

CITY COUNCIL

October 9, 2006

ROLL CALL – PRESENT:

	Alderman Hansen	Alderman Holmes
	Alderman Wollin	Alderman Moran
A Quorum was present.	Alderman Wynne	Alderman Tisdahl
		Alderman Rainey

NOT PRESENT AT

ROLL CALL: Aldermen Bernstein and Jean-Baptiste

PRESIDING: Mayor Lorraine H. Morton

The OFFICIAL REGULAR MEETING of the City Council was called to order by Mayor Morton on Monday, October 9, 2006, at 8:31 p.m. in the Council Chamber.

ANNOUNCEMENTS:

Fire Prevention Week Presentation

Evanston Fire Marshal Kevin Kelly stated that Sunday, October 8 marked the 135th anniversary of the Great Chicago Fire and the beginning of Fire Prevention Week 2006. The Fire Department hung banners, posters and visited private and public grade schools reaching more than 5,000 students and adults through a variety of events so far this year. This year's theme is "Prevent Cooking Fires, Watch What You Heat." According to the National Fire Protection Association, unattended cooking is the leading cause of home cooking fires. It is not uncommon for the Fire Department to respond to a fire a week that involves cooking. He invited Fire Chief Alan Berkowsky to present the Fire Prevention awards.

Chief Berkowsky reported on a fire that occurred the evening of September 29 at 1621 Simpson Street. The Fire Department went to this address and found heavy smoke on the second floor and a kitchen fire. The apartment was occupied by the Tofolla family: mother Elizabeth, five-year old Sevestian and baby sister Evelyn. Just prior to the Fire department arrival, Sevestian noticed a bright light in the kitchen which was a pot of oil on fire. He did not hide or try to put the fire out. Instead he alerted his mother and went to get his baby sister from their bedroom. The mother left the apartment with the children. As they went down the hall Sevestian yelled "fire" and "help" to alert neighbors. His quick actions and appropriate behavior saved his family from harm. He was recognized and presented with a toy fire truck.

The second incident occurred September 27 at the Hilton Garden Inn, 1818 Maple. Representing the Inn was Manager Tim Herzog and Assistant Manager Antonio Torrez. The department received a 911 call about an unconscious employee. When the department arrived, a co-worker was performing CPR on the man. By the time the paramedics reached the hospital the man was regaining consciousness. Chief Berkowsky introduced all involved in the call: Brian Iwanicki, the employee who administered CPR, Acting Captain Dwight Hohl and firefighter/paramedics Mike Szostak and Dave Smrha. Brian Iwanicki was recognized for his ability and willingness to administer CPR and presented with a plaque.

Distinguished Budget Award Presentation

On behalf of the Government Finance Officers Association, Bill Stafford, Business Manager at Evanston Township High School, presented a Distinguished Presentation Award to the City of Evanston that was accepted by Management & Budget Director Patrick Casey. He congratulated Mr. Casey and the City for its budget award.

**Mayor Morton proclaimed October
Evanston Chapter of the
United Way of the North Shore Month**

COMMUNICATIONS: City Clerk Mary Morris reported that the next day, October 10, was the deadline to register to vote for the upcoming November 7 General Election. If somebody misses the deadline for regular registration, Grace Period Registration and Voting starts Wednesday, October 11 through Tuesday, October 24 at the Cook County Clerk's Office, 69 W. Washington St., in downtown Chicago. She announced Early Voting starts Monday, October 16 through Thursday, November 2 in the City Clerk's office.

CITIZEN COMMENT:

Frances Seidman, 600-E South Blvd., has visited a beehive on Washington Island for many years. Their economy depends on tourists and she did not think they would have a beehive in their nature center that caused people to stay away. Honeybees would not cause a problem.

Debbie Hillman, 1118 Sherman Ave., said this is an issue that should not be up for discussion before a governmental body. She had hoped the wisdom would come to know what we can change and control. Nature cannot be controlled or changed. We need to know what other creatures in this world do for us, the plants and what humans benefit from. She pled for a sustainable world where people trust each other and are at home in this world. People can learn about bees and how they affect people and accept bees as part of our world.

John Black, 1503 Madison St., lives near the hive; stated beekeeping at 1517 Madison continues to be a nuisance. 73 neighbors object and signed a petition opposing it. He urged Council to adopt the ordinance with the 25-foot setback. He alleged that beekeeping could adversely affect property values and doesn't want neighbor's bees on his property.

Thomas Schroeder, 939 Wesley Ave., said that honeybees are an issue because human beings have made it that way by opposing nature; thought that humans have many negative effects on Earth's cycle of life. Trying to be the deciding force behind location of honeybees, whether in a hive or a tree, is only partial to the reality of the issue. Voting against the honeybees is a failure to see the larger picture of humankind on Earth and is much like voting against nature and that which is life supporting. Nature cannot be controlled, especially by force. Perhaps this is an effort to control humans through force. He noted that all force has a counter force and feared the counter force of such a vote taking place against the bees. The only opinion that is relevant is that of nature, which is evident by the fact that bees are already on Earth and deserve the same regard as human beings.

Jim Graham, 742 Wesley Ave., visited Gabriel Jacob's hive one day when he was performing routine maintenance, scraping away excess wax. He and his wife stood eight feet from the hive and the bees paid no attention to them. After a rainstorm he saw Gabriel holding a wet bee perched on his hand until it dried, because bees don't do well in rain. He was confident of letting this extraordinary young man be the custodian of these creatures. He urged Council to differentiate between what their imaginations can generate, the reality on the ground and that regulation be in concord with reality.

