



Village of Downers Grove Meeting Minutes Downers Grove Village Council

Civic Center
801 Burlington
Downers Grove, IL 60515
630-434-5500

Tuesday, October 6, 2009

6:30 PM

Council Chambers

1. Call to Order

Present: Commissioner Marilyn Schnell, Commissioner Bob Barnett, Commissioner William Waldack, Commissioner Bruce E. Beckman, Commissioner Geoff Neustadt and Mayor Ron Sandack

Absent: Commissioner Sean P. Durkin

Non Voting: Village Manager David Fieldman, Village Attorney Enza Petrarca and Village Clerk April Holden

Mayor Ron Sandack called the regular meeting of the Village Council of the Village of Downers Grove to order at 6:30 p.m. in the Council Chambers of the Downers Grove Village Hall.

Consent Agenda

Commissioner Schnell moved to go into Executive Session pursuant to Section 2(c)(5) of the Open Meetings Act to consider the purchase of property. Commissioner Barnett seconded the Motion.

VOTE: AYE - Commissioners Schnell, Barnett, Beckman, Neustadt, Waldack; Mayor Sandack

The Mayor declared the Motion carried and the Council convened into Executive Session in the Committee Room at 6:32 p.m.

Reconvene into Open Session - Call to Order - Council Chambers - 7:00 p.m.

The Mayor reconvened the Council meeting of the Village Council of the Village of Downers Grove to order at 7:00 p.m. in the Council Chambers of the Downers Grove Village Hall.

Pledge of Allegiance to the Flag

Mayor Sandack led those present in the Pledge of Allegiance to the Flag.

2. Roll Call

Present: Commissioner Marilyn Schnell, Commissioner Bob Barnett, Commissioner William Waldack, Commissioner Sean P. Durkin, Commissioner Bruce E. Beckman, Commissioner Geoff Neustadt and Mayor Ron Sandack

Non Voting: Village Manager David Fieldman, Village Attorney Enza Petrarca and Village Clerk April Holden

The Council meeting is broadcast over the local FM radio station, WDGC. In addition, a tape recording and videotape of the meeting are being made using Village owned equipment. The videotape of the meeting will be used for later rebroadcast of the Council meeting over the Village cable television Channel 6.

The Council will follow the rules of conduct for this meeting as provided in Sec. 2.5 of the Downers Grove Municipal Code. These offer the public the opportunity to comment at several points in the meeting. First, immediately following approval of the minutes of the past meetings, an opportunity will be given for public comments and questions on the active agenda items for this evening's meeting. Following this, an opportunity is given for public comments and questions on any subject. Finally, if a public hearing is scheduled for this meeting, an opportunity is given for public comments and questions related to the subject of the hearing.

The presiding officer will ask, at the appropriate time, if there are any comments from the public. If anyone wishes to speak, the individual should raise their hand to be recognized and, after acknowledgment from the presiding officer, approach the microphone and state their name and address. Remarks should be limited to five minutes, and asked that individuals refrain from making repetitive statements.

Mayor Sandack said there are agendas located on either side of the Council Chambers, and he invited the audience to pick up an agenda and follow the progress of the Council meeting.

3. Minutes of Workshop and Council Meetings

Executive Session Minutes for Approval Only - August 11, 2009

Council Meeting - September 15, 2009

Workshop Meeting - September 22, 2009

There being no additions or corrections to the minutes, Mayor Sandack said they would be filed as submitted.

Capital Projects Update

No report.

4. Public Comments and Questions

A. Comments and Questions on Active Agenda

The Mayor asked those who speak with respect to items on the Active Agenda to be mindful of what has already been said, and try not to be repetitious.

1. George Swimmer, 4905 Main Street, commented on Acadia on the Green and the proposed rehab center for that location. He said he has a building and office in the CBD, and has a vested interest in how the downtown performs. Ten years ago the Lakota Plan was before the Council regarding parking, creating a vibrant downtown, and the importance of retail businesses. People spoke about the distance customers would walk to get to a store. He noted that parking is already at a premium in the downtown area. While he believes that ATI sounds like a wonderful business, he doesn't want them in the downtown because they will add to already existing problems. He noted that the Village has a right not to allow them to put in a 10,000 square foot facility. He does not believe the Village should solve the problem for Acadia on the Green because they have failed to rent the retail space. The Village gave Acadia on the Green many incentives to come to Downers Grove.

