

CITY COUNCIL

July 14, 2003

ROLL CALL - PRESENT:

Alderman Bernstein
Alderman Tisdahl
Alderman Rainey

Alderman Newman
Alderman Wynne

A Quorum was present.

**NOT PRESENT AT
ROLL CALL:**

Aldermen Feldman, Jean-Baptiste, Kent,

ABSENT:

Alderman Moran

PRESIDING:

Mayor Lorraine H. Morton

The OFFICIAL REGULAR MEETING of the City Council was called to order by Mayor Morton Monday, July 14, 2003, at 6:10 p.m. in the Aldermanic Library. Alderman Tisdahl moved that Council convene into Closed Session for the purpose of discussing matters related to real estate, litigation and closed session minutes pursuant to 5ILCS Section 120/2 (c) (5), (6), (11) and (21). Seconded by Alderman Rainey.

(5) The purchase or lease of real property for the use of the public body, including meetings held for the purpose of discussing whether a particular parcel should be acquired.

(6) The setting of a price for sale or lease of property owned by the public body.

(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, in which case the basis for the finding shall be recorded and entered into the minutes of the closed meeting.

(21) Discussion of minutes of meetings lawfully closed under this Act, whether for purposes of approval by the body of the minutes or semi-annual review of the minutes as mandated by Section 2.06.

Roll call. Voting aye – Bernstein, Tisdahl, Rainey, Newman, Wynne. Voting nay – none. Motion carried (5-0).

At 7:52 p.m. Alderman Wynne moved to reconvene into Open Session and recess. Seconded by Alderman Bernstein. Motion carried. No nays.

Mayor Morton reconvened the City Council at 9:22 p.m. in the City Council Chamber.

ANNOUNCEMENTS:

Parks/Forestry & Recreation Director Doug Gaynor invited all to the 18th annual Evanston Ethnic Arts Festival Saturday and Sunday, July 19-20, from noon to 7:00 p.m. in Dawes Park starting at noon Saturday with a parade of flags from more than 100 nations

Health & Human Services Director Jay Terry reported that a 45-year old Evanston resident has recovered from a rare mosquito-borne disease called Eastern Equine Encephalitis, which does not affect human beings often, and is not found in this part of the country. This is the first reported case in Illinois. He reminded citizens to do all they can for mosquito control by eliminating all standing water, being careful at dawn and dusk and using repellent with DEET.

City Manager Roger Crum announced that the City had reached a tentative settlement on the Vineyard case, which has received a great deal of publicity in recent years. The Vineyard church bought property zoned for office/commercial use, where the City believed religious institutions were not permitted to operate. The case was in court for two years. Judge Pallmeyer issued a decision earlier this year in which she stated the City was wrong on a technical issue as to whether the church should be considered the same as a cultural institution, which is permitted in an office/commercial area. The judge urged the parties to get together to determine an appropriate method of ending the case and offered the services of Magistrate Judge Denlow. The

City's attorney and Aldermen Moran and Rainey participated in that and arrived at a tentative settlement which is proposed to be a final settlement when it becomes a consent order. The settlement will allow the Vineyard to operate as a church at that facility; require the City to reimburse the Vineyard for \$350,000 of legal expenses over a 2-1/2 year period which is a small number compared to what they had requested. There is an important clause, that if the church is sold, it shall not be sold to a tax exempt entity. It requires that all other issues be set aside and that they go forward.

COMMUNICATIONS: None

CITIZEN COMMENT:

Del Leppke, 2601 Park Pl., Energy Commission chair, expressed the commission's support for the one-year extension to the ComEd Electric System Franchise, which expired that day. The extension was developed by the Franchise Negotiating Team comprised of Aldermen Rainey, Moran and Bernstein; and Energy Commission members, Rudy Wolfson and himself. He reviewed the history of the City's franchise relationship with ComEd. The original franchise was adopted March 4, 1957 for a 35-year term. A simple five-page document, it gave ComEd the right to construct, operate and maintain in and throughout the City a system for the production, transmission, distribution and sale of electricity for lighting, heating, power and other purposes. There were few specific requirements placed on ComEd other than they were subject to reasonable regulation regarding use of public streets, alleys, avenues and other public places. When the original franchise expired in March 1992, the ComEd system and electric industry had been severely challenged to meet the rapidly growing demand for electricity during the 1970s and early 1980s. Maintenance and upgrading of distribution systems such as Evanston's and Chicago's had been neglected. Because many franchises were expiring at that time, the NWMC drafted and negotiated with ComEd a model franchise agreement, which many suburbs used to renew their franchises for another 50-years, although the model franchise had options to terminate in 35-years and/or to negotiate proposed amendments at ten-year intervals. Recognizing that the power industry was in turmoil at that time and being concerned that the model franchise did not adequately specify requirements for ComEd to make improvements in their systems, Evanston decided not to sign onto the model franchise, but instead, negotiated a seven-year extension to the old franchise. Those seven years marked a stormy relationship between Evanston and ComEd as system performance continued to deteriorate and Evanston was frustrated by not having sufficient franchise language to get badly needed attention to its portion of ComEd's system. With the seven-year extension nearing the termination in 1999, at the urging of the Energy Commission, the City retained Stanley Consultants to do a reliability assessment of the ComEd system in Evanston. That report submitted in March 1999 formed the basis for intensive discussions with ComEd about specific work that was badly needed on the Evanston system. Those discussions led to extension of the original franchise for another three years to 2002 with an option to extend another two years until 2004 in one year increments. But this extension came with a difference. A binding letter of agreement for ComEd to perform specific improvements on a defined schedule was attached to the extension. Further, ComEd would submit performance and written reports and meet regularly with a combined task force of City staff and Energy Commission members, called the Technical Review Committee. At these meetings, held at three-month intervals during the first three years of the extension, the TRC and ComEd staff discussed and evaluated progress. These regular meetings and ComEd's change in corporate attitude during that time proved to be very productive and will continue through next year's extension. Communication has become more open and forthright; expressed concerns are evaluated and progress is made toward a mutually agreeable solution. Having an experienced, independent consultant readily available to the City's TRC also has been very helpful in resolving technical issues. The record shows that in 1998 Evanston distribution feeders experienced 268 outages. In 2002 only 185 outages occurred. Through March 2003, only 21 outages had occurred. Not only has frequency of interruptions decreased, but also the average length of outages has decreased from 278 minutes in 1998 to 78 minutes during the first quarter of 2003. One year ago, at the end of the three-year extension, the Energy Commission recommended the City exercise the option of adding another year to the extension giving this productive process more time to transition from dealing with projects designed to correct specific system deficiencies to projects that allow the City to better understand ComEd's procedures for correcting weaknesses in the system before troublesome outages occur. Three significant issues were still on the table: ComEd's procedures for routine inspections of substations and individual feeders with an emphasis on catching problems before they become serious. Secondly, ComEd's planning to assure that their system is designed for and capable of readily picking up the load from a failed feeder without overloading backup feeders. Third, ComEd's planning to assure that their system can provide the electric energy needed in the many new developments occurring in Evanston. Although they believe that good progress has made toward those

