



# WHEATON CITY COUNCIL PROCEEDINGS

MAYOR PHILIP J. SUESS

COUNCILMAN MICHAEL BARBIER | COUNCILWOMAN ERICA BRAY-PARKER | COUNCILWOMAN SUZANNE FITCH  
COUNCILWOMAN LYNN ROBBINS | COUNCILMAN JOHN RUTLEDGE | COUNCILMAN CHRISTOPHER ZARUBA

WHEATON CITY HALL, COUNCIL CHAMBERS, 303 W WESLEY STREET, WHEATON, ILLINOIS 60187

Tuesday, September 8, 2020

## 1. Call to Order and Roll Call

The regular Wheaton City Council Meeting was called to order at 7:00 p.m. by Mayor Philip J. Suess. Upon roll call, the following were:

Physically Present: Mayor Suess  
Councilman Barbier  
Councilwoman Bray-Parker  
Councilwoman Fitch  
Councilwoman Robbins  
Councilman Rutledge  
Councilman Zaruba

Absent: None

City Staff Physically Present:

Michael Dzugan, City Manager  
John Duguay, Assistant City Manager  
James Knippen, City Attorney  
James Kozik, Director of Planning & Economic Development  
Joseph Tebrugge, Director of Engineering  
William Murphy, Police Chief  
William Schultz, Fire Chief  
Al McMillen, Public Works Water Superintendent  
Lauren Bertolini, HR Generalist  
Andrea Rosedale, Executive Assistant  
Susan Bishel, Public Information Officer  
Sharon Barrett-Hagen, City Clerk

City Staff Electronically Present:

Susan Wallace, Public Works Administrative Superintendent  
Dan Peck, Public Relations Coordinator

## 2. Report of City Attorney

City Attorney Knippen advised Mayor Suess asked him to address the issue of whether political canvassing is allowed under the Mayor's Executive Order #2020-006 which suspended door-to-door solicitation. He expressed his legal opinion that door-to-door contact is prohibited under the Executive Order but dropping off literature is allowed.

Mayor Suess advised he plans to rescind Executive Order #2020-006. He stated we are getting into the political season and groups such as the Boy Scouts have reached out to him about

going door-to-door. With the Executive Order rescinded, he indicated individual residents can decide if they wish to open their doors.

### **3. Presentations**

Mayor Suess presided over a swearing-in ceremony for new police officer Seth Berlin following remarks by Chief Murphy.

Mayor Suess read a proclamation proclaiming the week of September 17 – 23 as “Constitution Week” in the City of Wheaton. Perrin-Wheaton Chapter of the DAR Regent Rebecca Brandvik and DAR Constitution Week Chair Mary Fiske attended the meeting virtually to accept the proclamation. Ms. Brandvik thanked the Mayor and City Council for the proclamation.

### **4. Citizens to be Heard**

City Clerk Barrett-Hagen read into the record a public comment submitted prior to 5 p.m. on September 8, 2020 for reading at the City Council meeting:

Comment submitted by Ms. Liz Corry, 719 Naperville Road, expressing her belief that there should be no minimum stay restrictions for short-term rentals. She believes the owner-occupied requirement should solve any concerns about single night stays.

Mr. Mitch Wagner, 1009 James Ct., expressed concerns about how far up into people’s yards the sidewalk is proposed to be installed. He said the proposed sidewalk placement will 1/3 of the way up into his yard. He stated he is not anti-sidewalk, but asked that the City consider the impact this will have on the property owners.

Mr. Kevin Engel, 201 N. Blanchard Street, spoke with regard to the proposed Zoning Ordinance amendments regarding short-term rentals. He feels residents have not had enough time to learn about and comment on the proposed amendments. Mr. Engel feels the proposed requirements will be inhospitable to Wheaton College parents when dropping off students or other guests of the college. He asked the City to reconsider and eliminate the minimum stay requirement.

Mr. Jeff Peltz, 1404 N. Scott Street, spoke and read a letter from his wife, Ms. Nancy Swider-Peltz, regarding water issues they have experienced due to ditches not being maintained in their area. He said they have been having this problem for over ten years. Mr. Peltz advised the ditches on the east side of Wakeman Avenue have also not been serviced for years. He said his entire front yard and the side of his home fill with water when it rains, which then goes into his garage. Mr. Peltz stated the ditches in his area really need to be taken care of.