2. Bill Nienburg, 5313 Washington, stated he is a member of the Downtown Management Board and Economic Development Board; however, he is speaking tonight as an individual resident. He commented that he wants to see the Village reach its potential. As a downtown resident he recognizes the special role a downtown plays in a community. He is a small business owner in another city and is painfully aware of the current economic challenges. He believes the amendment before the Council tonight represents a critical juncture for the downtown area. Language in the ordinance spoke to "encouraging the strongest opportunity of growth for other retail developments in the Village in a manner intended to produce optimal sales tax revenues." While it has been said the downtown is not an economic engine for the Village, it has also been said that this particular business is preferable to empty space, and that the space has been empty for three years. The risk of foreclosure and bankruptcy has also been a subject of speculation. He noted that it has also been mentioned that the property tax for this development will aid the Village. Mr. Nienburg said that none of these arguments are invalid, but what could be missing are the hopes and aspirations for the downtown. The downtown is an asset to the Village and should not be sold short. He said that the Village must create and enforce regulations that will get businesses patronized. The Village has to stay committed to the key provisions of the Redevelopment Agreement. He noted that the proposed development will be one of the largest tenants in the downtown, and will be a face to many non-Downers Grove residents who

represent the untapped market potential. The fact that the space has been vacant is not enough to give up the Village's goal to attract retail to the downtown area. He said the downtown area is at a crossroads with a new proposed grocery store that may attract other businesses, and there are comparable market lease rates. The economy is showing signs of recovery. The current proposal is not an "it's-better-than-nothing" proposition. It could be a valuable space where that recovery can take shape and deliver the promise of the original agreement. The years of lost revenue cannot be recouped, but the right financial move is to hold out for sales tax revenue producing tenants. Mr. Nienburg said that the Village cannot ignore the long-term financial picture. Acadia represented excitement and a lifeline to retailing, and most believed in the Redevelopment Agreement. He believes that to approve this is to take an unacceptable risk that would change the fiber of the downtown's retail character for a long time. He urged the Council to consider the best long-term interest of the downtown.

3. Vito Larucci, 340 56th Street, stated that he is a five-year resident of the Village, and is present to ask the Village to keep one important city service. He read in the paper that there would be job cuts. He asked that they keep the service where Public Works pumps out their back yards in a flood. He has serious flooding problems in his back yard. Last December, the creek was filled to the banks and water from the back yard lapped up against the back wall of his house. He could not believe how much water was there, and had photos with him to show the Council after the meeting. Without Public Works, Mr. Larucci said he would not be living here. He asked that the Village keep that vital service, and that he is pleading on behalf of all those living in floodplain areas. He added that the professionalism in Downers Grove's Public Works staff is exceptional.

The Mayor asked that he leave the property photos with Deputy Village Manager Mike Baker. These issues will be addressed in upcoming budget sessions.

Mr. Larucci added that it is not too bad in the summer, but in the winter he has the most serious problems.

4. Willis Johnson, 603 Rogers, expressed concerns about the Acadia on the Green project. He said he e-mailed the Council outlining his concerns, which have also been mentioned by previous speakers. He believes the decision of ATI to lease 10,000 square feet of prime retail space to a service tenant is driven by economics. This is for a ten-year lease with two five-year options. The Village will have to live with a decision in support of this for potentially 20 years. He hoped that the economy over the next 20 years would change enough to attract retail tenants to the space. He said he has no first hand knowledge of the economics that went into the development, but based on rumors, rental rates were challenging. If the rental rates are adjusted to the market rates, spaces can be leased. This will be a huge area of non-retail activity, and he questions the benefit to the rest of the downtown area. He asked the Council to reconsider this usage.

5. Joshua Kolman, 945 Burlington Avenue, said he is concerned as an owner in the building. This decision regarding ATI doesn't help the owner in any way. He moved to this location because it was downtown. He owns two small businesses that are service oriented and he would not relocate them here because it would take away from the downtown. This business, as proposed, will take away from his building, and would not encourage him to stay in the building. There is a Park District gym 1-1/2 miles away, conveniently located for residents. While the proposed development is a rehab center as well as a gym, he believes it will do nothing to attract people to the downtown area. A normal sized rehab center would not be a concern. He also stressed the importance of keeping retail based businesses downtown for the future, and he asked that the Village not take the easy way out, but hold out for sales tax paying tenants.

6. Tammy Karan from the Humidor, and a resident of Downers Grove, has her business in Acadia on the Green. When they moved here they had examined other opportunities in other municipalities. They chose Downers Grove because of its focus on changing the downtown

area. She has been in the Village five years and has seen a lot of change with great variety and mix. Ms. Karan distributed a pamphlet about Acadia on the Green that prospective owners were given when considering whether to open their businesses there. She pointed out that every spot shown in the pamphlet was designated as a retail spot. She has never complained to anyone as a retailer, but she comes now before the Council because this will not benefit her business or her family. She asked the Council to rethink this and do some studies. ATI will not bring customers from outside the area nor expand the customer base. As a business owner, she would rather see this space remain empty.

