

CITY OF MARENGO
SEPTEMBER 11, 2006
COUNCIL MINUTES

CALL TO ORDER

At 7:04 p.m., Mayor Lockhart called to order the September 11, 2006, Marengo City Council meeting. He led the "Pledge of Allegiance" and then asked for a moment of silence in remembrance of the 911 victims.

ROLL CALL

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

PUBLIC PARTICIPATION

Lorence Brown, 170 Seneca Trail, stated he had received a copy of the cell tower lease and his concerns that he stated at the last meeting have been addressed.

NEW BUSINESS

APPROVAL OF THE AUGUST 28, 2006, COUNCIL MINUTES

Alderman Shelton made and Alderman Jennings seconded a motion to approve the August 28, 2006, meeting minutes. The motion passed with an aye voice vote from Alderman: Shelton, Spear, Jennings, Otis and Mayor Lockhart. Alderman Genot abstained.

LIST OF BILLS

After the question regarding the Mayor's new shredder was answered, Alderman Jennings made and Alderman Spear seconded the motion to approve the bills as presented. The motion passed with an aye voice vote from Alderman: Jennings, Otis, Shelton, Genot and Spear

SUSAN ANTHONY CONFERENCE ATTENDANCE CONTRIBUTION REQUEST

This item has been removed from the agenda.

RESIDENT COMPLAINT REGARDING AN ACTIVE SUBDIVISION

The City has received a letter and materials submitted by Courtney and Jennifer Haas regarding their concern and complaints on the activity and equipment storage for Parkside Subdivision by developer Louis DeRose.

Mayor Lockhart has met with the developer and the Haas' and has not been able to resolve the problem to the Haas' satisfaction. He was asking the members as to what direction to proceed with this matter.

Jennifer & Courtney Haas, 600 8th Avenue addressed the members on the above mentioned matter. Mrs. Haas felt the City has been negligent in enforcing our nuisance and beautification ordinances for the property located behind them.

Mr. Haas addressed the concern of Mr. DeRose's storage of construction equipment, materials and personal storage located north of 8th Ave. Their letter contained numerous City ordinances they felt were very clear and concise that applied to this matter.

Some of their stated concerns were: excessive amount of equipment being stored here for the one remaining house left to build in phase 4 of this subdivision; what the timeline of the detention pond to be put in was, felt the property the equipment and material is being stored on is not an active subdivision as they felt it was for Phase 5 that has not been approved as it is on a floodplain and wetland; were of the understanding when they purchased their house 2 ½ years ago, Phase 5 had been approved and he needed to have equipment stored there but some of the equipment has not moved an inch in 2 ½ years and they have found out Phase 5 has not been approved; stated some of the items stored there and didn't know what the need for them was; property is not kept in a well manner and not in accordance with our codes; no screening to protect any outside residents of viewing this; did not feel Mr. DeRose has acted in good faith regarding this matter; have had several meetings with several different people to resolve this matter; had some sort of natural landscape screening but the trees were taken down from one corner of their property to the other after Mr. DeRose found out they were complaining to the City; have seen him build up large berms, excavated and filled in an area with sand which can't be done without a permit in a floodplain area; dug up a detention pond; concerned these alterations might have an effect on the homes in the area; felt it would be in the City's best interest to make sure properties up and down stream and adjacent to the area are protected; wanted a motion to require Mr. DeRose to remove all of the construction equipment and store it properly in accordance with our code and not all of the equipment was in operational condition.

Alderman Otis wanted to know if Commissioner Shull had inspected the equipment and if it was movable. He advised he had not inspected the mechanics of the equipment. She asked if he could do so. He advised he would have to defer this to the attorney as he wasn't sure he had the right to do so.

Mayor Lockhart asked Mr. DeRose if he would like to comment. Louis DeRose, 604 8th Ave., Marengo came forward with his comments which were: the Haas' have never asked what his intentions were with the property; the equipment is moveable- it's what is called a job truck as it is not licensed but it works; needs the truck to move the dirt for the detention pond; has a letter from Smith Eng. & IDOT stating this property is not in the floodplain for the pond as long as he stays in the original ground above the 803 level; the basic flood level is 802; Phase 5 has not moved forward as he has been given the run around since 1996 on the pond; been waiting for the elevations from IDOT to do the pond that we have asked him to move to the westerly end of the property so we can use it for further development for the rest of the avenues for flood conditions; not going to dig the pond until he finds out what the elevations are; the only things not needed at the site are the forms and bobcat which he will need once he gets approval as he will start digging some holes; his property is almost 40 acres that he is paying taxes on; the delay is not his fault; has removed basic equipment that wasn't usable per our request and cleaned up the property; keeps the weeds cut; built the Haas house that they are happy with the structure of; if the Haas want to be miserable it wasn't his fault and he needs that equipment there and it will stay there until he gets the report from IDOT and Baxter & Woodman.

