



Village of Downers Grove Meeting Minutes Downers Grove Village Council

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

Tuesday, May 8, 2012

7:00 pm

Council Chambers

1. Call to Order

Mayor Martin Tully called the regular 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 Tully 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 Becky Rheintgen, Commissioner Geoff Neustadt and Mayor Martin Tully

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 of a general matter. 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. Finally, an opportunity is given for public comments and questions on items appearing on the Consent Agenda, the Active Agenda and the First Reading.

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 Tully 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 Council Meetings

Council Minutes - May 1, 2012

Mayor Tully asked for a Motion to approve the minutes as submitted.

Commissioner Schnell moved to approve the minutes as presented. Commissioner Durkin seconded the motion.

The Mayor declared the Motion carried by voice vote.

4. Public Comments - General Comments on Matters Not Appearing on Tonight's Agenda**5. Public Hearings****6. Consent Agenda**

BIL 00-04893 A. List of Bills Payable: No. 5976, May 8, 2012

Sponsors: Accounting

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

Indexes: N/A

BID 00-04899 B. Bid: Award a Contract for \$310,437 to H&H Electric Company, Franklin Park, IL, for Sreetlight Maintenance

Sponsors: Public Works

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

Indexes: Street Lights - Maintenance

Passed The Consent Agenda

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

Votes: Yea: Commissioner Schnell, Commissioner Barnett, Commissioner Waldack, Commissioner Durkin, Commissioner Rheintgen, Commissioner Neustadt and Mayor Tully

7. Active Agenda

ORD 00-04889 A. Ordinance: Amend Stormwater and Flood Plain Ordinance

Sponsors: Public Works

Summary of Item: This adopts the amended Stormwater and Flood Plain Ordinance and adopts the general certifications as approved by DuPage County on April 24, 2012.

AN ORDINANCE ADOPTING AN AMENDED STORMWATER AND FLOOD PLAIN ORDINANCE AND ADOPT THE GENERAL CERTIFICATIONS AS APPROVED BY DUPAGE COUNTY ON APRIL 24, 2012

ORDINANCE NO. 5262

Mayor Tully noted that DuPage County recently adopted a new stormwater ordinance, and, as a full waiver community, the Village must adopt this amended ordinance.

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

Votes: Yea: Commissioner Schnell, Commissioner Barnett, Commissioner Waldack, Commissioner Durkin, Commissioner Rheintgen, Commissioner Neustadt and Mayor Tully

Indexes: Stormwater and Flood Plain Ordinance

RES 00-04737 B. Resolution: Authorize a Sales Tax Rebate Agreement with the Lemon Tree, LLC

Sponsors: Manager's Office

Summary of Item: This authorizes execution of a sales tax rebate agreement between the Village of Downers Grove and the Lemon Tree, LLC.

A RESOLUTION AUTHORIZING EXECUTION OF A SALES TAX REBATE AGREEMENT
BETWEEN THE VILLAGE OF DOWNERS GROVE AND THE LEMON TREE, LLC

RESOLUTION 2012-36

Commissioner Neustadt commented that he is in support of this and sees it as an important tool for economic development. It allows the Village to remain vibrant and growing, and helps foster business.

Commissioner Waldack said that Lemon Tree is a great business and a positive addition to the Village. He encouraged people to shop there. He said that the question is not whether we like the Lemon Tree, or if we can give up 100% sales tax totalling about \$14,000. Lemon Tree is asking for payments retroactively. This is a give-away, corporate welfare. There have been requests for a grocery store in the downtown area for years. The Commissioner said that in the meantime, Meals on Wheels was cut, as was the transportation subsidy. The Village is talking about giving money away to a for-profit business. Commissioner Waldack commented that seniors still ask for a neighborhood grocery store because they cannot afford to shop at Lemon Tree. It is not a neighborhood grocery store. It is a great destination, but that is further evidence that it is not the neighborhood grocery store that the Village negotiated for. They are a specialty grocery store.

Commissioner Waldack mentioned the Downtown TIF District in which 90% of the ground level property was designated for sales tax producing businesses. The Village will now give 100% of this sales tax away. This gives an advantage to this business over others in the downtown area. The Lemon Tree starts with a \$14,000 advantage. He said that \$14,000 is 7/10 of 1% of the Lemon Tree's yearly revenue and should not affect the business. The Village is giving money to a for-profit business.

Mayor Tully at this point asked Commissioner Waldack to stay on point as this Resolution is not related to Meals on Wheels, and the Commissioner has veered off the topic.

