MINUTES
CITY OF ST. CHARLES, IL
GOVERNMENT SERVICES COMMITTEE MEETING
MONDAY, OCTOBER 24, 2011, 7:00 P.M.

Members Present:	**Chairman Stellato, Aldr. Monken, Aldr. Carrignan, Aldr. Payleitner, Aldr. Turner, Aldr. Rogina, Aldr. Martin, Aldr. Krieger**
Members Absent:	**Aldr. Bessner, Aldr. Lewis, Mayor DeWitte**
Also Present:	**M. Koenen, J. Bernahl, R. Gallas, J. Lamb, P. Suhr**

1. **Meeting called to order at 7:00 p.m.**

2.*a. Electric Reliability Report, August and September 2011

Motioned by Aldr. Carrignan, seconded by Aldr. Turner. Approved unanimously by voice vote. **Motion carried.**

2.*b. Tree Commission Minutes

Motioned by Aldr. Carrignan, seconded by Aldr. Turner. Approved unanimously by voice vote. **Motion carried.**

3.a. Main Street / IL Route 64 Projects – Information only

James Bernahl presented. There was a press release for the IL Rt. 64 & Oak Street project, stating the intersection improvement has been postponed until spring 2012. Even though there is a delay, the contractor has agreed to hold their prices. After talking internally, we didn't want to start the project and have it incomplete throughout the winter months – it wasn't worth the risk this close to the end of the season.

Chairman Stellato: You mentioned the contractor would hold the price. IDOT is paying for this, correct?

Mr. Bernahl: No, the City is paying for this.

Chairman Stellato: The City pays and we get reimbursed from IDOT?

Mr. Bernahl: No, this is completely City funds.

Chairman Stellato: So even though we are paying for it, IDOT still has the right to say whether or not they want it to move ahead?

Mr. Bernahl: Yes, because it of the jurisdiction. IDOT's contribution was for land acquisition which is where the delay took place.

In regard to IL Rt. 64 – 38th to IL Rt. 59, there is no update. IDOT is still in the process of land acquisition. We have heard that the January letting is still on schedule.

In regard to IL Rt. 64 from 7th to Dunham, the utility contractor is primarily done. Signs have been removed and they are finalizing work on the side streets. The contractor will touch up the patching that was done down the middle of the road. We know the patches are a little bumpy now, but I just want to remind you that the road was in bad shape before we got started. The contractor will be done in the next couple weeks and then will be back in the spring, when IDOT does the main contract that is going to take place from 7th to Dunham. We have heard from IDOT that everything is still on schedule and the project is funded and ready to go for bid. The drawings are in Springfield, so we are ready to go.

Aldr. Payleitner: The last line says the current bid for the IDOT construction has been confirmed to be in January 2012.

Mr. Bernahl: For the letting; that means they will go out to bid with the plans in December and they will do the letting in January.

Aldr. Payleitner: So no additional work until then as far as IDOT is concerned.

Mr. Bernahl: Yes, everything is going to hold off for the winter months. With this in mind, since we've finalized these plans, staff recommends we take the monthly updates off the agenda for now and we'll start again in the spring.

Chairman Stellato: That sounds good; makes sense.

No further discussion.

3.b. Recommendation to Reject Bid for Sanitary Sewer Lining

John Lamb presented. This item is a recommendation to reject bids for our sanitary sewer lining project. You may be familiar with this; we come to you every year for this program. This is a large part of maintaining our sewers by preventing infiltration inflow. This year we compiled our specifications and went out to bid for the project but I want to note something that is not in the executive summary. Prior to going out to bid with the regular advertising process that we do in the paper; we did contact a company called EBridge, a reverse auction internet website. Staff met with a representative and investigated this procedure. The idea behind a reverse bid auction is that you may receive a broader based group and therefore may get more competitive quotes.

In the process of this, we've contacted several of our main bidders in the past and companies we have used in the last several years. A couple of our contractors informed us that they probably would not bid if the project was bid in that fashion. Reason being is the contractor who wins the bid pays a fee to EBridge. Due to that feedback, we elected to go out to bid using our normal process of advertising.

Aldr. Carrignan: From a budget standpoint, we are going to take this money and roll it into next year?

Mr. Lamb: That is the intent. We only received one bid through the regular process. We contacted a couple companies, one that we awarded the bid to the last couple years and unfortunately they had a transition in staff that was involved in the bidding process and it fell between the cracks. We probably only got one bid because this project involved several short pieces of pipe, not a lot of footage. We usually have thousands of feet and this wasn't quite that way, so we felt that had something to do with it.

Staff recommends rejecting the bids.

Aldr. Rogina: I have a question regarding EBridge. Some contractors come right out and said that if we dealt with EBridge that they would not?

Mr. Lamb: They didn't say they wouldn't deal with them, they just said they would not participate.

