



# Village of Downers Grove Meeting Minutes Downers Grove Village Council

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

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Tuesday, March 18, 2014

7:00 pm

Council Chambers

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## 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 Bob Barnett, Commissioner Sean P. Durkin, Commissioner Becky Rheintgen, Commissioner Geoff Neustadt, Commissioner Greg Hosé, Commissioner David S. Olsen 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 Meeting - March 11, 2014*

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

*Commissioner Neustadt 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

*There were no public comments.*

#### 5. Council Member Reports

*Commissioner Durkin suggested that Council stay in the Council Chambers for future discussions that have recently been held in the Break and Committee rooms so that those discussions can be televised.*

*Mayor Tully noted that workshop meetings, at one time, were held in the Committee Room and were televised there. The only reason discussions have been held outside of the Council Chambers is to be more informal. The locations are used to enhance the public business. These items are then brought to the Council Chambers before being voted upon.*

*Commissioner Durkin said his comment stemmed from the discussion about facilities.*

*Commissioner Olsen said he agrees with Commission Durkin.*

*Commissioner Neustadt said he and Village Manager Dave Fieldman attended the DuPage Mayors and Managers (DMMC) Budget and Operations Committee meeting in Lisle last week. The Committee looked at the debt service to manage dollars in a way that will benefit all communities. He thanked Mr. Fieldman for his leadership on this topic. DMMC is growing and learning from the Village's leadership.*

*The Mayor noted that this will be a direct benefit to Downers Grove.*

#### 6. Public Hearings

#### 7. Consent Agenda

**COR 00-05499** A. Claim Ordinance: No. 6045, Payroll, February 21, 2014

**Sponsors:** Accounting

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

**Indexes:** N/A

**BIL 00-05509** B. List of Bills Payable: No. 6108, March 18, 2014

**Sponsors:** Accounting

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

**Indexes:** N/A

**MOT 00-05501** C. Motion: Award a Three-Year Contract to On Time Embroidery, Inc., dba Unique Apparel Solutions for Fire Department Uniforms

**Sponsors:** Fire Department

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

**Indexes:** Fire Department - Uniforms

**MOT 00-05502** D. Motion: Authorize \$58,647.00 to Stertil Koni Corporation, Streator, IL, for Three (3) Sets of Mobile Column Lifts

**Sponsors:** Public Works

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

**Indexes:** Public Works, Fleet Services

**MOT 00-05503** E. Motion: Authorize Participation with the State of Illinois in Joint Purchase of Bulk Road Salt for 2014-15 Winter Season

**Sponsors:** Public Works

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

**Indexes:** Salt

**RES 00-05496** F. Resolution: Authorize an Agreement with Dave's Welding

**Sponsors:** Public Works

**Summary of Item:** A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE AND DAVE'S WELDING

RESOLUTION 2014-09

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

**Indexes:** Water Service

**MOT 00-05504** G. Motion: Authorize Payment of \$35,854.10 to McAllister Equipment Company for End Loader Equipment Repairs

**Sponsors:** Public Works

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

**Indexes:** Fleet Maintenance, Public Works - Equipment, Fleet Services

**RES 00-05507** H. Resolution: Approve Final Plat of Subdivision with an Exception for 7143 Dunham Road

**Sponsors:** Community Development

**Summary of Item:** A RESOLUTION APPROVING THE FINAL PLAT OF SUBDIVISION WITH AN EXCEPTION FOR 7143 DUNHAM ROAD

RESOLUTION 2014-10

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

**Indexes:** Subdivision - 7143 Dunham Road

**MOT 00-05511** I. Motion: Note Receipt of Minutes of Boards and Commissions

**Summary of Item:** Stormwater and Flood Plain Oversight Committee - February 13, 2014

**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 Neustadt, seconded by Commissioner Durkin, that the consent agenda be passed. The motion carried by the following vote:

**Votes:** Yea: Commissioner Barnett, Commissioner Durkin, Commissioner Rheintgen, Commissioner Neustadt, Commissioner Hosé, Commissioner Olsen and Mayor Tully

## 8. Active Agenda

## 9. First Reading

**ORD 00-05510** A. Ordinance: Adopt the 2014 Zoning Map

**Sponsors:** Community Development

*Mr. Fieldman asked Tom Dabareiner to address this and the next item.*

*Tom Dabareiner, Director, Community Development, said an ordinance has been prepared for the adoption of the 2014 Downers Grove Zoning Map, as required by State law. It is a State mandate to adopt a zoning map annually. Seven changes were approved in 2013. He reviewed the changes on an overhead map.*

