

**Evanston City Council
Closed Session Minutes
Aldermanic Library
Monday, October 23, 2006**

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

STAFF: Judith Aiello, Julia Carroll, Herb Hill, Dennis Nilsson and Judith
Witt

PRESIDING: Mayor Lorraine H. Morton

START: 10:55 p.m.

Minutes

Mayor Morton asked for any corrections to the closed session minutes of October 9, 2006. Minutes were accepted as presented.

Agreement with Police Sergeants (FOP)

Human Resources Director Judith Witt reported negotiations were somewhat more difficult and lengthy due to changes in the health insurance; wages are in line with other bargaining units and employee contributions were moved up.

Alderman Rainey moved that Council convene into open session at 11:00 p.m. in order to vote on the police sergeant's contract. Seconded by Alderman Jean-Baptiste.

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

At 11:03 p.m. Council reconvened into Closed Session.

Open Meetings Act Complaint - Minutes

First Assistant Corporation Counsel Herb Hill reported a memo (included) from the office of the State's Attorney had found no breach of the Open Meetings Act in the April 24 and May 8, 2006 Closed Session minutes. Alderman Wollin confirmed that this result is public information.

Real Estate Litigation – City Hall

Mr. Hill referred to a confidential letter (in the packet) from Ryan & Ryan that was a response to the question of Council's authority in condemnation proceedings. The Council clearly has authority to proceed to condemnation. He announced there would be a meeting on Friday at Ryan & Ryan's office with an appraiser to discuss value of the land.

Assistant City Manager Judith Aiello reported the City has provided Mike MaRous with an appraisal done by Marty Stern last year. Mr. MaRous did not agree with the values of the comps that were used so the appraisal has not been completed. His appraisal will not reach \$5 million because he did not believe the comparable residential properties outlined in that appraisal are of the value stated and does not consider Parcel 7 a good residential use. He is reviewing some additional comps and will have an appraisal available in several weeks. He will contact the first appraiser on what went into that appraisal.

Mr. Hill noted the recommendation from Bill Ryan was, even if the second appraisal number comes in lower, since they have the first appraisal at a higher number, they would make a good faith offer on the higher appraisal. However, the offer would not be higher than the first appraisal.

Mr. Hill introduced a second component of related damages to the BIRL property. The BIRL property is tied to Parcel 7 due to a parking requirement. There is case law regarding compensating contiguous property affected by the combination. They don't have that situation because there is a street between the two. The land swap eight years ago clearly ties in parking on Parcel 7 to the BIRL property. NU would argue that BIRL would be damaged by the loss of parking on Parcel 7. David Jennings is checking to see how many legal parking spaces can be located on Parcel 7. The Maple Avenue garage is next to parcel 7 and there is the possibility that parking in the garage could be offered to mitigate the damage issue. Any fair market value would be the result of the two appraisals and parking spaces affecting BIRL.

Alderman Bernstein asked if the swap agreement contemplated charging NU for parking. Mr. Hill stated if NU developed Parcel 7 alternate parking would be needed, but until developed, they have the right to park on Parcel 7. Alderman Wynne asked how many from BIRL park on Parcel 7. Ms. Aiello related that they are looking at zoning requirement and how many actually park there.

Alderman Bernstein reported there could be additional steps involved due to NU's charter. That was not addressed by Ryan. The question will be brought back to counsel.

Alderman Moran referred to the Ryan letter; page one, Introduction and Limiting Conditions: "Further this letter does not address the effect, if any, of the Agreement for Exchange of Real Estate dated January 20, 1999 between the City of Evanston and Northwestern University." That contract has this provision: " 7.2 University's Reliance. The university has incurred and will incur substantial costs, including but not limited to, attorney's and consultant's fees and other costs under this agreement and the university will forego substantial opportunities related to the desirability of the university exchange property (parcel 7) in reliance upon performance by the city under this agreement to the ability to develop and use the City's Exchange property pursuant to the zoning under the Research Park's zoning district in existence on the date of this agreement and as it shall be amended with the university's consent prior to the closing date as provided in Section 3 which allows a 150 foot building on Parcel 7, the ability to develop and use the City exchange property in accordance with the provisions of the

Research Park's City's zoning district for not less than ten years..." He urged they get advice on that provision.

Ms. Aiello noted that will play into the value of the property. Alderman Moran pointed out that due to that paragraph NU will argue that they anticipate building a 150 building on that land so it puts it in a different category.

Mayor Morton suggested that another meeting be held when they have the appraisal.

Alderman Jean-Baptiste asked if there was any reason Jack Siegel is not involved. Mr. Hill stated that Ryan & Ryan have been used for condemnation work and that the contract was done with Siegel and Ryan & Ryan. Bill Ryan is one of the best condemnation lawyers in the state. Ms. Aiello explained that Council had asked Ryan to review the legality of condemnation.

Real Estate - Land Swap

City Manager Julia Carroll reported that Alderman Bernstein had been to several meetings on the land swap proposed by the Board of Pensions. The suggested a swap is some city park land with their land so they could square off the site, but a snag has come up. Mr. Hill reported this property is the result of an earlier swap. The deed says that the land is to be used solely for park and recreational purposes and shall be known as Alexander Park. There is no reverter language. The grantor is Donald R. McKee and was done in 1960. The City will ask the title company to do a search and to insure the covenant. The earlier swap was for lots 1, 2 and 3. All the land is subject to this limitation. They are asking for 8,878 square feet and swap with 40 feet of Alexander Park. Ms. Carroll stated if the legal issues can be dealt with, staff recommend they do the swap.

Alderman Bernstein said the board had met with neighbors in order that the Board of Pensions stay in Evanston. They are trying to keep things close to Ridge Avenue and the building low. Neighbors are high on them staying. The north building will eventually be sold. They have been good neighbors.

Ms. Carroll reported that Doug Gaynor is looking at the playground to see if anything will have to be moved, and if so, the board would pay for the move.

There being no more business to come before Council, Mayor Morton asked for a motion to adjourn. The Council so moved at 11:25 p.m.

Mary P. Morris,
City Clerk