Aldr. Rogina: More than one contractor?

Mr. Lamb: Yes, and they are large, nationwide companies like Insitu Form, Visu-Sewer and Michels.

Aldr. Carrignan: It's a common practice to have reverse auctions.

Aldr. Rogina: I'm not questioning that, I'm questioning several contractors coming out and saying they are not going to participate.

Aldr. Carrignan: They just chose not to participate in the bidding process through EBridge. We are not forcing them to go to EBridge.

Chairman Stellato: Is the fee a percentage?

Mr. Lamb: 2%.

Chairman Stellato: I just wonder how the numbers work if the chances of you getting a bid low enough - could we save enough money that we could cover part of that fee in the process? We will have to look at that at a later time.

Mr. Gallas: I spent some time with EBridge during the process. What they are selling is somewhat of a commodity based, very localized regional type of activity. After sitting down with EBridge and the vendors and looking at the City of St. Charles' interest, it just wasn't a good fit. We may come back to say there might be some other things that would be a good fit, but given the specialized nature of this type of contracting this wasn't a good fit for a reverse auction. That's why I think we saw these contractors perhaps indicate it wasn't something they were interested in because I think their margins are really thin as well.

No further discussion.

Motioned by Aldr. Carrignan, seconded by Aldr. Rogina. Approved unanimously by voice vote. **Motion carried.**

3.c. Recommendation to Approve Contract for Demolition of Little Woods School

John Lamb presented. City staff has been investigating the demolition of Little Woods School. We have hired a firm called Hygieneering to assist with the abatement and demolition of the school and what we have here are demolition costs that are itemized. The demolition and abatement for asbestos and lead that's in the building is approximately $188,000 in addition to a $26,900 fee to Hygieneering for their assistance in this project.

Staff recommends approving a contract and Resolution authorizing the Mayor and City Clerk to execute the contract with Hygieneering at a cost of $26,000.

Staff recommends approving a contract and Resolution authorizing the Mayor and Clerk to execute the contract with Alpine Demolition for abatement and demolition at a cost of $188,400.

You may note this total comes to $215,000 and I note that we have $200,000 budgeted. We have a couple other projects that have come in under budget that we will transfer funds from and we are also going to sit down with Hygieneering and see if we can work on a time and materials basis for their services.

No further discussion.

Motioned by Aldr. Carrignan, seconded by Aldr. Monken. Approved unanimously by voice vote. **Motion carried.**

3.d. Recommendation to Approve Change Order for Wells 3 & 4 Radium Removal Project Construction Engineering

John Lamb presented. This is a recommendation for a change order for our Radium Removal project for construction engineering with EEI. Due to delays in this project, EEI has requested a contract amendment and additional fees in the amount of $58,750 to

the date of completion and additional funds for dealing with punch list items in the last month or so of the project.

Staff recommends approving a contract amendment and Resolution authorizing the Mayor and City Clerk to execute a change order in the amount of $72,500.

Aldr. Rogina: After reading the Executive Summary, I understand we are caught between a rock and a hard place on this issue. At the same time, walk me through the facts that we had a contract with these people for a given price and all of a sudden we are being told we have to pay an additional fee?

Mr. Lamb: That contract was for an original 12 month construction project. The construction project is about 78 days overdue, so the engineer has additional services beyond the original 12 month construction project. The engineering fee would be covered under the contingency funds of the low interest loan. Also, the project is overdue and we will be assessing liquidated damages to the contractor who would, in return, be paying the fees for the engineering firm.

Chairman Stellato: I have a question regarding the way they determine the fee. It's based on their monthly average for the costs?

Mr. Lamb: Correct.

Chairman Stellato: You mentioned earlier on a previous item about doing time and material. Are they just guesstimating here saying a monthly average so far? What can we do for actual time and material based on that with a not to exceed number to try to keep that down?

Mr. Lamb: It's an estimate of what their time and materials would be for this extended amount of time.

Chairman Stellato: What if it's less time?

Mr. Lamb: Then it won't be as much. At the end of the project, it's critical to have this engineering firm backing us up on closing out the project.

Aldr. Turner: Did you make the comment that the contractor will reimburse us for this overage because he was late?

Mr. Lamb: Technically we feel we have a very good case for liquidated damages and most of those liquidated damages would be for reimbursing this cost of the engineering services.

Aldr. Carrignan: We are going to try to recapture this money?

Mr. Lamb: Correct. We will need EEI to help us do that, so that is part of that contract amendment.

Aldr. Carrignan: Why are we 78 days late?

Mr. Lamb: There was originally a 21 day extension due to the strike that took place one year ago in July. There was another 11 days for a large tie-back wall around the building. The contractor actually asked for an additional 30 days and between the engineering firm and ourselves we told them they could have 11 days. Now there were delays with concrete and the cold weather.

