that the trees in the area of the courts are causing some problems and that even with resurfacing it is poor site for the courts. He stated that he felt that the city should honor their contract with the School District however there should be an end date to the contract.

Daryl Brown commented that he hoped the City Council would discuss the annexation the same way they discussed the tennis courts and he noted that he has not heard from some aldermen on the subject of the annexation. Alderman Spears asked Mayor Prochaska to clarify for the public the time limits on speaking. Mayor Prochaska explained that per the Governing Ordinance each Council member is allowed five minutes the first time around and then two minutes as a rebuttal.

Stan Ludwikowski, 11261A Legion, commented that the decision made tonight impacts the community for generations to come. He asked the City Council to vote against the annexation because it is the first step to a landfill and that the landfill is for the benefit of a few at the expense of many.

Dennis Batdorf, 802 Parkside Lane, stated that it has been discussed that the tennis courts should be taken out of the Raintree Subdivision. He questioned how much the community would financially profit from tennis tournaments. He questioned what will replace the courts in Raintree; a dump? He asked the City Council to do some math. He asked them to look around the room and figure if each person present knows five other people who is against the annexation what the vote will be on April 17, 2007.

Marcia Ludwikowski, 11261A Legion, commented on things people do, look back on later and determine they made a lousy decision. She felt that annexing this property is not a good idea and she asked the Council to consider delaying the decision.

Jeff Spang of Millbrook commented on the tennis courts. He stated that the Parks Department has used the tennis courts and that any decent organization would provide for the wear, tear and maintenance they have caused by use. He hoped the City would find the funding to help the school out. Mr. Spang also commented that he is sensitive to the "done deal" mantra that he hears. He stated that he refused to buy it this because he believed the City Council has not made up their minds; that they will make an objective decision on the annexation however he was disturbed by finding a land use plan which already shows this property annexed.

CONSENT AGENDA

1. Monthly Treasurer's Report for December 2006 (ADM 2007-09)
2. **Ordinance 2007-10** - For the Amended Levy and Assessment of Taxes for the Fiscal Year beginning May 1, 2007 and ending April 30, 2008 for Special Service Area 2004-201 (Fox Hill) - *authorize the Mayor and City Clerk to execute* (ADM 2007-10)
3. **Ordinance 200-11** - Abating \$11,300,000.00 General Obligation Bonds (Alternate Revenue Source) Series 2005D (Rob Roy Creek) – *authorize the Mayor and City Clerk to execute* (ADM 2007-11)
4. **Ordinance 2007-12** - Abating \$3,525,000.00 General Obligation Bonds (Alternate Revenue Source) Series 2005 (Countryside Center TIF) – *authorize the Mayor and City Clerk to execute* (ADM 2007-12)

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5. **Ordinance 2007-13** - Abating \$3,500,000.00 General Obligation Bonds (Alternate Revenue Source) Series 2004B (Countryside Interceptor) – *authorize the Mayor and City Clerk to execute* (ADM 2007-13)
6. **Ordinance 2007-14** - Abating \$625,000.00 General Obligation Bonds (Alternate Revenue Source) Series 2002 (Fox Industrial Park) – *authorize the Mayor and City Clerk to execute* (ADM 2007-14)
7. **Ordinance 2007-15** - Abating \$3,825,000.00 General Obligation Bonds (Alternate Revenue Source) Series 2005A (In-Town Road Program) – *authorize the Mayor and City Clerk to execute* (ADM 2007-15)
8. **Ordinance 2007-16** - Abating \$2,000,000.00 General Obligation Bonds (Alternate Revenue Source) Series 2005C (Waterworks & Sewer) – *authorize the Mayor and City Clerk to execute* (ADM 2007-16)

Mayor Prochaska entertained a motion to approve the Consent Agenda as presented. So moved by Alderman Spears; seconded by Alderman Besco.

Motion approved by a roll call vote. Ayes-8 Nays-0
Burd-aye, Munns-aye, James-aye, Wolfer-aye,
Leslie-aye, Besco-aye, Bock-aye, Spears-aye

PLANNING COMMISSION/ZONING BOARD OF APPEAL

No report.

MINUTES FOR APPROVAL

A motion was made by Alderman James to approve the minutes of the Special City Council meeting of October 30, 2006, Committee of the Whole meeting of September 5, 2006, Special Committee of the Whole meeting of November 28, 2006 and the Downtown TIF meeting of July 31, 2006; seconded by Alderman Wolfer.

Motion approved by a viva voce vote.

BILLS FOR APPROVAL

A motion was made by Alderman James to approve the paying of the bills listed on the Detailed Board Report dated February 1, 2007 totaling the following amounts: checks in the amount of \$1,288, 198.63 (vendors); \$211,818.37 (payroll period ending 1/6/07); for a total of \$1,500,017.00 (total); seconded by Alderman Spears.

It was noted that that the payroll period was incorrect on the agenda and the correct date should be February 6, 2007.

Motion approved by a roll call vote. Ayes-8 Nays-0
Munns-aye, James-aye, Wolfer-aye, Leslie-aye,
Besco-aye, Bock-aye, Spears-aye, Burd-aye

REPORTS

MAYOR'S REPORT

Appointment for Library Board

Mayor Prochaska reported that Russ Walter had resigned from the Library Board and he was appointing Barb Johnson, an educator in the community, to fill the position until the term expires in May 2008. He entertained a motion of ratification for the appointment. So moved by Alderman Bock; seconded by Alderman Wolfer.

Motion approved by a roll call vote. Ayes-8 Nays-0
Leslie-aye, Wolfer-aye, James-aye, Munns-aye,
Burd-aye, Spears-aye, Bock-aye, Besco-aye

Proclamation for National Engineers Week

Mayor Prochaska read a proclamation for National Engineers Week, February 18 – 24, 2007 (see attached). He entertained a motion of ratification for the proclamation. So moved by Alderman Munns; seconded by Alderman Wolfer.

Motion approved by a viva voce vote.

Coffee with the Mayor

Mayor Prochaska reported that the next Coffee with the Mayor will be held on February 17, 2006 at Lennar Homes, 2082 Ingemunson Lane (Raintree Village) from 9:00 a.m. to 11:00 a.m.

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Ordinance 2007-17

Fox Moraine/North Star Parcel - Annexing

Mayor Prochaska entertained a motion to approve an ordinance annexing certain territory to the United City of Yorkville commonly known as the North Star and Fox Moraine Property in furtherance of an Annexation Agreement, as presented and authorize the Mayor and City Clerk to execute all documents upon final legal review. So moved by Alderman James; seconded Alderman Bock.

Alderman Spears read page 2, paragraph five of the annexation regarding the document being in full compliance of the terms of the Annexation Agreement, the statutes of the State of Illinois, and Section 7-1-1 and 7-1-8 of the municipal code. She stated that she provided the City Council with several copies of state statute 65 ILCS 5/11-91-1 and 65 ILCS 5/11-91-2. She stated that the City was not in accordance with state statute and the Council should not pass the annexation. She stated that she felt there has been a breach of contract that has been corrected. She felt the City Council should take a stand, not be affected by the threat of a lawsuit and abide by the law.

Alderman James reminded the Council that they were here to vote on the annexation and not to judge a landfill. He stated that the vote on a landfill was yet to come. He stated that he supported the annexation and felt it was the right thing to do for the residents of Yorkville.

Alderman Burd agreed with Alderman Spears regarding following the letter of the law. She noted that she has walked through Wards I and II and a large number of residents in these areas are not in favor of the annexation. She stated that she went to the hearing regarding the lawsuit on behalf 600 petitioners who asked that the property not be annexed. She noted that the suit was dismissed but it does not dismiss the 600 names on the petitions asking the Council not to vote for the annexation. She stated that the Council needs to represent their constituents and vote the way they are telling the Council to vote.

Alderman Munns commented that he has not made up his mind on any issues other than what is being voted on tonight. He stated that he is not on the Council to be in a popularity contest and that he is doing what he was elected to do and what he feels is right. He asked Attorney Wyeth if the Council is legally bound to approve the agreement. Attorney Wyeth indicated he would weigh it at the end of the Council's discussion.

Alderman Besco commented that he is confident with annexing the property because it gives the Council control during the state mandated process. He stated that he was also confident that the Council would judge the landfill accordingly when it comes to that time and that he understood the resident's passion in this matter.

Alderman Wolfer agreed with Alderman Munns; he will not be intimidated and he will base his vote on the facts that were presented to him.

Alderman Bock stated that he agreed with Aldermen Munns, James, Wolfer and Besco. He stated that he was here to vote on the annexation of land and not on a landfill.

Alderman Leslie stated that he has given the matter much thought and felt that a flaw in the whole process was having the City go against the County. He stated that the City has a vested interest in the protection of its residents. He stated that he had an issue with the vacation of Sleepy Hollow Road; he felt it was coercive. He stated that after speaking with several residents he understands the dynamics of the situation better and he will speak through his vote.

Alderman Spears stated that the document the Council is voting on indicates they are in full compliance with the original annexation agreement which she felt is illegal because the agreement includes the vacation of Sleepy Hollow Road in it. She asked for a copy of all the recorded notices that are indicated in the document. She asked for a change to page 2, second paragraph regarding legal notices. The document states that the notices were sent out to all public bodies and she asked that it would be indicated that North Star Trust and Fox Moraine sent out the notices. She stated that she did not want the City to be responsible for the notices. She asked if Virginia Wells' property was included in the agreement. She indicated that she was tired of the way the County residents were being treated and stated that they are deserving of the City Council's respect and consideration.

Mayor Prochaska commented that it has been stated that the annexation means that the landfill is approved. He stated that this is not the case; the language in the Annexation Agreement does not guarantee this. It does state that it is the intention of the landowner to have a landfill on the property. He noted that whether or not a landfill is sited on the property is not dependant on whether the property is annexed or not. He stated that what he felt was important was who judged the application and who will have the jurisdiction over it once it is developed. He stated that the development of this parcel will impact the City regardless if it is in the City or not.

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Mayor Prochaska also stated that the proposed Prairie Parkway is planned to cross Route 71 and the interchange will be located on the eastern edge of this parcel. He stated that the interchange will provide incentive for commercial and manufacturing business development along the highway. He stated that the area where the landfill is being proposed will also have an effect on the development of the area. The only way for the city to guide development in this area is if it is annexed. He responded to Mr. Spang's comment regarding the land use plan; this parcel was already voted on and approved for annexation. The map was printed and then the question was raised regarding the legality of the annexation.

A motion was made by Alderman Burd to amend the annexation ordinance to incorporate the change that Alderman Spears requested to note that North Star/Fox Moraine did the public notification; seconded by Alderman Spears.

Alderman Spears asked if the City Council would receive copies of the recorded notices.

Motion to amend approved by a roll call vote. Ayes-8 Nays-0
Bock-aye, Besco-aye, Leslie-aye, Wolfer-aye,
James-aye, Munns-aye, Burd-aye, Spears-aye

Attorney Wyeth commented that the question posed to him was if the City Council has the legal authority to annex the property this evening and the answer is yes. The issues that have been raised have been a minor error in regard to the failure to notice which was cured and the possibility of a defect due to the vacation of Sleepy Hollow Road. In regards to the vacation, he noted that that Annexation Agreement has a severability clause which indicates that if an item of the agreement is found to be defective, the remainder of the agreement, including the obligation to annex remains in effect. Alderman Spears asked if the City Council did not vote for the annexation, would there be a breach of contract and Attorney Wyeth stated there would be. She noted that the petitioner breached the contract by not properly notifying the Newark Library.

Alderman James asked how the vote for the annexation impacted the siting process. Attorney Wyeth stated that the siting process has begun and that the annexation is an element of the process. He explained that there is an item of fundamental fairness since the siting application was filed based on expectation under this contract. Failure to follow through on the promise could be viewed by a court as a breach of fundamental fairness and a prejudicial action by the Council in direct opposition to the attempts of the applicant to complete the process.

Mayor Prochaska clarified that by state statute this requires a majority of the corporate authorities holding office.

Motion approved by a roll call vote. Ayes-6 Nays-3
Bock-aye, Besco-aye, Leslie-nay, Wolfer-aye,
James-aye, Munns-aye, Burd-nay, Spears-nay, Prochaska-aye

Fox Moraine/North Star Parcel – Rezoning

Mayor Prochaska entertained a motion to approve an ordinance reaffirming a rezoning of certain property and rezoning certain property in furtherance of an Annexation Agreement for property commonly known as the North Star/Fox Moraine property, as presented, and authorize the Mayor and City Clerk to execute all documents upon final legal review. So moved by Alderman Munns; seconded by Alderman Wolfer.

Alderman Burd stated that she had a problem with the document as presented. She read page one; paragraph four regarding the Plan Commission recommending the rezoning. She noted that the Plan Commission voted for the annexation but voted against the rezoning. She asked the City Council to follow the Plan Commission's lead and vote against the rezoning. Alderman James asked the reason given by the Plan Commission for voting against the rezoning. Alderman Burd stated that they felt the request for rezoning was premature because no plans were presented with the request to indicate what the zoning was needed for.

Alderman Spears stated that she had a problem with the title of the document. She asked that the work "reaffirming" be taken out of the title. She noted that this term is used throughout the document and she requested that item #1 on page two also be removed as it refers to approving the Plan Commission recommendation. She felt that the whole document was flawed and should not be before the Council.

Alderman Wolfer asked if this ordinance could be postponed so the Plan Commission vote could be researched and if the postponement would affect the siting process. Mayor Prochaska noted that according to statute, the siting can go into any zoning of the City. If the City Council does not vote to zone the property, the zoning defaults to the most restricted zoning which is R-1.

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Alderman Wolfer asked the applicant's attorney, Mr. Phillipchuck for his input. Attorney Phillipchuck indicated that when the matter was before the Plan Commission agricultural zoning was requested on the larger parcel. The Plan Commission made their recommendation and this was presented at the City Council public hearing. However the annexation agreement, as approved, indicated that the property would be zoned A-1 Agricultural District.

Spears requested that the document be corrected and returned to the City Council at the next City Council meeting.

A motion was made by Alderman Wolfer to postpone the vote until the next City Council meeting; seconded by Alderman James.

Alderman Besco noted an error on page 2, line six the word "duly" is misspelled.

Motion to postpone approved by a roll call vote. Ayes-8 Nays-0
Leslie-aye, Wolfer-aye, James-aye, Munns-aye,
Burd-aye, Spears-aye, Bock-aye, Besco-aye

ATTORNEY'S REPORT

Attorney Wyatt reported that Sibenaller v. Milschewski lawsuit was dismissed by Judge Mueller who indicated that as he reads the state statute, the statute referred to in the petition does not apply to this annexation.

CITY CLERK'S REPORT

No report.

CITY TREASURER'S REPORT

No report.

CITY ADMINISTRATOR'S REPORT

No report.

FINANCE DIRECTOR'S REPORT

No report.

DIRECTOR OF PUBLIC WORKS REPORT

Director Dhuse reported that due to the weather, public works crews have been on the streets all day. He stated that they were not using salt at this time due to the snowy conditions and that crews will be back on the streets at 3:00 a.m.

CHIEF OF POLICE'S REPORT

No report.

DIRECTOR OF PARKS & RECREATION'S REPORT

No report.

COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

No report.

COMMUNITY RELATIONS MANAGER'S REPORT

Mayor Prochaska noted that Mrs. Spies was not in attendance but she asked him to report that the participation forms for the landfill will be printed in the Record Newspaper. Also, the Big Brothers/Big Sister bowling event will be held on February 24, 2007 at the Plano Bowl. Participants are asked to raise \$75.00. Mayor Prochaska noted that historically the City has had a team participate. He indicated that anyone interested could contact him for details.

Administrator Crois noted that the City is in the process of sending out random letters for the Residents Vision Process. He requested that if the Council members had anyone they would like contacted to participate in the process they contact him, Mrs. Spies or Mr. Olson.

COMMUNITY & LIAISON REPORT

No report.

COMMITTEE REPORTS

PUBLIC WORKS COMMITTEE REPORT

No report.

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ECONOMIC DEVELOPMENT COMMITTEE REPORT

No report.

PUBLIC SAFETY COMMITTEE REPORT

No report.

ADMINISTRATION COMMITTEE REPORT

**City Administrator Recruitment Contract
(ADM 2005-24)**

A motion was made by Alderman James to approve the City Administrator Recruitment Contract, as presented, subject to staff and legal review; seconded by Alderman Spears.

Alderman Leslie questioned if the same company that has been used in the past for recruitment was being for this process and Mayor Prochaska stated they were. He asked how the process was going to work. Mayor Prochaska explained that in the past the interviewing committee has been the Administration Committee.

Alderman Munns recommended that the four aldermen who are not up for reelection be on the committee instead of the Administration Committee. Mayor Prochaska indicated that he did not have a problem with this.

Motion approved by a roll call vote. Ayes-8 Nays-0
Munns-aye, Burd-aye, Spears-aye, Bock-aye,
Besco-aye, Leslie-aye, Wolfer-aye, James-aye

**Police Union Contract
(CC 2007-02)**

A motion was made by Alderman James to approve the Police Union Contract as presented, subject to staff and legal review; seconded by Alderman Spears.

Alderman Spears commented that this appears to be a good contract for both the police and the City. She noted that the contract will be retroactive to May which is the date when the contract expired.

Motion approved by a roll call vote. Ayes-8 Nays-0
Leslie-aye, Wolfer-aye, James-aye, Munns-aye,
Burd-aye, Spears-aye, Bock-aye, Besco-aye

ADDITIONAL BUSINESS

None.

ADJOURNMENT

Mayor Prochaska entertained a motion to adjourn. So moved by Alderman Bock; seconded by Alderman James.

Motion approved by a viva voce vote.

Meeting adjourned at 10:08 P.M.

Minutes submitted by:

Jacquelyn Milschewski,
City Clerk City of Yorkville, Illinois

CITY COUNCIL MEETING
UNITED CITY OF YORKVILLE, ILLINOIS

REPORT OF PROCEEDINGS from the meeting
of the above-entitled matter transcribed via
audio cassette by CHRISTINE M. VITOSH, C.S.R., of
the meeting on February 13, 2007, at the hour of
7:00 p.m., at 800 Game Farm Road in the City of
Yorkville, Illinois.



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P R E S E N T:

MR. ARTHUR F. PROCHASKA, Mayor;
MR. PAUL JAMES, Alderman;
MR. JASON LESLIE, Alderman;
MS. VALERIE BURD, Alderman;
MR. DEAN WOLFER, Alderman;
MR. MARTY MUNNS, Alderman;
MR. JAMES BOCK, Alderman;
MR. JOSEPH BESCO, Alderman;
MS. ROSE ANN SPEARS, Alderman;
MR. JOHN CROIS, City Administrator;
MR. WILLIAM POWELL, City Treasurer;
MR. TRAVIS MILLER, Community Development
Director;
MS. JACQUELYN MILSCHEWSKI, City Clerk.

A P P E A R A N C E S:

BY: MR. JOHN JUSTIN WYETH,
appeared on behalf of the United
City of Yorkville, Illinois.

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(Pledge of Allegiance)

MAYOR PROCHASKA: At this time I'd entertain a motion to go into public hearing for the purpose of discussing PC 2006-93, Rush-Copley Medical Center, Inc., petitioner, has filed an application with the United City of Yorkville, Kendall County, Illinois, requesting rezoning from the United City of Yorkville O Office District to United City of Yorkville Planned Unit Development zoning and preliminary PUD plan.

The real property consists of approximately 44.12 acres located south of Veteran's Parkway adjacent to Fox Hill subdivision, Yorkville, Kendall County, Illinois.

ALDERMAN BOCK: So moved.

ALDERMAN LESLIE: Second.

MAYOR PROCHASKA: Moved and seconded. May I have roll call, please?

MS. MILSCHEWSKI: Bock?

ALDERMAN BOCK: Aye.

MS. MILSCHEWSKI: Spears.

ALDERMAN SPEARS: Aye.

MS. MILSCHEWSKI: Burd.

ALDERMAN BURD: Aye.

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MS. MILSCHEWSKI: Munns.
ALDERMAN MUNNS: Aye.
MS. MILSCHEWSKI: James.
ALDERMAN JAMES: Aye.
MS. MILSCHEWSKI: Wolfer.
ALDERMAN WOLFER: Aye.
MS. MILSCHEWSKI: Leslie.
ALDERMAN LESLIE: Aye.
MS. MILSCHEWSKI: Besco.
ALDERMAN BESCO: Aye.
MAYOR PROCHASKA: Motion is carried.

All right. We are in public hearing. Is there somebody here representing the petitioner?

WHEREUPON:

JOHN PHILIPCHUCK,

testified before the Yorkville City Council as follows:

MR. PHILIPCHUCK: Good evening, John Philipchuck. I am the attorney representing Rush-Copley Health with offices at 123 Water Street, Naperville, Illinois.

With me this evening is Alan Kato from Anderson Mikos Architects. Alan is going to show you a Power Point. I think it's

1 the easiest and probably the quickest way to take
2 you through this.

3 I think the Council will recall
4 that as part of your new PUD ordinance that you
5 adopted it is required that we come before you
6 for a public hearing requesting the planned unit
7 development. The underlying zoning that we are
8 requesting is B-3. B-3 will allow retail as you
9 know and also allow a hospital. Currently we
10 have projected and we have plans approved for a
11 medical office building fronting Route 34.

12 Of course, the plans for the
13 future are much greater than that and as a result
14 we are coming in and asking for the zoning now to
15 allow us to ultimately build the campus that will
16 include some retail, some physical exercise
17 facilities, parking, hospital, and various
18 related medical office building uses.

19 So Alan, is --

20 WHEREUPON:

21 ALAN KATO,
22 testified before the Yorkville City Council as
23 follows:

24 MR. KATO: Yes. Thank you for

1 hearing our presentation. My name is Alan Kato.
2 I am with Anderson Mikos Architects. We will be
3 presenting some drawings to you that have been
4 prepared by us as well as Cemcon, as well as
5 Landmark, for the landscaping.

6 The presentation is really
7 divided into two parts; the first part is one
8 which technically is not part of the PUD, but we
9 are presenting it to show you the style, the
10 character and materials, the design of the
11 ultimate PUD, so that's why that's included in
12 there.

13 As far as location, this is
14 Veteran's Parkway here, this is the future
15 Beecher Road on the back here. This is the
16 professional office building; that is part of the
17 first phase.

18 So as far as entrance goes, we
19 are bringing the main entrance down Beecher Road
20 into the say here with parking in front, and also
21 Staff would be able to enter off of Veteran's
22 this way, left in or right turn and a right turn
23 out at that location with Staff parking behind.
24 We are actually including a connection back in

1 Phase I to John Street.

2 This is a landscape plan
3 indicating -- unfortunately it's a little --
4 indicating the extent of the landscaping. You
5 can see we have taken care in terms of buffering
6 the adjacent spaces, the commercial located over
7 here, the residential down here really is not
8 impacted by the first phase. Our design includes
9 a tower element to it that we host to the
10 intersection of Beecher and Veteran's. In terms
11 of our design, we also went into analyzing the
12 light off of the parking facilities and have
13 found that we do not exceed the requirements in
14 terms of the village -- or the City and our
15 facility is within your standards.

16 As far as the first floor plan
17 of the facility we have the ambulatory surgery
18 location here, by the way. The intersection of
19 Beecher and Veteran's would be down in this
20 location down here. Also included is ambulatory
21 care and also diagnostic and treatment, including
22 an MRI, a CT, some women's health areas in terms
23 of bone density and ultrasound. Also included is
24 a small lab and registration for the building.

1 On the second floor we have tenant spaces as well
2 as on the third floor.

3 This will give you some of the
4 materials that we have used. This is masonry as
5 well as a lot of glass and also masonry with
6 stone accents and stone and shingle roof
7 elements.

8 To work your way around the
9 building, here is an image of -- from the
10 southwest, so then you can see an expanse of
11 glass. These are masonry walls and this has the
12 stone accents.

13 Up here is our signage
14 opportunity that faces the front of Beecher and
15 Veteran's. If you are standing right on the
16 intersection, Veteran's and Beecher, this is the
17 new detail, you've got your nice icon piece,
18 really this is to turn the corner around and draw
19 people into Beecher.

20 Working our way around the
21 building, this is if you are going eastbound on
22 Veteran's, this is the image you'll see. In
23 terms of the second phase, this is indicating the
24 professional building up here, the medical

1 campus, which is about 600 -- 660,000 square
2 feet, and one of the variances that we are
3 requesting is for a 90 -- 90-foot high building,
4 seven stories, and then down here we are placing
5 a parking facility here on center with
6 medical-related retail and perhaps a pharmacy or
7 dialysis or things like that.

8 Down at the bottom here is a
9 150,000 square feet fitness center, and one of
10 the things that is very important in terms of the
11 design was to connect up to the Civic Center over
12 here, the Kendall County complex, so this line
13 extends directly and accesses directly to the
14 Kendall County complex.

15 Detention is shown in here.
16 These are areas for detention and we have
17 selected this area for detention because, one,
18 it's the lowest area, but also in conjunction
19 with the residential along here, this made the
20 most sense to create a buffer with the
21 residential to that side. There is a landscape
22 plan of that, and, again, you can see off to the
23 side here, this is where the residential is
24 located, the detention area.

1 Again, a lot of landscaping, we
2 have along that side deciduous trees, ornamental
3 trees, as well as evergreen trees.

4 We developed a sign plan. This
5 is signage above on the tower, signage down on
6 the base of the tower. We've asking for a
7 variance in terms of the height of pylon signs
8 that are located throughout -- throughout the
9 plan. These are really icon elements to in
10 particularly direct people to the main facility.
11 We are requesting to go -- the current standards
12 are six feet maximum, we are requesting ten feet
13 maximum -- or ten feet -- up to ten feet. We had
14 both the parking lots planned with some
15 structured parking and these sketches show the
16 typical parking stalls and the urgent care
17 stalls, you can locate 500 -- over 500 parking
18 spaces with the -- in the parking garage.

19 Analysis of the lighting, the
20 photometrics of the parking areas and the drives,
21 and that's just going through all the different
22 areas. Again, prove to ourselves that especially
23 along the residential area we are not creating a
24 light situation adversely in the space, and

1 actually historically it's in 24-foot high poles
2 for the development.

3 Here are some Cemcon drawings
4 of the preliminary plat of subdivision, I can't
5 explain this to you, and then also the
6 preliminary PUD plan.

7 Our site data, I think the
8 salient points here are we are proposing up to
9 almost a million square feet of building, and you
10 have 1623 parking spaces. To give you a sense of
11 this, at Aurora they have done around between
12 thirteen and 1400 spaces, so that's very -- very
13 comparable. These are just some 3-D images. We
14 modeled the site, and one of the things that you
15 require -- what you require is we are proposing
16 for the mechanical systems that you not see them
17 from the ground, so we have screened mechanical,
18 we have screened mechanical areas throughout the
19 development.

20 These are elevations of the --
21 of this facility. You can see a lot of detail
22 here. This is first phase. First phase will
23 expand over here and also then ultimately into
24 development -- we have not designed the

1 development per se, it's really just blocked out
2 on the masses.

3 You can see this -- this
4 actually has 90 feet, so we are proposing a
5 90-foot high building, which is ten feet over
6 what the current zoning calls for, and this is
7 the 3-D images, working around the -- around the
8 site. Veteran's is located right here, and this
9 would be an extension of Beecher to the south.

10 One of the things that was real
11 important to us in terms of design was to open up
12 the Town Center to the intersection of Beecher
13 and Veteran's, so the Town Center would be kind
14 of like a C-shape that opens up to the
15 intersection. Here you can see it a little bit
16 better. Beecher and Veteran's is over here
17 directly in line with the Town Center. And,
18 incidentally, we did line up the boulevard from
19 the Civic Center to also -- you can see it there.
20 That's a very good way of making it a very
21 unified element to the community.