objectives during last year's extension, they believe that with another year's experience, they can better evaluate what a long-term franchise agreement should include. The specific projects and letter of agreement submitted for Council approval when attached to the one-year extension, they believe will get them there. The Commission urged Council approval. He reminded Council that negotiating and drafting a new franchise could not be done hastily. This is even truer, when one realizes that Evanston's new franchise will have no acceptable model to follow since Evanston was the only community on the ComEd system with a franchise expiring in 2004 or soon thereafter. He asked for their early attention to start the process so they will be ready by July 2004 with franchise language that will stand the test of time.

Charles Sheridan, 2331 Church St., stated he sought union employment and hoped to find something on the sewer or building projects; appreciated the assistance of Alderman Kent and M/W/EBE Coordinator Lloyd Shepard to help him get employment, which had not been successful to date. He has been looking since March 2003. He asked, on future projects, to see that there are teeth so that Evanston residents are hired; that contractors be required to hire Evanston residents because they make a lot of money. In return for tax and infrastructure breaks they should be required to hire Evanston residents. He wanted an opinion from the legal staff if it would be possible to make that requirement of contractors. He understood they don't want to displace current workers.

Alderman Newman asked the City Manager to put out a list of projects and whether tax breaks were given.

Alex Sproul, 646 Judson Ave., reported during the P&D Committee meeting, former alderman Jean Esch made a strong plea to do something about automobile traffic in Evanston and encouraged the use of public transit. He represented a constituency for that – Evanston's Transportation Future, which was formed three years ago. At the most recent forum (June 5) several subcommittees were set up. The first was to oversee new CTA bus schedules; the second to oversee the Pace study and the third, a rail subcommittee, will advocate for a rail stop in south Evanston on the Yellow Line. They hope to get action on that and so far have had good support from staff. The next meeting is July 17 at 7:30 p.m. with reports from the three subcommittees and staff from CTA and Pace.

CONSENT AGENDA (Any item marked with an Asterisk*)

Alderman Feldman moved Council approval of the Consent Agenda with the following exceptions: Ordinance 50-O-03 – Loading Zone at 1300 Oak Ave., Ordinance 61-O-03 – Establishing a Moratorium in the 5th Ward, Ordinance 69-O-03 – Planned Development: 1100 Clark St./1719 Ridge Ave., and Ordinance 49-O-03 – Planned Development (603 Main St.). Seconded by Alderman Rainey. Roll call. Voting aye – Bernstein, Kent, Tisdahl, Rainey, Feldman, Newman, Jean-Baptiste, Wynne. Voting nay – none. Motion carried (8-0).

*** ITEMS APPROVED ON CONSENT AGENDA**

MINUTES:

* Approval of Minutes of the Regular City Council Meeting of June 23, 2003. * APPROVED - CONSENT AGENDA MOTION AND ROLL CALL (8-0)

ADMINISTRATION & PUBLIC WORKS:

* Approval, as recommended, of the City of Evanston payroll for the period ending July 3, 2003 and the City of Evanston bills for the period ending July 15, 2003 and that they be authorized and charged to the proper accounts, summarized as follows:

City of Evanston payroll (through 07/03/03)	\$2,060,402.85
City of Evanston bills (through 07/15/03)	\$2,803,974.50

* APPROVED - CONSENT AGENDA MOTION AND ROLL CALL (8-0)

* Approval of the lowest responsive and responsible bid from Suburban Concrete Inc. for the 2003 ADA Ramp Program and Combined Curb & Sidewalk Program for Public Works, at a cost of \$167,163.23. (Funding is CDBG Funds/GO

Bonds.) * APPROVED – CONSENT AGENDA MOTION AND ROLL CALL (8-0)

* Approval of the lowest responsive and responsible bid from M.G. Electric Service Co. for the 480-volt Substation Replacement at the Water Treatment Facility in the amount of \$172,600. (Funding is through Water Bond Funds as indicated in the approved CIP.) * APPROVED – CONSENT AGENDA MOTION AND ROLL CALL (8-0)

* Approval of the proposal of T-Y Lin International for engineering services for design/construction administration for traffic signals and street lighting at the Crawford/Gross Point/Central St. intersection at a cost of \$106,660 (design) and \$54,000 (construction administration). * APPROVED - CONSENT AGENDA MOTION AND ROLL CALL (8-0)

* Approval of the pre-qualification of architectural and landscape architectural consultants to perform design services for Parks/Forestry & Recreation and Facilities Management for a two-year period. * APPROVED – CONSENT AGENDA MOTION & ROLL CALL (8-0)

* Approval of the lowest responsive and responsible bid of Ripon Community Printers for the production of four issues of *Arts+Recreation* Magazine at a cost of \$47,656. * APPROVED - CONSENT AGENDA MOTION AND ROLL CALL (8-0)

* Approval of Change Order #1 with Schoenbeck Corp. for the Merrick Rose Garden renovation project, increasing the project cost by \$13,931.89, from \$275,014.07 to \$288,945.96. * APPROVED – CONSENT AGENDA MOTION AND ROLL CALL (8-0)