*Commissioner Barnett asked if this would preclude the Council from making zoning changes this year.*

*Mr. Dabareiner said it will not. It is a formal requirement to adopt the map annually at a certain point.*

**Indexes:** Zoning Map

**ORD 00-05506** B. Ordinance: Adopt Mitigation Standards for New Residential Construction in Accordance with the State of Illinois Radon Resistant Construction Act

**Sponsors:** Community Development

*Mr. Dabareiner said an ordinance has been prepared amending portions of Chapter 7 of the Municipal Code to adopt radon mitigation standards for new residential construction in accordance with the State of Illinois Radon Resistant Construction Act. The Village is required to adopt rules of the Radon Resistant Construction Act, passed in June 2013. The law requires that all new construction include passive radon resistant construction. Mr. Dabareiner explained that radon is a radioactive element. The Village must adopt Illinois Emergency Management Agency, the oversight agency, rules as part of the 2006 International Residential Code. This is a State requirement the Village is called upon to administer and enforce.*

*Commissioner Rheintgen asked as to the effect on people in progress of building.*

*Mr. Dabareiner said the requirement is part of the permit process. Builders are aware of this requirement. It is a \$400 to \$1,000 cost to builders.*

*Commissioner Durkin asked if inspections test for radon when one is buying a home.*

*Mr. Dabareiner said a radon test is usually at the request of the homeowner; the test is not mandated.*

**Indexes:** Building Code, Residential Code, International Building Code

**MOT 00-05505** C. Motion: Award a Contract for \$902,246.70 to Swallow Construction, Inc., Downers Grove, IL, for 2014 Water Main Improvements Contract A

**Sponsors:** Public Works

*Mr. Fieldman asked Nan Newlon, Director, Public Works, to address this item.*

*Nan Newlon, Director, Public Works, said staff is requesting that a contract be awarded for the 2014 water main improvements Contract A to Swallow Construction in the amount of \$902,246.70. This is the first of a few contracts. This contract is for installation of approximately 1/2 mile of water mains. The locations are 41st Street from Earlston Road to Glendenning Road; Highland Avenue from Grant Street to Chicago Avenue; and Grant Street from Highland Avenue to Washington Street. She said 11 bids were received as a result of a call for bids and Swallow Construction was the low bidder.*

*Commissioner Neustadt asked if this is for water mains only.*

*Ms. Newlon said it is for installation of water mains, replacement of approximately 42 residential water services, sidewalk and driveway removal and replacements, and parkway restoration.*

*Commissioner Rheintgen said she was happy to see that the completion date is scheduled for July 3 as there are events scheduled in this area for July 4.*

*Commissioner Rheintgen asked if Swallow did water main improvements for the Village last year.*

*Ms. Newlon said it was not Swallow.*

**Indexes:** Water Main Improvements

**ORD 00-05442**

**D. Ordinance:** Amend Chapter 5 of the Municipal Code regarding Animals and Fowl (Discussion to be held in the Committee Room)

**Sponsors:** Manager's Office

*This portion of the Council meeting began at 7:30 p.m. in the Committee Room.*

*Mayor Tully said this is to discuss amendments to Chapter 5 of the Municipal Code regarding fowl.*

*Mr. Fieldman said the objective is to get direction from Council with respect to which of the three options should be reflected in the draft ordinance. Option 1 is no major changes. Option 2 is to require neighbor consent. Option 3 is to require neighbor notification. Staff has provided additional information as requested.*

*The next steps are to receive general direction, prepare a draft ordinance and consider the ordinance on the First Reading portion of a future Council agenda.*

*Mayor Tully said that at the last meeting on January 14, 2014, the majority of the Council was in favor of some type of further allowing residents to keep hens, above and beyond what is currently allowed, on a trial basis or for some period of time. They were split, however, as to which option was preferred. The current ordinance, in place for 30 years, allows chickens provided certain setbacks are met. The Mayor said he is fine without consent or notification; however, if this is done on a trial basis, he would agree with notification which he finds to be sufficient. Notification provides a heightened sense of awareness and focus on this issue. He thinks the number of people that will keep chickens is relatively small. He has concerns with neighbor consent because he thinks it is an unwarranted intrusion upon property rights that could also apply to a number of other issues.*

*Commissioner Durkin said he has not changed his position: He prefers neighbor consent.*

*Commissioner Hosé said he also prefers neighbor consent. He commented that there are certain expectations when living in a suburban community, which he feels are reasonable. It is reasonable not to expect chickens next door, and it is not unreasonable to want them. The way to balance that is with the consent model.*

*Commissioner Barnett said he feels that the change in expectations warrants caution. He prefers neighbor consent.*