### **5. Consent Agenda**

Councilwoman Bray-Parker moved and Councilman Barbier seconded that the following action be taken on the Consent Agenda items:

1. Approve the minutes of the August 17, 2020 regular Wheaton City Council meeting as submitted.
2. Adopt Resolution R-2020-65, A Resolution Authorizing the Execution of a Certain Construction, Use, and Indemnification Agreement (1080 Northridge Court).
3. Adopt Resolution R-2020-66, A Resolution Authorizing the Execution of Agreement No. 141 with ABC Commercial, Inc. for Janitorial Services for City and Library Facilities for a Total Amount Not to Exceed \$142,800.
4. Adopt Resolution R-2020-67, A Resolution Authorizing the Purchase of Water Division materials from Multiple Vendors for a Total Amount Not to Exceed \$150,779.64.
5. Adopt Resolution R-2020-68, A Resolution Authorizing the Purchase of Two (2) Replacement Vehicles for Units 93 and 95 Through the Suburban Purchasing Cooperative (SPC) Joint Purchasing Program with Currie Motors Fleet for a Total Amount Not to Exceed \$96,994.
6. Adopt Resolution R-2020-69, A Resolution Authorizing the Purchase of Two (2) Replacement Vehicles for Units 90 and 99 Through the Suburban Purchasing Cooperative (SPC) Joint Purchasing Program with Currie Motors Fleet for a Total Amount Not to Exceed \$54,062.

**Roll Call Vote on Consent Agenda:**

Ayes: Councilwoman Bray-Parker  
Councilwoman Fitch  
Mayor Suess  
Councilwoman Robbins  
Councilman Rutledge  
Councilman Zaruba  
Councilman Barbier

Nays: None

Absent: None

Motion Carried Unanimously

**6. Reappointments to City Boards/Commissions**

Mayor Suess moved and Councilman Rutledge seconded that Colleen Atwell be reappointed to the Community Relations Commission, David Popham be reappointed to the Environmental Improvement Commission, Mike Bock and Dee Hicks be reappointed to the Fine & Cultural Arts Commission and Nathan Bossenga be reappointed to the Housing Commission, for three-year terms respectively.

**Roll Call Vote:**

Ayes: Mayor Suess  
Councilwoman Robbins

Councilman Rutledge  
Councilman Zaruba  
Councilman Barbier  
Councilwoman Bray-Parker  
Councilwoman Fitch

Nays: None  
Absent: None  
Motion Carried Unanimously

**7. Receive Planning & Zoning Board Report Re: ZA #20-03/Text Amendment/Article 2 – Definitions and Article 24 – Accessory uses and Home Occupations/Short-Term Rentals**

Councilman Rutledge moved and Councilwoman Robbins seconded that the Planning & Zoning Board Report Re: ZA #20-03/Text Amendment/Article 2 – Definitions and Article 24 – Accessory uses and Home Occupations/Short-Term Rentals, be received.

City Manager Dzugan advised the Council has before them a report from the Planning & Zoning Board recommending certain amendments to the Zoning Ordinance for short-term rentals. Following the Planning & Zoning Board public hearing and recommendation, staff is recommending a minimum 3-day rental requirement to address issues with one-day/evening party rentals.

**Roll Call Vote:**

Ayes: Councilwoman Bray-Parker  
Councilwoman Fitch  
Mayor Suess  
Councilwoman Robbins  
Councilman Rutledge  
Councilman Zaruba  
Councilman Barbier

Nays: None  
Absent: None  
Motion Carried Unanimously

Councilman Rutledge moved and Councilman Zaruba seconded to direct the City Attorney to prepare an ordinance amending the text of Article 2 and Article 24 of the Wheaton Zoning Ordinance pertaining to short-term rentals.

Councilwoman Fitch feels requiring the owner to be on site is a key provision will resolve issues the City has experienced with some one-day rentals. She questioned if this would apply extra rooms in a person's house or to coach houses or areas above a garage. Director Kozik stated living spaces above a garage or a coach house would require a special use permit as a home occupation. Councilwoman Fitch also suggested clarity in proposed paragraph E. under

24.10.11 regarding the letter approving the occupancy from the City, to indicate the letter would be sent on an annual basis.

In response to Councilwoman Fitch, Director Kozik confirmed there would be no limit on the number of rentals per year. Councilwoman Fitch also would like modifications to the definition of owner in Article 2. Director Kozik stated paragraph 8 of Section 24.10 relates to long-term rentals, not short-term rentals.

Councilman Barbier suggested eliminating the duration requirement. He feels annual inspections would not be necessary as the market would police itself with reviews posted online. Director Kozik stated the intent of the annual inspection would be to address life safety issues to ensure rooms being rented comply with building code standards.

