

**Evanston City Council
Closed Session Minutes
Aldermanic Library
Monday, November 14, 2005**

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

ABSENT: None

STAFF: Judith Aiello, Alan Berkowsky, Julia Carroll, Herb Hill, Max Rubin, Bill Stafford

PRESIDING: Mayor Lorraine H. Morton

START: 10:00 p.m.

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

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

Minutes:

Closed Session minutes of October 10 and 17, 2005 were accepted without change.

Real Estate – Fire Station #5

Fire Chief Alan Berkowsky reported Cath Associates helped staff determine what is needed; suggested a two-story, three-bay building with a drive-through to park the rig inside the station. The need for a temporary station and parking came up. They have looked at numerous sites for a temporary station. Adjacent property at 2834 Central is for sale again, owned by a man who bought it in order to build a condominium but could not get financing.

Alderman Moran said they have worked for some time to find an alternate station and he was at a dead end. They need a place to operate equipment from while the new station is being constructed. The 2834 Central site could house firefighters, their equipment and construction management for the project. That area has experienced difficulty with on street parking with some temporary relief because the parcel across the street occupied by Hospice of the North Shore that parked up the entire neighborhood has moved to Glenview. The Harris Bank could go in there and there is potential for increased parking demand. He noted that area has been subject to redevelopment projects that have been pitched and explored. They felt by gaining control of this land it provided an opportunity to provide a temporary fire station, construction management location and ultimately used to relieve on street parking.

Alderman Wynne noted the memo has current parking at 53% of capacity. Any new development would be required to provide parking so it seemed a lot to spend for the construction period. She asked if they could lease the property.

City Manager Carroll said leasing could be explored. She explained that if redevelopment did not generate the need for more public parking they could sell the front of the parcel and have the back for fire station employees. It is an opportunity to have multiple uses, solve temporary needs and if development occurs, there could be retail uses. There are some unknowns. Property taxes are \$18,584 annually.

Alderman Moran thought that this parcel will be developed by someone who will put up a four story building. He advocated for this because it is an opportunity to do some forward thinking that will give them some flexibility.

Alderman Wollin said there was also the kind of fire station they would build. If they save \$400,000 by building a one story, was that desirable? Mr. Berkowsky said they would save \$400,000 which is offset by the cost of the property. A one story building has less maintenance and uses space more efficiently. Facilities Management Director Max Rubin said they would go full wide with no basement, second floor, elevator or stairs. Money is saved but they have a much larger footprint. Remaining space left is in front of the Com Ed substation. That space would be for parking because they cannot do anything else with it.

Alderman Rainey recalled in a strategic planning session, Council indicated they wanted to stop removing property from the tax rolls; saw no need for parking. If the City bought this \$18,000 would be removed annually from the tax rolls.

The property is an abandoned store appraised at \$775,000 and for sale at \$1.2 million since May, 2004. The current owner paid for \$480,000 the property in 2004.

Alderman Rainey asked if staff made any effort to communicate with the owner regarding a lease because it would be a good temporary location and does not preclude purchasing the property.

Alderman Wynne noted the Plan Commission voted this area B1a unanimously, which allows 40-foot height or three stories, whichever is less, and ground floor commercial.

Funds to pay for this property would come from a future capital program and a bond issue.

The City has not communicated with the seller. Alderman Rainey thought the priority was a temporary station and they are lucky that the adjacent property is available which speaks to trying to negotiate a short term agreement. The City can pay a market rent to lease this property and during that time discuss purchasing it. Alderman Moran suggested leasing it with an option to buy. Aldermen thought demolition costs would be nominal.

Chief Berkowsky pointed out the lease would have to be longer term because they would not start construction right away. Facilities Management Director Max Rubin said now they know it will be two stories with a basement; they will get the architect on board, but doubted that they can start even next spring. Alderman Rainey suggested they speed up. Alderman Wynne suggested they lease early. Alderman Bernstein wanted to see the numbers and what the set offs are. Alderman Rainey did not think they have the luxury of building a sprawling one-story building and losing \$18,000 in taxes. Alderman Holmes noted this property has been vacant for some years; suggested that the owner may be hungry to sell. Alderman Tisdahl said agreed with Alderman Moran, recalling that they got the space at NU for a temporary fire station because it made a difference in response time. If people want retail they have to have parking.

Alderman Baptiste suggested they negotiate a lease with an option to buy. There were no objections.

Release of Closed Session Minutes

1st Assistant Corporation Counsel Herb Hill passed out closed session minutes to be released which would be considered at the next meeting.

Primeco Personal Communications L.P. vs. ICC

Dr. William Spillman vs. Village of Skokie

Mr. Hill reported that the infrastructure maintenance fee was deemed unconstitutional. There has been litigation on both land line and wireless phone usage. Jack Siegel was lead attorney for the defendant communities. There is a negotiated class action settlement. The City will pay \$244,00 to settle the wireless component. The litigation regarding the land line will be dismissed because there was no challenge and the City can keep that money which is set aside in a fund balance. Alderman Wynne moved they enter into the class action settlement. Seconded by Alderman Moran. There were no objections.

Settlement of Litigation – Edward Franklin vs. COE

Mr. Hill announced that the writ of certiorari that was filed before the Supreme Court was not granted. This individual was arrested for possession of a minor amount of marijuana. Based on his arrest record he went through the City's disciplinary process. He was not told that he had the right to remain silent and had immunity to questions about possession of drugs. At the time there was no law that required it. The law that required it came in two years afterwards after this man was terminated from City employment. City actions were found to be wrong and the City lost at the District Court, Court of Appeals and the U.S. Supreme Court refused to take certiorari. He explained what this cost the City. The man lost eight years of wages and the differential in what he was making and the other work was \$20-25,000. The difference in the salary is \$200,000. So the out of pocket cost to the City is \$200,000. Plaintiff's fees are \$125,000 including \$20,000 to the Supreme Court, boosting it to \$325,000. There is a balance payment going forward for prospective earnings of \$75,000. The total the City will pay is \$400,000. It can be done because of a settlement discussion with the judge and the cooperation of IMRF (Illinois Municipal Retirement Fund) to be able to use his past credit and give him a total of 26 years of service. The City will put him on the payroll retroactively for four years. The \$200,000 is exactly what his salary would have been for those years totaled out. The proper account will be deposited into IMRF and he will qualify for a pension of approximately \$1,800-2,000 a month. Because the City had a prospective liability, the IMRF resolution makes it possible. The demand was \$1.4 million and going into the settlement conference the demand was \$943,000. The City offered \$250,000 to settle, subject to approval by the City Council. He and Jack Siegel believe they could not get a better outcome based on the City's exposure. This individual is now 57 years old and will work for another eight years. They argued he suffered pain and suffering due to his termination; has diabetes and high blood pressure. U.S. Magistrate Judge Shaker did a good job. He has spoken to the lawyer for the plaintiff and the number cannot go lower than \$400,000. He asked for authority to settle. This happened in 1997 or 1998. There was no objection to settlement at \$400,000.

There being no further business to come before the Council, Mayor Morton asked for a motion to adjourn and the Council so moved at 10:37 p.m.

Mary P. Morris,
City Clerk