Susan Dickman, 1517 Madison St., reported 111 neighbors signed a pro-bee petition. Approving the ordinance as it is, was dangerous and would set a precedent that what some individuals do not like, deem acceptable or whatever they believe to be dangerous (without fact) is something they can get on a city docket. Beekeeping has not been proven to be dangerous. In the five-six months the hive has been there nobody has been stung. There are nine hives operating in Evanston and have been for some years. She hoped that Council will legislate based upon fact, rather than on fear.

Catherine Adachi, 1512 Washington St., lives across the alley from the hive and has a large apple tree that attracted many honeybees. She thought there is a loss of honeybees and of nature in our country. Evanston has a lot to be proud of to be a green City and keep that up. She has not been bothered by the bees and was delighted that Evanston has young people who are interested in and appreciative of the natural world and that they are learning to live respectfully with other creatures. She urged people to look where they walk and not to feel that the whole world is there just for them. If you see a bee, step to the side. That's a path of wisdom and generosity. She hoped the City could support that way of being in the world rather than being fearful and afraid of being sued, bitten or hurt. Evanston has more going for it than that.

Paul Jacobs, 909 Washington St., asked if Council members had visited other communities that regulate bee hives to see what they have done and, if they have, he would like to review the findings. He thought the 25-foot setback was somewhat arbitrary and what was it based on? He understood why they would not want a beehive on somebody's property line. He thought the message they were sending was if somebody wants to have a beehive, they would have to move to a 50-foot or larger lot. The neighbor next door does not want a beehive, while the neighbor on the other side doesn't mind. So the hive was put closer to the neighbor who does not mind a beehive. He understood there was no opt-out clause, where a neighbor could sign up and say they did not mind a beehive nearby. He suggested a postcard survey to ascertain if people favored or not having a beehive on their block; called the ordinance a nuisance regulation. He urged Council to think about the message they are sending to Gabriel and to amend the ordinance to something more rational.

Dolan McMillan, 1519 Madison St., noted that City Council stated if one person stands and voices a concern, they can act. He has spoken and has been called a fool and ignoramus by neighbors on either side of him. He said that unregulated beekeeping made no sense. He reported there are bee regulations in San Diego, Fort Collins, Boise, Seattle and Sacramento. The Inland Beekeepers Association of Washington State wants to modify an existing ban to fall in line with the others. In Spokane, the set-back is 25 feet to any property line or 10 feet situated from the side or rear lot as long as there is a flyaway barrier of 6-feet height beyond the limits of the beehive. Seattle is more relaxed. He asked that Evanston's ordinance be modified to 25 feet from the property line, 8 feet in elevation from the ground or a 6 foot barrier running 10 feet beyond the beehive.

Gabriel Jacobs, 1517 Madison St., is a beekeeper. It is five months since beekeeping came to the attention of the City. Some people from the anti-bee side claim that the neighborhood has been forcibly educated about bees and beekeeping. Education should be encouraged, not condemned. If he is good at keeping bees, he should let the neighbors know the facts about beekeeping rather than urban myths. Bees, in general, cannot be banned or regulated as domestic animals. They are wild and live in manmade hives only because there is no reason for them to leave. Regulating them is similar to regulating squirrels. Both animals can be taken care of. You can leave peanuts for the squirrels, but they are wild. If the bees were to look for a more suitable home, which is unlikely because he takes good care of them, they wouldn't be his anymore. There are laws on beekeeping which state that when bees leave the beekeeper, unless the beekeeper follows them with the intent of recapturing, they no longer belong to that beekeeper. He thanked Council for its time.

Mimi Peterson, 748 Wesley Ave., recalled that Gabriel Jacobs and his mother ignored the process of the Human Services Committee by moving 40,000 bees onto their property, an affront to neighbors, the committee and the process. Since that time, much has been said to characterize this agricultural use as a boy's hobby. She agreed that much time has been wasted on this matter, but land use is not trivial. A total ban has been rejected twice. Much time has gone into the compromise ordinance before Council. Prior to Ms. Dickman coming before the Human Services Committee another neighborhood was besieged by bees, but the 7th Ward neighborhood was treated differently. The City intervened at the direction of an aldermen and 16 hives were removed from the community gardens on McCormick Boulevard. In addition, the City determined they did not want the liability that could be caused by honeybees and rejected them at the Ecology Center because of nuisance and liability issues. Nearby neighbors impacted negatively were relieved of their concerns. Neighbors in the 9th Ward wanted setbacks greater than 25 feet, but want the ordinance to be workable. 9th Ward neighbors feel they are entitled to the same consideration given to neighbors in the 7th Ward. While some have made this issue laughable and a non-issue, they were confident that Council understood the importance of property rights and the right to peaceful enjoyment of one's property. This is about protecting adjoining property from a nuisance.

Sandie Swanson, 1530 Madison St., lives across the street from the bees; has visited the beehive with her children and puppy and watched bees crawl on her hands as she gardens. She taught her children to observe bees and how they put pollen in pockets on their hips. She is afraid to walk in the grass, not due to bees, but tunneling wasps. A nuclear bomb just went off and they are talking about man controlling nature. It seems there are more worrisome things they should consider. How about the rats that are here or garbage cans that have holes in them that attract wasps. She suggested they were grabbing at straws. Evanston has always had a reputation as a progressive community and she has seen a change over the 30 years she has lived here. People have become more paranoid, mirroring the rest of the country and living in a society of fear. This issue emphasizes that. She hoped to have bees in this community.

