

**Evanston City Council  
Closed Session  
May 20, 2002  
Aldermanic Library**

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

NOT PRESENT

AT ROLL CALL: Aldermen Bernstein, Kent, Engelman

ABSENT: Alderman Wynne

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

PRESIDING: Mayor Morton

START: 5:11 p.m.

Alderman Jean-Baptiste moved that Council convene into Closed Session to discuss matters of litigation pursuant to 5 ILCS 120/2 (c) (11). Seconded by Alderman Rainey. Roll call. Voting aye – Newman, Jean-Baptiste, Moran, Engelman, Rainey, Feldman. Voting nay – none. Motion carried (6-0).

**Litigation – Aaron & Cleathe (Betty) Palmer vs. City of Evanston**

First Assistant Corporation Counsel Herb Hill reported that the Betty Palmer trial had been moved to October 2002.

**Litigation – Tracy Parham vs. City of Evanston**

Mr. Hill reported that the plaintiff was demanding \$400,000 and it appeared that this case would go to trial. He noted that Mr. Parham was in jail (not in Evanston). The car involved had tinted windows and that testimony will be favorable to the City. Preliminary trial is set for May 21, 2002. There will be no further negotiations.

**Traffic Signal Modernization Project**

Corporation Counsel Jack Siegel reported that the City would deal with the State's contract on the traffic signal modernization project. He asked City Council to make a finding that litigation is imminent

Alderman Feldman moved that City Council make a finding that litigation is imminent regarding the traffic signal project in the Ridge Historic District. Motion carried. No nays.

Mr. Siegel reported that about four to six of these intersections are within the Ridge Historic District. He noted that these types of projects (traffic signal improvements) have never been sent to the Preservation Commission. He said they needed to find out who at the state level knew this project was in a historic district.

He stated if IDOT and the City of Evanston ordered the contractor to stop work in the Ridge Historic District, Council would abrogate the contract. Legislation to appropriate funds to cover the City's share of this project was passed in 1999. Mr. Siegel stated the City could face damages on the part of the contractor, if he had wanted to do the job this summer and had arranged his work schedule around it. Mr. Siegel wanted to know if approval by the City's Preservation Commission was required for such a project. Should the state (IHPA) have caught this?

He referred to Resolution 32-R-99, adopted May 10, 1999, (A Commitment to Fund the Engineering Portion of the Congestion Mitigation and Air Quality Improvement Grant (CMAQ) for a Traffic Signal Improvement Project on Portions of Ridge Ave., Church St. and Davis St.) and noted that resolution was a matter of public record.

Alderman Bernstein came into the meeting at this time.

City Manager Roger Crum said that public works projects could go before the Preservation Commission for review and comment (advisory). It was his understanding that the state is responsible to sign off on the project.

On the 1999 Federal Fund application (CMAQ), the project was indicated as "N/A" because it was never taken before the Preservation Commission. Discussion at a City Council meeting would qualify as a public meeting as would an A&PW Committee meeting.

Mr. Crum reported the state said they don't look at CMAQ applications.

Alderman Feldman asked regarding the controversy, which was responsible the state or the City of Evanston...that the project is in a historic district. Mr. Crum reported that the state (IHPA) admitted that they missed that it was in a historic district.

Mr. Siegel pointed out that some public works projects come under the jurisdiction of the City of Evanston's Preservation Ordinance. Streets are a public works project and warned that if we pull back on this, we'll be paying damages. This is an essential part of the contract (per the contractor's specs).

Alderman Bernstein stated that on the Agenda Data Sheet for Resolution 32-R-99, the project was described as a rebuild of traffic signals on Ridge/Church/Davis St. He said that U.S. Representative Jan Schakowsky could not commit federal funds and that State Representatives Jeff Schoenberg and Julie Hamos were waiting for a call from IDOT regarding the forgiveness (waiver) of the four-foot setbacks for the post top signals. He noted that for safety purposes the cone of viewing is 250 feet (can see the signal from that distance). Alderman Bernstein said that the state has acknowledged that they (the state) have some culpability.

Alderman Newman asked if the City would take on more liability if, for example, someone hits the traffic pole and dies because we didn't follow the state's standards?

Mr. Siegel responded that the state could issue a waiver (of the 4-ft setback) and the City would not be liable for accidents.

Alderman Rainey said that mast arms reduce accidents by 30-50% and pointed out that a hospital and a school are situated on Ridge Ave. and would be part of this project.

Alderman Feldman clarified that if the City changed the contract, they would be open to liability.

Alderman Newman moved that Council reconvene into Open Session and recess so that aldermen could attend the joint committee meeting. Seconded by Alderman Jean-Baptiste. Council so moved at 5:40 p.m.

Mayre Press  
Deputy City Clerk