

: OFFICIAL PROCEEDINGS :**: OF THE CITY OF PEORIA, ILLINOIS :**

Council Chambers, Peoria, Illinois, March 13, 2001, a Regular Meeting of the City Council was held this date at 6:15 P.M., at City Hall, 419 Fulton Street, Mayor Lowell G. Grieves presiding.

ROLL CALL

Roll call showed the following Council Members present: Ardis, Duncan, Gibson, Grayeb, Morris, Nichting, Sandberg, Spears, Thetford, Turner, Mayor Grieves – 11; Absent: None.

INVOCATION & PLEDGE OF ALLEGIANCE

Mayor Grieves requested a moment of silent prayer, and then led the Pledge of Allegiance.

PROCLAMATIONS, COMMENDATIONS, ETC.

PROCLAMATION: CAROLINE HOLFORD - GALE AVENUE NEIGHBORHOOD ASSOCIATION

MINUTES

Council Member Nichting moved to approve the minutes of the Executive Session and the Regular City Council Meeting held on March 6, 2001, as outlined, with a clarification on page 25122 under Item No. 01-113 to remove Council Member Nichting's name from the yea vote, changing the count to 10 rather than 11, and reflect that Council Member Nichting abstained from the vote; seconded by Council Member Turner.

Approved by roll call vote.

Yeas: Ardis, Duncan, Gibson, Grayeb, Morris, Nichting, Sandberg, Spears, Thetford, Turner,
Mayor Grieves – 11;

Nays: None.

PETITIONS, REMONSTRANCES & COMMUNICATIONS**CONSIDERATION OF CONSENT AGENDA ITEMS BY OMNIBUS VOTE:**

(01-145) PAYMENT ESTIMATE FOR PUBLIC IMPROVEMENT PROJECT: ELM STREET CUL-DE-SAC (Removal of existing pavement; construction of 8" P.C.C. pavement cul-de-sac, P.C.C. driveway approach, property-line sidewalks, seed and all appurtenant construction thereto.) C&G CONCRETE CONSTRUCTION – PAY ESTIMATE #2 & FINAL: \$679.13; TOTAL AUTHORIZATION APPROVED: \$679.13. (For Information Only)

(01-146) BIDS for STUMP and ROOT GROWTH REMOVAL, Recommending the Low Bid of HAMM'S LANDSCAPING, in an Amount Not to Exceed \$14,500.00.

(01-147) Communication from Corporation Counsel Requesting Authorization to RETAIN SWAIN, HARTSHORN & SCOTT, JOSEPH B. VANFLEET, L.L.C., AND QUINN, JOHNSTON, HENDERSON & PRETORIUS as EMINENT DOMAIN COUNSEL for CALENDAR YEARS 2001 through 2003.

*

- (01-148) **Communication from Corporation Counsel Recommending Adoption of the Following:**
- A. **ORDINANCE NO. 15,105 Amending CHAPTER 1 of the Code of the City of Peoria Relating to GENERAL PROVISIONS and Minimum Fines for Tobacco Related Offenses;**
- B. **ORDINANCE NO. 15,106 Amending Chapter 18 of the Code of the City of Peoria Relating to LICENSES AND MISCELLANEOUS BUSINESS REGULATIONS - Tobacco Products and Penalties.**
- (01-149) **Communication from Director of Public Works with ORDINANCE NO. 15,107 Vacating HANCOCK STREET from WATER STREET TO COMMERCIAL STREET.**
- (01-150) **Communication from Finance Director/Comptroller and Capital Budget Coordinator Regarding the CAPITAL IMPROVEMENT PROGRAM SECOND PERIOD 2000 CAPITAL PROJECTS STATUS REPORT. (For Information Only)**
- (01-151) **CANVASS of the CONSOLIDATED PRIMARY ELECTION for MUNICIPAL OFFICERS of the CITY OF PEORIA Held on TUESDAY, FEBRUARY 27, 2001.**

Council Member Grayeb moved to approve the Consent Agenda items as outlined in the communications; seconded by Council Member Gibson.

Council Member Nichting requested that Item No. 01-147 be removed from the Consent Agenda for further discussion.

Item Nos. 01-145 through 01-151 (excluding Item No. 01-147 which was removed from the Consent Agenda for further discussion) were approved by roll call vote under the Omnibus Vote Designation.

Yeas: Ardis, Duncan, Gibson, Grayeb, Morris, Nichting, Sandberg, Spears, Thetford, Turner, Mayor Grieves – 11;

Nays: None.