Aldr. Carrignan: That's 32 days.

Mr. Lamb: There were another 40 or more days they are attributing to the concrete work that was done with the building back in the cold weather. In the last several weeks the contractor approached us for delay because they didn't have favorable weather for pouring concrete because temperatures were too cold. That is currently under review.

Aldr. Carrignan: We just saved $270,000 out of the sanitary sewer. Do you want to take it out of that for this year, or do you want to roll that?

Mr. Lamb: We have contingency funds in the loan that we were going to pay this amount with, and then get reimbursed through the liquidated damages. As I said, we would then give that money to EPA.

Aldr. Carrignan: So there is no intention to go to reserves to get it?

Mr. Lamb: No, no intention to go to reserves.

Aldr. Rogina: This may be for Brian, I'm not sure, but I don't understand what liquidating damages mean. If damages are in the contract itself, would I assume that we could go after them and go through the legal process to recuperate that?

Mr. Townsend: I think it depends on if they contest the claim. If it's something we can work out at the staff level, then there's a good chance we would not incur those fees and we would not need attorneys. Ultimately, if they chose to challenge it and it gets a bit more sticky, then there would be some costs and we would have to determine the wise decision.

Mr. Lamb: The contract allows for approximately $1,700 per day liquidated damages.

Aldr. Carrignan: So you know where you are getting the money.

Mr. Lamb: Yes, I should have pointed that out. It's coming from the contingency for the low interest loan which we pay 1 ¼ % on.

No further discussion.

Motioned by Aldr. Carrignan, seconded by Aldr. Monken. Approved unanimously by voice vote. **Motion carried.**

3.e. Recommendation to Approve Change Order #2 for Main Treatment Plant Headworks Project

John Lamb presented. This is Change Order No. 2 for our Main Treatment Plant Headworks Project. The itemized list totals $8,648.

Staff recommends approving a contract amendment and Resolution authorizing the Mayor and City Clerk to execute a change order in the amount of $8,648.58.

No further discussion.

Motioned by Aldr. Carrignan, seconded by Aldr. Monken. Approved unanimously by voice vote. **Motion carried.**

3.f. ComEd Reliability and Maintenance Issues – Information only

Glynn Amburgey presented. Since our last quarterly report, we've had one sustained and eight momentary outages. You can see from my report where those occurred. One point that I'd like to make is that we have expressed some very serious concerns to ComEd about the reliability on the line that comes into Peck Road. However, they have had very good responses to that. They have agreed to do some rather extensive studies of lines similar in nature to that line to determine if there is lightning deficiencies on that circuit that needs to be addressed.

We are pleased with their response in regard to an interest in researching that but we still feel like that line is not performing to the degree we would like it to.

Aldr. Turner: I would still like to see if you can inquire with ComEd about bringing a different line in there from the west or north. That line coming from the south has been one headache after another for us. We've had discussion in the past about bringing lines from the north. Would you run that past them and see what their thoughts are on it?

Mr. Amburgey: In terms of the direction of the feed to that substation, we actually had an opportunity to serve that from the north, but we are actually even more concerned about that additional capacity on the line that comes from the north. We will entertain with them in our next meeting a discussion about what other options there are. We've had this repeatedly but we will be glad to bring that up again.

Aldr. Turner: Didn't they do extensive work on a substation out by old Dean Road across from the school by Rt. 64? I'm not sure exactly what the road is, maybe Old Burlington Road, across from Bell Graham School?

Mr. Amburgey: I'm not aware. However, as you know, as we've talked before, that line actually comes from Sugar Grove. The line that comes from the north actually comes from South Elgin which is the line that also comes into the City Hall Substation. We've also had issues with those lines. The line that comes in there right now from the north, we have concerns about tree issues along the bike path west of Peck Road that we are still attempting to resolve so in the interim, as long as those tree issues are not resolved, I don't feel comfortable about adding that circuit to that line that comes from the north at this point in time.

No further discussion.

3.g. Recommendation to Approve a Contract with GL-Noble Denton for Electric Modeling Software

Glynn Amburgey presented. With the implementation of our GIS system, we obtained the abilities to do far more in terms of analysis on our power system. However, that requires the addition of software that we do not have. We went out for bids for this software. The main reason is that it gives us the capabilities to understand our system much better in terms of the fault currents available. OHSA has some very extensive requirements they are putting into place regarding Arc Flash and to really understand that, we need to have a very good understanding of the fault currents available on our system. This software will do that for us. It will give us some additional reliability in the fact that we can do modeling on our system so we can tell where loads when added, if they create a problem or not. It gives us additional planning capabilities and some efficiency in locating capacitors to increase our power factor.

We received bids from four bidders. We did an extensive evaluation using a matrix to determine who was responsive to our specification and who was the lowest responsive bidder. From that, we determined that the software from the lowest responsive bidder is Synergy Software by GL-Noble Denton.