7. Mike Sacchetti, 5129 Main Street, commented that he and his wife own Louisa's and Millie's Chocolates at 5129 Main Street. They have owned their business for five years. When the Belmont overpass was approved, they moved from Belmont Avenue to Main Street, although they looked in the local area at 50 different properties. In all areas they looked, landlords actively pursued them, except for Acadia, whose rents were double all other spaces. He indicated that they chose Downers Grove due to the CBD being a destination for shopping and dining. They are not opposed to change but believe the Village needs a third party to determine the impact to the area. Retail promotes other retail. He asked that the Council pause and do an impact study before making their decision. With regard to parking, this service business will require handicapped parking. It will impact the surrounding businesses by supporting more service businesses, rather than retail.

8. Scott Mathis, 933 Curtiss, is the owner of the jewelry store on Curtiss. When he looked to open the store he was told there was space that Acadia might have once they filled up the spaces with the big box retailers. Acadia never contacted him again, and from his perspective, he does not see that they have actively pursued other retailers. He thinks it is a good idea to revisit this.

9. Dave Bormes, 5311 Washington, said he owned a printing business in Downers Grove, and has resided in the Village for four years. He understands the concern of the retailers, as his business barely survived when Main Street was torn up years ago. He has experience in real estate including commercial real estate. He became involved in the issue about a month ago and heard many pros and cons about the proposal. He noted that 10,000 square feet of space is second only to the Library in the downtown area. He reviewed some of those arguments, including the changing economy. Acadia was a promise of a new beginning for the downtown as they stated in their prospectus. It is a critical space, and he finds it ironic that in 2005 the Village spent money to get professional help to study the situation. One of the items that was accepted was the 90/10-retail mix. With regard to the Council's packet on this issue, Mr. Bormes commented on information that was apparently not provided by the developer, and he asked whether the Village has enough information to make this important decision tonight. He asked that they slow this down, obtain a professional opinion and get it right. He asked that they also amend the ordinance to do an independent study so that the retailers are protected.

10. Kevin McQuillan, lawyer at 947 Maple, said he lives in Naperville and has watched the changes in Naperville. He is excited about what he has seen happening in Downers Grove. He is a business owner in the TIF District, and a member of the Downtown Management Corporation. He referenced the Redevelopment Agreement entered into between the Village and Acadia, which refers to retail throughout. Mr. McQuillan said that the Village is being asked to amend the ordinance and allow Acadia to enter into a lease which will be in violation of the Agreement by decreasing the percentage of retail space to 53%, rather than the originally agreed upon 90%. He said Acadia right now is only 80% retail, and there is a provision in the Redevelopment Agreement that specifies that the Village and Acadia agree that the property be developed and used only in substantial compliance with the Agreement. He said 53% retail is not in substantial compliance with the Agreement. In the Agreement, there was a definition saying that uncontrollable circumstances do not include financial changes or differences, so the financial change argument is not valid. Mr. McQuillan asked that the Council send this back for further review as to whether this is actually in substantial compliance with the Agreement.

11. Nicole Huempfer, 947 Burlington, owner of Remedy, said she e-mailed the Council with her reasons for choosing Downers Grove to open her business. She is especially concerned about the size and the location of the proposed ATI gym and rehab center, and she asked that further studies be conducted.

12. Bella DelPercio, 5147 Main Street, said she spoke with the owner of the Jam & Jelly Café in Darien, which is next door to an ATI rehab facility. She read a letter into the record from the Jam & Jelly owner who stated that the parking for the rehab facility presents problems for his restaurant. He believes that this center will present a problem for the downtown area, and said that a gym that size belongs in a free standing building with sufficient parking. Ms. DelPercio then asked the Village to consider their vote and the small businesses that are already hurting in Downers Grove. The Village does not need a gym that size in that location, nor do the small business owners in the downtown area.

13. Barbara Schroeder of Muriel Mundy, 5135 Main Street, asked the Council to consider upholding the 90% retail and 10% service in the area. This will affect parking, sales and sales tax over 10 to 20 years.

14. Marylou Savino, Be Fit Physical Therapy and Pilates, has a physical therapy business in the downtown area and has a vested interest in this decision. ATI is a competitor to her no matter where they are located. The Council has heard arguments for and against maintaining the 90/10% mix. She looked at space at Acadia and it was priced out of the market. She lives here and supports the community and thanked the Council for listening to the public.