- (01-147) **Communication from Corporation Counsel Requesting Authorization to RETAIN**
* **SWAIN, HARTSHORN & SCOTT, JOSEPH B. VANFLEET, L.L.C., AND**
QUINN, JOHNSTON, HENDERSON & PRETORIUS as EMINENT DOMAIN
COUNSEL for CALENDAR YEARS 2001 through 2003.

Council Member Nichting asked for clarification that this was not for any specific project, but for all issues involving eminent domain within the City. Corporation Counsel Randy Ray verified that was the case and as such would not preclude Council Member Nichting from voting on this item.

Council Member Nichting moved to authorize retaining Swain, Hartshorn & Scott, Joseph B. VanFleet, L.L.C., and Quinn, Johnston, Henderson & Pretorius as Eminent Domain Counsel for calendar years 2001 through 2003; seconded by Council Member Turner.

Approved by roll call vote.

Yeas: Ardis, Duncan, Gibson, Grayeb, Morris, Nichting, Sandberg, Spears, Thetford, Turner, Mayor Grieves – 11;

Nays: None.

(01-152) Communication from Corporation Counsel with Information Regarding LIQUOR SALES at GASOLINE STATIONS, and a Request for Direction from the Council.

City Clerk Mary Haynes referred to a hand-out of five letters in opposition from citizens.

Corporation Counsel Randy Ray stated the current ordinance provides that an establishment which pumps motor fuel may not have a liquor license, which also applied to an establishment on the same zoning lot holding itself out to the public as part of the same entity selling liquor. He said that on December 19, 2000, this came before the Council in the context of a Special Use permit amendment to Willow Knolls Shopping Center. He said it was referred to the Liquor Commission whose findings and comments were included with the communication, although they made no formal recommendation.

Mayor Grieves said he hoped there would not be support for making an exception for this one petitioner.

Council Member Turner, Deputy Liquor Commissioner, stated he supported not altering the ordinance.

Council Member Grayeb moved to receive and file the report and make no changes to the existing ordinance; seconded by Council Member Turner.

Council Member Gibson said she would support the motion, having received numerous calls from constituents. She stated any change in this ordinance would have a detrimental effect on the Second District and older neighborhoods.

Council Member Thetford stated she would also support the motion. She said she had spoken to a number of neighborhood representatives from not only the Third District, but other Districts as well. She said many of these individuals did not want to extend the mistake they felt was made a number of years ago when such sales were allowed at convenience stores. She stated she would be making a separate motion for the Liquor Commission to look into the issue of any additional licenses for convenience stores.

Council Member Morris stated he would follow the recommendation of the Deputy Liquor Commissioner who had spent many hours reviewing this issue.

Hearing no objections, Mayor Grieves granted Privilege of the Floor to those citizens who wished to address this issue.

Ms. Cartheda Welch, 1529 W. Butler, thanked the Council for voicing the same concerns she had planned to express.

In discussion with Council Member Nichting, Corporation Counsel Ray stated the ordinance prohibiting sale of alcohol at gasoline stations was enacted in 1986, but no gas stations had been licensed over the past 20 years. He said he did not know what the situation was prior to that time. He clarified the only current exception was for a location that was annexed into the City and already held a County liquor license.

Council Member Turner stated there had been no illegal activity at that location, as tracked by both the Police Department and the City Clerk's Office.

Mr. Tom Edwards, 2702 N. Peoria, stated that with the addition of the proposed new station, there would be 40 gas stations in Peoria. He added that 31 of the City's 214 current liquor licenses were for package liquor, so package liquor sales in the community could potentially increase by 100%. He quoted a news magazine article which stated "every year, abusive drinking costs the United States more than all illegal drugs combined." He said he was pleased with the Council's reaction tonight.

Ms. Monica Jones, 616 E. Paris, thanked the Council for not supporting this request. She said this issue was very important to not only the Third District residents fighting the Crusen's beer garden, but to all neighborhoods.

Council Member Turner said he appreciated the Council's support, but regardless of the outcome, he wanted to offer assurance that the proper checks and balances were in place. He stated there was a stringent site approval process and a liquor licensing process which included background and age checks of the people involved, licensing by the Health Department, and license fees.