22 This is the image of the
23 southwest corner of the lot, the Civic Center is
24 over here, and the parking facility, and actually

1 the parking facility is shown as half what the
2 ultimate is. 1623 parking spaces does not
3 include the potential expansion of another 500
4 cars potentially if there is need in the future.

5 And this is a view over -- from
6 the -- from the northwest. Again you can see the
7 extension of Beecher to the south and also the
8 relationship of the Town Center to the corner of
9 Beecher and Veteran's, as well as the
10 relationship to the Civic Center development to
11 the west -- to the east. And that's our
12 presentation.

13 MAYOR PROCHASKA: I will -- just to
14 verify that today you are looking for are signs,
15 the height of the signs and the 90-foot building.

16 MR. KATO: Yes, and seven stories
17 instead of six.

18 MAYOR PROCHASKA: At this time then
19 I would ask if there is anyone in the public that
20 would like to ask any questions or give any
21 comments on the proposed PUD for this facility.
22 Come up and state your name, please.

23 WHEREUPON:

24 CHRIS ARNDT,

1 testified before the Yorkville City Council as
2 follows:

3 MR. ARNDT: Chris Arndt (phonetic).
4 Mine I guess is a question. I just want to
5 address public safety regarding Bristol-Kendall.
6 Do they have equipment to reach that facility?
7 Because I know a few years ago it was an issue.

8 MAYOR PROCHASKA: I don't know if
9 they have a ladder, they do have a big truck.

10 MR. ARNDT: That's what my only
11 question was.

12 MAYOR PROCHASKA: I believe that --

13 MS. SPEARS: Actually I don't
14 believe it's been addressed to them at this time.

15 MR. KATO: I don't know if they've
16 asked about this specific one from the 80 feet to
17 the 90 feet.

18 MR. PHILIPCHUCK: We discussed it at
19 the Plan Council and it was brought up at Plan
20 Commission and the chairman of the Plan
21 Commission as you know is with the Fire District,
22 and so that was discussed, and they indicated
23 they had equipment that would be able to go to
24 those sites, their equipment.

1 MAYOR PROCHASKA: Okay. Anyone
2 else?

3 (No Response)

4 MAYOR PROCHASKA: Hearing none --
5 okay.

6 MS. SPEARS: Regarding the
7 seven-story building, I would like to request a
8 letter from our fire chief indicating that their
9 equipment will reach that high because actually I
10 was the one that had a problem with trying to get
11 six-story buildings in here without the proper
12 fire equipment, and I think the -- at one time we
13 were told that we could borrow the equipment in
14 case of an emergency from Oswego or Sugar Grove
15 and I'd hate to be in that six or seventh story
16 waiting for somebody trying to get through
17 traffic from Sugar Grove or Oswego, so I just
18 would like a letter verifying that they indeed
19 can go up one more story, 90 feet.

20 And, also, the parking spaces,
21 I know you said you had room for a 500-car
22 expansion. The reason why -- I have had several
23 surgeries over at Rush-Copley and I solidly
24 support that and I am very happy that you are

1 coming here, it would be less distance for me to
2 travel, and I am nothing but satisfied with
3 Rush-Copley, and I'd like to say that. However,
4 the parking. I have handicapped parking and I
5 stilling can't find parking over there, it's
6 very, very difficult, so I do recommend that you
7 go ahead with your 500-car expansion at this time
8 just to prepare for all the people that you are
9 going to be receiving and servicing.

10 MR. PHILIPCHUCK: Just so you
11 understand, we would have to obtain a certificate
12 of need for the actual hospital building, so at
13 that time we would have the more specific plans
14 and give you a rough idea of the bulk of the
15 building and approximate square footage.

16 We would get into much more
17 detail at the time that the population in the
18 community allowed us to move forward with that
19 request, and once we would reach that phase, then
20 obviously we would have more detail for you on
21 that building and then of course the parking that
22 would be needed for that, so...

23 MAYOR PROCHASKA: Alderman Munns?

24 ALDERMAN MUNNS: Yeah, a couple

1 questions. The thousand watt outlet lighting,
2 Eric, the thousand watts -- I don't see Travis
3 over there -- is that kind of -- I mean, how --
4 what's a thousand watts? I mean, is that a lower
5 wattage for an industrial?

6 MR. DHUSE: Normal streetlights are
7 150s, the lights at Sycamore and Route 34 is 400,
8 and those are the differences.

9 ALDERMAN MUNNS: So then you are
10 saying your lights would be a thousand watts
11 according to -- but a thousand watts, I mean, it
12 does seem kind of bright, but --

13 MR. PHILIPCHUCK: It's all
14 down-directed lighting, but that was the maximum
15 that we would do.

16 ALDERMAN MUNNS: Do you know what
17 you are going to be recommending to light the
18 campus? I mean, the current Rush-Copley, what is
19 that lighting?

20 MR. KATO: It's currently at 250
21 watts.

22 ALDERMAN MUNNS: And you are going
23 to have this one four times brighter than the one
24 in Aurora? I live right behind there so, believe

1 me, I'm getting a lot of questions about this.

2 MR. KATO: Well, we did the
3 photometrics.

4 ALDERMAN MUNNS: Okay. I might want
5 to change something in that agreement or clarify
6 exactly if you plan on lighting up the whole
7 neighborhood, I would shut the lights off if you
8 are going to put that much, but I didn't know
9 what a thousand watts was.

10 MR. KATO: It's down-directed.

11 ALDERMAN MUNNS: So it's going to be
12 a thousand compared to an open thousand.

13 MR. KATO: It would be completely
14 different.

15 ALDERMAN MUNNS: So it's downwards.
16 What exactly -- Why did you end up with that on
17 the campus? And then in the permitted uses was a
18 power plant, what was that, like an internal
19 thing to power the hospital?

20 MR. KATO: Yes.

21 ALDERMAN MUNNS: I saw power plant
22 in there. And then one last question about the
23 parking garage, is that extra space that would go
24 on top of that garage?

1 MR. KATO: Beside it.

2 ALDERMAN MUNNS: Beside.

3 MR. KATO: Yes.

4 ALDERMAN MUNNS: And how tall is the
5 garage?

6 MR. KATO: Four stories.

7 ALDERMAN MUNNS: Four stories.

8 That's all. Thank you.

9 MAYOR PROCHASKA: Anyone else? Yes.

10 ALDERMAN BURD: I'd like to go back
11 to the height, the seven-story height. I was
12 pretty sure that we already have the truck in
13 effect. We do have that, because I remember Tom
14 Lindblom told me we had it in. But it seems to
15 me it gets to be a certain height where that's
16 not going to help either.

17 Does anybody know how tall a
18 building could be where even that would not work?

19 MAYOR PROCHASKA: Unless it was
20 discussed in there, it didn't seem to be an issue
21 with that, although to get a letter from the
22 chief saying that -- that the ladder goes up to a
23 hundred -- hundred feet I think, yeah, so --

24 ALDERMAN BURD: Well, I know with

1 the high-rises in Chicago, for instance, there is
2 no hook and ladder truck that's going to make it
3 up to -- you know, I used to live on the 22nd
4 floor and that was pretty much it, you know, so
5 that was my thought.

6 MAYOR PROCHASKA: Anyone else?

7 ALDERMAN MUNNS: On the parking
8 garage, all the traffic in and out on a daily
9 basis, is there any -- on the parking garage, is
10 there construction of a certain type? Because
11 again you're going to be pretty adjacent to a
12 bunch of -- the commons right there. I mean, I
13 don't know how much, you know, with a big garage
14 like that there is going to be cars in and out
15 all day long and horns beeping and things like
16 that. I don't know if parking garages or any
17 noise abatement or --

18 MR. KATO: Generally -- I mean, it's
19 a parking garage. We are a little from the
20 property line --

21 ALDERMAN MUNNS: 25 steps, I mean,
22 that's from here to the front door. That's kind
23 of -- kind of close there to the residents. If
24 there is going to be some constant, you know,

1 maybe you could look at possibly some outside
2 walls or something so the noise goes out to 34.

3 ALDERMAN SPEARS: Are you going to
4 provide security for the parking garage like
5 24/7? Are those going to be individuals or just
6 cameras or what exactly -- what type of security
7 would be provided?

8 MR. KATO: Well, we currently have
9 security guards on the grounds, but also it's
10 hard to point out -- the whole building is the
11 campus now -- in that new garage right there
12 there will be cameras, so I would suspect that
13 that garage is constructed as the campus.

14 ALDERMAN SPEARS: I would like to
15 state a correction on Page 7, in the document it
16 says the village rather than city. Just a minor
17 thing.

18 MAYOR PROCHASKA: Anyone else?
19 Alderman Burd.

20 ALDERMAN BURD: Just a quick
21 question about the Route 34 transportation
22 problems. I know Alderman Munns has commented
23 off and on with the traffic on that road. Do you
24 have any concerns about how to -- or how to go

1 about alleviating that?

2 MR. PHILIPCHUCK: We have been
3 coordinating with the commercial developer across
4 the street as far as the improvements that will
5 be done at the intersection of Beecher and 34 and
6 signalization and turn lane. All those things
7 are being planned that the Beecher extension to
8 the south side as well as to the north at
9 controlled intersections will be able to handle
10 those traffic volumes in that area.

11 MAYOR PROCHASKA: Anyone else?

12 ALDERMAN LESLIE: How far south do
13 you plan on extending Beecher Road?

14 MR. PHILIPCHUCK: We will be
15 extending it to the -- our southerly property
16 line, which we described as roughly 40 acres, and
17 so when the Conover family goes to develop the
18 balance of the property, that's when it will be
19 extended south to River Road.

20 MAYOR PROCHASKA: Anyone else?

21 (No Response)

22 MAYOR PROCHASKA: Hearing none, I
23 would entertain a motion to close the public
24 hearing.

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ALDERMAN SPEARS: So moved.

ALDERMAN BURD: Second.

MAYOR PROCHASKA: Moved and
seconded. May I have roll call, please?

MS. MILSCHEWSKI: Spears.

ALDERMAN SPEARS: Aye.

MS. MILSCHEWSKI: Burd.

ALDERMAN BURD: Aye.

MS. MILSCHEWSKI: Munns.

ALDERMAN MUNNS: Aye.

MS. MILSCHEWSKI: James.

ALDERMAN JAMES: Aye.

MS. MILSCHEWSKI: Wolfer.

ALDERMAN WOLFER: No.

MS. MILSCHEWSKI: Leslie.

ALDERMAN LESLIE: Aye.

MS. MILSCHEWSKI: Besco.

ALDERMAN BESCO: Aye.

MS. MILSCHEWSKI: Bock.

ALDERMAN BOCK: Aye.

MAYOR PROCHASKA: Motion carried,
public hearing is closed.

(Which were all the
proceedings had in

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public hearing.)

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**BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD**

| | | |
|---------------------------|---|-------------|
| FOX MORaine, LLC |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 07- 146 |
| |) | |
| UNITED CITY OF YORKVILLE, |) | |
| CITY COUNCIL |) | |
| |) | |
| Respondent. |) | |

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on this 24th day of September, 2008, George Mueller, one of the attorneys for Petitioner, Fox Moraine, LLC, filed via electronic filing of the attached **Motion to Compel Production of Transcripts and Videos** with the Clerk of the Illinois Pollution Control Board, a copy of which is herewith served upon you.

Respectfully submitted,

FOX MORaine, LLC

By: /s/ George Mueller
One of its Attorneys

George Mueller
Mueller Anderson, P.C.
609 East Etna Road
Ottawa, Illinois 61350
(815) 431-1500 – Telephone
(815) 431-1501 - Facsimile
george@muelleranderson.com

Charles Helsten
Hinshaw & Culbertson LLP
100 Park Avenue
Rockford, Illinois 61101
(815) 490-4900 - Telephone
(815) 490-4901 - Facsimile

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Fox Moraine, LLC v. United City of Yorkville
PCB No. 07-146

SERVICE LIST

PCB 2007-146
Bradley Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
1000 West Randolph Street
Suite 11-500
Chicago, IL 60601

PCB 2007-146
Charles Helsten
Hinshaw & Culbertson
100 Park Avenue
P.O. Box 1389
Rockford, IL 61105-1389

PCB 2007-146
Leo P. Dombrowski
Wildman, Harrold, Allen & Dixon
225 West Wacker Drive
Suite 3000
Chicago, IL 60606-1229

PCB 2007-146
Thomas I. Matyas
Wildman, Harrold, Allen & Dixon
225 West Wacker Drive
Suite 3000
Chicago, IL 60606-1229

PCB 2007-146
Ms Valerie Burd, Mayor
City of Yorkville
800 Game Farm Road
Yorkville, IL 60560

PCB 2007-146
Eric Weis
Kendall County State's Attorney
Kendall county Courthouse
807 John Street
Yorkville, IL 60560

George Mueller
Mueller Anderson, P.C.
609 East Etna Road
Ottawa, Illinois 61350
(815) 431-1500 – Telephone
(815) 431-1501 - Facsimile
george@muelleranderson.com

PCB 2007-146
Derke J. Price
Ancel, Glink, Diamond, Bush & Krafthefer
P.C.
140 South Dearborn Street
Sixth Floor
Chicago, IL 60603

PCB 2007-146
Jeffrey D. Jeep
Jeep & Blazer, LLC
24 North Hillside Avenue
Suite A
Hillside, IL 60162

PCB 2007-146
Anthony Hopp
Wildman, Harrold, Allen & Dixon
225 West Wacker Drive
Suite 3000
Chicago, IL 60606-1229

PCB 2007-146
James B. Harvey
Buck, Hutchison & Ruttler
2455 Glenwood Avenue
Joliet, IL 60435

PCB 2007-146
Michael Roth, Interim City Attorney
City of Yorkville
800 Game Farm Road
Yorkville, IL 60560

PCB 2007-146
James Knippen
Walsh Knippen Knight & Pollick
2150 Manchester Road
Suite 200
Wheaton, IL 60187-2476

Charles Helsten
Hinshaw & Culbertson LLP
100 Park Avenue
Rockford, Illinois 61101
(815) 490-4900 - Telephone
(815) 490-4901 - Facsimile

CERTIFICATE OF SERVICE

I, Sharon Twardowski, a non-attorney, certify that I served a copy of the foregoing **Notice of Filing and to Compel Production of Transcripts and Videos** to the Hearing Officer and all Counsel of Record listed on the attached Service list, by sending it via Electronic Mail on September 24, 2008, before 5:00 p.m.

/s/ Sharon Twardowski

- [x] Under penalties as provides by law pursuant to ILL. REV. STAT. CHAP. 110-SEC 1-109, I certify that the statements set forth Herein are true and correct

George Mueller
Mueller Anderson, P.C.
609 East Etna Road
Ottawa, Illinois 61350
(815) 431-1500 – Telephone
(815) 431-1501 - Facsimile
george@muelleranderson.com

Charles Helsten
Hinshaw & Culbertson LLP
100 Park Avenue
Rockford, Illinois 61101
(815) 490-4900 - Telephone
(815) 490-4901 - Facsimile
chelsten@hinshawlaw.com

APPROVED BY
CITY COUNCIL
ON 7/10/07

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL
OF THE UNITED CITY OF YORKVILLE, KENDALL COUNTY, ILLINOIS,
HELD IN THE CITY COUNCIL CHAMBERS,
800 GAME FARM ROAD ON
TUESDAY, FEBRUARY 13, 2007.

Mayor Prochaska called the meeting to order at 7:00 P.M and led the Council in the Pledge of Allegiance.

ROLL CALL

Clerk Milschewski called the roll.

| | | |
|----------|--------|---------|
| Ward I | James | Present |
| | Leslie | Present |
| Ward II | Burd | Present |
| | Wolfer | Present |
| Ward III | Bock | Present |
| | Munns | Present |
| Ward IV | Besco | Present |
| | Spears | Present |

Also present: City Clerk Milschewski, City Treasurer Powell, City Attorney Wyeth, Interim City Administrator Crois, Assistant City Administrator Olson, Police Chief Martin, Director of Public Works Dhuse, Director of Park & Recreation Mogle, and Finance Director Mika.

QUORUM

A quorum was established.

INTRODUCTION OF GUESTS

Mayor Prochaska asked the staff and guests to introduce themselves. He welcomed the guests and asked them to enter their names on the attendance sheet provided.

AMENDMENTS TO THE AGENDA

A motion was made by Alderman Burd to move the City Council Report to before the Citizens Comment section of the agenda; seconded by Alderman Munns.

Motion approved by a roll call vote. Ayes-7 Nays-0
Wolfer-aye, James-aye, Munns-aye, Burd-aye,
Spears-aye, Bock-aye, Besco-aye, Leslie-aye

COMMITTEE MEETING DATES

| | |
|--------------------------------|--|
| Public Works Committee | Committee of the Whole 7:00 P.M., Tuesday, February 20, 2007 City of Yorkville Conference Room |
| Economic Development Committee | Committee of the Whole 7:00 P.M., Tuesday, February 20, 2007 City of Yorkville Conference Room |
| Administration Committee | Committee of the Whole 7:00 P.M., Tuesday, March 6, 2007 City of Yorkville Conference Room |
| Public Safety Committee | Committee of the Whole 7:00 P.M., Tuesday, March 6, 2007 City of Yorkville Conference Room |

PRESENTATIONS

None.

PUBLIC HEARINGS

Rush Copley Medical Center, Inc.

Mayor Prochaska entertained a motion to go into public hearing for the purpose of discussing PC 2006-93 Rush Copley Medical Center, Inc., petitioner, as filed an application with United City of Yorkville, Kendall County, Illinois requesting rezoning from United City of Yorkville O-Office District to United City of Yorkville Planned Unit Development Zoning and Preliminary PUD plan. The real property consists of approximately 44.12 acres, located south of Veteran's

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Parkway, adjacent to the Fox Hill Subdivision, Yorkville, Kendall County, Illinois. So moved by Alderman Bock; seconded by Alderman Leslie.

Motion approved by a roll call vote. Ayes-8 Nays-0
Bock-aye, Spears-aye, Burd-aye, Munns-aye
James-aye, Wolfer-aye, Leslie-aye, Besco-aye

Please see attached Report of Proceedings by Christine Vitosh, C.S.R. from Depo Court Reporting Service for the transcription of this portion of the public hearing

Mayor Prochaska entertained a motion to close the public hearing. So moved by Alderman Spears; seconded by Alderman Burd.

Motion approved by a roll call vote. Ayes-8 Nays-0
Spears-aye, Burd-aye, Munns-aye, James-aye,
Wolfer-aye, Leslie-aye, Besco-aye Bock-aye

CITY COUNCIL REPORT

Resolution 2007-07

Approving Letter of Intent to School District Rehabilitation of Tennis Courts

A motion was made by Alderman Burd to approve a resolution approving a Letter of Intent to School District 115 for the rehabilitation of tennis courts on Game Farm Road not to exceed \$40,000.00; seconded by Alderman Munns.

Alderman James expressed his concern about approving something that is not a budgeted item. He recommended that it be approved contingent on the approval of the revised budget.

Alderman Burd stated that she brought this item forward because there is an April 20, 1995 agreement which states that the City will maintain the tennis courts and she felt that this was the obligation of the City. She asked that the rehabilitation of the tennis court be included in the budget. She suggested that funds be taken from the White Oak sidewalk project which residents have objected to and be applied to the project.

Alderman Spears asked what the terms of the 1995 agreement are. Dr. Engler, Superintendent for School District #115, explained that the agreement was developed in the 1970's for the joint use and maintenance of the tennis courts and parking lot. The agreement does not have an end date. He explained that the parking lot was paved in 1992 without any contribution by the City. He indicated that these are the only tennis courts in the City and the cost to rehabilitate them is between \$60,000.00 and \$120,000.00. He explained the process needed to rehabilitate them and indicated that this summer the area will be cordoned off due to the rehabilitation of Yorkville Middle School and Yorkville Grade School. It was felt that this would be a good time to address the tennis courts.

Alderman Leslie asked what the cost would be to the City. It was indicated that the shared expense would be approximately \$40,000.00 for the rehabilitation plus an additional cost for the expansion of the courts.

Alderman Bock asked if there was urgency for this project and felt that the funding should be found first. Dr. Engler explained that the School District would like to begin the project in May 2007 so that the courts will be completed by August 2007. He stated that the School District could go ahead with the project and would accept a letter of intent for funds after the City's budget is revised.

Mayor Prochaska asked Finance Director Mika to see if funds were available in the contingency fund. Director Mika stated that there are funds available in contingency however other issues have developed and it would be a matter of prioritizing projects. She stated the sidewalk option suggested by Alderman Burd is a possibility.

Alderman Munns commented that the City should partner with the School District and that it was a good time to address the courts.

Alderman James reiterated that the letter of intent should be contingent on funding.

Alderman Spears reminded Dr. Engler that the City asked the School District to participate in a School Study but was told that the School District did not have the funds. She requested a letter of intent from the schools indicating they will give the City \$9,000.00 to share in the cost of

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participating in the study. Dr. Engler stated that he did not have a problem with this however he would have to ask the School Board for approval.

Alderman Burd reiterated that the City already has a contractual obligation to participate in the rehabilitation of the tennis court and this is not something that the Council should be deliberating. She felt that it would be pathetic if the City couldn't find the funding.

Alderman Wolfer commented that he did not have a problem moving ahead with the project but he agreed with Alderman James that the letter of intent should be contingent on funding.

Mayor Prochaska stated that he did not feel that the City's contribution was excessive. He noted that there may be funds left at the end of the year that could be applied to the project however he noted that the funding of other projects such as the Sycamore light signal have been discussed. He did not recommend taking funds from the sidewalk project. He stated he would take a look at the budget with Director Mika and would make sure funds were available to use for the courts.

Alderman Besco stated that when this subject first came to the City it was suggested that the grant writer could take a look to see if there were any grants available for the City or School District that would apply to this. Mayor Prochaska noted that Director Mogle has done some investigation however the City cannot apply for grants because the courts are not on City property.

Alderman Wolfer stated he spoke with the White Oak Homeowner Association and was told that they are against the sidewalk coming into their subdivision but they do not have a problem with a sidewalk along Fox Road.

Alderman Leslie commented that he did not understand the need for a letter of intent if an agreement already exists. Dr. Engler noted that the letter was not necessary. He stated that he wanted to bring the agreement to the City's attention and make the Council aware of the obligation that exists.

Alderman Burd stated that she felt that the reason Dr. Engler wants a commitment is because some members of the Council are not quite comfortable with moving ahead with financing the rehabilitation of the courts and she understood his concern. She noted that students and the community would benefit from the rehabilitation and she encouraged the Council to move forward in getting this accomplished.

Motion defeated by a roll call vote. Ayes-3 Nays-5
Burd-aye, Spears-nay, Bock-aye, Besco-nay,
Leslie-nay, Wolfer-nay, James-nay, Munns-aye

A motion was made by Alderman James to approve a resolution approving a Letter of Intent to School District 115 for the rehabilitation of tennis courts on Game Farm Road contingent upon funds being identified in the budget; seconded by Alderman Spears.

Alderman Burd asked Attorney Wyeth if this motion leaves things opened ended in the event funds are not found. Attorney Wyeth stated that this issue will come back to the City Council when it fails to find funds.

Alderman James noted that the agreement dates back to the 1970's without an end date or any clause for contingency. He stated that he did not want to pass another document without identifying funds. He stated that he supported the rehabilitation of the courts however he does not want to approve anything until staff has time to investigate this further.

Dr. Engler asked why the funds couldn't be put into next year's budget. Mayor Prochaska stated that this was a possibility as the new budget is due in May.

Alderman Bock agreed with both Aldermen James and Wolfer. He noted that the City has an obligation with the School District and it should be honored. He suggested that it be approved because the \$40,000.00 will most likely be found.

Alderman Spears asked Director Mika if she could provide the Council with a list of the priorities that the City is facing. Director Mika stated she would get this information to the City.

Administrator Crois noted that there is a "wish list" however it is based on commercial development. Unfortunately, the City will not see the effect of commercial development until 2008. At this point, all the requests for budgeted items cannot be done in next year's budget; some things will have to be denied.

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Alderman Burd stated that she found this discussion hypocritical. She stated that she went over the minutes from the last budget discussion and some of the aldermen who are balking against meeting this contractual obligation were willing to vote for a project manager for the Engineering Department without documentation as to why this was needed. She noted that a whole year later this person has not been hired. Now these aldermen want a caveat on a contractual obligation. She stated that the Council needed to vote to pay the bill.

Mayor Prochaska noted that the City has entered into a partnership regarding the tennis court in the past; they paid for half the cost for lights for the tennis courts. Dr. Engler agreed and stated that this was done in 1994.

Alderman Wolfer stated that he agreed that the City has an obligation however he asked if the original agreement could be reviewed by the Administration Committee to see if it needs to be renegotiated or amended. He felt that the City Council was in agreement to participate in the rehabilitation however most of the Council wanted to find the funds first. He felt that this could be done in time for the School District to meet their time frame.

Motion approved by a roll call vote. Ayes-8 Nays-0
Burd-aye, Spears-aye, Bock-aye, Besco-aye,
Leslie-aye, Wolfer-aye, James-aye, Munns-aye

**Approving Letter of Intent to School District
Construction of Tennis Courts**

Alderman Burd reported that this item is a request for the City to enter into a new Intergovernmental Agreement to build four new tennis courts. She stated that if the courts are built now, there will be a savings. Also, this would provide the City with tennis courts for tournaments. She stated that she has discussed this with the Park Board who was under the misconception that the City owned property across the street from the current tennis courts. This property actually belongs to the cemetery and because the property is not owned by the City, matching grants are not available for the construction of the courts. She stated that she has brought this forward to the Council and indicated that the School District does not expect the Council to approve this however it is on their "wish list" and they would like it to be considered. She stated that \$110,000.00 would build four new courts on Game Farm Road as compared to \$400,000.00 to build the courts in a different location. She asked the City to find the funding so the courts could be constructed by fall.

A motion was made by Alderman Burd to approve a resolution approving a Letter of Intent to School District 115 for the construction of tennis courts on Game Farm Road in an amount not to exceed \$110,000.00 depending on the City finding funding; seconded by Alderman Munns.

Alderman Spears asked the Director of Park & Recreation Mogel what the Park Board recommendation was. Director Mogle stated that the Park Board discussed both issues regarding the tennis court and was open to the refurbishing of the current courts however they did not endorse the new courts because they need more time to gather information in order to research the project. They had concerns regarding the location, parking and congestion in the area.

Alderman Bock indicated that he attended the Park Board meeting where this was discussed and agreed with what Director Mogle reported. He stated that the Board also felt funds should be identified before a commitment was made. He stated that in order to give the Park Board time to do their research he was going to vote against the resolution.

Alderman Wolfer asked if there were any hard facts to support the cost figures for new courts. Dr. Engler explained that the School District and Parks Department have been working well together to share sites. There is a site in the Raintree Subdivision for a new middle school with a park next to it. In the planning process for the site, tennis courts were investigated. However, in the process of the reconstruction of Yorkville Middle School and Yorkville Grade School, the area of the current tennis courts will be closed down. Dr. Engler suggested to Director Mogle that the Parks Department consider adding four tennis courts in the parking pod in front of Yorkville Grade School. He stated that \$110,000.00 would cover most of the cost of the courts, fencing, parking and landscaping. He stated that this was just a suggestion; the School District has not intention of building the courts themselves because the funds are not available. The School District thought it might be a way for everyone to save money if the School District and City joined resources.