Staff recommends awarding the contract to GL-Noble Denton in the amount of $110,000 for modeling software.

Chairman Stellato: This is in the budget?

Mr. Amburgey: Yes, it is budgeted.

Aldr. Carrignan: Is this an add on to our current IS system? I'm trying to understand whether this is a need or a want? What do you plan to get out of this?

Mr. Amburgey: A benefit of this particular software is that it is turnkey. Once this software is installed on our system, it is useful immediately. As I mentioned, it gives us the capability to do very extensive modeling of our system and fault current analysis so that we can meet OSHA requirements for arc flash. We have to know the current levels

that exist at any given point in time when one of our employees is working on the system. This software will give us the ability to do that analysis quickly and efficiently at any location on the system. It also gives us efficiencies in how we operate our system and load flows and provides us the ability to make sure the system is operating efficiently and effectively. It's the next step in our SCADA system and our GIS system to move forward into the future in terms of capabilities.

Mr. Gallas: I would like to offer one thing as well. We contacted a third party consulting firm and asked them if they could give us a quote to do arc flash analysis of our system. A quote came back at $50,000 and that quote was only to determine levels and provide some detail of what goes on in our system, but we wouldn't have the ability to do that again, unless we pay them another $50,000.

No further discussion.

Motioned by Aldr. Monken, seconded by Aldr. Rogina. Approved unanimously by voice vote. **Motion carried.**

3.h. Recommendation to Award Bid for Circuit 332 Reconductor

Glynn Amburgey presented. Circuit 332 is an overhead line that runs east/west in the Walnut and Indiana Avenue area. We have experienced overload conditions on this line in terms of the peak time frames. This circuit is actually running at the peak capacity of the conductor, even a little over. We have had concerns about it for several years and now is the appropriate time to move forward to reconductor this line.

We also had some problems with similar conductors. You may remember we had a line fall along Riverside Avenue a couple years ago. This is basically the same conductor that gets brittle over time and we're concerned about the conductor itself.

This particular project is to reconductor that line with a larger conductor so it will carry more current. We went out for bids and the low bidder was Meade Electric.

Staff recommends approval of this contract, accept the low bid and award to Meade in the amount of $219,646.78.

Aldr. Turner: As a point of reference, when you say "reconductor" that means that's the line itself, you are just going to put a line with a higher capacity on it.

Mr. Amburgey: Yes, that is correct.

No further discussion.

Motioned by Aldr. Turner, seconded by Aldr. Carrignan. Approved unanimously by voice vote. **Motion carried.**

3.i. Recommendation to Approve Electric Easement for R.R. Donnelley, 609 S. Kirk Road

Glynn Amburgey presented. As part of our agreement with R.R. Donnelley, we were required to add equipment to an area that was not formally an easement. This is a housekeeping item to put that easement in place.

No further discussion.

Motioned by Aldr. Carrignan, seconded by Aldr. Monken. Approved unanimously by voice vote. **Motion carried.**

3.j Recommendation to Approve a Budget Transfer for Autumn Leaves of St. Charles, 10 N. Peck Road

Glynn Amburgey presented. Autumn Leaves is a new retirement home being located at 10 N. Peck Road. This particular installation was budgeted in FY 12/13 but it's happening sooner, so we need to do a budget transfer to move this up to the current year budget in the amount of $40,000. This is 100% refundable from the customer.

No further discussion.

Motioned by Aldr. Carrignan, seconded by Aldr. Monken. Approved unanimously by voice vote. **Motion carried.**

3.k Recommendation to Approve a Budget Addition for Midwest Powder Coatings, 3865 Swenson Avenue

Glynn Amburgey presented. This is also a reimbursable project from Midwest Powder Coatings who are doing an addition to their building. This will require an expenditure in the amount of approximately $25,000 which we are requesting a budget add for, which is reimbursable by the customer.

No further discussion.

Motioned by Aldr. Carrignan, seconded by Aldr. Turner. Approved unanimously by voice vote. **Motion carried.**

3.l Recommendation to Approve Kane County Paratransit Coordinating Council Membership

Richard Gallas presented. As you know, the City of St. Charles is a sponsor of the Ride in Kane Program and recently the coordinated Council that guides this program met and requested that each participating sponsor designate authorized representatives for the program. Two primary areas of designation are an authorized signer, which has been, up

to this point, the Mayor for the City of St. Charles and an alternative member representative who has been me and another staff member by the name of Diane Trumph.

Staff recommends we maintain the same designees for this program. Therefore, Staff recommends approval of the Memorandum of Understanding Agreement and a Resolution Authorizing the Mayor and Clerk to execute on behalf of the City of St. Charles.

No further discussion.

