

CITY OF MARENGO  
JULY 24, 2006, CITY COUNCIL MINUTES

**CALL TO ORDER**

At 7:00 p.m., Mayor Lockhart called to order the July 24, 2006, Marengo City Council meeting. He then led the "Pledge of Allegiance".

**ROLL CALL**

Mayor Lockhart, Alderman Jennings, Alderman Shelton, Alderman Otis, Alderman Genot, Alderman Secor and Alderman Signore were present for roll call. Alderman Spear and Alderman Trainor were absent.

**PUBLIC PARTICIPATION**

No one addressed the members.

**TREASURER'S REPORT**

Treasurer Hall was not in attendance. Written reports were submitted in the packet.

**NEW BUSINESS**

**APPROVAL OF REGULAR & EXECUTIVE SESSION MINUTES FOR 7/10/06**

Alderman Jennings made a motion to approve the July 10, 2006, regular and Executive Session minutes; seconded by Alderman Otis. Motion passed with an aye voice vote from Alderman: Shelton, Genot, Jennings, Otis, Secor and Signore.

**APPOINTMENT TO POLICE PENSION BOARD**

Alderman Signore made a motion to approve Mayor Lockhart's appointment of James Hare to the Marengo Police Pension Board for a two year term. The motion was seconded by Alderman Secor. Motion passed with an aye voice vote from Alderman: Jennings, Otis, Shelton, Genot, Signore and Secor.

**LETTER OF CREDIT RELEASE-DEERPASS GREENS, UNIT 5**

Administrator Hartman advised the members we have received a one year maintenance bond in the amount of \$35,164.70 from The Woodstone Company.

Alderman Signore asked the aldermen in Ward 4 if they had received any complaints from constituents regarding this area as they have received in the past. He was advised they had not received any in the last few months.

Alderman Trainor arrived at 7:05 p.m.

Alderman Genot made and Alderman Jennings seconded a motion to release the Letter of Credit for The Woodstone Company, Deerpass Greens, Unit 5. The motion passed with an aye voice vote from Alderman: Signore, Secor, Shelton, Trainor, Otis,

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and Trainor.

#### ORDINANCE 06-7-2-DECLARING CERTAIN PROPERTY SURPLUS

There was a concern with the number of bicycles on the disposal list for this ordinance. Chief Kottke stated the PD looks at filed reports to see if any of the descriptions matched a bike they might have.

It was suggested to put out some form of notice to advise people if they have a missing bicycle, to come down and identify it before putting all of these bikes in the auction. It was stated the 06 case numbers could not be put in the sale as the law states we have to keep them for six months.

The price range for the run of the mill bike is one to thirty dollars; specialty bikes perhaps fifty to seventy-five dollars as there are hundreds of bikes for sale from neighboring communities at the County auction.

It was decided to have staff address the way to proceed with the notice at their weekly meeting and have our attorney check to see if we could perhaps donate them to a charity.

Alderman Signore stated he had no problem with what is on the list so he would make that motion provided we give people one last opportunity to claim the property; seconded by Alderman Trainor. The motion passed with an aye voice vote from Alderman: Otis, Shelton, Signore, Trainor, Jennings, Secor and Genot.

#### AUTHORIZATION TO EXECUTE THE MCCG AUCTION AGREEMENT

Alderman Secor made and Alderman Genot seconded the motion to approve the agreement for the McHenry County Council of Governments Local Government Vehicle and Equipment Auction Agreement. The motion passed with an aye voice vote from Alderman: Genot, Trainor, Otis, Shelton, Secor, Signore and Jennings.

#### ORDINANCE 06-7-3-AMENDING CHAPTER 33 LIQUOR CONTROL

Administrator Hartman stated Rick Carls, Creekside Marathon, met with Mayor Lockhart and himself to discuss revising the Class G liquor license requirements.

He would like to have one neon window sign no larger than 24"x24" and allowance of warm stock on the retail floor not covering more than 5% of the retail floor space.

Items discussed/comments: The amount of revenue he has at his Hampshire location for liquor sales; with the building setting back as far as it is, the sign might not do any good; felt they should have taken storage area into consideration when the building was built; Mr. Carls has not applied for a license yet; will be able to sell package items

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only, no individual sales; \$1,500 fee for license; hours warm and cold liquor can be sold; Police Dept. had no issues with the request; a sign could be posted stating the hours allowed for the sale of liquor and we have one G license issued thus far.

