



November 21, 2016
City Council Meeting

Supplemental Packet

3. LEGAL & LICENSING – Alderman Patricia Haugeberg, Chair
 - b. Consideration of Internal Investigation Regarding Ethics Code Violation – **RESOLUTION R-179-16** (*back-up material to follow*)



CITY OF DES PLAINES

1420 Miner Street
Des Plaines, IL 60016
P: 847.391.5300
desplaines.org

MEMORANDUM

Date: November 13, 2016
To: Mayor and Members of City Council
From: Alderman Patricia Haugeberg – Chairman Legal & Licensing Committee
Cc: Michael Bartholomew, City Manager and Peter Friedman, General Counsel
Subject: Internal Investigation of Ethics Code (1-9-9) Violation

Issue: A staff member and an Elected Official released ‘confidential information’ to a Daily Herald reporter which is a direct violation of City Code of Ethics 1-9-9: Confidential Information

Analysis:

March 25, 2016: A list of pending lawsuits with the City of Des Plaines was distributed in hard copy and via email to the Mayor and Aldermen containing 10 pages as per the request of Alderman Sayad. Both were marked ‘Confidential’.

June 3, 2016: A FOIA was filed by Chris Placek of the Daily Herald requesting a listing of court case numbers of all active litigation, including Cook County and Federal court, brought against the City of Des Plaines by any and all current members of the City Council and their spouses. **Attachment 1**

June 6, 2016 City Council meeting: The Mayor initiated an amendment in article 1-9-5: Disclosure portion of the City Code. He explained that after reading the list of pending lawsuits that were distributed on March 25, 2016, he learned “something new and did not want to be surprised by that again”. Therefore he felt there should be a revision in the disclosure portion of the City Code. Amendment, Ordinance M-17-16, was postponed to the next City Council meeting. At that time it was placed under the Legal & Licensing Committee. Due to the fact that the Aldermen did not know the specific item the Mayor was referring to in presenting this amendment. **Attachment 2**

June 7, 2016: An article appeared in the Daily Herald regarding Alderman Brookman having a pending lawsuit with the City. It was discovered, after the article appeared, that prior to the City Council meeting a staff member had given the Daily Herald reporter 1 page of the ‘confidential information’ distributed on March 25th. The page contained information regarding Alderman Brookman’s workman’s compensation case with the City when he was a fireman. It was also discovered that after the meeting an elected official gave the reporter the remaining 9 pages of ‘confidential information’ listing all pending lawsuits with the City. **Attachment 3**

June 10, 2016: The FOIA request submitted by Chris Placek was completed and returned to him in letter form which was compiled by Stewart Weiss and John Light. **Attachment 1**

June 16, 2016: Todd Wessell, of the Journal & Topics, filed a FOIA for the information requested by Chris Placek of the Daily Herald which Mr. Wessell picked up that same day. **Attachment 1**

June 20, 2016: City Council Meeting under Committee of the Whole, Legal & Licensing, the amendment that the Mayor recommended, Ordinance M-17-16, failed and the issue of releasing 'confidential information' was discussed. It was determined that the City Attorney would write a letter to the office of the Cook County State's Attorney requesting an investigation of the releasing of 'confidential information' by a staff member and elected official. **Attachment 4**

June 21, 2016: An article appeared in the Daily Herald regarding the outcome of the Mayor's proposal. **Attachment 5**

June 24, 2016: A letter was sent by Peter Friedman via email to Don Pechous, Deputy State's Attorney, in the Cook County State's Attorney's office. A response was received on June 29, 2016 stating that Don Pechous's office had reviewed the request and respectfully declined to conduct an investigation at this time. **Attachment 6 & Attachment 7**

July 7, 2016: A letter was sent by Peter Friedman to Brent Stratton, Chief Deputy Attorney General, in the Office of the Illinois Attorney General. When a response was not received in a reasonable amount of time, a Legal & Licensing Committee meeting was scheduled on October 31, 2016 to discuss further action. **Attachment 8**

October 31, 2016: The Legal & Licensing Committee discussed the violation of releasing 'confidential information' which violates the City's Code of Ethics. The Committee approved hiring a firm to conduct an internal investigation of said violation to preserve the integrity of the City of Des Plaines. A firm was recommended that is beyond reproach and has successfully conducted investigations for several municipalities. **Attachment 9**

Recommendation: The Legal & Licensing Committee recommends that the City Council approves Resolution R-179-16 for the internal investigation regarding the City's Ethics Code violation in an amount to not exceed \$30,000.00.

Attachments:

- Attachment 1: FOIA request by Chris Placek (Todd Wessell 6/16/16)
- Attachment 2: June 6, 2016 - City Council meeting minutes
- Attachment 3: Daily Herald article – June 7, 2016
- Attachment 4: June 20, 2016 – City Council meeting minute
- Attachment 5: Daily Herald article - June 21, 2016
- Attachment 6: Peter Friedman letter to Don Pechous
- Attachment 7: Don Pechous response letter
- Attachment 8: Peter Friedman letter to Brent Stratton
- Attachment 9: Hillard Heintz proposal
- Attachment 10: Chapter 9 Code of Ethics 1-9-9: Confidential Information

F002916-111416 - Non-Commercial FOIA Request

Non-Commercial FOIA Request Details

Non-Commercial FOIA Request Details

Describe the Record(s) Requested: Copies of the FOIA requests and the response received submitted by Chris Placek & Todd Wessell in June 2016

Preferred Method to Receive Records: Pick-up Copies

Request Routing

Sec. 7 Exemptions

Sec. 7.5 Statutory Exemptions

Additional Information

Notes

Note	Created	Modified
Gave Copy of Chris Placek's F001902-060316 request and the response letter sent to him as well as a copy of Todd Wessell's F001988-061616 request.	11/14/2016 2:14:00 PM by Annie Brzezinski	11/14/2016 2:14:00 PM by Annie Brzezinski

Message History

Date

Haugeberg Request

Date

On 11/14/2016 2:15:04 PM, Workflow wrote:

Subject: Non-Commercial FOIA Request :: F002916-111416

Body:



RESPONSE TO REQUEST FOR PUBLIC RECORDS

To: Patricia Haugeberg
1420 Miner St
Des Plaines IL 60016

On 11/14/2016, the City of Des Plaines received your written request for inspection, copying, or certification of the following City public records:

– Copies of the FOIA requests and the response received submitted by Chris Placek & Todd Wessell in June 2016

Your request is approved in its entirety.

The City's FOIA Officer is the official responsible for this response.

Dated: 11/14/2016

CITY OF DES PLAINES

FOIA Center
FOIA Officer

Freedom of Information Officer
City of Des Plaines
1420 Miner Street, Room 602
Des Plaines, IL 60016

To monitor the progress or update your request click here: [FOIA Web Portal](#)

On 11/14/2016 2:12:42 PM, Annie Brzezinski wrote:
Request was created by staff

Request Details

Reference No: F002916-111416
Created By: Annie Brzezinski
Create Date: 11/14/2016 2:12 PM
Update Date: 11/14/2016 2:15 PM
Completed/Closed: Yes
Close Date: 11/14/2016 2:15 PM

Status: Full Release
Priority: Medium
Assigned Dept: Clerks
Assigned Staff: FOIA Center

Customer Name: Patricia Haugeberg
Email Address: phaugeberg@desplaines.org
Phone: 8475148526

Source: Walk-In

F001902-060316 - Non-Commercial FOIA Request

Non-Commercial FOIA Request Details

Non-Commercial FOIA Request Details

Describe the Record(s) Requested: Listing of court case numbers of all active litigation, including Cook County and federal court, brought against the City of Des Plaines by any and all current members of the Des Plaines City Council or their spouses.

Preferred Method to Receive Records: Electronic via Records Center

Request Routing

Sec. 7 Exemptions

Sec. 7.5 Statutory Exemptions

Additional Information

Notes

Note	Created	Modified
Per Stew & John Light, the only case known is James Brookman v. City of Des Plaines 06 WC 3768. This case was initiated before the Illinois Workers Compensation Commission.	6/10/2016 3:16:00 PM by Annie Brzezinski	6/10/2016 3:16:00 PM by Annie Brzezinski

Message History

Date

Placek Request from 6/3/16

Date

On 6/10/2016 4:04:41 PM, Workflow wrote:

Subject: Non-Commercial FOIA Request :: F001902-060316

Body:



RESPONSE TO REQUEST FOR PUBLIC RECORDS

To: Christopher Placek

On 6/3/2016, the City of Des Plaines received your written request for inspection, copying, or certification of the following City public records:

– Listing of court case numbers of all active litigation, including Cook County and federal court, brought against the City of Des Plaines by any and all current members of the Des Plaines City Council or their spouses.

Your request is approved in its entirety.

The City's FOIA Officer is the official responsible for this response.

Dated: 06/10/2016

CITY OF DES PLAINES

FOIA Center
FOIA Officer

Freedom of Information Officer
City of Des Plaines
1420 Miner Street, Room 602
Des Plaines, IL 60016

To monitor the progress or update your request click here: [FOIA Web Portal](#)

On 6/10/2016 4:04:12 PM, Annie Brzezinski wrote:

Please see the attached document pertaining to your request. Thank you.