In response to Councilman Zaruba, City Attorney Knippen stated enforcement would be done on the front end by ensuring the property meets code standards, as well as on the back end if there are violations or issues with the rental.

Councilwoman Bray-Parker feels a three-day minimum stay requirement is too restrictive. She stated the six-month long-term rental is longer than school semesters and questioned the reasoning for six months. She also feels the requirement that the owner lives on site during the term of the short-term rental may be too restrictive as only owners of larger homes could meet that requirement as most smaller homes would not have the ability to have someone present in the dwelling if renting out to an entire family.

City Attorney feels having someone being present in the dwelling unit is key to have responsibility exercised on the property by the owner for what occurs during the rental. He feels one of the most important definition in the ordinance is the definition for lives on site which would provide for the greatest protection of the property. In response to Councilwoman Fitch, City Attorney Knippen stated he does not believe a coach house or space over a garage is part of the dwelling unit and stated Council could amend that to read the owner be present on site rather than in the dwelling unit.

Councilman Zaruba agrees with prior statements about eliminating the three-day minimum requirement. He feels the definition of owner and/or the definition of lives on site should also be reviewed further.

Councilman Rutledge would like to eliminate the three-day minimum and would like the flexibility to allow use of a coach house for short-term rentals. He also suggested the six-month provision in paragraph 8 be shortened to three months and instead of an annual inspection, suggested it be done every five years unless there is some kind of violation.

Councilwoman Robbins also does not like the three-day minimum requirement and would like to open up the definition of being on premise. She feels that should be done the owner of the

home rather than an individual serving as a proxy. City Attorney proposed that the definition be clarified that the use on site complies with the City's Zoning Ordinance.

In response to Mayor Suess, City Attorney stated someone could not rent their home for the weekend under this ordinance unless they used a hosting platform. He also stated a three-month rental is not an allowed use under this proposal. Mayor Suess also feels the three-day duration requirement should be eliminated.

City Manager Dzugan suggested staff make revisions based on Council Comments and bring it back before the Council at an upcoming Planning Session.

In response to comments by Councilwoman Fitch, Director Kozik stated if nothing has changed with the property, an annual inspection may not be required. City Attorney Knippen stated the City ordinance against parking overnight on the street remains in effect and would address possible issues with the number of vehicles present during a rental.

Councilwoman Bray-Parker proposed bringing the matter back for further discussion before the Council in a Planning Session. Councilmen Rutledge motioned to amend his motion to bring the ordinance back for City Council action and the second to the original motion Council Zaruba stated he had no objection to that amendment. The motion before the Council was therefore to bring the matter back to the Council at the next available planning session.

**Roll Call Vote:**

Ayes:	Councilman Zaruba Councilman Barbier Councilwoman Bray-Parker Councilwoman Fitch Mayor Suess Councilwoman Robbins Councilman Rutledge
Nays:	None
Absent:	None
	<u>Motion Carried Unanimously</u>

**8. Adopt Resolution R-2020-70, A Resolution Authorizing the Execution of an Agreement with the Downtown Wheaton Association (Temporary Storage at Communications/IT Building)**

Councilwoman Robbins moved and Councilman Zaruba seconded that Resolution R-2020-70, A Resolution Authorizing the Execution of an Agreement with the Downtown Wheaton Association (Temporary Storage at Communications/IT Building), be adopted.

City Manager Dzugan stated the City received a request from the DWA to lease the lower level of the annex building for storage of their office materials until the DWA can locate a more

permanent location. He stated the DWA has also expressed an interest in using that same space for office use and, unless the Council has any objections, he will work with work with the DWA on that possibility.

**Roll Call Vote:**  
Ayes: Councilwoman Robbins  
Councilman Rutledge  
Councilman Zaruba  
Councilman Barbier  
Councilwoman Bray-Parker  
Councilwoman Fitch  
Mayor Suess  
Nays: None  
Absent: None  
Motion Carried Unanimously

**9. Adopt Resolution R-2020-71, A Resolution Authorizing the Execution of Agreement No. 142 with AMS Mechanical Systems, Inc. for a Building Automation System at Fire Station #38 for a Total Amount Not to Exceed \$31,850**

Councilman Rutledge moved and Councilwoman Bray-Parker seconded that Resolution R-2020-71, A Resolution Authorizing the Execution of Agreement No. 142 with AMS Mechanical Systems, Inc. for a Building Automation System at Fire Station #38 for a Total Amount Not to Exceed \$31,850, be adopted.