Phyllis Pestka, 1520 Washington St., lives near the beehive and is opposed to beekeeping. She agreed the situation in the 7th Ward caused a problem for one person. Many say they are interfering with nature. She contended people were interfering with nature if they brought hives in. She has many bumblebees that do a better job of pollinating her flowers than do honeybees. She said there is a large population of all types of bees living in Evanston already and it is not necessary to add more. She agreed that honeybees are a good thing, but did not want to live close to them. She had to deal with bees that got into the wall of a house and it was a nightmare to clean up. She has not heard anything about what happens if the bees decide to move in with her. Who is liable? Gabriel just told them if the bees leave his hive, they are no longer his bees. Does she have to live with them and what are her rights? She urged Council to think about that. She wanted a well thought out control ordinance in place.

Bob Atkins, 2005 Orrington Ave., president of Northwestern Neighbors, appeared seven years ago before Council on

behalf of neighbors after it was learned that Northwestern University was lobbying individual aldermen about making a financial contribution for a relaxation of zoning in the T1 and T2 districts. He pointed out to Council that it was critical that NU be told unequivocally that any such requests for relief were off the table. He stated that only by strengthening and enforcing zoning laws and enacting the Northeast Historic District Ordinance, would they be able to maintain the delicate balance between their residential neighborhood and institutional encroachment. His concluding words at that time were that NU must be told in no uncertain terms that their neighborhood was not for sale. Now seven years later, Northwestern is still pushing for zoning relief and some Council members are listening. The Orrington neighborhood is justifiably concerned. While it is disappointing that the city manager and an individual alderman, whose ward is not impacted by Northwestern, held secret discussions with the university about zoning changes directly affecting their neighborhood, he found it even more disappointing that their alderman failed to unequivocally reject Northwestern's proposal to change zoning on the west side of Sheridan Road to permit classrooms and dormitories and has failed to state loud and clear that any such proposal by Northwestern is off the table permanently. Their neighborhood should not be on the trading block.

Robert Ludwig, 1942 Orrington Ave., echoed the concerns of Bob Atkins; has lived on Orrington for six years and in Evanston almost 17 years; heard charges there is a possibility that the City may swap the lot on Maple Avenue for zoning changes on Sheridan Road. They bought their home knowing it was in a historic district and that would continue to be honored by the City. They expected that any conversations held by any member of Council and the city manager would be public and not clandestine. The historic district should not be changed arbitrarily. He is a professor at Loyola University and formerly with De Paul University. He noted that those two universities have less property together than NU has and four times as many students. He doesn't understand why Northwestern cannot stay where it is, maintain its own property and stop encroaching on residential properties.

Jeanne Lindwall, 625 Library Pl., lives in a T1 district a half block from Sheridan Road. There are reports that city staff and aldermen have been negotiating zoning changes along Sheridan Road with Northwestern University with no community input. If true, this violates the due process procedures outlined in the Zoning Ordinance and, depending exactly on what was discussed in the Executive Sessions about the Civic Center site, may also be in violation of the Open Meetings Act. There is a pattern to recent City/University deals. We should learn from our past mistakes. When the City was pursuing development of the movie theaters, at the 11th hour, NU decided not to abide by a previous hand-shake agreement and effectively blackmailed the City into creating an U1a zoning district that included the university parking lot at Foster/Maple. This new district set a height limit of 45 feet, except for a NU parking structure at 75 feet. During the historic district discussion, an NU administrator approached aldermen to suggest a deal that involved rezoning university property. One alderman agreed to present the concept to the neighborhood, which felt it was better protected with current zoning regulations. When the university filed its lawsuit against the City, it accused the City of extortion based on the terms of the deal that NU, itself, had suggested. Now there is a NU/City Committee in place as a result of the Consent Decree. The meetings she has attended with Gene Sunshine, her classmate, keep narrowing his interpretation of what "should and should not" be discussed. It is clear from recent history that the City cannot rely upon NU to be honest and fair in its dealings. If the City is intent upon acquiring the Farmer's Market site, owned by NU, for a new Civic Center or any other use, anything other than an arm's length transaction should be avoided. While the use of eminent domain is often a lengthy and contentious process, perhaps, in this case, that is the course to pursue. Let a judge put a fair market value on this property and keep zoning along Sheridan Road out of the equation.

Brian Platnick, 2243 Orrington Ave., stated that up-zoning Sheridan Road would disturb their neighborhood. Allowing Northwestern University to have classrooms, dormitories, fraternity and sorority houses west of Sheridan Road will permanently change the character of Orrington Avenue and the surrounding neighborhood. Northwestern has many alternatives that would not alter neighbors contiguous to the campus. For example, current parking lots could be converted into multi-level parking structures, freeing up land for other uses. Instead NU is attempting to get approval for the most cost-effective solution at the expense of Evanston citizens.

Eli Wolf, 634 Foster St., lives in the last privately owned house on his block. The house next door was bought surreptitiously by Northwestern University (which it denied). Some do not know that dealing with Northwestern is not a noble, simple proposition. Everybody attempting to deal with Northwestern goes into negotiations and considerations with the idea of why not be more cooperative. All have been cooperative and as soon as you are cooperative, other things start to happen and lies are told. The city manager has been here for about a year and a half, not long enough in his view,

to understand how this whole process works. He was so angry and said that Council has a responsibility to those who pay taxes. Northwestern does not. Council owes them and should do their duty.