Date

On 6/3/2016 1:09:27 PM, FOIA Center wrote:



Dear Christopher:

Thank you for your interest in public records of the City of Des Plaines. Your request has been received and is being processed. Your request was received in this office on 6/3/2016 and given the reference number F001902-060316 for tracking purposes.

Record Requested: Listing of court case numbers of all active litigation, including Cook County and federal court, brought against the City of Des Plaines by any and all current members of the Des Plaines City Council or their spouses.

You can monitor the progress of your request at the link below and you'll receive an email when your request has been completed. Again, thank you for using the FOIA Center.

City of Des Plaines

To monitor the progress or update your request click here: [FOIA Web Portal](#)

On 6/3/2016 1:09:27 PM, wrote:
Request was created by customer

Request Details

Reference No: F001902-060316
 Create Date: 6/3/2016 1:09 PM
 Update Date: 6/10/2016 4:04 PM
 Completed/Closed: Yes
 Close Date: 6/10/2016 4:04 PM

Status: Full Release
 Priority: Medium
 Assigned Dept: Clerks
 Assigned Staff: FOIA Center

Customer Name: Christopher Piacek
 Email Address: cplacek@daillyherald.com
 Phone: 8474274528

Source: Web



CITY OF DES PLAINES
FOIA Center
1420 Miner Street, Room 602
Des Plaines, IL 60016

RESPONSE TO REQUEST FOR PUBLIC RECORDS

Dated: 06/10/2016

Christopher Placek,

On 6/3/2016, the City of Des Plaines received your written request for inspection, copying, or certification of the following City public records:

- Listing of court case numbers of all active litigation, including Cook County and federal court, brought against the City of Des Plaines by any and all current members of the Des Plaines City Council or their spouses.

After a thorough review of our files, the only case pertaining to your request that we are aware of is: *James Brookman v. City of Des Plaines* 06 WC 3768. This case was initiated before the Illinois Workers Compensation Commission.

The City's FOIA Officer is the official responsible for this response.

CITY OF DES PLAINES

Annie Brzezinski
Deputy FOIA Officer

Response sent to Placek

F001988-061616 - Non-Commercial FOIA Request

Non-Commercial FOIA Request Details

Non-Commercial FOIA Request Details

Describe the Record(s) Requested: FOIA request from June 3 and response for list pertaining to litigation.
Preferred Method to Receive Records: Pick-up Copies

Request Routing

Sec. 7 Exemptions

Sec. 7.5 Statutory Exemptions

Additional Information

Notes

Note	Created	Modified
Gave info from FOIA 1902.	6/16/2016 9:04:00 AM by Annie Brzezinski	6/16/2016 9:04:00 AM by Annie Brzezinski

Message History

Date

Wessell request from 6/16/16

Date

On 6/16/2016 9:04:48 AM, Workflow wrote:

Subject: Non-Commercial FOIA Request :: F001988-061616

Body:



RESPONSE TO REQUEST FOR PUBLIC RECORDS

To: Todd Wessell
622 Graceland Avenue
Des Plaines IL 60016

On 6/16/2016, the City of Des Plaines received your written request for inspection, copying, or certification of the following City public records:

– FOIA request from June 3 and response for list pertaining to litigation.

Your request is approved in its entirety.

The City's FOIA Officer is the official responsible for this response.

Dated: 06/16/2016

CITY OF DES PLAINES

FOIA Center
FOIA Officer

Freedom of Information Officer
City of Des Plaines
1420 Miner Street, Room 602
Des Plaines, IL 60016

To monitor the progress or update your request click here: [FOIA Web Portal](#)

On 6/16/2016 9:03:28 AM, Annie Brzezinski wrote:
Request was created by staff

Request Details

Reference No: F001988-061616
Created By: Annie Brzezinski
Create Date: 6/16/2016 9:03 AM
Update Date: 6/16/2016 9:04 AM
Completed/Closed: Yes
Close Date: 6/16/2016 9:04 AM

Status: Full Release
Priority: Medium
Assigned Dept: Clerks
Assigned Staff: FOIA Center

Customer Name: Todd Wessell
Email Address: toddwessell@journalist.com
Phone: 8472995511

Source: Walk-In

**MINUTES OF THE REGULAR MEETING OF THE CITY
COUNCIL OF THE CITY OF DES PLAINES, ILLINOIS
HELD IN THE ELEANOR ROHRBACH MEMORIAL
COUNCIL CHAMBERS, DES PLAINES CIVIC CENTER,
MONDAY, JUNE 6, 2016**

**CALL TO
ORDER:**

The regular meeting of the City Council of the City of Des Plaines, Illinois, was called to order by Mayor Bogusz at 6:30 p.m. in the Eleanor Rohrbach Memorial Council Chambers, Des Plaines Civic Center on Monday, June 6, 2016.

ROLL CALL:

Roll call indicated the following Aldermen present: Haugeberg, Robinson, Rodd, Sayad, Brookman and Charewicz. Aldermen Chester and Smith were absent. A quorum was present.

Also present were: City Manager Bartholomew, Assistant City Manager/Director of Finance Wisniewski, Economic Development Coordinator Pruss, Fire Chief Wax, Director of Human Resources Light, Director of Information Technology Sora, Director of Media Services DeTomasi, Police Chief Kushner, Director of Public Works and Engineering Oakley and General Counsel Friedman.

**CLOSED
SESSION:**

Moved by Brookman, seconded by Charewicz, to go into Closed Session to discuss Personnel. Upon roll call, the vote was:

AYES: 6-Haugeberg, Robinson, Rodd, Sayad,
Brookman, Charewicz

NAYS: 0-None

ABSENT: 2-Chester, Smith

Motion declared carried.

The City Council recessed at 6:31 p.m.

The City Council reconvened at 7:12 p.m.

Roll call indicated the following Aldermen present: Haugeberg, Robinson, Rodd, Sayad, Brookman, Chester, Smith and Charewicz. A quorum was present.

**PRAYER AND
PLEDGE:**

The opening prayer was given by Alderman Sayad, followed by the Pledge of Allegiance to the Flag of the United States of America.

**RECOGNITION –
POLICE DEPT.:**

Police Chief Kushner announced that John Rice was promoted from Detective to Detective Sergeant. Mayor Bogusz administered the Oath of Office for the promotion.

**SWEARING-IN
CEREMONY –
NEW PATROL
OFFICERS:**

Mayor Bogusz administered the Oath of Office of Patrol Officer to the following individuals: Kevin Zerbe, Jennifer Nelson, Steven Birch and Michael Mimp.

PRESENTATIONS:

Des Plaines Arts Council Vice President Will Soderberg addressed the City Council expressing their appreciation for the continuation of support by the City

of Des Plaines. A scholarship was presented to 9 winners of the 2016 Arts Council Scholarships.

PRESENTATIONS:
(Cont'd)

Ad Hoc Committee on Branding and Marketing:

Resident Zachary Stellberg addressed the City Council reviewing the Ad Hoc Committee update and upcoming plans to engage the residents and obtain their input.

Discussion was held.

Motion by Rodd that only one alderman be on the Steering Committee for the Metropolitan Square redevelopment project. There was no second and the motion was not considered.

Moved by Sayad, seconded by Chester, to direct Staff to prepare a Resolution declaring Des Plaines the “City of Destiny” and place the Resolution on the agenda for the next regular City Council Meeting of June 20, 2016. Aldermen Haugeberg, Robinson, Sayad, Brookman, Chester and Charewicz agreed. Aldermen Smith and Rodd did not agree. Motion declared carried.

CITIZEN PART.:

Mr. Walter Korber addressed the City Council suggesting that temporary speed bumps be placed during the summer on Forest Avenue near the school.

Mr. Horatio Gonzales addressed the City Council announcing that Our Lady of Guadalupe is hosting a “Bicycle Pilgrimage” on the 4th of July and gave details of the event.

**CITY CLERK
ANNOUNCEMENTS:**

City Clerk Ludwig announced various community events taking place during the summer months.

**CONSENT
AGENDA:**

Motion by Haugeberg, seconded by Robinson, to establish the Consent Agenda except for Items 2, 2a, 8 and 8a. Motion declared carried.

Motion by Haugeberg, seconded by Chester, to approve the Consent Agenda. Upon roll call, the vote was:

AYES: 8-Haugeberg, Robinson, Rodd, Sayad,
Brookman, Chester, Smith, Charewicz

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

Staff recommendations and requests were approved; Resolution R-92-16 was adopted; Ordinance M-16-16 was placed on First Reading; Ordinance M-15-16 was adopted; and Minutes of the Regular Council Meeting of May 16, 2016 were approved.

**APPROVE NEW
CLASS “K” –**

Moved by Haugeberg, seconded by Chester, to concur with Staff recommendation to approve New “Class K – Governmental Facility” Liquor

GOVERNMENTAL FACILITY/ LIQ. LICENSE/ 1015 HOWARD ST.:

Consent Agenda

License for the Des Plaines Park District’s Lake Park Boathouse and Golf Course at 1015 Howard Avenue; and further recommend to place on First Reading Ordinance M-16-16, AN ORDINANCE AMENDING SECTION 1, “FEE SCHEDULE,” OF CHAPTER 18, “SCHEDULE OF FEES,” OF TITLE 4, “BUSINESS REGULATIONS, OF THE CITY CODE TO ADD ONE CLASS K LIQUOR LICENSE. Motion declared carried as approved unanimously under Consent Agenda.