*Commissioner Olsen said he agrees with Commissioner Barnett's comments regarding expectations. Commissioner Olsen said he is unconvinced that any major change is needed to the existing ordinance. He preference Option 1 - no major changes.*

*Commissioner Neustadt said his preference is for neighbor notification. He referenced a survey conducted by staff of six different communities that permit fowl. The survey results did not demonstrate a burden in terms of staff time in administering the program and issuing permits. Commissioner Neustadt said he could support neighbor consent; however, he would like to be able to change the ordinance over time. He said that limiting what people can do on private property is an issue. He would want to discuss this again at a future time to change the ordinance from neighbor consent to neighbor notification.*

*Commissioner Rheintgen said she was more in favor of neighbor notification, but if the Council is divided, she will opt toward neighbor consent with the understanding that the ordinance would be reviewed. Staff's research shows that administering the ordinance would not entail a great deal of work, but there is fear about this in our community.*

*Mayor Tully said he is glad Council is moving forward. He spoke of the requirement of notification with respect to new construction. He said he hopes Council can remove the consent requirement as time goes on.*

*Commissioner Barnett commented that this is the biggest non-issue the Council has touched on in a long time. He feels that down the road there will be no problem, but neighbor consent is the vehicle to get there.*

*The Mayor noted that the current ordinance has been in the community for 30 years. What is being proposed is incremental change.*

*Commissioner Durkin asked how soon this item can be on a Council agenda as a First Reading.*

*The Manager said it will be presented at the last Council meeting in April - the third meeting.*

*Wayne Enerson, 4805 Cross, said this is a fowl ordinance, but it only allows hens. The fowl is chickens and the gender is hens. Mr. Enerson said this started over a year ago when a couple of people were caught with illegal chickens. This will reward them for breaking the law.*

*Commissioner Rheintgen said she brought this up before it was determined that people were in violation of the current ordinance.*

*Mr. Enerson said he does not see why this is such an important issue. He noted that Mr. Fieldman reported that about 30 people would want to have chicken coops. This will satisfy 3/100 of the homeowners in the Village. He supports Option 1 or no coops allowed.*

*Dale Irvin, 5712 Dunham, spoke in favor of Option 1. He said the lots in his neighborhood are deep and his entertainment center is at the back of the yard. His neighbors have chickens at the back of their yard, and the smell is bad.*

*David Thompson, 5354 Washington, said he was railroaded into having chickens. They are excellent, fun and great. The neighbors are excited about them as well. His coop is clean and nice. He agrees with Option 2. He does not want to be involved in a community that does not care about their neighbors. Option 2 is perfect.*

*Shanon Tully, 5413 Main Street, said she is permitted to have chickens under the current ordinance. The problem she has with the neighbor consent model is when a neighbor says no. Her preference is to allow more people to have chickens. She noted that caring for chickens is a lot of work. She said it is not right to tell someone what they can and cannot do on their property when it is not problematic. There are seminars all over the country to instruct people. These birds are the safest birds to have. She said she respects the Mayor for being open minded about this matter. It would be better to handle problems through the nuisance ordinance. It is admirable to try to find common ground, but no one needs to be afraid.*

*Bill Waldack, 1409 Willard, said he is concerned about diseases. This is being forced on other people. This community started out as farm land and at some point, it was decided not to have farm animals any longer. There is a current ordinance, with setbacks, that works. There are 900 lots where people can legally have chickens. He asked why this should be forced on people who do not want it. He further asked if expansion is worth the risk. There is disease, including histoplasmosis and salmonella, and there are problems with chickens. He has an expectation of not having farm animals and that includes chickens. He referenced a conversation he had with a man who was very ill when he young. His illness was caused by the chickens next door and testing saved his life. Mr. Waldack said he worries about diseases and predators. He believes in property rights but he has rights, too. He asked if anyone has looked at diseases and the Village's liability if there were a disease outbreak. There is already an ordinance that provides adequate distance and protection. He urged continuation of the existing ordinance.*

*Don Jankowski, 1312 Blanchard, said the Village asks people to compost. Composting smells but it is not offensive. He asked if anyone has looked at the legislative history that led to the original ordinance. It was two neighbors arguing. This is bad legislation and it should be repealed. People are not having problems with other people having chickens.*

*Dawn Konters, 5709 Hillcrest, said histoplasmosis is most commonly carried in pigeons. Salmonella is most commonly found in food. With respect to Option 1, Ms. Konters said the Village has heard from many residents asking for a change. The majority of people are in favor of a more inclusive ordinance. A well-written ordinance would include provisions whereby neighbors could call the Village if someone is in violation of the ordinance. She does not think neighbor consent is a good idea and she does not think that neighbor notification is necessary. People make a large financial commitment to have chickens. They would not like to make their commitment and then lose their chickens. It would also mean giving up their pets. In terms of managing expectations, it is a trend to have more options on one's land.*