Art Newman, 2123 Sherman Ave., stated his aldermanic telephone still operates and he has gotten calls about a secret deal between the university and City in regard to Sheridan Road. He was part of the Civic Center Committee and fully supports efforts to develop a new Civic Center. In this case, Sheridan Road has nothing to do with that decision. The process is mired in further controversy. When he served on Council, the City purchased land for Fire Station #1 on Emerson Street owned by Sonny Robinson. He did not say in the negotiation, that he would only sell that property if they up-zoned and gave other rights to properties he owned. Mr. Robinson told them the cost of the property and the City paid it. If the City needs this property (next to the Maple Avenue Garage), then make an offer to NU. If they refuse, the City should go to the next property. Every major landowner in Evanston would like to have Northwestern's access. When Evanston Hospital had a difficult zoning project, they did not go for a secret deal. They went to the ZBA and argued in public that their plan was appropriate and won, which resulted in a beautiful plan on Ridge Avenue. Northwestern University is no different than any other landowner. They have no "special rights." He stated there can be no connection between the T2 district and the Civic Center site. Northwestern University now has the right to build dormitories, classrooms and fraternities on Sheridan Road., but they have to go through a special use process. That means they have to give notice and the neighborhood is involved. The neighborhood would get the same access as the university. It is the Evanston way.

Alderman Rainey moved that Council allow former Alderman Newman to continue speaking. Seconded by Alderman Bernstein. Motion carried unanimously.

He recalled an alderman on the Civic Center Committee told him that property would be purchased only based upon fair market value. He accepted that as a fair process and the university has the right to say no. This is not the only site for a Civic Center and can find a site without compromising the rights of taxpayers. They would not do this to people who live on the western part of Central Street, who would want a fair hearing and that all Council members were open-minded. He did not think there should be any negotiation with Northwestern that says if NU wants a zoning change, do what every other property owner does, go to the Plan Commission. If NU wants a special use, do what every other property owner does, go to the ZBA. This is not the Foster/Maple theater deal. There are corporation counsel opinions on record that say selling zoning is not legal. He urged them to make a public statement that a secret deal is not happening; urged them to follow the position of the Civic Center Committee. If the property is purchased it would be for cash and no other consideration. People in the 1st Ward deserve to know what is going on. On NU's website Mr. Sunshine implies there are no such discussions going on. So the people don't know what the truth is, which undermines the process. They have a Consent Decree and agreed that any discussion about zoning changes would start at the NU/City Committee, the neighborhood would be a participant and there would be no surprises. If Mr. Sunshine wants to have a public meeting in the 1st Ward to make the argument that zoning along Sheridan Road should be rezoned, let him make that argument to Council in public. Give the people that live there who pay taxes the same rights as Mr. Sunshine. He did not see how anybody would oppose that.

Bob Hercules, 1934 Orrington Ave., lives across from Foster/Walker dormitory. He and others were angry that NU and others are conducting some kind of deal without neighbors' input. It is violation of democratic principles. Government should be open, accessible and transparent. They have a wonderful street; are happy to live there; love the students and the university. He asked why Northwestern would want to change the character of their neighborhood when that is an attraction for students. Parents come all the time and are shown Orrington. Even for its own self-interest, keep the neighborhood vibrant. He urged Council to get this out in the open and talk about it. Whoever is doing this behind their backs, it will result in very vocal action.

Mayor Morton stated that this City Council has held no discussion on swapping land or changing zoning of the area.

CONSENT AGENDA (Any item marked with an Asterisk*)

Alderman Moran moved Council approval of the Consent Agenda with these exceptions: contract with Hitchcock Design Group for Lakefront Master Planning (framework visioning services), Change Order #2 with Kovilic Construction Company for Chicago Avenue Streetscape (purchase tree grates/frames); Ordinance 27-O-06 – Inclusionary Housing Ordinance; Appeal of the Preservation Commission Denial – 115 Dempster St.; Ordinance 97-O-06 – Amendments to

Landlord/Tenant Ordinance and Ordinance 65-O-06 – Regulation of Beekeeping. Seconded by Alderman Rainey.

Roll call. Voting aye – Hansen, Wollin, Jean-Baptiste, Wynne, Bernstein, Holmes, Moran, Tisdahl, Rainey. Voting nay – none. Motion carried (9-0).

ITEMS APPROVED ON CONSENT AGENDA

MINUTES:

* Approval of Minutes of the Regular City Council Meeting of September 25, 2006. * APPROVED - CONSENT AGENDA MOTION AND ROLL CALL (9-0)

ADMINISTRATION & PUBLIC WORKS:

* Approval, as recommended, of City of Evanston payroll for the period through October 5, 2006 and City of Evanston bills for the period ending October 10, 2006, authorized and charged to the proper accounts:

City of Evanston payroll (through 10/05/06)	\$2,145,547.40
City of Evanston bills (through 10/10/06)	\$3,926,445.91

* APPROVED - CONSENT AGENDA MOTION AND ROLL CALL (9-0)

* Approval of professional services contract with LaBrosse, Ltd. (3121 N Rockwell St, Chicago) for exhibit consulting and fabrication services for the Evanston Public Library in an amount not-to-exceed \$499,255. Funded by FY 06-07 and FY 07-08 Capital Improvement Program (CIP) budget. * APPROVED - CONSENT AGENDA MOTION & ROLL CALL (9-0)

* Approval of professional services contract with Postl-Yore & Associates (2101 S Arlington Heights Rd, Arlington Heights) in the amount of \$24,800 for surveying services for the 2007 Street Improvement Program. Funded by Street Resurfacing CIP funds. * APPROVED - CONSENT AGENDA MOTION & ROLL CALL (9-0)