Mrs. Haas stated she is a taxpayer as well and is not allowed to store that type of equipment in their yard as it is a violation of City code. They have not spoken to Mr. DeRose on this issue as they have spoken to him before on other issues that have not gone well (sworn at). Mr. DeRose stated he had not sworn at her. Mr. Haas stated it was him who was sworn at. Mr. DeRose wanted them to keep their dog off of his property.

Mayor Lockhart stated he was not going to let this get into a screaming session and have it get out of hand. He had given both parties time to speak and it was now up to the members to decide what to do.

Member's/attorney/Building Commissioners questions/comments/concerns were: what items per our code could be stored there; Mr. DeRose wants to put up a storage shed but can't until information is received from IDOT; this is an unnumbered A zone that doesn't establish a base flood elevation; it's the September 11, 2006 developers responsibility to have the study done to designate which area is or is not in the floodway and these plans are currently being studied by his engineer; construction storage trailers may remain on site until issuance of the final occupancy permit for a single building project or for the final building in a subdivision, and Alderman Genot has not received complaints from anyone else in this area,

Ms. Haas then stated there were only five or six houses that butt up to the site. One house was Mr. DeRose's, who wouldn't complain, one was a friend/employee of Mr. DeRose's who wouldn't complain, an empty house and another neighbor who is concerned about raising any issues because they have seen some of the retaliation against the Haas since they have raised the issue.

She again stated their screening was taken down from one end of their fence to the other end no one else's was touched. If he was allowed to store there, he needs special permits and has to use a wall or shrubbery or something to screen it from the view of the residents it would affect. She again stated some of the items they felt didn't need to be there and were excessive for what was left to do and was on Phase 5 which has not been approved and not near the house that is currently being built.

Mayor Lockhart stated Phase 5 cannot be approved until Phase 4 is completed. Part of the problem is the City of Marengo's as we did not move forward in doing inspections and completing this in a timely manner. He wasn't defending Mr. DeRose but this should have been done years ago. Prior Councils didn't follow proper procedure to get this subdivision completed. Things/rules have changed since then and it is our responsibility to complete this subdivision that should have been done years ago.

Mrs. Haas commented this area has been designated a conservation area per our Comp Plan that is only a few years old. Mayor Lockhart stated he was aware of this but this was another change that was done from the time Mr. DeRose was allowed to go thru with this as there have been several other changes as we don't even have the same building laws. These changes are what are causing this problem today because it wasn't done properly; so, it wasn't Mr. DeRose's fault entirely. We have had meetings on this and still sitting here trying to get things done from ten years ago.

Our attorney stated the Haas' were interpreting the ordinance one way but a judge could interpret it in Mr. DeRose's way in that he would be able to maintain the property as he is as he has an active subdivision. Our attorney felt the issue was in the ordinance as it was not clear as to when it does or doesn't apply (screening). Some judge listening to this issue will not necessarily agree with the Haas'. The City could take

the position we are going to have Mr. DeRose take certain steps in order to remedy this situation. At some point in time, an administrative decision will have to be made to pursue this if there is a basis.

Mrs. Haas wanted to know what the ordinance was drafted to protect. Our attorney advised her the purpose of the ordinance is not what the judge is going to look at. She felt this was his interpretation. Our attorney stated it was protecting the property owners and the Haas would have to take into account that Mr. DeRose is a property owner as well here. This here is a balancing of rights.

Mrs. Haas stated she cannot store vehicles in her front yard and can't let her grass grow in excess of 8" as they adhere to this as property owners. Our attorney understood this but Mr. DeRose has certain rights on his property that he has a development going on. Whether or not it is active is not going to be the question. He didn't want to argue the legality issue because it ultimately is not the City's decision. It will be the judge's decision.

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Mrs. Haas apologized for taking up their time as she felt they were told to come and present their case. Our attorney stated she was presenting her case. Perhaps this will move the City to take some action but this does not mean it will be final. We might be able to give him a notice to do some things. He might choose to do certain things and if he does, we are done. If he doesn't, then perhaps the City will have to make another decision as to whether we want to go to court to pursue this further.

