

**Evanston City Council
Closed Session Minutes
Aldermanic Library
Monday, May 8, 2006**

PRESENT: Aldermen Hansen, Wollin, Jean-Baptiste, Wynne, Bernstein, Holmes, Moran, Tisdahl, and Rainey

ABSENT: None

STAFF: Judith Aiello, Julia Carroll, Herb Hill

PRESIDING: Mayor Lorraine H. Morton

START: 10:55 p.m.

Alderman Bernstein moved that Council convene into Closed Session for the purpose of discussing matters related to real estate, litigation, minutes and personnel pursuant to SILCS Section 120/2 (c) (1) (5) (6) (11) and (21). Seconded by Alderman Wynne

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

MINUTES:

Closed session minutes of April 24, 2006 were accepted without change.

LITIGATION:

First Assistant Corporation Counsel Herb Hill reported on Kathrein vs. COE. The judge ordered the garage torn down at cost to Mr. Kathrein because he knew when he applied for the permit that he needed a zoning variation. The judge said that construction of the garage, in violation of the zoning ordinance, was intentional. He noted that the affirmative act must be that of the government body itself, not an act of a ministerial officer or a ministerial misinterpretation. Ian Johnson and Jim Carr from Holland & Knight represented the City. The federal case is still out there.

Mayor Morton asked what happens when the city issues a permit that should not have been issued. Mr. Hill responded that is a ministerial act and the city is not estopped from correcting the mistake.

Alderman Wollin stated that maybe the NU/Citizen Committee would never function in good faith by the university. Perhaps it should be dissolved. Do they go back to the judge and say this is not working and won't work. They have to look at that option. It would show the City was frustrated by the lack of good faith.

Alderman Moran recalled when the committee was formed he had no hope that it could accomplish anything. That does not mean it could not. He thought it would look bad if

the City went in and asked to extinguish this committee. He did not know what Alderman Wollin was talking about when she talked about bad faith. The City attorney opined that nothing wrong had happened. The statement read in citizen comment contained many falsehoods. The purchase of 1945 Orrington was not inconsistent with the consent decree. If they go in and complain on the basis of bad faith by the university to do what they did because it was inconsistent with the consent decree, it was not. He has yet to see a consent decree with spirit; they have only words. Words describe what the consent decree requires. Bob Atkins was heavily involved in the North East Historic District; was in attorneys' offices telling people what to say in depositions; advising witnesses; bugging Jack Siegel about what he should or should not do. When the consent decree was created, probably 42 lawyers read the drafts including the two community members on the NU/Citizen committee. Now they are complaining about something they say is a violation. The whole premise is flawed and an embarrassment.

Alderman Wynne was the only alderman that participated in the discussion group with Judge Mikva and she felt there was a spirit and intent. The biggest worry of neighbors when the consent decree was drafted was what NU would do with land it owned. Part of the discussion was to create a committee of NU staff members and community members so there could be a dialogue about NU plans. At that time NU had not purchased property for a long time. Now NU has purchased two parcels after a long period of divestment. It changes what happens between NU and the City. She wanted Judge Mikva to come back. They would tell him what is happening and that they want a cooperative committee so that changes are discussed in advance. Clearly NU is taking advantage of the language in the consent decree. If NU wanted to exhibit a cooperative spirit they could have explained they were buying the house. She wanted the committee to continue. The City has tried to abide by the consent decree.

Alderman Jean-Baptiste thought the essence of this was to prevent harm to the community and to allow NU to heal from bad PR from the lawsuit. NU does not really care about bad PR because they bought 1800 Sherman. He suggested they need to continue to push NU to abide by the consent decree and disagreed about disbanding the committee. He recommended going back to court to see about expanding the citizen component and to put the issues before the court because there is no communication. NU may oppose this. He thought the committee needed to exist as an entity that is vigilant around issues and acquisition of property in the development of alleys and private homes. Expanding the committee would bring in new people. Mr. Schoenfeld and Mr. Atkins represent the neighbors and are supported by people who come here. Nobody has said they don't represent the neighbors. .

