

**MINUTES OF REGULAR SESSION  
HIGHLAND CITY COUNCIL  
MONDAY, NOVEMBER 1, 2010**

Mayor Michaelis called the Regular Session to order at 7:00pm. Councilmembers present were Zobrist, Bellm, Bardill and Schwarz. Others in attendance: City Manager Mark Latham, City Attorney Harold Belsheim, Directors Cook, Gillespie, Rosen, Rusteberg and Schoeck, Police Chief Bell, Supervisor Limestall, EMS Captain Crosby, Treasurer Foehner, Deputy City Clerk Hediger, City Clerk Bellm; 14 citizens and 1 member of the news media.

**MINUTES**

Councilman Bardill made a motion to approve the minutes of the October 18, 2010 Regular Session as attached; seconded by Councilwoman Bellm. Roll Call Vote: Schwarz, Bardill, Bellm and Zobrist voted aye, none nay. Motion carried.

**PUBLIC FORUM**

Citizens' Requests and Comments:

*Relay for Life Request* – Mandy Ringwald, Danielle Koeneman and Mike Hanna, Event Chairs for the 2011 Relay for Life were present to request permission for the annual event. Mrs. Koeneman stated we are asking to change the locations for events, with the kick-off event to be held at the Weinheimer Community Center and the event itself to Glik Park, July 8 – 9, 2010. Councilman Bardill made a motion to approve request to hold the Relay for Life Kick-off Event at the Weinheimer on Sunday, January 30, 2011, 2:00pm – 5:00pm and to hold the Relay for Life Event at Glik Park, July 8-9, 2011 as attached; seconded by Councilwoman Bellm. Councilwoman Bellm asked Director Rosen if there would be any conflicts with these events at either location. Director Mark Rosen replied no. Roll Call Vote: Schwarz, Bardill, Bellm voted aye, none nay. Councilwoman Zobrist abstained. Motion carried.

Jason Mettler addressed the council regarding Item E on the agenda, concerning repairs to the spillway. He requested the ability to bid the project. We have made requests, but have not been able to get any of the plans or specifications for the project. We recognize the urgency of the project and we would like the opportunity to see if we can meet it. Mayor Michaelis stated the engineers from Burns & McDonnell are here to discuss this. When we get to that item on the agenda and hear their presentation, we will permit you to ask any questions at that time.

Requests of Council:

None presented.

Staff Reports:

Fireworks Display for Independence Day 2011 – City Manager Latham reported Nancy Gramlich has put together a committee with interest in hosting a fireworks display for this coming

Independence Day. City Manager Latham requested feedback from the council on the whether they would like to see funds spent for this coming year or wait until the 175<sup>th</sup> anniversary celebration. Councilwoman Bellm stated she would support the project. It has been a desire of Mayor Michaelis to bring back the fireworks display. Councilman Schwarz asked where we would fire them off. Mayor Michaelis responded the Highland Middle School. Director Rosen reported approximately 30% of the cost is required as a deposit down. The date they are looking at is the Sunday of the Independence Day weekend. Mayor Michaelis noted there is a discount when the display is done the day before or after the holiday itself. Director Rosen acknowledged there is a slight discount if the fireworks are held the day before. Councilman Schwarz inquired if there would be any opportunities to have fundraisers at the event. Director Rosen explained the intent is to get a subcommittee to work with organizations to sell food and drinks at the event. Councilman Schwarz pointed out every year I drive some place to see them, so I would see a value in having them here. Councilwoman Zobrist asked where we come up with the 30% out of the budget. We already have to do a budget amendment to get the spillway fixed. Director Rusteberg explained the spillway repairs come out of the water revenue funds, which is a separate set of funds. Currently, our sales tax and revenues are running above what is budgeted. Councilwoman Bellm calculated 30% is \$5400. Some of the money budgeted for Farmers' Market will not be used. There is also some money budgeted for planning and preparation of the 175<sup>th</sup> Anniversary, which will not be all used this year. Director Rusteberg noted we have to remember that next year we will need to fund the balance. July 4<sup>th</sup> is on a Monday in 2011. Mayor Michaelis stated he would like to see a plan and budget with various options and fundraising ideas. Director Rosen reported the committee is going to meet again this week and they should be able to have something for the next council meeting. Councilman Schwarz suggested putting the idea on the ballot at the February elections, for public input. City Manager Latham pointed out that would be too late for a commitment to the vendor. Councilwoman Bellm asked when down payment is required. Director Rosen responded the sooner the better.