Commissioner Waldack responded that the Village is planning on giving money to a for-profit business, and he did not appreciate the interruption to his comments. He continued that when you give money to non-profits it helps the community. When you give money to a for-profit business you are subsidizing the business. He asked why the Lemon Tree should be given tax money, and businesses like Muriel Mundy were not given a tax break. This is not a neighborhood grocery store and is not what the Village bargained for. It is inappropriate and he will not support it.

Commissioner Schnell said that the agreement between the Village and Michael's Fresh Market that covered Lemon Tree expired. Manager Fieldman replied that the amount of money Lemon Tree received under the three-party agreement is basically the same as this. Commissioner Schnell asked for verification that staff is comfortable with the 51% figure to designate it as a grocery store, rather than as a restaurant with an attached grocery store. The Manager responded affirmatively and said that staff will audit the information provided by Lemon Tree to verify the percentage.

Commissioner Schnell then asked for clarification that if Lemon Tree goes out of business they would have to repay portions of the rebate allotted to them. She asked what happens if they do not keep to the 51% requirement. The Manager replied that they would be in default of the terms of the agreement and would not be eligible to receive payments.

Commissioner Barnett appreciated Commissioner Schnell bringing that information to the

forefront. He said this is a continuation of an agreement that brought the Lemon Tree downtown. It is his neighborhood grocery store. He thinks it is unfortunate that they have to be in a position of trying to rehash every decision this Council has made over two years related to money. He is in support of this. The agreement is an incentive for the Lemon Tree to sell more groceries in the future in the downtown area. He will support this.

Mayor Tully commented that the Council and staff have discussed this quite a bit. They are being asked to do something that is nominal for a business that came in to meet requests made by the public. These are rebates and, unlike corporate welfare, they are not dipping into tax money. There are stringent requirements for the rebate, and the Village has gone through this more than once. Lemon Tree must follow certain rules, and not everyone is interested in doing that. He will support this as it makes perfect sense to help a business continue. They have gone through this discussion numerous times, and in his opinion, this makes perfect business sense.

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

Votes: Yea: Commissioner Schnell, Commissioner Barnett, Commissioner Durkin, Commissioner Rheintgen, Commissioner Neustadt and Mayor Tully
Nay: Commissioner Waldack

Indexes: Sales Tax Rebate

8. First Reading

MOT 00-04894 F. Motion: Authorize an Agreement with Cole Taylor Bank for 2012-2015 Banking Services

Sponsors: Finance

Manager Fieldman asked Judy Buttny, Director of Finance, to make the presentation.

Director Buttny explained that a Motion is being requested to authorize a contract with Cole Taylor for a three-year banking period. RFPs were sent out and eleven responses were received. Cole Taylor met the criteria established by quoting the lowest required compensating balance to waive fees.

Commissioner Durkin recused himself from the discussion and the vote on this item.

Indexes: Banking Services

BID 00-04895 D. Bid: Award \$552,129.61 to DiNatale Construction, Inc., Addison, IL, for 2012 New Sidewalk Installation Program

Sponsors: Public Works

Public Works Director Nan Newlon explained this award is for the 2012 new sidewalk installation program. Staff recommends awarding the bid to DiNatale Construction of Addison. She explained that letters were sent to residents and three public meetings were also held. There were five responses to the bid request sent out by the Village.

Commissioner Schnell asked for verification that work will begin and be completed before school begins in the fall. Director Newlon said that is correct. As for the parkway restoration, it may not be fully completed, as weather can also play a part in the project. Commissioner Schnell asked that the grading be done in time. Director Newlon said that staff can focus on the residential areas during the summer and work in the industrial park at other times.

In response to Commissioner Durkin, Director Newlon said that this is for new sidewalk construction. Commissioner Durkin echoed Commissioner Schnell's comments to do residential areas first.

Commissioner Rheintgen said that a resident complimented staff on the presentation at the neighborhood meetings and thought the meetings were productive.

Mayor Tully said this concerns eleven segments and two alternates. There are no irritated residents present at tonight's meeting, which is a tribute to successful neighborhood meetings. He commended Director Newlon and staff on that achievement. He noted that this represents over half a million dollars in sidewalk construction, which is significantly larger than in past years. He then asked about the disparity in the bids.

Director Newlon responded that this contractor did work here last year and knows what to expect in terms of potential expenses.

Commissioner Neustadt asked for a breakdown of what is left on the Sidewalk Matrix.

Indexes: Sidewalk Construction

MOT 00-04900

D. Bid: Award \$453,620 to Swallow Construction, Inc., Downers Grove, IL, for Oakwood Avenue Storm Sewer Replacement

Sponsors: Public Works

Director Newlon said that staff recommends awarding the bid to Swallow Construction of Downers Grove. This project concerns replacement of an existing 10" clay storm sewer on Oakwood, between Chicago Avenue and Grant Street. This is to alleviate flooding and will incorporate a cost-share project as well. Five bids were received with Swallow as the low bidder.

