

November 1st Council Meeting Summary regarding investigation

Misc resolution introduced: #04-582

Moved by Vaslo

Supported by: Kandes

Mayor: Introduces resolution
Discusses documentation being “leaked or given directly to the media within hours” (see note 1)
Stated ERI was on website within hours. (see note 2)
States majority of documents for closed session are not marked confidential.
When questioned by councilman Murphy is investigation is to include release of documents to newspaper mayor replies yes.
Mayor refers to ethics ordinance (208.04 (e) Admin Code

Note 1: see August 2nd meeting where Mayor discussed being upset that documentation was released to paper and investigation would follow if this ever happened again.

Note 2: discussion on website regarding ERI stemming from article in News Herald Aug 2. No actual copy of any ERI documents available on website at time of this resolution to investigate.

There are partial copies now on website dated 11-14-04. Nothing prior to that date

Vaslo: Stated he understood all documentation from closed sessions to be confidential material.

Murphy: States neither document was stamped confidential.(see above statement by Mayor that most are not marked.)
Stated that he distributed a copy to a city employee weeks after information was made public.

Kandes: States investigation is only looking for day or day after release of information.
Agreed to present amended resolution at 11/12/04 meeting if Mr. Zelenak did in fact have possession of said ERI document.

Disanto: No Comments

Higgins: Stated ongoing problem that people asking questions regarding closed meetings.

Brady: Asks Zelenak if he did in fact have copy of ERI document.
Informed Mayor & Council that Mr. Duchane stated Zelenak asked for copy after closed session of 7/26/04 and Prior to regular council meeting of 7/26/04.
Asked to have Zelenak removed from investigation.

Zelenak:

Stated he did not have copy till following day.

Stated he did not have copy till days later.

Stated he will remove himself from investigation if he did in fact have copy of ERI. (see note 3)

Stated he did not have a copy until Mr. Duchane informed him that he was contacted by News Herald reporter Jason Alley. (see note 4)

Note 3: 11/12/04 no amended resolution by council but Zelenak does in fact remove himself from investigation regarding the ERI per letter dated 11-5-04.

Letter also states investigation for ERI is to determine City Council member released this information to a Department of Public Service Employee. Although resolution states CITY EMPLOYEE. Mr. Zelenak is a city employee and furthermore eligible for the ERI program offered to all city employees. If this was in fact a confidential document he would not have been entitled to a copy at the time it was given to him. Whether it was the night of 7/26/04 or during the week of as the letter from Mr. Zelenak dated 11/5/04 states.

Note 4: Mr. Duchane informed 08/01/04 that Jason Alley contacted him the following morning 7/27/04.

**CITY OF LINCOLN PARK, MICHIGAN
CERTIFIED COPY OF RESOLUTION #04-582**

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE CITY OF LINCOLN PARK,
WAYNE COUNTY, MICHIGAN, HELD IN THE COUNCIL CHAMBERS OF THE MUNICIPAL
BUILDING.

UNDER THE DATE OF: November 1, 2004

MOVED BY Councilman Vaslo

SUPPORTED BY Council President Kandes

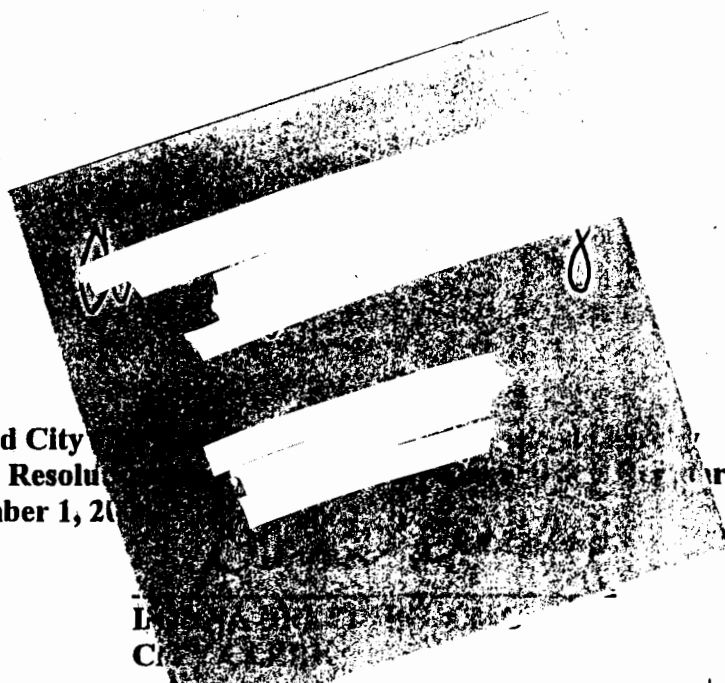
WHEREAS, certain city documents of confidential nature have been leaked to outside sources and members of employee bargaining units contrary to the Charter and ordinance mandated ethical and fiduciary duties of public officials in the City of Lincoln Park, creating an atmosphere that undermines progress and efficiency of city government.