## **OLD BUSINESS**

Bill #10-112/ORDINANCE Creating a Landlord Registration Program – Councilwoman Bellm made a motion to approve Bill #10-112/Ordinance # 2441 creating a landlord registration program as attached; seconded by Councilman Bardill. Roll Call Vote: Schwarz, Bardill, Bellm and Zobrist voted aye, none nay. Motion carried.

## **NEW BUSINESS**

Bill #10-115/RESOLUTION Designating Depositories – Councilman Bardill made a motion to approve Bill #10-115/Resolution #10-11-1921 designating depositories as attached; seconded by Councilwoman Bellm. Roll Call Vote: Schwarz, Bardill, Bellm and Zobrist voted aye, none nay. Motion carried.

Bill #10-116/RESOLUTION Approving and Designating a Single Gas Station for Purchase of Gasoline for City Vehicles – Councilwoman Bellm made a motion to approve Bill #10-116/Resolution #10-11-1922 approving and designating the Gas Mart, on Illinois Rout 143, as the single gas station for purchase of gasoline for city vehicles as attached; seconded by Councilman Bardill. Councilman Schwarz asked City Manager Latham if this is the biggest discount that all those submitting proposals provided. City Manager Latham replied yes. Roll Call Vote: Schwarz, Bardill, Bellm and Zobrist voted aye, none nay. Motion carried.

Bill #10-117/ORDINANCE Adding Definitions of Thirteen Offenses to the City's Code of Ordinances - Councilman Bardill made a motion to approve Bill #10-117/Ordinance #2442 adding definitions of thirteen offenses to the City's Code of Ordinances as attached; seconded by Councilwoman Bellm. Councilwoman Bellm inquired none of this is on the books like this. Chief Bell responded it was not. Councilwoman Bellm added that is somewhat surprising. Mayor Michaelis pointed out a number of

these ordinances are state statute already. With this, we are providing a level for fines under municipal code versus punishment under state statutes. Roll Call Vote: Schwarz, Bardill, Bellm and Zobrist voted aye, none nay. Motion carried.

Bill #10-118/RESOLUTION Approving Facility Encroachment Agreement with CSX Transportation, Inc., and Authorizing Execution of Same – Councilwoman Bellm made a motion to approve Bill #10-118/Resolution #10-11-1923 approving facility encroachment agreement with CSX Transportation, Inc., and authorizing execution of same; seconded by Councilman Bardill. Councilwoman Zobrist asked what this involves. City Manager Latham explained this is for crossing the railroad tracks with fiber. Roll Call Vote: Schwarz, Bardill, and Bellm voted aye; Zobrist voted nay. Motion carried.

