

MINUTES OF WORKSHOP MEETING

DOWNERS GROVE, ILLINOIS

JULY 28, 2009

Mayor Sandack called the Workshop meeting of the Village Council of the Village of Downers Grove to order at 7:00 p.m. in the Council Chambers of the Village Hall. The Mayor led the audience in the Pledge of Allegiance to the Flag.

Present: Mayor Ron Sandack; Commissioners William Waldack, Sean P. Durkin, Geoff Neustadt, Bruce Beckman, Bob Barnett; Village Manager Dave Fieldman; Village Attorney Enza Petrarca; Village Clerk April Holden

Absent: Commissioner Marilyn Schnell

Visitors: **Press:** Ann Picininni, Bugle Newspapers; Catherine Donovan, DG Reporter, 1101 31st Street
Residents: Frank Falesch, 820 Prairie Avenue; Harrison and Marianna Holm, 4220 Highland Avenue; Linda Kunze, Downtown Management, 933A Curtiss; Greg Bedalov, Downers Grove EDC, 2001 Butterfield; John Schofield, 1125 Jefferson; William C. Wrobel, DG Watch, 7800 Queens Court; Mark Thomas, 1109 61st Street; Marge Earl, 4720 Florence
Staff: Mike Baker, Deputy Village Manager; Naneil Newlon, Director, Public Works; Judy Buttny, Director, Finance; Tom Dabareiner, Director, Community Development; Brandon Dieter, Management Analyst; Doug Kozlowski, Director, Communications

Mayor Sandack explained that Council Workshop meetings are held the second and fourth Tuesdays at 7:00 p.m. The meetings are video taped live and for later cable-cast over cable channel 6.

The Workshop meeting is intended to provide Council and the public with an appropriate forum for informal discussion of any items intended for future Council consideration or just for general information. No formal action is taken at Workshop meetings.

The public is invited to attend and encouraged to comment or ask questions in an informal manner on any of the items being discussed or on any other subject. The agenda is created to provide a guideline for discussion.

MANAGER

1. Active Agenda and Informational Items

- a. **Final Plat of Subdivision – 4220 Highland.** The Manager said a resolution has been prepared to consolidate two existing 50-foot lots into one for the property located at 4220 Highland Avenue. An existing single family home is located across both lots. The request will allow for an addition to the southwest corner of the existing house. The Plan Commission considered this petition at their July 6, 2009 meeting and recommended unanimous approval.

The Mayor noted there are no exceptions being sought by the applicant from the Subdivision Ordinance.

- b. **Special Use Extension with Zoning Variation – 2501 Ogden Avenue.** The Manager said this item and the following item are requests for extensions of special uses previously granted by the Council. The property at 2501 Ogden was granted a special use in September 2008 for a parking lot expansion. Special use approval is granted for one year unless construction has commenced or an extension is approved by the Village Council. The petitioner has requested an extension due to market conditions. Staff recommends approval of this request.

The Mayor responded that market conditions is a legitimate circumstance.

Greg Bedalov, President, DG Economic Development Corporation (EDC), urged support of this request. He announced that Zigler Motor Group has selected Downers Grove as the location for a new Chrysler, Jeep and Dodge dealership. There are several dealerships in Downers Grove affected by auto bankruptcies. Some existing dealerships will be moved to other locations on Ogden Avenue. Zigler Motor Group will be at this location at 2501 Ogden Avenue. He further noted that Bill Kay has no intention of closing his Downers Grove dealership.

Commissioner Beckman said he is the liaison to the Economic Development Corporation. He attended a meeting with the Zigler Motor Group. They were impressed with the professionalism and degree of preparation exhibited by the EDC staff. He felt the presentation by EDC was a significant part of Zigler's decision to come to Downers Grove.

The Mayor said the petitioner is Premier AutoHaus. This extends their special use one year. He noted that a new dealership coming to Downers Grove is the result of a considerable amount of work by many people.

- c. **Extension of Special Uses – 5100 Forest Avenue.** The Manager said two special uses were granted in September 2008 and the petitioner is requesting a two-year extension to permit multiple-family residential development within the DB Downtown Business zoning district at 5100 Forest Avenue, and for an outdoor seating area accessory to a restaurant at the same address. The petitioner is requesting a two-year extension due to limited availability of financing and the slow down in the residential market. Staff recommends approval of this request.