Mayor Prochaska asked if anyone had a dollar amount if the tennis courts were built somewhere else. Director Mogle stated that the cost per court is approximately \$35,000.00. He did indicate there could be a savings to build the courts in this area because the parking lot is an established

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base. He further stated that the Park Board has suggested an alternative idea which would be a ten court complex however they need more time to research this.

Alderman Leslie commented that he would not like to pull resources from the south side of the city however if building the courts near the presents courts would attract tournaments he would be in favor of the construction of the new courts. He did suggest that any new agreement with the School District have time restrictions.

Alderman Spears stated she would like to get more information from the Park Board such as if there was a way to use Land Cash Funds to construct new courts. She supported the possibility of the courts being located in another area of the City so things would be equal for all residents.

Alderman Besco stated that he liked the idea of all the courts being located in a group so tournaments could be held and that he was in favor of the new courts contingent on funding.

Alderman Munns agreed with Alderman Besco. He noted that if the courts are located together, it should reduce the cost of maintenance. He supported the resolution.

Alderman Bock noted that one of the concerns voiced by the Park Board was adequate parking in the area. He supported the Park Board's request to investigate the matter further.

Alderman Burd stated that Park Board meeting minutes quoted a \$400,000.00 figure to build tennis courts across the street from the existing courts. She also noted that according to Dr. Engler there are 500 parking spots in the area and she felt that this was more than enough. She noted that if tennis courts are built on the south side of town, students will have to be bused to the location which will cost taxpayers money. She stated that this is an opportunity that is available now and it will not last forever so she felt that the City Council needed to decide now.

Alderman Leslie stated that after hearing from Dr. Engler he was under the impression that this did not have to happen now. Dr. Engler explained that bids would have to go out in the next 35 to 40 days in order for the project to be done over the summer while the area is under renovation. Brian DeBolt with the School District explained that it would take 45 days to put together the bid package, make it available and to line up contractors.

Alderman James supported the Park Board's request for more time to investigate and he stated he would like to hear their research. He stated he did not support this resolution at this time. Alderman James stated that it sounded like the City Council had a little bit of time before making a decision. Mr. DeBolt agreed with this statement. A motion was made by Alderman James to table this item until after a recommendation is received from the Park Board; seconded by Alderman Wolfer.

Alderman Leslie asked if this should be a motion to postpone.

Alderman Wolfer withdrew his second; Alderman James withdrew the motion.

A motion was made by Alderman James to postpone this item until after a recommendation is received from the Park Board; seconded by Alderman Wolfer.

Alderman Munns asked for a time frame for the Park Board to research this matter. Director Mogle indicated that the Park Board's next meeting was February 22, 2007. Mayor Prochaska asked that the resolution be put on the March 6, 2007 Committee of the Whole meeting agenda.

Alderman Spears asked what the \$400,000.00 figure covered. Director Mogle explained that the figure was based on \$35,000.00/court for a ten-court complex. Alderman Burd corrected Director Mogle, stating that the Park Board minutes indicate that this figure was for five courts.

Motion to postpone approved by a roll call vote. Ayes-8 Nays-0
Spears-aye, Bock-aye, Besco-aye, Leslie-aye,
Wolfer-aye, James-aye, Munns-aye, Burd-aye

CITIZEN COMMENTS

Gene Sheeley of Yorkville addressed the City Council. He stated that he was in the Navy and proceeded to explain site lines. He also explained that he worked on electrical high tension towers and described what can be seen from the top of them. He related this to the landfill and questioned how far away the mountain will be visible. He felt that before anyone learned about Yorkville's good schools, neighborhoods or small town feel, they would know of Yorkville's mountain of trash.

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George Gilson of Yorkville asked the City Council to reflect on what the annexation of the proposed landfill property will do for the community. He read case law regarding annexations and their purpose (to expand urban areas, establish land use control, to encourage health controls, etc.). He asked what the purpose of this annexation was other than to benefit a private corporation. He asked what controls have been asserted in the agreement to address the potential of fragmented growth and overall health and sanitation. He quoted from state statute 65ILSC5/11-15.1.2 regarding the vacation of Sleepy Hollow Road and asked what the public interest was in giving up the rights of the roadway. He further noted that the statute indicates that no annexation made within 60 days of a general election shall be effective until the day after the election. He noted mistakes made in the process of the annexation and proposed landfill. He asked the Council to force Fox Moraine to withdraw the siting application and clear up the mishaps with the annexation until after the election. He stated that the approval of the annexation benefited Fox Moraine and will be giving the applicant what they want at the expense of Yorkville so he asked the City Council to vote against the annexation and the vacation of Sleepy Hollow Road.

Arden Plocher of Yorkville commented to the City Council that the tennis courts need to be resurfaced and expanded. He recommended that the City Council consider this for the children in the community.

Sandy Spang of Millbrook asked the members of the City Council if they ever threw out something they weren't suppose to such as batteries, paint remover, etc. She noted that many people throw out things they shouldn't. She asked if the City could guarantee that the landfill won't leak into an aquifer and negatively impact wells.

Todd Milliron, 61 Cotswold Drive, wanted to know the difference between a contract with Fox Moraine and the School District. He stated that the Council vacated Sleepy Hollow Road because of the contract with Fox Moraine however the City Council is balking at \$40,000.00 for the tennis courts when the City has a contract with the School District. He stated that if the City's audit was finished, the Council would know if the money for the tennis courts was in the budget. He asked that Fox Moraine be left in the County and that the City use leverage to get a better Host Agreement and renegotiate the North Star annexation agreement. He asked the City Council to take control and vote against the annexation agreement. He stated that the landfill landscape has changed and the City should negotiate new, more favorable terms for the City including a new disposal fee.

Jim Friedrich, 7140 Oakbrook Road, Newark, indicated that he was the Fox Township Supervisor. He noted that his office prepared a letter regarding an opinion on the annexation and vacation however it may not have been received by the City. Members of the Council noted that they did not get the letter. He informed the Council of Fox Township's opinion; they oppose the annexation and vacation of Sleepy Hollow Road because the annexation does not represent an orderly movement of the community. He felt that the City Council had an obligation to work with Kendall County however he felt there is mistrust between the County and the City. He also noted that Millbrook is much closer to the annexation than Yorkville. He stated that it appears that the City has "turned its back" on neighboring communities because no one asked about their needs or concerns. He asked that the City Council vote against the annexation and reevaluate the situation.

Glen Poole, 487 Calvin, Yorkville read an email he sent to Alderman Wolfer asking him to consider what the people in his ward want in regards to the landfill. He stated that he has spoken to residents in the River's Edge subdivision and everyone he spoke with did not support a landfill. He stated that the decision regarding the landfill will impact the lives and lifestyles the citizens of Yorkville forever and he asked that the City Council vote no for the annexation and vacation of Sleepy Hollow Road.

Judy Gilmour of Yorkville asked the City Council to vote against the annexation because the vote is not just for an annexation but for a landfill. She stated that people are against the landfill so close to homes because they are fearful of the threat it poses to their health, safety and quality of life. She stated that residents are fighting to prevent the landfill and it is expensive and unfair that people have to spend their money to protect themselves from the harm the city is trying to do to them. She asked everyone who would like to help with the fight to buy a raffle ticket in order to raise funds that will be used for the legal battle to stop the landfill.

Tom Gilmour of Yorkville and member of Friends of Greater Yorkville stated that the effect of the landfill on property values has not been stressed enough. He stated that he has been told by Mayor Prochaska and Mr. Hammon that there are expensive homes near other landfills and he felt that this is due to their location. He felt that the dynamics in the real estate market have changed and a landfill will doom the area for development. He further noted that the landfill is closest to

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county residents however they do not have a voice in the process. He commented that if an indigent person commits a crime and he cannot afford an attorney, one is provided for him by law however residents opposing the landfill have to raise funds to fight it. He asked the City Council to put themselves in their shoes.

Randy Scott of Yorkville urged the City Council to think carefully about the annexation. He pointed out what he felt were a few mistakes; the error made with the Newark Library District and the lack of an expert to address the effect on property values. He asked the City Council to think of those living near the proposed landfill when they vote.

Bernie Volte of Millbrook commented that he lives about 1 ½ miles from the center of the landfill and he expressed his concern with its affects on the water quality of his private well. He explained that he is required to test his water however the typical tests do not address contaminates from a landfill. He stated that he trusted the Council to make a careful, judicial and fair decision regarding the landfill.

Tim Johnson of 213 Leisure Street and a realtor in the area commented that the annexation will negatively impact the value of homes for sale in the area. He noted that his own home is for sale and he has been asked by a realtor about the landfill. He also commented on the tennis court stating that this issue should be addressed. He noted that the trees in the area of the courts are causing some problems and that even with resurfacing it is poor site for the courts. He stated that he felt that the city should honor their contract with the School District however there should be an end date to the contract.

Daryl Brown commented that he hoped the City Council would discuss the annexation the same way they discussed the tennis courts and he noted that he has not heard from some aldermen on the subject of the annexation. Alderman Spears asked Mayor Prochaska to clarify for the public the time limits on speaking. Mayor Prochaska explained that per the Governing Ordinance each Council member is allowed five minutes the first time around and then two minutes as a rebuttal.

Stan Ludwikowski, 11261A Legion, commented that the decision made tonight impacts the community for generations to come. He asked the City Council to vote against the annexation because it is the first step to a landfill and that the landfill is for the benefit of a few at the expense of many.

Dennis Batdorf, 802 Parkside Lane, stated that it has been discussed that the tennis courts should be taken out of the Raintree Subdivision. He questioned how much the community would financially profit from tennis tournaments. He questioned what will replace the courts in Raintree; a dump? He asked the City Council to do some math. He asked them to look around the room and figure if each person present knows five other people who is against the annexation what the vote will be on April 17, 2007.

Marcia Ludwikowski, 11261A Legion, commented on things people do, look back on later and determine they made a lousy decision. She felt that annexing this property is not a good idea and she asked the Council to consider delaying the decision.

Jeff Spang of Millbrook commented on the tennis courts. He stated that the Parks Department has used the tennis courts and that any decent organization would provide for the wear, tear and maintenance they have caused by use. He hoped the City would find the funding to help the school out. Mr. Spang also commented that he is sensitive to the "done deal" mantra that he hears. He stated that he refused to buy it this because he believed the City Council has not made up their minds; that they will make an objective decision on the annexation however he was disturbed by finding a land use plan which already shows this property annexed.

CONSENT AGENDA

1. Monthly Treasurer's Report for December 2006 (ADM 2007-09)
2. **Ordinance 2007-10** - For the Amended Levy and Assessment of Taxes for the Fiscal Year beginning May 1, 2007 and ending April 30, 2008 for Special Service Area 2004-201 (Fox Hill) - *authorize the Mayor and City Clerk to execute* (ADM 2007-10)
3. **Ordinance 200-11** - Abating \$11,300,000.00 General Obligation Bonds (Alternate Revenue Source) Series 2005D (Rob Roy Creek) – *authorize the Mayor and City Clerk to execute* (ADM 2007-11)
4. **Ordinance 2007-12** - Abating \$3,525,000.00 General Obligation Bonds (Alternate Revenue Source) Series 2005 (Countryside Center TIF) – *authorize the Mayor and City Clerk to execute* (ADM 2007-12)

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5. **Ordinance 2007-13** - Abating \$3,500,000.00 General Obligation Bonds (Alternate Revenue Source) Series 2004B (Countryside Interceptor) – *authorize the Mayor and City Clerk to execute* (ADM 2007-13)
6. **Ordinance 2007-14** - Abating \$625,000.00 General Obligation Bonds (Alternate Revenue Source) Series 2002 (Fox Industrial Park) – *authorize the Mayor and City Clerk to execute* (ADM 2007-14)
7. **Ordinance 2007-15** - Abating \$3,825,000.00 General Obligation Bonds (Alternate Revenue Source) Series 2005A (In-Town Road Program) – *authorize the Mayor and City Clerk to execute* (ADM 2007-15)
8. **Ordinance 2007-16** - Abating \$2,000,000.00 General Obligation Bonds (Alternate Revenue Source) Series 2005C (Waterworks & Sewer) – *authorize the Mayor and City Clerk to execute* (ADM 2007-16)

Mayor Prochaska entertained a motion to approve the Consent Agenda as presented. So moved by Alderman Spears; seconded by Alderman Besco.

Motion approved by a roll call vote. Ayes-8 Nays-0
Burd-aye, Munns-aye, James-aye, Wolfer-aye,
Leslie-aye, Besco-aye, Bock-aye, Spears-aye

PLANNING COMMISSION/ZONING BOARD OF APPEAL

No report.

MINUTES FOR APPROVAL

A motion was made by Alderman James to approve the minutes of the Special City Council meeting of October 30, 2006, Committee of the Whole meeting of September 5, 2006, Special Committee of the Whole meeting of November 28, 2006 and the Downtown TIF meeting of July 31, 2006; seconded by Alderman Wolfer.

Motion approved by a viva voce vote.

BILLS FOR APPROVAL

A motion was made by Alderman James to approve the paying of the bills listed on the Detailed Board Report dated February 1, 2007 totaling the following amounts: checks in the amount of \$1,288, 198.63 (vendors); \$211,818.37 (payroll period ending 1/6/07); for a total of \$1,500,017.00 (total); seconded by Alderman Spears.

It was noted that that the payroll period was incorrect on the agenda and the correct date should be February 6, 2007.

Motion approved by a roll call vote. Ayes-8 Nays-0
Munns-aye, James-aye, Wolfer-aye, Leslie-aye,
Besco-aye, Bock-aye, Spears-aye, Burd-aye

REPORTS

MAYOR'S REPORT

Appointment for Library Board

Mayor Prochaska reported that Russ Walter had resigned from the Library Board and he was appointing Barb Johnson, an educator in the community, to fill the position until the term expires in May 2008. He entertained a motion of ratification for the appointment. So moved by Alderman Bock; seconded by Alderman Wolfer.

Motion approved by a roll call vote. Ayes-8 Nays-0
Leslie-aye, Wolfer-aye, James-aye, Munns-aye,
Burd-aye, Spears-aye, Bock-aye, Besco-aye

Proclamation for National Engineers Week

Mayor Prochaska read a proclamation for National Engineers Week, February 18 – 24, 2007 (see attached). He entertained a motion of ratification for the proclamation. So moved by Alderman Munns; seconded by Alderman Wolfer.

Motion approved by a viva voce vote.

Coffee with the Mayor

Mayor Prochaska reported that the next Coffee with the Mayor will be held on February 17, 2006 at Lennar Homes, 2082 Ingemunson Lane (Raintree Village) from 9:00 a.m. to 11:00 a.m.

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Ordinance 2007-17

Fox Moraine/North Star Parcel - Annexing

Mayor Prochaska entertained a motion to approve an ordinance annexing certain territory to the United City of Yorkville commonly known as the North Star and Fox Moraine Property in furtherance of an Annexation Agreement, as presented and authorize the Mayor and City Clerk to execute all documents upon final legal review. So moved by Alderman James; seconded Alderman Bock.

Alderman Spears read page 2, paragraph five of the annexation regarding the document being in full compliance of the terms of the Annexation Agreement, the statutes of the State of Illinois, and Section 7-1-1 and 7-1-8 of the municipal code. She stated that she provided the City Council with several copies of state statute 65 ILCS 5/11-91-1 and 65 ILCS 5/11-91-2. She stated that the City was not in accordance with state statute and the Council should not pass the annexation. She stated that she felt there has been a breach of contract that has been corrected. She felt the City Council should take a stand, not be affected by the threat of a lawsuit and abide by the law.

Alderman James reminded the Council that they were here to vote on the annexation and not to judge a landfill. He stated that the vote on a landfill was yet to come. He stated that he supported the annexation and felt it was the right thing to do for the residents of Yorkville.

Alderman Burd agreed with Alderman Spears regarding following the letter of the law. She noted that she has walked through Wards I and II and a large number of residents in these areas are not in favor of the annexation. She stated that she went to the hearing regarding the lawsuit on behalf 600 petitioners who asked that the property not be annexed. She noted that the suit was dismissed but it does not dismiss the 600 names on the petitions asking the Council not to vote for the annexation. She stated that the Council needs to represent their constituents and vote the way they are telling the Council to vote.

Alderman Munns commented that he has not made up his mind on any issues other than what is being voted on tonight. He stated that he is not on the Council to be in a popularity contest and that he is doing what he was elected to do and what he feels is right. He asked Attorney Wyeth if the Council is legally bound to approve the agreement. Attorney Wyeth indicated he would weigh it at the end of the Council's discussion.

Alderman Besco commented that he is confident with annexing the property because it gives the Council control during the state mandated process. He stated that he was also confident that the Council would judge the landfill accordingly when it comes to that time and that he understood the resident's passion in this matter.

Alderman Wolfer agreed with Alderman Munns; he will not be intimidated and he will base his vote on the facts that were presented to him.

Alderman Bock stated that he agreed with Aldermen Munns, James, Wolfer and Besco. He stated that he was here to vote on the annexation of land and not on a landfill.

Alderman Leslie stated that he has given the matter much thought and felt that a flaw in the whole process was having the City go against the County. He stated that the City has a vested interest in the protection of its residents. He stated that he had an issue with the vacation of Sleepy Hollow Road; he felt it was coercive. He stated that after speaking with several residents he understands the dynamics of the situation better and he will speak through his vote.

Alderman Spears stated that the document the Council is voting on indicates they are in full compliance with the original annexation agreement which she felt is illegal because the agreement includes the vacation of Sleepy Hollow Road in it. She asked for a copy of all the recorded notices that are indicated in the document. She asked for a change to page 2, second paragraph regarding legal notices. The document states that the notices were sent out to all public bodies and she asked that it would be indicated that North Star Trust and Fox Moraine sent out the notices. She stated that she did not want the City to be responsible for the notices. She asked if Virginia Wells' property was included in the agreement. She indicated that she was tired of the way the County residents were being treated and stated that they are deserving of the City Council's respect and consideration.

Mayor Prochaska commented that it has been stated that the annexation means that the landfill is approved. He stated that this is not the case; the language in the Annexation Agreement does not guarantee this. It does state that it is the intention of the landowner to have a landfill on the property. He noted that whether or not a landfill is sited on the property is not dependant on whether the property is annexed or not. He stated that what he felt was important was who judged the application and who will have the jurisdiction over it once it is developed. He stated that the development of this parcel will impact the City regardless if it is in the City or not.

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Mayor Prochaska also stated that the proposed Prairie Parkway is planned to cross Route 71 and the interchange will be located on the eastern edge of this parcel. He stated that the interchange will provide incentive for commercial and manufacturing business development along the highway. He stated that the area where the landfill is being proposed will also have an effect on the development of the area. The only way for the city to guide development in this area is if it is annexed. He responded to Mr. Spang's comment regarding the land use plan; this parcel was already voted on and approved for annexation. The map was printed and then the question was raised regarding the legality of the annexation.

A motion was made by Alderman Burd to amend the annexation ordinance to incorporate the change that Alderman Spears requested to note that North Star/Fox Moraine did the public notification; seconded by Alderman Spears.

Alderman Spears asked if the City Council would receive copies of the recorded notices.

Motion to amend approved by a roll call vote. Ayes-8 Nays-0
Bock-aye, Besco-aye, Leslie-aye, Wolfer-aye,
James-aye, Munns-aye, Burd-aye, Spears-aye

Attorney Wyeth commented that the question posed to him was if the City Council has the legal authority to annex the property this evening and the answer is yes. The issues that have been raised have been a minor error in regard to the failure to notice which was cured and the possibility of a defect due to the vacation of Sleepy Hollow Road. In regards to the vacation, he noted that that Annexation Agreement has a severability clause which indicates that if an item of the agreement is found to be defective, the remainder of the agreement, including the obligation to annex remains in effect. Alderman Spears asked if the City Council did not vote for the annexation, would there be a breach of contract and Attorney Wyeth stated there would be. She noted that the petitioner breached the contract by not properly notifying the Newark Library.

Alderman James asked how the vote for the annexation impacted the siting process. Attorney Wyeth stated that the siting process has begun and that the annexation is an element of the process. He explained that there is an item of fundamental fairness since the siting application was filed based on expectation under this contract. Failure to follow through on the promise could be viewed by a court as a breach of fundamental fairness and a prejudicial action by the Council in direct opposition to the attempts of the applicant to complete the process.

Mayor Prochaska clarified that by state statute this requires a majority of the corporate authorities holding office.

Motion approved by a roll call vote. Ayes-6 Nays-3
Bock-aye, Besco-aye, Leslie-nay, Wolfer-aye,
James-aye, Munns-aye, Burd-nay, Spears-nay, Prochaska-aye

Fox Moraine/North Star Parcel – Rezoning

Mayor Prochaska entertained a motion to approve an ordinance reaffirming a rezoning of certain property and rezoning certain property in furtherance of an Annexation Agreement for property commonly known as the North Star/Fox Moraine property, as presented, and authorize the Mayor and City Clerk to execute all documents upon final legal review. So moved by Alderman Munns; seconded by Alderman Wolfer.

Alderman Burd stated that she had a problem with the document as presented. She read page one; paragraph four regarding the Plan Commission recommending the rezoning. She noted that the Plan Commission voted for the annexation but voted against the rezoning. She asked the City Council to follow the Plan Commission's lead and vote against the rezoning. Alderman James asked the reason given by the Plan Commission for voting against the rezoning. Alderman Burd stated that they felt the request for rezoning was premature because no plans were presented with the request to indicate what the zoning was needed for.

Alderman Spears stated that she had a problem with the title of the document. She asked that the work "reaffirming" be taken out of the title. She noted that this term is used throughout the document and she requested that item #1 on page two also be removed as it refers to approving the Plan Commission recommendation. She felt that the whole document was flawed and should not be before the Council.

Alderman Wolfer asked if this ordinance could be postponed so the Plan Commission vote could be researched and if the postponement would affect the siting process. Mayor Prochaska noted that according to statute, the siting can go into any zoning of the City. If the City Council does not vote to zone the property, the zoning defaults to the most restricted zoning which is R-1.

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Alderman Wolfer asked the applicant's attorney, Mr. Phillipchuck for his input. Attorney Phillipchuck indicated that when the matter was before the Plan Commission agricultural zoning was requested on the larger parcel. The Plan Commission made their recommendation and this was presented at the City Council public hearing. However the annexation agreement, as approved, indicated that the property would be zoned A-1 Agricultural District.

Spears requested that the document be corrected and returned to the City Council at the next City Council meeting.

A motion was made by Alderman Wolfer to postpone the vote until the next City Council meeting; seconded by Alderman James.

Alderman Besco noted an error on page 2, line six the word "duly" is misspelled.

Motion to postpone approved by a roll call vote. Ayes-8 Nays-0
Leslie-aye, Wolfer-aye, James-aye, Munns-aye,
Burd-aye, Spears-aye, Bock-aye, Besco-aye

ATTORNEY'S REPORT

Attorney Wyatt reported that Sibenaller v. Milschewski lawsuit was dismissed by Judge Mueller who indicated that as he reads the state statute, the statute referred to in the petition does not apply to this annexation.

CITY CLERK'S REPORT

No report.

CITY TREASURER'S REPORT

No report.

CITY ADMINISTRATOR'S REPORT

No report.

FINANCE DIRECTOR'S REPORT

No report.

DIRECTOR OF PUBLIC WORKS REPORT

Director Dhuse reported that due to the weather, public works crews have been on the streets all day. He stated that they were not using salt at this time due to the snowy conditions and that crews will be back on the streets at 3:00 a.m.

CHIEF OF POLICE'S REPORT

No report.

DIRECTOR OF PARKS & RECREATION'S REPORT

No report.

COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

No report.

COMMUNITY RELATIONS MANAGER'S REPORT

Mayor Prochaska noted that Mrs. Spies was not in attendance but she asked him to report that the participation forms for the landfill will be printed in the Record Newspaper. Also, the Big Brothers/Big Sister bowling event will be held on February 24, 2007 at the Plano Bowl. Participants are asked to raise \$75.00. Mayor Prochaska noted that historically the City has had a team participate. He indicated that anyone interested could contact him for details.

Administrator Crois noted that the City is in the process of sending out random letters for the Residents Vision Process. He requested that if the Council members had anyone they would like contacted to participate in the process they contact him, Mrs. Spies or Mr. Olson.

COMMUNITY & LIAISON REPORT

No report.

COMMITTEE REPORTS

PUBLIC WORKS COMMITTEE REPORT

No report.

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ECONOMIC DEVELOPMENT COMMITTEE REPORT

No report.

PUBLIC SAFETY COMMITTEE REPORT

No report.

ADMINISTRATION COMMITTEE REPORT

**City Administrator Recruitment Contract
(ADM 2005-24)**

A motion was made by Alderman James to approve the City Administrator Recruitment Contract, as presented, subject to staff and legal review; seconded by Alderman Spears.

Alderman Leslie questioned if the same company that has been used in the past for recruitment was being for this process and Mayor Prochaska stated they were. He asked how the process was going to work. Mayor Prochaska explained that in the past the interviewing committee has been the Administration Committee.

Alderman Munns recommended that the four aldermen who are not up for reelection be on the committee instead of the Administration Committee. Mayor Prochaska indicated that he did not have a problem with this.

Motion approved by a roll call vote. Ayes-8 Nays-0
Munns-aye, Burd-aye, Spears-aye, Bock-aye,
Besco-aye, Leslie-aye, Wolfer-aye, James-aye

**Police Union Contract
(CC 2007-02)**

A motion was made by Alderman James to approve the Police Union Contract as presented, subject to staff and legal review; seconded by Alderman Spears.

Alderman Spears commented that this appears to be a good contract for both the police and the City. She noted that the contract will be retroactive to May which is the date when the contract expired.

Motion approved by a roll call vote. Ayes-8 Nays-0
Leslie-aye, Wolfer-aye, James-aye, Munns-aye,
Burd-aye, Spears-aye, Bock-aye, Besco-aye

ADDITIONAL BUSINESS

None.

ADJOURNMENT

Mayor Prochaska entertained a motion to adjourn. So moved by Alderman Bock; seconded by Alderman James.

Motion approved by a viva voce vote.

Meeting adjourned at 10:08 P.M.

Minutes submitted by:

Jacquelyn Milschewski,
City Clerk City of Yorkville, Illinois

CITY COUNCIL MEETING
UNITED CITY OF YORKVILLE, ILLINOIS

REPORT OF PROCEEDINGS from the meeting
of the above-entitled matter transcribed via
audio cassette by CHRISTINE M. VITOSH, C.S.R., of
the meeting on February 13, 2007, at the hour of
7:00 p.m., at 800 Game Farm Road in the City of
Yorkville, Illinois.



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P R E S E N T:

MR. ARTHUR F. PROCHASKA, Mayor;
MR. PAUL JAMES, Alderman;
MR. JASON LESLIE, Alderman;
MS. VALERIE BURD, Alderman;
MR. DEAN WOLFER, Alderman;
MR. MARTY MUNNS, Alderman;
MR. JAMES BOCK, Alderman;
MR. JOSEPH BESCO, Alderman;
MS. ROSE ANN SPEARS, Alderman;
MR. JOHN CROIS, City Administrator;
MR. WILLIAM POWELL, City Treasurer;
MR. TRAVIS MILLER, Community Development
Director;
MS. JACQUELYN MILSCHEWSKI, City Clerk.

A P P E A R A N C E S:

BY: MR. JOHN JUSTIN WYETH,
appeared on behalf of the United
City of Yorkville, Illinois.