Bill #10-119/RESOLUTION Determining that an Emergency Situation Exists Concerning the Silver Lake Spillway and That it Should Be Immediately Repaired and Approving a Contract with Subsurface Constructors, Inc. – Councilman Bardill made a motion to approve Bill #10-119/Resolution #10-11-1924 determining that an emergency situation exists concerning the Silver Lake Spillway and that it should be immediately repaired and approving a contract with Subsurface Constructors, Inc. in the amount of \$257,060.00 as attached; seconded by Councilwoman Bellm. Mayor Michaelis asked representatives of Burns & McDonnell to come forward. Mark Harrison, project manager for Burns & McDonnell, stated Burns & McDonnell has served as the engineer for the dam and spillway and have preformed the inspections for the dam and the spillway for about ten years. We received a call from Director Gillespie in mid-September regarding a failure in the wall. We have inspected it and done engineering specifications. Based on the information prepared, we feel it is necessary to construct temporary shoring, to prevent any further structure failure of any structures that are near Illinois Route 143. Based upon the location and complexity of the project, we feel that it is important to work with a firm that has a proven record of working with these types of projects. We are quite comfortable with recommending Subsurface Constructors, Inc. He explained, under current conditions, we have a stable condition. However, a large rain or change in drainage could change the surface conditions to create another structure failure. Because we cannot predict a large rain event, we feel it is best to address it immediately. Councilwoman Bellm asked what happens if this slope fails. Mr. Harrison responded we are fearful that with additional heavy rainfall, the hydrostatic pressure could push the failing wall, causing it to slip into the spillway. With the wall being less than ten-feet from Route 143, it could create a very dangerous condition for Route 143. While it is called a temporary fix, the initial project would consist of fourteen drilled shafts - (1) 6” diameter and (13) 36” diameter shafts - for the purpose of retaining the embankment. When replacing the old spillway wall, we will have to excavate the wall and allow for support of the roadway embankment when constructing the new wall, while navigating the twenty-eight-foot difference in elevation.

Councilwoman Zobrist asked would Route 143 have to be closed during that construction process. Mr. Harrison stated it would not have to be closed; however, there would be lane restrictions. Councilwoman Zobrist inquired the weight and movement of the traffic will not effect construction. Mr. Harrison replied no. Councilwoman Zobrist asked if IDOT has seen the plans. Mr. Harrison replied yes. We are meeting with them again this week in Collinsville. We have also presented the plan to IDOT’s bridge control division in Springfield. Councilwoman Zobrist asked do permits need to be obtained from IDOT. Mr. Harrison reported we hope to have a pre-construction meeting with the contractor this week and have them at the meeting with IDOT. If everything proceeds as planned, IDOT will issue the permits when the contractor is ready to start. Harold Belsheim advised with the qualifications of Burns & McDonnell, I would not want to delay what they felt was an urgent situation. How quickly you want to move is the council’s decision.

Councilman Bardill asked is there someone on this side of the river that can do the work. Mr. Harrison referred the question to Dale Smith, with GeoTechnologies. Mr. Smith stated there are two

firms in the area that I am familiar with. Subsurface Constructors and another firm out of St. Charles County, who are both deep surface construction contractors. Councilman Bardill stated I do not discount their qualifications; however, if we put this out for bids by general contractors, would they be able to do the work. Mr. Smith replied no, they would hire a specialty contractor like Subsurface Constructors. Harold Belsheim asked if there are any bonding requirements. Burns & McDonnell responded there is the usual performance bonds involved.

Morris Rakers, of All Purpose Erectors, stated he has worked with Jason Mettler on many jobs. We would love to provide a bid on this project. Mr. Mettler added we are pretty confident that we could do the project without interfering with the traffic on Route 143. Councilwoman Bellm inquired if we delay this tonight, we could not address this until the next council meeting. City Manager Latham explained if we allow Jason to review this for bid, we would have to put it out for publication requesting bids and go through the full bid process. You are looking at a minimum of 2-3 weeks for that process. Councilwoman Bellm expressed I think this needs to be done immediately. I am not willing to take the risk of delaying this. Delaying this increases our costs significantly. For safety sake and liability sake, I don't think we can delay this for another month or two. Councilman Schwarz asked since this is an emergency situation, can't we allow a three-day turn around. Earlier you said there are only two companies in the area that can perform this work. Jason Mettler asked being this is an emergency bid, can you make this an invitational bid. Attorney Belsheim stated since it exceeds \$20,000, it is either advertise for bids or go with the advice of the engineers. If you feel this is an emergency and requires immediate action, then the council should vote following the guidance of the engineers and award the bid. If the council feels that it can wait long enough to go through the bid procedure process, then it should do so. Another thing that plays into it is the consequences that if something should happen to the roadway. Attorney Belsheim expressed to Mr. Mettler, as this is the first time that you have done anything with a project of this magnitude, there is concern. Mr. Mettler stated I would not do the project myself; I would subcontract it to someone who has experience. Roll Call Vote: Schwarz, Bellm and Zobrist voted aye, Bardill voted nay. Motion carried.