Ordinance M-16-16

OAKTON ST. SIDEPATH GRANT APPLICATION/ IDOT:

Resolution R-90-16

Director of Public Works and Engineering Oakley answered questions from the Aldermen.

Moved by Chester, seconded by Robinson, to approve the Resolution of Support in Order to Allow for Submission of the Oakton Street Sidepath Grant Application to the Illinois Department of Transportation (IDOT) Illinois Transportation Enhancement Program (ITEP) for Funding and adopt Resolution R-90-16, A RESOLUTION AUTHORIZING AN APPLICATION FOR AN ILLINOIS TRANSPORTATION ENHANCEMENT PROGRAM GRANT FROM THE ILLINOIS DEPARTMENT OF TRANSPORTATION. Upon roll call, the vote was:

AYES: 8-Haugeberg, Robinson, Rodd, Sayad, Brookman, Chester, Smith, Charewicz

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

APPROVE PURCHASE/ BACKUP SERVER/ IT DEPT.:

Consent Agenda

Moved by Haugeberg, seconded by Chester, to concur with Staff recommendation to approve purchase of Barracuda Backup Server in the amount of \$119,646.00 from low bidder SpeedLink, 4039 Floramar Ter, New Port Richey, Florida; and further recommend to adopt Resolution R-92-16, A RESOLUTION APPROVING A CONTRACT WITH SPEEDLINK SOLUTIONS, INC., FOR THE PURCHASE OF A DATA BACKUP APPLIANCE AND RELATED SERVICES. Motion declared carried as approved unanimously under Consent Agenda.

Resolution R-92-16

ADVERTISE BID/ PURCHASE ONE F-450 TRUCK/ PUBLIC WORKS DEPT.:

Consent Agenda

Moved by Haugeberg, seconded by Chester, to concur with Staff recommendation to authorize City Clerk to advertise for bid the purchase of One (1) Replacement F-450 Truck, per specifications. Motion declared carried as approved unanimously under Consent Agenda.

APPROVE NEW OWNERSHIP/

Moved by Haugeberg, seconded by Chester, to concur with Staff recommendation to approve New Ownership Malincho, Inc. d/b/a Prestige Liquor Des Plaines, 1471 Lee Street, Classification B Bulk Sales/Retail Only (No

LIQUOR LIC./
1471 LEE ST.:
Consent
Agenda

Consumption on Premises). Motion declared carried as approved unanimously under Consent Agenda.

ORDINANCE
M-15-16
FLOOD
CONTROL/
AMEND CITY
CODE:
Consent
Agenda

Moved by Haugeberg, seconded by Chester, to adopt Ordinance M-15-16, AN ORDINANCE AMENDING TITLE 14 OF THE DES PLAINES CITY CODE REGARDING FLOOD CONTROL REGULATIONS. Motion declared carried as approved unanimously under Consent Agenda.

MINUTES:
Consent
Agenda

Moved by Haugeberg, seconded by Chester, to approve Minutes of Regular City Council Meeting of May 16, 2016, as published. Motion declared carried as approved unanimously under Consent Agenda.

APPROVE WAGE
ADJUSTMENT/
NON-UNION
EMPLOYEES
FOR 2016:

Discussion was held.

Director of Human Resources Light and City Manager Bartholomew answered questions from the Aldermen.

Staff was directed to provide a list of non-union employee positions and a study of internal wage compression for non-union employees.

Resolution
R-94-16

Moved by Brookman, seconded by Haugeberg, to defer the matter of the Wage Adjustment for Non-Union Employees for Calendar Year 2016 in Order to Maintain Parity with Internal Union Contractual Increases as well as with Surrounding Municipalities and Resolution R-94-16, A RESOLUTION AUTHORIZING AN INCREASE IN ANNUAL COMPENSATION FOR NON-UNION EMPLOYEES until such time as the study of internal wage compression is complete. Upon roll call, the vote was:

AYES: 5-Haugeberg, Robinson,
Brookman, Chester, Charewicz

NAYS: 3-Rodd, Sayad, Smith

ABSENT: 0-None

Motion declared carried.

MAYOR BOGUSZ DECLARED THAT THE CITY COUNCIL WAS NOW
RESOLVED INTO A COMMITTEE OF THE WHOLE

FINANCE & ADMINISTRATION – Alderman Smith, Chair

WARRANT
REGISTER:

Alderman Sayad stated that he objects to paying invoices from Holland & Knight because we could get them cheaper by an outside or in house service.

WARRANT REGISTER:
(Cont'd)

Moved by Haugeberg, seconded by Robinson, to recommend to the City Council approval of the June 6, 2016 – Warrant Register, in the total amount of \$9,871,799.30; and further recommend that Resolution R-93-16 be adopted at appropriate time this evening. Motion declared carried.

COMMUNITY DEVELOPMENT – Alderman Charewicz, Chair

TEXT AMENDMENT/ SIGNS/ COND. USES/ DRIVE-THROUGH FACILITIES:

Economic Development Coordinator Pruss reviewed her Memorandum of May 16, 2016 regarding City initiated Text Amendments to the Commercial District Use Matrix (Tables 12-7-3.K) to amend the conditional use regulations for Drive-through Facilities, to amend the bond requirements for sign permits (Section 12-11-3), to amend the sign regulations for wall signs, canopies, and awnings (Sections 12-11-4 and 12-11-6), and to amend the Definitions for awnings and canopies (Section 12-13-3), of Title 12 of the Des Plaines City Code (the City of Des Plaines 1998 Zoning Ordinance, as amended). Citywide, Case #15-068-TA. Ms. Pruss answered questions from the Aldermen.

Discussion was held.

Mr. Parker Wenzel and Ms. Heather Wahl of R. C. Wahl Jewelers appeared before the Committee of the Whole commenting on awnings for businesses.

Moved by Haugeberg, seconded by Sayad, to recommend to the City Council approval of Ordinance Z-9-16 at appropriate time this evening. Motion declared carried.

MAYOR BOGUSZ ASSUMED THE CHAIR AND DECLARED THE CITY COUNCIL BACK IN SESSION.

NEW BUSINESS:

WARRANT REGISTER:
Resolution R-93-16

Alderman Sayad stated that he objects to paying invoices from Holland & Knight because we could get them cheaper by an outside or in house service.

Moved by Smith, seconded by Chester, to concur with recommendation of Committee of the Whole to adopt Resolution R-93-16, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES PLAINES THAT THE FOLLOWING BILLS ARE DUE AND PAYABLE AND THAT THE MAYOR AND CITY CLERK BE AND ARE HEREBY AUTHORIZED TO MAKE PAYMENT FOR SAME. Total: \$9,871,799.30. Upon roll call, the vote was:

AYES: 8-Haugeberg, Robinson, Rodd, Sayad,
Brookman, Chester, Smith, Charewicz

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

TEXT AMENDMENT/

Moved by Charewicz, seconded by Haugeberg, to concur with recommendation of Committee of the Whole to place on First Reading Ordinance Z-9-16, AN

SIGNS/ COND. USES/ DRIVE-THROUGH FACILITIES:

ORDINANCE AMENDING THE TEXT OF THE CITY ZONING ORDINANCE REGARDING DRIVE-THROUGH FACILITIES AND SIGNS. (CASE #16-013-TA). Motion declared carried.

**Ordinance
Z-9-16**

ORDINANCE Z-9-16 TEXT AMENDMENT/ SIGNS/ COND. USES/ DRIVE-THROUGH FACILITIES:

Moved by Haugeberg, seconded by Charewicz, to advance to Second Reading and adopt Ordinance Z-9-16, AN ORDINANCE AMENDING THE TEXT OF THE CITY ZONING ORDINANCE REGARDING DRIVE-THROUGH FACILITIES AND SIGNS. (CASE #16-013-TA). Upon roll call, the vote was:
AYES: 7-Haugeberg, Robinson, Rodd, Sayad, Brookman, Chester, Charewicz
NAYS: 1-Smith
ABSENT: 0-None
Motion declared carried.

AMEND CITY CODE/ CODE OF ETHICS/ DISCLOSURE:

Mayor Bogusz reviewed his Memorandum dated May 26, 2016 regarding the City’s “Code of Ethics” Disclosure Statement which is filed annually with the City Clerk’s Office and recommended adoption of Ordinance M-17-16 that adds language to:

**Ordinance
M-17-16**

“1-9-5: **DISCLOSURE**

B. Disclosure And Abstention: ... “Additionally, a city official shall publicly disclose litigation that the City official, or the official’s spouse, has brought against the City and shall not deliberate or vote on matters before the Council that directly relate to that litigation.”

Discussion was held.

General Counsel Friedman answered questions from the Aldermen.

Moved by Brookman, seconded by Sayad, to refer this matter to the Legal and Licensing Committee for discussion and debate.