Alderman Genot made a motion to approve Ordinance 06-7-3, Amending Chapter 33, with the changes discussed; seconded by Alderman Secor. Motion carried with an aye voice vote from Alderman: Trainor, Signore, Secor, Jennings, Genot and Shelton. Alderman Otis voted nay.

#### ORDINANCE AMENDING CHAPTER 16-SIGN CODE

Our attorney advised the members that in reviewing the sign ordinance, he felt there were a couple of things needing to be added/changed to enforce them in a court of law.

He felt an attorney's fee provision should be included for leverage purposes among other things; that a cross reference to another chapter for specific fines needed to be added and clarification of Board of Appeals as there is none since we combined the Planning & Zoning Commission. These were some of the changes he felt should be brought to their attention before it was passed as it pertains to the enforcement area. He could not speak for the rest of the contents.

Administrator Hartman stated it was the intention to have these changes incorporated into the ordinance for approval at the next meeting. He would, however, like the members to discuss the substance of the ordinance tonight.

Our attorney stated he would rather have them have the benefit to look at the language he is suggesting rather than just make it up as they go along tonight.

There was discussion regarding the length of time a church could have a sign up; CDC tried to take a common sense approach for this ordinance to be sensitive to the person who wants to put up the sign as well as the person that has to do business or live next to the sign; plans to take the same approach for the Junk and Nuisance Ordinance; Chairman of the Historical Preservation Commission has stated the Commission was willing to review proposed signs within the designated area of the Overlay District and the Historic District; trying to avoid piecing and making the ordinance contingent upon this or that; would like to have it tabled so the members could see it in the correct format; thought the CDC and Building Commissioner did a great job in putting this together and thought waiting two weeks to get it in the correct format was no big deal

Alderman Signore then made a motion to table this ordinance. It was seconded by Alderman Genot. Motion passed with an aye voice vote from Alderman: Secor, Genot, Trainor, Shelton, Otis, Jennings and Signore.

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ORDINANCE 06-7-4-ADOPTING AN FMLA POLICY

Administrator Hartman advised the members the City is now mandated by Federal law to have something in place to provide Family Medical Leave Act benefits since we have reached the minimum of 50 full and part time employees.

The first step is to provide a policy which articulates what the benefits are and how they are going to be implemented the eligibility requirements.

The policy before them is based largely on the Village of Algonquin's policy. Our attorney has taken a look at this and has vouched for the Village of Algonquin's policy as his firm represents them as well.

The eligibility is for employees who have worked 1,250 hours in the past 12 months, so, in the case of a crossing guard, they would not be eligible to receive benefits.

Alderman Shelton made a motion to adopt the Family Medical Leave Act Policy for the City of Marengo, Ordinance 06-7-4; seconded by Alderman Otis. Motion carried with an aye voice vote from Alderman: Genot, Jennings, Otis, Secor, Shelton, Trainor and Signore.

#### OLD BUSINESS

There was no Old Business for discussion.

#### MAYOR'S STATEMENTS AND REPORTS

Mayor Lockhart had no report(s) or statement(s).

Alderman Otis raised the issue we have been plowing streets in subdivisions that have not been accepted by the City. She was wondering why we were doing this and not having the developer pay for this service. She felt the streets should be plowed for the residents so they are not put at risk but at the developer's expense.

Comments made on this included: This should probably be discussed for the next annexation to have developer pay for this service until the streets are dedicated to us; have already set precedent with plowing streets not dedicated to the City and haven't charged in the past and didn't think we could now; suggestion to give notice to developers with undedicated streets we will start billing them for this service as we are on a very tight budget; would have to check the covenants for these subdivisions to see if any street maintenance is included in the language and we need to develop check lists for an annexation, zoning, etc., so down the road, nothing gets forgotten.

Alderman Otis was advised, per Administrator Hartman's report, he would be happy to individually discuss the sunset clause (expiration) of platted plats.

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#### DEPARTMENT HEAD AND STAFF REPORTS

A written report was submitted for their review. He apologized for not having a maintenance status report. They are making changes to the report and he hoped to have this report ready for the next meeting.

He will be going to court this week for the zoning violation at 155 North Taylor.

Alderman Signore thanked Commissioner Shull for all the work he put into the sign ordinance. He stated CDC came full circle as Commissioner Shull presented it, the CDC changed it and ultimately they changed it back to what he presented. Commissioner Shull stated it was team effort.

Alderman Trainor stated she had received an issue from a resident that they had to run an electrical pole and put the electric underground and up the pole for a portable pool and thought our form to do this was not updated.

Commissioner Shull stated they are anticipating a new illustration form from our electrical inspector. They are also looking into different code books for this purpose.