Motioned by Aldr. Monken, seconded by Aldr. Carrignan. Approved unanimously by voice vote. **Motion carried.**

3.m. EAB Control Efforts – Information only

Peter Suhr presented. The information in your packets is for the last two months. 134 Ash Trees were confirmed with EAB the past two months. We are proposing to remove 163 Ash Trees this upcoming month, which will be replanted next spring.

The hardest hit area for removals is in the southwest near Davis School, there are 76 proposed to be removed in that area. If there is any positive to that area, I think we finally have a handle on that zone once we get those replanted next spring. Hopefully the numbers in the southwest will start to drop dramatically next year.

Another positive is that we began our fall planting today and within the next three weeks we will have 430 new trees planted in the ground.

No further discussion.

3.n. Leaf Collection Program – Information only

Peter Suhr presented. Starting Wednesday, October 26, Kramer Tree Service will begin providing leaf collection services for our residents. Please find in your packets the 2011 Leaf Collection Zone Maps and also the leaf collection schedule.

Collection services are very similar to last year's program, including four separate collection areas and four separate pickups. This year, the program starts on October 26 in the southeast quadrant and ends on December 1 in the northwest quadrant. Your packet contains very specific information about the program, and you can also reference the City website for additional and most current information.

Aldr. Krieger: Do we have one more brush pickup in November?

Mr. Suhr: Yes.

No further discussion.

3.o i. 2011 / 2012 Snow and Ice Control Program Overview – Information only

Peter Suhr presented. City staff is prepared to provide safe road conditions to our Community during the 2011/2012 winter season. We are here tonight to present our plan for this year and ask for your questions or provide feedback if you have any.

Power point presentation by Peter Suhr.

No further discussion.

3.o ii. Recommendation to Approve Agreement with St. Charles Township

Peter Suhr presented. Staff recommends approving a continued annual agreement for shared services between the City and St. Charles Township. For many years, the City and the Township have mutually agreed to provide snow and ice services for streets under jurisdictions of the other political body.

No further discussion.

Motioned by Aldr. Carrignan, seconded by Aldr. Monken. Approved unanimously by voice vote. **Motion carried.**

3.o iii. Recommendation to Approve 2011 / 2012 Snow and Ice Control Contractual Services

Peter Suhr presented. This is for contractual services for 2011/2012 Snow Program. The recommendation is to approve the request for proposals based on an hourly rate for equipment as shown on the attached proposal results and recommendations.

No further discussion.

Motioned by Aldr. Carrignan, seconded by Aldr. Turner. Approved unanimously by voice vote. **Motion carried.**

3.p. Recommendation to Approve Ordinance Approving Sale of Sweeper

Peter Suhr presented. One of our two street sweepers has been in service for about 10 years and is in need of replacement. The sweeper has continued to develop rust and tank issues.

Staff recommends approval to sell our 2002 Elgin Whirlwind Street Sweeper, either to the highest bidder or by trading it in towards the purchase of a new 2011 Street Sweeper. Staff is asking for approval of the Ordinance included in your packet authorizing the sale of the 2002 Elgin Whirlwind Sweeper.

No further discussion.

Motioned by Aldr. Monken, seconded by Aldr. Carrignan. Approved unanimously by voice vote. **Motion carried.**

3.q. Recommendation to Approve Purchase of Elgin Whirlwind Sweeper

Peter Suhr presented. Staff is asking for approval to purchase a new 2011 Elgin Whirlwind Sweeper to replace the existing 2002 sweeper. This is a budgeted item; Staff is asking to approve the purchase of a 2011 Elgin Whirlwind Sweeper in an amount of $227,510.00 from Standard Equipment Company.

No further discussion.

Motioned by Aldr. Monken, seconded by Aldr. Turner. Approved unanimously by voice vote. **Motion carried.**

3.r. Discussion Regarding Approach Sidewalk Maintenance Responsibility

Chairman Stellato: This item was put on the agenda by me and Alderman Rogina because we have a situation at 522 Cedar St. There is a sidewalk that is typical in the downtown area where it is used for public access. It is located on public property but may be owned by the land owner; we aren't really sure. So Alderman Rogina and I decided we need to have a discussion about this. We have the homeowner, Craig Bobowicz here tonight as well, so we will consider him the applicant if you have any questions for Craig. We ran this by Mark Koenen and asked him to do an analysis so we can have a productive conversation this evening.

Aldr. Krieger: About 35 years ago when we put our own sidewalk in because the City didn't think it was necessary, we asked about going from the sidewalk to the street and we were told we should not have a walkway on the City parkway.