City Manager Dzugan advised the proposed resolution would replace the HVAC system at the City's main Fire Station. He indicated the current system is 27 years old and is not able to communicate with the new air conditioning units. He stated while not budgeted, the work needs to be done for the A/C units to work properly.

**Roll Call Vote:**  
Ayes: Councilman Rutledge  
Councilman Zaruba  
Councilman Barbier  
Councilwoman Bray-Parker  
Councilwoman Fitch  
Mayor Suess  
Councilwoman Robbins  
Nays: None  
Absent: None  
Motion Carried Unanimously

**10. Adopt Resolution R-2020-72, A Resolution Authorizing the Execution of Agreement No. 144 with Volt Electric, Inc. for the President Street Pump Station Generator Replacement for a Total Amount Not to Exceed \$617,927**

Councilwoman Robbins moved and Councilman Barbier seconded that Resolution R-2020-72, A Resolution Authorizing the Execution of Agreement No. 144 with Volt Electric, Inc. for the President Street Pump Station Generator Replacement for a Total Amount Not to Exceed \$617,927, be adopted.

City Manager Dzugan stated the City received four bids for this work to replace the 45-year old generator which services the fire station on President and the water distribution system housed at the same location.

**Roll Call Vote:**

Ayes: Councilwoman Robbins  
Councilman Rutledge  
Councilman Zaruba  
Councilman Barbier  
Councilwoman Bray-Parker  
Councilwoman Fitch  
Mayor Suess

Nays: None  
Absent: None

Motion Carried Unanimously

**11. Adopt Resolution R-2020-73, A Resolution Authorizing the Execution of Agreement No. 139 with Schroeder & Schroeder, Inc. for the 2020 New Sidewalk Program for a Total Amount Not to Exceed \$270,302**

Councilwoman Fitch moved and Councilwoman Bray-Parker seconded that Resolution R-2020-73, A Resolution Authorizing the Execution of Agreement No. 139 with Schroeder & Schroeder, Inc. for the 2020 New Sidewalk Program for a Total Amount Not to Exceed \$270,302, be adopted.

City Manager Dzugan stated the City received 13 bids for this work, which was discussed at the August 24, 2020 Planning Session. He indicated the proposed work will begin within the next few weeks and be completed within this year's construction season.

Assistant City Manager Duguay confirmed the sidewalk on James Court is within the City's right-of-way. Director Tebrugge stated the placement of this sidewalk provides a better chance for longevity of the sidewalk and less chance of it being disturbed for utility work.

**Roll Call Vote:**

Ayes: Councilwoman Fitch  
Mayor Suess



Councilwoman Robbins  
Councilman Rutledge  
Councilman Zaruba  
Councilman Barbier  
Councilwoman Bray-Parker

Nays: None  
Absent: None  
Motion Carried Unanimously

**12. Adopt Resolution R-2020-74, A Resolution Authorizing the Execution of Agreement No. 143 with Layne Christensen Company for the Inspection and Repairs to Well #12 for a Total Amount Not to Exceed \$41,490**

Councilwoman Bray-Parker moved and Councilwoman Fitch seconded that Resolution R-2020-74, A Resolution Authorizing the Execution of Agreement No. 143 with Layne Christensen Company for the Inspection and Repairs to Well #12 for a Total Amount Not to Exceed \$41,490, be adopted.

City Manager Dzugan stated the City received 3 bids for this work. He stated the City maintains Well #12 as a reliable water supply in the event of a disruption of the water supply from the DuPage Water Commission.

In response to Mayor Suess, Superintendent McMillen stated the City maintains six wells for backup purposes in the case of an emergency. He confirmed the City is required to maintain a three-day water supply.

**Roll Call Vote:**

Ayes: Councilwoman Bray-Parker  
Councilwoman Fitch  
Mayor Suess  
Councilwoman Robbins  
Councilman Rutledge  
Councilman Zaruba  
Councilman Barbier

Nays: None  
Absent: None  
Motion Carried Unanimously

**13. Adopt Resolution R-2020-75, A Resolution Authorizing the Execution of Agreement No. 149 with CivicPlus, LLC. for Mass Notification System Services for a Two (2) Year Agreement (Year 1 - \$11,778.49, Year 2 - \$10,623.49) for a Total Amount Not to Exceed \$22,401.98**

Councilman Zaruba moved and Councilman Barbier seconded that Resolution R-2020-75, A Resolution Authorizing the Execution of Agreement No. 149 with CivicPlus, LLC. for Mass

Notification System Services for a Two (2) Year Agreement (Year 1 - \$11,778.49, Year 2 - \$10,623.49) for a Total Amount Not to Exceed \$22,401.98, be adopted.