* Approval of contract with T.Y. Lin, Inc. (5960 N Milwaukee Ave, Chicago) in the amount of \$89,930 for Phase III construction administration services for the Central/Crawford/Gross Point Traffic Signal Project. Funded by CIP. * APPROVED - CONSENT AGENDA MOTION & ROLL CALL (9-0)

* Resolution 57-R-06 – Assumes Responsibility for Temporary Closing of Sheridan Road for the NU Homecoming Parade – Consideration of Resolution 57-R-06, by which City Council would accept liability for the temporary closure of Sheridan Rd. for the Annual Northwestern University Homecoming Parade on Friday, October 20, 2006. * APPROVED - CONSENT AGENDA MOTION & ROLL CALL (9-0)

* Resolution 58-R-06 – Increase in Federal Participation for the Ridge Avenue Traffic Signal Project – Consideration of proposed Resolution 58-R-06, which authorizes the City Manager to execute an amendment to the Local Agency Agreement with IDOT to increase the federal funding participation in the Ridge Avenue Signal Project by \$474,855. The project is federally funded. * APPROVED - CONSENT AGENDA MOTION & ROLL CALL (9-0)

* Ordinance 103-O-06 – Decrease in Class B1 Liquor Licenses – Consideration of proposed Ordinance 103-O-06, which amends Section 3-5-6(B1) of the City Code to decrease the number of Class B1 liquor licenses from five to four due to the sale of 1800 Club, Inc., dba 1800 Club, 1800 Sherman Ave. * MARKED INTRODUCED – CONSENT AGENDA

* Ordinance 104-O-06 – Increase in Class B1 Liquor Licenses – Consideration of proposed Ordinance 104-O-06, which amends Section 3-5-6(B1) of the City Code to increase the number of Class B1 liquor licenses from four to five due to the addition of Chicago Outfit Entertainment, Inc. dba 1800

Club, 1800 Sherman Ave. * MARKED INTRODUCED – CONSENT AGENDA

* Ordinance 102-O-06 – Increase in the Number of Class B Liquor Licenses – Consideration of proposed Ordinance 102-O-06, introduced September 25, 2006, which amends Section 3-5-6(B) of the City Code to increase the number of Class B liquor licenses from 15 to 16 due to the addition of Bandana Entertainment, LLC, dba BAT 17, 1709 Benson Ave. * ADOPTED - CONSENT AGENDA MOTION & ROLL CALL (9-0)

PLANNING & DEVELOPMENT:

* Ordinance 105-O-06 – Special Use Request for a Convenience Store at 817 Davis St. – Consideration of the Zoning Board of Appeals recommendation to grant a special use for a 7-Eleven Convenience Store at 817 Davis St. * MARKED INTRODUCED – CONSENT AGENDA

* Request for HOME Funds – Consideration of the Housing Commission recommendation to approve the request for \$45,000 in HOME funds for Community Housing Development Organizations (CHDO) operating expenses, with \$15,000 each for the Evanston Housing Coalition, Reba Place Development Corporation and Housing Opportunity Development Corporation. The City reserved approximately \$54,000 for CHDO Operating Funds from the 2005-06 and the 2006-07 HOME Program allocations. * APPROVED - CONSENT AGENDA MOTION & ROLL CALL (9-0)

HUMAN SERVICES COMMITTEE:

* Approval of September 2006 Township Monthly Bills – Consideration of a recommendation to approve the Township bills, payroll and medical payments for the month of September 2006 in the amount of \$100,631.58. * APPROVED - CONSENT AGENDA MOTION & ROLL CALL (9-0)

APPOINTMENTS:

Mayor Morton asked that the following reappointment be introduced:

Tracey L. Wallace
1310 Darrow Ave.

M/W/EBE Development Committee

* APPROVED – CONSENT AGENDA

REPORT OF THE STANDING COMMITTEES

ADMINISTRATION & PUBLIC WORKS:

Alderman Holmes reported the committee amended this contract to include all of the lakefront properties. Seconded by Alderman Rainey. Motion carried unanimously

Alderman Holmes moved approval of professional services contract as amended with Hitchcock Design Group (221 W Jefferson Ave, Naperville) in the amount of \$49,500 for framework visioning services for the Lakefront Master Planning Project. Funded by CIP. Seconded by Alderman Wynne.

Roll call. Voting aye – Hansen, Wollin, Jean-Baptiste, Wynne, Bernstein, Holmes, Moran, Tisdahl, Rainey. Voting nay – none. Motion carried (9-0).

Alderman Holmes moved approval of Change Order No. #2 to the Chicago Avenue Streetscape Project with Kovilic Construction Company (3721 N Carnation St, Franklin Park) for purchasing tree grates and frames for the streetscape improvement at the corner of Chicago Ave/Main St, increasing the contract amount by \$15,417.60 from \$242,201.05 to

\$257,618.65. Funded by CIP. Seconded by Alderman Wynne.

Alderman Holmes reported the committee requested a letter be sent to Kovilic Construction Company for the additional funds they donated to complete the project.

Roll call. Voting aye – Hansen, Wollin, Jean-Baptiste, Wynne, Bernstein, Holmes, Moran, Tisdahl, Rainey. Voting nay – none. Motion carried (9-0).

PLANNING & DEVELOPMENT:

Ordinance 27-O-06 – Inclusionary Housing Ordinance – Consideration of Ordinance 27-O-06, an Inclusionary Housing Ordinance, introduced September 25, 2006, to require specified planned developments to include affordably priced dwelling units. The Housing Commission recommends adoption of this ordinance. This item was referred back to Committee on September 25, 2006.

Alderman Jean-Baptiste reported this item was held in committee. Legal asked for time to clarify some issues.