This becomes the kind of situation where he can say one thing, argue it and have just as valid position as the Haas' were presenting tonight. The judge would decide then one way or another. Mrs. Haas was not hoping to take this to court as they were hoping we would be able to back up our ordinances.

Mrs. Haas wanted to know thru the National Flood Insurance Program, if Mr. DeRose had a local permit and if it could effect the status of residents that have flood insurance if we are not enforcing the things we said we would as being part of that National Flood Insurance Program.

Administrator Hartman stated this was one of the difficulties we have. The project is currently under review for base flood elevation and until we establish the base flood elevation, as Mr. DeRose said, he can't move forward with the detention pond. or get a permit.

Mayor Lockhart stated it might be such a thing that he wouldn't get a permit if it is under the elevation but we are waiting for them to tell us. It is their ball; that's the problem.

Mr. Haas wanted to know if it could be agreed that this could be called an active construction area where this stuff is being stored. Administrator Hartman stated our position all along when meeting with Commissioner Shull, the Mayor and himself was that this was an active subdivision. Mr. Haas then asked, "Even though it is located on Phase 5?" Administrator Hartman advised the detention pond is under review and is part of Phase 4 that has been approved. The City will not close out Phase 4 until the pond is built. There was an original approval and per discussion with the City under previous administration, the question of location came up at the City's direction/request, not Mr. DeRose's.

Mr. Haas wanted to know how long this was going to go on as it has been 2 ½ years now. Administrator Hartman stated 2 ½ years was just the tip of the iceberg as it has been going on for 10 years now. Mayor Lockhart stated we would like to get it done too as it has been dragging on. There was no question in his mind it was the City's responsibility but this didn't answer the problem today.

Mayor Lockhart asked if the members had anything to say. Mr. DeRose was asked why he took the trees down. He replied that City officials came down and he did have some trucks that weren't working there. He was asked to move them which he did. They asked him about the rest of the stuff he had there so he just cleaned up the general area to try and satisfy these people (Haas) and evidently that wasn't working either. They were box elder trees and a pain in the neck anyway. He again explained construction job trucks; how he was on his own subdivision; how he mowed it twice a year the last 18 years and again stated his approval that he got from Smith Eng & IDOT.

Alderman Shelton stated he would be concerned if he were the Haas' living there. Mr. DeRose stated they should be and that he was concerned as it was in his own backyard. Alderman Shelton felt it needed to get cleaned up. Mr. DeRose replied that he did clean it up. Alderman Shelton stated he wouldn't agree with that as he felt it was an absolute disaster and thought he should be directed by the City if he was going to store the stuff, it should be stored in the rear of the property and off to the side so it's not the situation as it exists now. Mr. DeRose stated he couldn't put it in the floodplain; that's why it's by the detention pond. Alderman Shelton stated there was a construction trailer there and

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inquired as to when was the last time it was used. Mr. DeRose stated he used it for storage everyday. Alderman Shelton inquired if that was what it was for. He was told he used the trailer for all the water connections, the valves, curb stops, etc. for the next phase that he has been waiting since 1995 to do.

It was felt a sundown period should be stated. Mayor Lockhart mentioned we were dealing with the Federal Government with this so if we were going to do this, we would have to leave enough time to be fair in waiting for these agencies. He commented he is tired of waiting with a lot of these governmental agencies. He wanted to aware them also that if we do this, from now on every subdivision that comes into Marengo will be guided by these same restrictions because if we do it for one, we do it for all. He recommended this be turned over to our attorney who could meet with the Haas' and Mr. DeRose to see if there is something that could be worked out mutually as he has tried and couldn't get satisfaction from the parties involved. He didn't know where they would be going with this and felt there were some legal issues that needed to be addressed.

It was commented if we were going to spend money and have our attorney involved, he should check our ordinances to see if they needed to be changed to make sure something like this doesn't happen again as it does sound like vindictiveness to remove only the trees from one person's lot when they were providing some shield.

Administrator Hartman felt it was pretty clear there was a gray area we face as to what constitutes an active subdivision in our code. He stated what the Haas' were looking for is the members to provide some direction to the Mayor, Commissioner Shull and himself on whether they should continue to view it as an active subdivision recognizing what needs to get done and the fact it's delayed by things or should the City compel Mr. DeRose to remove the equipment off of the site and put in proper storage per the ordinance.

Mr. DeRose was asked where his storage area was. He advised it was across the street but he sold that property. He also advised he has to get a variance to put up a storage shed so if the members give him a variance, he will start putting up the storage shed next week which he was willing to do.