15. Don Jankowski, 1312 Blanchard, introduced himself as Chair of the Economic Development Corporation, and said he was speaking as a private resident. He has a PhD in Economics and has worked in numerous aspects of retail business. Mr. Jankowski helps clients set their prices, and noted that the retail market has not seen any recovery as yet. There is a lack of liquidity and no one can get financing. There is also a plunge in consumer spending, as well as changes in spending habits, which places pressure on smaller businesses. Bankruptcies are occurring everywhere. Retailers are struggling with the economy and that will not change in 2010. To get to where they were before, he believes will take until 2015. The retail market has changed, noting also that the Internet is taking away from retail locations, making fewer retail spaces necessary. Mr. Jankowski commented that people are starting to save, and consumer habits are changing. The boom that they were looking for when the Acadia agreement was signed is not going to happen. As a former client, he believes that ATI is a high quality business and will be good for Downers Grove. He urged the Council to allow ATI to become one of the Downers Grove businesses. He said that he actually did shop in Darien after having rehab treatment at the ATI in Darien, and believes clients will do the same in Downers Grove.

B. Comments and Questions on General Matters

There were none.

5. Public Hearings

6. Consent Agenda

COR 00-03909 A. Claim Ordinance: No. 5813, Payroll, September 11, 2009 and No. 5815, Payroll, September 25, 2009

Sponsors: Accounting

A motion was made to Approve this file on the Consent Agenda.

Indexes: N/A

BIL 00-03910 B. List of Bills Payable: No. 5788, October 6, 2009

Sponsors: Accounting

A motion was made to Approve this file on the Consent Agenda.

Indexes: N/A

RES 00-03841 C. Resolution: Authorize an Agreement with Grasshopper Shuttle, LLC for the Sale of CNG Fuel

Sponsors: Finance

Summary of Item: This authorizes execution of an agreement with Grasshopper Shuttle, LLC to allow Grasshopper Shuttle to purchase compressed natural gas (CNG) fuel from the Village CNG filling station.

A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE AND GRASSHOPPER SHUTTLE, LLC FOR THE SALE OF CNG FUEL

RESOLUTION 2009-92

A motion was made to Pass this file on the Consent Agenda.

Indexes: CNG Fueling Facility

MOT 00-03913 D. Motion: Receipt of Minutes of Boards and Commissions

Summary of Item: Library Board - September 9, 2009

Plan Commission - August 3, 2009

Stormwater and Flood Plain Oversight Committee - May 7, 2009

Zoning Board of Appeals - August 26, 2009

A motion was made to Note Receipt Of this file on the Consent Agenda.

Indexes: Boards and Commissions Minutes

Passed The Consent Agenda

A motion was made by Commissioner Schnell, seconded by Commissioner Barnett, that the consent agenda be passed. The motion carried by the following vote:

Votes: Yea: Commissioner Schnell, Commissioner Barnett, Commissioner Waldack, Commissioner Durkin, Commissioner Beckman, Commissioner Neustadt and Mayor Sandack

7. Active Agenda

A. Motion to Adopt Ordinance 00-03894 through Ordinance 00-03905, Building Codes (Active Agenda Items B-L)

A motion was made by Commissioner Schnell, seconded by Commissioner Barnett, to Adopt this file. Mayor Sandack declared the motion carried by the following vote:

Votes: Yea: Commissioner Schnell, Commissioner Barnett, Commissioner Waldack, Commissioner Durkin, Commissioner Beckman, Commissioner Neustadt and Mayor Sandack

ORD 00-03894 B. Ordinance: Adopt the 2006 International Residential Code and Amendments Thereto

Sponsors: Community Development

Summary of Item: This adopts the 2006 International Residential Code effective November 6, 2009.

AN ORDINANCE ADOPTING THE 2006 INTERNATIONAL RESIDENTIAL CODE AND AMENDMENTS THERETO

ORDINANCE NO. 5075

A motion was made to Adopt this file. Mayor Sandack declared the motion carried.

Indexes: International Residential Code

ORD 00-03895 C. Ordinance: Adopt the 2006 International Building Code and Amendments Thereto

Sponsors: Community Development

Summary of Item: This adopts the 2006 International Building Code effective November 6, 2009.

AN ORDINANCE ADOPTING THE 2006 INTERNATIONAL BUILDING CODE AND AMENDMENTS THERETO

ORDINANCE NO. 5076

A motion was made to Adopt this file. Mayor Sandack declared the motion carried.

Indexes: International Building Code

ORD 00-03896 D. Ordinance: Amend Building Code Provisions

Sponsors: Community Development

Summary of Item: This amends Building Code provisions effective November 6, 2009.

AN ORDINANCE AMENDING BUILDING CODE PROVISIONS

ORDINANCE NO. 5077

A motion was made to Adopt this file. Mayor Sandack declared the motion carried.

