

MINUTES OF THE REGULAR MEETING OF THE NORMAL TOWN COUNCIL HELD IN THE COUNCIL CHAMBERS, NORMAL CITY HALL, FOURTH FLOOR UPTOWN STATION, 11 UPTOWN CIRCLE, NORMAL, MCLEAN COUNTY, ILLINOIS – MONDAY, MAY 20, 2019.

1. CALL TO ORDER:

Mayor Pro Tem Kevin McCarthy called the regular meeting of the Normal Town Council to order at 7:00 p.m., Monday, May 20, 2019.

2. ROLL CALL:

The Deputy Clerk called the roll with the following persons physically

PRESENT: Mayor Pro Tem Kevin McCarthy and Councilmembers Chamberly Cummings, Stan Nord, Karyn Smith, Kathleen Lorenz, and Scott Preston. Also present were City Manager Pamela Reece, Assistant City Manager Eric Hanson, Corporation Counsel Brian Day, and Deputy Town Clerk Alison White.

ABSENT: Mayor Chris Koos.

3. PLEDGE OF ALLEGIANCE:

Mayor Pro Tem McCarthy led the Pledge of Allegiance to the Flag.

4. PUBLIC COMMENT:

Samantha Case, Normal Resident, spoke about The Citizens to Ensure Fair Transit's request to add members to the Connect Transit Board that rely on public transportation, or who may be disabled or low-income.

Cynthia Williams, Normal Resident, voiced her opinion in favor of appointing a trustee to the Connect Transit Board who is dependent on transit service, which she believes is an unrepresented segment of ridership.

Heidi Zimmerman, Normal Resident, spoke regarding upcoming changes approved by the Connect Transit Board which she believes will block people with disabilities or the financially disadvantaged from participating in the community.

Rachel Shively, Normal worker, spoke to the nomination of members to the Connect Transit Board, and her belief that the Board should better reflect and represent the riders in the community by appointing members who are transit reliant.

5. OMNIBUS VOTE AGENDA:

Mayor Pro Tem McCarthy read aloud the items to be considered by the Omnibus Vote Agenda.

- A. APPROVAL OF THE MINUTES OF THE REGULAR COUNCIL MEETING OF MAY 6, 2019:
- B. APPROVAL OF TOWN OF NORMAL EXPENDITURES FOR PAYMENT AS OF MAY 15, 2019:
- C. RESOLUTION ACCEPTING THE LOW BID AND AWARDING A CONTRACT TO K.K. STEVENS PUBLISHING COMPANY OF ASTORIA, ILLINOIS FOR THE PRINTING OF THE PARKS AND RECREATION DEPARTMENT'S FALL, WINTER/SPRING, AND SUMMER ACTIVITY GUIDES IN THE AMOUNT OF \$30,423.61: Resolution No. 5672:
- D. RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT WITH HITCHCOCK DESIGN GROUP FOR PROFESSIONAL DESIGN SERVICES FOR MAXWELL PARK RENOVATIONS IN THE AMOUNT OF \$91,700:
- E. RESOLUTION WAIVING BIDS AND AUTHORIZING THE PURCHASE OF (5) OTTERBINE INDUSTRIAL AERATORS FROM MTI DISTRIBUTING IN THE AMOUNT OF \$39,121.03: Resolution No. 5673:
- F. RESOLUTION TO AWARD THE BID FOR THE PRESSURE ZONE INTERCONNECTION WATER MAIN PROJECT TO STARK EXCAVATING, INC. AT A TOTAL COST OF \$739,989.00 PLUS UP TO \$15,000 FOR AN EARLY COMPLETION BONUS:
- G. RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING WITH ILLINOIS STATE UNIVERSITY PROVIDING FOR AUDIBLE/ACCESSIBLE TRAFFIC SIGNAL IMPROVEMENTS AT THE INTERSECTION OF COLLEGE AVE. AND UNIVERSITY ST.: Resolution No. 5674:

Councilmember Chamberly Cummings excused herself from voting on any expenses she incurred while performing her duties as a Councilmember.

City Manager Pamela Reece noted that there were some content errors in the minutes from the May 6, 2019 meeting, but they had already been corrected and made available to Council and the public.

MOTION:

Councilmember Lorenz moved, seconded by Councilmember Preston, the Council Approve the Omnibus Vote Agenda.

AYES: Cummings, Nord, Smith, Lorenz, Preston, McCarthy.

NAYS: None.

Motion declared carried.

Items A, C, E, and G were approved by the Omnibus Vote.

Items B, D, and F were removed from the Omnibus Vote.

6. ITEMS REMOVED FROM THE OMNIBUS VOTE AGENDA:

APPROVAL OF TOWN OF NORMAL EXPENDITURES FOR PAYMENT AS OF MAY 15, 2019:

MOTION:

Councilmember Nord moved, seconded by Councilmember Preston, the Council Approve the Town of Normal Expenditures for Payment as of May 15, 2019.

AYES: Cummings, Nord, Smith, Lorenz, Preston, McCarthy.

NAYS: None.

Motion declared carried.