Moved by Smith, seconded by Charewicz, to adopt a substitute motion to defer Ordinance M-17-16, AN ORDINANCE AMENDING TITLE 1 OF THE DES PLAINES CITY CODE REGARDING DISCLOSURE OF LITIGATION to the Legal and Licensing Committee during Committee of the Whole of the Regular City Council Meeting of June 20, 2016. Upon roll call, the vote was:
AYES: 7-Haugeberg, Robinson, Rodd, Sayad, Chester, Smith, Charewicz
NAYS: 1-Brookman
ABSENT: 0-None
Motion declared carried.

**STEERING
COMMITTEE/
METROPOLITAN
SQUARE
REDEVELOPMENT:**

Alderman Rodd requested an informal consensus regarding the participation by the First Ward Alderman and Chair of the Community and Economic Development Committee on the Steering Committee for the Metropolitan Square redevelopment project. By a show of hands Aldermen Haugeberg, Robinson, Rodd, Chester, Smith and Charewicz agreed. Aldermen Sayad and Brookman did not agree.

ADJOURNMENT:

Moved by Brookman, seconded by Rodd, that the regular meeting of the City Council adjourn. Motion declared carried. Meeting adjourned at 9:41 p.m.

Gloria J. Ludwig, MMC – CITY CLERK

APPROVED BY ME THIS _____

DAY OF _____, 2016

Matthew J. Bogusz, MAYOR

News updated: 6/7/2016 5:58 AM

Des Plaines mayor wants officials to disclose lawsuits against city

Measure could target alderman receiving workers' comp



Matt Bogusz



Christopher Placek

Des Plaines Mayor Matt Bogusz wants elected officials to have to disclose whether they have any active lawsuits filed against the city.

ADVERTISING



And though his name wasn't mentioned at a city council meeting Monday night, it's believed the ordinance targets Alderman Jim Brookman, a former city firefighter on disability receiving workers' compensation benefits, though in an interview, Brookman denied that he's suing the city.

City Manager Mike Bartholomew said there is still "active litigation" regarding Brookman's workers' compensation claim, and as such, he would be required to check a box on an annual ethics disclosure statement if the mayor's proposed amendment to the ethics code is approved by the council.

In 2009, Brookman was awarded workers' compensation benefits of \$591.77 per week for back and neck injuries sustained during a training exercise while he was a fire captain.

At one time, Brookman asked for a "last-and-final" lump sum settlement demand of \$325,000, plus a Medicare set-aside trust. The city's insurance carrier, Safety National, countered with a final offer of \$270,000, according to city documents obtained Monday through a Freedom of Information Act request.

Brookman said he elected not to take the lump sum in lieu of the weekly payments, which he is entitled to until death.

So he said Monday it was news to him that city officials considered his case still active. And he also didn't know that Bogusz might have been referring to him during the council discussion about the ethics ordinance.

Aldermen tabled discussion on the issue Monday and are expected to take it up again June 20.

"This ordinance shouldn't be passed," Brookman said. "It appears it has political purposes."

During the meeting, Bogusz told aldermen he proposed the ordinance amendment after reviewing information provided by the city's lawyers about active litigation.

In the 11-page document referenced by Bogusz and obtained by the Daily Herald, Brookman's case was listed under workers' compensation cases as of March 18.

"I learned something new," Bogusz said. "I don't want to be surprised by that again."

The changes to the city's ethics rules would require the city's eight aldermen, mayor, city clerk, department heads and members of the planning and zoning board to indicate on their annual disclosure forms whether they or their spouses have brought litigation against the city.

And the rules would require those elected officials to recuse themselves from deliberating or voting on matters that directly relate to the litigation.

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**MINUTES OF THE REGULAR MEETING OF THE CITY
COUNCIL OF THE CITY OF DES PLAINES, ILLINOIS
HELD IN THE ELEANOR ROHRBACH MEMORIAL
COUNCIL CHAMBERS, DES PLAINES CIVIC CENTER,
MONDAY, JUNE 20, 2016**

**CALL TO
ORDER:**

The regular meeting of the City Council of the City of Des Plaines, Illinois, was called to order by Mayor Bogusz at 7:00 p.m. in the Eleanor Rohrbach Memorial Council Chambers, Des Plaines Civic Center on Monday, June 20, 2016.

ROLL CALL:

Roll call indicated the following Aldermen present: Haugeberg, Robinson, Rodd, Sayad, Brookman, Chester, Smith and Charewicz. A quorum was present.

Also present were: City Manager Bartholomew, Assistant City Manager/Director of Finance Wisniewski, Fire Chief Wax, Police Chief Kushner, Assistant Director of Public Works and Engineering Duddles and General Counsel Friedman.

**PRAYER AND
PLEDGE:**

The opening prayer was given by Dr. Hilary Morris of the Des Plaines Baha'i, followed by the Pledge of Allegiance to the Flag of the United States of America.

CITIZEN PART.:

Resident Wayne Serbin addressed the City Council commenting on the high price of alcohol sold at the Taste of Des Plaines compared to local business establishments that sell alcohol.

Resident Eva Korber addressed the City Council complaining about the large potholes in the parking lot of the Jewel Food Store at Lee and Oakton Streets. This matter was referred to Public Works and Engineering for follow up.

**CITY CLERK
ANNOUNCEMENTS:**

City Clerk Ludwig announced the sole bid received on June 3, 2016 at 10:00 a.m. for the purchase and delivery of two (2) Ford F-450 Trucks per specifications which was referred to Staff for review.

City Clerk Ludwig announced various community events taking place during the summer months.

**CONSENT
AGENDA:**

Motion by Sayad, seconded by Brookman, to establish the Consent Agenda except for Items 1, 1a, 2, 2a, 4, 5, 8 and 8a. Motion declared carried.

Motion by Haugeberg, seconded by Chester, to approve the Consent Agenda. Upon roll call, the vote was:

AYES: 8-Haugeberg, Robinson, Rodd, Sayad,
Brookman, Chester, Smith, Charewicz

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

Staff recommendations and requests were approved; Resolutions R-97-16 and R-99-16 were adopted; Ordinance M-18-16 was placed on First Reading; and

Minutes of the Special City Council Meeting of May 23, 2016, Regular Council Meeting of June 6, 2016 and Closed Session of June 6, 2016 were approved.

**APPROVE APP'T.
2ND ALTERNATE
DELEGATE TO
NIPSTA:**

Fire Chief Wax answered questions from the Aldermen regarding his recommendation that the Fire Department's Division Chief of Training and Safety be appointed as Des Plaines' second delegate to the Northeastern Illinois Public Safety Training Academy.

**Resolution
R-95-16**

Staff was directed to provide an update on the accomplishments by the Division Chief of Training and Safety.

Moved by Haugeberg, seconded by Sayad, to approve the appointment of the Fire Department Division Chief of Training and Safety as the 2nd Alternate Delegate to the Northeastern Illinois Public Safety Training Academy (NIPSTA); and adopt Resolution R-95-16, A RESOLUTION APPOINTING A SECOND ALTERNATE DELEGATE TO THE NORTHEASTERN ILLINOIS PUBLIC SAFETY TRAINING ACADEMY BOARD OF DIRECTORS. Motion declared carried.

**APPROVE ADD'L
PURCHASES OF
QUARTERMASTER
UNIFORMS/ FIRE
DEPT.:**

Discussion was held. Aldermen Sayad and Brookman stated they will vote no for the additional purchases.

**Resolution
R-96-16**

Moved by Rodd, seconded by Charewicz, to approve additional purchases from On-Time Embroidery, Inc., 2201 Lively Boulevard, Elk Grove Village, Illinois as the vendor for the Fire Department's Quartermaster Uniform System in the amount not-to-exceed \$43,000.00 (Budgeted Funds – General Fund/Fire Department); and adopt Resolution R-96-16, A RESOLUTION AUTHORIZING ADDITIONAL EXPENDITURES UNDER A CONTRACT WITH ON TIME EMBROIDERY, INC., FOR THE PURCHASE OF FIRE DEPARTMENT UNIFORMS. Upon roll call, the vote was:
AYES: 5-Haugeberg, Robinson, Rodd,
Smith, Charewicz
NAYS: 3-Sayad, Brookman, Chester
ABSENT: 0-None
Motion declared carried.

**APPROVE
IMPROVEMENTS
CHANGE ORDER
#1/ CENTRAL RD.
PUMPING STA.:**

**Consent
Agenda**

Motion by Haugeberg, seconded by Chester, to concur with Staff recommendation to approve Central Road Pumping Station Improvements Change Order #1 with Manusos General Contracting, Inc., 91 Christopher Way, Fox Lake, Illinois, 60020, in the amount of \$163,327.31 (Budgeted Funds – Water Fund/Improvements); and further recommend to adopt Resolution R-97-16, A RESOLUTION APPROVING A CHANGE ORDER WITH MANUSOS GENERAL CONTRACTING, INC., FOR CENTRAL ROAD PUMPING STATION IMPROVEMENTS. Motion declared carried as approved unanimously under Consent Agenda.

**Resolution
R-97-16**

**ADVERTISE BID/
ELEVATOR**

Discussion was held.