* Approval of Change Order #2 with Pedersen Construction for Phase II of the Beck Park redevelopment, increasing the project cost by \$1,775, from \$409,061 to \$410,836. * APPROVED – CONSENT AGENDA MOTION AND ROLL CALL (8-0)

* Approval of contract amendment #1 with V3IS for the Phase I Engineering Study of McCormick Blvd., increasing the project cost by \$32,651. * APPROVED – CONSENT AGENDA MOTION AND ROLL CALL (8-0)

* Approval of contract amendment #1 with MWH Americas, Inc. for engineering services during Phase VI, Contract B of the Long Range Sewer Project, increasing the compensation ceiling for the agreement by \$61,037.60 from \$808,163 to \$869,163 and extend term of agreement to June 30, 2004. (Funding is Sewer Reserve Fund.) * APPROVED - CONSENT AGENDA MOTION AND ROLL CALL (8-0)

* Approval of Change Order #1 with Civil Contractor & Engineers Inc. for Phase IV, Contract A of the Relief Sewer Program, to allow the contractor to utilize the existing construction yard at Ashland and Noyes. * APPROVED - CONSENT AGENDA MOTION AND ROLL CALL (8-0)



* Approval of Concept Plan for Special Assessment Paving of Alleys – Consideration of a recommendation to approve a concept plan for paving 12 alleys in the Home Depot area. * APPROVED - CONSENT AGENDA MOTION AND ROLL CALL (8-0)

* Traffic Calming Plan – Speed Humps on Darrow Ave. – Consideration of a recommendation to place speed humps on Darrow Ave. between Church and Emerson streets. * APPROVED – CONSENT AGENDA MOTION AND ROLL CALL (8-0)

* Traffic Calming Plan – Speed Humps on Davis St. and Wesley, Ashland and Florence Avenues – Consideration of a recommendation to place speed humps on Davis St. between Asbury and Florence avenues; and on Wesley, Ashland and Florence avenues between Davis and Church streets. * APPROVED – CONSENT AGENDA MOTION AND ROLL CALL (8-0)

* Resolution 40-R-03 – Grant Application through Keep IL Beautiful Program – Consideration of

proposed Resolution 40-R-03, which authorizes the submission of a grant application to the IL Dept. of Commerce & Community Affairs for grant funding through the Keep IL Beautiful program. * APPROVED – CONSENT AGENDA MOTION AND ROLL CALL (8-0)

* Resolution 41-R-03 – One-Month Lease Extension for Housing Options for the Mentally Ill – Consideration of proposed Resolution 41-R-03, which grants a one-month lease extension to the lease with Housing Options for the Mentally Ill at 1223 Simpson St. * APPROVED - CONSENT AGENDA MOTION AND ROLL CALL (8-0)

* Resolution 42-R-03 – Intergovernmental Agreement for Howard Street Resurfacing Project – Consideration of proposed Resolution 42-R-03, by which the City Council would authorize the City Manager to sign an intergovernmental agreement with the City of Chicago for the Howard Street Resurfacing Project from Ridge Avenue to the CTA tracks. * APPROVED - CONSENT AGENDA MOTION AND ROLL CALL (8-0)

* Resolution 39-R-03 – Establishing a Deferred Compensation Plan for the IAFF (Firefighters) Local 742 – Consideration of proposed Resolution 39-R-03, which would establish another Section 457 Deferred Compensation Provider for the IAFF Local 742 per their recently completed labor negotiations. * APPROVED - CONSENT AGENDA MOTION AND ROLL CALL (8-0)

* Ordinance 57-O-03 – Limiting the Number of Parking Permits to that of Legal Residents in a Dwelling Unit–Consideration of proposed Ordinance 57-O-03, which issues parking permits only to the number of legal residents in dwelling units. * MARKED INTRODUCED–CONSENT AGENDA

* Ordinance 65-O-03 – Easement Agreement with 525 Chicago Avenue Corp. (Dubin Development) – Consideration of proposed Ordinance 65-O-03, which grants a subsurface electrical service easement on the r-o-w adjacent to 525 Chicago Ave. to 525 Chicago Avenue Corp. * MARKED INTRODUCED – CONSENT AGENDA

* Ordinance 66-O-03 – Addition of Metered Parking, Taxi Stand, Loading Zone near the 1800 Maple Avenue Self-Park Garage – Consideration of proposed Ordinance 66-O-03, which amends Sections 10-11-7 & 10-11-12 of the City Code to add a taxi stand and passenger loading zone near the 1800 Maple Avenue Self-Park Garage, and to expand metered parking in the area. * MARKED INTRODUCED – CONSENT AGENDA

* Ordinance 67-O-03 – Removal of Loading Zone – Consideration of proposed Ordinance 67-O-03, which amends Section 10-11-7, Schedule VII(B) of the City Code to remove the loading zone at 1416 Dewey Ave. * MARKED INTRODUCED – CONSENT AGENDA

* Ordinance 34-O-03 – False Alarm Program Fee Increases – Consideration of proposed Ordinance 34-O-03, introduced June 9, 2003, which would increase several false alarm fees and reduce the number of free false alarms in the False Alarm Program. * ADOPTED CONSENT AGENDA & ROLL CALL (8-0)

* Ordinance 63-O-03 – Declaring City Property as Surplus – Consideration of proposed Ordinance 63-O-03, introduced June 23, 2003, which declares various police cars and a Fire Department van as surplus so that the items can be publicly offered for sale at the August 2, 2003 Lake County auction. * ADOPTED CONSENT AGENDA & ROLL CALL (8-0)

* Ordinance 62-O-03 – Amending Title 8, Chapters 5 & 8 regarding Garbage and Refuse in the Downtown Districts – Consideration of proposed Ordinance 62-O-03, introduced June 23, 2003, which would institute various changes for disposal of refuse, litter and debris in the Downtown Districts. * ADOPTED CONSENT AGENDA & ROLL CALL (8-0)

PLANNING & DEVELOPMENT COMMITTEE

* Temporary Sign Request for American Craft Exposition – Consideration of a request from the Auxiliary of Evanston Northwestern Healthcare to erect temporary signs and banners advertising and directing patrons to the American Craft Exposition held August 21-24, 2003. * APPROVED - CONSENT AGENDA MOTION AND ROLL CALL (8-0)

* Ordinance 59-O-03 – Special Use for 640 Church (Type 2 Restaurant) – Consideration of proposed Ordinance 59-O-03, which approves a recommendation of the Zoning Board of Appeals to grant a special use for a Type 2 restaurant (Sashimi! Sashimi!) at 640 Church Street. * MARKED INTRODUCED – CONSENT AGENDA

Alderman Bernstein moved to Suspend the Rules to adopt an ordinance at the meeting in which it was introduced. Seconded by Alderman Feldman. Motion carried. No nays.