Appeal of the Preservation Commission Denial – 115 Dempster St. – Consideration of the application appealing the Preservation Commission’s Denial of a Certificate of Appropriateness for the construction of a three-car attached garage and second-story living space over the garage to the Evanston Landmark at 115 Dempster St.

Alderman Jean-Baptiste reported the committee voted to hear the appeal on October 23. First Assistant Corporation Counsel Herb Hill stated there was no need to vote on this. After the committee has the hearing and makes a recommendation, Council may act upon that recommendation. Alderman Bernstein moved that the Council accept the recommendation of the P&D Committee when they hear the appeal October 23, 2006. Seconded by Alderman Tisdahl.

Community Development Director James Wolinski stated that this was on the agenda because Council could vote not to hear the appeal. The Preservation Ordinance reads that if Council wishes to hear an appeal or appoint a committee (P&D Committee) to hear that appeal; tonight the P&D Committee voted to hear the appeal at committee.

Ordinance 97-O-06 – Amendments to the Residential Landlord and Tenant Ordinance – Consideration of the Human Relations staff recommendation to amend the Residential Landlord and Tenant Ordinance, introduced September 25, 2006. The amendments include: requiring that all rental agreements be written, allowing landlords the opportunity to terminate a rental agreement, and redefining the options that are available to tenants when a landlord fails to provide essential services.

Alderman Jean-Baptiste moved approval of Ordinance 97-O-06. Seconded by Alderman Wollin.

Alderman Wollin reported tenants had asked for definition of “material non-compliance.” She checked with staff and was told it meant verifiable evidence. An anonymous person cannot make a complaint and call that “material non-compliance.” There has to be a witness that is willing to come forward and testify in order to show definitive support. She was told within the legal community this term is understood and a definition is not necessary. She wanted tenants to know that a complaint has to be verifiable. Alderman Wollin moved to include the definition of “material non-compliance” in the ordinance. Seconded by Alderman Rainey. Motion carried. No nays.

Alderman Jean-Baptiste moved approval of Ordinance 97-O-06 as amended. Seconded by Alderman Rainey.

Roll call. Voting aye – Hansen, Wollin, Jean-Baptiste, Wynne, Bernstein, Holmes, Moran, Tisdahl, Rainey. Voting nay – none. Motion carried (9-0).

HUMAN SERVICES COMMITTEE:

Ordinance 65-O-06 – Amend Title 9 to Regulate Beekeeping – Consideration of proposed Ordinance 65-O-06, introduced September 25, 2006, whereby the City Council would amend Title 9 of the City

Code to regulate the practice of beekeeping in Evanston.

Alderman Tisdahl moved approval of Ordinance 65-O-06. Seconded by Alderman Hansen.

Alderman Hansen noted that many have said they should be dealing with larger issues and move on. However, Council cannot ignore an issue presented to them by citizens, staff or one of them and their duty is to discuss it. This issue came from committee. Evanston is not the first community to discuss a regulatory beekeeping ordinance.

There was a comparison made that evening about a beehive in the 7th Ward versus the 9th Ward. Council can give what is happening in the 9th Ward the same consideration, except, what happened in the 7th Ward was on City property. In the 9th Ward it is in someone's backyard. There was talk during the Human Services Committee from many including people from other communities that had hobby beekeepers for many years. During those meetings the main thing she heard was about the beekeeper(s) being vigilant and educating themselves and their neighbors about how a beehive works.

She stated that this was not about Gabriel Jacobs's beehive, but about regulating hobby beekeeping. They've heard people talk about not messing with nature, but this is man controlling nature. She asked how is it natural when somebody constructs a hive, while a "natural" hive is in a tree? That is man controlling nature and what they are trying to regulate. During committee meetings state statutes were discussed that regulate beekeeping as an agricultural activity. Evanston is not an agricultural community, it is a city. She goes to Washington Island and has seen the glass beehive. Washington Island is an agricultural community, not a city. This ordinance is not anti-bee, but about regulating a possible nuisance. It minimizes the possible risk of being stung by a honeybee and the risk of a hobby beekeeper not being vigilant about their beehive, thus escalating risk to neighbors. This ordinance ensures proper beekeeping under Illinois law and a City ordinance. They tried to strike a balance between somebody being a hobby beekeeper and somebody worried about risk.

Alderman Hansen moved to amend Section 9-4-19: BEEKEEPING: (D) Setback to add the following language: "All hives shall be located at least twenty-five feet from any adjoining property with the back of the hive facing the nearest adjoining property (Add) and if located within twenty five feet of any adjoining property line, the hive should be situated eight feet or more above the highest grade immediately adjacent to the grade of the lot on which the hives are located, or when situated less than eight feet above the highest adjacent existing grade lot, it should comply with Section (F) of the ordinance." Seconded by Alderman Tisdahl.

Alderman Wynne pointed out Section (F) reads: "In each instance in which any colony is situated within twenty-five feet of a developed public or private property line." She suggested that Alderman Hansen correct that with her amendment. She pointed out three scenarios were presented. One could be 25 feet or more from a property line and if within 25 feet there are two options. They could build eight feet off the grade of the adjoining property or if less than eight feet, build with a solid fence. Alderman Wynne said leaving the first sentence in is confusing. Alderman Hansen wanted the fence. Alderman Wynne noted the ordinance says that any colony situated within 25 feet must have a fence, but Alderman Hansen says there is another way to do it. Alderman Wynne asked if somebody is eight feet off the ground do they still have to build a fence? Alderman Hansen said they would still have to build a six-foot fence. Why was a six-foot fence necessary if they were eight feet off the ground? Alderman Hansen said the fly barrier would be six feet or higher.