INSPECTION SERVICES/ 2-YEAR TERM/ OPTION TO RENEW:

Moved by Haugeberg, seconded by Robinson, to authorize City Clerk to advertise for bid Elevator Inspection Services for a 2-Year Term, with an option to renew for two (2) 2-Year terms after the initial term. Upon roll call, the vote was:

AYES: 8-Haugeberg, Robinson, Rodd, Sayad,
Brookman, Chester, Smith, Charewicz

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

ORDINANCE M-16-16 APPROVE NEW CLASS “K” – GOVERNMENTAL FACILITY/ LIQ. LICENSE/ 1015 HOWARD ST.:

Resident Wayne Serbin addressed the City Council commenting on the risks of allowing alcohol in the boat house.

Moved by Haugeberg, seconded by Charewicz, to adopt Ordinance M-16-16, AN ORDINANCE AMENDING SECTION 1, “FEE SCHEDULE,” OF CHAPTER 18, “SCHEDULE OF FEES,” OF TITLE 4, “BUSINESS REGULATIONS, OF THE CITY CODE TO ADD ONE CLASS K LIQUOR LICENSE. Upon roll call, the vote was:

AYES: 7-Haugeberg, Robinson, Rodd,
Brookman, Chester, Smith, Charewicz

NAYS: 1-Sayad

ABSENT: 0-None

Motion declared carried.

APPROVE PREVAILING WAGE:
Consent Agenda

Moved by Haugeberg, seconded by Chester, to concur with Staff recommendation to approve Prevailing Wage Ordinance for Laborers, Mechanics, and Other Workers who are employed in the performance of Public Works Projects as required by the Illinois Prevailing Wage Act; and further recommend to adopt Resolution R-99-16, A RESOLUTION ASCERTAINING THE PREVAILING RATE OF WAGES IN THE CITY OF DES PLAINES. Motion declared carried as approved unanimously under Consent Agenda.

Resolution R-99-16

AMEND CITY CODE/ COMPENSATION PLAN/ ADD POSITION/ ASST. DIRECTOR COMMUNITY DEVELOPMENT:

Moved by Haugeberg, seconded by Chester, to concur with Staff recommendation to amend Title 1, “Administrative”, Chapter 8, “Position Grade and Compensation Plan”, Section 4, “Compensation Plan” of the Des Plaines City Code to add the position of Assistant Director of Community Development; and further recommend to place on First Reading Ordinance M-18-16, AN ORDINANCE AMENDING CHAPTER 8 OF TITLE 1 OF THE CITY OF DES PLAINES CITY CODE. Motion declared carried as approved unanimously under Consent Agenda.

Consent Agenda

Ordinance M-18-16

APPROVE TEMPORARY

Discussion was held.

LICENSE AND AGREEMENT/ TIF #7:

Resolution R-100-16

Moved by Chester, seconded by Robinson, to approve Temporary License and Hold Harmless Agreement for TIF #7 Site Preparation Work and adopt Resolution R-100-16, A RESOLUTION APPROVING A TEMPORARY LICENSE AND HOLD HARMLESS AGREEMENT FOR TIF 7 SITE PREPARATION WORK. Upon roll call, the vote was:
AYES: 8-Haugeberg, Robinson, Rodd, Sayad, Brookman, Chester, Smith, Charewicz
NAYS: 0-None
ABSENT: 0-None
Motion declared carried.

MINUTES/ SPECIAL COUNCIL MTG.:
Consent Agenda

Moved by Haugeberg, seconded by Chester, to approve Minutes of Special City Council Meeting of May 23, 2016, as published. Motion declared carried as approved unanimously under Consent Agenda.

MINUTES/ REGULAR MTG.:
Consent Agenda

Moved by Haugeberg, seconded by Chester, to approve Minutes of Regular City Council Meeting of June 6, 2016, as published. Motion declared carried as approved unanimously under Consent Agenda.

MINUTES/ CLOSED SESSION:
Consent Agenda

Moved by Haugeberg, seconded by Chester, to approve Minutes of Closed Session of June 6, 2016. Motion declared carried as approved unanimously under Consent Agenda.

MAYOR BOGUSZ DECLARED THAT THE CITY COUNCIL WAS NOW RESOLVED INTO A COMMITTEE OF THE WHOLE

FINANCE & ADMINISTRATION: – Alderman Smith, Chair

WARRANT REGISTER:

City Manager Bartholomew answered questions from the Aldermen.

Moved by Haugeberg, seconded by Rodd, to recommend to the City Council approval of the June 20, 2016 – Warrant Register, in the total amount of \$3,804,579.09; and further recommend that Resolution R-98-16 be adopted at appropriate time this evening. Motion declared carried.

LEGAL AND LICENSING: – Alderman Haugeberg, Chair

AMEND CITY CODE/ CODE OF ETHICS/ DISCLOSURE:

This matter was deferred from the June 6, 2016 City Council Meeting.

Discussion was held.

General Counsel Friedman answered questions from the Aldermen.

**Ordinance
M-17-16**

Resident Wayne Serbin addressed the Committee of the Whole stating that the City employee found to have released confidential information to the media should be fired and the Elected Official found to have released confidential information to the media should not be censured, but should resign.

General Counsel Friedman gave his legal opinion regarding filing a complaint with the Attorney General’s Office or the State’s Attorney with regard to a violation of the ethics ordinance.

Moved by Charewicz, seconded by Rodd, to place on First Reading Ordinance M-17-16, AN ORDINANCE AMENDING TITLE 1 OF THE DES PLAINES CITY CODE REGARDING DISCLOSURE OF LITIGATION. By show of hands, the vote was:

- AYES: 3-Rodd,
Smith, Charewicz
 - NAYS: 5-Haugeberg, Robinson, Sayad,
Brookman, Chester
 - ABSENT: 0-None
- Motion declared failed.

MAYOR BOGUSZ ASSUMED THE CHAIR AND DECLARED THE CITY COUNCIL BACK IN SESSION.

NEW BUSINESS:

**WARRANT
REGISTER:**

**Resolution
R-98-16**

Moved by Smith, seconded by Chester, to concur with recommendation of Committee of the Whole to adopt Resolution R-98-16, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES PLAINES THAT THE FOLLOWING BILLS ARE DUE AND PAYABLE AND THAT THE MAYOR AND CITY CLERK BE AND ARE HEREBY AUTHORIZED TO MAKE PAYMENT FOR SAME. Total: \$3,804,579.09. Upon roll call, the vote was:

- AYES: 8-Haugeberg, Robinson, Rodd, Sayad,
Brookman, Chester, Smith, Charewicz
 - NAYS: 0-None
 - ABSENT: 0-None
- Motion declared carried.

**AMEND CITY
CODE/ CODE OF
ETHICS/
DISCLOSURE:**

**Ordinance
M-17-16**

Moved by Haugeberg, seconded by Sayad, to concur with consensus reached in Committee of the Whole to not approve Ordinance M-17-16, AN ORDINANCE AMENDING TITLE 1 OF THE DES PLAINES CITY CODE REGARDING DISCLOSURE OF LITIGATION. Upon roll call, the vote was:

- AYES: 5-Haugeberg, Robinson, Sayad,
Brookman, Chester
 - NAYS: 3-Rodd,
Smith, Charewicz
 - ABSENT: 0-None
- Motion declared carried.

**CLOSED
SESSION:**

Moved by Robinson, seconded by Charewicz, to go into Closed Session to discuss Probable or Imminent Litigation and Property Acquisition. Upon roll call, the vote was:

AYES: 8-Haugeberg, Robinson, Rodd, Sayad,
Brookman, Chester, Smith, Charewicz

NAYS: 0-None

ABSENT: 0-None

Motion declared carried.

The City Council recessed at 9:15 p.m.

ADJOURNMENT: Meeting adjourned at 9:38 p.m. in Closed Session.

Gloria J. Ludwig, MMC – CITY CLERK

APPROVED BY ME THIS _____

DAY OF _____, 2016

Matthew J. Bogusz, MAYOR

News updated: 6/21/2016 4:43 PM

Des Plaines aldermen reject additions to mayor's ethics ordinance



Matt Bogusz



Christopher Placek

Des Plaines aldermen Monday night rejected Mayor Matt Bogusz's proposed ethics ordinance additions that would have required elected officials to disclose whether they have any active lawsuits filed against the city.

ADVERTISING



In their 5-3 vote against the ordinance changes, aldermen accused Bogusz of playing politics by appearing to target Alderman Jim Brookman, a former city firefighter who filed a workers' compensation claim against the city in 2006. Aldermen Denise Rodd, Don Smith and Mike Charewicz voted in favor of the ordinance.

Brookman's name and details about his case appeared on an 11-page city document that lists active litigation against the city.

The document was prepared by the city's attorneys, provided to the city council in March, and obtained by the Daily Herald earlier this month.

The documents state that Brookman at one time had asked for a "last-and-final" lump sum settlement demand of \$325,000, plus a Medicare set-aside trust.

The city's insurance carrier, Safety National, countered with a final offer of \$270,000.

City officials and attorneys haven't said why Brookman's case was still on the active list, but Brookman reiterated his position Monday that his case had been settled in 2009, when he was awarded workers' compensation benefits of \$591.77 per week for back and neck injuries sustained during a training exercise while he was a fire captain.

"There is no active litigation. My attorney confirmed that," Brookman said. "He will send a letter to the city that when a final award was reached, there was no litigation. It was over in 2009 and the city should know that."