Commissioner Waldack thanked staff for researching the history on this with relation to handicapped parking spots. He said the residents of Immanuel Residence had comments about the state of the property, which is important in granting this extension. This is in the downtown area and it needs to be maintained properly. It is important that the downtown area look good. Commissioner Waldack said that he wanted the residents to know he followed up on this and staff will keep after the owners. The petitioner has promised to do a better job of upkeep.

Commissioner Beckman agreed with Commissioner Waldack's comments. He said staff had use of the parking lot during Heritage Festival and he noticed the lack of maintenance on the site. He reiterated that the petitioner should take care of the area because it reflects poorly on the downtown.

Commissioner Durkin agreed. He suggested that a call from the Manager will address this matter.

- d. **Downers Grove Municipal Code Chapter Four – Temporary Use and Public Gathering Provisions.** The Manager said this is the next step in the permit improvement process which began a few years ago. It's an effort to improve customer service. Staff has taken the existing Code and renumbered portions of it. He indicated that Council would be hearing comments regarding concerns over regulations and permit processes as they relate to parades and open air meetings later in the meeting. Staff did not focus on this area. They did have a proposed change to decrease the number of participants from 50 to 25 for Open Air permits.

April Holden, Village Clerk, said this is a new chapter to the Municipal Code, Chapter 4, entitled Temporary Use and Public Gathering Provisions.

The content is not new as the temporary use ordinance was established in 1980 after it was determined that the existing procedure for obtaining permission for a temporary use was unnecessarily cumbersome. The need to streamline continues to be a common theme throughout the years. The Village has performed licensing functions since 1913, when liquor and electrical licensing provisions were established.

Temporary use licensing provisions currently are found in at least four chapters of the Municipal Code. Likewise, the oversight of temporary use licensing has shifted over the years to include a number of departments throughout the Village. This has resulted in an inconsistent application of the Code and subsequent confusion for our customers. This scattered approach is one of the main reasons behind developing this chapter. The provisions contained in Chapter 4 are not new; they are simply consolidated. The goals are to streamline the application and approval process, consolidate and simplify the Municipal Code and address compliance and safety issues. Staff believes this chapter will lead to less confusion and greater consistency of application procedures.

Chapter 4 consists of two subjects: temporary use and public gathering provisions. Temporary use pertains to activities open to the public and conducted upon the exterior portion of a zoning lot or on Village –owned property.

Ms. Holden summarized the key elements of the ordinance. She noted that the Downtown Management Corporation, the Economic Development Corporation and the Downers Grove Area Chamber of Commerce have reviewed this ordinance and the Plan Commission reviewed the portions related to the Zoning Ordinance.

The Mayor said that Council received a few e-mails relating to open gatherings and meetings. Apart from the change in the number of participants from 50 to 25 for Open Air permits, this is basically a consolidation to simplify the process and treat applicants consistently.

Mark Thoman, 1109 61st Street applauded the simplification of the Municipal Code. He said that the problem is with cutting and pasting sections of the old Code into the new Code. He referred to Sections 15.401 and 402 which were copied and pasted and merely adopt obsolete rules and insufficient definitions. He said that simply calling something a parade is not sufficient. He said what is missing is the definition of the term “assembly.” He also referred to the use of the word “shall” which means the Village will be legally required to ignore the difference between an abortion protest along Ogden Avenue, the annual bicycle parade down Main Street, or an American Nazi Party protest against minorities at Village Hall. He urged that the definition

section be more specific. Section B continues a 30 year trend of treading upon First Amendment right to assembly. In the absence of a clear and present danger, the Village has no legal standing to infringe or attempt to place limits on assembly, whether it is 50 or 25 people. The right to assemble includes the right to protest. He is disturbed that current staff might feel conditional limits to both the First and Fourteenth Amendments are acceptable. He supports changes that lead to consistency, and asked the Council to table Sec. 13-26 until accurate definitions can be put in place. He referred to Supreme Court decisions regarding the right to assembly.

John Schofield, 1125 Jefferson, explained that Dr. Goodman could not be present at this meeting, but Dr. Goodman e-mailed the Council and asked Mr. Schofield to make some of his points as part of the public record. Dr. Goodman supports Mr. Thoman's request to remove Sections 13-26 for further research. He also suggests delaying action on Sections 27 as well as 35-47 to give staff time to provide information about why it is now in the public interest to provide two weeks' notice for public assembly. He also asked staff to explain under what conditions the Village permit process for an open-air meeting or gathering applies to activities that might not be held on the streets and sidewalks, but on land belonging to the Downers Grove Park District or a School District campus.