Alderman Bernstein moved approval. Seconded by Alderman Feldman.

Roll call. Voting aye – Bernstein, Kent, Tisdahl, Rainey, Feldman, Newman, Jean-Baptiste, Wynne. Voting nay – none. Motion carried (8-0).

HUMAN SERVICES COMMITTEES:

* Approval of Township Monthly Bills – Consideration of a recommendation to approve the Township bills, payroll and medical payments for the month of June 2003 in the amount of \$116,531.41. * APPROVED - CONSENT AGENDA MOTION AND ROLL CALL (8-0)

* Special Event: Annual Evanston/Belize Day in the Park Picnic – Consideration of a request to hold the Evanston/Belize Day in the Park Picnic in Ingraham Park on August 23, 2003, noon to 8:00 p.m. * APPROVED - CONSENT AGENDA MOTION AND ROLL CALL (8-0)

* Special Event: Kid Bunch Back to School Picnic – Consideration of a request to hold the Kid Bunch Back to School Picnic in Twiggs Park on August 16, 2003, from noon to 8:00 p.m. * APPROVED - CONSENT AGENDA MOTION AND ROLL CALL (8-0)

* Approval of the 2003 Homeless Continuum of Care – Consideration of a recommendation of the Homeless Task Force to approve the 2003 Homeless Continuum of Care in Evanston. * APPROVED - CONSENT AGENDA MOTION AND ROLL CALL (8-0)

OTHER COMMITTEES:

* Ordinance 68-O-03 – Franchise Extension with ComEd – Consideration of a recommendation of the Franchise Negotiating Team to approve Ordinance 68-O-03, which extends the franchise with ComEd for one year until July 14, 2004. * MARKED INTRODUCED – CONSENT AGENDA

Alderman Rainey moved to Suspend the Rules to adopt an ordinance at the meeting in which it was introduced. Seconded by Alderman Feldman. Motion carried. No nays.

Alderman Rainey moved approval. Seconded by Alderman Feldman.

Roll call. Voting aye – Bernstein, Kent, Tisdahl, Rainey, Feldman, Newman, Jean-Baptiste, Wynne. Voting nay – none. Motion carried (8-0).

REPORT OF THE STANDING COMMITTEES

ADMINISTRATION & PUBLIC WORKS:

Ordinance 50-O-03 – Loading Zone at 1300 Oak Ave. – Consideration of proposed Ordinance 50-O-03, introduced May 19, 2003, which amends Section 10-11-7, Schedule VII(B) of the City Code to establish a loading zone at 1300 Oak Ave.

Alderman Feldman moved approval. Seconded by Alderman Rainey.

Alderman Bernstein said he would vote for this on the condition that no parking spaces would be removed from Maple Avenue as the result of this loading zone.

Roll call. Voting aye – Bernstein, Kent, Tisdahl, Rainey, Feldman, Newman, Jean-Baptiste, Wynne. Voting nay – none. Motion carried (8-0).

PLANNING & DEVELOPMENT:

Ordinance 61-O-03 – Establishing a Moratorium in the 5th Ward – Consideration of proposed Ordinance 61-O-03, which establishes a building permit moratorium for construction of new residential construction other than single-family residential in the 5th Ward.

Alderman Bernstein reported that this item was held in committee.

Ordinance 69-O-03 – Planned Development: 1100 Clark St./1719 Ridge Ave. – Consideration of proposed Ordinance 69-O-03, which approves a recommendation of the Plan Commission to grant a planned development at Clark, Ridge, Oak and an alley into 6 residential buildings from 6 to 20 stories with some ground-floor commercial space.

Alderman Bernstein reported this item was held in committee and suggested they have a special meeting on this.

Ordinance 49-O-03 – Planned Development – Consideration of proposed Ordinance 49-O-03, introduced May 19, 2003, which approves a recommendation of the Plan Commission to allow construction of a 7-story, 77 dwelling unit, mixed use, residential/commercial building at 603 Main St./900 Chicago Ave.

Alderman Bernstein moved approval of the amendments. Seconded by Alderman Wynne.

Zoning Administrator Arthur Alterson read the following amendments into the record:

A new second WHEREAS clause: “WHEREAS, the parcel proposed for development is located in part in the B-3 Zoning District and in part in the C-1a Zoning district and” in the fifth WHEREAS clause: “February 12, 2003, March 12, 2003 and April 9, 2003” then three WHEREAS clauses down: “May 19, 2003 and June 9, 2003 and June 14, 2003,” change meeting to “meetings” and recommended approval thereof “with modifications:” In the final WHEREAS clause, add “June 23, 2003 and July 24, 2003”.

In Section I: add “seventy-seven (77) dwelling units” and “one hundred thirty-six (136) parking spaces” and below B3 Business and C1a Commercial Districts, add, “substantially in conformance with the underlying zoning district regulations, the Development Plan as approved by the City indexed in Exhibit 1 and set forth in Exhibit 2 attached hereto and made a part hereof, the terms of this Ordinance, and representations of the Applicant to the Plan Commission, the Planning and Development Committee, and City Council” and delete “the Planned Development Plan approved by the City set forth in Exhibit 1, attached hereto and made a part hereof, and the terms of this ordinance” In the legal description correct spelling of Landd to “Ladd”

In Section 2: add “sixty-seven (67) feet” and “seventy-six (76) feet” In Section 2 B, the last clause reads: “but to provide a ground level setback from the south lot line not to exceed 6 feet and from the east lot line not to exceed six and one-half (6 ½) feet.” In Section 2C, add “Seventy-seven (77) dwelling units providing three hundred forty-seven (347) square feet of lot area per dwelling unit” and further down add “four hundred (400) square feet per dwelling unit” and at the end add “sixty-seven (67) dwelling units.”

