

# Meeting Minutes

Village of Downers Grove - Council Meeting

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Council Chambers

9/20/2016

7:00 PM

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In order to give as many visitors as possible an opportunity to speak and in the interest of adjourning the meeting by 9:00 p.m., please limit your comments to 5 minutes in length, unless further time is granted by Council. Thank you.

## 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

**Council Attendance (Present):** Commissioner Walus, Commissioner Waldack, Commissioner White, Commissioner Hosé; Mayor Tully

**Absent:** Commissioner Earl, Commissioner Barnett

**Non-Voting:** Village Manager David Fieldman, Village Attorney Enza Petrarca, 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 past meetings, an opportunity will be given for public comments and questions of a general nature. 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 Mayor stated that at the appropriate time the presiding officers will ask if there are any comments from the public. Individuals wishing to speak, should raise their hand to be recognized and, after acknowledgment from the presiding officer, approach the microphone and state their name. Remarks should be limited to five minutes, and individuals are asked to 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

MIN 2016-7031 — A. Minutes: Council Minutes - September 13, 2016

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**Motion:** Commissioner White, seconded by Commissioner Waldack, moved to approve the minutes as presented.

Mayor Tully declared the motion carried by voice vote.

#### **4. Public Comments**

This is the opportunity for public comments.

Gary Myk who resides south of 75<sup>th</sup> Street said that he feels his neighborhood has been forgotten. He noted water main work has been started and the second crew is in now because things are not where they should be in the project. He spoke of the differences between the first and second crews. For example, the buffalo boxes are either below grade or four inches above grade. One crew swept the streets, but the second crew has left them in mud and dust. He said he called earlier today to complain and nothing has been done. The curb across the street at 7525 Florence is broken and has not been fixed. Concrete work was done yesterday, but that curb was not fixed. He noted that when he turns on his water there is a gurgling sound. While he was walking in the neighborhood, he noticed that 7604 Florence has a hydrant in front that is hissing air. He also noted that their street has not been paved in 24 years. Conditions are left in an inappropriate manner. They cannot leave their street in this condition throughout the winter. He said he and his neighbors pay taxes like everyone else does. He would like to see this done right and started tomorrow.

Mayor Tully said that staff would look into this to determine where things are in the work order. It could be a communication issue or an issue with the specifications. He asked that Mr. Myk leave his contact information with Deputy Village Manager Mike Baker.

Mr. Myk asked that they don't forget about those residents on the south side of the Village.

#### **5. Consent Agenda**

Mayor Tully asked that item D, MOT 2016-7028, a motion awarding \$19,565.00 to VIP Electrical Services, Inc. Oswego, IL, for parking deck electrical repairs, be removed from the consent agenda and considered separately.

**COR 2016-7029** — A. Claims Ordinance: No. 6177, Payroll, September 2, 2016

**BIL 2016-7030** — B. Bills Payable: No. 6288, September 20, 2016

**RES 2016-7018** — C. Resolution: Authorize the Sale by Public Auction of Personal Property Owned by the Village of Downers Grove

**Summary:** This authorizes the sale of a list of retired Village vehicles and equipment.

**A RESOLUTION AUTHORIZING THE SALE BY PUBLIC AUCTION OF PERSONAL PROPERTY OWNED BY THE VILLAGE OF DOWNERS GROVE**

**RESOLUTION 2016-61**

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**MOT 2016-7005** — D. Motion: Award \$160,770.70 to Classic Fence, Oswego, IL, for Water Tower Security Fencing Improvements

**Summary:** This awards a contract for the water tower security fencing improvements to Classic Fence of Oswego, Illinois in the amount of \$160,770.70.

**Motion:** Commissioner White moved to approve the Consent Agenda as amended. Commissioner Waldack seconded the motion.

**Votes:** Yea: Commissioners White, Waldack, Walus, Hosé; Mayor Tully

Nay: None

Mayor Tully declared the motion carried.

## 6. Active Agenda

**MOT 2016-7028** — A. Motion: Award \$19,565.00 to VIP Electrical Services, Inc., Oswego, IL, for Parking Deck Electrical Repairs

**Summary:** This awards a \$19,565.00 to VIP Electrical Services, Inc., Oswego, IL, for parking deck electrical repairs.

**Motion:** Commissioner White moved to award \$19,565.00 to VIP Electrical Services, Inc., Oswego, IL, for parking deck electrical repairs. Commissioner Waldack seconded the motion.

Commissioner Hosé said that this item was removed at his request. He has concerns about this item. There is a large gap between the bids of two contractors, and he is concerned as to whether they can do the work at this price without a change order.

**Votes:** Yea: Commissioners White, Waldack, Walus; Mayor Tully

Nay: Commissioner Hosé

Mayor Tully declared the motion carried.

**ORD 2016-6951** — B. Ordinance: Rezone Certain Property Located at 1401-1445 Ogden Avenue

**Summary:** This rezones 1401-1445 Ogden Avenue from B-3, General Services and Highway Business District, to B-3/PUD, General Services and Highway Business/Planned Unit Development.