Bill #10-120/RESOLUTION Approving Ambulance Services Contract - St. Rose SSA #5 - Councilwoman Bellm made a motion to approve Bill #10-120/Resolution #10-11-1925 approving ambulance services contract with St. Rose Special Service Area No. 5 as attached; seconded by Councilman Bardill. Councilwoman Zobrist noted they don't make the payment when the contract starts. It says this will be paid by January 1, 2012. EMS Captain Gary Crosby acknowledged they pay in arrears. With this contract, they have it set up so they collect based upon the tax levy established by the costs in the contract and then pay us. Roll Call Vote: Schwarz, Bardill, Bellm and Zobrist voted aye, none nay. Motion carried.

Approve Preliminary Engineering Services Agreement with Oates Associates for the Iberg Parkway project (Northeast Quadrant Peripheral Route) - Councilman Bardill made a motion to approve preliminary engineering services agreement with Oates Associates for the Iberg Parkway project (Northeast Quadrant Peripheral Route) in the amount of \$360,000 as attached; seconded by Councilwoman Bellm. Councilwoman Zobrist inquired there has been several changes, which is the reason for this. City Manager Latham confirmed there have been changes in the design of the overpass and the roadway expanded to curb-and-gutter with the bike path. Roll Call Vote: Schwarz, Bardill, Bellm and Zobrist voted aye, none nay. Motion carried.

Approve Sole Source Purchase of Defender Pool Filter from Neptune-Benson and Approve Westport Pools for Installation - Councilwoman Bellm made a motion to approve sole source purchase of Defender Pool Filter from Neptune-Benson and approve Westport Pools for installation as attached; seconded by Councilman Bardill. Councilman Schwarz stated I understand that you did the research on the filter, but what made you chose this vendor to install. Director Rosen reported this filter exceeds EPA requirements and saves on water. Presently, this is the only vendor in the area installing this filter on projects. Councilman Schwarz asked is this something we could go out for bid on. Director Rosen stated in order for the vendor to get a permit from the Illinois Health Department, in order to open the

pool by Memorial Day Weekend 2011, we need to start filing for the permit now. Roll Call Vote: Schwarz, Bardill, Bellm and Zobrist voted aye, none nay. Motion carried.

Approve Pay Request 10 Submitted by Cox & Sons Contracting and Withholding an Amount Pursuant to Section 23(b)(6) of the Mechanic's Lien Act (770 ILCS 60/223(b)(6)) - Councilman Bardill made a motion to approve Pay Request 10 submitted by Cox & Sons Contracting and withholding an amount pursuant to Section 23(b)(6) of the Mechanic's Lien Act (770 ILCS 60/223(b)(6)); seconded by Councilwoman Bellm. Councilwoman Zobrist asked for clarification, noting that Red-E-Mix has filed a lien and we are only paying a portion of this pay request to Cox & Sons. City Manager Latham replied yes. Roll Call Vote: Schwarz, Bardill, Bellm and Zobrist voted aye, none nay. Motion carried.

## REPORTS

Approve Warrant #822 – Councilman Bardill made a motion to approve Warrant #822 as attached; seconded by Councilwoman Bellm.