Alderman Bernstein clarified that if it is within 25 feet of a property line, right now a six-foot fence and a ten foot flyway is required. Alderman Hansen was saying if it is eight feet off the ground, they still have to put up a six-foot fence around that area. That would be added.

Alderman Rainey asked about approval for a six-foot solid wall fence and the permit process. She does not want any six-foot fences in her neighborhood and does not mind beehives. She has fought six-foot fences because they are not neighborly. Such a fence could be in a side yard and she knew of a property that faces a side yard. She hoped exceptions would not be made for beehives.

Alderman Tisdahl explained that Alderman Hansen was trying to improve the ordinance, which is a back door ban on beekeeping. The ordinance is so restrictive most people could not have a beehive. What is proposed makes it possible to have a beehive if somebody has a smaller yard. She wanted to be sure fencing was possible before voting.

Human Services Director Jay Terry said nothing in the ordinance trumps the Zoning Ordinance and would be decided on

a case-by-case basis.

Roll call. Voting aye – Hansen, Wollin, Jean-Baptiste, Holmes, Tisdahl. Voting nay – Wynne, Bernstein, Moran, Rainey.
Motion carried. (5-4)

Alderman Hansen moved to amend the ordinance by adding a section that requires a license for an apiary at a charge of \$5 per apiary per year. Seconded by Alderman Jean-Baptiste

Alderman Rainey asked if the City can license an activity that is already licensed by the state. Mr. Hill noted there was no state pre-exemption to the City issuing a license. Alderman Holmes wanted to amend the fee to \$50 to cover the cost of administration. Alderman Hansen said that was too high and did not want to make it burdensome. Alderman Tisdahl asked the amount that would cover the administrative cost? City Manager Julia Carroll suggested a cost of at least \$25. Alderman Wynne moved to make the administrative fee \$25 per year. Seconded by Alderman Wollin.

Roll call. Voting aye – Hansen, Wollin, Jean-Baptiste, Wynne, Holmes, Moran, Tisdahl. Voting nay – Bernstein, Rainey.
Motion carried (7-2)

Alderman Hansen moved to amend Section (J) SUBSECTION 2 to read: “There shall be no more than twelve apiary sites in each ward in Evanston.” Seconded by Alderman Tisdahl.

Alderman Hansen was trying to come up with a compromise. There are existing hives in Evanston and they don’t want to penalize people that have been beekeepers for years. Alderman Jean-Baptiste asked how many hives are in Evanston? No one knew. Alderman Tisdahl stated they were trying to make this ordinance less restrictive and that four is a low number, considering at one time there were 16 hives alone at a community garden that bothered only one neighbor. If beekeeping takes off, it could become more popular. Alderman Rainey said there are numerous beehives at one location. This item would totally eliminate the opportunities that resident currently has. She heard the story about somebody who had honey within their walls. People in her ward are not hesitant to call her and she thought that she would have heard about anybody with bees getting into walls. She said it was a shame to outlaw the hobby of this one individual in her ward who has caused no trouble to anyone. Most people did not know this man had hives and by one vote of this Council, this man would be made a criminal. She found that outrageous. As long as they have the one acre nonsense, it made no sense. She found this an imposition and that it sends a terrible message to people who have been responsible beekeepers. She wanted those who want to regulate bees to figure out how not to harm this man.

Alderman Wollin asked if the acreage requirements still stood? Yes . Mr. Hill said the regulation of an apiary is the site where the hives are kept. At an apiary there can be more than one hive. The situation described by Alderman Rainey , the location with many hives is one apiary and the individual could have as many hives as he/she chose. Alderman Rainey said it was identified as colonies. Mr. Terry said the number per ward is apiary sites. At the apiary, the ordinance restricts the number of colonies that may be in place at an apiary site. She has no properties of one acre or larger. Mayor Morton asked if this ordinance applies only to new beehives or to ones already in existence? Alderman Hansen pointed out that certain hives are exempted from the ordinance under Section (L). Mayor Morton asked if it was against the law not to register hives with the state? Mr. Terry stated that all hives are required to be registered at the state. Staff did research and there is no one in Evanston that is exempt.

Alderman Rainey moved to amend Section (L) Exempt Hives to read: “All hives properly registered with the State of Illinois as of the date of passage of this ordinance shall be exempt from Subsections(D) and (J) of this ordinance.”
Seconded by Alderman Tisdahl.

Alderman Rainey said that most Evanston beekeepers have registered with the state by now. Given the controversy, she thought some beekeepers may have gone underground. Her interest was in protecting the responsible beekeepers who have done a good job because nobody knows they are there and they should be exempt.

Alderman Bernstein thought this ordinance was before them for the wrong reasons. Now they are trying to regulate something that has been going on in Evanston for many years. There are at least three beehives that are registered at the state. He has no problem licensing beehives and would keep some language in the ordinance. He hasn’t heard that

beekeeping is a nuisance or any horror stories. But putting up a six-foot-high fence, once the bees are gone, there is nothing to preclude those bees from nesting in the eaves of his house. They cannot control the flight of the bees once they are off a property. His concern is that a person who chooses to keep bees does so in a reasonable manner. He doesn't see that they will be effective in addressing the fears of neighbors unless they totally prohibit bees. The difficulty they will have is the inability to control nature. He agreed once he houses a bird in his house, it is not natural, but once bees leave his property, they will pollinate and may sting somebody occasionally. Many have mentioned that the City took away hives to eliminate liability. He pointed out these were open hives with no barrier to prevent somebody from punching the hive or throwing a rock. If somebody drives a vehicle into a beehive, chances are those bees will be offended and somebody will get stung. He said there is no reason to prohibit them totally. On the first day of this issue, if somebody had come and asked him if he wanted a hive next door, he would have said no. Subsequently he has stood close to a hive and did not see problems. The bees seemed to go about their business. He did not understand what they were trying to do. If somebody puts up a six-foot fence and the bees fly up and out, where will they go? Would they land in the neighbor's yard, perhaps? A gardener would be happy to see them. Will they prevent them from going into the eaves? He did not think that Council could alleviate fears. He has been to some beehives and not found them to be a threat.