Indexes: Building Code

ORD 00-03897 E. Ordinance: Adopt the 2006 International Property Maintenance Code and Amendments Thereto

Sponsors: Community Development

Summary of Item: This adopts the 2006 International Property Maintenance Code effective November 6, 2009.

AN ORDINANCE ADOPTING THE 2006 INTERNATIONAL PROPERTY MAINTENANCE CODE AND AMENDMENTS THERETO

ORDINANCE NO. 5078

A motion was made to Adopt this file. Mayor Sandack declared the motion carried.

Indexes: International Property Maintenance Code

ORD 00-03898 F. Ordinance: Adopt the 2006 ICC International Fire Code and Amendments Thereto

Sponsors: Community Development

Summary of Item: This adopts the 2006 ICC International Fire Code effective November 6, 2009.

AN ORDINANCE ADOPTING THE 2006 ICC INTERNATIONAL FIRE CODE AND AMENDMENTS THERETO

ORDINANCE NO. 5079

A motion was made to Adopt this file. Mayor Sandack declared the motion carried.

Indexes: International Fire Code

ORD 00-03899 G. Ordinance: Adopt the 2009 Energy Conservation Code and Amendments Thereto

Sponsors: Community Development

Summary of Item: This adopts the 2009 Energy Conservation Code effective November 6, 2009.

AN ORDINANCE ADOPTING THE 2009 ENERGY CONSERVATION CODE AND AMENDMENTS THERETO

ORDINANCE NO. 5080

A motion was made to Adopt this file. Mayor Sandack declared the motion carried.

Indexes: Energy Conservation Code

ORD 00-03900 H. Ordinance: Adopt the 2006 International Fuel Gas Code and Amendments Thereto

Sponsors: Community Development

Summary of Item: This adopts the 2006 International Fuel Gas Code effective November 6, 2009.

AN ORDINANCE ADOPTING THE 2006 INTERNATIONAL FUEL GAS CODE AND AMENDMENTS THERETO

ORDINANCE NO. 5081

A motion was made to Adopt this file. Mayor Sandack declared the motion carried.

Indexes: International Fuel Gas Code

ORD 00-03901 I. Ordinance: Adopt the 2006 International Mechanical Code and Amendments Thereto

Sponsors: Community Development

Summary of Item: This adopts the 2006 International Mechanical Code effective November 6, 2009.

AN ORDINANCE ADOPTING THE 2006 INTERNATIONAL MECHANICAL CODE AND AMENDMENTS THERETO

ORDINANCE NO. 5082

A motion was made to Adopt this file. Mayor Sandack declared the motion carried.

Indexes: International Mechanical Code

ORD 00-03902 J. Ordinance: Adopt the 2008 National Electrical Code and Amendments Thereto

Sponsors: Community Development

Summary of Item: This adopts the 2008 National Electrical Code effective November 6, 2009.

AN ORDINANCE ADOPTING THE 2008 NATIONAL ELECTRICAL CODE AND AMENDMENTS THERETO

ORDINANCE NO. 5083

A motion was made to Adopt this file. Mayor Sandack declared the motion carried.

Indexes: Electrical Code

ORD 00-03904 K. Ordinance: Amend Life Safety Code Provisions

Sponsors: Community Development

Summary of Item: This amends the Life Safety Code provisions effective November 6, 2009

AN ORDINANCE AMENDING LIFE SAFETY CODE PROVISIONS

ORDINANCE NO. 5084

A motion was made to Adopt this file. Mayor Sandack declared the motion carried.

Indexes: Life Safety Code

ORD 00-03905 L. Ordinance: Adopt the 2004 State of Illinois Plumbing Code and Amendments Thereto

Sponsors: Community Development

Summary of Item: The adopts the 2004 State of Illinois Plumbing Code effective November 6, 2009.

AN ORDINANCE ADOPTING THE 2004 STATE OF ILLINOIS PLUMBING CODE AND AMENDMENTS THERETO

ORDINANCE NO. 5085

A motion was made to Adopt this file. Mayor Sandack declared the motion carried.

Indexes: Plumbing Code

RES 00-03903 M. Resolution: Authorize an Agreement with the Office of State Fire Marshal re: Elevator Safety Program

Sponsors: Community Development

Summary of Item: This authorizes execution of an agreement between the Village of Downers Grove and the Office of the State Fire Marshal regarding the Elevator Safety Program.

A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE AND THE OFFICE OF STATE FIRE MARSHAL REGARDING THE ELEVATOR SAFETY PROGRAM

RESOLUTION 2009-93

A motion was made by Commissioner Barnett, seconded by Commissioner Beckman, to Adopt this file. Mayor Sandack declared the motion carried by the following vote:

Votes: Yea: Commissioner Schnell, Commissioner Barnett, Commissioner Waldack, Commissioner Durkin, Commissioner Beckman, Commissioner Neustadt and Mayor Sandack

Indexes: Elevator Safety Program

ORD 00-03890

N. Ordinance: Approve a First Amendment to the Redevelopment Agreement with Acadia on the Green, LLC

Sponsors: Manager's Office

Summary of Item: This approves a First Amendment to the Redevelopment Agreement between the Village of Downers Grove and Acadia on the Green, LLC.

