

**Evanston City Council
Closed Session Minutes
Aldermanic Library
Monday, June 13, 2005**

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

STAFF: Judith Aiello, Julia Carroll, Herb Hill, Gavin Morgan, and Bill Stafford

PRESIDING: Mayor Lorraine H. Morton

START: 12:30 a.m.

Alderman Bernstein moved that Council convene into Closed Session for the purpose of discussing matters related to litigation and closed session minutes pursuant to 5ILCS Section 120/2 (c) (11) and (21). Seconded by Alderman Wynne.

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

Minutes

Closed Session minutes of May 23 and May 31, 2005 were accepted without change.

Litigation

1st Assistant Corporation Counsel Herb Hill reported the Kahn case was particularly urgent; has negotiated with the plaintiff's attorney for the last eight-ten months; had three pre-trials before Judge Nudelman and as of today when he offered \$750,000 to settle, the plaintiff's counter demand was \$975,000. Alderman Rainey moved that Council authorize up to \$975,000 to settle. Seconded by Alderman Wynne. Motion carried unanimously.

Prado DeVaul vs. COE

Mr. Hill reported a letter was sent to the plaintiff's attorney setting forth the parameters of the settlement that the plaintiff's attorney has agreed to. They have provided releases to Quinlan and to Prado's people. The Appellate Court has been informed that no action will be taken on this matter. They are trying to get this release done as quickly as possible and he is trying to get this case remanded back to the Circuit Court, even though it would be the same Judge Levine, to vacate the outstanding judgment against the City. The releases have standard language that admits there was no wrong doing which would clear the City's record. He has spoken to one of the police officers who did no wrong and wanted the record cleared. They believe the settlement of \$6.5 million will get it done although there is no time frame.

Klujewski vs. COE

Mr. Hill noted the changes in the theories in the Klujewski case. The City will ask for summary motion judgment; did not know if that would be successful because there is a factual discrepancy as to whether the signs were posted. There is a lot of information that signs were posted.

His goal that evening was to report on remaining cases with a large exposure. Another remaining case with a large exposure is the Hotchkins case which they have nothing on. On the Hansen case, a sledding incident, he will ask for a motion for summary judgment. This case was re-filed by the plaintiff. This woman was severely injured on Mt. Trashmore and maintains there were no signs. There were photographs of the signs. He thought these cases would not be settled.

Tomorrow at 10:00 a.m. he will be in court with Jack Siegel on the election contest jurisdictional issue which he hoped would be decided. The status is that attorney's for Alderman Wollin want this matter to be brought before the City Council and dismissed. Attorney's for the plaintiff want this matter brought before the Circuit Court and there are arguments for that. Jack Siegel has filed a petition that this matter be heard by the Circuit Court.

Mr. Hill said they supported the recommendation of the City Council. At that point they did not know anyone's position on it so they asked that they proceed to have the Circuit Court hear it. Jack Siegel filed a statement of position. Alderman Wollin's attorneys have filed a motion with the City to dismiss the case should the City hear the case because the case is beyond where they can make a remedy. Alderman Rainey asked what could happen the next day. Mr. Hill thought the judge could rule on the jurisdiction of the three count complaint. Count 1 could be heard by either the City or the court. If he rules Count 1 is within jurisdiction of the City Council, the Law Department will devise recommended rules and procedures and proceed with it. The one case he read on this was in 1996. If this were to go to the City Council, they would hear testimony and arguments as to what they could hear. The point would be how they would determine the intent of the voter and remedies the Council has. The remedies of the Council are limited which is why the argument was for holding this in Circuit Court.

There being no further business to come before Council, at 12:40 a.m., Mayor Morton adjourned the meeting.

Mary P. Morris,
City Clerk