"It was pure politics from the beginning," he added.

Without mentioning Brookman by name, Bogusz on Monday echoed comments he made when he introduced his ordinance at the June 6 city council meeting, that he "learned something that surprised" him after reading the 11-page document in March.

The proposed rules would have required elected officials to recuse themselves from deliberating or voting on matters that directly relate to their litigation.

Bogusz said the council makes significant policy decisions related to litigation, such as increasing or decreasing city attorney retainer fees, and whether to be self-insured or be part of an insurance pool.

"This is an easy decision," Bogusz said. "You cannot be the plaintiff if you control the actions of the defendant. It's that simple."

Under the proposed ordinance, Brookman would have been required to check a box on the city's ethics disclosure statement one time, but not annually, City Manager Mike Bartholomew said.

Also Monday, a number of aldermen called for an outside investigation into how the city documents, labeled "confidential attorney/client privilege," were leaked by city officials to the Daily Herald.

Aldermen asked Bartholomew to contact the Cook County state's attorney's office and Illinois Attorney General.

He said if they don't take the case, an outside legal firm could be hired to investigate whether the city's ethics code was broken.

Article Comments (0)

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Holland & Knight LLP | www.hklaw.com

Peter M. Friedman
(312) 578-6566
peter.friedman@hklaw.com

June 24, 2016

Via E-mail

Don Pechous
Deputy State's Attorney
Chief, Civil Actions Bureau
Cook County State's Attorney
500 Richard J. Daley Center
Chicago, IL 60602

Re: ***Request for Investigation***

Dear Don:

Our firm serves as General Counsel to the City of Des Plaines ("**City**"). Section 1-9-9 of the Des Plaines City Code (the City's Code of Ethics) provides as follows:

1-9-9: CONFIDENTIAL INFORMATION:

A. No city official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the city. City officials and employees are prohibited from using such confidential information to advance the financial or other private interests of themselves or others. For purposes of this section, "confidential information" means any information that may not be obtained pursuant to the Illinois freedom of information act. A list of items which comprise "confidential information" is made a part of this chapter.

B. Any employee found to have knowingly violated any provisions of this chapter shall be subject to employment sanctions, including discharge.

C. Any city official or member of the planning and zoning board found to have knowingly violated any provision of this chapter shall be subject to such penalty as may be determined by the city council within its authority to mete out disciplinary measures.

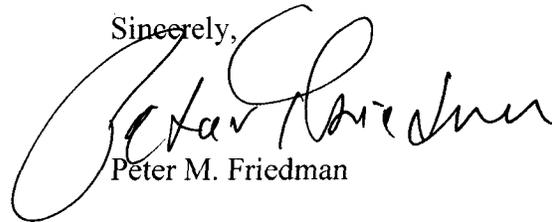
Don Pechous
June 24, 2016
Page 2

The City has learned that some or all of an 11-page document containing confidential information regarding the status of pending litigation involving the City and marked "Confidential/Attorney-Client Privileged" was provided to a local reporter without authorization from the City Council.

At its meeting on June 20, 2016, the Council directed our office to request that your office undertake an investigation to determine the identity of the individual or individuals who provided the document in violation of the City's Code of Ethics.

The Council is determined to have this investigation completed as soon as possible. Accordingly, the City appreciates your attention to this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter M. Friedman", written in a cursive style. The signature is positioned above the printed name.

Peter M. Friedman



OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS

ANITA ALVAREZ
STATE'S ATTORNEY

500 RICHARD J. DALEY CENTER
CHICAGO, ILLINOIS 60602
312- 603-5440

DONALD J. PECHOUS
DEPUTY STATE'S ATTORNEY
Chief, Civil Actions Bureau

WRITER'S DIRECT LINE:
312- 603-3378
FAX: 312-603-3000

June 29, 2016

Peter M. Friedman
Holland & Knight
131 South Dearborn Street
Chicago, Illinois 60603

Re: Request for an Investigation by the Cook County State's Attorney's Office

Dear Mr. Friedman:

The Cook County State's Attorney's Office is in receipt of your letter of June 24, 2016, on behalf of the City Counsel of the City of Des Plaines, requesting that our office conduct an investigation into the release of a confidential and privileged document from the City Counsel.

The Cook County State's Attorney's Office has reviewed your request and respectfully declines to conduct the requested investigation at this time. Based upon the information provided, the issue appears to fall outside of the State's Attorney's Office's statutory authority. If there is any additional information you would like for us to review in this regard, please forward it to my attention.

Very truly yours,

A handwritten signature in black ink, appearing to read "D. Pechous".

Donald J. Pechous
Deputy State's Attorney
Chief, Civil Actions Bureau

Holland & Knight

131 South Dearborn Street | Chicago, IL 60603 | T 312 263 3600 | F 312 578 6666
Holland & Knight LLP | www.hklaw.com

Peter M. Friedman
(312) 578-6566
peter.friedman@hklaw.com

July 7, 2016

Via E-mail

Brent D. Stratton
Chief Deputy Attorney General
Office of the Illinois Attorney General
100 W. Randolph Street
12th Floor
Chicago, IL 60601

Re: ***Request for Investigation***

Dear Mr. Stratton:

Our firm serves as General Counsel to the City of Des Plaines ("**City**"). Section 1-9-9 of the Des Plaines City Code (the City's Code of Ethics) provides as follows:

1-9-9: CONFIDENTIAL INFORMATION:

A. No city official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the city. City officials and employees are prohibited from using such confidential information to advance the financial or other private interests of themselves or others. For purposes of this section, "confidential information" means any information that may not be obtained pursuant to the Illinois freedom of information act. A list of items which comprise "confidential information" is made a part of this chapter.

B. Any employee found to have knowingly violated any provisions of this chapter shall be subject to employment sanctions, including discharge.

C. Any city official or member of the planning and zoning board found to have knowingly violated any provision of this chapter shall be subject to such penalty as may be determined by the city council within its authority to mete out disciplinary measures.

Brent D. Stratton
July 7, 2016
Page 2

The City has learned that some or all of an 11-page document containing confidential information regarding the status of pending litigation involving the City and marked “Confidential/Attorney-Client Privileged” was provided to a local reporter without authorization from the City Council.

At its meeting on June 20, 2016, the Council directed our office to request that your office undertake an investigation to determine the identity of the individual or individuals who provided the document in violation of the City’s Code of Ethics.

The Council is determined to have this investigation completed as soon as possible. Accordingly, the City appreciates your attention to this request.

Sincerely,



Peter M. Friedman



City of Des Plaines, Illinois

Internal Investigation Support

November 14, 2016

November 14, 2016

Alderman Patti Haugeberg
Legal & Licensing Committee
City of Des Plaines
1420 Miner Street
Des Plaines, Illinois 60016

Dear Alderman Haugeberg:

Thank you for contacting us regarding the internal investigation the City of Des Plaines would like to conduct regarding the release of certain confidential information.

According to the background you provided, specific information was shared via email, and within City Council meetings, that was not to be released to the public through direct or indirect means. The Legal & Licensing Committee has been requested to retain an independent third party to conduct an investigation into the matter and report its findings back to the Committee.

Conducting investigations on behalf our governmental agencies, cities and municipalities is core to our work and we are pleased to share with you how best we can support this project. Below is an overview of the steps that would be required (based on the information known to us at this time) to conduct the investigation.

Our approach

The components of the investigation are:

Step 1: Digital Data Retrieval and Review of Forensic Data: We will provide digital forensic services, including the retrieval of emails and other relevant electronic documents from the City's servers and identify those relevant for further review and examination, if any.

Once the relevant electronic documents, records and correspondence has been retrieved, our investigators will review this data for mentions related to the release of the information. The goal of this review is to identify potential witnesses and/or involved parties for Hillard Heintze to interview regarding the breach and dissemination of information.

Step 2: Potential Interviews: The interviews will be conducted in person by two highly experienced investigators to be sure that all relevant information is captured during these conversations. Through the interviews of the subjects identified in the forensic review or individuals that you ask us to interview, we may learn of additional prospective interview subjects. We will discuss with you additional interview subjects for your consideration as a second phase of work.

Deliverable: Based on the results of the electronic document review and interviews, we will present the City Council with a report of findings of the investigation.

Fees for services

Our professional fees are billed at \$275 per hour for investigative services. These fees are estimated based on incomplete information (volume of data available, number of interviews required, etc.) assuming the high end of estimated hours for each step, and may be lower in practice based on the forensic findings and preliminary interviews with key stakeholders.

Step 1: Digital Data Retrieval and Review of Forensic Data: It is difficult to estimate the specific budget necessary to retrieve the data given the unknown volume and quality of relevant electronic data, including email. We believe the fee of \$11,500 for this step is sufficient for both retrieval and review; however, if we determine during the retrieval phase that the volume of available information is less than anticipated, we will reduce our fee appropriately.

Step 2: Potential Interviews: Based on the anticipated number of interviews to be conducted (between five and 10, but using 10 on the high range) and the review time necessary for the electronic data, we estimate a budget of \$11,000 in professional fees.

Case Management and Report Development: Estimated at 10 hours for a fee of \$2,750.