The comment was made this was a big mess. Mayor Lockhart agreed and felt no one was going to give in here. There were two sides to the story here. They are probably both right and wanted to know who do they punish here due to the inadequacies of the City.

Alderman Shelton felt Mr. DeRose was willing to act in good faith. To him that meant he would put the equipment in an area where it was not going to be as much of a nuisance as it currently is. Mayor Lockhart advised Mr. DeRose has cooperated and has removed some of the trucks and felt it was important we look at the total picture. He didn't know what would appease the Haas' or Mr. DeRose. He felt the Haas' wanted everything removed to have their way totally and Mr. DeRose wants to have his total way. The City is in the middle spending lots of time here tonight trying to work it out. No matter what the City does here tonight, neither one of them was going to be happy.

Mayor Lockhart again recommended turning this over to our attorney as they could sit there all night discussing this. He asked the members what their position was on it. Alderman Otis felt if we were going to spend money, she would like to see our ordinance amended or what ever it would take to make sure this doesn't happen again.

Our engineer stated there have not been many State Agency studies done like the one Mr. DeRose is waiting for because of the cost associated with it. There is an alternate in our code for an unnumbered
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A zone to identify what the base flood elevation is. That is to take the known- - what level based upon ground contours there and the mapping that has been done and then add 2-3' to it to identify what that base flood elevation is which can be done in compliance with State and Federal regulations. What it means is that the foundation elevation for the building would be as high as the desk tops above the ground surface elevation but it can be done in order to be able to construct a building in an unnumbered A zone without having to go thru the cost and expense associated with a flood study itself. What could be done here and wasn't making a recommendation, was he could try to give them an alternative which is to accept the construction of the storage building with the understanding we are calculating the base flood elevation on that method. It will be high and stick up maybe 2-3'. He didn't know exactly as he hasn't seen this map nor has he done any investigation as this happened before Baxter & Woodman's time. If they wanted to try and resolve the issue to get the equipment away, it can be done. We would end up with a storage building sticking above the ground surface in that area. If this was an acceptable or possible alternative, he could give us more information in two weeks.

Mr. DeRose stated he had a base flood elevation from FEMA which was at 802. Back in 1995, they told him if he would do everything in at an 803 level, no permits were required. The problem is, on the flood map

someone made the blue area too far south. This is what is trying to be eliminated. The Haas' flood level is 809 so they are 6' above any flood level for a hundred years.

Our engineer stated he could not comment on that as it was not his engineering firm. He didn't know the basis of it. Unless there is an approved study that verifies that is the elevation, it doesn't matter. The only one that counts at this point is the map. The map shows the gray and the location of the boundary between flood plain and non-flood plain areas. Those ground surface contours are what is used then plus the 2-3' to identify what the flood protection elevation is for the facility. So, this is what he was offering as a possibility but he couldn't predict what was going to happen. This could be an alternative we could or couldn't choose to explore. He could give us more information in two weeks.

Alderman Otis questioned the amount of dirt that has been hauled in and removed and whether or not it affected things. Commissioner Shull felt Mr. DeRose was going off of his previous engineering letter indicating the elevations. The top soil piles were probably put there in preparation for the detention pond.

Alderman Genot agreed the ordinances needed to be addressed but he didn't see how they could address them tonight. It appeared to him, from what our attorney stated, Mr. DeRose at this point is meeting the requirement. Our engineer suggested building this storage for whatever level is acceptable and we allow him to do this so this stuff could be hid. He didn't know what our solution was out there.

Alderman Otis stated they could not ignore the fact our Comp Plan does state the objective of the City is to prohibit development in ecological sensitive and/or high quality natural areas like the Kishwaukee stream in the watershed. This area there is strictly in the watershed.

Mayor Lockhart would like the attorney to talk to the parties to see what can be worked out and to see where we were at with these ordinances. If these ordinances are conflicting with this, we are going to have to make a decision as to keeping the ordinances they way they are or amend them so they can be easily enforced and not have gray areas.

Alderman Otis commented eighteen years was a long time. Since that time, there has been a lot more public awareness and sensitivity as to what goes on in the watersheds, floodway/floodplain areas.

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Mayor Lockhart then asked, "And whose fault is it that this has been allowed to go on for eighteen years?" He pointed the finger right at the City because if we haven't done anything in 18 years, that's our own fault as it is our responsibility to make sure this project moved along. He has been told by a staff member this project hasn't even been inspected in ten years. So, he is sitting here today looking at something going back ten years and is trying to straighten it out. On top of that, we have had changes to our Comp Plan and ordinances that have put restrictions on Mr. DeRose.