NOW, THEREFORE BE IT RESOLVED, that the City Attorney and Chief of Police are instructed to conduct an investigation concerning the allegedly unauthorized release of the following documents and information:

1. The confidential attorney opinion of Eric Williams on or about June 15, 2004
2. The ERI booklet, tendered in a closed meeting, purportedly to a city employee on or about July 26, 2004.

With a timely report of finding, conclusions and recommendations to Mayor and City Council.
Motion unanimously carried.

I, DONNA BREEDING, duly authorized City
certify that the above is a true copy of a Resolution
Meeting held under the date of: November 1, 2004



(c) As used in subsections (a) and (b) hereof, the words "based on an agreement that the vote or official action or decision of an officer, employee or candidate would be influenced thereby" do not include communication between an individual or organization and a candidate regarding the candidate's views, record or plans for future action relative to an issue or measure in an attempt to determine a candidate's viewpoints or how the candidate plans to act in the future, if such communication results in an endorsement of the candidate, a decision not to endorse the candidate, or a contribution or expenditure required to be recorded or reported under Public Act 388 of 1976, as amended.

(d) No officer or employee shall represent his or her personal opinion as that of the governmental body of which he or she is a member or employee. This subsection shall not apply to statements by elected officials made in the course of fulfilling the responsibilities of their office or in running for election to office, nor shall it apply to the professional opinions of City officers or employees rendered in the course of performing their duties, provided that such opinions are clearly identified as professional opinions.

(e) No officer or employee shall divulge to any unauthorized person confidential information acquired in the course of holding his or her position in advance of the time prescribed by the governmental body of which he or she is a member or employee for its authorized release to the public, except as otherwise required by law.

(f) No officer or employee shall make unauthorized use of his or her public position, or any confidential information received through holding such public position, to obtain financial gain for himself or herself, a member of his or her immediate family or a business with which such individual is associated. This provision shall not prevent the officer or employee from accepting his or her regular compensation as a public officer or employee.

(g) No officer or employee shall make unauthorized use of personnel, resources, property or funds under his or her official care and control to obtain financial gain for himself or herself, a member of his or her immediate family or a business with which he or she is associated.

(h) No officer or employee shall act as an attorney, agent or representative of a person other than himself or herself, before the governmental body of which such officer or employee is a member or employee. This provision shall not prevent an officer or employee from performing his or her responsibilities as an officer or employee, nor prevent such action as described herein where it is otherwise authorized by law.

City of Lincoln Park

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November 5, 2004

Honorable Mayor and Council
City of Lincoln Park
Lincoln Park, Michigan 48146

RE: Ethics ordinance allegations

Dear Mayor Brown and Members of the Council:

As I had advised you last week if it became apparent at any time that I would be unable to investigate the allegations concerning the ERI booklet because I had received the booklet, I would forward this, as the ordinance requires, to the Assistant City Attorney. Earlier this week it became clear in my conversations with Mr. Duchane that he had given me a copy of the booklet on Wednesday or Thursday of the week that he presented it to you.

Accordingly, Andrew Kandrevas, the duly appointed Assistant City Attorney will be investigating that part of the ethical allegations. I shall be investigating the allegation concerning the unauthorized release of a confidential legal opinion to a web site. Lt. Gentner and I have already met and discussed procedures for conducting this investigation.

Coincidentally, it is prudent to advise all of you that the allegation concerning the ERI booklet relates to a purported improper transmittal of the booklet by a member of City Council to an employee of the Department of Public Services immediately following the council meeting and closed meeting in which the booklet was distributed to members of the Council.

Thank you for your anticipated cooperation in this series of investigations.

Very truly yours,

EDWARD M. ZELENAK

EMZ:sh