



Office of the City Manager

TO: Honorable Mayor and Members of the City Council

FROM: Patrick Urich, City Manager

DATE: April 29, 2011

SUBJECT: Issues Update

The following are issues related to the City for the weekly Issues Update. If there are additional items you believe should be included, please let me know.

RIVER LEVEL. The Illinois River is predicted to crest Sunday, May 1, 2011 at elevation 22.8 (flood stage is 18.0). At this elevation there will be moderate impact to the downtown Riverfront with standing water in the lower section of CEFCU Stage, water near or just breaching the seawall near the raised deck and water near or slightly above the inlets beneath the deck in the parking area. The river should begin to descend around Monday or Tuesday night.

NEW TRAFFIC PATTERNS NEAR INTERSECTION OF NORTHMOOR ROAD AND SHERIDAN ROAD. On Thursday, April 21, the following changes to traffic patterns have taken place:

- 1) Northmoor Road between University Street and Sheridan Road has been closed to eastbound through traffic. Northmoor Road will be open to local traffic only to St. Mary's Road from University Street. One lane westbound will be open at all times.
- 2) Sheridan Road between Northmoor Road and Lindberg School has been closed to all northbound traffic. Sheridan Road north of Lindberg School will remain open to two way traffic. Please use the Giles Lane/Sheridan Road intersection from Knoxville Avenue to access Lindberg School, businesses, and residences on Sheridan Road north of Northmoor Road.

On Monday April 25 additional signage was added to inform drivers that the subdivision to the north and west of the intersection is not a through or detour route. These traffic patterns are expected to continue through the summer and will be monitored by Engineering Division staff on the site. Through traffic is requested to use an alternative route. Local traffic should use caution while driving through the construction zone. Please remember, it is illegal for a driver to use a cell phone in a construction zone.

STATE INCOME TAX ISSUES. Since 1969, the State of Illinois has distributed 10% of the income tax receipts to local governments through the Local Government Distributive Fund. Earlier this year the State increased the income tax rate to 5%, but left the local distribution at the same allocation, or roughly 6% of income tax receipts. The Senate Republicans announced in their budget plans to cut this distribution by an additional 30%, or more than \$23 per person in Peoria. The Illinois Municipal League has estimated that the impact for the City of Peoria would be nearly \$2.7 million based upon the 2010 census figures. Today, the Chicago Tribune is reporting that Governor Quinn wants to withhold ALL income tax funds from cities and counties across Illinois in order to pressure the General Assembly to adopt his borrowing plan (See Link). This would have a more than \$8.4 million impact upon the City of Peoria if implemented. Hopefully, with both the Senate Republicans plan and the Governor's plan will

not be implemented. If so, the consequences upon the City's budget would be traumatic. <http://www.chicagotribune.com/news/local/ct-met-quinn-borrowing-plan-20110428,0,2727322>

“SAFER” GRANT (STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE). The Peoria Fire Department has been awarded a \$1.5 million grant from the Department of Homeland Security and Federal Emergency Management Agency. The SAFER (Staffing for Adequate Fire and Emergency Response) Grant provides funding to staff/hire nine (9) new firefighters. This grant was possible due to the efforts of the Labor/Management Grant Committee; Assistant Fire Chief Greg Walters, Fire Captain Martin Baker, Firefighter Brian Elston, and citizen volunteer Dianne Happ. This \$1.5 million is for the salary and benefits covering a 2-year period. After the 2-year period, the nine (9) new hires' salaries and benefits would become the responsibility of the City. City Staff will be confirming with the grants manager next week that by accepting the grant, we will not be freezing our staffing levels for 2 years.

We all certainly need to thank Senator Durbin and Congressman Schock for all of their support to the fire service in obtaining this grant. Historically the Peoria Fire Department experiences three to four retirements per year. At the end of this 2-year period, we could possibly have another six to eight vacancies. We currently do not have a hiring list established and will begin the interview process in May. We hope to be in the position to hire by early summer 2011.

ECONOMIC DEVELOPMENT STAFF RECEIVED NOTIFICATION OF APPROVAL OF ENTERPRISE ZONE CHANGE. On April 12, 2011, Council authorized Economic Development staff to submit an application to the State of Illinois requesting changes to the City of Peoria's Enterprise Zone Property Tax Abatement Program which included adding some new NAICS Codes. On April 20, 2011, the Economic Development Office was notified that the City of Peoria was successful in obtaining State of Illinois approval on the request for changes to the Property Tax Abatement Program. Under the City of Peoria Enterprise Zone Program property taxes are abated for businesses that make improvements to their property resulting in an increase to the assessed value. The abatement is only on increments created by improvements to the property and is only allowed on businesses that qualify under North American Industry Classification (NAICS) Codes that have been approved by City Council and by the State of Illinois. To review a list of the business types that are eligible for the abatement or to know more about the other City of Peoria Enterprise Zone Benefits the Enterprise Zone Question & Answer document is available on the City's website at <http://www.ci.peoria.il.us/enterprise-zone>.

EATON STREET CSO GATE FAILURE NOTIFICATION. The following information was sent to the Illinois EPA on 4-27-11, in accordance with the City's CSO permit:

“In accordance with the requirements of the City of Peoria's NPDES Permit No. IL-0037800, the following information is being furnished.