She was advised whether a pool is permanent or temporary, they all have the same requirement as it is part of the National Electrical Code. Commissioner Shull stated the temporary pools are far more dangerous than permanent pools because of the extension cord, water splashing and rain. This is the reason his department is a stickler for temporary pools.

Alderman Otis wanted to know if the pool situation at 701 Ridge Lane had been resolved satisfactorily. Commissioner Shull advised it had not and he needed to follow up on it. He will keep Alderman Otis informed on it. He then explained the situation that contained some errors in miscommunications to the members.

He advised his department can't put every stipulation into a permit application. As they come across errors of omission, they are doing that. That is what the permit review process is for. When they issue a permit, the applicant gives them a proposal. The Department will ink in red specifically what the minimum setbacks are for the certain area. They only assume if they propose to put it in one corner, they are not going to move it fifty feet in the side yard. This is where a common sense factor comes in to play. They indicate a general proximity as to where they want it and his department will do the set backs that pertain to that area. If they are close to the side yard or corner side yard, the department will insert that particular language.

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Alderman Signore asked the members of the CDC to take a look at the e mail they received from Commissioner Shull regarding the architectural design standards from Loveland, Colorado. This will be put on the next CDC agenda.

#### PUBLIC WORKS DEPARTMENT

Written reports were submitted by the Water Department, WWTP and Street Department. Tom Zwicky, Street Foreman, was filling in for Supt. Craney tonight.

Alderman Signore heard the drain by Hubb's that supposedly had a can in it the last time we had a lot of rain, had water across the street again when we got a lot of rain.

Mr. Zwicky advised him the problem this time was due to a plugged silt screen at Marengo Market Place. It was suppose to divert half of the water coming down from the field into the detention pond which when filled up would go to a culvert they put in to a culvert that runs down Rt. 20. This got plugged up so all the water came around the west side of the property thru a large culvert. The water was trying to make it thru a 16" culvert to get to the 36" or 48" culvert that takes it underneath Rt. 20. Had this screen been cleaned or not in place, this would not have happened. We met with the developer and talked to him about keeping the screen clean and possibly putting in a larger culvert for the driveway entrance in order not to have the problem again. Mr. Zwicky felt once they completed the project, a larger culvert will be in.

Mayor Lockhart asked Mr. Zwicky to look at a culvert by Hubb's Greenhouse as it looked like it was halfway plugged up with silt and so forth.

Mr. Zwicky stated he met with Ray Rayfield, from the State the day when all the flooding was occurring. He asked Mr. Rayfield if they could clean out the ditches in front of the culverts along Route 20.

#### POLICE DEPARTMENT

Chief Kottke submitted a written report for the packet. Orally, he reminded the members of the joint open house for the PD building expansion, the radio console, the Lifescan and hopefully one of the new cars will be equipped and ready to show along with the Marengo Fire Protection District to show their 175' ladder truck they have acquired this Saturday from noon until 2:00 p.m.

He asked for the members support for the golf outing on September 5<sup>th</sup> between the Police Department and the Fire Department to help raise money for the Shriners Crippled Children's Hospital.

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Alderman Otis wanted to know if our tree arborist would be working with ComEd's contractor when they come into town to trim trees for line clearance to help ensure safety and reliability.

Mr. Zwicky was not sure if our arborist would have any jurisdiction on line clearing. Alderman Otis stated other community's arborist work with them as they do have a say so in this and would really request our arborist be made available to make sure they do not go butchering thru Marengo because she has had experience with them not even knowing the species of the tree or the growing habits. They are just following their guidelines and orders that state there should be clearance of 15' on either side of the wire which is ridiculous where there is a slow growing tree involved.

Administrator Hartman advised we would have our arborist monitor what they doing. The arborist is one of the Street Dept. members and maybe needed for other duties but we will dedicate some of his time to monitor and work with ComEd's contractor. Alderman Otis stated he is an arborist and this is what they had appointed him to so it would be kind of nice to have him do his duties and allow him to do so.

#### ENGINEER

A written report was submitted by Baxter & Woodman in the packet.

Alderman Otis inquired about the problem at one of our pumping stations. Mayor Lockhart advised reprogramming of the equipment was done today and Administrator Hartman advised the electrical engineer was suppose to be out this afternoon to do his investigation.

Alderman Genot inquired about the Hale Street and Second Avenue Box Culvert Maintenance, Replacement and Hydraulic Report Cost Estimates. He wanted to know if they had any estimates yet. Mr. Gavle replied this had been submitted to the City in 2005. His recollection was IDOT provided a review and inspection and thought this is what the City had used.

