

**MINUTES OF THE EXECUTIVE SESSION OF THE CITY COUNCIL OF THE CITY OF COLUMBIA,
ILLINOIS HELD MONDAY, JULY 21 2008 IN THE COUNCIL ROOM OF CITY HALL**

I. CALL TO ORDER

Mayor Hutchinson called the Executive Session of the City Council of Columbia, Illinois to order at 10:05 PM.

Upon Roll Call, the following members were:

Present: Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, and Stumpf.

Absent: None.

Quorum Present.

Administrative Staff Present: City Clerk Wes Hoeffken, and City Attorney Tom Adams.

II. STATED PURPOSE

Mayor Hutchinson stated the Executive Session was called to discuss land acquisition.

A. Land Acquisition

Mr. Adams advised the City Council that he had represented the City in the purchase of the Winnifred Fiege property and his law partner, Jay Huetsch, had represented Wilma Mehrtens, as the agent and attorney in fact for Winnifred Fiege by virtue of a Power of Attorney Winnifred Fiege had given to Wilma Mehrtens, after Mr. Adams and Mr. Huetsch had made a full disclosure to their clients of the conflict of interest that existed in the same law firm representing both the buyer and the seller in making and entering into the contract for the sale and purchase of the Winnifred Fiege property on Main Street in Columbia. Mr. Adams advised that Winnifred Fiege passed away the day after the sales contract was signed by Wilma Mehrtens and that Mr. Huetsch, as Monroe County, Illinois Public Administrator, has been appointed by the court to be the legal representative of the estate which is being administered in probate in the Monroe County, Illinois Circuit Court. Mr. Adams advised that he filed a claim on behalf of the City in the estate administration seeking to enforce the real estate sales contract and Mr. Huetsch, as the legal representative of the estate, has filed a petition with the court seeking to have a Special Administrator appointed to handle the claim for the estate. As a result of the death of Winnifred Fiege, the parties to this transaction have now changed. Instead of the City dealing with Wilma Mehrtens on the real estate sale, they will be dealing with the Special Administrator who has a fiduciary duty to protect the interest of the estate beneficiaries. Winnifred Fiege died without a will and there are potentially a large number of estate beneficiaries who may be involved and may want to object to the sale. Because the parties have changed, Mr. Adams advises a conflict of interest exists for which he must make a full disclosure to the City Council and that he cannot continue to represent the City in the prosecution of the City's estate claim without the consent of the City Council after a full disclosure of the conflict of interest to the City Council. Mr. Adams advised that while he does not anticipate that anyone will object to allowing the claim or that the claim proceedings will be adversary (especially since the purchase price was determined by disinterested real estate and personal property appraisals), to avoid the appearance of impropriety, he would recommend that the City hire attorney, Myron Hanna, to prosecute the claim for the City. Mr. Hanna handles the prosecution of ordinance violations for the City. Alderman Unnerstall stated to avoid the appearance of impropriety or conflict of interest, he agrees with the recommendation of the City Attorney that the City employ Myron Hanna as Special Counsel for the City to

prosecute the estate claim. The City Council agreed to follow the recommendation of the City Attorney and employ Mr. Hanna to represent the City in the pending estate claim and to take that action when the Council returns to regular session.

III. ADJOURNMENT

There being no further business to be brought before the Council in Executive Session, Mayor Hutchinson asked for a motion to return to the Regular Session of the City Council at 10:11 PM.

MOTION:

It was moved by Alderman Row, and seconded by Alderman Unnerstall, to adjourn the Executive Session of the City Council held Monday, July 21, 2008 at 10:11 PM. Upon Voice vote, all Aldermen present voted yea. Motion Carried.


Wesley J. Hoeffken, City Clerk


Mayor Kevin B. Hutchinson