Mr. DeRose stated he would like to put up a building like they have at Indian Trails; something nice that the people down there could use for recreation. He thought about putting in a nature trail along the river even though it's in the flood area.

Alderman Genot asked, "What you are saying, Mr. DeRose after you complete your construction, you would turn that over to the community to allow them to have community functions in it. Is that what you are saying?" Mr. DeRose started in Phase 5, he was trying to get an adult community down there but that was all changed too due to the change of the guards as it now has been brought back as all residential. He would move the equipment if he was told a no on this thing as he doesn't need to have a half million dollars of equipment, not junk, sitting. He told them to go look at the equipment as he has updated his equipment and it costs money to move it.

Alderman Genot made a motion we turn this over to the City attorney to try and work this out and come up with some kind of plan and to have the ordinances reviewed so this problem doesn't happen again.

Mr. DeRose then said, "I would like to ask one question. Since '96 I have a letter that I passed all the inspections on Phase 4. The City will not accept Phase 4 dedication because I don't have the retention pond which is in Phase 5. That's a mess. I have repaired that street and fixed it to Jim Craney's request, three times in ten years and still can't get Phase 4 approved and dedicated to the City because you are holding me up for a retention pond that's in a mess. I screamed about Besinger's cement trucks and drywall trucks running down that street and now 8th Street is half destroyed. Go look at it. I put up barricades and they came down with the police and made me move the barricades because they were wrecking 8th Avenue to go into Besinger's subdivision. Let's resolve some issue here and quit making me look out the screwball."

Alderman Otis suggested the best option would be to put it back to a strictly green area and allow no building and no water retention to get it back to a natural area as this would eliminate a retention/detention

pond. Mr. DeRose said, "Finish Phase 4 and I'll walk out of there. So, you are saying I can't go over to Phase 5?" Alderman Otis replied, "That's what I'm thinking might be the best idea." Mr. DeRose stated, "Then we got other issues. Your fence is on my property and you got 12 acres of garbage you got to clean up."

Mayor Lockhart stated we had a motion on the floor and asked if there was a second. Our attorney suggested making a motion to resolve the issue. He felt a motion wasn't needed to review the ordinances as all that would be needed was the authority for his firm to do that. So, we were to leave the motion for the resolution for this issue and provide a consensus for the ordinance review.

Mayor Lockhart felt the motion should include to have the City attorney see what we can work out here to get Phase 4 closed as the problem has all been on this retention pond. It has been a nice excuse but it keeps dragging.

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Alderman Genot asked the attorney if he would word the motion for him as he knew what he was aiming for and then reiterated what his original motion was. The attorney replied, "Make a motion to direct the City Attorney to work with the parties involving this dispute in an effort to resolve their issues and as part of those discussions to explore the storage building as has been proposed by the City engineer." Motion was seconded by Alderman Jennings.

Alderman Otis wanted to point out the Mayor's comment that this was a mess was a correct statement. She could not understand how there could have been development that occurred long before this administration on Mr. Besinger's property that is right down along the river. She felt now might be the time to make sure it doesn't happen again. Mr. DeRose is not going to be happy about that but a lot of things have changed in 18 years.

Mayor Lockhart stated it would be nice to be able to please everyone but sometimes we just can't and thought things were changing and maybe our ordinances weren't keeping up as we shouldn't have gray areas in our ordinances.

Roll was taken. The motion passed with an aye voice vote from Alderman: Spear, Shelton, Jennings, Genot and Otis. The attorney will also be looking at our ordinances to see if any changes are needed to prevent this from happening again.

MARENGO FIREFIGHTER'S ASSOCIATION ANNUAL BOOT DRIVE REQUEST

We have received a request from the Marengo Fire fighters Association to conduct their annual boot drive October 1st -31st to benefit the camp for burned children sponsored by the IL Fire Safety Alliance.

Alderman Jennings made a motion to approve the request; seconded by Alderman Otis. Motion passed with an aye voice vote from Alderman: Otis, Shelton, Jennings, Spear and Genot.

HEALTH INSURANCE AND BENEFIT RENEWAL

Administrator Hartman advised this year's renewal rate was not as favorable as the past two years. The aggregate increase was 26.38% due to diagnostic and trend rate increases. The dental was about 9% higher. Based on the increase, our current participation and contribution level, the budget overage cost would be approximately \$10,500.

There are several options the City can take. One was the employees have filled out an application for Aetna for a proposal but as of tonight, we still have not received a proposal back. Another option is an HRA that could be considered.