Alderman Jean-Baptiste thought they wanted to make sure the new apiaries are not accessible, as were those on City property that were removed. If an apiary is tended on private property, they trust the beekeepers to act appropriately. This came to the agenda because a neighbor complained. He thought they made progress on the setbacks. He proposed they drop (J) Colony Densities, altogether, withdrew his proposal and urged they vote Alderman Hansen's motion up or down.

Alderman Tisdahl said because apiary sites can have an unlimited number of hives, she recommended leaving it at four. Alderman Rainey said the killer is (J) Densities.

Alderman Wynne moved a substitute motion to eliminate (J) Subsection 1 and amend (J) Subsection 2 to increase the number to twelve (12). Seconded by Alderman Tisdahl.

Roll call. Voting aye - Wollin, Jean-Baptiste, Wynne. Voting nay – Hansen, Bernstein, Holmes, Moran, Tisdahl, Rainey. Motion failed. (3-6)

Alderman Bernstein moved to amend the ordinance to eliminate from Section 9-4-19: BEEKEEPING, the definition section, 5 and 6. (B) would be left in. (C) He suggested substitute language: "All hives shall be registered with the State of Illinois and the City of Evanston." Eliminate the setback requirement in (D). Leave the fencing, gates and signage requirement in (E) and mandate the yard be locked. Eliminate (F) Fencing of Flyways. Keep (G), Water (H) Maintenance, (I) Queens and (J) Colony Densities, Subsection 1 totally. Leave (J) Subsection 2 at eight (8) apiary sites. He would keep (K) Prohibited and eliminate exemptions (L). He added if the hive is not maintained properly, the person violating the ordinance shall be fined no less than five hundred dollars for each offense. Seconded by Alderman Wynne.

Roll call. Voting aye – Wollin, Jean-Baptiste, Wynne, Bernstein, Rainey Voting nay – Hansen, Holmes, Moran, Tisdahl. Motion carried. (5-4)

Mr. Hill pointed out the language in Section 9-4-20, is the inclusive penalty for the entire chapter. Staff understood Council was changing language for this section only and would retain language for other fine provisions in the chapter.

Alderman Bernstein moved approval of the ordinance as amended. Seconded by Alderman Wynne.

Roll call. Voting aye – Wollin, Jean-Baptiste, Wynne, Bernstein, Rainey Voting nay – Hansen, Holmes, Moran, Tisdahl. Motion carried. (5-4)

CALL OF THE WARDS:

9th Ward. Alderman Hansen attended the Arts Week kickoff and found it an all-age event and lots of fun. She made a reference to the Human Services Committee to consider a loud car music ordinance.

1st Ward. Alderman Wollin invited people to come to the Library Wednesday from 7-9:00 p.m. to see the maquettes and meet the artists for the Sherman Plaza Public Art.

She reported a flyer was circulated in the 1st Ward using her name. No one contacted her and it was inaccurate. She asked to be consulted in the future.

2nd Ward. No report.

3rd Ward. No report.

4th Ward. No report.

5th Ward. Alderman Holmes congratulated the Arts Council, Public Art Committee and staff on the kick-off event for Arts Week. She invited all to attend West Side Story Part 2 the next evening at the Peacock Loft, at 5:00 p.m., 2144 Ashland Ave. and to tour the Hill area and take a bus ride to Church/Dodge to see what is being proposed.

She invited all to attend another community session on the West Side Plan at ETHS on Thursday, October 12, 7:00 p.m.

Alderman Holmes reported on September 30 the second annual Spiritual Walk, sponsored by the African-American Health Ministry Coalition and the American Cancer Society had excellent participation.

6th Ward. Alderman Moran congratulated the Arts Council for assembling an incredible array of activities for Arts Week. It proved that arts are a great contributor to quality of life and they need to make arts an integral part of Evanston.

7th Ward. Alderman Tisdahl invited everybody to see Silver Wings on Green Bay Road.

8th Ward. Alderman Rainey reported that Trader Joe's has rejected an opportunity to move into the former Osco site at Asbury and Oakton. She and Alderman Hansen would join forces to get another grocery or produce store and asked people to get in touch with them or staff with suggestions.

At 11:30 p.m., Alderman Bernstein moved that Council convene into Closed Session for the purpose of discussing matters related to personnel, real estate and closed session minutes pursuant to 5 Illinois Compiled Statutes 120/2 (c) (1), (5) and (21). Seconded by Alderman Wynne.

2. All meetings of public bodies shall be public meetings except for the following:

- (1) The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body, including hearing testimony on a complaint lodged against an employee to determine its validity.
- (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.
- (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 Section2.06.

Roll call. Voting aye – Hansen, Wollin, Jean-Baptiste, Wynne, Bernstein, Holmes, Moran, Tisdahl, Rainey. Voting nay – none. Motion carried (9-0).

There being no further business to come before the Council, Mayor Morton asked for a motion to adjourn and the Council so moved at 1:00 a.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.