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(Pledge of Allegiance)

MAYOR PROCHASKA: At this time I'd entertain a motion to go into public hearing for the purpose of discussing PC 2006-93, Rush-Copley Medical Center, Inc., petitioner, has filed an application with the United City of Yorkville, Kendall County, Illinois, requesting rezoning from the United City of Yorkville O Office District to United City of Yorkville Planned Unit Development zoning and preliminary PUD plan.

The real property consists of approximately 44.12 acres located south of Veteran's Parkway adjacent to Fox Hill subdivision, Yorkville, Kendall County, Illinois.

ALDERMAN BOCK: So moved.

ALDERMAN LESLIE: Second.

MAYOR PROCHASKA: Moved and seconded. May I have roll call, please?

MS. MILSCHEWSKI: Bock?

ALDERMAN BOCK: Aye.

MS. MILSCHEWSKI: Spears.

ALDERMAN SPEARS: Aye.

MS. MILSCHEWSKI: Burd.

ALDERMAN BURD: Aye.

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MS. MILSCHEWSKI: Munns.
ALDERMAN MUNNS: Aye.
MS. MILSCHEWSKI: James.
ALDERMAN JAMES: Aye.
MS. MILSCHEWSKI: Wolfer.
ALDERMAN WOLFER: Aye.
MS. MILSCHEWSKI: Leslie.
ALDERMAN LESLIE: Aye.
MS. MILSCHEWSKI: Besco.
ALDERMAN BESCO: Aye.
MAYOR PROCHASKA: Motion is carried.

All right. We are in public hearing. Is there somebody here representing the petitioner?

WHEREUPON:

JOHN PHILIPCHUCK,

testified before the Yorkville City Council as follows:

MR. PHILIPCHUCK: Good evening, John Philipchuck. I am the attorney representing Rush-Copley Health with offices at 123 Water Street, Naperville, Illinois.

With me this evening is Alan Kato from Anderson Mikos Architects. Alan is going to show you a Power Point. I think it's

1 the easiest and probably the quickest way to take
2 you through this.

3 I think the Council will recall
4 that as part of your new PUD ordinance that you
5 adopted it is required that we come before you
6 for a public hearing requesting the planned unit
7 development. The underlying zoning that we are
8 requesting is B-3. B-3 will allow retail as you
9 know and also allow a hospital. Currently we
10 have projected and we have plans approved for a
11 medical office building fronting Route 34.

12 Of course, the plans for the
13 future are much greater than that and as a result
14 we are coming in and asking for the zoning now to
15 allow us to ultimately build the campus that will
16 include some retail, some physical exercise
17 facilities, parking, hospital, and various
18 related medical office building uses.

19 So Alan, is --

20 WHEREUPON:

21 ALAN KATO,
22 testified before the Yorkville City Council as
23 follows:

24 MR. KATO: Yes. Thank you for

1 hearing our presentation. My name is Alan Kato.
2 I am with Anderson Mikos Architects. We will be
3 presenting some drawings to you that have been
4 prepared by us as well as Cemcon, as well as
5 Landmark, for the landscaping.

6 The presentation is really
7 divided into two parts; the first part is one
8 which technically is not part of the PUD, but we
9 are presenting it to show you the style, the
10 character and materials, the design of the
11 ultimate PUD, so that's why that's included in
12 there.

13 As far as location, this is
14 Veteran's Parkway here, this is the future
15 Beecher Road on the back here. This is the
16 professional office building; that is part of the
17 first phase.

18 So as far as entrance goes, we
19 are bringing the main entrance down Beecher Road
20 into the say here with parking in front, and also
21 Staff would be able to enter off of Veteran's
22 this way, left in or right turn and a right turn
23 out at that location with Staff parking behind.
24 We are actually including a connection back in

1 Phase I to John Street.

2 This is a landscape plan
3 indicating -- unfortunately it's a little --
4 indicating the extent of the landscaping. You
5 can see we have taken care in terms of buffering
6 the adjacent spaces, the commercial located over
7 here, the residential down here really is not
8 impacted by the first phase. Our design includes
9 a tower element to it that we host to the
10 intersection of Beecher and Veteran's. In terms
11 of our design, we also went into analyzing the
12 light off of the parking facilities and have
13 found that we do not exceed the requirements in
14 terms of the village -- or the City and our
15 facility is within your standards.

16 As far as the first floor plan
17 of the facility we have the ambulatory surgery
18 location here, by the way. The intersection of
19 Beecher and Veteran's would be down in this
20 location down here. Also included is ambulatory
21 care and also diagnostic and treatment, including
22 an MRI, a CT, some women's health areas in terms
23 of bone density and ultrasound. Also included is
24 a small lab and registration for the building.

1 On the second floor we have tenant spaces as well
2 as on the third floor.

3 This will give you some of the
4 materials that we have used. This is masonry as
5 well as a lot of glass and also masonry with
6 stone accents and stone and shingle roof
7 elements.

8 To work your way around the
9 building, here is an image of -- from the
10 southwest, so then you can see an expanse of
11 glass. These are masonry walls and this has the
12 stone accents.

13 Up here is our signage
14 opportunity that faces the front of Beecher and
15 Veteran's. If you are standing right on the
16 intersection, Veteran's and Beecher, this is the
17 new detail, you've got your nice icon piece,
18 really this is to turn the corner around and draw
19 people into Beecher.

20 Working our way around the
21 building, this is if you are going eastbound on
22 Veteran's, this is the image you'll see. In
23 terms of the second phase, this is indicating the
24 professional building up here, the medical

1 campus, which is about 600 -- 660,000 square
2 feet, and one of the variances that we are
3 requesting is for a 90 -- 90-foot high building,
4 seven stories, and then down here we are placing
5 a parking facility here on center with
6 medical-related retail and perhaps a pharmacy or
7 dialysis or things like that.

8 Down at the bottom here is a
9 150,000 square feet fitness center, and one of
10 the things that is very important in terms of the
11 design was to connect up to the Civic Center over
12 here, the Kendall County complex, so this line
13 extends directly and accesses directly to the
14 Kendall County complex.

15 Detention is shown in here.
16 These are areas for detention and we have
17 selected this area for detention because, one,
18 it's the lowest area, but also in conjunction
19 with the residential along here, this made the
20 most sense to create a buffer with the
21 residential to that side. There is a landscape
22 plan of that, and, again, you can see off to the
23 side here, this is where the residential is
24 located, the detention area.

1 Again, a lot of landscaping, we
2 have along that side deciduous trees, ornamental
3 trees, as well as evergreen trees.

4 We developed a sign plan. This
5 is signage above on the tower, signage down on
6 the base of the tower. We've asking for a
7 variance in terms of the height of pylon signs
8 that are located throughout -- throughout the
9 plan. These are really icon elements to in
10 particularly direct people to the main facility.
11 We are requesting to go -- the current standards
12 are six feet maximum, we are requesting ten feet
13 maximum -- or ten feet -- up to ten feet. We had
14 both the parking lots planned with some
15 structured parking and these sketches show the
16 typical parking stalls and the urgent care
17 stalls, you can locate 500 -- over 500 parking
18 spaces with the -- in the parking garage.

19 Analysis of the lighting, the
20 photometrics of the parking areas and the drives,
21 and that's just going through all the different
22 areas. Again, prove to ourselves that especially
23 along the residential area we are not creating a
24 light situation adversely in the space, and

1 actually historically it's in 24-foot high poles
2 for the development.

3 Here are some Cemcon drawings
4 of the preliminary plat of subdivision, I can't
5 explain this to you, and then also the
6 preliminary PUD plan.

7 Our site data, I think the
8 salient points here are we are proposing up to
9 almost a million square feet of building, and you
10 have 1623 parking spaces. To give you a sense of
11 this, at Aurora they have done around between
12 thirteen and 1400 spaces, so that's very -- very
13 comparable. These are just some 3-D images. We
14 modeled the site, and one of the things that you
15 require -- what you require is we are proposing
16 for the mechanical systems that you not see them
17 from the ground, so we have screened mechanical,
18 we have screened mechanical areas throughout the
19 development.

20 These are elevations of the --
21 of this facility. You can see a lot of detail
22 here. This is first phase. First phase will
23 expand over here and also then ultimately into
24 development -- we have not designed the

1 development per se, it's really just blocked out
2 on the masses.

3 You can see this -- this
4 actually has 90 feet, so we are proposing a
5 90-foot high building, which is ten feet over
6 what the current zoning calls for, and this is
7 the 3-D images, working around the -- around the
8 site. Veteran's is located right here, and this
9 would be an extension of Beecher to the south.

10 One of the things that was real
11 important to us in terms of design was to open up
12 the Town Center to the intersection of Beecher
13 and Veteran's, so the Town Center would be kind
14 of like a C-shape that opens up to the
15 intersection. Here you can see it a little bit
16 better. Beecher and Veteran's is over here
17 directly in line with the Town Center. And,
18 incidentally, we did line up the boulevard from
19 the Civic Center to also -- you can see it there.
20 That's a very good way of making it a very
21 unified element to the community.

22 This is the image of the
23 southwest corner of the lot, the Civic Center is
24 over here, and the parking facility, and actually

1 the parking facility is shown as half what the
2 ultimate is. 1623 parking spaces does not
3 include the potential expansion of another 500
4 cars potentially if there is need in the future.

5 And this is a view over -- from
6 the -- from the northwest. Again you can see the
7 extension of Beecher to the south and also the
8 relationship of the Town Center to the corner of
9 Beecher and Veteran's, as well as the
10 relationship to the Civic Center development to
11 the west -- to the east. And that's our
12 presentation.

13 MAYOR PROCHASKA: I will -- just to
14 verify that today you are looking for are signs,
15 the height of the signs and the 90-foot building.

16 MR. KATO: Yes, and seven stories
17 instead of six.

18 MAYOR PROCHASKA: At this time then
19 I would ask if there is anyone in the public that
20 would like to ask any questions or give any
21 comments on the proposed PUD for this facility.
22 Come up and state your name, please.

23 WHEREUPON:

24 CHRIS ARNDT,

1 testified before the Yorkville City Council as
2 follows:

3 MR. ARNDT: Chris Arndt (phonetic).
4 Mine I guess is a question. I just want to
5 address public safety regarding Bristol-Kendall.
6 Do they have equipment to reach that facility?
7 Because I know a few years ago it was an issue.

8 MAYOR PROCHASKA: I don't know if
9 they have a ladder, they do have a big truck.

10 MR. ARNDT: That's what my only
11 question was.

12 MAYOR PROCHASKA: I believe that --

13 MS. SPEARS: Actually I don't
14 believe it's been addressed to them at this time.

15 MR. KATO: I don't know if they've
16 asked about this specific one from the 80 feet to
17 the 90 feet.

18 MR. PHILIPCHUCK: We discussed it at
19 the Plan Council and it was brought up at Plan
20 Commission and the chairman of the Plan
21 Commission as you know is with the Fire District,
22 and so that was discussed, and they indicated
23 they had equipment that would be able to go to
24 those sites, their equipment.

1 MAYOR PROCHASKA: Okay. Anyone
2 else?

3 (No Response)

4 MAYOR PROCHASKA: Hearing none --
5 okay.

6 MS. SPEARS: Regarding the
7 seven-story building, I would like to request a
8 letter from our fire chief indicating that their
9 equipment will reach that high because actually I
10 was the one that had a problem with trying to get
11 six-story buildings in here without the proper
12 fire equipment, and I think the -- at one time we
13 were told that we could borrow the equipment in
14 case of an emergency from Oswego or Sugar Grove
15 and I'd hate to be in that six or seventh story
16 waiting for somebody trying to get through
17 traffic from Sugar Grove or Oswego, so I just
18 would like a letter verifying that they indeed
19 can go up one more story, 90 feet.

20 And, also, the parking spaces,
21 I know you said you had room for a 500-car
22 expansion. The reason why -- I have had several
23 surgeries over at Rush-Copley and I solidly
24 support that and I am very happy that you are

1 coming here, it would be less distance for me to
2 travel, and I am nothing but satisfied with
3 Rush-Copley, and I'd like to say that. However,
4 the parking. I have handicapped parking and I
5 stilling can't find parking over there, it's
6 very, very difficult, so I do recommend that you
7 go ahead with your 500-car expansion at this time
8 just to prepare for all the people that you are
9 going to be receiving and servicing.

10 MR. PHILIPCHUCK: Just so you
11 understand, we would have to obtain a certificate
12 of need for the actual hospital building, so at
13 that time we would have the more specific plans
14 and give you a rough idea of the bulk of the
15 building and approximate square footage.

16 We would get into much more
17 detail at the time that the population in the
18 community allowed us to move forward with that
19 request, and once we would reach that phase, then
20 obviously we would have more detail for you on
21 that building and then of course the parking that
22 would be needed for that, so...

23 MAYOR PROCHASKA: Alderman Munns?

24 ALDERMAN MUNNS: Yeah, a couple

1 questions. The thousand watt outlet lighting,
2 Eric, the thousand watts -- I don't see Travis
3 over there -- is that kind of -- I mean, how --
4 what's a thousand watts? I mean, is that a lower
5 wattage for an industrial?

6 MR. DHUSE: Normal streetlights are
7 150s, the lights at Sycamore and Route 34 is 400,
8 and those are the differences.

9 ALDERMAN MUNNS: So then you are
10 saying your lights would be a thousand watts
11 according to -- but a thousand watts, I mean, it
12 does seem kind of bright, but --

13 MR. PHILIPCHUCK: It's all
14 down-directed lighting, but that was the maximum
15 that we would do.

16 ALDERMAN MUNNS: Do you know what
17 you are going to be recommending to light the
18 campus? I mean, the current Rush-Copley, what is
19 that lighting?

20 MR. KATO: It's currently at 250
21 watts.

22 ALDERMAN MUNNS: And you are going
23 to have this one four times brighter than the one
24 in Aurora? I live right behind there so, believe

1 me, I'm getting a lot of questions about this.

2 MR. KATO: Well, we did the
3 photometrics.

4 ALDERMAN MUNNS: Okay. I might want
5 to change something in that agreement or clarify
6 exactly if you plan on lighting up the whole
7 neighborhood, I would shut the lights off if you
8 are going to put that much, but I didn't know
9 what a thousand watts was.

10 MR. KATO: It's down-directed.

11 ALDERMAN MUNNS: So it's going to be
12 a thousand compared to an open thousand.

13 MR. KATO: It would be completely
14 different.

15 ALDERMAN MUNNS: So it's downwards.
16 What exactly -- Why did you end up with that on
17 the campus? And then in the permitted uses was a
18 power plant, what was that, like an internal
19 thing to power the hospital?

20 MR. KATO: Yes.

21 ALDERMAN MUNNS: I saw power plant
22 in there. And then one last question about the
23 parking garage, is that extra space that would go
24 on top of that garage?

1 MR. KATO: Beside it.

2 ALDERMAN MUNNS: Beside.

3 MR. KATO: Yes.

4 ALDERMAN MUNNS: And how tall is the
5 garage?

6 MR. KATO: Four stories.

7 ALDERMAN MUNNS: Four stories.

8 That's all. Thank you.

9 MAYOR PROCHASKA: Anyone else? Yes.

10 ALDERMAN BURD: I'd like to go back
11 to the height, the seven-story height. I was
12 pretty sure that we already have the truck in
13 effect. We do have that, because I remember Tom
14 Lindblom told me we had it in. But it seems to
15 me it gets to be a certain height where that's
16 not going to help either.

17 Does anybody know how tall a
18 building could be where even that would not work?

19 MAYOR PROCHASKA: Unless it was
20 discussed in there, it didn't seem to be an issue
21 with that, although to get a letter from the
22 chief saying that -- that the ladder goes up to a
23 hundred -- hundred feet I think, yeah, so --

24 ALDERMAN BURD: Well, I know with

1 the high-rises in Chicago, for instance, there is
2 no hook and ladder truck that's going to make it
3 up to -- you know, I used to live on the 22nd
4 floor and that was pretty much it, you know, so
5 that was my thought.

6 MAYOR PROCHASKA: Anyone else?

7 ALDERMAN MUNNS: On the parking
8 garage, all the traffic in and out on a daily
9 basis, is there any -- on the parking garage, is
10 there construction of a certain type? Because
11 again you're going to be pretty adjacent to a
12 bunch of -- the commons right there. I mean, I
13 don't know how much, you know, with a big garage
14 like that there is going to be cars in and out
15 all day long and horns beeping and things like
16 that. I don't know if parking garages or any
17 noise abatement or --

18 MR. KATO: Generally -- I mean, it's
19 a parking garage. We are a little from the
20 property line --

21 ALDERMAN MUNNS: 25 steps, I mean,
22 that's from here to the front door. That's kind
23 of -- kind of close there to the residents. If
24 there is going to be some constant, you know,

1 maybe you could look at possibly some outside
2 walls or something so the noise goes out to 34.

3 ALDERMAN SPEARS: Are you going to
4 provide security for the parking garage like
5 24/7? Are those going to be individuals or just
6 cameras or what exactly -- what type of security
7 would be provided?

8 MR. KATO: Well, we currently have
9 security guards on the grounds, but also it's
10 hard to point out -- the whole building is the
11 campus now -- in that new garage right there
12 there will be cameras, so I would suspect that
13 that garage is constructed as the campus.

14 ALDERMAN SPEARS: I would like to
15 state a correction on Page 7, in the document it
16 says the village rather than city. Just a minor
17 thing.

18 MAYOR PROCHASKA: Anyone else?
19 Alderman Burd.

20 ALDERMAN BURD: Just a quick
21 question about the Route 34 transportation
22 problems. I know Alderman Munns has commented
23 off and on with the traffic on that road. Do you
24 have any concerns about how to -- or how to go

1 about alleviating that?

2 MR. PHILIPCHUCK: We have been
3 coordinating with the commercial developer across
4 the street as far as the improvements that will
5 be done at the intersection of Beecher and 34 and
6 signalization and turn lane. All those things
7 are being planned that the Beecher extension to
8 the south side as well as to the north at
9 controlled intersections will be able to handle
10 those traffic volumes in that area.

11 MAYOR PROCHASKA: Anyone else?

12 ALDERMAN LESLIE: How far south do
13 you plan on extending Beecher Road?

14 MR. PHILIPCHUCK: We will be
15 extending it to the -- our southerly property
16 line, which we described as roughly 40 acres, and
17 so when the Conover family goes to develop the
18 balance of the property, that's when it will be
19 extended south to River Road.

20 MAYOR PROCHASKA: Anyone else?

21 (No Response)

22 MAYOR PROCHASKA: Hearing none, I
23 would entertain a motion to close the public
24 hearing.

1 ALDERMAN SPEARS: So moved.
2 ALDERMAN BURD: Second.
3 MAYOR PROCHASKA: Moved and
4 seconded. May I have roll call, please?
5 MS. MILSCHEWSKI: Spears.
6 ALDERMAN SPEARS: Aye.
7 MS. MILSCHEWSKI: Burd.
8 ALDERMAN BURD: Aye.
9 MS. MILSCHEWSKI: Munns.
10 ALDERMAN MUNNS: Aye.
11 MS. MILSCHEWSKI: James.
12 ALDERMAN JAMES: Aye.
13 MS. MILSCHEWSKI: Wolfer.
14 ALDERMAN WOLFER: No.
15 MS. MILSCHEWSKI: Leslie.
16 ALDERMAN LESLIE: Aye.
17 MS. MILSCHEWSKI: Besco.
18 ALDERMAN BESCO: Aye.
19 MS. MILSCHEWSKI: Bock.
20 ALDERMAN BOCK: Aye.
21 MAYOR PROCHASKA: Motion carried,
22 public hearing is closed.
23 (Which were all the
24 proceedings had in

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public hearing.)

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1 STATE OF ILLINOIS)
2) ss:
3 COUNTY OF LASALLE)


4 CHRISTINE M. VITOSH, being first duly
5 sworn, on oath says that she is a Certified
6 Shorthand Reporter doing business in the State of
7 Illinois;

8 That she transcribed via audio cassette
9 proceedings had at the foregoing meeting;

10 And that the foregoing is a true and
11 correct transcript of the audio cassette so
12 recorded as aforesaid and contains all the
13 proceedings had at the said meeting.

14 IN WITNESS WHEREOF I have hereunto set
15 my hand this 25th day of
16 June, 2007.

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CHRISTINE M. VITOSH, C.S.R.
CSR License No. 084-002883

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**BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD**

| | | |
|---------------------------|---|-------------|
| FOX MORaine, LLC |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 07- 146 |
| |) | |
| UNITED CITY OF YORKVILLE, |) | |
| CITY COUNCIL |) | |
| |) | |
| Respondent. |) | |

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on this 24th day of September, 2008, George Mueller, one of the attorneys for Petitioner, Fox Moraine, LLC, filed via electronic filing of the attached **Motion to Compel Production of Transcripts and Videos** with the Clerk of the Illinois Pollution Control Board, a copy of which is herewith served upon you.

Respectfully submitted,

FOX MORaine, LLC

By: /s/ George Mueller
One of its Attorneys

George Mueller
Mueller Anderson, P.C.
609 East Etna Road
Ottawa, Illinois 61350
(815) 431-1500 – Telephone
(815) 431-1501 - Facsimile
george@muelleranderson.com

Charles Helsten
Hinshaw & Culbertson LLP
100 Park Avenue
Rockford, Illinois 61101
(815) 490-4900 - Telephone
(815) 490-4901 - Facsimile

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Fox Moraine, LLC v. United City of Yorkville
PCB No. 07-146

SERVICE LIST

PCB 2007-146
Bradley Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
1000 West Randolph Street
Suite 11-500
Chicago, IL 60601

PCB 2007-146
Charles Helsten
Hinshaw & Culbertson
100 Park Avenue
P.O. Box 1389
Rockford, IL 61105-1389

PCB 2007-146
Leo P. Dombrowski
Wildman, Harrold, Allen & Dixon
225 West Wacker Drive
Suite 3000
Chicago, IL 60606-1229

PCB 2007-146
Thomas I. Matyas
Wildman, Harrold, Allen & Dixon
225 West Wacker Drive
Suite 3000
Chicago, IL 60606-1229

PCB 2007-146
Ms Valerie Burd, Mayor
City of Yorkville
800 Game Farm Road
Yorkville, IL 60560

PCB 2007-146
Eric Weis
Kendall County State's Attorney
Kendall county Courthouse
807 John Street
Yorkville, IL 60560

George Mueller
Mueller Anderson, P.C.
609 East Etna Road
Ottawa, Illinois 61350
(815) 431-1500 – Telephone
(815) 431-1501 - Facsimile
george@muelleranderson.com

PCB 2007-146
Derke J. Price
Ancel, Glink, Diamond, Bush & Krafthefer
P.C.
140 South Dearborn Street
Sixth Floor
Chicago, IL 60603

PCB 2007-146
Jeffrey D. Jeep
Jeep & Blazer, LLC
24 North Hillside Avenue
Suite A
Hillside, IL 60162

PCB 2007-146
Anthony Hopp
Wildman, Harrold, Allen & Dixon
225 West Wacker Drive
Suite 3000
Chicago, IL 60606-1229

PCB 2007-146
James B. Harvey
Buck, Hutchison & Ruttler
2455 Glenwood Avenue
Joliet, IL 60435

PCB 2007-146
Michael Roth, Interim City Attorney
City of Yorkville
800 Game Farm Road
Yorkville, IL 60560

PCB 2007-146
James Knippen
Walsh Knippen Knight & Pollick
2150 Manchester Road
Suite 200
Wheaton, IL 60187-2476

Charles Helsten
Hinshaw & Culbertson LLP
100 Park Avenue
Rockford, Illinois 61101
(815) 490-4900 - Telephone
(815) 490-4901 - Facsimile

CERTIFICATE OF SERVICE

I, Sharon Twardowski, a non-attorney, certify that I served a copy of the foregoing **Notice of Filing and to Compel Production of Transcripts and Videos** to the Hearing Officer and all Counsel of Record listed on the attached Service list, by sending it via Electronic Mail on September 24, 2008, before 5:00 p.m.

/s/ Sharon Twardowski

- [x] Under penalties as provides by law pursuant to ILL. REV. STAT. CHAP. 110-SEC 1-109, I certify that the statements set forth Herein are true and correct

George Mueller
Mueller Anderson, P.C.
609 East Etna Road
Ottawa, Illinois 61350
(815) 431-1500 – Telephone
(815) 431-1501 - Facsimile
george@muelleranderson.com

Charles Helsten
Hinshaw & Culbertson LLP
100 Park Avenue
Rockford, Illinois 61101
(815) 490-4900 - Telephone
(815) 490-4901 - Facsimile
chelsten@hinshawlaw.com

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL
OF THE UNITED CITY OF YORKVILLE, KENDALL COUNTY, ILLINOIS,
HELD IN THE CITY COUNCIL CHAMBERS,
800 GAME FARM ROAD ON
TUESDAY, OCTOBER 24, 2006.

Mayor Prochaska called the meeting to order at 7:04 P.M and led the Council in the Pledge of Allegiance.

ROLL CALL

Clerk Milschewski called the roll.

| | | |
|----------|--------|--------------------------------|
| Ward I | James | Present |
| | Leslie | Present |
| Ward II | Burd | Present |
| | Wolfer | Present (arrived at 7:40 p.m.) |
| Ward III | Bock | Present |
| | Munns | Present |
| Ward IV | Besco | Present |
| | Spears | Present |

Also present: City Clerk Milschewski, City Treasurer Powell, City Attorney Wyeth, Interim City Administrator Crois, Assistant City Administrator Olson, Finance Director Mika, Police Chief Martin, Director of Public Works Dhuse, Community Development Director Miller, Director of Park & Recreation Mogle, and Public Relations Manager Spies.

QUORUM

A quorum was established.

INTRODUCTION OF GUESTS

Mayor Prochaska asked the staff and guests to introduce themselves. He welcomed the guests and asked them to enter their names on the attendance sheet provided.

AMENDMENTS TO THE AGENDA

Alderman Spears asked that Item #3 – Resolution Approving the Final Plat of Subdivision for Bristol Bay Unit 11 and Item #4 – Resolution Approving the Final Plat of Subdivision for Bristol Bay Unit 12 be removed from the Consent Agenda and placed on the regular agenda under the Economic Development Committee Report.

Alderman Munns noted that the developer has asked that Item #5 – Resolution Approving the Final Plat of Subdivision for Bristol Bay Unit 13 be tabled until a future date and he needs to make changes to the Final Plat.

Alderman Spears asked that Item #2 - Sleepy Hollow Road Vacation and Replacement Street under the Public Works Committee Report, be removed from the agenda because the road vacation was already voted down and none of the aldermen who voted against it asked for it to be reconsidered. Mayor Prochaska explained that a vote of the Council was needed to remove an item from the City Council and that per the Governing Ordinance; an alderman requested that this item be placed on the agenda. Alderman Munns asked if this item was placed on the agenda by October 20, 2006 and Alderman Besco indicated that it was. Alderman Spears noted that there wasn't any information on Item #1 - Sleepy Hollow Road Upgrades/Alternatives on the Public Works Committee Report in the packet. Alderman Besco indicated that it was his intention to ask that this be tabled. Alderman Spears stated that per Robert's Rules, a defeated item could only be placed on an agenda again if one of the aldermen who voted against it requested it. Mayor Prochaska stated that this was true if it was the exact same issue however this is not. Alderman Burd asked the City Attorney for his opinion on this matter. Attorney Wyeth explained that the item currently on the agenda indicates two very different matters from the one previously decided on by the City Council; it discusses the actual timing of the vacation and the consideration of a replacement street. Alderman Spears stated that she disagreed with Attorney Wyeth's legal opinion.