Councilwoman Zobrist questioned two items in the warrant that were okayed by a councilperson. One is for \$284 for reimbursement of a purchase made on a personal credit card bill and the other is for the Chamber of Commerce, in the amount of \$540. I do not think that council members should be okaying payments for items in the warrant. I was advised by a previous city attorney to bring up these issues in open session. Councilwoman Bellm stated I am the grant coordinator for the Farmer's Market and handled the advertising. Councilwoman Zobrist pointed out you are a spouse to whom one of the bills is from and a vendor at the market. Councilwoman Bellm explained the \$284 credit card bill is for 5,031 mailing labels purchased from InfoData for marketing of the Farmers' Market. I had a 25% discount and they would not put it on a credit card for the City of Highland. Therefore, I used my husband's credit card. Councilwoman Zobrist stated you should not have been signing off on these bills. Councilwoman Bellm explained, as grant coordinator for the market, I signed off on the bills, because I knew the amounts negotiated for the advertisements that ran. Councilwoman Zobrist stated I thought there was to be a grant for advertisement. Councilwoman Bellm reported, last year, we had to have a matching funds spent for advertisement. We did not get that grant this year. City Manager Latham recommended going back and asking for copies of receipts on the \$540 bill from the Chamber of Commerce.

Councilman Bardill asked is there a conflict of interest. Attorney Harold Belsheim stated if there are legitimate receipts for this, then it has not created anything inappropriate. However, it creates an appearance of impropriety. If you have, a direct or indirect stake in any other entity interacting with the city, and if you have a financial stake in something, do not vote on it in any manner. As you confront these situations, think carefully before you vote on an item. Councilwoman Bellm stated I did have some concerns about this before and asked if there was any issue with me signing off on this stuff. I was told, no that should not be a problem. Had there been any concern about me signing off on the advertisements, I would have hoped I was told about that last year already. Had I thought there was any impropriety I would not have done it. I did not disguise it or hide the facts. From now on, I will not, okay them; however, I do not know how anyone will know what amount I negotiated for the purchase price of that advertisement.

Finance Director Sharon Rusteberg stated Councilwoman Bellm asked if we could use the city's utility billing labels. I stated we had not done that in the past and did not want to open it up with other organizations. I viewed her purchasing the labels through an outside source the same as the custodian purchasing something uptown and turning the receipt in for payment through petty cash. City Attorney Harold Belsheim advised we need to avoid approving any money going to ourselves. If you work at a grocery store and want to purchase some milk, you need to have a supervisor handle the transaction versus a fellow employee. Mayor Michaelis pointed out that Councilwoman Zobrist is

bringing up the issue of voting on an item that you have a direct or indirect financial stake in. You also voted on giving money to Art in the Park and Farmers' Market, in which you were a vendor at both events.

Councilwoman Bellm stated it will not happen again. I will resign my position as marketing coordinator and from the board of the Farmers' Market. I apologize to the council, staff and the community for any perception of impropriety. Councilwoman Zobrist stated there are many things that come through on the warrants. There are many things on the warrants that I have asked Mark about, to which Mark tells me he does not know. Mark, you need to know what comes through on the warrants. We are asking more from staff and elected officials in watching the budgets. I would hope that, while I will be gone in six months, everyone else on the council will do the same. Mayor Michaelis asked if these are the only two invoices in the warrant tonight that were signed for by Councilwoman Bellm. Councilwoman Zobrist reported there is an invoice in there for payment to Duane Zobrist, also. Mayor Michaelis stated anything that creates profit, directly or indirectly, we, as elected officials, need to stay away from voting on. Councilwoman Bellm reported the bills for this year's Farmers' Market are near \$5,100. I signed off on all the invoices, as I did last year. Attorney Belsheim recommended amending the motion to pay the warrant less those items. Those bills should be presented to, reviewed and signed off by City Manager Latham, before submitting for payment.

Councilwoman Zobrist amended the motion to withdraw the payments to Highland Chamber of Commerce for \$540, Duane Zobrist for \$200, and Donald Carnley for \$284, from the Warrant. Roll Call Vote: Schwarz, Bardill, Bellm and Zobrist voted aye, none nay. Motion carried. Roll Call Vote on the amended warrant: Schwarz, Bardill, Bellm and Zobrist voted aye, none nay. Motion carried.

Councilwoman Bellm motioned to adjourn; seconded by Councilman Bardill. All council members voted aye, none nay. Motion carried. Meeting adjourned at 8:25pm.

Joseph Michaelis, Mayor

Barbara Bellm, City Clerk