Commissioner Schnell commented that she has a problem with Swallow. In 2009 they did a similar project that was a disaster, and she is concerned about cleanliness and other issues. She is not sure she can vote for Swallow and asked for more information if it is available. She asked about the second low bidder and whether they have worked in the Village previously.

Commissioner Waldack responded that in 2009 the evaluation of Swallow Construction was not positive. The "no" box was checked as to whether the Village should work with this contractor again. He has concerns about the vendor.

Commissioner Neustadt asked the age of the clay tile infrastructure, and Director Newlon responded that it is probably over 80 years old.

Commissioner Durkin commented that we've all had bad experiences over time, but there may be improvements with management or staff changes.

Commissioner Schnell noted that even more recent reports indicate that there are still issues.

Mayor Tully said that they are the low bidder, but the Village wants to do this at a responsible cost.

Commissioner Schnell replied that there is a difference in the cost, but if the whole experience is bad for the residents, the Village doesn't really save money. She needs to be sure and feel comfortable with this.

Commissioner Durkin noted that he will not be present next week and asked if the Village could hold back 50% payment if necessary. Manager Fieldman responded that the Village will follow its own bid specifications.

Commissioner Waldack commented on the difference between the first and second choices,

asking if the Village wound up paying more to Swallow in 2009 because of the problems, and would that amount bring them up to the second lowest bid.

Commissioner Rheintgen said if the difference is \$80,000, and the complaint is just street sweeping, she is not sure that would merit choosing the next lowest vendor.

Indexes: Storm Sewers

ORD 00-04901 D. Ordinance: Authorize the Sale of Surplus Real Estate (5237 Benton Avenue)

Sponsors: Village Attorney

Village Attorney Enza Petrarca noted that this Ordinance concerns the sale of property at 5237 Benton Avenue, which was purchased by the Village to solve stormwater issues. A new underground stormwater storage basin was installed and this property is no longer needed for that purpose. The Village attempted to sell the property last fall and received no bids. The last attempt for bids resulted in receiving three bids and staff recommends accepting the bid for \$205,000.

Mayor Tully asked if the proceeds from the sale are in the budget. Mr. Fieldman said he did not think so, but would check into it and that the funds would be deposited into the Stormwater fund to finance another project.

Commissioner Neustadt said that the property would be encumbered with an easement.

Indexes: Village Property - Sale of

9. Mayor's Report

ComEd Reliability Report

The final two projects that were identified during the reliability review continue. ComEd has informed Village staff that they will be completed by the end of June. One additional project - the replacement of cable in the circuit serving the area near 63rd Street and Main Street -- has been increased by 400 additional feet after a recent ComEd review of the project. This project is part of the infrastructure upgrades provided under the Smart Grid Bill and will be completed by the end of June.

Mayor's New Business

10. Manager's Report

Deputy Village Manager Mike Baker presented the first quarter report for 2012, noting key accomplishments including the reaffirmation of the Village's AA+ bond rating by Standard and Poor's, the receipt of CALEA (Commission on Accreditation of Law Enforcement) reaccreditation, which included stellar comments regarding the Police Department, and the monthly electronics recycling events.

Mr. Baker then reported on revenues, saying that the Village exceeded its revenue targets by \$640,000 due to increases in building permit activity, income tax, utility taxes, Westmont Dispatch and the Prince Street vacation.

As for expenses, Mr. Baker noted that the State is four months behind in its distributions of the municipalities share of the state income tax. The Village is monitoring this by participating in a consortium for the protection of State shared municipal revenues.

Expenses came in slightly below expectations primarily because of lower than expected costs of snow and ice removal. However, fuel costs have been higher than anticipated. The Village is addressing this in part by the use of alternative fuels. Staff will continue to monitor the budget

to improve efficiency and control expenses. Only essential staff vacancies will be filled.

Commissioner Neustadt said that it is great to see the plan working before they move into Long Range Financial Planning (LRFP) discussions.

11. Attorney's Report

Village Attorney Enza Petrarca said she was presenting one item to the Council: An ordinance authorizing the sale of surplus real estate pursuant to Section 2.36 of the Downers Grove Municipal Code (5237 Benton Avenue).

Future Active Agenda

12. Council Member Reports and New Business

Commissioner Neustadt said he participated in a ride along with the Downers Grove Fire Department at Station 2 on Sunday. He was able to see what it is like to serve our Village as a firefighter. He referenced a call concerning an elderly medical patient and said that each member of the crew showed the highest level of professionalism and care when assisting this patient. The teamwork displayed and knowledge used by the firefighter paramedics was remarkable. He thanked Battalion Chief John Hardy, Lt. Paul Johnson, FF John Christeson, FF/PM Rob Pekelder, FF/PM Matt Campbell and FF/PM Matt Hills. He suggested that all Council members take advantage of the ride along program as it gives one a glimpse into the daily operations of our Fire and Police departments.