AN ORDINANCE APPROVING EXECUTION OF A FIRST AMENDMENT TO THE REDEVELOPMENT AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE AND ACADIA ON THE GREEN, LLC

ORDINANCE NO. 5086

Commissioner Waldack thanked everyone who spoke about this topic. He doesn't have any problems with the other motions that are coming up regarding Acadia. Opening up a new business is challenging. It is anyone's guess how parking will go. From the taxpayer's perspective, the Village spent a lot of money and got little in return from Acadia. The Agreement was with Acadia on the Green, but the times and economy have changed, and now Acadia wants to modify the Agreement. The Council's responsibility is with the taxpayers. He said that the Agreement calls for a 90/10 split not of retail, but of a retail sales tax producing revenue. Staff has suggested that this space should generate about \$25,000 in sales tax annually. He suggested that the Agreement be modified so that the leased spaced produces revenue, or payment in lieu of taxes (PILOT). This was previously mentioned at a Workshop meetin. This is not a deal killer. He suggested that the Payment in Lieu of Taxes program be entered into with the developer. A typical session of physical therapy runs about \$350 per session, which he calculated to be an annual payment of \$25,000. Absent this agreement, he cannot support the Amendment.

Commissioner Neustadt thanked everyone for their comments. He appreciated the contacts and meetings. He worked downtown for a number of years and he will vote in favor of this.

Commissioner Beckman said he also appreciated the comments made and e-mails sent. He has pondered this issue and believes they have to protect the citizenry. Decisions must be fact-based, and the fact is that the space has remained empty for three years, and we have gone through a recession. Commissioner Beckman said that the Council cannot be everything to everybody, and must remain flexible based on facts.

Commissioner Barnett said he agrees with Commissioner Beckman, and also agrees with Commissioner Waldack that this is a financial decision, but he does not know what is a deal breaker or what the financial details actually are. He said that the Council is being asked to make a decision about risk to the Village. The Village is already \$300,000 short and that money will not be recovered. He believes the financial risk to the Village is greater by not taking this proposal now, and he is in favor of modifying the agreement.

Commissioner Schnell said that this is not an easy vote. When the decision was made by a previous Council to put money into land, it was to get a high quality development that would draw in new residents and new businesses. Acadia is a high quality development and is beautiful. The addition of the grocery store is important. As to the specific amendment, she understands what was said by the people who spoke. The idea of trying to get an authentic downtown was the goal of the development. She believes in the philosophy of 90/10, but in listening to Mr. Jankowski, she was swayed. To wait until 2015, would result in monumental damage to the TIF District. Commissioner Schnell noted that she was planning to vote against this because she believes in the 90/10 split. Mr. Jankowski's argument was persuasive and she now will vote for this. If the Village has to look towards the 2015 date, it would place an enormous amount of financial burden and hardship on the Village, residents and retailers. Commissioner Schnell then referenced the Station Crossing development, saying that when the

occupants came in it was mostly service businesses. The Council did not get what they wanted then, although today it is mostly retail. There is only one service industry at that location. She said that over time, the mix of Acadia's development might also change. The economic argument is very compelling. She thanked those who came to speak and those who sent e-mails to the Council.

Commissioner Durkin said that he supports the many comments made by his colleagues. He likes the complimentary usage of this proposal, and thinks it is an organization that will help the downtown area. He truly supports this and thanked everyone who contacted the Council with his or her opinion.

Mayor Sandack commented that there was a room filled on Saturday regarding the budget, and many people present tonight regarding this topic. Delivering news that is not universally loved is not the easiest thing to do. He said that the Council members are also taxpayers and have a passion for the Village. The most important thing their job entails is to be diligent, and not be moved by passion or emotion, but base their decisions on facts. Good people can disagree. The Mayor said that the Redevelopment Agreement has a number of elements, only one of which has drawn the interest and concern of business owners and residents, and that is the 90/10 component. There have been few objections to the other components of the Agreement. The 90/10 component was voted into the Agreement because at the time it made sense, and the developer expected to get big retailers. The developer was directed to bring in a big retailer. Some retailers will not come to Downers Grove for a variety of reasons. That building is the only one that has the 90/10 rule with one exception. The free market decides who rents what space to what type of business. Mayor Sandack said that in 2009, the space is empty. It is a TIF District, and the Village relies on increased real estate increments to pay the TIF. The intent was to have a vibrant downtown. The 90/10 component was born out of the Station Crossing situation. The Council has obligations to the businesses and the residents. Everyone is a stakeholder. The 90/10 ratio also contains opt out provisions. If something isn't working, having the ability to opt out is prudent. This is a very tough vote. While he is not happy with the situation, he will vote in favor of the Agreement.