Councilmember Stan Nord requested clarification regarding the CIRBN Subscriber Builds expenditure and asked for confirmation that this would be the third and final payment toward the expense improving Uptown Wi-Fi. Mr. Nord then asked about a Communication Center expense and the recent 911 outage. He wondered if there might be a way to receive a credit back due to the outage, or if there might be an SLA in place as incentive to make sure this doesn't happen again.

City Manager Pamela Reece confirmed the expense is the final payment toward improving Uptown Wi-Fi. In response to the 911 outage, Ms. Reece clarified that the Communication Center expenses fund the operation, and there were still dispatchers working and operating the communications network even though the 911 number was down, but that there would be further discussion when the Metcom Board meets again.

RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT WITH HITCHCOCK DESIGN GROUP FOR PROFESSIONAL DESIGN SERVICES FOR MAXWELL PARK RENOVATIONS IN THE AMOUNT OF \$91,700: Resolution No. 5675

MOTION:

Councilmember Karyn Smith moved, seconded by Councilmember Preston, the Council Approve a Resolution Authorizing the Execution of an Agreement with Hitchcock Design Group for Professional Design Services for Maxwell Park Renovations in the Amount of \$91,700.

AYES: Nord, Smith, Lorenz, Preston, Cummings, McCarthy.

NAYS: None.

Motion declared carried.

Councilmember Karyn Smith stated she wants to be sure the design incorporates appropriate ADA accessibility. Ms. Smith added she would like to see the Town involve SOAR, Unit 5 and Special Olympics in the discussions and design of the bocce courts.

City Manager, Pamela Reece stated she had communicated this to Parks & Rec Director Doug Damery, who will follow up with Hitchcock Design Group.

RESOLUTION TO AWARD THE BID FOR THE PRESSURE ZONE INTERCONNECTION WATER MAIN PROJECT TO STARK EXCAVATING, INC. AT A TOTAL COST OF \$739,989.00 PLUS UP TO \$15,000 FOR AN EARLY COMPLETION BONUS: Resolution No. 5676

MOTION:

Councilmember Smith moved, seconded by Councilmember Lorenz, the Council Approve a Resolution to Award the Bid for the Pressure Zone Interconnection Water Main Project to Stark Excavating, Inc. at a Total Cost of \$739,989.00 Plus up to \$15,000 for an Early Completion Bonus.

AYES: Smith, Lorenz, Preston, Cummings, Nord, McCarthy.

NAYS: None.

Motion declared carried.

Councilmember Karyn Smith asked for clarification on pre-bid meetings, further explanation of what's involved in this project, whether it includes sufficient funding to repave any roads which might be torn up in the process, and the amount of traffic disruption to expect. Ms. Smith also asked if the contract had any provisions for contingency or change orders, and also inquired about the project's timetable.

Water Director, John Burkhart explained how pre-bid meetings work, and confirmed that the Town leaves properties in the same, if not better, condition than before the project started. He also stated there was a possibility for change orders, however those only happen when "unknowns" arise, and he believes the entire project was well designed. Mr. Burkhart added that the project is anticipated to take 115 days from the Notice to Proceed. He then outlined the roads which would be affected.

GENERAL ORDERS:

7. AN ORDINANCE REZONING PROPERTY IN THE TOWN OF NORMAL – 803 KERN AND 910 KINGSLEY: Ordinance No. 5784

MOTION:

Councilmember Preston moved, seconded by Councilmember Cummings, to Approve an Ordinance Rezoning Property in the Town of Normal – 803 Kern and 910 Kingsley.

AYES: Lorenz, Preston, Cummings, Nord, Smith, McCarthy.

NAYS: None.

Motion declared carried.

City Manager, Pamela Reece stated staff is available to answer any questions, and the applicant's attorney is also present for questions.

8. RESOLUTION AUTHORIZING THE EXECUTION OF THE SECOND AMENDED AND RESTATED PREANNEXATION AGREEMENT WITH NUSSBAUM PROPERTIES, INC. (NUSSBAUM TRANSPORTATION, 19336 NORTH 1425 EAST ROAD): Resolution No. 5677

MOTION:

Councilmember Preston moved, seconded by Councilmember Lorenz, to Approve a Resolution Authorizing the Execution of the Second Amended and Restated Pre-Annexation Agreement with Nussbaum Properties, Inc. (Nussbaum Transportation, 19336 North 1425 East Road).

AYES: Preston, Cummings, Nord, Smith, Lorenz, McCarthy.

NAYS: None.

Motion declared carried.

Councilmember Karyn Smith asked for further clarification on the Resolution, as Nussbaum Properties is outside the Town of Normal's corporate limits. Ms. Smith also expressed concern that the \$50,000 in the agreement designated for improvements may be inadequate.

City Manager, Pamela Reece explained the history of the existing pre-annexation agreement was entered into in anticipation of the Town's growth. She also clarified that the \$50,000 would be Nussbaum's share of improving an intersection, and since they would not likely own all corners, adjacent property owners would share in that expense as well.

Corporation Counsel, Brian Day commented that this is essentially the same agreement signed in 2012, just with the addition of two new properties.