Mr. Mike Kozemzak, our broker from Invision, was present. He explained why the renewal rate was higher than the last two years. However, the average increase over the last three years is only 9.47%.

He felt that Aetna would not be able to be competitive with BCBS due to the significant claims. He felt due to a lot of health conditions going on, next year didn't look promising either.

Discussion items included: the explanation of how an HRA (Health Reimbursement Account) worked; how our savings could be about \$11,000 which would keep in line with our budget; Mr. Kozemzak wanted to talk about the concept of the HRA first to see if this was something they were interested in and from there he could provide us with a lot of different options; Invision would administer the HRA at no charge; the HRA would be a reeducation for the employees; If a change is made, HMO is still an option; City is on an old grandfathered plan so we will not be able to go back to this plan if any

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adjustments are made; will lose drug card benefit currently used; drug card is available with new proposal but will be doubled; can leave current HMO as is except drug card will go up; we can do the deductible change without changing the plans but will have the higher drug card payment; employees will be able to change from a PPO to HMO like before; doesn't appear there has been much of an incentive to move from a PPO to HMO in the past; HMO premium is much lower than the PPO; if we don't make the change or even if we do, the new premium for family coverage will be an incentive to go with the HMO option; disappointed this hasn't gone to a committee to explore possible options as it was mind boggling to look at all of the possibilities; network for HMO is 60-65% of the PPO network and there is no coverage if you go out of network; felt employees would want to stay with BCBS; didn't know if they could make a decision tonight as to what program to go with; Mr. Kozemzak felt we could pretty much rule out a Health Savings Account as there isn't much savings involved; by raising the out of pocket, a lot of the employees won't see a difference unless they go to the hospital but there will still be the increase in the drug card; 80/60 co-pay with \$1,000 max out of pocket wasn't available as it would be \$2,000; decision should be made by the Sept. 25th meeting as the renewal date is Oct. 1st; if we want more time to move the effective from Oct. 1st to Nov. 1st, we would just shift the open enrollment period from Oct. 1st to Oct. 31st and change the effective date to Nov. 1st which means paying one month on the increased premium and then switching; would like to meet with employee representatives to propose some options like staying where we are at with the HRA concept; determine if we could change a few parameters as to not being excessive of the existing program for some savings to the City due to the increase this and next year; need to make some modifications to come close to budget this year and prepare for next year's budget; need to narrow down the options and Mr. Kozemzak suggested two proposals-one with all the research and maybe one that narrows it down a bit.

Alderman Otis made a motion to have Alderman Shelton and Alderman Signore meet with two employee representatives for this purpose as which was stated. It was seconded by Alderman Spear. Motion passed with an aye voice vote from Alderman: Spear, Genot, Otis, Shelton and Jennings.

MOBILE DATA COMPUTER GRANT PURCHASE ACCEPTANCE & AUTHORIZATION

The Police Dept. received a grant opportunity from the IL Criminal Justice for the purchase of Mobil Data Computers to replace two computers we received from the City of McHenry. Deputy Chief Hallman advised this was going to cost the City a little more money than previously thought. Our share will be \$4,275.

Mayor Lockhart advised he had approved the purchase of two laptops. Due to the deadline, we had to make an immediate decision or we would not receive the grant money.

Alderman Shelton was advised this was coming out of the contingency fund because during the budget discussions it was stated whenever a grant opportunity that was unanticipated/unbudgeted came before the City, it was recommended the contingency fund be used to cover the City's share for the local match rather than handicapping the operational budget which was spread thing to begin with. Otherwise, we would get into the situation like we were with the Lifexcan where we were using monies that were envisioned for other purposes at the budget year which handicapped other expenditures.

Alderman Shelton made and Alderman Jennings seconded a motion to approve the purchase of the two laptop computers. The motion passed with an aye voice vote from Alderman: Jennings, Genot, Shelton, Spear and Otis.

SNOWPLOWING AGREEMENT FOR UNACCEPTED/UNDEDICATED ROW

As discussed previously, per Section 6.11D of our code, a subdivder or developer shall enter into a contract with the City for snow and ice removal for unaccepted/undedicated right-of-ways.

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Our attorney put together an agreement. Administrator Hartman was looking for the member's authorization to present this agreement to the various developers in order to get the ball rolling for snow plowing services.

Alderman Otis made a motion to accept the agreement; seconded by Alderman Jennings. Motion passed with an aye voice vote from Alderman: Genot, Shelton, Otis, Jennings and Spear.