Mr. Schofield then made his comments to the Council, saying he is glad that staff has reconsidered reducing the number from 50 to 25. Balancing the right of people to assembly and safety is in the State and Federal regulations. Mr. Schofield referenced requirements of the City of Chicago, which doesn't require permits on park lands, etc. He also feels it is important to review the number of days required for review. Just transcribing the words from the 1977 Ordinance brings the problems to light and provides an opportunity to create something better than what was created in 1977.

Mayor Sandack commented that everyone is entitled to their opinion. Mr. Thoman takes issue with the use of certain words, such as "assembly"; however, the Mayor disagrees. The question is whether the words have ever been misconstrued. This has not happened in Downers Grove. Since 1977 there have been a number of parades, gatherings, etc., that have been noteworthy, such as one in Skokie. The Mayor noted that reference was made to not wanting the Nazis here. That is content-based, not neutral language – frankly, it is censorship. The Village's ordinance does not get into defining what people can say should they choose to gather in an assembly, parade or march. He sees that as better rule making than trying to develop the "perfect" ordinance. There have been no groups denied the opportunity to say what they want in the Village. The thresholds of health, welfare and safety are not new thresholds. He noted that looking at something is an opportunity to make revisions if necessary. He agreed that 14 days may be too many days. This rule is typically the last mark and staff goes out of its way to get something done quickly. Mayor Sandack said he has not asked staff about the issue of 50 participants vs. 25. He reiterated that since 1977 the Village has had no negative results. He recommends putting this on an agenda and then reviewing it more closely. The immediate purpose of this ordinance was to consolidate the ordinance and make the process easier.

Commissioner Durkin said he agreed with Mayor Sandack's comments. If the ordinance needs further review, he supports addressing specifics in 2010. There are other issues to be addressed today which are A-list items.

Commissioner Waldack said he first had problems with the language as well. The object was to consolidate the various ordinances into one chapter. In doing so they uncovered material from 1977. He agrees going to 25 people is not the way to go, and suggests they leave it at 50 people.

Fourteen days is a long time and he would like to see this decreased. The Commissioner asked that this be revisited the first quarter of next year.

Commissioner Beckman also agreed with the other Council members, saying he would like to move forward with the consolidation. The irony of this element is that shortly after a protest parade this ordinance came into existence. He questioned how many times the Village had to enforce the ordinance, and Attorney Petrarca said it is a handful at the most. Commissioner Beckman saw no pressing need to review this immediately.

Commissioner Barnett thanked staff for going through the exercise. Before this ordinance consolidation, people who wanted to organize a protest had trouble finding the provisions. He thanked people who got involved in reviewing the ordinance, noting that the process is working.

Commissioner Neustadt said he is fine with keeping the number at 50 people for an Open Air permit.

The Mayor said that two months ago a group applied for a permit for a public gathering at the train station and complied with this provision in the current ordinance. They decided not to go forward because of a similar gathering in a neighboring community. He noted that the Council and staff would continue to review this, but it is not a top item at this time given TCD3, Long Range Financial Planning, budget and other items.

- e. **Amendment to Downtown Business District Loading Zones.** The Manager said this ordinance amends sections of the Municipal Code to extend the Downtown Business District loading zone time limit from 15 minutes to 30 minutes. This request came from the Downtown Management Corporation. The item was considered at the September 10, 2008 meeting of the Transportation and Parking Commission. The Commission voted unanimously to approve the 30 minute loading zone restriction and signs were installed in October 2008 on a trial basis to accommodate the downtown businesses and to determine whether any subsequent issues would arise. At present, no issues have been reported and staff is seeking approval to update the Village Code to reflect current signage and operation.

Commissioner Beckman thanked staff for the information provided. He has expressed concerns about the loading zone in the alley by the Library. He asked that Public Works staff take a closer look at this area.

Manager Fieldman said staff will look at this and will consult with Linda Kunze, Downtown Manager.