Commissioner Rheintgen made a statement that Commissioner Waldack has made every attempt to tarnish her reputation and that of her fellow Commissioners. He brings up the non-appointment of Mr. Thoman as often as he can and has implied that Mr. Thoman was not appointed to the ECC because of political gamesmanship. He continued with those allegations even after members of the Council put forward their valid explanations of the non-appointment.

Last week Mayor Tully appointed Liz Pelloso to the ECC, and based upon her Science and Environmental Science background and degrees obtained, it is difficult to understand how she would not be appointed. It has come to light that the applications of both Mr. Thoman and Ms. Pelloso were included in the same packet from which Commissioner Waldack was expected to make his nomination. Commissioner Rheintgen said that fact begs the question of who is working political games here. Instead of choosing the more qualified candidate, he chose his political ally. She said she knew of no other reasons why Commissioner Waldack would choose his political ally over a more qualified candidate for the ECC. She also wondered if the media would be as enthusiastic about reporting this story as they were about attacking Council members on behalf of Mr. Thoman.

Commissioner Waldack replied that he was appointed as liaison to the ECC. Mr. Thoman has been active in the Committee for some time and became involved many years ago in an ECC discussion about a recycling facility. He has been active in the community for some time, involved in environmental concerns, is familiar with the budget and Commissioner Waldack said he thought Mr. Thoman would bring those talents to the ECC. He said he tried to nominate Mr. Thoman before and another Commission turned him down. There was a vacancy on the ECC Board and Commissioner Waldack wanted to fill that seat very quickly. He discussed the appointment with the Mayor and did not make this decision on his own. The Mayor thought it was a good idea as well. He put Mr. Thoman forward as a qualified person.

Commissioner Waldack said that this attack is a surprise to him and he will be more forthcoming. He is transparent. His complaint with the process was that it was a go and was meant to be a go. There was plenty of time to vet an individual and at the end of the vetting period you commit to voting for or against an individual. You do so before the name is put up in public so as not to embarrass a person. In this situation, the name was put up in public and this

should not have happened. It should have been pulled off the agenda earlier. Commissioner Waldack said he will continue to be transparent. If anyone has additional questions or wants more information he will be happy to provide it.

Commissioner Waldack then announced that on Monday, May 14, the annual Barth Ceremony will be held. He reminded everyone that Officer Barth was killed in the line of duty. There are events around the country honoring officers killed in the line of duty. The ceremony will take place at 1:00 p.m. at Barth Pond, and it is a very moving ceremony. He invited residents to attend. Commissioner Waldack noted that the Police Department Commendation Ceremony will take place at 7:00 p.m. that night, and he urged people to participate.

Commissioner Barnett said he spent Friday night and Saturday morning with the Police Department. What Commissioner Neustadt said about the Fire Department is true of all employees. They were professional, compassionate, and empathic and did a fantastic job. He thanked the officers for putting up with him, saying that the Village has exceptional people working on behalf of its citizens. He specifically thanked Sergeant Mike DeVries, Officer Scott Von Almen and Officer Samantha Roti for their work.

Commissioner Barnett then added that with regard to Commissioner Waldack's comments, this appointment took months, which is not his definition of quick. He said that there are efforts in the process to avoid a disaster from occurring but attempts were made prior to the actual Council meetings. He wishes they were past this, but he hoped that they could figure out how to avoid a recurrence.

Commissioner Durkin noted that the Finance and Administration Committee meeting was held yesterday with the entire Council in attendance. The topic was Council training and travel policy. Staff will draft a policy that will come back to the committee in June or July. There was no public attendance at the meeting and he urged people to attend the next meeting. It was a good discussion.

Mayor Tully encouraged people to attend the Barth ceremony. It is a moving ceremony. Officer Barth's family attends the event, and many neighboring police forces join the ceremony. It is his privilege to attend and his honor to participate. The Police Award Ceremony will take place at 7:00 p.m. in the Council Chambers.

The Mayor then noted that in West Suburban Living Magazine, Downers Grove ranked highly in comparison to other communities. The Village ranked 15th out of 65 as the best overall town, 11th as the best downtown, and 13th in the best schools category.

Mayor Tully announced that there are 43 days until the next Rotary Grove Fest.

13. Adjourn to Long Range Financial Planning Session - Committee Room

Council adjourned to the Committee Room at 8:11 p.m. to discuss Long Range Financial Planning.