Alderman Genot stated this is posted. He has seen more than just garbage trucks running down Hale Street that even empty, weigh more than four tons. He knew he would be driving the Police Dept. nuts if he would call them every time one went by. He wanted to know if we could post this bridge. Our engineer thought we had the authority to post it but this was his opinion. Our attorney said he would have to look into this but thought there were weight restrictions we could put on.

Alderman Signore inquired if the trucks were residents or local deliveries. Alderman Genot stated, "No, they are people taking shortcuts." Our attorney stated this would be inappropriate. If they would be doing an area delivery and there is no other way, it

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would be okay. Alderman Genot stated they come in to get away from the entanglement downtown and it was any time of the day. The condition of the box cover is pretty sorry per Alderman Genot; our engineer agreed. Alderman Genot is concerned someone is going to fall thru this and probably result in a lawsuit whether it is our fault or not, it didn't matter. Our attorney will check on whether or not we can post it and get back to the members at the next meeting.

Mr. Gavle updated the members on the 2006 MFT Program. They are out for bids with bid opening date set for August 9. The State approved our plans today and will have our information in their bulletin the next two Thursdays. On August 14, the bids will be presented to the members with the recommendation to award. The recommendation will be contingent on the seven day waiting period from IDOT that they instituted recently. The estimated completion date is around October 15. The improvements being done are not in the area where Settlers Days activities are held. There is the base bid and also the additional bid depending upon sufficient funds available if the bid(s) come in favorable.

#### CITY ADMINISTRATOR

Administrator Hartman submitted a written report for review.

He asked for clarification regarding the snow plowing of undedicated streets discussed earlier. He wanted to know if the members wanted a letter to be sent to the developers that have undedicated streets that we will be charging them for this service, or are we going to let these go and then in new subdivision annexation agreements put a provision in to charge them, or do they want to have a formal discussion at the August 14<sup>th</sup> meeting regarding this as he was looking for some formal direction.

Comments made were: agreements we have with the developers didn't address this; often times there isn't a provision in an annexation agreement to encourage the developer to get them dedicated so sometimes it just gets put on the back burner; if we charge for snow removal, we should charge for water and sewer issues, unplugging silt screens, etc.; wondered what other communities do regarding occurrences where their employees are sent out to deal with situations caused by a developer; argument will be made the cost will get passed on to the people buying a house in the development; most municipalities respond because they have homeowners that need some help but it goes back to the developer to make the corrections; engineer was not aware of any community that back charged developers for that service; in older developments where agreements have been made, we couldn't necessarily go back and try to charge them; we could push to do it but we are limited in the power we can enforce; if there is a road issue that has not been dedicated, we perhaps do not have to do anything about it and allow the developer to take care of it until the point of dedication; we won't accept streets that have potholes or whatever until they are

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repaired, if not in the annexation agreement, our hands are pretty much tied but we can ask, perhaps making sure all the improvements are there before issuing building permits in a development; we won't accept the Brayton Knolls Subdivision until the improvement is done on Maple which is causing a whole lot of issues that the Administrator and engineer are working on; the developer told Alderman Signore he had contracted someone to repair Greenlee which is in bad shape; members would like a list of what has not been dedicated; would like to know what we can enforce so we just don't do this as an exercise in futility and can we make the developer plow the streets if they aren't dedicated.

Administrator Hartman stated the issues will be mulled over from a legal standpoint. They will put something together and will check with other communities to see how they handle this issue.

He advised the members with the significant amount of rain we have received, there has been a lot of inflow at the WWTP. We have tentively scheduled August 8 to conduct smoke testing on a segment of sanitary sewer going west of Rt. 23. We will get out as much notice as we can.

Alderman Genot thanked the Mayor and staff for getting the packet out a day earlier. He thought a lot of the conversations they have could be eliminated since they are receiving them earlier to give them more time to read, review and ask before the meeting.

A comment was then made by Alderman Otis regarding a meeting Mayor Lockhart, Administrator Hartman and she had with the County regarding truck traffic. They did not receive a lot of encouragement from the County. A meeting with IDOT is next on the schedule.

#### ADJOURNMENT

At 8:20 p.m., Mayor Lockhart asked for a motion to adjourn the July 24, 2006, Marengo City Council meeting. Alderman Genot so moved; seconded by Alderman Jennings. Motion passed with a unanimous aye voice vote.

Submitted by: Diane L. Schwoch,  
Acting City Clerk