ORDINANCE 06-9-1-SURPLUS EQUIPMENT

The Police Department has several laptop computers, several radar units, a hand held radar unit, a radar unit and two in car video recording systems that have been deemed of no further value or use. They are requesting authorization of the sale or disposal by staff for the equipment.

Alderman Otis made a motion accept the ordinance declaring surplus and authorizing the disposal of certain property; seconded by Alderman Genot. Alderman: Genot, Jennings, Spear, Otis and Shelton voted aye. Motion passed.

RESOLUTION 06-9-A WAIVING THE BID REQUIREMENTS, PARTICIPATE IN THE NIMEC COOPERATIVE ELECTRICITY BID AND AUTHORIZE THE CITY ADMINISTRATOR TO EXECUTE A PURCHASE CONTRACT FOR ELECTRICITY

Administrator Hartman advised this matter goes back to the discussion they had at the last meeting. ComEd will be announcing the results of the bids for electricity this Friday. At this time, NIMEC will approach their suppliers and if we receive a favorable contract, we need to move quickly. This resolution provides him the authorization to execute the contract with the most favorable price for the City. The executed contract will be brought before the members at the next meeting for ratification.

Alderman Genot made and Alderman Spear seconded a motion to approve Resolution 06-9-A, to waive the formal bid requirements, participate in the NIMEC cooperative electricity bid and authorize the City Administrator to execute the contract with an energy supplier deemed to be the most favorable to the City of Marengo.

Motion passed with an aye voice vote from Alderman: Otis, Jennings, Spear, Shelton and Genot.

AUTHORIZATION TO WAIVE THE FORMAL BID REQUIREMENTS AND PURCHASE A LAWN MOWER FROM LEROY'S LAWN EQUIPMENT

The 1992 Snapper mower lost a transmission on the left side and Snapper cannot find a replacement. Supt Craney recommended no more repairs be made to the Snapper. Public Works solicited 3 quotes on a Dixie Chopper mower. They purchased and accepted delivery from Leroy's Lawn Equipment who provided the lowest quote of \$7,199. The Department is now requesting to buy a second mower from the same vendor for the same cost. Since these purchases will exceed \$10,000, they are asking to waive the bid process.

Alderman Otis made a motion to waive the bid process to purchase a second mower; seconded by Alderman Shelton. Motion passed with an aye voice vote from Alderman: Spear, Otis, Jennings, Genot and Shelton.

OLD BUSINESS

AUTHORIZATION TO EXECUTE A LEASE AGREEMENT AND LEASE CERTAIN PROPERTY TO US CELLULAR

Administrator Hartman advised the members that Mr. Brown's concerns regarding lightning strike damages had been addressed and Mr. Bober was present to answer any final questions they might have.

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A draft of the lease agreement was e-mailed to the members and a hard copy was given to them tonight.

Alderman Otis stated she had not had time to read this and wanted to know if there was a provision in the agreement that the rental will be reviewed and we are not locked into a definite amount for anything longer than a one year period of time and that we have an option to have additional revenue if there are other users attached to this. Our attorney advised there were provisions for her concerns. There is 3% per year increase for the rent.

Administrator Hartman requested if the members were ready to move forward with this, to provide authorization to execute the lease contingent upon the finalization of the site plan by City staff which will be included as Exhibit B.

Alderman Genot made a motion to authorize the execution of the agreement to lease certain property to US Cellular with the stipulation so (finalization of site plan by City Staff) stated. It was seconded by Alderman Jennings. Motion passed with an aye voice vote from Alderman: Shelton, Otis, Jennings, Spear and Genot.

PZC CASE#06-07-APPLICATION FOR ZONING VARIANCE-SPONABLE WELL 3 SITE

Administrator Hartman asked for a recommendation to withdraw our zoning application for a variance to locate a cell tower at well site #3 located on Sponable since the cell tower is not going to be located at well #7. Alderman Jennings made that motion; seconded by Alderman Otis. Voting aye was Alderman: Spear, Genot, Shelton, Jennings and Otis. Motion passed.

MAYOR'S STATEMENTS AND REPORTS

Mayor Lockhart mentioned Union made a request to do a boundary agreement. They gave us their recommendation. With some direction from some of the members, he made a counter proposal He called the Union President about a month ago as he had heard Marengo was not cooperating. He advised the Mayor the Union board wanted to come back with a counter offer which was the original plan.

For the record, he wanted everyone to understand that #1-it is not the Mayor of Marengo that is not trying to cooperate and #2-he personally thought that was no negotiation whatsoever on their part. He felt we gave them a good opportunity to work a boundary agreement. Where this may go, he was not sure. He hoped we would go forward and move along with it.