City Manager Dzugan advised the current budget included the purchase of a mass notification system to be used in emergency situations. He indicated that after research by the Fire, Police and Communications, staff is recommending a service called CivicReady from the City's current web services provider, CivicPlus.

Fire Chief Schultz advised the 911 reverse system used by the County Sheriff's Department runs on land lines. He stated this system would give the City more flexibility to notify residents of an emergency and also to advise when the emergency situation has passed, which is not available in the current system.

In response to Councilman Rutledge, Chief Schultz stated trained staff members would initiate the messages, primarily the City's Communications staff.

In response to Councilwoman Fitch, Chief Schultz stated the system would only be activated in true emergencies.

In response to Mayor Suess, Chief Schultz confirmed the system has access to various platforms, such as land lines, cell phones, and text messaging and would work with the City's existing software messaging systems.

	<b>Roll Call Vote:</b>
Ayes:	Councilman Zaruba Councilman Barbier Councilwoman Bray-Parker Councilwoman Fitch Mayor Suess Councilwoman Robbins Councilman Rutledge
Nays:	None
Absent:	None
	<u>Motion Carried Unanimously</u>

**14. Adopt Resolution R-2020-76, A Resolution Authorizing the Execution of the Fourth Amendment to the Water Tower Lease Agreement with T-Mobile Central LLC (Orchard Water Tower – 71 Marywood Trail)**

Councilwoman Fitch moved and Councilwoman Robbins seconded that Resolution R-2020-76, A Resolution Authorizing the Execution of the Fourth Amendment to the Water Tower Lease Agreement with T-Mobile Central LLC (Orchard Water Tower – 71 Marywood Trail), be adopted.

City Manager Dzugan advised the Council has before them a memorandum from the Assistant City Manager regarding the fourth amendment to the Orchard Water Tower lease with T-Mobile indicating staff has reached an impasse in negotiating the terms of this lease. He stated staff is not recommending approval of the resolution.

Councilman Barbier suggested the City establish a set fee schedule for this type of lease rather than engage in negotiations on the lease rate. Mayor Suess supports staff's recommendation and agrees the City should set a non-negotiable price.

In response to Councilman Rutledge, City Manager Dzugan stated the City does not have an obligation to lease the water tower for this purpose.

**Roll Call Vote:**

Ayes:	None
Nays:	Councilwoman Fitch Mayor Suess Councilwoman Robbins Councilman Rutledge Councilman Zaruba Councilman Barbier Councilwoman Bray-Parker
Absent:	None <u>Motion Failed</u>

**15. Council Comment**

Councilwoman Fitch stated she attended the Stand for the Students rally at Memorial Park which showed the passion shown by the parents and students to go back to school in some capacity. She feels a lot of the movement centers on the emotional and social health of students who are not in class and are not part of school activities.

Councilwoman Bray-Parker advised that teachers, school administration and staff are in favor of in-person learning and if they could, and if it was safe with the facilities and resources to make it safe, they would be there. She stated that educators are equally concerned about the emotional wellbeing of the students.

Councilwoman Robbins stated she, along with Councilwoman Bray-Parker attended the vigil at Hope Presbyterian Church relating to the vandalism which occurred at the church.

Mayor Suess thanked staff for their work on all the items on the agenda. He feels we are fortunate to be able to continue with the work of the City.

**16. Approval of Warrant**

Councilman Rutledge moved and Councilwoman Fitch seconded that Warrant No. 783 in the amount of \$1,878,720.03, be approved.

**Roll Call Vote:**  
Ayes: Councilman Rutledge  
Councilman Zaruba  
Councilman Barbier  
Councilwoman Bray-Parker  
Councilwoman Fitch  
Mayor Suess  
Councilwoman Robbins  
Nays: None  
Absent: None  
Motion Carried Unanimously

**17. Adjournment**

Councilwoman Fitch moved and Councilwoman Bray-Parker seconded that the regular Wheaton City Council Meeting be adjourned at 8:41 p.m.

**Roll Call Vote:**  
Ayes: Councilwoman Fitch  
Mayor Suess  
Councilwoman Robbins  
Councilman Rutledge  
Councilman Zaruba  
Councilman Barbier  
Councilwoman Bray-Parker  
Nays: None  
Absent: None  
Motion Carried Unanimously

Respectfully submitted,

Sharon Barrett-Hagen  
City Clerk

Submitted for Approval: September 21, 2020