9. RESOLUTION CONDITIONALLY APPROVING A FINAL PLAT OF NUSSBAUM'S SECOND SUBDIVISION AND NUSSBAUM'S THIRD SUBDIVISION (NUSSBAUM TRANSPORTATION, 19336 NORTH 1425 EAST ROAD): Resolution No. 5678

MOTION:

Councilmember Smith moved, seconded by Councilmember Cummings, to Approve a Resolution Conditionally Approving a Final Plat of Nussbaum's Second Subdivision and Nussbaum's Third Subdivision (Nussbaum Transportation, 19336 North 1425 East Road).

AYES: Cummings, Nord, Smith, Lorenz, Preston, McCarthy.

NAYS: None.

Motion declared carried.

10. ORDINANCE CONDITIONALLY APPROVING THE FINAL PLAT OF THE MP-TWO SUBDIVISION (2012 W. COLLEGE): Ordinance No. 5785

MOTION:

Councilmember Lorenz moved, seconded by Councilmember Cummings, to Approve an Ordinance Conditionally Approving the Final Plat of the MP-TWO Subdivision (2012 W. College).

AYES: Smith, Lorenz, Preston, Cummings, McCarthy.

NAYS: None.

ABSTAINED: Nord

Motion declared carried.

Councilmember Stan Nord recused himself and left the dais.

Corporation Counsel, Brian Day gave a summary explanation of Councilmember Nord's excusal from discussion and voting, and a brief history of the items of issue.

Councilmember Karyn Smith moved to waive the tap-on fees due on the project. The motion was not seconded, therefore did not pass.

Ryan Powers, Attorney for Mr. Nord, spoke about waiving the tap-on fee and reiterated the reasoning behind that position.

Councilmember Karyn Smith confirmed the dollar amount of the fees in question and whether the Town would seek outside council to defend its position.

Corporation Counsel, Brian Day said the Town is equipped to handle the issue with in-house attorneys. Mr. Day reviewed the two possible interpretations regarding payment of tap-on fees under our ordinance. He explained that Town staff doesn't have the authority to just waive fees, and there's no legal basis to do so, however Council could choose to do that as a policy decision if they wished.

City Manager, Pamela Reece clarified the difference between sanitary sewer tap-on fees versus monthly service fees and stated the fees due were not unknown to the property owner.

Corporation Counsel, Brian Day responded to some of Attorney Ryan Powers' legal arguments, and also stated he's comfortable saying there was no special relationship or favoritism given to the previous owner by the person who approved the original permit.

Councilmember Chamberly Cummings expressed that she's not in favor of the fee waiver and is concerned about an elected official asking for special treatment.

Councilmember Karyn Smith referenced a fee error made in Bloomington and the fact that Bloomington isn't trying to retroactively collect the fee. Ms. Smith also questioned Corporation Counsel, Brian Day's relationship to the Mayor and Council, and wondered whether there may be a conflict of interest in Mr. Day representing the Town which could lead to the expense of outside council.

Corporation Counsel, Brian Day clarified his role and explained that he represents the Town as a corporate entity as a whole, not the Mayor or Council or City Manager.

Councilmember Kathleen Lorenz addressed Attorney Ryan Powers regarding the content of the emails notifying Mr. Nord of fees due prior to his purchase of the property, and whether Mr. Nord had asked the property seller for an allowance of some sort. Attorney Powers was unable to answer this.

City Manager, Pamela Reece asked for the date the property was acquired by Mr. Nord. A discussion followed regarding the timing of emails sent, and when exactly Mr. Nord knew about the fees due.

Councilmember Scott Preston asked about whether the Town would have reached out to the previous owner regarding the unpaid fees.

Councilmember Karyn Smith asked for clarification on what exactly would be authorized by the vote this evening.

Councilmember Kevin McCarthy addressed the assertion that “fees popped out of nowhere” and expressed that it’s important to distinguish between retroactive fees versus notice of fees. Mr. McCarthy also commended the Town staff being so up front in an effort to sort the issue out.

Councilmember Stan Nord returned to the dais after the vote.

11. NEW BUSINESS:

There was no New Business.

12. CONCERNS:

Councilmember Karyn Smith commented that she attended the Connect Transit meeting which served as a kickoff for initiating a new work group. Ms. Smith shared her hopes that the working group is not just cosmetic, and that an alternative can be considered when it’s clearly needed.

Councilmember Stan Nord thanked all that came out to talk about the Connect Transit issue this evening and is hopeful that there will be a positive resolution. Mr. Nord also mentioned the vacancy on the Connect Transit Board and his wish for it to be filled by a Normal representative.

13. ADJOURNMENT:

There being no further business to come before the Council, Mayor Pro Tem McCarthy called for a Motion to Adjourn the Regular Meeting of the Normal Town Council.

MOTION:

Councilmember Kathleen Lorenz moved, seconded by Councilmember Chemberly Cummings, the Council Accept a Motion to Adjourn the Regular Meeting of the Normal Town Council.

AYES: Smith, Lorenz, Preston, Cummings, Nord, McCarthy.

NAYS: None.

Motion declared carried.

Mayor Pro Tem McCarthy adjourned the Regular Meeting of the Normal Town Council at 8:13 p.m., Monday, May 20, 2019.