COMMITTEE MEETING DATES

| | |
|--------------------------------|--|
| Public Works Committee | Committee of the Whole 7:00 P.M., Tuesday, November 21, 2006 City of Yorkville Conference Room |
| Economic Development Committee | Committee of the Whole 7:00 P.M., Tuesday, November 21, 2006 City of Yorkville Conference Room |

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The Minutes of the Regular Meeting of the City Council – October 24, 2006 – page 2

| | |
|-----------------------------|---|
| Administration Committee | Committee of the Whole 7:00 P.M., Tuesday, November 7, 2006 City of Yorkville Conference Room |
| Public Safety Committee | Committee of the Whole 7:00 P.M., Tuesday, November 7, 2006 City of Yorkville Conference Room |
| Ad Hoc Technology Committee | To Be Announced |

PRESENTATIONS

K-9 Donation

Bill Robinson, president of the Citizens Police Academy Alumni Association, along with other members of the CPAA presented Chief Martin and Officer Pleckham with a check for \$250.00 to use toward the acquisition of a new canine officer. Chief Martin, Officer Pleckham and Mayor Prochaska thanked the CPAA for their donation.

Certificates of Recognition -Officer Andrew Jeleniewski

Mayor Prochaska and Chief Martin presented Officer Jeleniewski with a Certificate of Recognition for his dedication to the United City of Yorkville's K-9 unit. Officer Jeleniewski researched funding for an additional K-9 officer for the Police Department which led to the acquisition of K-9 Officer O'Neil, the Alcohol Tobacco and Firearm bomb dog. Chief Martin also explained that Officer Jeleniewski has made it possible to obtain free food for the K-9s.

PUBLIC HEARINGS

Kendall Marketplace Business District

Mayor Prochaska entertained a motion to into public hearing for the purpose of discussing the Kendall Marketplace Business District. So moved by Alderman Leslie; seconded by Alderman Bock.

Motion approved by a roll call vote. Ayes-7 Nays-0
Bock-aye, Spears-aye, Burd-aye, Munns-aye, James-aye, Leslie-aye, Besco-aye

Please see attached Report of Proceedings by Christine Vitosh, C.S.R. from Depo Court Reporting Service for the transcription of this portion of the public hearing

Mayor Prochaska entertained a motion to close the public hearing. So moved by Alderman Besco; seconded by Alderman Wolfer.

Motion approved by a roll call vote. Ayes-7 Nays-0
Spears-aye, Burd-aye, Munns-aye, James-aye, Leslie-aye, Besco-aye Bock-aye

Wiseman-Hughes

Mayor Prochaska entertained a motion to into public hearing for the purpose of discussing PC 2006-64, Wiseman-Hughes Enterprises, Inc., petitioner, who has filed an application with the United City of Yorkville, Kendall County, Illinois requesting annexation to the United City of Yorkville and rezoning from Kendall County A-1 Agricultural to United City of Yorkville Planned Unit Development Agreement zoning to allow uses permitted in residential districts and for hearing as to the Annexation Agreement of Petitioner. The real property consists of approximately 91.80 acres east of Route 47, adjacent to and south of the Windette Ridge Subdivision, Yorkville, Kendall County, Illinois. So moved by Alderman Leslie; seconded by Alderman Besco.

Motion approved by a roll call vote. Ayes-7 Nays-0
Spears-aye, Burd-aye, Munns-aye, James-aye, Leslie-aye, Besco-aye Bock-aye

Please see attached Report of Proceedings by Christine Vitosh, C.S.R. from Depo Court Reporting Service for the transcription of this portion of the public hearing

Mayor Prochaska entertained a motion to close the public hearing. So moved by Alderman Besco; seconded by Alderman Wolfer.

Motion approved by a roll call vote. Ayes-7 Nays-0
Burd-aye, Munns-aye, James-aye, Leslie-aye, Besco-aye Bock-aye, Spears-aye

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General Obligation Refunding Bonds (Alternate Revenue Source)

Mayor Prochaska noted that there wasn't any information regarding this public hearing in his packet and there was no representative from Speer Financial present. Attorney Wyeth explained that the public hearing could be opened for the purpose of hearing any comments from the public and then the hearing could be closed. Mayor Prochaska suggested postponing the hearing and Attorney Wyeth stated that that would be fine as well.

Mayor Prochaska entertained a motion to go into public hearing for the purpose of discussing the General Obligation Refunding Bonds (Alternate Revenue Source) due to lack of documentation. So moved by Alderman Munns; seconded by Alderman Besco.

Motion approved by a roll call vote. Ayes-7 Nays-0
Burd-aye, Munns-aye, James-aye, Leslie-aye, Besco-aye, Bock-aye, Spears-aye

Please see attached Report of Proceedings by Christine Vitosh, C.S.R. from Depo Court Reporting Service for the transcription of this portion of the public hearing

A motion was made by Alderman Burd to postpone the public hearing until the October 30, 2006 meeting; seconded by Alderman Bock.

Motion approved by a roll call vote. Ayes-7 Nays-0
Munns-aye, James-aye, Leslie-aye, Besco-aye, Bock-aye, Spears-aye, Burd-aye

Revised Landscape Ordinance

Mayor Prochaska entertained a motion to into public hearing for the purpose of discussing the Revised Landscape Ordinance. So moved by Alderman Munns; seconded by Alderman Besco.

Motion approved by a roll call vote. Ayes-6 Nays-0
Munns-aye, James-aye, Leslie-aye, Bock-aye, Spears-aye, Burd-aye

Please see attached Report of Proceedings by Christine Vitosh, C.S.R. from Depo Court Reporting Service for the transcription of this portion of the public hearing

Mayor Prochaska entertained a motion to close the public hearing. So moved by Alderman Leslie; seconded by Alderman Spears.

Motion approved by a roll call vote. Ayes-6 Nays-0
James-aye, Leslie-aye, Bock-aye, Spears-aye, Burd-aye, Munns-aye

Alderman Besco was not present for the public hearing.

Revised Off Street Parking Regulations and Requirements

Mayor Prochaska entertained a motion to into public hearing for the purpose of discussing the Revised Off Street Parking Regulations and Requirements So moved by Alderman Munns; seconded by Alderman Leslie.

Motion approved by a roll call vote. Ayes-6 Nays-0
James-aye, Leslie-aye, Bock-aye, Spears-aye, Burd-aye, Munns-aye

Please see attached Report of Proceedings by Christine Vitosh, C.S.R. from Depo Court Reporting Service for the transcription of this portion of the public hearing

Mayor Prochaska entertained a motion to close the public hearing. So moved by Alderman Bock; seconded by Alderman Leslie.

Motion approved by a roll call vote. Ayes-7 Nays-0
Leslie-aye, Besco-aye Bock-aye, Spears-aye, Burd-aye, Munns-aye, James-aye

Alderman Besco returned to the meeting at 7:35 p.m.

CITIZEN COMMENTS

Joanne Gilbert, Kendall County resident, commented that she hoped that before Sleepy Hollow Road is closed, the alternative road would be completed. She stated that if an ambulance would have to take someone a mile or two out of the way it could make a big difference.

Todd Milliron, Kendall County resident, commented that he had asked the City Council not to vacate Sleepy Hollow Road at an earlier meeting however a majority of the Council chose not to

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listen. He stated that the town did not want the garbage dump, the City Council was ignoring the people they were elected to serve and he asked why the City Council was encouraging the siting of a landfill. He noted that the Council has taken more time debating parking and smoking bans than debating the Solid Waste Host Agreement. He stated he was tired of being ignored and that the City Council would pay for their bad decisions. He also stated that he wanted Sleepy Hollow Road were it is now and open for all of the citizens to use. He asked the City Council to stop the landfill tonight.

Randy Scott, 45 Highview Drive, commented that he lives in Pavillion Heights and is concerned with the landfill because it affects the value of land in between Pavillion Heights and the landfill. He explained that he was told by other residents that the City annexed the property because landfills were not allowed in the City and he thought they would be surprised to know what is going on. He stated that he has lived in Yorkville for fifty-six years, he loves the City and the people in it however he was embarrassed by what was going on in Yorkville. He stated that he felt a bad mistake was made and he begged the City Council to correct it.

Tom Gilmour, Kendall County resident, asked Alderman Besco if Sleepy Hollow Road would become safer when one thousand garbage trucks are running up and down the highway. He stated that the target goal of the landfill is one million tons of garbage per year. He explained he worked for the railroad and the heaviest train he was on was a 14,000 ton coal train. He said that the landfill's target goal equals seventy-one 14,000 ton coal trains per year. He stated that this traffic will be coming down Route 71. He commented that in the upcoming elections there will be a price paid for the landfill and he intends to be instrumental networking with people in the City who are not onboard with the City Council. He further commented that the City polled its residents about a parking ban however it did not poll on the landfill which will impact the City more than anything else.

Rob Parrish, Kendall County resident, commented that he did not understand the rush in this matter. He asked the City Council to do their homework and take a year to see why a landfill was needed. He expressed his concern that a landfill would have on the water table and commented that this could create a large lawsuit. He also commented that traffic will not only affect Route 71 but every road in the City. He stated that he could not understand why the City would vacate Sleepy Hollow Road. He stated he was proud to move to Yorkville but he is not proud of Yorkville now. Mr. Parrish also noted that it was reported in the newspaper that Yorkville and Newark's property values are declining and he felt this started when the process for the landfill started.

Sharon Bond, Kendall County resident, commented that she hated seeing in the newspaper that the residents of Yorkville are affected more by the landfill. She explained that she lives several hundred feet from the landfill site and the City cannot tell her that it will not affect her well before the United City of Yorkville's wells. She stated that she did not like hearing that Yorkville was trying to change school lines so her children will have to go to Yorkville schools. She commented that the City is causing stress on the County resident's lives. She noted that Kendall County was trying to protect everyone and the City is not. Mayor Prochaska commented that there was a lot of misinformation out in the public. He reminded everyone there is no predetermined approval or disapproval of a landfill. He explained that a fourteen day notice is given before an application is filed and then the first public hearing cannot be held for ninety days. He also clarified that by state statute, the City cannot change School District boundaries.

Fred DuSell, 478 Kelly Avenue, commented that he has had a chance to compare the County and City's Host Agreements and the City's agreement is irresponsible. He stated that he cannot believe the Host Agreement has been accepted because it does not address the end use agreement, financial stability of the owner/operator and environmental concerns. He asked the City Council to review the agreement more and improve on it.

Jerry Deeter, Kendall County resident, commented that he read that Alderman Besco stated that Sleepy Hollow Road was dangerous and he asked him if he had driven down the road. Alderman Besco stated that he had and he considered it dangerous because the road is only 14'9" wide with a poor site line. Mr. Deeter further commented on the comparison between Kendall County's agreement and the City's. He stated that the County agreement has things in it to protect the County residents whereas the City's protects City residents only. He noted that all around the landfill is County and that the County's agreement protects water 1 ½ mile from a landfill but the City's only applies to 1000'. He stated that County residents are concerned with property values, truck traffic, garbage flying around, etc. These concerns are addressed by the County's agreement which they have been working on for a long time. Mr. Deeter asked who drafted the City's agreement, did the City Council have any input and how long did it take. Alderman Spears responded that the City Council was presented a Host Agreement and was reassured that it was reviewed and a good agreement. She stated that after attending a Kendall County meeting and

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seeing the comparison she has concerns. Mayor Prochaska indicated that there was a meeting scheduled on October 30, 2006 at 7:00 p.m. and the City's attorney will explained the process and answer questions. Mr. Deeter asked if the vacation of Sleepy Hollow Road could be postponed.

Joanne Gilbert readdressed the City Council. She commented that any time anyone mentions a landfill, the mayor and some aldermen get upset because no application for one has been received yet. She asked why there was a threat of a lawsuit if there was no agreement. Mayor Prochaska explained that the annexation agreement for the property calls for the City to vacate Sleepy Hollow Road. The road has not been vacated so there is a threat of a lawsuit. Mrs. Gilbert questioned why the vacation was included in the annexation agreement. Alderman Spears noted that she found out that it is illegal to put a road vacation in an annexation agreement.

Rob Parrish readdressed the City Council. He asked why the City offered to close the road. Mayor Prochaska explained that the owner requested the vacation as part of the annexation. Mr. Parrish noted that there has not been an accident at Sleepy Hollow Road and Route 71 in over seventeen years. He also noted that the owner has cleaned up the plastic bags on the property. He once again pleaded that the road not be vacated.

Mr. Milliron readdressed the City Council and asked who drafted the annexation agreement. Mayor Prochaska explained that usually the petitioner presents a draft to the City and then it is discussed between the petitioner's attorney and the City Attorney before it is presented to the City Council. Mr. Milliron asked the exact date the agreement was presented to the City Council and he asked how much input the aldermen had into the agreement. Alderman Besco stated that each member of the Council received a copy, which he read. Alderman Burd stated that they all received copies however the vacation was not thoroughly discussed and no public comment was received about it.

Frank Cipolla, Yorkville resident, asked Alderman Besco how long the road has been dangerous. Alderman Besco responded that it was his opinion that the sight line to the south is dangerous and the width of the road (14'9") along with the width of the easement (39') is not wide enough to build a City street. He explained that the City has standards for its streets and to bring Sleepy Hollow Road up to standard it will cost approximately \$1.7 million which does not include the purchase of the needed easement. Alderman Burd noted that there are streets in her ward that are not up to standard. She stated that the school superintendent, Dr. Engler, has informed her that he has requested that they be upgraded for ten years and that if these streets are not brought up to standards by next spring, the school busses will no longer be allowed to go down them. She stated some of the streets are on the plan to be improved but suddenly there is a street in the City for less than two weeks and it is at the top of the list. Mr. Cipolla asked if the aldermen notify their ward of upcoming things. Alderman Spears stated that most aldermen talk with their constituents when they are contacted by them. She further stated that while she appreciated Alderman Besco's opinion, she has statistics and documents that she will be presenting later in the meeting when the vacation is discussed. Mr. Cipolla asked who his aldermen were and what ward he lived in and he was given this information.

Bob Kalizinski, Yorkville resident, asked the Council if they were aware that contamination was found at the landfill in Lowell, Indiana. Alderman James explained that Kendall County was looking at this land as well as other parcels for a landfill. He stated that the entire City Council gave the mayor and staff direction to look into getting the property annexed so that the City could have control over it. Mr. Kalizinski noted that property values are declining, there may be a lawsuit and there may be contaminated water, etc. and this is the legacy of the City Council. Mr. Kalizinski stated that the City Council opened the door for the landfill to walk through. Mayor Prochaska clarified that the initial discussion for the landfill was with Kendall County and they brought it to the City. Alderman Wolfer reminded everyone that a landfill has not been approved yet and explained that he has tried to educate himself by looking at other landfills and he currently has an appointment to look at one that did not work.

Mr. Parrish readdressed the Council. He stated that he bought a copy of the City's Comprehensive Plan and that he had trouble with anyone who read it and then voted for it because it does not protect citizens. He asked the Council not to vacate the road until everyone is more familiar with the landfill. He asked them to increase taxes instead of having a landfill which could ruin the water table and to slow the process down. He suggested that Attorney Wyeth give a presentation as to what the City's legal liability is. Attorney Wyeth stated that a landfill is a complicated matter and he would be the last one to say he is authority as to how this process should go forward or how landfills work. He reiterated that on Monday, October 30, 2006, there will be an information meeting where Attorney Derke Price, who has a background in landfills, will begin the process of education. Attorney Price has assembled a panel of experts and they will be available for questions. The location for the meeting is still undetermined.

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CONSENT AGENDA

Alderman Leslie apologized to Susan Kritzberg for his harsh comments. He stated that he reviewed the plan more thoroughly and he welcomed her into the business community.

1. Kritzberg – 101 Center Street (PC 2006-59)
 - a) **Ordinance 2006-120** - Authorizing the Execution of a Development Agreement – *authorize the Mayor and City Clerk to execute*
 - b) **Ordinance 2006-121** – Rezoning - *authorize the Mayor and City Clerk to execute*
2. Kritzberg – 101 Center Street (ZBA 2006-58)
 - a) **Ordinance 2006-122** – Approving a Setback Variance - *authorize the Mayor and City Clerk to execute*
3. Nelson Subdivision – 1 ½ Mile review – *approve the area commonly called Nelson Subdivision, a county development, under the City's 1 ½ mile review authority* (PC 2006-64)
4. **Resolution 2006-92** – Approving the Preliminary and Final Plats of Re-Subdivision for XPAC - *authorize the Mayor and City Clerk to execute, subject to staff comments and legal review* (PC 2006-74)
5. **Resolution 2006-93** – Approving the Final Plat of Subdivision for Aspen Ridge - *authorize the Mayor and City Clerk to execute, subject to staff comments and legal review* (PC 2006-36)
6. School Impact Fee Payment Agreement for Bristol Bay Subdivision – *acknowledge and accept the Agreement, acknowledge future need to amend Annexation Agreement consistent with Agreement* (EDC 2006-26)
7. Generator Sale – *authorize sale to RJM Grading of Yorkville in an amount not to exceed \$5,000.00* (PW 2006-167)
8. Mosquito Control Contract – *award to Clarke Environmental Mosquito Management, Inc. in an amount not to exceed \$28,414.00. contingent upon funding in the 2007/2008 budget and authorize Mayor to execute*(PW 2006-168)
9. Rob Roy Creek Interceptor (Contract 6) - Change Order #2 - *authorize decrease in an amount not to exceed \$22,613.60 and authorize Mayor to execute* (PW 2006-169)
10. Kennedy Road @ Freedom Place Intersection Improvement - Change Order #1 - *authorize decrease in an amount not to exceed \$35,362.05 and authorize Mayor to execute* (PW 2006-170)
11. 2006 Joint and Crack Filling - Change Order #1 - *authorize decrease in an amount not to exceed \$4,052.36 and authorize Mayor to execute*(PW 2006-171)
12. Miscellaneous Bituminous Paving - Change Order #1 - *authorize increase in an amount not to exceed \$388.32 and authorize Mayor to execute* (PW 2006-172)
13. Raymond Storm Sewer Outfall - Change Order #1 - *authorize increase in an amount not to exceed \$238,314.00 and authorize Mayor to execute, contingent upon receiving funding* (PW 2006-173)
14. Fox Hill Unit 5 – Final Acceptance & Bond Reduction #2 – *accept public infrastructure of Fox Hill Unit 5 for ownership and maintenance and authorize a reduction to the bond in an amount not to exceed \$92,171.90. subject to verification that developer has no outstanding debt owed to the City* (PW 2006-174)
15. **Resolution 2006-94** – IDOT Highway Permit and Resolution – 101 E. Center Street - *authorize the Mayor and City Clerk to execute* (PW 2006-175)
16. **Ordinance 2006-123** – Amending City Code 7-5-15-J Water Conservation Regulations - *authorize the Mayor and City Clerk to execute* (PW 2006-176)
17. Southwest Waterworks System Improvements Contracts F.6- F.9 – Amended Engineering Agreement - *authorize the Mayor and City Clerk to execute, subject to developer funding* (PW 2006-177)
18. Southwest Waterworks System Improvements Contracts F.1- F.5 – Amended Engineering Agreement - *authorize the Mayor and City Clerk to execute, subject to developer funding* (PW 2006-178)
19. Southwest Waterworks System Improvements Contracts F.1- F.5 – Amended Engineering Agreement - *authorize the Mayor and City Clerk to execute, subject to developer funding* (PW 2006-178)
20. Speedway Redevelopment – Sidewalk Agreement - *authorize City Administrator to execute* (PW 2006-179)
21. Speedway Redevelopment – Plat of Easement - *authorize City Administrator to execute* (PW 2006-180)
22. Speedway Redevelopment – Plat of Dedication - *authorize City Administrator to execute* (PW 2006-181)
23. Sunfield Restaurant - Plat of Easement - *authorize the Mayor and City Clerk to execute*(PW 2006-182)
24. Bridge Street Self-Storage - Plat of Easement - *authorize City Administrator to execute*(PW 2006-183)

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25. BP Amoco - Plat of Easement - authorize the Mayor and City Clerk to execute (PW 2006-184)

Mayor Prochaska entertained a motion to approve the Consent Agenda as amended. So moved by Alderman Bock; seconded by Alderman Spears.

Motion approved by a roll call vote. Ayes-8 Nays-0
Burd-aye, Munns-aye, James-aye, Wolfer-aye,
Leslie-aye, Besco-aye, Bock-aye, Spears-aye

MINUTES FOR APPROVAL

A motion was made by Alderman James to approve the minutes of the City Council meetings of August 22, 2006 and September 12, 2006; seconded by Alderman Wolfer.

Motion approved by a viva voce vote.

PLANNING COMMISSION/ZONING BOARD OF APPEAL

No report

BILLS FOR APPROVAL

A motion was made by Alderman James to approve the paying of the bills listed on the Detailed Board Report dated October 11, 2006 totaling the following amounts: checks in the amount of \$1,631,827.25 (vendors); \$203,503.72 (payroll period ending 9/30/06); for a total of \$1,835,330.97 (total); seconded by Alderman Wolfer.

Motion approved by a roll call vote. Ayes-8 Nays-0
Munns-aye, James-aye, Wolfer-aye, Leslie-aye,
Besco-aye, Bock-aye, Spears-aye, Burd-aye

REPORTS

MAYOR'S REPORT

Proclamation for Make a Difference Day

Mayor Prochaska read a proclamation for Make a Difference Day (see attached). Mayor Prochaska entertained a motion to ratify the proclamation. So moved by Alderman Wolfer; seconded by Alderman Leslie.

Motion approved by a viva voce vote.

County Road Tax Referendum

Mayor Prochaska reported that the County requested the City to do a motion of support for the County Tax Referendum which is the half cent tax the County wants to impose on retail sales. The proceeds will be used to pay for County road improvements. Mayor Prochaska entertained a motion to support the County Road Tax Referendum. So moved by Alderman Besco; seconded by Alderman James.

Alderman Spears commented that this is a good thing for the United City of Yorkville to support because the City generates traffic.

Alderman Burd agreed with Alderman Spears and stated that the County does not have a lot of funds and there are many roads that need to be repaired or widening. She stated that the County does not have the benefit, like the City, of getting funds from developers. She asked for the support from everyone in the County in getting this passed.

Alderman Munns commented that he supported the referendum because the County roads need repairs however he felt that it was "crossing lines" by voting to support this. He did not feel that the City Council should use its weight to tell people to vote for the referendum.

Mayor Prochaska commented that the City has an Intergovernmental Agreement with Kendall County where the City collects funds from developer to help improve County roads. He stated that he understood Alderman Munns' thought however he felt that people in the community want to know where their leaders stand on issues. He stated that he personally supports the referendum.

Motion approved by a roll call vote. Ayes-7 Nays-1
Bock-aye, Besco-aye, Leslie-aye, Wolfer-aye,
James-aye, Munns-nay, Burd-aye, Spears-aye

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CITY COUNCIL REPORT

No report.

ATTORNEY'S REPORT

Attorney Wyeth redistributed a letter dated October 13, 2006 (see attached) which was originally placed in their mailboxes. The letter was in regards to the four petitions the City Clerk received requesting a referendum on the recent annexations. He suggested to the City Council that a copy of his letter or one similar be sent to each person who signed the petitions to explain to them that the City has no legal authority to act on the petitions because the section number of state statute referenced in the petitions does not apply to the form of annexation used by the United City of Yorkville. Because the petitions are on a process not used, there is simply nothing more that can be done. Mayor Prochaska suggested that this would be a valuable thing to do.

Alderman Burd expressed her concern that the letter sent to the petitioners would be from the City Attorney and that he cannot make a decision on this; he can only advise the City Council. She stated that she would like Attorney Wyeth to look into this matter further because she felt that the City Council needed to take action on the petitions and she did not agree with his opinion. Mayor Prochaska reiterated that Attorney Wyeth's memo states that there is no action the City can take.

Alderman Bock asked Alderman Burd if she was privy to some other legal consul thus causing her to challenge the City Attorney and his expertise. Alderman Burd responded that she felt it was logical that if the City Council is given petitions from citizens asking for a referendum, the City Council had to respond to them by voting on the referendum issue.

Alderman Wolfer asked for clarification that there is a problem with how the petitions were done. Mayor Prochaska read from Attorney Wyeth's letter which states that the City has no legal authority to act upon the petitions. Mayor Prochaska asked Alderman Burd what action the City Council should take; a vote to recognize the opinion of the attorney? She expressed her opinion that the City Council should vote to not have a referendum based on the attorney's recommendation because it is not within the City's jurisdiction to do so.

Attorney Wyeth commented that he gave the City Council this information two weeks ago in order to illicit questions or comments from them and when he heard nothing he thought his opinion was accepted. He stated that any of the aldermen can bring an issue forward for a vote and explained that per the Governance Ordinance this would have to be presented four days before a meeting. Alderman Burd stated that she was waiting for something to come up on an agenda and that's why she didn't say anything. Attorney Wyeth clarified with the Council that they did not want him to send out the letter to the petitioners.

Alderman Wolfer asked if the aldermen could be polled as to if they wanted a letter sent to the petitioners. Mayor Prochaska opened the floor for opinions from the City Council. Aldermen Wolfer, Leslie, Besco and Bock expressed the opinion that the petitioners should be made aware of Attorney Wyeth's legal opinion. Alderman Spears asked that her name not be included on the letter.

Alderman Bock noted that if Alderman Burd was uncomfortable having the City Attorney send a letter, a cover letter could be attached from the Mayor. He commented that he felt that Attorney Wyeth had good intentions with his suggestion. He stated that he read the letter two weeks ago and agreed with Attorney Wyeth's opinion and if he had a problem he would have brought it up two weeks ago. He stated that waiting to bring things up is counterproductive, inefficient and a waste of time.

Alderman Burd noted that this matter isn't even on the agenda. She again stated that she assumed his recommendation would be on an agenda for further discussion and that she has been waiting to discuss it and take action on the petitions. She felt that it was the attorney's recommendation that neither he nor the Mayor had the authority to respond to the petitions; the City Council is the only authority to respond to the petitions. She noted that until the Council makes the determination what to do, based on the attorney's recommendation, anything else is illegal. She stated that she has been trying to get the Council not to vacate their authority to the mayor and she hoped they all would think about this and research the situation. She reiterated that she did not agree with the City Attorney and that the City Council has to respond to the petitions.

Alderman Munns stated that after all this discussion he was confused and asked Attorney Wyeth to clarify that he recommends sending a letter to all the residents who signed the petitions. Attorney Wyeth stated that this was correct; he would like the signers to know the outcome of the petitions. He stated that if it is done after a vote, it would be fine. Alderman Munns indicated he was fine with this however he felt his name should not be on the letter because he is not a lawyer

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and cannot give a legal opinion. He felt it was great to communicate to the residents however the letter should not include any names of anyone who is not qualified to make the communication.

Mayor Prochaska noted that Attorney Wyeth's suggestion to the Council was simply that a letter be sent to the petitioners. Mayor Prochaska stated that accepting the recommendation of the City Attorney could go on the next Committee of the Whole meeting agenda and then on to the next City Council meeting.

CITY CLERK'S REPORT

No report.

CITY TREASURER'S REPORT

No report.

CITY ADMINISTRATOR'S REPORT

No report.

FINANCE DIRECTOR'S REPORT

No report.

DIRECTOR OF PUBLIC WORKS REPORT

No report.

CHIEF OF POLICE'S REPORT

Senior Police Academy

Chief Martin reported that the first Senior Police Academy was going to be held on October 30, 2006 from 7:30 a.m. to 3:00 p.m. and that 125 people have already signed up to attend the event which will be held at the Historic Courthouse. He stated that Panera Bread, Rush-Copley and Kendall County TRIAD Senior Providers along with the Yorkville Police Department were sponsoring the event. If the seniors attend five classes, they are entered into a drawing for a door prize. Mayor Prochaska congratulated everyone who worked on the Senior Police Academy to make it a successful event.