### AN ORDINANCE REZONING CERTAIN PROPERTY LOCATED AT 1401-1445 OGDEN AVENUE

#### ORDINANCE NO. 5563

**Motion:** Commissioner White moved to adopt "An Ordinance Rezoning Certain Property Located at 1401-1445 Ogden Avenue," as presented. Commissioner Waldack seconded the motion.

**Votes:** Yea: Commissioners White, Waldack, Walus, Hosé; Mayor Tully

Nay: None

Mayor Tully declared the motion carried.

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**ORD 2016-6950** — C. Ordinance: Designate the Property at 1401-1445 Ogden Avenue as Planned Unit Development #56 for the Redevelopment of a Fueling Station and Car Wash

**Summary:** This designates Packey Webb located at 1401-1445 Ogden Avenue as Planned Unit Development #56 for the redevelopment of a fueling station and car wash.

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE VILLAGE OF DOWNERS GROVE, ILLINOIS TO DESIGNATE THE PROPERTY AT 1401-1445 OGDEN AVENUE AS PLANNED UNIT DEVELOPMENT #56 FOR THE REDEVELOPMENT OF A FUELING STATION AND CAR WASH**

**ORDINANCE NO. 5564**

**Motion:** Commissioner White moved to adopt "An Ordinance Amending the Zoning Ordinance of the Village of Downers Grove, Illinois to Designate the Property at 1401-1445 Ogden Avenue as Planned Unit Development #56 for the Redevelopment of a Fueling Station and Car Wash," as presented. Commissioner Waldack seconded the motion.

Mayor Tully asked for a list of all of the Village's PUDs.

**Votes:** Yea: Commissioners White, Waldack, Walus, José; Mayor Tully

Nay: None

Mayor Tully declared the motion carried.

**ORD 2016-6952** — D. Ordinance: Authorize a Special Use for 1401-1445 Ogden Avenue to Permit the Redevelopment of a Fueling Station and Car Wash

**Summary:** This authorizes a special use for 1401-1445 Ogden Avenue to permit the redevelopment of a fueling station and car wash.

**AN ORDINANCE AUTHORIZING A SPECIAL USE FOR 1401-1445 OGDEN AVENUE TO PERMIT THE REDEVELOPMENT OF A FUELING STATION AND CAR WASH**

**ORDINANCE NO. 5565**

**Motion:** Commissioner White moved to adopt "An Ordinance Authorizing a Special Use for 1401-1445 Ogden Avenue to Permit the Redevelopment of a Fueling Station and Car Wash," as presented. Commissioner Waldack seconded the motion.

**Votes:** Yea: Commissioners White, Waldack, Walus, José; Mayor Tully

Nay: None

Mayor Tully declared the motion carried.

**ORD 2016-6953** — E. Ordinance: Vacate a Portion of a Public Alley Immediately South of 1401-1445 Ogden Avenue

**Summary:** This vacates a portion of a public alley immediately south of 1401-1445 Ogden Avenue.

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**AN ORDINANCE VACATING A CERTAIN PORTION OF A PUBLIC ALLEY IMMEDIATELY  
SOUTH OF 1401-1445 OGDEN AVENUE**

**ORDINANCE NO. 5566**

**Motion:** Commissioner White moved to adopt "An Ordinance Vacating a Certain Portion of a Public Alley Immediately South of 1401-1445 Ogden Avenue," as presented. Commissioner Waldack seconded the motion.

**Votes:** Yea: Commissioners White, Waldack, Walus, Hosé; Mayor Tully  
Nay: None

Mayor Tully declared the motion carried.

## 7. First Reading

**MOT 2016-7017** — A. Motion: Direct Staff with Respect to Lemon Tree Sales Tax Rebate Agreement

Village Manager David Fieldman said that in 2012 the Village entered into a Sales Tax Rebate agreement with the Lemon Tree Grocery store. He noted that Lemon Tree was to operate until 2025 under the terms of the agreement; however, the store closed in 2015 subject to a repayment of \$25,000 to the Village. In January the Council approved a motion to waive the agreement and declared it null and void provided that Lemon Tree open a 1,000 square foot grocery store by October 1, 2016. Lemon Tree is now seeking relief from the October 1, 2016 date, as they will not be able to open by October 1.

Shawn Black, one of the owners of the Lemon Tree, said that due to the delays they are asking the Council to consider an alternative payment. He proposed that Lemon Tree pay \$25,000 effective immediately, and then he asked that when their planning is finished, that the Council rebate that money. Their architect has stated that they will have the plans by mid-October with the hopes of reopening by 2017.

Mayor Tully commented that this is a unique situation. The Village directed that a grocery store be opened in the downtown area. A good faith effort was made the last time to work with Lemon Tree. His view is that he would like to be accommodating but not at all costs. He would like to be paid in full, but in the spirit of good faith, if something is opened, a possible rebate would be given off the back end in terms of permits, etc. He would look to the staff for specifics, and it would have to be clear that a business would open.

Commissioner White asked what type of permit fees would be charged. Mr. Fieldman replied that it would be 1.5-2% of the construction. Commissioner White then asked when the fees would be due and the Manager responded they would be due at the time the permit is issued. Once they open again, the Village would rebate back fees.