Alderman Tisdahl urged they not disband the committee which would be a terrible mistake. The committee still has a purpose even though it may not be as broad as they wish.

Alderman Bernstein said in the beginning the committee would not work and there was no question that NU was within the technical legality of the consent decree in purchasing 1945 Orrington. The City cannot stop NU from buying property. The idea behind this

committee was dialogue. He did not want to waste time on this committee, but tonight Northwestern neighbors asked them to keep it because they think there is some reason to keep it. He has a high regard for Gene Sunshine; suggested it was arrogance or stupidity that causes NU to treat the City the way they do. There was no reason not to tell people they were buying 1945 Orrington. Regarding the 1800 Sherman building, he left a message for Sunshine, because for the first time NU admitted their land acquisition methods affect the City and was hopeful they would move in a positive direction. The City cannot stop NU from using property west of Sheridan Road. NU will knock down 100-year old buildings that are obsolete and come in for a certificate of appropriateness. The City has never said no to NU and they did not come in and ask for exclusions from the North East Historic District. He suggested this is a public relations game and the City is ahead. He would like the trustees to become involved; would not vote to go back to Judge Aspen. He asked if 1945 Orrington is subject to the consent decree or is it property owned when the consent decree was created. He noted that Bob Atkins is a caustic type person, while David Schoenfeld is reasonable and if he was radicalized it was due to actions of NU. He has lost a lot of faith in Judge Mikva, because he did not think as a legislator they could mediate legislative practice. To bring in Mikva in on the City's dime, and say to NU why did you do that, would only assuage the City. He does not expect NU to change until the administration changes.

Alderman Holmes urged they move ahead with Alderman Wollin on the committee. Alderman Wollin wished to go with terms and put one new member on the committee. The consensus was not to go back to court.

REAL ESTATE ACQUISITION

City Manager Julia Carroll reported that the Civic Center Committee meeting was cancelled because there was nothing from Marty Stern on 1890 Maple Avenue. She received a proposal. Stern had talked to the owners and suggested she submit a letter of intent for \$4.5 million to acquire the building and land at 1890 Maple Avenue. Stern thought it would sell for between \$5 and \$6 million. He was saying they would start negotiations.

Alderman Moran asked Ms. Carroll to state what she proposed be done. She said that Marty Stern sent her a draft Letter of Intent to take to the owners of 1890 Maple Avenue to make an offer of \$4.5 million on the property. She did not recall if the City has an appraisal on that property. Was she asking for authorization to make that offer? She and Herb Hill will review the draft. If Council wants her to come back at the next meeting before she meets with him she will. The direction at the last Civic Center meeting was to engage with this owner. Mayor Morton confirmed that an appraisal would be done before an offer is made.

Alderman Rainey suggested they authorize the manager to move forward without coming back to Council because this would be a long process. Council wants them to know the City is interested.

Alderman Moran missed the last Civic Center meeting; asked if they made this offer and the owner said okay, was this okay programmatically. Ms. Carroll said the footprint is 33,000 square feet and Mr. Stern thought they could work with the site and a four-five story building or more. There would be underground parking for 60 vehicles and the rest would park in the Maple Avenue garage. The Civic Center Committee wanted to move ahead. Alderman Rainey said a lot of information was distributed at that meeting which Alderman Moran had not received. The Mayor and Alderman Moran will be sent packets.

Alderman Wollin asked if the City was still interested in the building next door. The manager understood the committee direction was not to interfere with Mr. King's property. Once they know the outcome of the Plan Commission meeting, and if the land becomes available, they would talk about that as an additional offer.

Mayor Morton asked where the money would come from to buy 1890 Maple. Ms. Carroll said that would be related to the financing plan for 2100 Ridge property. If there is a wait, Ms. Carroll thought they could get interim financing and pay themselves back. Those details have to be worked out.