3. Consent Agenda Items

- a. **Contract Award: Prentiss Creek Watershed Stormwater Improvements (SW-039 and SW-040).** The Manager said this is to award a contract for the Prentiss Creek Watershed Stormwater Improvements Design Services to Bollinger, Lach & Associates, Inc. of Itasca, Illinois in the amount of \$275,572.96. The purpose of this contract is to provide for the preparation of engineering plans and construction documents for improvements in Subwatersheds B and C of Prentiss Creek as part of the Watershed Infrastructure Improvement Plan. This contract is the result of a competitive process. This firm is uniquely qualified and has demonstrated an effective public engagement process.

- b. **Contract Award: Lacey Creek Watershed Stormwater Improvements (SW-041).** The Manager said this is to award a contract for the Lacey Creek Watershed Stormwater Improvement Design Services to V3 Companies, Ltd. of Woodridge, Illinois in the amount of \$198,460.00. The purpose of this contract is to provide data collection and develop roadway and drainage improvement alternatives for Subwatershed E of Lacey Creek. This contract is the result of a competitive process.

- c. **Participation in the Suburban Tree Consortium and Authorize Tree Supply and Planting Services for Fall FY09.** The Manager said this resolution is to continue the Village's participation in the Suburban Tree Consortium and to authorize tree supply and planting services in the amount of \$40,000.00 for fall 2009. The Village obtains tree supply and planting services through the Suburban Tree Consortium. Downers Grove has been active with this group since 1987. This is for the purchase and installation of 140 trees scheduled to be planted this fall. All locations are replacement plantings at residential addresses where trees were lost due to storms, disease, decline or death. He noted that this is being brought forward later than usual because staff was carefully monitoring fund availability.

John Schofield, 1125 Jefferson, thanked staff and Council for bringing this forward. He said the last time there was an economic down turn there was a delay in the purchase of trees that resulted in a setback for the Village.

MANAGER'S REPORT

The Manager said he has two reports. He asked Tom Dabareiner, Director, Community Development, to report on TCD3.

Tom Dabareiner, Director of Community Development, presented a TCD3 report. He said that TCD 3 wraps up its first phase at Downers Grove South High School tomorrow evening. He said space is available in the Cafetorium, and people can register on the website or call the Village Hall.

Mr. Dabareiner said that 870 surveys were completed, 55 maps have been marked, and there were 500 participants at 12 meetings. When he was a consultant, there might be 20-50 people showing up; however, with TCD3 staff has had about 1,400 separate points of contact with people. More than 30 objectives have been identified and the results of the mapping exercise will be presented at tomorrow evening's meeting. He said there is a recognition that the community is evolving. The 30 objectives are near-term, medium and long-term. Most will be laid out in the Comprehensive Plan. The near-term items, which are one or two years, will be in the Strategic Plan process. There are some issues owned by other governmental entities and that information will be forwarded on to those boards. There will be others that require special focus and will be sent directly to the responsible Board or Commission. There was a specific gap identified that the consultant wishes to discuss with the community.

Commissioner Neustadt said he will be there.

The Mayor expressed his joy and appreciation for the participation of the community. This has been a resounding success.

DRAFT

John Schofield, 1125 Jefferson, commented that there was an open invitation from the Village for volunteer groups of all kinds to bring forth their ideas regarding TCD3. He reminded people that the information is on the web as well as notes from the previous meetings. He encouraged the public to review the TCD3 section of the Village's website.

Mr. Fieldman then presented the Quarterly Report for the second quarter 2009. He reviewed the budget revenue and expenditures, noting that the expenses year-to-date are tracking substantially less than this time last year. Revenue numbers are even with FY-08. Telecom tax revenues spiked in Q1. Expenses are down 3.4% from FY08. The Manager said that staff is actively implementing the FY09 revised budget plan. Expenses appear to be tracking slightly below the revised budget, and revenues may be lower than projected. Staff will continue to monitor revenues and adjust spending appropriately in order to preserve the reserve funding.

Regarding Strategic Planning, the Manager reviewed the projects on schedule. These include TCD3/Comprehensive Plan, Long Range Financial Plan, Economic Development plan, downtown facade, Building Code update, environmental sustainability best practices, capital projects plan and implementation, health insurance evaluation and direction, as well as Village fleet evaluation and direction. Projects in progress that have changed in scope are the Ogden Avenue, Village facilities, and customer service enhancements. Projects deferred due to budget constraints are the branding and marketing plan, the downtown parking study and gateway entrance signs. Key accomplishments in the second quarter include the FY 09 budget implementation, the long-range financial plan process, EDC business attractions to the Village, the TCD3 activities, capital project activities, façade improvement program grants, Fire Prevention Code amendment, liquor license fee amendment, voluntary separation program, 2008 CAFR published, capital bill project funding awarded, cost-savings measures, LED lighting for the parking deck, and submission of Certified Local Government application regarding historic preservation.