Below that add: "The C1a Zoning District regulations require a lot area per unit of three hundred fifty (350) square feet." In Section 2 D, the maximum floor area ratio was changed to "3.9" from 3.8. Below that the sentence "the proposed Planned Unit Development complies with the floor area ratio requirements of the C1a District." In Section 2E the words "the site development allowance to" are deleted and add "by" so that it reads: "Authority to exceed the loading berth requirements of Section 6-16-5, as authorized by Section 6-3-6-5, by reducing the required number of loading berths from two (2) to one (1)."

In Section 3, permits are deleted and substitute "certificates of occupancy." Both Section 4 and 5 have been removed. The new Section 4: "When necessary to effectuate the conditions imposed on the subject property by this Ordinance 49-O-03, "applicant" shall be read as "owner," "applicant's successors in interest" and/or "operator of the use."

New Section 5. "The applicant has agreed to participate in the City's plan for the streetscape design and development of Chicago Avenue, commonly known as the Chicago Avenue Plan, by a contribution thereto in the amount of \$70,000."

Section 6 now reads: The applicant and/or the condominium association as established by a Declaration of Condominium Ownership for 900 Chicago shall plant and maintain in good and slightly condition terrace planters as indicated on Exhibit 2. The applicant agrees that any plant planted in the terrace planters that dies or fails to thrive (each a "failed plant") shall be replaced during the earliest available planting season thereafter. If applicant shall not so replace the failed plants, applicant shall pay a fine of \$500 to the City. The procedure in connection with the failed plants shall be as follows:

1. The City shall notify applicant in writing of its obligation to replace a failed plant or plants (the "Landscape Notice").
2. Within thirty (30) days after the date of receipt of the Landscape Notice (the "Replanting Period"), applicant shall either (i) replace each failed plant, or (ii) if a replacement therefore is not available or if the weather does not permit planting within the replanting period, notify the City in writing (the "Extension Notice") of the circumstances preventing it from planting a failed plant and its reasonable estimate of the time period in which a replacement plant will be available and/or the weather will permit planting, which in no event shall be longer than two hundred seventy (270) days from the date of receipt of the Landscape Notice (the "Extended Replanting Period"). If the City disagrees with the applicant's estimate, the City and applicant shall work together to arrive at a reasonable time period, which time period shall then be referred to as the Extended Replanting Period. If applicant shall fail to replant a Failed Plant within the Replanting Period, or the Extended Replanting period if applicant shall have delivered an Extension Notice, then applicant shall pay a fine to the City of \$500 within thirty (30) days after expiration of the Planting Period or Extended Planting Period, as the case may be.
3. Applicant shall from time to time notify the City of its notice address for purposes of this provision. Said address is as follows:

900 Chicago, LLC
 Matthews Development Corporation, Manager
 814 N. Franklin, #301
 Chicago, Illinois 60610"

New Section 7. "The applicant shall construct and maintain the structure on the subject property in accordance with the materials indicated in the Development Plan and the design elements identified and incorporated herein as Exhibit 2, including the following:

1. The street frontages on the ground floor shall be used for retail, commercial, office and accessory residential uses consistent with the regulations of the underlying zoning districts.
2. At the ground level the façade shall be set back in the following manner:
 - a) From the south lot line, a distance ranging from no less than six (6) feet at the southeast corner of the building to two- and four-tenths (2.4) feet at the southwest corner of the building;
 - b) From the east lot line, a distance ranging from not less than six (6) feet at the southeast corner of the building to not less than five (5) feet at the northeast corner of the building.
3. Above ground level the south and east faces of the building shall be situated relative to the property lines in the following manner:
 - a) On the second level through the sixth level the building wall shall return to the property line approximately fifteen (15) feet above the sidewalk along the south lot line and along the south eighty-seven (87) feet of the east lot line.
 - b) On the third level through the seventh level (3rd -7th) on the east side of the building, north of a point at or above eighty-seven feet north of the south building façade at level three, north to the north end of the building, the east wall face shall be setback from the east property line a distance of not less than eight (8) feet west.
 - c) On the seventh (7th) level the building wall shall be set back not less than six (6) feet north of the south lot line.
 - d) On the seventh (7th) level the building wall shall be set back not less than eight (8) feet east of the east lot line.
4. Parking areas, except for entrances and exits shall not be visible at the ground level.
5. All brick visible from the public way shall be substantially consistent with the domestic residential size (Norman), quality and color of Glen Garry's Tuscan series in Smokey Quartz color; shall be laid with deeply raked joints and shall have smooth exposed faces.