DEPARTMENT HEAD AND STAFF REPORTS
BUILDING DEPARTMENT

Commissioner Shull submitted a written report.

Orally, he advised we had received a letter today from Baxter & Woodman regarding the revised site plan for the MORE facility. They recommended we approve it contingent on one item (comp storage). So, the permit will be processed within the next day or two.

He advised Supt. Craney has contacted the attorney from Zion Lutheran regarding the dedication of the street. It is his understanding, the congregation has to approve dedicating it back to us.

He advised the work stoppage of the Settlers Cove development was by the developer as they are not selling the units. He also stated they owe us some money and will not receive any inspections until they pay up. The Building Dept. is going to be requiring them to protect all exposed lumber.

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PUBLIC WORKS DEPARTMENTS

A written report was submitted by the WWTP, Street Department and Water & Sewer Department.

Supt. Craney stated there were rusty water calls last week Friday and Saturday. It was due to a pressure switch at the water tower. A call has been made and is being checked into.

The 2006 MFT Program will be starting Monday. The sidewalks and curbs were marked today. A preconstruction meeting will be held on Thursday.

On September 18, the City's new mechanic will be starting. We had 25-30 people apply for the position. They narrowed the applications down to ten for the interview process.

POLICE DEPARTMENT

A written report was submitted.

Deputy Chief Hallman stated he would look into the revenue we receive from the County Circuit Clerk office for attorney fees on court cases.

ESDA

Deputy Chief Hallman submitted a written report.

CITY ENGINEER

A written report was submitted by Baxter & Woodman.

The members were advised Supt. Craney was reviewing the ordinance for the culverts as discussed at previous meetings. It will probably be on the agenda for September 25th. Alderman Genot advised Supt. Craney of the restricted weight signs on Hale & Rt. 23. Supt. Craney will check this out.

TREASURER'S REPORT

A written report was submitted for the members review. He noted the rate we are receiving on our liquid accounts is still very favorable.

The financial reports they received tonight will be discussed in detail at the next meeting so that they will have time to look it over.

He was asked if he knew what the total amount of funds investment accounts were a year ago versus what they are now. He thought it was about the same as we are receiving a better rate of interest today than what we were getting previously.

Alderman Otis stated it always has and still does bother her that we have maintained a high balance of money in the general account and felt some of it should be invested. Treasurer Hall stated the reason why it is kept in a liquid interest bearing account is because we are getting a better rate in the checking account than what we would in a CD. He gave the Cemetery Fund as an example. They are earning about 3.5-3.75% whereas we have tended to stay liquid with the rates they are today. This has allowed us to stay far out on the curb as our return is about 1.75% more versus their CD rate.

CITY ADMINISTRATOR

There wasn't a written report in the packet. A report was e-mailed to the members on Thursday.

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He received a notice from the Illinois Department of Revenue that beginning with the October distribution, we will be receiving more money for State Use Tax and State Income Tax pursuant to the Special Census and with this month's disbursement for MFT we should see the higher amount reflected.

CITY ATTORNEY

The attorney had no report.

Alderman Genot brought up about the parking situation. Mayor Lockhart felt this probably should go to the CDC. Administrator Hartman thought the CDC was going to be focusing on the Junk and Nuisance Code next and then move on to other things.

Mayor Lockhart stated he received a letter from IDOT advising the bridge on Rt. 23 is somewhat unsafe for overweight vehicles, etc. In the near future they are going to be putting some barrels out there and have the traffic use the west side of the bridge. They have found structural damage so this is a priority. The State will be the one to say no to overweight and permitted trucks so they won't be coming thru town. The repairs won't be taking place for a couple of more years. He will get a copy of the letter to the aldermen. He would like to see semi's on this as well but that probably isn't going to happen.

EXECUTIVE SESSION

Mayor Lockhart had one item for discussion for Executive Session. Alderman Genot made a motion to go into Executive Session to discuss collective bargaining at 9:00 pm. Alderman Spear seconded the motion. Motion passed with an aye voice vote from Alderman: Jennings, Genot, Shelton, Spear and Otis.

The members returned from Executive Session at 9:25 p.m.

ADJOURNMENT

Alderman Genot made a motion to adjourn the September 11, 2006, Marengo City Council meeting at 9:26 p.m. The motion was seconded by Alderman Spear. Motion passed with a unanimous aye voice vote.

Submitted by: Diane L. Schwoch,
Acting City Clerk