Any additional services for future subsequent phases of the investigation, including additional review of documents and correspondence, additional interviews, a review of the City's policies and procedures or other work you ask us to conduct will be authorized by the City in writing prior to execution.

The Hillard Heintze Engagement with the City of Des Plaines		
Critical Task	Estimated Hours	Estimated Fee
Step 1: Digital Data Retrieval & Review		
Digital Data Retrieval (at cost, no mark-up)	Flat Fee	\$6,000
Digital Data Review	20	\$5,500
Step 2: Potential Interviews (up to 10 interviews)	40	\$11,000
Case Management	10	\$2,750
	Estimated Total	\$25,250

Expenses (such as the digital data retrieval) are billed separately at cost and without mark-up. Once authorized to proceed, we estimate that it will take three to four weeks to conduct this initial work, depending on the availability of the witnesses.

Questions and next steps

We would be pleased to discuss this proposal further by phone, or take any questions you have via email. Feel free to reach out to us. Thanks for your time and consideration.

Sincerely,

HILLARD HEINTZE LLC



Howard F. Fisher
Senior Vice President, Strategic Relationships

ARNETTE F. HEINTZE, CHIEF EXECUTIVE OFFICER AND CO-FOUNDER



As Hillard Heintze's co-founder and Chief Executive Officer, Arnette Heintze has transformed a small high-performing cadre of senior experts into a globally recognized strategic security and investigations firm. Under his leadership, Hillard Heintze has emerged today as one of the fastest-growing private companies in the United States. For three years in a row, it has been ranked on the annual Inc. 500/5000 list. In 2010, the Initiative for a Competitive Inner City's extended the firm its annual award for the fastest-growing inner city firm in the U.S., naming Hillard Heintze #6 in the nation and #1 in Chicago. Under Arnette's direction, the expanding Hillard Heintze team is systematically setting new best practices in security and investigations across the board - a track record that has quickly and dramatically expanded the firm's client list to include a "Who's Who" of

Fortune-ranked corporations with leading positions in their industries - across the country and, in many cases, worldwide.

Based on nearly three decades of experience working at the highest levels of federal, state and local law enforcement, Arnette has an exceptionally strategic perspective on security. As a U.S. Secret Service Special Agent and a senior agency executive, Arnette planned, designed and implemented successful security strategies for U.S. Presidents, world leaders, events of national significance and the protection of the nation's most critically sensitive assets. In 1990, Arnette was part of the Presidential Protective Division, where he served more than four years on the permanent detail protecting President and Mrs. Bush and President and Mrs. Clinton. In Washington, D.C., Arnette also coordinated the 160 foreign embassies in the city and acted as the Secret Service spokesperson and agent in charge of the Public Affairs Office, where he also led the crisis communication team during some of the nation's most trying times. In April 2000, Arnette's strategic leadership qualifications led to his appointment as a member of the Senior Executive Service and his selection as the Special Agent in Charge of the Secret Service's Chicago field office.

In 1998, Arnette earned the honor of being chosen as the Treasury Department's representative to attend the National War College, an elite program for select military officers and ranking federal civilians, where he earned a Master of Science degree in national security strategy. The National War College provides its graduates with the superior training, decision-making skills and strategic capabilities necessary for leadership in national security policy, foreign policy, defense policy, military strategy, force employment and joint operations. Upon his retirement from public service, Arnette served as the CSO for PepsiCo Beverages and Foods.

Arnette has received numerous awards and recognition for superior performance, dedicated service and heroic actions, including the U.S. Secret Service Valor Award - the agency's highest. This was bestowed on Arnette for courageous action and heroism he exhibited in a 1983 shooting and hostage incident in Baton Rouge, Louisiana. Arnette was Board Certified in Security Management in 2001 and attained the coveted Certified Protection Professional (CPP) Designation as awarded by ASIS International. He is an active member of the International Association of Chiefs of Police, the Illinois Association of Chiefs of Police, the National War College Alumni Association, the Association of Former Agents of the United States Secret Service and the American Society for Industrial Security.

JENNIFER L. MACKOVJAK, SENIOR VICE PRESIDENT, INVESTIGATIONS



Jennifer Mackovjak is a highly seasoned civil and criminal investigator with extensive U.S. and international public and private sector credentials. In her current position, she leads Hillard Heintze's Investigations Practice supporting the needs of clients that range from global law firms and multinational, industry-leading enterprises to major sports organizations, government agencies and high net worth Family Offices.

Critical to Jennifer's success throughout her career have been three qualities: (1) a passion for truth; (2) a natural comfort with the rigor, objectivity and persistence required to uncover it; and (3) a deep, technical understanding of precisely how every phase of the investigation - from receiving a tip to providing testimony at trial or before grand juries - must be undertaken to preserve the integrity of its findings. She specializes, for example, in leading the teams responsible for critical investigative tasks such as formulating and executing case strategies, investigative plans and tactical initiatives; analyzing litigation and other public filings; and gathering intelligence through human source interviews, media reports, social networking sites and online database research.

Jennifer is a former Director of Investigations at Altegrity Risk International, Senior Director at Kroll, Inc., and Senior Detective Investigator in the New York County District Attorney's Office. Before Altegrity recruited her to help launch its Investigations Division in Chicago, she served as a Senior Director of Business Intelligence and Investigations at Kroll with responsibility for multiple areas. In this capacity, Jennifer led and directed investigations related to corporate misconduct, pre-transactional and investigative due diligence, onshore and offshore asset searches, hostile takeovers, patent infringement disputes, fraud, competitive intelligence, litigation support and computer forensic analysis. One of the highlights of her work at Kroll was her pro-bono support to the Innocence Project, where she played a critical role in uncovering evidence in a 1988 murder case that led to the exoneration of a wrongfully convicted defendant after 18 years in prison.

Jennifer served as a Senior Detective Investigator and Intelligence Analyst in the New York County District Attorney's Office, where she investigated a wide range of major offenses, including homicide, grand larceny, fraud, forgery, securities fraud, identity theft, sexual abuse and bid-rigging. In this capacity, she executed judicial eavesdropping and search warrants; located and interviewed defendants, subjects of interest, fugitives and witnesses; oversaw the cooperation of informants; assisted with witness protection and relocation; and planned and conducted undercover operations and physical surveillance. Jennifer was the lead case officer in a six-year investigation of organized crime rings which led to the arrest and prosecution of more than 30 individuals. This criminal enterprise included corrupt attorneys, doctors, hospital personnel and Soviet émigré organized crime figures responsible for laundering millions of dollars in criminal proceeds through kickbacks, bribes, falsification of business records, insurance fraud and staged automobile accidents.

Jennifer holds a Bachelor's degree in Criminology from Marquette University and a Master of Public Administration degree from DePaul University. She is a graduate of the Westchester County (NY) Police Academy and a licensed private investigator in Illinois, Tennessee and Wisconsin.

CARL J. DOBRICH, SENIOR DIRECTOR, INVESTIGATIONS



With over 30 years of experience and expertise in combating organized criminal enterprises, leading major homicide investigations and serving as a public safety administrator, Carl Dobrich has a proven track record of delivering professional law enforcement services to government partners, as well as the private sector.

At Hillard Heintze, Carl is largely involved with conducting traditional field interviews, is a liaison with law enforcement and prosecutors, and provides litigation support to various law firms.

Carl had a 25-year career in the Illinois State Police (ISP) culminating in serving as the Captain - Zone Commander, where he managed over 80 investigators and was responsible for state police investigations across nine counties. As a Lieutenant - Narcotics Commander, Carl directed a state-indemnified Task Force, focusing on the interdiction of bulk shipments of illegal drugs and their illegally derived proceeds. He also provided direction to state-indemnified Metropolitan Enforcement Groups, Task Forces and Chicago's High Intensity Drug Trafficking Area Initiative, focusing on narcotics enforcement in the Chicago metropolitan area.

Carl focused on narcotics enforcement - including surveillance, use of confidential sources, undercover operations, collection of evidence and presentation of testimony in court - while Sergeant - Task Force Field Supervisor in southern and northwestern Illinois. As part of a special assignment, Carl spent nearly two years as a Special Agent for the Federal Bureau of Investigation in Carbondale, Illinois where he performed the duties of a federal task force officer focusing on dismantling organized criminal enterprises under the investigation of the ISP and the FBI. On another temporary assignment, Carl worked for the Chicago Police Department Research and Development Division where he developed and updated emergency response plans for mass casualty incidents. For two years, Carl led the state police team responsible for investigating the disappearance of Stacy Peterson, Drew Peterson's fourth wife, during which time he oversaw dozens of investigators following thousands of leads.

After retiring, Carl worked as a contract investigator for the Illinois State Police, during which time he participated in the Crimes Against Seniors Program, a statewide initiative which investigated complaints of financial exploitation of the elderly. He also served as a consultant for Andrews International where he provided guidance related to the physical security of corporate assets, internal corporate investigations, executive protection and workplace violence prevention.

As Director of Public Safety at the Illinois Institute of Technology, Carl - with the assistance of a 54-person, armed public safety officer workforce - administered campus safety policies to help provide a safe environment for staff and students at four campus locations.

Carl received a Bachelor of Science degree from Eastern Illinois University and has completed the Leadership and Administration of Justice Program from the FBI National Academy.