Mayor Sandack said that the report is, or soon will be, on line. He and the Council are proud of the continued efforts being made by staff to do more with less, and to review and improve the business model, be efficient and lean.

ATTORNEY'S REPORT

Village Attorney Enza Petrarca said she was presenting six items to the Council: 1) An ordinance amending temporary use and public gathering provisions; 2) A resolution expressing intent to continue participation in the Suburban Tree Consortium and to authorize certain purchases for FY 2009; 3) An ordinance amending 30 minute loading zones; 4) An ordinance authorizing the extension of a special use for 2501 Ogden Avenue to September 15, 2010; 5) An ordinance authorizing the extension of a special use for 5100 Forest Avenue to September 1, 2011; and 6) A resolution approving the final plat of consolidation for 4220 Highland Avenue.

VISITORS

Mark Thoman, 1109 61st Street, said he received a phone call from someone in the Clerk's office and he wanted to compliment her. There was a problem with the Joint Review Board meeting tape recording, so rather than doing the minutes from memory, she called everyone at the meeting to reconstruct what had been said. He appreciates her efforts. He was told her name is Kathy DesMarteau.

Mr. Thoman said he wholeheartedly supports the tree consortium, saying that the Village gets better and hardier stock that has a better chance of survival. He noted the difference between Naperville's trees and Downers Grove.

John Schofield, 1125 Jefferson, commented again on the matter of public assembly, saying that Dr. Goodman asked about clarification of public spaces. Mr. Schofield recommended that the Village clarify public place, public property, public area. It is ambiguous and confusing to someone who wants to abide by the ordinance.

Frank Falesch, 820 Prairie, said he attended last week's long range plan meeting, and was disturbed about the plan to put a tax on individual private property for stormwater management. The Mayor interjected that there is no "plan," but there was discussion and it will be referred to a Standing Committee for a public hearing. Mr. Falesch said he wanted this brought to the attention of the people because it is goofy and is subject to manipulation. The Mayor said that staff brought three concepts to the Council. Stormwater utilities is not a new concept. The County is reviewing this concept as well. This will be discussed utilizing the public hearing process.

COUNCIL MEMBERS

Referral of Long Range Financial Planning Topics to the Standing Committees of the Village Council. The Manager said the following Long Range Financial Planning topics are to be referred to the Standing Committees: The Finance and Administrative Committee will discuss annexation initiatives on August 24; the Public Services Standing Committee will discuss stormwater utility and capital projects implementation strategy on August 31; and the Public Safety Standing Committee will discuss the partnership with the Darien-Woodridge Fire Department on August 17. These are scheduled at 4:00 p.m. in the Committee Room.

The Mayor said these meetings will be an opportunity for discussion and debate.

Commissioner Beckman said he read an article in the Wall Street Journal about a California city looking to provide carbon credits. Trees are nature's antidote to fossil fuels. The question is whether the storage of carbon in trees can produce a tangible benefit to the urban forest. Energy intensive companies are proposing paying forest owners to keep their trees alive and, in exchange, receive carbon credits. As he read the article, Commissioner Beckman said he began to think in terms of our urban forest, and he asked Council to authorize staff to research this for future review.

Commissioner Neustadt said this is an interesting concept and he agrees that this should be reviewed.

Commissioner Waldack was also in agreement.

Commissioner Beckman referenced a stimulus package announced by Vice President Biden for firefighting and police protection, and asked what staff knows about this. The Manager said this will be researched.

Commissioner Barnett said that this weekend is the annual Fishing Derby, a free event at Barth Pond. People can just show up between 9:00 and noon. There will be prizes and he encouraged families to attend.

DRAFT

Commissioner Waldack encouraged participation in the TCD3 meeting at Downers Grove South. He referenced the need to address the recording equipment to help staff meet their requirements.

The Mayor said that tomorrow is the conclusion of one part of the TCD3 experience. It would be good to have a good turnout. That process will lead into the Comprehensive Plan process. He added that the Fishing Derby is a great family event.

There being no further discussion, the Workshop meeting was adjourned at 8:17 p.m.

April K. Holden
Village Clerk

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