Attorney Bob Hall, representing Martin & Bailey, owner/operator of Huck's Convenience Stores, stated their position was that the ordinance should not provide for any special exceptions. He said one of the two Huck's stores in Peoria could sell liquor because of being grandfathered. He suggested the main protection for the neighborhoods was the City's capacity to approve sites, not whether alcohol could be sold at a gas station. He added that while his clients did not take a strong stand on this one way or the other, they did submit there was not a logical basis behind the existing ordinance. He said it was as easy to drive to a grocery store to obtain liquor as to a gas station. He further stated there was no real data to support any claim of increased problems, accidents, injuries, DUIs, etc. attributable to alcohol sales at gas stations, nor were insurance premiums any higher than for convenience/grocery stores. He continued Peoria was in a small minority of cities with this type of ordinance, including within the immediate area. He suggested this issue deserved more consideration and reflection, not just reaction to neighborhood complaints.

In discussion with Mayor Grieves, Mr. Hall said he did not have figures on the percentage of net income derived from liquor sales at the Huck's with a liquor license, but that Huck's would provide this information if requested.

Mayor Grieves said he was not dissuaded that Peoria should handle this differently than some other cities. He said he was concerned about the ease with which minors could obtain liquor at the point of sale, if there was a 21-year old in the car with them.

Council Member Sandberg pointed out the Huck's on Allen Road (no liquor license) was on the same lot with Khaki Jack's, a liquor establishment. He stated that prior to a church being brought into that shopping center after the establishment of Khaki Jack's, there would have been nothing illegal about approving a package liquor store right next to Khaki Jack's. He said he was frustrated by the issue not being discussed in this context, and he disagreed that the situation at Sam's Club should be considered point of sale, because the gas pumps would be located more than a block away from where alcohol was sold. He stated the existing ordinance was well intended, but it did not address the misconception that minors would buy alcohol only at a gas station. He said the ordinance would not prohibit a gas station being immediately adjacent to a liquor store as long as they were not owned by the same entity, and that was neither a protection for neighborhoods nor a deterrent to underage drinking.

Mr. David Koehler, 1413 N.E. Madison, suggested the issue needed to be simplified -- that the ordinance was not broken right now, so there was no need to fix it. He said he would appreciate the Council's maintaining the status quo. In discussion with Mayor Grieves, he stated that site approval was not really a solution because the burden would still be on neighborhood residents to appear before Council every time a liquor site recommendation came forward.

Council Member Spears pointed out that gas stations were already relocating outside the City where this prohibition did not exist. He suggested a committee could be appointed to discuss this issue more fully before a decision was made regarding any changes to the ordinance. He also cited that the City relies on the 2% gas tax and stated we are in the process of losing revenue.

Council Member Thetford stated that site approval was a separate issue from ownership. She said it was important to differentiate between establishments which welcomed minors (convenience stores and gas stations) and those which did not (liquor stores).

In discussion with Council Member Nichting, Corporation Counsel Ray determined that the City would probably revoke Sam's Club's liquor license if they built their gas station.

Council Member Nichting suggested more discussion needed to take place on how the current ordinance could impact proposed development, such as the Meijer project.

Mayor Grieves pointed out that leaving the ordinance as it was now would not preclude bringing this issue up in the future for more in-depth study.

Mr. David Koehler clarified the concerns of the neighborhoods related to the impact this could have on existing gas stations. He asked that the broader policy discussion not be attached to this issue tonight.

Ms. Devon Pierson, 711 S. Matthew, Secretary of Old Town South Neighborhood Association, stated they had fought very hard against the drugs and crime in their neighborhood. She said she had to contend with loiterers and obscenities at her neighborhood convenience store and did not want to see this happen at gas stations, too.

Ms. Mary Siders, 2801 N.E. Madison, pointed out that individuals under the age of 21 would be unable to work at gas stations that sold alcohol. She reiterated Mr. Koehler's concern that it was inconvenient for citizens to have to come to Council meetings every time a site application was proposed. She said there was one gas station in the Averyville neighborhood, and they wanted to keep liquor out of it.

Mr. Bill Gasque of McClure Engineering, representing Sam's Club, stated their proposed gas station would be 400 to 450 feet away from the store and totally automated, with no convenience store attached, no employees, and usage limited to Sam's Club members. He pointed out that no concern had been expressed about liquor stores adding gas stations, which was what they proposed.

Attorney Robert Coletta, representing Tri-Star Marketing (Mobil Super Pantry) and Johnson Oil (Big Foot), stated these clients got involved only because they perceived a changing of the rules for one set of competitors. He asked that any needed changes to the ordinance occur only after a fuller debate on the issue.