SHIRLEY R. COLVIN, SENIOR INVESTIGATOR



Shirley Colvin is a highly experienced investigator who retired from the Chicago Police Department (CPD) in April 2015 with an exemplary record of service, commitment and achievement within the law enforcement community. As evidenced in her 25-year career with the Department, her mission - both personal and professional - has been improving and bridging the gaps in relationships between law enforcement agencies and the communities they serve. As a Senior Investigator at Hillard Heintze, Shirley is responsible for investigative and litigation support for leading organizations, public agencies and high net worth enterprises. She also acts as a liaison between Hillard Heintze and law enforcement agencies.

Early in her career, Shirley served as a CPD patrolman and later tactical officer. She joined the Detached-Services Unit of the Chicago Police Department and was detailed to the City of Chicago's Office of the Inspector General. In 2004, following successive departmental awards, Shirley was recruited to join the office staff of the 21st District Commander where she developed command-level experience dealing with sensitive and confidential information. Shirley was promoted to Detective in December 2006 and was assigned to the Area South Detective Bureau. She excelled as an investigator in the Robbery, Burglary and Theft Division followed by assignment to Sex Crimes Investigation Division.

In 2008, after numerous successful and sensitive high-profile investigations, she was assigned to the Homicide Investigations Division. As a Lead Homicide Investigator, Shirley worked closely with patrolmen, forensic investigators and fellow detectives. In this capacity, she supervised the collection and analysis of physical evidence, the proper processing of crime scenes, the preparation and presentation of statements from victims and witnesses and professional court testimony.

Later she served as a spokesperson for the Chicago Police Department addressing numerous professional and civic organizations and gaining extensive media experience, including being profiled on the television programs Crime Watch and Crime Stoppers Case Files.

Shirley was co-creator, instructor and mentor of the Chicago Police Department's S.T.A.R.S., (Students Taking Authority & Reaching Success) mentoring program. The program was developed in 2008 and borne out of the need to provide attention, guidance and support to Chicago Public School girls at risk. In September 2015, Shirley was selected by the National Center for Victims of Crime and conducted a workshop focusing on bridging the gap with survivors of violent crime, during the National Conference held in Anaheim, California.

Shirley earned her Bachelor of Science, Law Enforcement Management and dual Master of Science degrees, Law Enforcement Administration and Public Administration at Calumet College at St. Joseph.

STEVEN M. BOVA, SENIOR DIRECTOR, SECURITY RISK MANAGEMENT



Steven Bova is a senior subject-matter expert and client advisor supporting a wide range of the firm's core competencies. As a Senior Director, he identifies, manages, mitigates and monitors risks, threats and vulnerabilities associated with organizational, technological and cyber activities. Specifically, this involves leading projects associated with electronic forensics, IT-centric and information security issues, and virtual CIO and CISO services. It also entails providing expert support to major investigations, comprehensive audits of security operations, and independent assessments of police departments.

Steven brings a problem-solving perspective refined by his expertise in several distinct areas. These include (1) expert understanding of information sharing and intelligence driven technologies and associated national guidelines and standards; (2) practical, hands-on experience in its application to complex justice and law enforcement challenges; and (3) a strong track record of leadership in aligning technology with the organization's mission, business and core operations.

Before joining Hillard Heintze, Steven served on the senior leadership team at Analysts International as Director of the Public Safety / Homeland Security Sector and as a senior subject-matter expert in law enforcement policy, practices, procedures, and technology. He oversaw the establishment of IT protocols and standards for state and local law enforcement agencies - the critical information distribution and intelligence-sharing hubs of today's integrated justice systems. He ensured that the IT and security protocols complied with specific agency and national standards, including FBI CJIS Policy pertaining to implementation of Criminal Intelligence Systems Operating Policies; the Global Justice XML Data Model (GJXDM); Justice Reference Architecture (JRA); and the National Information Exchange Model (NIEM) to achieve interoperability among participating agencies.

Earlier in his career, Steven served in a senior law enforcement capacity as Bureau Chief within the Information and Technology Command of the Illinois State Police. In this role, he led and directed initiatives to improve information sharing, proactive policing, and analytical analysis among law enforcement agencies and the public to better prepare and secure critical information systems for integrated information sharing across the justice domain.

Steven has served as a board member on the National Law Enforcement Telecommunications System, and is a proven authority in many critical law enforcement domains, including intelligence-led policing, proactive and predictive analytics accountability analysis, performance metrics, and departmental operations as well as the policies, business processes, and technologies required to support each of these areas.

Steven has a degree in Business Administration from Indiana State University and has completed coursework as a Certified Information Systems Security Professional and Project Management Professional (PMP). He also holds a post-graduate Certificate from Northwestern University's Center for Public Safety, Staff Police and Command School (SPSC #219) where he was honored with the Franklin M. Kremil Leadership Award for Excellence in Law Enforcement Leadership.

1-9-9: CONFIDENTIAL INFORMATION:

- A. No city official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the city. City officials and employees are prohibited from using such confidential information to advance the financial or other private interests of themselves or others. For purposes of this section, "confidential information" means any information that may not be obtained pursuant to the Illinois freedom of information act¹. A list of items which comprise "confidential information" is made a part of this chapter.

- B. Any employee found to have knowingly violated any provisions of this chapter shall be subject to employment sanctions, including discharge. (Ord. M-15-95, 3-27-1995)

- C. Any city official or member of the planning and zoning board found to have knowingly violated any provision of this chapter shall be subject to such penalty as may be determined by the city council within its authority to mete out disciplinary measures. (Ord. M-15-95, 3-27-1995; amd. Ord. Z-29-15, 10-5-2015)

1-9-10: ENFORCEMENT AND PENALTIES:

- A. Any employee found to have knowingly violated any provision of this chapter shall be subject to employment sanctions, including discharge, as allowed by collective bargaining agreements and the city's personnel policy manual as currently exists or may be amended from time to time. (Ord. M-17-07, 5-7-2007)

- B. Any city official or member of the planning and zoning board found to have knowingly violated any provision of this chapter shall be subject to such penalty as may be determined by the city council within its authority to mete out disciplinary measures. (Ord. M-17-07, 5-7-2007; amd. Ord. Z-29-15, 10-5-2015)

- C. In addition to the foregoing, any person found by a court to be guilty of violating any of the provisions of this chapter, upon conviction thereof shall be punished by a fine as set out in the general penalty in section [1-4-1](#) of this title for each day of violation.

- D. An ethics officer is hereby created who is hereby empowered to take any written complaints of any violation of provisions of this chapter. The ethics officer shall be entitled to investigate and make a written determination upon the alleged ethical violation. The ethics officer may make any such recommendations, as he or she may deem appropriate, to the corporate authorities. The ethics officer shall be appointed by the city manager for a term of one year and may be reappointed thereafter as the city manager deems appropriate. (Ord. M-17-07, 5-7-2007)

CITY OF DES PLAINES

RESOLUTION R - 179 - 16

A RESOLUTION APPROVING THE RETENTION OF HILLARD HEINTZE LLC TO CONDUCT ETHICS INVESTIGATION

WHEREAS, on October 31, 2016, the Legal and Licensing Committee of the City Council recommended that the City Council retain an outside firm to conduct an investigation into the release of certain confidential information and documents by elected officials or employees of the City to the public (“*Investigation*”); and

WHEREAS, in accordance with Chapter 10 of Title 1 of the City Code of the City of Des Plaines and the City’s purchasing policy, the City has determined that the procurement of internal investigations does not require competitive bidding because these services require a high degree of professional skill and judgment where the ability or fitness of the individual plays an important part; and

WHEREAS, the Committee determined that Hillard Heintze LLC, a provider of investigative services (“*Consultant*”), is best qualified to conduct the Investigation; and

WHEREAS, the Committee requested a proposal from Consultant to perform the Investigation; and

WHEREAS, the Consultant has provided general information related to conducting the Investigation (“*Proposal*”) and a proposed cost for the Investigation of a not-to-exceed amount of \$30,000; and

WHEREAS, the City desires to enter into an agreement for the procurement of the services for the Investigation from Consultant in the total not-to-exceed amount of \$30,000; and

WHEREAS, the City Council has determined that it is in the best interest of the City to retain the Consultant to conduct the Investigation;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Plaines, Cook County, Illinois, in the exercise of its home rule powers, as follows:

SECTION 1: RECITALS. The foregoing recitals are incorporated into, and made a part of, this Resolution as findings of the City Council.

SECTION 2: AUTHORIZATION OF RETENTION OF CONSULTANT. The City Council hereby authorizes the City Manager to retain the Consultant for the purpose of conducting the Investigation and to enter into and execute the City’s professional services contract with the Consultant in a form acceptable to the City’s General Counsel in an amount not to exceed \$30,000.

SECTION 3: EFFECTIVE DATE. This Resolution shall be in full force and effect from and after its passage and approval according to law.

PASSED this ____ day of _____, 2016.

APPROVED this ____ day of _____, 2016.

VOTE: AYES ____ NAYS ____ ABSENT ____

MAYOR

ATTEST:

Approved as to form:

CITY CLERK

Peter M. Friedman, General Counsel