On April 20, 2011, a dry weather overflow occurred from the Eaton Street Combined Sewer Overflow when the Riverfront Interceptor was not at full capacity. Following a wet weather combined sewer overflow event on April 19th through April 20, 2011, the hydraulic gate controlling the Eaton Street CSO failed to re-open. The result was a dry weather overflow beginning at 12:30 a.m. and continuing until 8:00 a.m. on April 20th. When the problem with the gate was discovered at 8:00 a.m. by the Greater Peoria Sanitary District (Sanitary District), the gate was immediately re-opened. The Eaton Street CSO hydraulic gate is the regulator for this CSO and the regulator is the responsibility of the Sanitary District.

An investigation of the overflow determined that there was a problem with the Eaton Street CSO gate control logic. The control logic was programmed to prevent the gate from closing

during dry weather, if the signal was lost from the level detector from the gate. It was determined that this same programming prevented the gate from re-opening after this wet weather event when the level signal was lost. The control logic intended to prevent a dry weather overflow in this instance created a dry weather overflow.

Corrective measures have been taken. A short term solution has been implemented, creating an alarm condition to notify the Sanitary District's on-call supervisor, if the signal is lost from the gate level detector. Since the April 20th failure, continued heavy rains have confirmed this alarm to be an effective short term solution. The long term solution is to modify the control logic for the gate. The Sanitary District has contacted its programming consultant to begin the process of making these changes.

The dry weather overflow discharged directly to the Illinois River. No flow monitoring is available to determine the volume of the discharge. The total time of the discharge was approximately 7½ hours. The National Weather Service at the Peoria airport recorded 1.88 inches of rain in three hours during the April 19th wet weather event.

Mr. Todd Huson of IEPA's Peoria office was notified by the Sanitary District on April 21, 2011, of this dry weather sewer overflow. If you have any questions, feel free to call Mr. Thomas Meyer at the Sanitary District."

Staff will follow up with the IEPA when a permanent modification of the system control logic is determined and implemented.

QUALIFICATIONS FOR MUNICIPAL ELECTIVE OFFICE. Corporation Counsel Randy Ray sent out the following information. The Illinois Municipal Code contains several requirements for persons to be eligible to hold an elective municipal office. The person must be a qualified elector of the municipality and must have resided in the municipality for at least one year preceding the election or appointment. There are some additional details and exceptions concerning residency for District Councilpersons. The section of the statute which been in the news of late is 65 ILCS 5/3.1-10-5, which reads in full as follows:

"(b) A person is not eligible for an elective municipal office if that person is in arrears in the payment of a tax or other indebtedness due to the municipality or has been convicted in any court located in the United States of any infamous crime, bribery, perjury, or other felony."

Traditionally, the City has examined its records to determine whether elected persons are eligible to take office.

In the first instance, the party charged with determining whether an individual is eligible to hold office is the City Council, 65 ILCS 5/3.1-10-50(c)(1) reads as follows:

"(c) Vacancy by other causes.

(1) Abandonment and other causes. A vacancy occurs in an office by reason of abandonment of office; removal from office; or failure to qualify; or more than temporary removal of residence from the municipality; or in the case of an alderman of a ward or councilman or trustee of a district, more than temporary removal of residence from the ward or district, as the case may be. The corporate authorities have the authority to determine whether a vacancy

under this subsection has occurred. If the corporate authorities determine that a vacancy exists, the office is deemed vacant as of the date of that determination for all purposes including the calculation under subsections (e), (f), and (g).”

The term “corporate authorities” means the City Council. The reference to subsections (e), (f) and (g) refers to dates of appointment of successors and election of successors.

Finally, 65 ILCS 5/31-40-10 reads as follows:

“Sec. 3.1-40-10. Judge of elections. The city council shall be the sole judge of the election to office of the aldermen. It shall also be the sole judge whether under Section 3.1-10-5 aldermen are eligible to hold their offices. A court, however, shall not be prohibited from hearing and determining a proceeding in quo warranto.”

An outstanding judgment for even one ticket can form the basis of a failure to qualify for office, *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, a decision by the Illinois Supreme Court in 2008. Interestingly, that decision also held that a candidate with an indebtedness or arrearage to the City at the time of filing his candidacy petitions is subject to removal from the ballot. Removal from the ballot is due to the fact that the petitions for office contain a statement that the candidate is qualified for the office.

We would also take this opportunity to point out that while being in arrears in the payment of a tax or other indebtedness is a basis for not being eligible to assume municipal office, the aforementioned section 3.1-10-50 does not necessarily provide that a vacancy would occur if a Councilperson were to incur an indebtedness while in office. There is a specific section, (c) (2), which provides for a vacancy in the event of a conviction of a criminal offense while in office, but no corresponding section for incurring an indebtedness while in office.

The decision to determine whether a person is eligible for the office of Councilperson is in the discretion of the City Council vote. A majority vote of the City Council would be required in order to find a person ineligible.

FERGUSON GROUP WASHINGTON REPORT. The April edition of the Ferguson Group's "Washington Report is attached for your review **(Electronic Copy Only)**. The report covers the impact of recent federal decisions and discussions on local government.