School Resource Officer

Chief Martin reported that beginning November 1, 2006, Officer Robbie Hart would be replacing Officer Groesch at the Yorkville Middle School. He will also be teaching DARE classes.

DIRECTOR OF PARKS & RECREATION'S REPORT

No report.

COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

No report.

COMMUNITY RELATIONS MANAGER'S REPORT

Website & Community Relations Update

Community Relations Manager Spies gave a brief presentation of the new City website which features a community calendar, agendas and packet information, new resident packets, etc. Aldermen Wolfer, Leslie and Burd complimented Ms. Spies on the new website.

COMMUNITY & LIAISON REPORT

School Board

Alderman Burd reported that she attended the School Board where the new Bristol Bay Elementary School was discussed. The foundation is in and they expect to be putting up the walls shortly. Also discussed was the 20% increase in the number of students attending the District's schools. The School Board also viewed the plans for the new Middle School in the Raintree development that will cost \$27.5 million. They discussed the dramatic increase in construction costs in the last six months and the difficulty of the build on the Raintree site due to the elevation. They noted that due to the delay in the referendum, the building projects are a year behind. The Bristol Bay School is being built without using referendum funds through the efforts of the developers. She complimented Castle Bank for stepping forward to help finance the school.

Yorkville Economic Development Corporation

Mayor Prochaska reported that a few new members were voted in at the last meeting. It was discussed that the Executive Director will draft a memo addressing some of the developments coming into the City. This would provide information to the City Council and clarify what is rumor and what is not.

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COMMITTEE REPORTS

PUBLIC WORKS COMMITTEE REPORT

**Sleepy Hollow Road Upgrades / Alternatives
(PC 2006-185)**

A motion was made by Alderman Besco to postpone Sleepy Hollow Road Upgrades/Alternatives to a future City Council meeting; seconded by Alderman Wolfer.

Motion approved by a roll call vote. Ayes-8 Nays-0
Besco-aye, Leslie-aye, Wolfer-aye, James-aye,
Munns-aye, Burd-aye, Spears-aye, Bock-aye

Ordinance 2006-124

**Sleepy Hollow Road Vacation and Replacements Street
(PC 2006-186)**

A motion was made by Alderman Besco to approve an ordinance vacating a portion of Sleepy Hollow Road located south of Route 71 in the United City of Yorkville and providing for a replacement street, in furtherance of an Annexation Agreement, as presented, subject to legal review; seconded by Alderman James.

Alderman Besco commented that this is a very passionate issue and that he felt that many people have been misguided to believe this is a way to battle a proposal that could be coming. He stated that after the discussion last week regarding the road he came to the conclusion that the argument could be negotiated with the petitioner. After many discussion with staff, the ordinance before the Council is the end result. He pointed out that all the objections that were raised have been addressed including the situation with IDOT. Alderman Besco thanked Mrs. Gilbert for her input in this matter. He stated that the City Council has to look out for the best interest of their constituents and this ordinance will save the taxpayers millions of dollars. He stated that the Council would be remiss in their duties to ignore the obvious benefits.

Alderman Leslie asked Attorney Wyeth where the threatened litigation stood. Attorney Wyeth explained that it is in a thirty day "cure" period until November 9, 2006. If the situation is not "cured" in this time, litigation will proceed. Alderman Leslie commented that the annexations were presented as a way to take control of a possible landfill. However, he noted that he has never been on board with this process and demonstrated this by voting against the annexations and the Host Agreement. He stated that it wasn't until litigation was threatened he changed his vote. He stated that the problem he had with the vote on the annexation agreements was that Mayor Prochaska broke the vote and took ownership. Mayor Prochaska did not vote on the vacation and the responsibility was placed solely on the City Council. Alderman Leslie felt that since there is a thirty day period, this matter should be tabled and looked at more closely.

Alderman Spears commented that according to state statute the City cannot include the vacation of a road in an annexation, the City cannot limit its legislative discretion on a future vote and the vacation of a road is a separate vote. She explained that to vacate a road two findings must be proven; the vacation would be at the public best interest and proof there is an economic benefit that may be derived by the City. If these findings are confirmed then the road may also be put up for auction. She stated that neither finding has been presented to her. She noted that to avoid another lawsuit, the vacation of the road must be removed from the annexation agreement. She stated that it was her opinion that the document before the Council was not a display of what the City Council will be doing "for" the residents or the community but rather a display of what the Council will be doing "to" them. She expressed her concern that if the road was closed, emergency vehicles may have to drive approximately three miles further south. If the owner comes in with a final plat without a landfill but instead commercial or residential, Sleepy Hollow Road would be a "relief valve" for traffic. Alderman Spears distributed information regarding the state statute and accidents which occurred at the site versus those in the City for the Council's review (see attached). She said based on the statistics she received, Game Farm and Somonauk Road and Route 34 and Game Farm Road should be closed because of the number of accidents at these sites. They are more unsafe than Sleepy Hollow Road.

Alderman Burd commented that when the Council was first told of the lawsuit, she brought up the issue that the City's attorneys were supposed to protect them from this type of situation. She feels the Council is "brow beaten" into doing what the City Attorney says because the City is paying him. She stated that the attorneys are advising the Council then it is up to the Council to do its own research and use their brains to determine if this is what they want to do. She said it didn't make sense for the state statute to require a 75% vote of the aldermen if the state did not mean for the Council to exercise their best judgment. She stated that the Council should not follow the attorneys like "sheep down the road" and she did not have a problem voting against the vacation. If the vote results in a lawsuit, she did not believe it would win due to case law.

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Alderman Munns commented that he did not realize the cost involved with the City maintaining the road. He stated that he relies on the advice of the attorneys because he is not an attorney and with his job and family he does not have the time to research things. He stated that this ordinance addresses some of the problems of the road and that the problem is the landfill not the road. He asked for clarification that the ordinance indicates that the road will not be vacated until a siting for a landfill or other development is approved. Alderman Besco stated that this was correct. Alderman Munns felt that to be fiscally responsible to the residents of Yorkville, the Council should vote accordingly. He thanked Alderman Besco for thinking out of the box and coming up with a creative solution as a compromise.

Alderman Wolfer asked if this ordinance is not approved, would it stop the landfill application. Attorney Wyeth explained that any land area can be potentially petitioned for a landfill. He stated that two meetings ago a representative from the landowner stated that the application for a landfill was going to be filed whether or not the road is vacated. At the same time, they did indicate that if the road was not vacated, they would seek legal remedy.

Alderman Besco stated that this ordinance took a lot of thought; every issue brought up by the naysayers was addressed. He noted that to rebuild the road it would cost approximately \$1.7 million and the developer has voluntarily offered to construct a legal road at the time of vacation and this will save the taxpayers money. There are many roads in the City to be fixed and a program has been initiated to address them however this cannot be done if the funds are being spent to make Sleepy Hollow Road legally viable.

Alderman Leslie asked Mayor Prochaska if he knew the vacation was a provision of the annexation agreement and if so why was it allowed to happen. He asked why it wasn't a separate vote standing on its own merit. He also asked Mayor Prochaska if he knew that when he voted on the agreements he would be at odds with the City Council. He commented that the Mayor put him in a spot that went against the spirit of how he voted.

Alderman Bock agreed with Aldermen Munns and Besco. He stated that this is a simple thing: the Council said they would vacate the road. He stated that if in the future after agreeing to something the Council finds they don't like, they want to renegotiate, it sends a bad message. He stated that this is a great solution because the people concerned about losing the road will still have it and the developer is willing to construct a legal road at no cost to the City. He commented that the aldermen have a fiduciary responsibility to the residents of Yorkville. The Council can help the County residents as much as they can but their main obligation and responsibility is to work with the City residents.

Mayor Prochaska addressed Alderman Leslie's questions. He stated that he did know that the request to vacate was in the annexation agreement and that the City would have a second vote to vacate the road. He commented that as far as the City being at odds because there wasn't a unanimous vote; that is government. He stated that he never expects unanimous votes on everything that comes before the Council. He acknowledged that it was a split vote and he made the deciding vote because this is something he believes in. He noted that at whatever level of government when something is approved it is law. He said now there is an existing annexation agreement and the Council needs to move forward. Alderman Leslie asked why Mayor Prochaska allowed the vacation to be in the agreement. Mayor Prochaska stated that the vacation was requested by the petitioner to be in the agreement and he reminded Alderman Leslie that the agreement was given to the City Council for their review.

Alderman Burd commented that Alderman Leslie was "brow beating" the mayor. She noted that the City Council has the right to exercise their free vote based on their best decision. She reiterated that the attorneys are being paid to protect the City Council from this type of situation. She stated that Mayor Prochaska doesn't know any more than the aldermen as to where this will lead and he took the advice of the City's attorneys. She stated that she did not want any one telling someone how to vote; they should vote the way they think best. She also took exception to someone questioning how she handled her fiduciary responsibility.

Alderman Spears commented that Budd and Highpoint Roads are only 6' wider than Sleepy Hollow Road and that the State of Illinois requires a minimum width of 33'. She questioned the cost of redoing the road and asked if the cost of other methods of pavement were investigated. She felt that the City was going to have liability suits because state statute was not followed. She questioned if a formal appraisal was done on the road, what is the public interest in the road and where the replacement road is going to be.

Alderman James stated that the proposal in front of the Council states the road will stay as it until the property is developed. At that time, it will be vacated and a better location for the road will be identified. The other concern is the landfill which is a whole other process. He stated that if

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the road is used to block the landfill it will place a precondition of bias against it. This will take control away from the City and then Springfield will make the decision as to where the landfill will go. He felt the Council was tripping over itself on this issue and he supported the ordinance before the Council.

Alderman Bock commented that when he states his opinion at a meeting it is not his intention to single anyone out. He hoped he stated his opinion as the rest of the aldermen do; no one should take it personally.

Alderman Wolfer commented that he started down this process for the City to get control over a possible landfill because he is the alderman closest to the location, four miles away. He stated that he has major concerns he would like to see addressed and this allows him to have a say in the process. He also wants control over the revenue so at the very best it can be used to keep it in compliance. If the landfill is in the County and something goes wrong, the City will not have the funding to deal with it. He stated that he voted for the vacation, he knew it was included in the agreement and he even contacted the City Attorney to go over questioned he had.

Alderman Munns commented that whether the road is vacated or not, the City has a threat of a lawsuit and that the members of the Council should vote their conscience. He stated that the only benefit of a landfill is the revenue that it will generate that can be used to improve roads, expand infrastructure, etc.

There were no further comments so Mayor Prochaska asked Clerk Milschewski to reread the motion on the floor.

A motion was made by Alderman Burd to table this item; seconded by Alderman Spears.

Alderman Spears commented that she was appalled that the City Council would go ahead and vote on something that is clearly against state statute. She stated that she did not know why the Council would even consider this because it will be putting the City in harms way and she wanted no part of this. She noted that the Host Agreement was voted on at a meeting where they shouldn't have voted only to have a special meeting to ratify the first vote. She did not understand how the Council could ratify something that was incorrect the first time. She stated that she felt the Attorney General should be consulted in this matter to protect the City. She suggested that matter should be slowed down: tabled until more research is done and a proper legal opinion is obtained. She stated that she would like an appraisal of the road that is a "good for nothing" road.

Alderman Besco stated that it is his opinion that the acquisition of a paved 70' easement which would be good for a minor collector is something better than a "good enough" road. He stated that Alderman Spears is telling him that it is okay to put the City in threat of litigation from the petitioner but it is not okay to possibly put the City into litigation with another entity. He asked the Council to get this matter done and move on; the ordinance is good for the City and the residents of the area because they will have a good road to drive on that won't cost the City a penny.

Alderman Leslie thanked Alderman Spears for the research. He stated that it was never his intention to "brow beat" the Mayor; he just wanted to point out his position in terms of the votes. He stated that he felt he was exercising his fiduciary responsibility by trying to keep the City out of a lawsuit. He felt that if the vacation had been removed from the agreement that would have taken the City out of legal peril however the vacation being included in the agreement set this in motion. He stated that if this issue comes to a vote this evening he wants people to understand his vote and position.

Alderman Wolfer noted that Alderman Spears has said the annexation agreement is illegal. He asked Attorney Wyeth his legal opinion. Attorney Wyeth stated that this is the first he has heard of the information Alderman Spears has provided and that he would be happy to look at it. He stated he has researched the matter and he believes that the inclusion was a legal item in the annexation agreement at the time it was written. Alderman Wolfer reiterated that if the landfill is outside City limits, and there is a problem, he cannot fight it. He stated that if it brings in a profit, the City can use some of the profit to force it to comply.

Alderman Munns noted that the solution to construct a new road is a better idea than having a gravel road and he reiterated that the City will probably get sued no matter what it decides on the road.

Alderman Burd agreed with Alderman Munns. She commented that she did not know why the Council was so impressed with the advice of attorneys because they give different advice based

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on the situation. She stated that in this instance there is a clear case to be made that people cannot be forced to vote a certain way because the majority passed an annexation agreement. She stated that the Council is failing in its responsibilities by allowing a threat of a lawsuit to affect their vote. She hoped that aldermen who feel the way she does will vote to table this item.

Alderman Spears agreed that regardless that whatever the Council does there will be a lawsuit. She stated that she would take the chance with a lawsuit from the petitioner because it would not stand up in court because it is against state statute. She felt the Council should take the best alternative and vote against the vacation and protect the City. She recommended that this be tabled so additional and correct information could be obtained.

Motion to table defeated by a roll call vote. Ayes-8 Nays-5
Munns-nay, Burd-aye, Spears-aye, Bock-nay
Besco-nay, Leslie-aye, Wolfer-nay, James-nay

Mayor Prochaska asked Clerk Milschewski to read the original motion again. He noted that it would require a ¾ vote for the motion to be approved.

Motion approved by a roll call vote. Ayes-6 Nays-2
Leslie-aye, Wolfer-aye, James-aye, Munns-aye,
Burd-nay, Spears-nay, Bock-aye, Besco-aye

ECONOMIC DEVELOPMENT COMMITTEE REPORT

**Ordinance 2006-125 Kendall Marketplace – Authorizing Execution of an Amended
And Restated Development Agreement
(PC 2006-34)**

A motion was made by Alderman Munns to approve an ordinance authorizing the execution of an amended and restated Development Agreement with Cannonball LLC, Owner and Harlem Irving Companies, developer, as presented, and to authorize the Mayor and City Clerk to execute all documents upon final legal review; seconded by Alderman Besco.

Motion approved by a roll call vote. Ayes-8 Nays-0
Wolfer-aye, James-aye, Munns-aye, Burd-aye,
Spears-aye, Bock-aye, Besco-aye, Leslie-aye

**Resolution 2006-95 Kendall Marketplace – Approving Final Plat
(PC 2006-34)**

A motion was made by Alderman Munns to approve a resolution approving the Final Plat for Kendall Marketplace subject to legal and staff review; seconded by Alderman Bock.

Motion approved by a roll call vote. Ayes-8 Nays-0
James-aye, Munns-aye, Burd-aye, Spears-aye,
Bock-aye, Besco-aye, Leslie-aye, Wolfer-aye

**Ordinance 2006-126 Bristol Ridge - Authorizing Execution of an Annexation Agreement
(PC 2006-05)**

A motion was made by Alderman Munns to approve an ordinance authorizing the execution of an Annexation Agreement with Bristol Ridge, LLC, as presented, and to authorize the Mayor and City Clerk to execute all documents upon final legal and staff review; seconded by Alderman James.

Motion approved by a roll call vote. Ayes-8 Nays- 0
Munns-aye, Spears-aye, Bock-aye, Besco-aye,
Leslie-aye, Wolfer-aye, James-aye, Prochaska-aye

Alderman Burd was not present for the vote.

**Ordinance 2006-127 Bristol Ridge - Annexation
(PC 2006-05)**

A motion was made by Alderman Munns to approve an ordinance annexing territory commonly known as Bristol Ridge in furtherance of an Annexation Agreement with Bristol Ridge, LLC, as presented, and to authorize the Mayor and City Clerk to execute all documents upon final legal review; seconded by Alderman Bock.

Motion approved by a roll call vote. Ayes-7 Nays- 0
Spears-aye, Bock-aye, Besco-aye, Leslie-aye, Wolfer-aye, James-aye, Munns-aye

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Alderman Burd was not present for the vote.

Ordinance 2006-128

**Bristol Ridge - Rezoning
(PC 2006-05)**

A motion was made by Alderman Munns to approve an ordinance rezoning certain property in furtherance of an Annexation Agreement with Bristol Ridge, LLC, as presented, and to authorize the Mayor and City Clerk to execute all documents upon final legal review; seconded by Alderman Besco.

Motion approved by a roll call vote. Ayes-7 Nays- 0
Spears-aye, Bock-aye, Besco-aye, Leslie-aye, Wolfer-aye, James-aye, Munns-aye

Alderman Burd was not present for the vote.

Resolution 2006-96

**Bristol Ridge - Preliminary Plan
(PC 2006-05)**

A motion was made by Alderman Munns to approve a resolution approving the Preliminary Plan for Bristol Ridge subdivision, as presented subject to legal and staff review; seconded by Alderman Bock.

Motion approved by a roll call vote. Ayes-7 Nays- 0
Bock-aye, Besco-aye, Leslie-aye, Wolfer-aye, James-aye, Munns-aye, Spears-aye

Alderman Burd was not present for the vote.

Ordinance 2006-129

**Matlock - Authorizing Execution of an Annexation Agreement
(PC 2006-46)**

A motion was made by Alderman Munns to approve an ordinance authorizing the execution of an Annexation Agreement with Dave and Carol Matlock and to authorize the Mayor and City Clerk to execute all documents upon final legal and staff review; seconded by Alderman Wolfer.

Motion approved by a roll call vote. Ayes-8 Nays- 0
Besco-aye, Leslie-aye, Wolfer-aye, James-aye,
Munns-aye, Spears-aye, Bock-aye, Prochaska-aye

Alderman Burd was not present for the vote.

Ordinance 2006-130

**Bristol Ridge - Annexation
(PC 2006-06)**

A motion was made by Alderman Munns to approve an ordinance annexing territory commonly known as the Matlock parcel in furtherance of an Annexation Agreement with Dave and Carol Matlock, as presented, and to authorize the Mayor and City Clerk to execute all documents upon final legal review; seconded by Alderman Wolfer.

Motion approved by a roll call vote. Ayes-8 Nays- 0
Leslie-aye, Wolfer-aye, James-aye, Munns-aye
Burd-aye, Spears-aye, Bock-aye, Besco-aye

Ordinance 2006-131

**Bristol Ridge - Rezoning
(PC 2006-06)**

A motion was made by Alderman Munns to approve an ordinance rezoning certain property in furtherance of an Annexation Agreement with Dave and Carol Matlock, as presented, and to authorize the Mayor and City Clerk to execute all documents upon final legal review; seconded by Alderman James.

Motion approved by a roll call vote. Ayes-8 Nays- 0
Wolfer-aye, James-aye, Munns-aye, Burd-aye,
Spears-aye, Bock-aye, Besco-aye, Leslie-aye

Ordinance 2006-132

**Westhaven – Lakewood Homes
Amendment to PUD Agreement
(PC 2006-78)**

A motion was made by Alderman Munns to approve an ordinance authorizing the execution of an amendment to a Planned Unit Development Agreement for the Westhaven development, with the owners and developers therein, as presented, and authorize the Mayor and City Clerk to execute all documents upon final legal and staff review; seconded by Alderman Besco.

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Alderman Leslie stated that he discussed his concerns with to Kurt Wandrey. He then visited the developer's other project and spoke with residents there who were happy with their homes, the development. They told him they were aware of the backup SSA. He stated that based on the information he gathered he saw no reason to approve this.

Alderman Wolfer stated he also toured the other project and was impressed. His only suggestion was to have standard sidewalks on both sides of the street.

Alderman Burd stated that she toured the site and felt it had a similar feeling to the Huntley, Illinois project. She noted that many of the homes had requested that the stoop be eliminated and she stated that she would like to see this offered in this development. Also, she noticed that homes which faced the main road did not have landscaping along the side of the home and she felt this should be addressed.

Alderman Spears asked how many of the Council members were aware of the lot sizes; 416 lots 210 were below 5,610 square feet. She felt that this is a concern and should be addressed and the size be brought up to the minimum.

Alderman Wolfer noted that there is a market for the lower lot size. Also he noticed the ramps versus the stoops and recommended that this be a no cost option for buyers.

Alderman Leslie asked if the lot sizes of the development he viewed were representative of those planned for Yorkville and the developer replied that Yorkville raised the bar so the lots Alderman Leslie saw were smaller.

Mayor Prochaska indicated that he also toured the development and investigated the home values. He stated that the largest unit with 3 bedrooms and 2 ½ baths was listed at approximately \$350,000.00 and they seemed to have retained their value. He commented that this is the type of product that Yorkville needs in the community; people are moving out of Yorkville because there is nothing like this available in the City. He also reminded the Council that this is an approved project however they have eliminated a number of homes that would have been homes with children and increased the commercial space.

Alderman Besco agreed with Alderman Spears about compromising on lot size however this is a unique situation because people in an age restricted community usually don't want a large yard to take care of. He stated that he even though he would rather see larger lot sizes in a development this is a product that is needed.

Alderman Bock agreed that this is a needed product. He noted that this type of development brings high property values, no children to affect the schools and fulfills a need. He noted that older people don't necessarily want to push a lawnmower around a large lot.

Motion approved by a roll call vote. Ayes-7 Nays-10
James-aye, Munns-aye, Burd-aye, Spears-nay,
Bock-aye, Besco-aye, Leslie-aye, Wolfer-aye

Resolution 2006-97 **Approving Final Plat – Bristol Bay – Unit 11**
(PC 2006-68)

A motion was made by Alderman Munns to approve a resolution approving the Final Plat of subdivision for Bristol Bay Unit 11, as presented, subject to staff and legal review; seconded by Alderman Wolfer.

Alderman Spears commented that the developer is doing fantastic things with the School District however she is against SSAs.

Motion approved by a roll call vote. Ayes-6 Nays-1 Present-1
Burd-aye, Spears-nay, Bock-aye, Besco-present
Leslie-aye, Wolfer-aye, James-aye, Munns-aye

Resolution 2006-98 **Approving Final Plat – Bristol Bay – Unit 12**
(PC 2006-69)

A motion was made by Alderman Munns to approve a resolution approving the Final Plat of subdivision for Bristol Bay Unit 12, as presented, subject to staff and legal review; seconded by Alderman Wolfer.

Motion approved by a roll call vote. Ayes-6 Nays-1 Present-1
Spears-nay, Bock-aye, Besco-present, Leslie-aye,
Wolfer-aye, James-aye, Munns-aye, Burd-aye

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PUBLIC SAFETY COMMITTEE REPORT

No report.

ADMINISTRATION COMMITTEE REPORT

No report.

ADDITIONAL BUSINESS

Alderman Munns noted that the board appointment for the Yorkville Economic Development Corporation has not been placed back on an agenda for further discussion. He stated that he spoke with the Director of the YEDC and asked her to bring this up at their November 8, 2006 meeting to discuss options. This will then come back to the Economic Development Committee at the November 21, 2006 Committee of the Whole meeting for further discussion. Alderman Leslie stated that he thought the Council agreed that Mayor Prochaska was the liaison for this. Alderman Munns stated that this was not decided. Alderman Burd encouraged the Council to volunteer to be a liaison for other entities because there are many meetings not being covered. Alderman Wolfer volunteered to be the Plan Commission liaison and Alderman Leslie volunteered for the Chamber of Commerce meeting. Mayor Prochaska suggested further discussion of this at the November 21, 2006 COW meeting.

ADJOURNMENT

Mayor Prochaska entertained a motion to adjourn. So moved by Alderman Besco; seconded by Alderman Wolfer.

Motion approved by a viva voce vote.

Meeting adjourned at 10:36 P.M.

Minutes submitted by:

Jacquelyn Milschewski,
City Clerk City of Yorkville, Illinois

CITY COUNCIL MEETING
UNITED CITY OF YORKVILLE, ILLINOIS

REPORT OF PROCEEDINGS had at the
meeting of the above-entitled matter taken before
CHRISTINE M. VITOSH, C.S.R., on October 24, 2006,
at the hour of 7:00 p.m., at 800 Game Farm Road
in the City of Yorkville, Illinois.



October 24, 2006

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P R E S E N T:

- MR. ARTHUR F. PROCHASKA, Mayor;
- MR. PAUL JAMES, Alderman;
- MR. JASON LESLIE, Alderman;
- MS. VALERIE BURD, Alderman;
- MR. MARTY MUNNS, Alderman;
- MR. JAMES BOCK, Alderman;
- MR. JOSEPH BESCO, Alderman;
- MS. ROSE ANN SPEARS, Alderman;
- MR. JOHN CROIS, City Administrator;
- MR. WILLIAM POWELL, City Treasurer;
- MR. TRAVIS MILLER, Community Development
Director;
- MS. JACQUELYN MILSCHEWSKI, City Clerk.

A P P E A R A N C E S:

BY: MR. JOHN JUSTIN WYETH,
appeared on behalf of the United
City of Yorkville, Illinois.

- - - - -

October 24, 2006

1 (Pledge of Allegiance)

2 MAYOR PROCHASKA: Entertain a motion
3 to go into public hearing for the purpose of
4 discussing the Kendall Marketplace Business
5 District.

6 MR. LESLIE: So moved.

7 MR. BOCK: Second.

8 MAYOR PROCHASKA: Moved and
9 seconded. May I have roll call, please?

10 MS. MILSCHEWSKI: Bock.

11 MR. BOCK: Aye.

12 MS. MILSCHEWSKI: Spears.

13 MS. SPEARS: Aye.

14 MS. MILSCHEWSKI: Burd.

15 MS. BURD: Aye.

16 MS. MILSCHEWSKI: Munns.

17 MR. MUNNS: Aye.

18 MS. MILSCHEWSKI: James.

19 MR. JAMES: Aye.

20 MS. MILSCHEWSKI: Leslie.

21 MR. LESLIE: Aye.

22 MS. MILSCHEWSKI: Besco.

23 MR. BESCO: Aye.

24 MAYOR PROCHASKA: Motion is carried.

1 We are now in public hearing. And who is going
2 to be doing this presentation?

3 WHEREUPON:

4 SAM POLSKY,

5 testified before the Yorkville City Council as
6 follows:

7 MR. POLSKY: My name is Sam Polsky,
8 Polsky Associates, representing Harlem Irving
9 Companies. Thank you, Mr. Mayor, Aldermen.

10 This is the second of public
11 hearings for the business district that we're
12 setting up to help fund various eligible costs.
13 Under state statute, two hearings are required,
14 and this is the second one.

15 This is part of the overall
16 financing plan for this 822,000 square foot
17 center which Harlem Irving is very excited about,
18 be a major part of the City.

19 At this point I don't know that
20 there is any other presentation necessary. We
21 can answer any questions.

22 MAYOR PROCHASKA: I'd open up the
23 floor. Is there anyone in the audience that
24 would like to present any testimony or ask any

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1 questions of the petitioner?

2 (No response)

3 MAYOR PROCHASKA: Hearing none, I
4 would ask the Council if there is any questions.

5 I know I have one here, one
6 concern, and I'm kind of wondering if the rest of
7 the Council -- I'm sure they probably caught
8 it -- is there is a statement here that talks
9 about allowing for eminent domain for the purpose
10 of redevelopment, and at this time that's in
11 direct violation of a policy voted on by the City
12 Council, so I would -- I would ask that that not
13 be included in there.