6. The structure of the building shall be precast concrete columns and spandrels which shall be visible as part of the building's architectural finish and shall be similar in appearance to limestone.
7. Decorative metal (except for the ornamental grillage on the east façade shall be finished in Kynar 500 Zinc finish and shall be used on the entrance canopy and the fascia cap at the top of the seventh (7th) story.
8. The south façade shall include at the top of the ground or arcade level a back-lit translucent glass element not less than one (1) foot in height.
9. The building shall have a pre-cast spandrel beam profile containing architectural details and reveals.
10. The west elevation at the third floor and above shall feature the same finishes as used on the building's street sides, including brick and pre-cast details.
11. At and above the third (3rd) level, windows along the south and east sides of the building shall have the following characteristics:
 - a) Windows and masonry openings shall have pre-cast sills;
 - b) Windows will be approximately six (6) feet high and will vary slightly in width;
 - c) Windows shall be operable in awning style, be hinged at the top and shall have an opening limited to approximately six (6) inches;
 - d) Screens shall be installed on the interior of the building as part of the awning windows;
 - e) Windows on the upper levels shall be factory finished aluminum matching Benjamin Moore color 1484.
12. The garage doors shall have the following characteristics:
 - a) The garage doors shall feature translucent glazing.
 - b) The garage door at the north end of the east façade, serving the ground floor on the lower level and the upper residential levels, shall be set back not less than twenty (20) feet from the east lot line, and shall be operated by proximity sensor and remote control.
 - c) The garage door at the west end of the south façade, serving the residential units, shall be set back not less than two (2) feet from the south property line and shall be activated by remote control operated by vehicle drivers.
13. The owner of the commercial property shall offer, for consideration, the use of commercial parking, after normal business hours, as valet parking for local restaurants in the parking spaces otherwise used for the commercial, retail, office uses in the building.
14. The southeast corner of the building on the third through the sixth (3rd-6th) level shall feature open balconies integrated into the building.
15. Exhaust from the parking levels shall be vented from the west wall of the building.
16. Areas for the storage of trash and bicycles, and loading areas shall all be contained within the building and shall not be visible from the public way.
17. Ground floor commercial, retail, and office uses shall have pedestrian ingress and egress to the public way from the east and south external walls of the building.
18. Any emergency generator shall be enclosed within the structure.
19. Utility connections to the building shall, to the greatest extent possible, not be visible from the Main Street or Chicago Avenue right-of-ways.
20. Not less than two (2) exterior water supplies will be available at ground level to provide water for landscape trees planted for the Chicago Avenue and Main Street streetscape program, as designed by the City.
21. Signage area shall be provided above the ground level glass in a decorative metal band not less than eighteen (18) inches high with Kynar 500 Zinc finish."

New Section 8. "The applicant shall construct, implement and maintain safety devices and procedures for direction and control of vehicular and pedestrian traffic on the subject property and at those to entrances and exits where vehicles enter or leave the public way. The applicant shall place and maintain stop signs at all points of vehicular egress from the subject property. Left turns into and out from the western most vehicular exit onto Main Street shall be prohibited. Signage requiring "right turn only" shall be installed and maintained at this vehicular exit onto Main Street. Vehicular exits shall be equipped with such traffic safety devices as required by the City Traffic Engineer to implement the terms of this ordinance."

New Section 9. "The applicant developer subject to the approval of the Director of Community Development shall have the right to substitute materials substantially similar in appearance to those materials specified herein, provided, however, that such materials shall be of quality equal to or greater than those specified."

New Section 10. "The applicant or its general contractor shall notify the Building Department of the City of Evanston of its intent to construct, install or apply any of the design elements specified in Section 8 hereof so that the Director of Community Development may ascertain that such materials or design features conform to the specifications of this ordinance and the exhibits made a part hereof."

New Section 11. "That all ordinances or parts of ordinances in conflict herewith are hereby repealed."

New Section 12. "That this Ordinance shall be in full force and effect from and after its publication, approval, and publication in the manner provided by law."

Voice vote on amendments, motion carried, no nays.

Alderman Bernstein moved approval of 49-O-03 as amended. Seconded by Alderman Rainey.

Alderman Kent said development is a battle all need to be concerned about, especially the way it is happening currently throughout Evanston. He does not see residents having any say whatsoever and that development here seems to be controlled by making it convenient for the developer to not overspend. He heard Ms. Dalton speak at the P&D Committee meeting that evening, who referred to Council "as clogging up the City with large, tall buildings and traffic in residential areas." If they have not realized there will be problems in residential areas and, time will tell, it will be a horrible thing. When residents tell them a seven-story building is too tall, those residents know that community better than any developer or anybody going in and talking about how they will improve the community. What matters to him on anything built here, since they talk about diversity and are concerned about economic levels, it seemed to him the developer should have some responsibility for that. They cannot make somebody take low income folks in and nobody wants low income folks living in their neighborhood. He noted they talk about inclusionary planning and affordable housing yet when these buildings are developed, who are they affordable to? He said this is nothing more than an elitist building and no prize to Evanston for creativity. He knows the building will be fine for architecture and better than what is available right now. He cannot be won over because there are too many people out on the street who have no place to go. To take attractive paint, mortar and restructure a building that half the people (here) cannot get into did not carry high marks for him. They can talk about congestion and traffic studies over and over and neighbors say the same thing. Developers say they know that it is better and it will work itself out. The question was asked that evening when will they fix those problems? If they recall, when Starbucks went onto Main Street, the same thing came up, when do they fix the problem? They tend to go into this with the idea there is no problem. Then they want to fix it when they know the problem is enhanced. But for the people who live there, it is a miserable feeling. He thought that was universal. The idea that one cannot change anything, that one does not know what is best for one's own community is like pouring water on one's shoulders and it cascades down because nothing one says seems to matter. The end result is always the same. He noted they discussed the Chicago Avenue Streetscape plan and he voted on it but did not vote anticipating higher buildings. He said the answer to nothing there, is something there for some people. He voted for it because it was about a community standing up and putting some parameters about what they would/would not accept. He will continue to say that. He said they have nothing when people get tired of coming forward and telling Council what does not work in their community and continue to allow it to go forward. He was not trying to speak for that community and wanted to keep the level of communication straight. Bigger is not always better. The only way in this 8.5 square mile community is to take it from the poor folks or go up. Either way people who have lived here and paid taxes have problems with it. He thought Council would have to be mindful of that because it is a serious problem. It reaches far beyond the downtown into neighborhoods and changes the very character of those neighborhoods. People cry out that it is too dense already. No matter what happens, it is always manipulated to get the developer in. He said it stinks. At some point it will come back to haunt this Council. There is no choice, no give and take. He asked what about moderate and low-income folks. He never got a response other than – "this is not the building for that." Finances are not there and it could not be done. But Council and the P&D Committee are expected to listen, give the best advice and the developers just keep coming. When he asked what Evanston gets out of this development, the only thing he can see is that the vacant building there will be a lot prettier than it is now. When the building becomes prettier it is not for *all* of Evanston. He did not know why they support it and did not ask for a response. He won't sit there biting his tongue as these large buildings go up to ten stories changing what is special about Evanston and that is its character. Once the character is lost, they will not have the Evanston they have. This is important to him. It is somebody's vision. Ms. Dalton was saying "where is the vision?" His answer is that it is someone's vision because the buildings keep going up and residents keep getting moved back. It is not by happenstance or by mistake. Whose vision is it? If it is this Council's vision, please let him know. He thought times were rough and scary for a lot of people who value the character of their neighborhoods.