Motion to receive and file the report and make no changes to the existing ordinance was approved by roll call vote.

Yeas: Ardis, Duncan, Gibson, Grayeb, Morris, Nichting, Sandberg, Spears, Thetford, Turner,
Mayor Grieves – 11;

Nays: None.

Council Member Thetford requested that alcohol sales at convenience stores be reviewed at the same time as a broader discussion on other liquor ordinance issues.

Council Member Turner suggested a Policy Session be held to discuss all these ramifications pertaining to the sale of alcohol, including Council Member Thetford's concern. The Council concurred by general consensus.

- (01-123) Communication from Director of Economic Development Requesting Approval of the TRANSFER of 501 MacARTHUR HIGHWAY, 1001 W. BUTLER STREET AND 1000 W. BROTHERRSON to the PEORIA HOUSING AUTHORITY, and Authorize the City Manager to Execute the Necessary Documents.**

Council Member Duncan moved to remand this back to the Administration; seconded by Council Member Sandberg.

Approved by roll call vote.

Yeas: Ardis, Duncan, Gibson, Grayeb, Morris, Nichting, Sandberg, Spears, Thetford, Turner, Mayor Grieves – 11;

Nays: None.

NEW BUSINESS

CENSUS UPDATE

Council Member Morris announced that as soon as tomorrow, the final 2000 Census figures would be released.

- (01-153) REQUEST for REPORT-BACK on the LEGALITY and FEASIBILITY of the CITY OWNING the LOCAL ENERGY COMPANY**

Council Member Grayeb proposed the City begin an analysis and community discussion on the merits of owning the energy company, with the goal of lowering energy costs to residential users, hospitals, schools, businesses and industries. He stated that other municipalities had this type of control. He requested a report-back from staff on the legality and feasibility of such ownership, especially in light of the imminent divestiture of the AES consortium relating to the CILCO distribution network. Depending on the nature of the staff report, he stated he would further recommend creation of a Blue Ribbon Panel of local stakeholders to weigh the pros and cons of such a move.

Council Member Sandberg said he would not support such a use of staff time, considering other priorities.

Council Member Ardis said he would like to have more rationale for this request and to consider voting on it next week.

Council Member Nichting pointed out that natural gas was sold at cost, and the charge to customers was for its transmission. He added that CILCO's price for delivery of electrical power was the cheapest in Illinois. With so many other demands on staff time, he said he would not support this proposal.

Council Member Gibson said she would also like to know more about the rationale behind this and how much staff time this request would consume. And since it was not the Council's habit to vote on new business items until the following week, she stated she was not prepared to vote on this now.

Mayor Grieves concurred the Council needed a week to think this over.

Council Member Grayeb clarified that he had not made a motion and was not asking for a vote on anything tonight. He stated Peoria's leaders owed it to their citizens to do everything possible to mitigate the impact of this national energy crisis. He added there had been a degradation of service by CILCO since 1995, and he had received numerous calls from citizens concerned about their CILCO bills.

Mayor Grieves stated the Council would be in a better position next week or at some future time to vote on this request.

Clerk's Note: No Council action was taken.

2001 BUDGET BOOKS

City Manager Michael McKnight noted the new budget books were distributed to the Council Members tonight. He apologized for the lateness of their delivery due to staffing problems.

IHSA BASKETBALL TOURNAMENT

Council Member Thetford thanked everyone involved with the tournament which started last weekend and will continue this coming weekend. She cited the work of Council Members Gibson and Spears on the Tournament Committee as well the many volunteers involved.

CITIZEN REQUESTS TO ADDRESS THE COUNCIL

No citizens came forward to speak.

EXECUTIVE SESSION

(01-154) Consideration of a Motion for the City Council to go into EXECUTIVE SESSION to Discuss 2(c)(11) Litigation, when an action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that an action is probable or imminent.

Council Member Morris moved to go into Executive Session to Discuss 2(c)(11) Litigation, when an action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that an action is probable or imminent; seconded by Council Member Duncan.

Approved by roll call vote.

Yeas: Ardis, Duncan, Gibson, Grayeb, Morris, Nichting, Sandberg, Spears, Thetford, Turner, Mayor Grieves – 11;

Nays: None.

ADJOURNMENT

Council Member Turner moved to adjourn the Council Meeting; seconded by Council Member Thetford.

Approved by viva voce vote.

The Council Meeting adjourned at 7:50 P.M.

Mary L. Haynes, MMC
City Clerk of Peoria, Illinois