PERSONNEL:

(Mr. Hill left the meeting at this time.) Alderman Jean-Baptiste recalled more than a year ago, Chief Kaminski was searching for other employment because he was maxed out on his pension and losing money by staying here. The City negotiated with him to stay another year by offering him a financial package. Alderman Jean-Baptiste wanted to review this because they are facing the same situation. Kaminski is looking for another position. He could give a two week notice. Do they have a succession plan.

Ms. Carroll said that arrangement was made in the fall of 2004; has talked to him at length about this. At 30 years of service, he can retire with 75% of his pension. He has 32 years on the job and wants to draw his pension, get another job and earn more income. He needs to make a decision. She likes him and said he does a good job. He did not get the Urbana job. She did not know the status of the job at the high school He is the highest paid police chief in this area, earning \$145,700 annually; cannot work for the City and draw his pension unless he becomes a civilian.

Alderman Wynne asked if it was possible to create a Police Commissioner position and hire him in that position. Ms. Carroll said they could create such a position, which would allow him to retire, draw his pension and be hired as a civilian.. He could not be a sworn officer, wear a uniform or carry a gun and would have no powers of arrest. She talked at length with him about that arrangement and he told her it was not in the best interests of the department. She thought in this community they need somebody in uniform to go out. Mayor Morton agreed.

Alderman Rainey suggested they keep this on the table. Ms. Carroll stated Kaminski asked if she would support a position whereby he would continue to be Chief of Police and have a separate contract with District 202 as the head of security so he would draw

money from both and do both full time jobs. People at the school district would be employees of the district. She did not favor this arrangement.

Alderman Hansen asked if he would give the city ample notice. Ms. Carroll was confident he would. They did not talk about a time frame but have discussed interim arrangements. Mayor Morton stated Kaminski was offered the job at the high school and did not turn it down. He wasn't ready to take it and it is still open for him. Bill Logan has retired and is staying on until a new security chief is chosen. Others from the police department have applied for the job.

Alderman Bernstein asked what dollars would keep him. Ms. Carroll said he would not name a dollar amount. He wants to retire, draw his pension and get another job. He loves his job, but has this issue. It is a financial decision that he has to make for himself. She respects the fact that people in the community like him.

Alderman Holmes was concerned that he is seeking other positions and not hired. Others noted they don't know what he was up against. He has applied at Rockford, Peoria and Urbana. Alderman Rainey said this is a burdensome legislative situation for municipalities. This man can retire from his job, collect his pension and go to another community and get hired as the chief of police and contribute to another pension. He cannot stay and collect a pension which does not make administrative sense. Alderman Rainey said if the city could keep him, he would stay and the City would not have to contribute to his pension. Ms. Carroll said they cannot do that legally. He cannot be in a sworn position here and collect his pension. Chief Jacoby went to Wood field Mall.

Alderman Rainey wished he would stay for several more years; was concerned about hiring a new chief. The manager has been here for only a year and she did not think she was ready to hire. Kaminski knows the community. Everybody calls him by name. They need to hire a comparable chief with the community involved.. Ms. Carroll stated if Kaminski leaves they would go to an executive recruiter and the community would be involved in the hiring process because there are many issues.

Mayor Morton stated when Council asked that Kaminski's salary be increased, that was bad for other staff. Others are just as capable in their position. She looks at Kaminski as a son but they must look at what is best for the community; did not favor giving him more money to stay. She thought they could get someone and that he would stay until he finds a place where he wants to move his family. He is not losing money, simply not gaining money. She recommended they leave him alone and if he resigns ask that he give ample notice.

Ms. Carroll handed out the implementation plan for the strategic plan.

There being no further business to come before Council, at 11:47 p.m., Mayor Morton asked for a motion to adjourn and the Council so moved.

Mary P. Morris, City Clerk