Alderman Wynne supported this building; said that it may not have ideal architecture or be an "old style" building. She explained what happened with it and the Chicago Avenue Plan that Council passed three years ago, which was a product of the community. Hundreds of hours of community effort were spent to change what Chicago Avenue was becoming

at the time. After three years of meetings and community effort, with the Plan Commission facing great opposition initially, more than one-mile of commercial property was down zoned. That was remarkable. Height of buildings was lowered by more than 35%. Parking requirements were increased over the enormous objections of developers. Now the standard is that developers cannot sell a unit without parking. There were skeptics on staff and the Plan Commission but people in the community said this was necessary. She said that maybe some of what they achieved was not enough. The permitted height on Chicago Avenue was 67 feet, while community members wanted 55 feet. But the political reality was they could not get 55 feet from Council at that time. They also got a streetscape plan but did not get everything they wanted. They ended up with something a lot better than what would have been built. It was prepared and worked on by community members, people who lived in the 3rd Ward for years. That was part of the vision for Chicago Avenue. It is not perfect and that is why six weeks ago she made a reference to the Plan Commission to examine density issues. Clearly they need to keep working on it but they have made huge strides because of community effort. People here came out and were listened to. She knows there has been much concern about this building in the community. She, too, has concerns about it. One of the biggest issues they face is that it is a big building. It has 281 feet of street frontage on Chicago Avenue. They cannot make it smaller – that is the property the developer is coming with. During the course of the Chicago Avenue analysis, improvements they looked at were to make it greener, figure out how to make sidewalks wider, create some kind of setback on buildings at a higher level and improve architectural elements. They could not make the sidewalks wider because they could not get agreement from the Plan Commission and Council. They did not get agreement on building setbacks above the second floor but were thrilled they got height reduced, a parking requirement and a streetscape plan. The developer has moved this building off the property line (the entire 281 feet by 6 feet). The sidewalk is only eight feet wide most of that distance, so the width of the sidewalk has almost doubled. Above the second floor, the developer has set the building back and will contribute to the Chicago Avenue Streetscape plan. This developer has listened to the community. It is true that this building will be taller than what they ideally would like. It has only three more units in it than the developer could have built by right. Among all developers she has encountered in her six years on Council, this one has worked with the community more than any other. Many parts of this building have occurred due to response to citizens comments. The top floor is pushed back in response to a comment from Beth Steffen. The developer's architect worked with John Macsai, an Evanston architect, on his suggestions on how to improve the façade of this building. She was impressed by the way this developer listened. They were not arrogant. They had financial constraints, as does every piece of property, and worked hard on theirs. She thought this building is useful for the City to start using because of the Planned Unit Development (PUD) process. They talk about binding appearance review, how through the PUD process they have the best chance of controlling the architecture but have never used it until now. Unfortunately all had to hear the painful product of hours of staff work, but that means they actually get the building built that has been described to them by the architects in the meetings they have had. This is the first time the City has had that level of description go into an ordinance as far as she knows. They have had the ability to ask for that all along. Until this time, when they said, they showed a particular high quality brick, the City responded, let's require them to build with that brick. They showed a high quality glass, the City responded, let's require that. The developer said they want to make the precast concrete have all these architectural reveals, and the response was let's require that. Too many times, developers have said, "this is what we will do." Then, when they try to pay for it, suddenly these fine architectural details that were not put in the ordinance and required, disappear so the building looks nothing like the drawings shown to Council. In this instance through the PUD process, every detail was nailed down as described to them and is in an ordinance, which is binding. She thought that was significant; did not know whether she would ultimately like this building but found the process useful. She appreciated everybody's concern in the community and urged those who expressed so much concern about this building to continue to work on Chicago Avenue with the Plan Commission and Council. She agreed there are density issues and urged support of this building.

Alderman Bernstein said getting a better building than one that could have been built by right is an argument they have heard often. He was against this and was careful about what he wished for because if he got what could be built as of right, he would not be happy about that either. He did not think they had gone far enough on Chicago Avenue. He has been a pedestrian for the past three months and has come to see Evanston differently. When people drive by, they don't see a lot. When a person walks daily, they get a sense of a neighborhood. This corner frightens him. Starbucks has not impacted negatively; they had regulations imposed upon them to have a security guard in the morning and have not generated problems. Seventy-seven more families on this corner probably won't be a problem either. His concern was the massing of this building. He was not as opposed to height, as to height when combined with length. He said they have a 78-foot by 281-foot building. The statute in dispute allows for 67 feet. He said it was in dispute, because at the time,

they had a moratorium on Main Street. A different project was planned and he was pulling for Mr. Mullins to get it done. He was allowed to maintain the B3 zoning on the condition that height would never exceed 67 feet. The reality of construction here mandates that developers build taller and larger to accommodate people who are buying. Alderman Newman reminded him that he ran for this office, because as a zoning lawyer, he saw the City as obstructionist and precluding development of any sort. While he still favors development, he sees it as a mixed blessing. His concern was when they reach saturation and when the scale tips so much that the character of the community is changed. In the short term, there is an unknown on the southeast corner of Chicago/Main. The Main is ripe for redevelopment and, depending upon whom they believe, something is in the pipeline to put a third large building on that corner. Another building one block south at Kedzie seeks to go higher yet. His concern is when do they stop and how will they know? He did not know when the number of units equal keeping the character and expanding the tax base to allow them to be all things to all people. He and Alderman Kent have served on the Inclusionary Housing subcommittee, which has opened his eyes. He received a letter from the developer and Chamber of Commerce indicating this is affordable housing to people whose income is 80% of the median, presuming a \$50,000 payment. If someone has \$50,000 down, a purchase could be made at today's interest rates. The question is always: for whom is it affordable? He gave full credit to this developer, who has worked hard to make this development something that would satisfy many concerns raised. They will never satisfy people who want nothing there. His concern and reason for voting against this is that it is a PUD and the developer has given quite a bit. His sense is the developer started too big and as the tweaking went, it came to a balance, which may not be an effective balance. He felt similarly as Alderman Kent. He has the sense of a building crowding in on him. As an example, 1930 Ridge Avenue, which is a wall and daunting. That is his concern with this building or one built as of right. He agreed it would be worse to build to the lot line. This developer has worked closely with Alderman Wynne, who was the pre-eminent member of Council on the Chicago Avenue Plan. He thought when they give a PUD, they have to give a lot and these days, because Evanston is a place where many people want to live, the City is in a position they were not two-three years ago, to be more selective and ask for more. He saw many units being constructed and those downtown are selling, but those on the perimeter are moving more slowly. The market is not what it once was. If the project passes, he will be happy to see these modification included in the construction. He thanked Mr. Macsai for working with the developer and the developer for these modifications but he has reached saturation. He needed to be shown that the tradeoff is not just an expanded tax base but that there will be more for the community and less of the possibility that its character will be altered, which he does not want to happen.