A motion was made by Commissioner Beckman, seconded by Commissioner Durkin, to Adopt this file. Mayor Sandack declared the motion carried by the following vote:

Votes: Yea: Commissioner Schnell, Commissioner Barnett, Commissioner Durkin, Commissioner Beckman, Commissioner Neustadt and Mayor Sandack
Nay: Commissioner Waldack

Indexes: Planned Development #37-Acadia on the Green

RES 00-03891 O. Resolution: Authorize a Grant of Easement to Acadia on the Green, LLC

Sponsors: Manager's Office

Summary of Item: This authorizes a grant of easement to Acadia on the Green, LLC.

A RESOLUTION AUTHORIZING A GRANT OF EASEMENT TO ACADIA ON THE GREEN, LLC

RESOLUTION 2009-94

A motion was made by Commissioner Neustadt, seconded by Commissioner Waldack, to Adopt this file. Mayor Sandack declared the motion carried by the following vote:

Votes: Yea: Commissioner Schnell, Commissioner Barnett, Commissioner Waldack, Commissioner Durkin, Commissioner Beckman, Commissioner Neustadt and Mayor Sandack

Indexes: Planned Development #37-Acadia on the Green

RES 00-03892 P. Resolution: Accept Public Improvements - Acadia on the Green Subdivision

Sponsors: Manager's Office

Summary of Item: This authorizes the acceptance of certain public improvements for the Acadia on the Green Subdivision.

A RESOLUTION AUTHORIZING ACCEPTANCE OF PUBLIC IMPROVEMENTS - ACADIA ON THE GREEN SUBDIVISION

RESOLUTION 2009-95

A motion was made by Commissioner Waldack, seconded by Commissioner Durkin, to Adopt this file. Mayor Sandack declared the motion carried by the following vote:

Votes: Yea: Commissioner Schnell, Commissioner Barnett, Commissioner Waldack, Commissioner Durkin, Commissioner Beckman, Commissioner Neustadt and Mayor Sandack

Indexes: Planned Development #37-Acadia on the Green

RES 00-03912 Q. Resolution: Amend Council Policy Re: Maintenance of Storm Water Control Structures and Creek Channels on Public and Private Property

Sponsors: Public Works

Summary of Item: This amends the Council Policy concerning maintenance of storm water control structures and creek channels on public and private property.

A RESOLUTION AMENDING THE POLICY OF THE VILLAGE OF DOWNERS GROVE CONCERNING MAINTENANCE OF STORM WATER CONTROL STRUCTURES AND CREEK CHANNELS ON PUBLIC AND PRIVATE PROPERTY

RESOLUTION 2009-91

A motion was made by Commissioner Durkin, seconded by Commissioner Neustadt, to Adopt this file. Mayor Sandack declared the motion carried by the following vote:

Votes: Yea: Commissioner Schnell, Commissioner Barnett, Commissioner Waldack, Commissioner Durkin, Commissioner Beckman, Commissioner Neustadt and Mayor Sandack

Indexes: Stormwater Administrator

8. Mayor's Report

RES 00-03914 Resolution: Appoint and Reappoint Members to Boards and Commissions

Sponsors: Mayor

Summary of Item: This appoints and reappoints members to Village Boards and Commissions

ARCHITECTURAL DESIGN REVIEW BOARD

Reappoint Carine Acks and Montrew Dunham to three-year terms expiring August 31, 2012

COMMUNITY EVENTS COMMISSION

Reappoint Patti Marino and Becky Rheintgen to three-year terms expiring August 31, 2012

Appoint Scott Jacaway to a two-year term expiring August 31, 2011

Appoint Colleen Mahoney to a one-year term expiring August 31, 2010

COMMUNITY GRANTS COMMISSION

Reappoint David Humphreys and Kathleen Nybo to three-year terms expiring August 31, 2012

Appoint Bela Shah and Ellen Tombaugh to one-year terms expiring August 31, 2010

ENVIRONMENTAL CONCERNS COMMISSION

Reappoint James Cavallo to a three-year term expiring August 31, 2012

Appoint Michael Duet to a three-year term expiring August 31, 2012

Appoint Kirsten Keller to one-year term expiring August 31, 2010

HUMAN SERVICE COMMISSION

Appoint Tim Meany to a two-year term expiring August 31, 2011

Reappoint Jeff Rogers to a three-year term expiring August 31, 2012

Appoint Stuart Melton to a one-year term expiring August 31, 2010

LIBRARY BOARD OF TRUSTEES

Reappoint Stephen Daniels as President to a six-year term expiring August 31, 2015