Mark Koenen presented: This is a conversation I have not entertained in my tenure with the City of St. Charles. The code has been as it is, and that is what we have practiced during my tenure with St. Charles. As you know, we do have a sidewalk program in the Community and that deals with public sidewalk. Public sidewalk is generally that which is parallel to the street which it travels. Those intermediate walks which extend between the public sidewalk and the curb or the street are what are defined by the code as the approach walk. The approach walk is considered a private improvement, much as a driveway approach is a private improvement. The culvert under your driveway if you don't have curb and gutter is a private improvement, your mailbox, etc. – they are all private improvements that the City of St. Charles realizes are necessary for property owners, so that has been a permitted activity. The maintenance of those sidewalks in this particular case is done by the property owner. The City of St. Charles does get involved with property owners and those sidewalk approaches from time to time. An example of that is when we are replacing a watermain and it goes through the

parkway. In the process of replacing the watermain, we have to take out the sidewalk approach. That sidewalk approach then can be replaced if that's what the property owner desires. But we do not install them the first time, they are installed by the property owner. We do not maintain them, either. That is done by the property owner. In fact, it's much like the sidewalk that Aldr. Krieger referred to. She put the public sidewalk in front of her house, she inquired about putting the private approach walk in front of her house and at that time, the City said we don't want you to do that. We wouldn't say that today; we may discourage you, but we wouldn't tell you not to do it.

Where are we with private sidewalk approaches? We do not have an inventory of where they are in the City, nor do we have an inventory of what condition they are in today. I would say from my familiarity with the community that private approaches like this are generally in the older part of the community. They are not as common in the community that was built sometime after 1965. That's when traditionally people had garages which fronted on the street and people used the driveway approach as the pedestrian access way from the street to the property. Some of the older neighborhoods either don't have garages or they have garages which load on an alley, so when guests come to their home, having that sidewalk approach makes a lot of practical sense. Through the years, we have tried to be very consistent. That is to say that the Municipal Code directs staff to do certain things administratively and that's what we practice consistently.

I must add that Jim Bernahl, our Public Works Engineer, reminded me that there are the ever evolving rules that relate to ADA. As you know, on public sidewalks at intersection corners, we no longer have the step curb; they have all been replaced with ramps. If these approach walks become public, it may be necessary that they be replaced through some process with handicap ramp approach. We need to find out if that is an obligation of the public or the property owner.

We had some great examples of sensitivity to budget increases this evening. This would be considered a new service for the City of St. Charles because we have not replaced sidewalk approaches as a maintenance activity, therefore it is not in our budget. Since it would be a new service, it would be a new budget item. To that affect, you may ask me how much I think we need to budget, and I can't tell you because we don't have an inventory of what we have. If you desire to move forward, that is research staff would need to perform.

Chairman Stellato: There was an issue of private vs. public. I know that based on the code, it states the sidewalk is private. Some homeowners may look at it as a lot of public use that sidewalk because downtown is pedestrian friendly. I don't know how to get past that issue, but Mr. Bobowicz brought up a very good point. I also had not thought about the ADA issue. I just wanted to make the comment that the public vs. private issue is where this issue started to heat up.

Aldr. Rogina: I spoke with Mr. Bobowicz and viewed the property as well. I concur with you that we don't want to set a precedence of doing something that is in violation of an ordinance. The flipside to that is that I'm looking at this extension here which is on a

parkway, so it's on City property. It was put there at some point by someone, privately, I would assume. In my mind this creates a public hazard and from a liability standpoint, I raise the question of who is responsible to erase that public hazard? Is it the City's responsibility or is it the property owner's responsibility, particularly when it sits on City property? I'd like to have a legal opinion, on that question alone.

Mr. Koenen: As a point of reference, we do have a sidewalk inspection program where we inspect on a periodic basis, frequently travelled walks, i.e. in the downtown area and those that are less frequently travelled outside the downtown area. We periodically walk sidewalks where we identify their condition. What we call a "toe catch" - if you can catch your toe on it, and we use a standard of a ¾ inch or greater, it demonstrates there is a repair that is necessary. It goes on a list and we fix it, and you see the repairs being done throughout the year. If it's less than that, we don't consider it to be a problem. In this particular case, the picture in your packet, for example, is a sidewalk that has a very bad surface, but I'm not certain it is necessarily a toe catch which creates a liability for us or anyone. However, could someone fall on it? Certainly. I think if someone were to take us or the property owner to task, they could sue any of us and that's a risk we take on every day that we can defend ourselves against.

Aldr. Rogina: If there were a slab there that was sitting on a regular City sidewalk, my suspicion would be that Public Works would investigate and repair it. If he were to let his grass on his parkway grow two feet high, we might site him for a nuisance, but nobody cited him for a nuisance related to this. My follow-up question is whether or not we are in a position to say he must repair that?

Mr. Koenen: We could do that as an organization. We don't have an inspection program for sidewalk approaches, so if it weren't for this complaint we wouldn't be aware of it.