*LeAnn Lolli, 4117 Highland, noted that there have been few complaints in 30 years. People have a tendency to talk to each other. There probably are people with legitimate health concerns. She feels that the neighbor consent provision tells people that we expect them to be jerks. She thinks people will do the right thing. She does not want legislation for the lowest common denominator; she would rather trust people. Chickens, goats and ducks are permitted in Chicago. This is not new and it is done all over the country. Local ordinances do not ask*

*for consent or notification.*

*Mr. Jankowski asked if staff has heard about problems in Chicago with their ordinance.*

*Mr. Fieldman said staff did not research it.*

*Commissioner Durkin said Council would like to move forward. Without consent, he will not support this.*

*Mayor Tully said the new ordinance will be more permissive even though there will be restrictions. He reiterated that perhaps the ordinance can be reviewed in a year and amended, if necessary.*

*Tom LeCren, 545 Chicago, noted that Mr. Waldack brought up health issues at the last discussion. If one has a compromised health issue, this could be a problem. Mr. LeCren said staff did no review of health issues.*

*The Mayor said Council has received reams of information from staff and others.*

*Mr. LeCren asked if inspections are required.*

*A member of the audience said inspections are only required if the eggs will be used in preparation of food for other people.*

*Ms. Tully said the neighbor consent model is a big problem. She asked what would happen if a neighbor moved and the new neighbors did not give their consent.*

*The Mayor said Council and staff would strive to address this in the ordinance.*

*Mr. Enerson said he did some research regarding cleaning chicken coops. Two diseases are transmitted through manure dust. It is important to wear a mask when cleaning a coop.*

*Commissioner Barnett said the existing ordinance has setbacks and we do not have problems with that distance. Consent voluntarily sets the distance.*

*The Mayor said the Council is trying to allow this to go forward.*

*Kiley Fields, 821 Birch Avenue, said what is being discussed is a compromise. She appreciates the importance of consent and she hopes there will be parameters. Ms. Fields said she is a private chef. She believes in the slow food movement and she feels this is a great opportunity.*

*Commissioner José referenced the comment about a complaint-driven code. If no one is complaining about chickens then they have tacitly agreed. This would be formalizing that approach. We have a fowl ordinance that places restrictions on lot size. Property rights are not unfettered. To a certain extent, property rights lie with the Village Council.*

*Marge Earl, 4720 Florence, said her lot is large enough to have chickens with the current ordinance. She said she is immunosuppressed, which has become more common. Birds need to be far enough away such that she will not be affected. Nothing has been said about the placement of a coop in relation to another house. Immunosuppression is a valid concern and a bigger portion of the population suffers from it than ever before.*

*Commissioner Olsen said his preference is Option 1, but Option 2 is a compromise. Good feedback has been heard on both sides. He appreciates the thoughtfulness and looks forward*



*to moving ahead with details. Having neighbors talk to one another is good and positive. He said he does not have a stake in the ground with Option 1. We are starting down a positive path. There are many questions to consider, including how to handle current properties that allow or do have chickens.*

*The Mayor said the focus is on incremental permissiveness. Concerns will be addressed in the ordinance.*

*Mr. Waldack said there is a fungus in every chicken area. It is a major concern for all chicken coops. He said people can do what they want with their property, but do not infringe on his property.*

*Ms. Lolli said she is uncomfortable with government mandating that people talk with their neighbors.*

*Ms. Tully said we do not live in bubbles. We all have raccoons and other rodents that can be problematic.*

**Indexes:** Fowl Regulations

## **10. Mayor's Report**

### **Materials to be Placed on File**

## **11. Manager's Report**

*No report.*

## **12. Attorney's Report**

*Village Attorney Enza Petrarca said she was presenting two (2) items to Council: 1) An ordinance adopting mitigation standards for new residential construction in accordance with the State of Illinois Radon Resistant Construction Act; and 2) An ordinance adopting and approving publication of the Village of Downers Grove 2014 Zoning Map.*

### **Future Active Agenda**

## **13. Council Member New Business**

## **14. Adjournment**

*Mayor Tully asked for a Motion to adjourn.*

*Commissioner Neustadt moved to adjourn. Commissioner Durkin seconded the Motion.*

*Mayor Tully declared the motion carried by voice vote, and the meeting adjourned at 8:50 p.m.*