14 We can talk about things of
15 public safety and life safety issues, but I think
16 that's as far as we want to go.

17 MS. BURD: I saw that, but I thought
18 all they were doing was reiterating what was in
19 the state statute, had no intent of using that,
20 but they were just, you know, saying what is in
21 the statute that would be available.

22 MAYOR PROCHASKA: Can we override
23 that or is that something that we have to --

24 MR. WYETH: It's reiterating what's

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1 in the statute.

2 MAYOR PROCHASKA: If it's just
3 simply repeating it, then I guess it's repeating
4 it. I just want to make aware that it's not my
5 intention, I'm sure no one on the Council's
6 intention.

7 MR. POLSKY: No. 'And it's not our
8 intention to use it at all, it's simply statutory
9 language. Talked about it with your attorney.
10 It's simply reiterating what's in the statute.
11 We have absolutely no intention of using --
12 asking for that power whatsoever.

13 MR. WYETH: If you could indicate
14 per the agreement with the City Council you will
15 not exercise that, that would be useful.

16 MR. POLSKY: Sure. Sure.

17 MAYOR PROCHASKA: I personally would
18 feel much more comfortable.

19 MS. BURD: Since we have already
20 passed an ordinance that we would not do that for
21 economic development, wouldn't that also be --

22 MR. WYETH: It surely would, the
23 additional language would be to help clarify and
24 make certain that no one else would have no

1 responsibilities with that.

2 MS. BURD: So we're safe as far as
3 this document goes.

4 MR. WYETH: Yes, you are.

5 MAYOR PROCHASKA: Anyone else?

6 (No Response)

7 MAYOR PROCHASKA: Then at this time
8 I would entertain a motion to close this public
9 hearing.

10 MR. LESLIE: So moved.

11 MR. MUNNS: Second.

12 MAYOR PROCHASKA: Moved and
13 seconded. May I have roll call, please?

14 MS. MILSCHEWSKI: Spears.

15 MS. SPEARS: Aye.

16 MS. MILSCHEWSKI: Burd.

17 MS. BURD: Aye.

18 MS. MILSCHEWSKI: Munns.

19 MR. MUNNS: Aye.

20 MS. MILSCHEWSKI: James.

21 MR. JAMES: Aye.

22 MS. MILSCHEWSKI: Leslie.

23 MR. LESLIE: Aye.

24 MS. MILSCHEWSKI: Besco.

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1 MR. BESCO: Aye.

2 MS. MILSCHEWSKI: Bock.

3 MR. BOCK: Aye.

4 MAYOR PROCHASKA: Motion is carried.

5 The public hearing is closed.

6 Next we will move on to the
7 next public hearing, is for PC 2006-64,
8 Weisman-Hughes Enterprises, Inc., petitioner, has
9 filed an application the United City of
10 Yorkville, Kendall County, Illinois, requesting
11 annexation to the United City of Yorkville and
12 rezoning from Kendall County A-1 Agricultural to
13 United City of Yorkville Planned Unit Development
14 zoning to allow uses permitted in residential
15 districts and for hearing as to the annexation
16 agreement of the petitioner.

17 The real property consists of
18 approximately 91.8 acres east of Route 47,
19 adjacent to and south of the Windett Ridge
20 subdivision, Yorkville, Kendall County, Illinois.

21 Who is here to speak on behalf
22 of the petitioner? Oh, I'm sorry. I am
23 entertaining a motion.

24 MR. LESLIE: So moved.

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MR. BESCO: Second.

MAYOR PROCHASKA: Moved and seconded. May I have roll call, please?

MS. MILSCHEWSKI: Spears.

MS. SPEARS: Aye.

MS. MILSCHEWSKI: Burd.

MS. BURD: Aye.

MS. MILSCHEWSKI: Munns.

MR. MUNNS: Aye.

MS. MILSCHEWSKI: James.

MR. JAMES: Aye.

MS. MILSCHEWSKI: Leslie.

MR. LESLIE: Aye.

MS. MILSCHEWSKI: Besco.

MR. BESCO: Aye.

MS. MILSCHEWSKI: Bock.

MR. BOCK: Aye.

MAYOR PROCHASKA: Motion is carried.

We are now in public hearing. Sir.

WHEREUPON:

JOHN F. PHILIPCHUCK,

having been first duly sworn, testified before the Yorkville City Council as follows:

MR. PHILIPCHUCK: Good evening.

October 24, 2006

1 John Philipchuck, attorney, on behalf of
2 Weisman-Hughes Enterprises, Inc.

3 We are representing
4 Weisman-Hughes in bringing this annexation
5 agreement forward.

6 We are requesting annexation
7 and zoning under the City PUD ordinance for the
8 91 acres that's immediately to the south of the
9 existing Windett Ridge single-family detached
10 home subdivision, this being Route 47, and, as
11 you can see from the development, there is a lot
12 of open space within the townhome component
13 that's up adjacent to the Commonwealth Edison
14 right-of-way and Route 47.

15 Consists of 188 townhomes in
16 four-unit buildings, and then to the rear we have
17 the completion of our original Windett Ridge and
18 some single-family, some single-family lots, that
19 would compliment the street that would continue
20 out. We didn't want to try to take townhome
21 units and place them back here, so as a result
22 we've got those ten lots.

23 So the proposal is to create a
24 comparable and compatible product that

1 compliments our single-family development.

2 We're very pleased to present
3 this product. We have worked with Staff on the
4 actual architectural and -- including masonry on
5 the buildings, and so we are here to answer any
6 questions that Council or the public may have
7 with regard to the public hearing on the
8 annexation.

9 MAYOR PROCHASKA: Okay. I would
10 open up the floor. Is there anyone here that
11 would like to ask any questions, have any comment
12 or testimony, on this particular public hearing?

13 (No response)

14 MAYOR PROCHASKA: Hearing none, is
15 there any discussion from the Council?

16 (No Response)

17 MAYOR PROCHASKA: Hearing none, I
18 would entertain a motion to close this public
19 hearing.

20 MR. BESCO: So moved.

21 MR. MUNNS: Second.

22 MS. BURD: Second.

23 MAYOR PROCHASKA: Moved and
24 seconded. May I have roll call, please?

October 24, 2006

1 MS. MILSCHEWSKI: Burd.

2 MS. BURD: Aye.

3 MS. MILSCHEWSKI: Munns.

4 MR. MUNNS: Aye.

5 MS. MILSCHEWSKI: James.

6 MR. JAMES: Aye.

7 MS. MILSCHEWSKI: Wolfer.

8 (No Response)

9 MS. MILSCHEWSKI: I'm sorry.

10 Leslie.

11 MR. LESLIE: Aye.

12 MS. MILSCHEWSKI: Besco.

13 MR. BESCO: Aye.

14 MS. MILSCHEWSKI: Bock.

15 MR. BOCK: Aye.

16 MS. MILSCHEWSKI: Spears.

17 MS. SPEARS: Aye.

18 MAYOR PROCHASKA: Motion is carried.

19 Next is a public hearing -- and
20 this one, I have nothing in my packet. I don't
21 know that we got anything in on this.

22 This was the public hearing for
23 the General Obligation Refunding Bonds that
24 Spears Financial had talked to us about. We have

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1 nothing here.

2 We can certainly open the
3 public hearing because it's stated, but I would
4 look at postponing this unless there is someone
5 here because there is nothing to speak on.

6 So, with that, I would
7 entertain a motion to go into public hearing.

8 MR. WYETH: Your Honor, you can open
9 the public hearing and hear any comments from the
10 public in regard to it.

11 Again, this is in furtherance
12 of the presentation by Barbara -- I am having the
13 trouble saying the name, Barbara Chevalier, and
14 she -- maybe she had a calendar error or
15 something. I would expect that she would be here
16 tonight. But still we could open, hear
17 testimony, and then close the public hearing.

18 MAYOR PROCHASKA: Well, there is no
19 initiative, so I would -- I would want to
20 postpone it. I don't have a problem opening it,
21 but I would like to postpone it.

22 MR. WYETH: That would be fine as
23 well.

24 MAYOR PROCHASKA: With that, I would

1 entertain a motion to go into public hearing for
2 the purpose of discussion of General Obligation
3 Refunding Bonds, Alternate Revenue Source.

4 MR. MUNNS: So moved.

5 MR. BESCO: Second.

6 MAYOR PROCHASKA: Moved and
7 seconded. May I have roll call, please?

8 MS. MILSCHEWSKI: Burd.

9 MS. BURD: Aye.

10 MS. MILSCHEWSKI: Munns.

11 MR. MUNNS: Aye.

12 MS. MILSCHEWSKI: James.

13 MR. JAMES: Aye.

14 MS. MILSCHEWSKI: Leslie.

15 MR. LESLIE: Aye.

16 MS. MILSCHEWSKI: Besco.

17 MR. BESCO: Aye.

18 MS. MILSCHEWSKI: Bock.

19 MR. BOCK: Aye.

20 MS. MILSCHEWSKI: Spears.

21 MS. SPEARS: Aye.

22 MAYOR PROCHASKA: Motion is carried.

23 And I guess I would ask on the floor if there is
24 anyone that has any comment on this right now.

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(No Response)

MAYOR PROCHASKA: Hearing none, I don't know if Council has any discussion, I guess I would entertain a motion to postpone this public hearing to the next City Council meeting, which would be November 14th.

MS. BURD: So moved.

MR. BESCO: Second.

MAYOR PROCHASKA: Moved and seconded. Is there comments or questions?

MS. SPEARS: Is there a time frame on this?

MAYOR PROCHASKA: I don't believe so.

MS. SPEARS: Is there any type of a time frame that we --

MS. MIKA: Well, actually I'm a little concerned because somebody from Spears Financial was supposed to be here tonight because on the 14th is when the bonds actually go to sale, so that would just delay the bonds being able to go out to sale on that.

MAYOR PROCHASKA: Well, I would -- We may have to relook at that because I would

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1 have an issue of going forward without having
2 anyone here to --

3 MS. MIKA: Absolutely. I agree.

4 MAYOR PROCHASKA: So this can go on
5 the agenda for the 14th, but it would have to
6 be -- well, we would have to find out if they
7 would sell -- they could sell those -- they are
8 supposed to be sold on the 14th?

9 MS. MIKA: Correct. That morning,
10 on Tuesday, the 14th, provided --

11 MAYOR PROCHASKA: Well, we'd have to
12 delay that then.

13 MS. MIKA: I'm sorry?

14 MAYOR PROCHASKA: We'd have to delay
15 that.

16 MS. BURD: Could it be possible for
17 us to amend one of our special meetings to have
18 this hearing be part of the special meeting?

19 MR. WYETH: You may want to postpone
20 this to the 30th, next Monday, at the reported
21 time, 7:00 o'clock, rather than to close this
22 public hearing, so you would actually -- you'll
23 move to adjourn to the 30th at 7:00 o'clock at
24 the special meeting of the City Council.

October 24, 2006

1 MAYOR PROCHASKA: We could do that.
2 If that pleases the Council, I would entertain a
3 motion to do that.

4 MS. BURD: So moved.

5 MR. BOCK: Second.

6 MAYOR PROCHASKA: Moved and
7 seconded.

8 May I have -- We are now
9 looking at postponing this to October 30th at
10 7:00 o'clock.

11 Any further discussion?

12 MS. BURD: We will notify whoever
13 was supposed to be here?

14 MS. MIKA: I am going to actually
15 excuse myself in a few moments and see if Spears
16 Financial can answer a phone call, who is not
17 present. Maybe somebody is en route here and
18 stuck in traffic or whatever the case may be.

19 MAYOR PROCHASKA: Okay. They don't
20 have to be here now. Okay.

21 MS. BURD: Back on the 30th?

22 MAYOR PROCHASKA: On the 30th.

23 MS. MIKA: Okay.

24 Hearing no further discussion,

1 may I have roll call, please?

2 MS. MILSCHEWSKI: Munns.

3 MR. MUNNS: Aye.

4 MS. MILSCHEWSKI: James.

5 MR. JAMES: Aye.

6 MS. MILSCHEWSKI: Leslie.

7 MR. LESLIE: Aye.

8 MS. MILSCHEWSKI: Besco.

9 MR. BESCO: Aye.

10 MS. MILSCHEWSKI: Bock.

11 MR. BOCK: Aye.

12 MS. MILSCHEWSKI: Spears.

13 MS. SPEARS: Aye.

14 MS. MILSCHEWSKI: Burd.

15 MS. BURD: Aye.

16 MAYOR PROCHASKA: Motion is carried.

17 This is now continued to October 30th at 7:00
18 p.m.

19 Next on the agenda is a public
20 hearing for the Revised Landscape Ordinance. I
21 would entertain a motion to go into public
22 hearing for the purpose of discussing the Revised
23 Landscape Ordinance.

24 MR. LESLIE: So moved.

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MS. BURD: Second.

MAYOR PROCHASKA: Moved and
seconded. Roll call, please?

MS. MILSCHEWSKI: Munns.

MR. MUNNS: Aye.

MS. MILSCHEWSKI: James.

MR. JAMES: Aye.

MS. MILSCHEWSKI: Leslie.

MR. LESLIE: Aye.

MS. MILSCHEWSKI: Besco.

(No Response)

MS. MILSCHEWSKI: Bock.

MR. BOCK: Aye.

MS. MILSCHEWSKI: Spears.

MS. SPEARS: Aye.

MS. MILSCHEWSKI: Burd.

MS. BURD: Aye.

MAYOR PROCHASKA: Motion is carried.

We are now in public hearing. And announce your
name.

WHEREUPON:

LAURA HAAKE,

testified before the Yorkville City Council as
follows:

October 24, 2006

1 MS. HAAKE: Laura Haake. I am back.
2 I -- Okay. I am going to briefly talk about what
3 I -- what we had changed for the Landscape
4 Ordinance, the revisions that were made.

5 The first item was that medium
6 planting guidelines were added, worked with the
7 Public Works Department and the Parks Department
8 in creating those guidelines.

9 Another change was that now 33
10 percent of the required trees can't be of the
11 same genus. Before it was just of a species, so
12 now it is specifically genus.

13 Added a nuisance tree list and
14 expanded the acceptable parkway species and shade
15 tree list.

16 And also revised the tree
17 preservation part of the ordinance so that it was
18 a little more -- there was a few more guidelines
19 added so that it would help both our department
20 and the engineering department when reviewing
21 those plans.

22 In addition, after Joe's
23 comment at the last -- when it was presented
24 previously, language was added so that

1 free-standing signage on the next property, on
2 adjacent parcels, would not be blocked by the
3 landscaping that's added to new properties.

4 That was added both in parkway
5 landscaping and other general sections, there
6 were -- there was language added so that we are
7 requiring now the developers to add the location
8 of that signage and make sure that, you know, if
9 they plant an evergreen, it's not going to block
10 the sign for the next property. So those are the
11 revised changes.

12 MAYOR PROCHASKA: Is there anyone in
13 the audience that would like to comment or have a
14 question on this revision to the ordinance?

15 (No Response)

16 MAYOR PROCHASKA: Hearing none, is
17 there comment from the Council?

18 (No Response)

19 MAYOR PROCHASKA: Hearing none, then
20 I would entertain a motion to close this public
21 hearing.

22 MS. BURD: So moved.

23 MS. SPEARS: Second.

24 MAYOR PROCHASKA: Moved and

1 seconded. Any further discussion?

2 (No Response)

3 MAYOR PROCHASKA: Hearing none, may
4 I have roll call, please?

5 MS. MILSCHEWSKI: James.

6 MR. JAMES: Aye.

7 MS. MILSCHEWSKI: Leslie.

8 MR. LESLIE: Aye.

9 MS. MILSCHEWSKI: Bock.

10 MR. BOCK: Aye.

11 MS. MILSCHEWSKI: Spears.

12 MS. SPEARS: Aye.

13 MS. MILSCHEWSKI: Burd.

14 MS. BURD: Aye.

15 MS. MILSCHEWSKI: Munns.

16 MR. MUNNS: Aye.

17 MAYOR PROCHASKA: Motion is carried.

18 And finally we are going to --
19 we have a public hearing to -- entertain a motion
20 to go into public hearing to discuss the revised
21 off-street parking regulations and requirements.
22 And specifically this is driveways.

23 MR. MILLER: Correct.

24 MR. MUNNS: So moved.

1 MR. LESLIE: Second.

2 MAYOR PROCHASKA: Moved and
3 seconded. May I have roll call, please?

4 MS. MILSCHEWSKI: James.

5 MR. JAMES: Aye.

6 MS. MILSCHEWSKI: Leslie.

7 MR. LESLIE: Aye.

8 MS. MILSCHEWSKI: Besco.

9 (No Response)

10 MS. MILSCHEWSKI: Bock.

11 MR. BOCK: Aye.

12 MS. MILSCHEWSKI: Spears.

13 MS. SPEARS: Aye.

14 MS. MILSCHEWSKI: Burd.

15 MS. BURD: Aye.

16 MS. MILSCHEWSKI: Munns.

17 MR. MUNNS: Aye.

18 MAYOR PROCHASKA: All right. We are
19 in public hearing, and --

20 WHEREUPON:

21 TRAVIS MILLER,
22 testified before the Yorkville City Council as
23 follows:

24 MR. MILLER: Good evening. Travis

October 24, 2006

1 Miller. This recommendation is a Staff
2 recommendation to modify the Zoning Ordinance
3 10-11-3. This is a section pertaining to
4 driveway ordinances out of the driveway ordinance
5 and regulation.

6 Specifically, there are four
7 key elements that would be modified. One would
8 be the regulation of driveway width would
9 maintain itself at 25 feet, which is what the
10 current ordinance is, but allow for situations
11 for residential driveways where the setback is
12 less than 30 feet, to widen the driveway to a
13 width of 30 feet to allow for a little more
14 flexibility in off-street parking situations
15 where front yards aren't as deep.

16 This also addresses access
17 management thoroughfares, actually all streets
18 within the City at a higher level than what the
19 current ordinance does.

20 This distinguishes between
21 residential driveways versus commercial driveways
22 and establishes criteria for citing both of those
23 and their relationship to the nearest
24 intersection and the width of those driveways,

October 24, 2006

1 commercial driveways, which would allow for a
2 wider width based on the volume of traffic
3 generated for the commercial use in a specific
4 situation, and those formulas are outlined in the
5 ordinance.

6 Front yard parking is
7 addressed. The B-3 zoning district currently
8 doesn't allow for front yard parking.

9 This has created an issue, and
10 it was Staff's opinion that with the current
11 landscape ordinance in place that wasn't in place
12 at the original drafting of this ordinance, the
13 screening that comes with that landscape
14 ordinance would protect us from an issue of
15 having parking in the front yard of B-3 in the
16 B-3 zoning district, so Staff's recommendation
17 was to eliminate that language from this
18 regulation.

19 Fourth, we've included some
20 lighting language that's consistent with our
21 subdivision control ordinance, just marrying
22 these two ordinances together, and this language
23 basically speaks to the nice guy concept, as does
24 the subdivision control ordinance, so with that,

1 I can answer any questions.

2 MAYOR PROCHASKA: Okay. Is there
3 anyone in the audience that would like to ask any
4 questions, give any comment, testimony, on this
5 proposed change to the ordinance?

6 (No Response)

7 MAYOR PROCHASKA: Hearing none, is
8 there any discussion from the City Council?

9 (No Response)

10 MAYOR PROCHASKA: Hearing none, I
11 would entertain a motion to close this public
12 hearing.

13 MR. BOCK: So moved.

14 MR. LESLIE: Second.

15 MAYOR PROCHASKA: Moved and
16 seconded. Any further discussion?

17 (No Response)

18 MAYOR PROCHASKA: Hearing none, may
19 I have roll call, please?

20 MS. MILSCHEWSKI: Leslie.

21 MR. LESLIE: Aye.

22 MS. MILSCHEWSKI: Besco.

23 MR. BESCO: Aye.

24 MS. MILSCHEWSKI: Bock.

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1 MR. BOCK: Aye.
2 MS. MILSCHEWSKI: Spears.
3 MS. SPEARS: Aye.
4 MS. MILSCHEWSKI: Burd.
5 MS. BURD: Aye.
6 MS. MILSCHEWSKI: Munns.
7 MR. MUNNS: Aye.
8 MS. MILSCHEWSKI: James.
9 MR. JAMES: Aye.
10 MAYOR PROCHASKA: Motion is carried.
11 (Which were all the
12 proceedings had in
13 the public hearing
14 portion of the
15 meeting.)
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October 24, 2006

1 STATE OF ILLINOIS)
2) ss:
3 COUNTY OF LASALLE)

4 CHRISTINE M. VITOSH, being first duly
5 sworn, on oath says that she is a Certified
6 Shorthand Reporter doing business in the State of
7 Illinois;

8 That she reported in shorthand the
9 proceedings had at the foregoing public hearing;

10 And that the foregoing is a true and
11 correct transcript of her shorthand notes so
12 taken as aforesaid and contains all the
13 proceedings had at the said public hearing.

14 IN WITNESS WHEREOF I have hereunto set
15 my hand, this 30th day of
16 December, 2006.

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CHRISTINE M. VITOSH, C.S.R.
CSR License No. 084-002883

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**BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD**

| | | |
|---------------------------|---|-------------|
| FOX MORaine, LLC |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 07- 146 |
| |) | |
| UNITED CITY OF YORKVILLE, |) | |
| CITY COUNCIL |) | |
| |) | |
| Respondent. |) | |

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on this 24th day of September, 2008, George Mueller, one of the attorneys for Petitioner, Fox Moraine, LLC, filed via electronic filing of the attached **Motion to Compel Production of Transcripts and Videos** with the Clerk of the Illinois Pollution Control Board, a copy of which is herewith served upon you.

Respectfully submitted,

FOX MORaine, LLC

By: /s/ George Mueller
One of its Attorneys

George Mueller
Mueller Anderson, P.C.
609 East Etna Road
Ottawa, Illinois 61350
(815) 431-1500 – Telephone
(815) 431-1501 - Facsimile
george@muelleranderson.com

Charles Helsten
Hinshaw & Culbertson LLP
100 Park Avenue
Rockford, Illinois 61101
(815) 490-4900 - Telephone
(815) 490-4901 - Facsimile

Electronic Filing - Received, Clerk's Office, September 26, 2008

Fox Moraine, LLC v. United City of Yorkville
PCB No. 07-146

SERVICE LIST

PCB 2007-146
Bradley Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
1000 West Randolph Street
Suite 11-500
Chicago, IL 60601

PCB 2007-146
Charles Helsten
Hinshaw & Culbertson
100 Park Avenue
P.O. Box 1389
Rockford, IL 61105-1389

PCB 2007-146
Leo P. Dombrowski
Wildman, Harrold, Allen & Dixon
225 West Wacker Drive
Suite 3000
Chicago, IL 60606-1229

PCB 2007-146
Thomas I. Matyas
Wildman, Harrold, Allen & Dixon
225 West Wacker Drive
Suite 3000
Chicago, IL 60606-1229

PCB 2007-146
Ms Valerie Burd, Mayor
City of Yorkville
800 Game Farm Road
Yorkville, IL 60560

PCB 2007-146
Eric Weis
Kendall County State's Attorney
Kendall county Courthouse
807 John Street
Yorkville, IL 60560

George Mueller
Mueller Anderson, P.C.
609 East Etna Road
Ottawa, Illinois 61350
(815) 431-1500 – Telephone
(815) 431-1501 - Facsimile
george@muelleranderson.com

PCB 2007-146
Derke J. Price
Ancel, Glink, Diamond, Bush & Krafthefer
P.C.
140 South Dearborn Street
Sixth Floor
Chicago, IL 60603

PCB 2007-146
Jeffrey D. Jeep
Jeep & Blazer, LLC
24 North Hillside Avenue
Suite A
Hillside, IL 60162

PCB 2007-146
Anthony Hopp
Wildman, Harrold, Allen & Dixon
225 West Wacker Drive
Suite 3000
Chicago, IL 60606-1229

PCB 2007-146
James B. Harvey
Buck, Hutchison & Ruttler
2455 Glenwood Avenue
Joliet, IL 60435

PCB 2007-146
Michael Roth, Interim City Attorney
City of Yorkville
800 Game Farm Road
Yorkville, IL 60560

PCB 2007-146
James Knippen
Walsh Knippen Knight & Pollick
2150 Manchester Road
Suite 200
Wheaton, IL 60187-2476

Charles Helsten
Hinshaw & Culbertson LLP
100 Park Avenue
Rockford, Illinois 61101
(815) 490-4900 - Telephone
(815) 490-4901 - Facsimile

CERTIFICATE OF SERVICE

I, Sharon Twardowski, a non-attorney, certify that I served a copy of the foregoing **Notice of Filing and to Compel Production of Transcripts and Videos** to the Hearing Officer and all Counsel of Record listed on the attached Service list, by sending it via Electronic Mail on September 24, 2008, before 5:00 p.m.

/s/ Sharon Twardowski

- [x] Under penalties as provides by law pursuant to ILL. REV. STAT. CHAP. 110-SEC 1-109, I certify that the statements set forth Herein are true and correct

George Mueller
Mueller Anderson, P.C.
609 East Etna Road
Ottawa, Illinois 61350
(815) 431-1500 – Telephone
(815) 431-1501 - Facsimile
george@muelleranderson.com

Charles Helsten
Hinshaw & Culbertson LLP
100 Park Avenue
Rockford, Illinois 61101
(815) 490-4900 - Telephone
(815) 490-4901 - Facsimile
chelsten@hinshawlaw.com

APPROVED BY
CITY COUNCIL
ON 2/13/07

**MINUTES OF THE SPECIAL MEETING OF THE CITY COUNCIL
OF THE UNITED CITY OF YORKVILLE, KENDALL COUNTY, ILLINOIS,
HELD AT THE YORKVILLE MIDDEL SCHOOL GYMNASIUM,
702 GAME FARM ROAD ON
TUESDAY, OCTOBER 30, 2006.**

Alderman Spears announced that Mayor Prochaska was out of town due to a death in his family and that she was mayor pro temp for the meeting. She called the meeting to order at 7:05 P.M. and led the Council in the Pledge of Allegiance.

ROLL CALL

Clerk Milschewski called the roll.

| | | |
|----------|--------|---------|
| Ward I | James | Absent |
| | Leslie | Present |
| Ward II | Burd | Present |
| | Wolfer | Present |
| Ward III | Bock | Present |
| | Munns | Present |
| Ward IV | Besco | Present |
| | Spears | Present |

Also present: City Clerk Milschewski, City Treasurer Powell, City Attorney Wyeth, Interim City Administrator Crois, Assistant City Administrator Olson, Police Lieutenant Hart, Director of Public Works Dhuse, Finance Director Mika and Public Relations Manager Spies.

QUORUM

A quorum was established.

PUBLIC HEARINGS

General Obligation Refunding Bonds (Alternate Revenue Source)

Mayor Pro Tem Spears entertained a motion to into public hearing for the purpose of discussing the General Obligation Refunding Bonds (Alternate Revenue Source). So moved by Alderman Leslie, seconded by Alderman Bock.

Motion approved by a roll call vote. Ayes-7 Nays-0
Besco-aye, Leslie-aye, Wolfer-aye, Munns-aye, Burd-aye, Spears-aye, Bock-aye

Please see attached Report of Proceedings by Christine Vitosh, C S R. from Depo Court Reporting Service for the transcription of this portion of the public hearing.

Mayor Pro Tem Spears entertained a motion to close the public hearing. So moved by Alderman Leslie, seconded by Alderman Wolfer.

Motion approved by a roll call vote. Ayes-7 Nays-0
Leslie-aye, Wolfer-aye, Munns-aye, Burd-aye, Spears-aye, Bock-aye, Besco-aye

CITY COUNCIL REQUESTS

Discussion of Host Agreement and Landfill Siting Process

Alderman Spears entertained a motion to suspend the five minute speaking limit as this is a special meeting. So moved by Alderman Burd.

