

**Evanston City Council  
Closed Session  
Aldermanic Library  
June 3, 2002**

PRESENT: Aldermen Rainey, Feldman, Newman, Jean-Baptiste, Wynne, Bernstein, Kent, Moran  
ABSENT: Mayor Morton  
STAFF: Judith Aiello, Maureen Barry, Kathleen Brenniman, Roger Crum, Herb Hill, Bill Stafford, Ellen Szymanski, James Wolinski  
GUEST: Rick Jones, Ryan, Smolens & Jones  
PRESIDING: Mayor Pro Tem Engelman  
START: 7:45 p.m.

Alderman Feldman moved that City Council convene into Closed Session to discuss matters of litigation pursuant to 5 ILCS 120/2 (c) ((11). Seconded by Alderman Bernstein. Roll Call: Voting aye – Rainey, Feldman, Newman, Jean-Baptiste, Wynne, Bernstein, Kent, Moran, Engelman. Voting nay – none. Motion carried. (9-0)

**Litigation updates**

**121-23 Callan – Zipperstein Administrative Hearing Lien**

Alderman Rainey questioned why this was being discussed when Phillip Rosenthal, attorney for Zipperstein understood it would come before Council on June 10. Mr. Hill stated that the attorney is again asking for a reduction of the lien from \$47,500 to \$10,000. There is agreement to sell to the original purchase contract a Mr. George Grief. He reported the buyer has signed. In a letter to Ms. Szymanski, Mr. Grief stated he was in good standing with the alderman. Alderman Rainey has never met him and only spoken with him on the phone. The status of the administrative appeal was questioned. It can be carried over. An amended appeal was filed and the city has responded. This matter will be carried over until next Monday for further discussion.

**Tracy Parham vs City of Evanston**

Mr. Hill reported this was the fifth day of the trial in which Tracy Parham alleged police pursuit in south Evanston and Chicago with good news and bad news. Two good points are that the judge's decisions are appealable. The bad news is that the judge has made two rulings against the city. Before the trial began in pre-trial, the city attempted to settle for an authorized amount of \$75,000. The plaintiff was firm at \$400,000 and raised to \$900,000. The first ruling concerns the Mental Health Act. The plaintiff argues cognitive disability; needs note cards to keep track and before this accident was a good student. The city knows this person was treated for mental problems for two years prior to the accident. Judge Leonard Levine ruled against the City on the mental health issue. The city believes the judge is wrong. The second point and entire case is about whom is telling the truth and concerns when the police put on the lights/siren. The audiotape of police pursuit would show when siren was on. The judge ruled the audiotape was not admissible. The city has a brief to have it admitted. Mr. Hill noted if there are five objections, four rulings go against Attorney Ryan. This is the second judge and they are stuck with him.

The next day will be medical testimony. The police officer for the plaintiff will testify that the city's police pursuit was inappropriate. The city's expert (from the University of Illinois) wrote the procedures on pursuit.

Plaintiff testified she had played on a soccer team. The city noted she went off because she did not attend school. There is \$30,000 in medical expenses for injuries and there is no doubt the person sustained injuries. This brings into play that she said that it was her goal to become a journalist but had to leave school due to disability caused by this accident. The plaintiff believes they are in the winner's circle with a \$900,000 demand. The possible decision could

be \$500,000 - \$1.5 million. Mr. Jones reported the jury comprised of eight men and four women pays close attention. In response to Alderman Moran, Mr. Jones said the trial would last until next Tuesday. Mayor pro tem Engelman asked about a high and low. Mr. Jones stated that can be discussed.

Mr. Hill reported Tracy Parham's attorney is Tom Royce who has excellent cooperation from the plaintiff's attorney, Frank DeFranco, a criminal defense lawyer.

There was discussion of the judge's background and the fact that in a recent case in which Levine ruled for the plaintiff, Ryan won on appeal. Apparently the judge is hostile to Ryan.

Mr. Hill stated if the sum of \$300,000 would get a negotiated settlement, he would settle. However, he thought they have the possibility of overturning based on the tape because the City has an argument to make; believes the police did nothing wrong and the victim was in the rear seat of the car.

Alderman Newman asked if it is one million what amount has to be posted? Alderman Moran stated the cost is \$18,000 a year. Mr. Hill said the rulings came from left field. Mr. Jones stated on cross examining on the liability issue, the judge said the tape was out and there are six or seven references to the tape. The jury may or may not hear it. Mr. Hill hoped next Monday to have a report. Mr. Jones noted the judge is taking Friday off. Alderman Jean-Baptiste confirmed that the City has not put on their case yet.

At 8:08 p.m. Alderman Jean-Baptiste moved to convene into open session. Seconded by Alderman Rainey. Motion carried unanimously. There being no further business to come before Council, the meeting was adjourned.

Mary P. Morris,  
City Clerk