Reappoint Kathleen DiCola to a six-year term expiring August 31, 2015

LIQUOR COMMISSION

Reappoint Paul Adank and James Krusenoski to two-year terms expiring August 31, 2011

Reappoint Daniel McInerney and Michele King to three-year terms expiring August 31, 2012

PLAN COMMISSION

Reappoint Alan Jirik as chair to a three-year term expiring August 31, 2012

Reappoint Brett Webster as vice-chair to a three-year term expiring August 31, 2012

Reappoint J. Phillip Matejczyk to a three-year term expiring August 31, 2012

TRANSPORTATION AND PARKING COMMISSION

Reappoint Mark Cronin and Sheryl Van Anne to three-year terms expiring August 31, 2012

Appoint Kaitlin Jeffries to a one-year term expiring August 31, 2010

ZONING BOARD OF APPEALS

Re-appoint William White as chair to a three-year term expiring August 31, 2012

Appoint Scott Isaacson to a three-year term expiring August 31, 2012

A RESOLUTION APPOINTING MEMBERS TO VILLAGE BOARDS AND COMMISSIONS

RESOLUTION 2009-96

The Mayor said he has a fond and appreciative sense for any resident who will spend their time and give back to the community. He thanked all of those who volunteer for the Village.

Commissioner Beckman said he was involved in the reappointments to the Plan Commission, and it was an easy choice of people who are very active, and have the highest attendance records. He pointed out that Mr. Webster was appointed as the Vice-Chair. Mr. Jirik has done an excellent job for the community and there will be a transition period over the next two years. The Plan Commission is one of the most important of the Village's Boards and Commissions.

Commissioner Neustadt said he interviewed applicants for Community Events and Community Grants. The members appointed are already attending meetings. He thanked those who retired from the Commission for their service, and wished good luck to all the appointees.

Commissioner Waldack thanked the Village Commissioners for their work in conducting the interviews. He also thanked all those who served and those who applied.

Commissioner Schnell said she interviewed Transportation & Parking, and Environmental Concerns and the majority of people were reappointed. The new member will be an excellent member. This was her first time interviewing students, and she enjoyed it thoroughly, particularly because of their enthusiasm. She is happy for the people nominated, and said that there will be orientation meetings for new appointees.

A motion was made by Commissioner Schnell, seconded by Commissioner Barnett, to Adopt this file. Mayor Sandack declared the motion carried by the following vote:

Votes: Yea: Commissioner Schnell, Commissioner Barnett, Commissioner Waldack, Commissioner Durkin, Commissioner Beckman, Commissioner Neustadt and Mayor Sandack

Indexes: Boards and Commissions

Proclamations

Mayor Sandack proclaimed October 4-10, 2009 as Fire Prevention Week. He noted that the Silent Parade will be held this Friday evening on Maple Avenue.

The Mayor also proclaimed the month of October as Community Planning Month in the Village of Downers Grove.

Materials to be Placed on File

Mayor Sandack reported that on Thursday, October 1, a liquor hearing was held regarding liquor violations, and as Liquor Commissioner he suspended the liquor license of Bok Choy for two days, and the Cellar Door license was suspended for three days. Ballydoyle Irish Pub and Restaurant was ordered to pay \$5,000 in fines and administrative costs, and Gattos Restaurant and Bar was ordered to pay a fine in the amount of \$3,000 and administrative costs of \$1,000.

9. Manager's Report**10. Attorney's Report****Future Active Agenda****11. Council Member Reports and New Business**

Commissioner Barnett said that last Friday he and Commissioner Durkin attended the ribbon cutting for the Weatherbug Station located at Whittier School. The systems are installed in

schools to provide a learning opportunity for the students. He encouraged people to visit Weatherbug.com. He also thanked the groups involved in driving this project. They presented the Village with a plaque recognizing the work of all the volunteers in this program.

Commissioner Neustadt reminded everyone of Fire Prevention Week, and the 15th annual Silent Parade which will be held on Maple. Tomorrow evening will be an open house at Fire Station 5 from 6:30 to 8:30 PM.

Commissioner Beckman announced that the Bonfield Express registration is now open for the Thanksgiving morning 5k walk/run.

Mayor Sandack said that the Council would be adjourning to budget discussions.

12. Adjournment

Commissioner Schnell moved to adjourn. Commissioner Barnett seconded the Motion. Mayor Sandack declared the Motion carried by voice vote and the meeting adjourned at 8:39 p.m.