Motion failed due to lack of a second.

Alderman Spears introduced the City's solid waste attorney, Derke Price. Attorney Price proceeded to give a presentation as outlined by the attached handout:

- ❖ History
 - Anthropology and Geology – everyone creates garbage and it needs to be put somewhere safe – not near lakes, rivers or streams. The Fox Moraine property has been considered for over 10 years.
 - County Solid Waste Master Plan (SWMP) – Kendall County amended plan to consider landfills versus transfer stations.
 - Potential Consequences for City - Change caused consideration for United City of Yorkville because the County gave no feeling of certainties that the City's needs would be met. The City chose to annex the property.
- ❖ Preliminaries
 - Review and update siting ordinance
 - Assemble team of experts

The Minutes of the Special Meeting of the City Council – October 30, 2006 – page 2

- ◆ C. Brooke Beal – 17 years of solid waste management experience; specializes in plan and operations
- ◆ Dr. Craig Benson PE - specializes in environmental science and engineering
- ◆ Steven Schilling, PE – licensed professional engineer specializing in engineering, flood plains, recharge, etc.
- ◆ Karl Fry, PE, AICP – Traffic Analysis Expert
- ◆ Engineering Enterprises Inc. (EEI)
- ◆ City Staff
- Negotiated Host Agreement – starting point. Article 39 2 of the Illinois Environmental Protection Act which outlines this process has only two sentences about host agreements however it has pages on the siting process. Public input is most valuable during the siting process
- Prepare for rest of process – getting infrastructure ready at City Hall
- ❖ Host Agreement
 - Intended to set stage for application
 - Only opportunity to discuss benefits outside of direct consideration of evidence
 - Conditions – tailored to evidence with public input
- ❖ Different Approaches
 - Different terms for each project
 - Municipal vs. Regulatory – City took municipal approach and created a process for immediate response to problems.
- ❖ Comparisons
 - The misconception is that Yorkville’s agreement calls for all obligations to terminate after landfill ceases the acceptance of waste however agreement calls for Groundwater Protection Plan to be effective until Fox Moraine concludes its post-closure care or 30 years after the landfill ceases. Kendall County Agreement calls for Groundwater Protection Plan to cease with landfills closure. The misconception is that Yorkville’s agreement does not address transfer of ownership of landfill gas and gas management system however agreement calls for no transfer of ownership or other interest without prior written approval of the City. Kendall County’s Agreement gave the right for the public hearing process before ownership is transferred which is a good idea that can be added to the City’s agreement.
 - Kendall County’s agreement guarantees a minimum annual payment whereas Yorkville’s agreement does not contain this. Minimum payments were not recommended by the experts because this competes with safety. A minimum annual payment could create a motive for shortcuts and creates false expectations. Also, there could be governmental action which could prevent the operator from meeting this guarantee. Instances of this pending are:
 - ◆ SB 1720 – will ban all computer monitors from landfills affecting income
 - ◆ Bottle Bill – deposit could be applied to every bottle or can which will divert waste from the landfill and affect income
 - ◆ Municipalities could choose other waste companies which would divert waste
 - Waste Stream Commitment
 - ◆ Kendall County’s minimum commitment could bring waste in from surrounding states
 - ◆ Yorkville’s agreement does not address this because no siting application has been received and no service area has been established.
 - ◆ Kendall County’s agreement states that Waste Management guarantees the disposal of waste in the amount of at least one million tons of waste upon the commencement of operations. This is not a “per year” figure. With hauling contracts in flux, where will Waste Management get its waste?
 - ◆ Neither Fox Moraine nor Waste Management has identified where waste will come from.
 - Property Values
 - ◆ Kendall County’s agreement offers property value guarantees to property owners within 1 mile of landfill. Guarantee begins the day the permit to operate is issued.
 - ◆ Yorkville offers this to property owners within 1000’ – timing not distance is the issue. Property protection starts the day the siting application is filed

The Minutes of the Special Meeting of the City Council – October 30, 2006 – page 3

- Groundwater Protection Agreement
 - ♦ Kendall County agreement's extends protection 1.5 miles – if residents provide a lab analysis and engineering report then potable water will be provided. Property owner must pay for analysis. Provision ends with active operation of landfill.
 - ♦ Yorkville's agreement extends 1000' – if residents report problem with well, potable water will be provided within 24 hours; no expense to owner and no questions asked. Landfill operator pays for lab analysis and engineering. This provision continues for 30 years after active operation.
- Communication
 - ♦ Kendall County's agreement creates a landfill website
 - ♦ Yorkville remains silent – City is waiting to hear from residents as to what they want; website, quarterly meetings, etc.
- Performance Standards
 - ♦ Yorkville's agreement states that compliance with all of the ordinances, laws, rules and regulations of the City, State and United States of America apply. Catchall clause indicating that all laws apply.
 - ♦ Kendall County took different approach and incorporated specific standards. If a provision is not on list, then no damages can be paid out. Also, there is no provision for new standards.
- Stipulated Damages and Enforcement
 - ♦ Yorkville is silent because it focuses on self-help powers. This allows for more immediate action to be taken. Fox Moraine indemnifies the City from costs; there is an escrow account that gets replenished. Allows for arbitration which is faster, has expertise built in and is enforceable.
 - ♦ Kendall County's agreement places the emphasis on litigation. Lawsuits can be pursued if after ninety days nothing has changed regarding complaint. Can be a long, drawn out process.
- Financial Assurance
 - ♦ Kendall County's agreement excludes forms of financial assurance
 - ♦ Yorkville's agreement allows this to be tailored to applicant
- Cost of Reimbursement
 - ♦ Yorkville does not want this because it trades objectivity for dollars and it is not the best practice
 - ♦ Kendall County's agreement calls for yearly reimbursement payment.
- Disposal Guarantee
 - ♦ Yorkville's agreement has a guarantee for waste generated in the City and is expandable upon receiving the application.
 - ♦ Kendall County's agreement has a guarantee for the entire County.
- Future Use
 - ♦ Yorkville's agreement requires that an end use plan be presented in the siting application. Deciding on this before receiving an application is premature
 - ♦ Kendall County's agreement may assign its rights under the lease to a third-party or enter into a sublease.
- Private Review
 - ♦ Kendall County already locked in a traffic plan which may need to be amended after the siting.
 - ♦ Yorkville expressed concerned that a private review of a draft application casts a shadow over the entire siting process.

Attorney Price went over the siting timeline and then opened the floor for questions.

Alderman Burd noted that the reason that she, along with Aldermen Munns and Spears, requested this meeting was so that everyone could hear how Attorney Price negotiated the Host Agreement.

Alderman Burd asked him to elaborate on the following issues:

- Why did Yorkville's agreement require prior notification of inspections while the County's does not. Attorney Price explained that the City has the right to inspect the landfill at any time. Prior notification is for safety issues and a representative of the landfill needs to be present during the inspection.
- The City's agreement states all reasonable efforts to avoid debris would be taken while the County's states they shall not have debris. She asked why this was not addressed up front. Attorney Price explained that it can't be expected that there will be staff walking the perimeter of the landfill cleaning up. How many staff members will be needed for this? There are too many unknowns at this point in time.

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- How will the City Council handle the process; will they all be judges? Attorney Price explained that the City Council is the hearing judges and that a quorum of the City Council will be needed at the public hearing. Anyone missing a meeting will need to read the information presented to keep updated.

Alderman Burd thanked Attorney Price for his efforts and for the information he provided.

Alderman Munns had the following comments and questions:

- He noted that it was mentioned that people will be needed for clean-up and enforcement. He asked if the City would have to hire employees to do this. Attorney Price stated that this could either be handled in-house or contracted out. Fox Moraine will be responsible for the cost.
- He asked what would happen if the City Council does not take action after the 180 days. Attorney Price stated that the application would be “deemed” approved however if residents don’t like the Council’s decision, they can appeal.

Alderman Spears had the following comments and questions:

- Conditions - She stated that there are many conditions that cannot be in the siting agreement and recommended that this be addressed in the Host Agreement. Attorney Price asked Alderman Spears what specific conditions cannot be included in the siting agreement however she did not have this information with her. Attorney Price explained that there are nine criteria that need to be met and conditions can be tailored to the evidence. She asked what conditions have not been allowed in other siting agreements. Attorney Price stated that he was not aware of any particular conditions that were disallowed however conditions can be challenged (i.e. how fees can be allocated, who benefits from fees, etc). Steve Schilling stated that he has reviewed siting conditions imposed on other landfills and a number of them allow fees to be imposed for inspections, etc. He also was not aware of any conditions that were not allowed.
- Total hold harmless - She stated that she felt it would be in the best interest of the City to have a “total hold harmless” clause in the Host Agreement. Attorney Price pointed out that paragraph 17 of the Host Agreement addresses this with a “total indemnity clause” which holds the City harmless.
- Retaining counsel - She asked if there was anything in the agreement that states that the city has the right to retain counsel of its own choice at Fox Moraine’s expense. Attorney Price explained the indemnity clause states that Fox Moraine is responsible for any costs incurred such as attorney’s fees.
- Guarantee of payment – she noted that the County’s was unconditional. She commented that she thought it would be better for the City to have a guaranteed revenue source. Attorney Price explained that if the City Council feels this is necessary, it can be put into the siting agreement.
- Arbitration - she commented that a jury and judge who were local would be to the benefit of the City. Attorney Price noted that Kendall County court system is short staffed and this would not be the way to get the quickest results.
- Groundwater Protection – she suggested that the City increase the scope of the area to 1.5 miles. Attorney Price indicated that this could be addressed as a siting condition.
- Communication – she commented that she felt the City should communicate openly with the public. Attorney Price indicated that there is an additional meeting scheduled to explain the siting process.
- Hauler – she noted that the Host Agreement does not identify a hauler. Attorney Price explained that the hauler will be identified in the siting application. The City’s team wouldn’t recommend any untrained haulers. If this information is included in the Host Agreement, the City is prematurely committed to something.
- What is the term for the public person who sits in at the public hearing and asks questions? Attorney Price replied that the term was “participant” and anyone can be a participant. He explained that questions will be written down so that the same question is only asked once. The hearing officer will moderate the questions. Participants can be attorneys, residents, etc.

Alderman Spears suggested to the City Council that conditions be put into the Host Agreement now rather than wait for the siting application.

Alderman Leslie had the following questions:

- What type of vote is needed for final acceptance and is the mayor involved in the vote? Attorney Price explained that a simple majority is needed and the mayor can vote.
- What is the service area of the landfill, tonnage limits and what prohibits waste from other areas? Attorney Price explained that limitations can be addressed in the siting agreement because they depend on needs. In regards to the service area, if a need is sited to include outside areas the City Council can see if the need doesn’t meet requirements.

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- If the hauling of waste is limited to Kendall County would this be a “deal breaker”?
Attorney Price explained that the City Council needs to determine if the area defined is unreasonable based on expert testimony.

Alderman Wolfer had the following questions:

- How are conditions set? Attorney Price stated that conditions needed to be determined before the final vote. The hearing officer will take the evidence presented and then make a recommendation to the City Council so that things can be tailored before the vote.
- Do conditions needed to be backed up by evidence. Attorney Price explained that conditions are set based on evidence.

Alderman Munns asked for clarification on the vote needed to approve the landfill. Attorney Price reiterated that, based on state statute, a simple majority vote is needed.

Alderman Spears opened the floor for public comment.

Ron Parrish, Kendall County resident, complimented Attorney Price on a good presentation. He asked if the experts present knew how many landfills with plastic liners have failed and leaked. Mr. Schilling stated that if a landfill is properly constructed with a plastic liner it should not leak. Mr. Parrish indicated that he researched this and 82% of landfills leak. He also stated that money is the main reason the City is getting involved in a landfill. He asked how problems with the landfill will be handled and Attorney Price explained that residents can come to City Hall with their complaints and the City will take action or residents can hire a lawyer if they choose. Mr. Parrish asked how large the landfill will be and Attorney Price stated this is unknown until the siting application is received.

Rich Guerard from Windham Deerpoint Homes stated that they had several hundred acres of land near the landfill. He expressed his concern that paragraph 15 of the annexation agreement for this property states that the City agrees to cooperate and provide all assistance requested by the owner in obtaining approval, permits, etc. to develop the property. Later in the same paragraph it states that the development of the property will be a landfill. Mr. Guerard asked how the City could be impartial to the landfill with statements like this in the annexation agreement. Attorney Price noted that the annexation agreement was a separate act from the approval of a landfill.

Bob Kalizinski asked if the environmental expert was present and Attorney Price explained that Dr. Craig Benson was not able to attend tonight. Mr. Kalizinski asked if the experts present knew the types of bases are used for landfills and those present did not know. Mr. Kalizinski had the following comments:

- The State of Illinois is the #2 importer of waste in the United States
- There are three types of bases and according to the USGS 100% of landfills leak over time.
- The Host Agreement has too many “outs”

He asked what a “LLC” was and Attorney Price explained that it means “limited liability corporation” and this is a type of corporation where the members are not personally liable for anything except acts of fraud. Mr. Kalizinski asked that if the LLC goes bankrupt would it be able to reopen under a different name somewhere else. Attorney Price stated that if Fox Moraine, as the owner of the property, goes bankrupt their land is an asset. He noted that the operator has yet to be identified. Mr. Kalizinski noted that if a base deteriorates and contamination reaches an aquifer it could cost millions of dollars to clean up. He noted that the landfill in Lowell, Indiana is having problems and he stated he had information about the landfill if anyone on the Council was interested. He cited facts and figures about health problems that could be caused by a landfill. He asked Attorney Price if the City would be held responsible in a civil suit. Attorney Price stated that if the City finds the land meets the criteria for a landfill they are not accountable.

Alderman Munns noted that there was a time limit of five minutes for comments and that Mr. Kalizinski had reached his time limit.

Harlan Plocher asked the attorneys if they had ever heard of John Frost. None of the panel knew the name.

Tom Gilmore, Kendall County resident, noted that the County residents will be impacted by the landfill the most and there is no one representing them. He noted that there has been concern for Morris because of trucks coming off of Route 80 and he asked if anyone was concerned with Newark and Millbrook who are close to the landfill site. Attorney Price noted that as the Host Agreement was not the source for public input this information will be solicited at the public hearing for the siting process. Mr. Gilmore noted that the County has a mechanism in place to site a landfill and that the City has made an agreement in violation of the Kendall County

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ordinance. Attorney Price stated he was not 100% certain that the landfill would be sited on this property. The applicant also has to meet the criteria of Kendall County's plan.

Alderman Leslie asked how close the approval of the siting application will come to the upcoming election. It was discussed that the approval will come near the end of April 2007 or sooner depending on evidence.

Attorney Michael Blazer, counsel for Kendall County, stated that he felt that incomplete information has been given. He explained that there is a lengthy list for siting conditions for various applications and that several conditions have been found to be inappropriate. He cited case law and a list of conditions found to be improper. He also stated that all siting conditions related to an application can be appealed. He also commented that the mayor of Bellwood has expressed great satisfaction with Hillside's approach to their landfill and that is why they are not taking further action.

Alderman Munns called point of order; Mr. Blazer's five minutes had elapsed. Alderman Spears stated that Mr. Blazer should be allowed to continue and Aldermen Munns and Burd pointed out that wasn't fair to all the other previous speakers.

George Gilson stated that he has attended all the City meetings and been watching the process. He clarified that the siting conditions would be judged by the City Council and the application approved by a simple majority vote. He commented that he wasn't secure with the City Council making this decision because it hasn't answered all the questions. He did not feel secure they will listen to the residents' comments. Attorney Price stated that all feedback will be taken seriously. He explained there are checks and balances and if the residents don't like the Council's decision they can appeal. Mr. Gilson noted that most of the people present at this meeting don't have the funds to appeal so they are relying on the City Council to listen to them. He noted that parking ban surveys were sent out but there wasn't any citizen input on the annexation or the landfill.

Jim Boe, Yorkville resident, stated that he understood that the County has a site in mind for a landfill so why was one being considered for Yorkville. Attorney Price explained that landfills are based on science because a site is needed with the right amount of clay. This site has been explored since 1993. Mr. Boe questioned why a landfill was needed in Kendall County and if it is needed why is it so close to the Yorkville. Attorney Price stated the facility needs to be able to accommodate the waste in the area and a site needs to be geologically sound.

Fred DuSell noted that the Host Agreement doesn't address the construction design as to grading and elevations. Attorney Price explained that the construction design would depend on the siting application and that Kendall County has adopted standards for the construction. Mr. DuSell also had questions about the conveyance of the product; would it be exclusive of rail car. Attorney Price explained that there is not railroad tracks to the possible landfill site however the use of railcar is a possibility as long as the waste is containerized.

Joann Gilbert asked if the landfill would accept hazardous or solid waste. Attorney Price explained that this would be determined by the siting application. Mr. Schilling noted that in the information he has seen on the design of the facility he would be surprised to see hazardous waste as a criteria. Alderman Burd noted that #7 in the Host Agreement states that Fox Moraine shall not knowingly accept any hazardous waste. Mrs. Gilbert clarified that the property owner files the siting application but he might not necessarily be the operator. Attorney Price stated that this was true. She asked if the property owner's business ethics have been researched. Attorney Price stated that this has been done. Mrs. Gilbert noted that Mr. Hammond has a landfill outside of Plainfield and it is spewing methane gas. Attorney Price noted that if Mr. Hammond is going to be the same operator, this is the type of information to be brought forward at the siting public hearing.

Todd Milliron, County resident, stated he objected to the five minute rule because it appears as an opportunity for the City Council to limit the debate. He asked what the qualifications were to be an operator, how one went about getting a license and how long does this process take. Attorney Price explained that several things are looked at in the licensing process such as past record, training, certifications, etc. Mr. Schilling added that there are tests involved, IEPA training, training from other professional agencies, etc. Mr. Milliron asked Attorney Price's opinion as to which one of the Host Agreements, Kendall County's or Yorkville's was more financially favorable to the applicant. Attorney Price asked if this was assuming that they are both recalcitrant and problematic. He stated that the Yorkville agreement asks the operator to pay upfront and as soon as possible. If there is a recalcitrant fight, Yorkville's agreement is a better deal for the City.

Wally Werderich, 786 Sunflower Court, noted that the Host Agreement is between the City and Fox Moraine however the annexation agreement is between the City and Northstar Trust. He

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asked who the beneficiary's of the trust are and who the share holders of Fox Moraine LLC are Attorney Price stated that he did not know the answer to either question.

Randy Scott of 45 Highview Drive congratulated Aldermen Spears and Burd on the meeting. He stated that he lost his rights by being a Kendall County resident. He asked everyone, especially the City Council, to do their homework well and investigate every angle of landfills before making a decision.

Deena Schroeder, 18 Cotswold Drive, asked if there was a law which wouldn't allow the landfill within city limits. Attorney Price stated that Kendall County passed an amendment in May 2006 indicating that landfills had to be in an unincorporated area. He stated that one of the criteria in the siting process is that it will be consistent with the Solid Waste Master Plan and it is up to the applicant to prove this.

Jerry Deeter, County resident, commented that the land annexed for the landfill seems like a peninsula in the County. He asked if Kendall County residents will have a say in the siting process hearings. Attorney Price stated that where someone lives is immaterial at the public hearings and he briefly explained the process again. Mr. Deeter asked if 180 days was sufficient time to go through the process and Attorney Price stated that it was. Mr. Deeter questioned the limit of 1000' in regards to property values. Attorney Price explained that the Host Agreement is a starting point and this distance can be amended.

Alderman Spears commented that she felt that the vacation of Sleepy Hollow Road should not have been in the Annexation Agreement. Having this include in the agreement caused the Council to prejudge the property as a landfill. She stated that this should have been a separate issue. She asked Attorney Price what his opinion was on this issue. Attorney Price stated that he respected her perspective on the issue and it was lawful to include the vacation in the agreement.

Jenny Lunn, Yorkville resident, asked if traffic was addressed as it takes her 27 minutes to go from the Countryside area to Yorkville Intermediate School in the morning. Attorney Price explained that this is a concern and a traffic study has been requested. Mrs. Lunn asked if anyone could dump in the landfill as long as the fee is paid. Attorney Price explained that there will be a plan for waste acceptance which will check on how things come in to the landfill. She commented that she felt there was a much better use for this land and she suggested the gravel pits in Oswego would be a better location for a landfill.

Chris Baldwin, 1520 Foxcroft Drive, commended Alderman Spears for wanting the public to have more than five minutes to speak and he felt those who did not agree with this should be ashamed. He asked Attorney Price who is paying for the experts he has employed. Attorney Price stated that the City is paying for their services until an application is received. He noted that since all the experts are being paid, they should have attended the meeting. Attorney Price stated that this was not the forum for discussions with the experts because no application has been received yet. Mr. Baldwin asked if \$10,000.00 would be enough to cover the cost incurred and he asked if it was fair for the Mayor, City Administrator and Director of Public Works to be the judge and jury on problems. Attorney Price explained he thought the people designated for the review team was great and that the \$10,000.00 is enough to pay for daily complaints. He stated that he has seen the escrow work well in other instances. Mr. Baldwin asked if the new City Council would have to vote on the application if it occurred after the elections and Mr. Price stated that this was correct.

Lori Patten, 279 Windham Circle, asked where the City's water came from. Director of Public Works Dhuse explained that the City has a deep well system and the water comes from an aquifer that begins in Wisconsin. He stated that the City has four wells and is looking to drill a fifth. Ms. Patten asked where the wells were in relation to the annexed property. Director Dhuse explained that the closest well will be on Pavilion Road. She stated that she has been doing research on the internet regarding hazardous wastes and she asked how this would be monitored. Attorney Price explained that there will be both a monitoring and handling program which should be outlined in the siting application. She asked if this would be a private or public landfill. She explained that her research indicated that a public landfill is easier to control whereas a private landfill is predicated on making money. Attorney Price stated that given her definitions, this landfill is neither. Ms. Patten noted that in Indiana where a landfill contaminated the water, potable water was brought in but unfortunately the contamination remained in the ground. Ms. Patten asked for clarification on railroad transport in containers. Attorney Price reiterated the waste would have to be enclosed in a solid container, not one with a canvas top.

Alderman Spears noted that there was another meeting scheduled and asked Attorney Price for more information. Attorney Price stated that the next meeting would be on the siting process. He indicated that no date had been set yet. Alderman Spears asked those present to register their

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attendance especially if they wish notification of upcoming meetings She asked Attorney Price to have Dr. Benson in attendance at the next meeting and he said he would do this

ADJOURNMENT

Alderman Spears asked if there was a motion to adjourn. So moved by Alderman Burd; seconded by Alderman Bock

Motion approved by a viva voce vote

Meeting adjourned at 10:00 P M.

Minutes submitted by:

Jacquelyn Milschewski,
City Clerk City of Yorkville, Illinois

SPECIAL CITY COUNCIL MEETING
UNITED CITY OF YORKVILLE, ILLINOIS

REPORT OF PROCEEDINGS had at the meeting
of the above-entitled matter taken before
CHRISTINE M. VITOSH, C.S.R., on October 30, 2006,
at the hour of 7:00 p.m., at 800 Game Farm Road
in the City of Yorkville, Illinois.

D-807506



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P R E S E N T:

MS. ROSE ANN SPEARS, Acting Chairman;
MR. PAUL JAMES, Alderman;
MR. JASON LESLIE, Alderman;
MS. VALERIE BURD, Alderwoman;
MR. DEAN WOLFER, Alderman;
MR. MARTY MUNNS, Alderman;
MR. JOSEPH BESCO, Alderman;
MR. JAMES BOCK, Alderman;
MR. JOHN CROIS, City Administrator;
MS. JACQUELYN MILSCHEWSKI, City Clerk.

A P P E A R A N C E S:

MR. JOHN JUSTIN WYETH,
appeared on behalf of the United
City of Yorkville, Illinois.

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1 (Pledge of Allegiance)

2 CHAIRMAN SPEARS: The first item
3 will be a public hearing, and I would like to
4 entertain a motion for a public hearing regarding
5 General Obligation Refunding Bonds Alternate
6 Revenue Source.

7 MR. LESLIE: So moved.

8 MR. BOCK: Second.

9 CHAIRMAN SPEARS: Okay. And we are
10 now in public hearing. I'm sorry, may we have a
11 roll call vote?

12 MS. MILSCHEWSKI: Besco.

13 MR. BESCO: Aye.

14 MS. MILSCHEWSKI: Leslie.

15 MR. LESLIE: Aye.

16 MS. MILSCHEWSKI: Wolfer.

17 MR. WOLFER: Aye.

18 MS. MILSCHEWSKI: Munns.

19 MR. MUNNS: Aye.

20 MS. MILSCHEWSKI: Burd.

21 MS. BURD: Aye.

22 MS. MILSCHEWSKI: Spears.

23 MS. SPEARS: Aye.

24 MS. MILSCHEWSKI: Bock.

1 MR. BOCK: Aye.

2 CHAIRMAN SPEARS: Okay. Now we are
3 in public hearing, and I'd like to know if
4 anybody would like to address the Council. Okay.
5 We also have Kevin McCanna from Spear Financial.

6 WHEREUPON:

7 KEVIN McCANNA,
8 testified before the Yorkville City Council as
9 follows:

10 MR. McCANNA: Good evening. I think
11 you are aware that these bonds are being
12 authorized.

13 CHAIRMAN SPEARS: These bonds are
14 being authorized to refund debt certificates and
15 the idea is to issue up to six million dollars of
16 alternate revenue bonds to refund the comparable
17 amount of debt certificates.

18 It appears that we'll probably
19 issue about three million dollars of bonds to
20 refund about three million dollars of debt
21 certificates. The savings is expected to be
22 approximately \$100,000 on the alternate bonds.

23 In addition, there will be some
24 debt certificates sold at the same time, about

1 five million dollars, which will save about
2 another \$250,000.

3 Does anybody on the Council
4 have any questions?

5 (No Response)

6 CHAIRMAN SPEARS: Okay. I would
7 like to entertain a motion to go out of public
8 hearing.

9 MR. LESLIE: So moved.

10 MR. WOLFER: Second.

11 CHAIRMAN SPEARS: Roll call, please?

12 MS. MILSCHEWSKI: Leslie.

13 MR. LESLIE: Aye.

14 MS. MILSCHEWSKI: Wolfer.

15 MR. WOLFER: Aye.

16 MS. MILSCHEWSKI: Munns.

17 MR. MUNNS: Aye.

18 MS. MILSCHEWSKI: Burd.

19 MS. BURD: Aye.

20 MS. MILSCHEWSKI: Spears.

21 MS. SPEARS: Aye.

22 MS. MILSCHEWSKI: Bock.

23 MR. BOCK: Aye.

24 MS. MILSCHEWSKI: Besco.

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MR. BESCO: Aye.

(Which were all the
proceedings had in
the public hearing.)

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1 STATE OF ILLINOIS)
2) ss:
3 COUNTY OF LASALLE)

4 CHRISTINE M. VITOSH, being first duly
5 sworn, on oath says that she is a Certified
6 Shorthand Reporter doing business in the State of
7 Illinois;

8 That she reported in shorthand the
9 proceedings had at the foregoing public hearing;

10 And that the foregoing is a true and
11 correct transcript of her shorthand notes so
12 taken as aforesaid and contains all the
13 proceedings had at the said public hearing.

14 IN WITNESS WHEREOF I have hereunto set

15 my hand this 30th day of
16 December, 2006.

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CHRISTINE M. VITOSH, C.S.R.
CSR License No. 084-002883

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