Based on the sidewalk that I see in the photo here, we would not cite him for a nuisance because we would not repair a sidewalk like ourselves if it was on a public walk area.

Aldr. Rogina: We would not?

Mr. Koenen: Correct; we would not.

Mr. Bobowicz: My name is Craig Bobowicz; I live at 508 Cedar which is two doors from the subject location at 522 Cedar. I've owned this property since 1983. The Ordinance that Mark quotes was passed in 1989 so these sidewalks were there way before the City ever opted out of maintaining these sidewalks. I think this damage has been caused by salt. Salt is the only thing I know that will eat the sidewalk away like this. It's not broken, it's not chipped, it's eaten away, which, in the Ordinance itself says that the City has some kind of responsibility to the damage, so that's my first argument. The rest of the sidewalks are very old. I've owned this property since 1983 and the City has never come down 6th Street and done any maintenance to these sidewalks or curbs. I've paid taxes for 28 years and I've never asked for anything from this City. The location of this

is one block up from St. Pat's and Lincoln Park. Our neighborhood hosts every City function that the public comes to. We have hundreds, if not thousands of cars and pedestrians from the festivals and events. The Ordinance states that these are put in for the private use of the residents and I don't think any of these service walks can be considered private. This is the most publicly used, residential neighborhood in St. Charles.

On 5th Street, there are access staircases in the parkway and the City has gone, at their expense (I assume) and put new railing systems on property that is supposed to be privately maintained by the residents. So the City does, in selected areas put City improvements on there, so I feel like certain people get stuff and certain people don't. Who is going to maintain these railings for these property owners now? It seems there are two sides of this argument. Over on 3rd Avenue and State I found another house with steps and if you look at the picture at the base of those steps, you can see that the concrete has been replaced by somebody, I assume the City, and that's fresh new concrete, so the City does at times selectively repair these. They've repaired the one in front of my house at 522 Cedar and they didn't do it because they replaced the curb; the curbing is still old curbing. The neighbor next to me, they've replaced his curbing on the south side of Cedar Street because that whole block got new curbs about 10 years ago, they maintained those access walks, but for some reason, across the street they haven't addressed this issue.

Kiddie corner from this property there is another City step access where the City chose to not install a railing for this property owner, but certain people get them, certain people don't. I don't think Mr. Koenen's department is adhering to the letter of this ordinance. There has obviously been selective improvements made. I don't think it's unreasonable to ask the City to bend a little here and replace this sidewalk because I think the City salt trucks did it.

Aldr. Carrignan: On your last page of pictures; the house on the top, is that the Dunham Hunt House?

Mr. Bobowicz: No, it isn't. It's a private residence that is a landmark home. My property that I'm asking for the consideration is also a St. Charles Landmarked home. Chairman Stellato went and looked at it and he even e-mailed me and complimented me on how well I take care of my property and the condition of it. I'm not a slum lord asking for a free ride here.

Aldr. Carrignan: All I asked was the location.

Aldr. Turner: Mark, did we replace these railings?

Mr. Koenen: Yes; those railings were installed by the City.

Chairman Stellato: This comes down to the issue that we've been struggling with - is this public vs. private because of the walkability downtown. Mark, it sounds to me that

we need to do some research. How many of these walks exist, what condition are they in, and also your ADA accessibility issue. We don't want to replace something and find out we didn't do it per code, then we're liable, so we need to check into all that. I wouldn't mind hearing what other communities are doing about something like this as well. There is not going to be any time before the end of the year to get this done so maybe we can use this time with winter approaching to research this and figure out what to do when spring breaks. In my neighborhood on the southeast side of town, we don't have these sidewalks, so the condition seems to be more specific to downtown.

Aldr. Carrignan: Two things before thinking about doing this; where is the money going to come from? That's the first thing I want to know. Secondly, as these deteriorate, why don't we consider just taking them out and put grass down? Just get rid of the problem as an ongoing process as they get to the point of deterioration.

Mr. Bernahl: I've had experience with this; many times these were installed prior to permitting requirements. In many towns, since these don't conform to ADA requirements, they will actually remove them. If the homeowner wants to reinstall them, they have to install them so that they meet these requirements and the city will have the homeowner sign a Hold Harmless Agreement, just like any other specialty items.

Aldr. Rogina: Based upon everything that's been said, I'll repeat my statement. I would not want to violate any City ordinance here, but at the same token, I don't believe the homeowner should have to repair that at his own expense. Furthermore, I think it should be repaired, or as Aldr. Carrignan said, eliminate it and remove the problem.

Aldr. Carrignan: That's still an expense that we are going to have to absorb.

Aldr. Krieger: We've existed for many years without that access. I think the idea of taking it out is best.

Chairman Stellato: If there are no other questions, is it okay to direct staff to move forward to do some research on this in the meantime? Try to understand the conditions, how much it would cost, and where the money comes from as well? We probably need a legal opinion on the ADA liability.