Alderman Newman said the point about the massing of the building was a good one. It reminded him of the sewer program – nobody wanted the City to fix the sewers. If the City did not fix the sewers they would explode at some point. Now that they are being fixed, look what the City is doing to people's water/sewer bills. They are damned if they do and damned if they don't. They have employees without health insurance and don't want to cut any programs. Some employees think they should be getting much bigger raises. The school system struggles daily to figure out how to deliver top-rate education. He noted this building will generate \$760,000 in real estate taxes – in ten years that is \$7.6 million. If this property does not pay it, somebody else will. Nobody wants higher taxes and nobody wants to cut any services. Some think there is too much development. Evanston's tax base is growing, yet because of reassessment, the average tax bill has gone up. They studied information that showed 105 units on Sherman would have residents with no children in the schools. At 515 Main Street, there are 65 units and no children. At the beginning of this process, they were told by some that there would be additional children in the schools, which is not true. When the movie theaters were done downtown, Council was told people would not be able to move their cars on Maple. There are 200 units going up and people can still drive down Maple. If they put a Best Buy on the corner, would they think Best Buy a success with all the trucks and traffic? Would Best Buy have more or less traffic than a 77-unit condominium? He suggested it would have much more traffic impact. Best Buy would have traffic 18 hours a day. In his 13 years on Council, he has never seen a project get as much attention as this one. He thought Alderman Wynne had done a great job dealing with the market forces, which are more powerful than any Council member. If they did nothing about this project, they would be criticized for letting an ugly building be on Main Street, or if somebody put in a use they did not like, they would get criticism on that. He said the numbers have to add up. He thought that Alderman Wynne had been thoughtful and that dealing with development is an extraordinarily tough thing. The traffic consultant for this project is the same as for Maple Avenue and the movie theaters. They were told during debate where the epicenter of the traffic jam would be daily and now downtown is written about nationally. If the stores on Main Street were empty they would get a different complaint. They made a tremendous effort to get the Main Street newsstand. Ultimately, the property owner gets to decide what to build and has rights at the permit level they cannot control. He thought everybody was trying hard here with an

extraordinarily difficult decision. He supported it.

Roll call. Voting aye – Tisdahl, Rainey, Feldman, Newman, Jean-Baptiste, Wynne. Voting nay – Bernstein, Kent.
Motion carried (6-2).

CALL OF THE WARDS:

4th Ward. Alderman Bernstein wished Godspeed to Alderman Moran's mother and sister, who were involved in an automobile accident, and to Alderman Tisdahl awaiting birth of a grandchild.

5th Ward. No report.

6th Ward. No report.

7th Ward. Alderman Tisdahl made a reference to the Plan Commission and the P&D Committee, to consider changing zoning for Kendall College property to R1. Seconded by Alderman Feldman. Motion carried unanimously.

8th Ward. No report.

9th Ward. No report.

1st Ward. Alderman Newman congratulated Facilities Management Director Max Rubin and the 4th of July Association on the best fireworks ever this year. He reported compliments by visitors from Northbrook for the James Park baseball fields and that the Levy Center garden looks terrific. He asked City Manager Crum if the City could communicate with the CTA about the busses, especially on Sherman Avenue, and give feedback on how the CTA will determine if the new schedules have been successful. He received a letter from a constituent reporting she has seen many empty busses. He thought they needed information on that to fully evaluate the trial period.

2nd Ward. Alderman Jean-Baptiste also congratulated Max Rubin for a great parade and events that he and Parks/Forestry & Recreation Director Doug Gaynor coordinated at the lakefront and at James Park. He marched with the peace contingent in the parade and they tried to communicate that no weapons of mass destruction were found in Iraq, but words of mass distortion were found in the White House. He noted that President Bush visited Senegal and The Island of Gorie, one of the ports at which Africans were held in dungeons and then put on ships for a three-four month journey to oblivion. President Bush made an important statement, that slavery was one of the greatest crimes of history and a crime against natural law. Alderman Jean-Baptiste is involved in litigation around reparations to see if they can get the court to be of the same mind as President Bush.

He announced at Dempster-Dodge Plaza a new Washington Mutual (bank) and a new Jamaican restaurant, Jazmyn's.

3rd Ward. Alderman Wynne commended Max Rubin and the 4th of July Association for spectacular fireworks and a fun parade. Her family went to the Chicago fireworks, a nice show. On the 4th they walked four blocks to see Evanston's fireworks, which were twice as long. She said her neighborhood was packed and everybody cleared out without incident.

Mayor Morton was glad aldermen thanked City staff for the parade/fireworks and stated the biggest thanks should go to the 4th of July Association. She noted the parade was started by the North End Mothers Club years ago. The parade grew so much an association was started to sponsor the parade and other activities. The Association raises funds from the community and the City supplies police/fire protection. Fireworks and the band concert are paid for by the 4th of July Association. She said all are proud of the volunteer work done by so many in this community. As a city, they are happy to provide the protection and safety required so citizens could enjoy what is offered.

There being no further business to come before Council, Mayor Morton asked for a motion to adjourn. The Council so moved at 11:03 p.m.

Mary P. Morris,

City Clerk

A videotape recording of this meeting has been made part of the permanent record and is available in the City Clerk's office.