

**Evanston City Council  
Closed Session  
Aldermanic Library  
March 11, 2002**

PRESENT: Aldermen Bernstein, Moran, Rainey, Feldman, Newman, Jean-Baptiste

NOT PRESENT

AT ROLL CALL: Aldermen Kent, Wynne, and Bernstein

ABSENT: Alderman Moran

STAFF: Judith Aiello, Maureen Barry, Kathleen Brenniman, Pat Casey, Roger Crum, Mark Franz, Herb Hill, Bill Stafford

PRESIDING: Mayor Lorraine H. Morton

START: 6:13 p.m.

Alderman Feldman moved that City Council convene into Closed Session to discuss matters of litigation and minutes pursuant to 5 ILCS 120/2 (c) (11) and (21). Seconded by Alderman Rainey.

Roll Call: Voting aye – Engelman, Rainey, Feldman, Newman, Jean Baptiste, Bernstein. Voting nay – none. Motion carried. (6-0)

**Minutes**

Closed session minutes of February 25, 2002 were accepted without change.

**Prado Devaul vs City of Evanston**

First Assistant Corporation Counsel Herb Hill reported on the police pursuit case that Tracy Parham, driver of car has been located and served. Parham has retained counsel and the case has been continued for three-four months. Mr. Ryan indicated he would be beneficial to the city. Alderman Newman moved to authorize settlement of \$65,000. The plaintiff was asking for \$400,000. Alderman Engelman asked if Parham had insurance? No, his insurance was terminated for non-payment. Alderman Rainey noted the car went through the window of a store and asked if there was any action by the storeowner?

**Walsh/Franklin vs. City of Evanston**

Mr. Hill noted this was a jail suicide with authorization to settle up to \$100,000. The demand was for \$350,000. The city offered \$30,000 and plaintiff demanded \$60,000.

**Northwestern University vs. City of Evanston**

Nothing is happening.

**Keefe/Shea vs. City of Evanston**

They have attempted to get each side to walk away and rebid the job. It appears there is a grudge between DiPaolo and Keefe/Shea.

**McNally Tunneling vs. City of Evanston**

Mr. Hill reported the city had filed a motion for summary judgement, respecting law in the case, which is based on limitation of damages in the contract. The plaintiff has until Monday, March 18 to file their response. Last week McNally's Chicago law firm opened the door to resolution of the litigation. A meeting was set for this Friday with Mr. Crum and Mr. Siegel. The two principal attorneys will not be at the meeting. Significant for the city is that Harza's insurance company will be there and a representative from Harza who is authorized to commit. This is a last ditch attempt to settle. Damages issues will be reviewed on Thursday, then they will meet with Harza so they have a united front on Friday. The cost of taking this suit to trial very high, in the hundreds of thousands.

**Settlement proposal from the Vineyard Christian Fellowship**

Mr. Hill passed out a letter from the Vineyard containing a renewed settlement proposal and reported that Jack Siegel has no idea when Judge Pallmeyer will rule on the case. Alderman Engelman asked if the city has reserves on this case? Mr. Hill said they have not booked any express number and it would be a total deduct.

Mr. Hill pointed out that the Vineyard proposed something that may be a way to open the door, an excuse to promote discussion. Alderman Newman moved that the City accept terms 1,2,3 but not 4 (a payment for damages, fees and expenses). Seconded by Alderman Engelman. Alderman Newman noted the Vineyard has made money on this property; give them what they want but no money. Alderman Rainey asked how this would affect the next purchase? Alderman Engelman stated they would have to look at definition of cultural institutions. Mr. Hill noted the Vineyard did not say to amend the ordinance. Mr. Crum asked if they would support opening negotiations? Alderman Feldman asked if Council would have given terms 1,2,and 3 a year ago?

Alderman Wynne came into the meeting at this time.

Alderman Bernstein said the difficulty is they have an Achilles heel- what can be done in a church/religious institution versus cultural institution? He was concerned that there was abridgement of free speech; said they need to re-evaluate cultural facility. The city has a right to zone religious institutions.

Alderman Newman predicted problems with crowds on Ridge on Sundays and if they thought having a crossing guard on Ridge would do. Alderman Engelman noted the Vineyard has a crossing guard on Dodge. Alderman Newman stated this was beyond classification. The proposal won't work without crossing guard and is different in a cultural facility. Alderman Bernstein noted it will require parking and could be worse if cultural facility. Alderman Newman stated that Ridge Avenue has the same traffic on Sunday. Mayor Morton asked where is parking? Alderman Bernstein said at the Shand Morahan lot and the Vineyard has leasehold for parking at 1800 Ridge and a facility on the roof for parking for 15-20 cars. Alderman Newman recalled they required a traffic guard in the original proposal. Alderman Engelman commented that it was no problem if they want to hire traffic guard. Alderman Newman suggested they were legislating a traffic problem.

Alderman Rainey suggested letting them be a church but not withdraw from payment of taxes. Alderman Newman noted that idea originally was turned down. People from churches attacked the idea of churches paying taxes. Alderman Engelman suggested injecting that issue was too difficult. Alderman Rainey recommended it be a payment in lieu of taxes. Alderman Engelman noted the City does not have a million to give them. The reason no cultural facility is there is because there is no parking. Alderman Engelman thought that zoning says they have to have parking within 1000 feet. Alderman Newman suggested they should have traffic cop there every Sunday in perpetuity. Mr. Hill will confer with Mr. Siegel on 1,2,3 options and try to resolve the clause on money, looking at protecting city from liability. Alderman Newman stated they are asking to make a mistake every Sunday and it's a mistake on Dodge as well. Alderman Wynne suggested requiring crossing at the traffic light at Church. Alderman Newman said people won't do that. Alderman Rainey stated she was totally opposed to this. Mayor Morton noted members of Mt. Zion Baptist Church on Clark park in the Shand Morahan lot.

#### **Risk Management – sledding liability**

Mr. Hill reported seeing sledding on the non-sledding main and side hills in Evanston on television. Since then the city has received two accident claims. This is a dramatic problem with people tearing out poles and hay bales in order to sled. The 10-inch snow was too much to resist. The property is posted. They will revisit the issue because this causes potential risk liability. Alderman Newman suggested putting up a chain link fence. There was brief discussion about a case dismissed by plaintiff in which a girl lost her spleen.

Alderman Rainey asked for an update on 121 Callan. Mr. Hill reported a different attorney has filed an appearance and they are on track to resolve. Alderman Jean-Baptiste moved that Council reconvene into open session and recess. Seconded by Alderman Engelman. The Council so moved at 7:15 p.m.

Mary P. Morris,  
City Clerk