Mr. Bobowicz: I'd be happy to have it taken out and grassed over. My garage is behind the house.

No further discussion.

4.a. Recommendation to approve an Ordinance Amending Chapter 5.44 Secondhand and Junk Stores and an Ordinance Amending Chapter 10, Section 10.11.2360 Dealers – Report of Sales to Police (Savers Secondhand Store)

Chris Aiston presented. You will recall when we presented to the Planning & Development Committee earlier this month, the Committee asked me to come back to

answer some questions. This particular issue is a request by Savers Thrift Store to amend portions of our Municipal Code to facilitate their occupying the former Toys R' Us Building at 3880 East Main Street. Specifically there was a concern with the record keeping requirements and they also would ask that we amend the portion to deal with hours of operation, or more importantly, limiting the prohibition against when to buy and sell materials at their store. I want to mention also the amendment to the sale of new and used bicycles, which was a question from Alderman Rogina.

To address the first request to amend the code as it relations to record keeping; that's typically for a smaller consignment store where fewer items will come and go during the day. A not-for-profit like Goodwill or Salvation Army (or in this case Savers) will be at least that big. For them to actually keep records of every product that came in and went that out would be difficult if not impossible under those circumstances. You'll remember that Savers buys all of their materials from not-for-profits and they buy none of their material from the general public, so they buy it in bulk. That's where their business model comes in. They buy in bulk at a lower price and the not-for-profit makes money because it's a quick transaction. Since they buy in bulk, it is impractical to expect them to itemize every product.

I do not believe Council had a problem with the Ordinance as it relates to the current prohibition of taking a product from 10:00 pm to 8:00 am, but Savers is requesting that the prohibition run from 10:00 pm to 7:00 am, because they do have, on occasion, products that come in that they acquire between 7:00 am and 8:00 am. Savers agrees to cooperate with police as relates to keeping tracking of potential stolen items. Savers also has no issues with operating as a pawn broken. As you may recall, they did request that they be exempt from no transaction with minors as many of their customers are people under the age of 18 that come in to buy clothing, etc.

Regarding bicycles, which was specifically the concern, I did consult with the police department, and their thoughts were as to the reason it is that way for bicycles is because bicycles are one product that are easy to track. They have serial numbers, so if someone were to sell a used bicycles, they need to cooperate with the police. They typically buy those bicycles from an individual who is trading in a bike for a different bike. Now we've got a used bike to sell. That makes perfect sense; the chain of custody is very easy to follow because the owner has a serial number in his name. If the person can't produce a serial number, the deal knows he's got a stolen bike. He reports that to the police, and the police can conceivably track down if it's a stolen bike. In the case of Savers, if they were to acquire a bike, which is a rarity, it would be unlikely that the bike was once a stolen bike because people who steal a bike are not interested in donating it to a not-for-profit. I don't think that is a practical, if even realistic circumstance that they will be acquiring stolen bikes, but if they were, there is no real way to track it back to where it originally came unless whoever originally got it before selling it to Savers did that and they are exempt from our Ordinance.

If there are any questions, I'd be happy to answer them.

Aldr. Rogina: So you are saying if we approve this we are telling Savers they do not have to make contact with the police if they were to receive a bicycle in their store. The Ordinance does say in respect to merchants in general that they do.

Mr. Aiston: What they are wanting to be exempt from is if in the event they sell a used bike they don't want to have to report that they have a used bike they are going to sell because the purpose of the used bike ordinance is to track down where it might have come from in the event it was stolen. They still must follow, and are not exempt from the requirement they cooperate with police in any given circumstance. If there was a circumstance that appears to be suspicious, they will cooperate with police as per the general requirement in the Ordinance.

Aldr. Rogina: Our Police Department has no problem with that?

Mr. Aiston: Correct. I communicated with Chief Lamkin, and he understood how this would be impractical. He also said the purpose of the Ordinance is not for these circumstances.

No further discussion.

Motioned by Aldr. Carrignan, seconded by Aldr. Monken. Approved unanimously by voice vote. **Motion carried.**

5. Additional Business

6. Executive Session

Aldr. Carrignan: I move we go into Executive Session to discuss sale of City property and pending litigation.

Chairman Stellato: Please call a roll call vote.

K. Dobbs:
Monken: Yes
Carrignan: Yes
Payleitner: Yes
Turner: Yes
Rogina: Yes
Martin: Yes
Krieger: Yes

Motioned by Aldr. Carrignan, seconded by Aldr. Rogina. Approved unanimously by voice vote. **Motion carried.**

7. Adjournment

Meeting adjourned at 8:47 p.m.

Motion by Aldr. Martin, seconded by Aldr. Carrignan. No additional discussion. Approved unanimously by voice vote. **Motion carried**.