Commissioner White asked Mr. Black if 1,000 square feet was the size of the grocery, and Mr. Black said that was correct. Commissioner White replied that he would consider a deadline and that the fees could be waived when they become due. The downtown area needs a grocery. He does not think Lemon Tree deserves this, but the goal of a downtown grocery is sufficient for him to move forward with this.

Mayor Tully stated that Commissioner Earl's absence from this meeting was planned. Commissioner Barnett contacted the Mayor saying he is in support of this concept as outlined in the letter that the Council received.

Commissioner Waldack asked as to the terms of the lease. Mr. Black said it is four years, with two 5-year extensions if they choose to exercise the extensions. Commissioner Waldack asked whether the space is being used now, and Mr. Black replied that he lives in the city and is not in the Village every day, but to his knowledge it is being used only as storage right now. Commissioner Waldack asked whether Mr. Black can confirm or deny

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that scones are being made at that location and are being sold elsewhere. Mr. Black said he cannot confirm or deny this. Commissioner Waldack then said that they couldn't make a large square footage grocery store work, and now they are talking about a 1,000 square foot grocery store. There are additional apartment buildings being built in the Village, which means that business should be better. There will be a need for more than a 1,000 square foot grocery. He has a problem subsidizing this where there is a restaurant with a grocery store as an annex. He would love to see a real grocery store, and there has been interest but this dilly-dallying back and forth is hurting that potential. He is glad that they are willing to pay, and he is looking for payment on October 2. If they need to get the Village Attorney there to collect it first thing in the morning on October 2, they will do it.

Commissioner José said that the proposal is interesting, and he will think about what Commissioner White has proposed. He will give this more thought.

Mayor Tully said he would love to see proposals from other grocery stores wanting to come into the downtown area.

Mr. Black said he would be happy to talk to interested parties. He apologized for the delay. They are motivated to get back to Downers Grove, but business is not as easy as they might think it is.

Dave Nicholson, 930 Curtiss Street (Acadia on the Green 2), said he represents the Homeowners Association Board of Directors. He informed the Council that the Homeowners Association of Building 2, and supported by the HOA Building 3, is in current negotiations with the Lemon Tree's landlord regarding sewage and waste backup, which all gets fed into Building 2. The residents would love to see the Lemon Tree be successful, but they don't want the sewage in their parking garage. They have not made an agreement as yet, and the Boards in Buildings 2 and 3 will be very interested in seeing any agreements, permitting process, etc., making sure it is done right, and how it will affect the ongoing sewage and waste problem they presently have. The residents don't think this was ever done correctly from the beginning.

Mayor Tully asked whether this was a special use. Mr. Fieldman responded that it is not, but the Village did facilitate a meeting with the Sanitary District and will facilitate addressing the issue through the permitting process.

Mr. Black commented that this issue has been important to them as well. Part of their delay is Lemon Tree trying to address these issues just raised. He said they are also interested in resolving these issues. They don't want to put more money into this when neighbors don't want them there. He would appreciate assistance from the Village. Mr. Black said back in 2009 they were of the impression that the builder was trustworthy, and they are trying to get the waste issues resolved as well.

Mayor Tully replied that everyone would prefer that this sanitary issue is resolved expeditiously. This will be on the agenda for the first meeting in October.

## **8. Mayor's Report**

**RES 2016-7023** — A. Resolution: Designate that Portion of Forest Avenue between Warren Avenue and Prairie Avenue with an Honorary Street Name of "Foote Avenue"

**Summary:** This designates that portion of Forest Avenue between Warren Avenue and Prairie Avenue with an honorary street name of "Foote Avenue."

**A RESOLUTION DESIGNATING THAT PORTION OF FOREST AVENUE BETWEEN WARREN AVENUE AND PRAIRIE AVENUE WITH AN HONORARY STREET NAME OF "FOOTE AVENUE"**

**RESOLUTION 2016-62**

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**Motion:** Commissioner White moved to adopt "A Resolution Designating that Portion of Forest Avenue between Warren Avenue and Prairie Avenue with an Honorary Street Name of 'Foote Avenue,'" as presented. Commissioner Waldack seconded the motion.

Mayor Tully spoke of the Historic Preservation Ordinance, the unprecedented support for historic preservation and the impressive number of landmark requests that have been received by the Village this year. As part of the celebration of the Village's history, the Village has considered designating honorary local streets to recognize historic personages in the Village of Downers Grove. He then read the Resolution into the record, designating a portion of Forest Avenue between Warren Avenue and Prairie Avenue as Foote Avenue.

Cynthia Zaekse, 1130 Franklin Street, expressed appreciation on behalf of the Foote Family. She said that on October 22 the Foote Family will be in Downers Grove and she invited the Council to attend the ceremony when the Foote family is present.

Commissioner Waldack expressed concern that historic landmarking started a rush, and he thought this might also start a rush. He would like to see a better process, perhaps by sending it to the Architectural Design Review Board, rather than just on the Mayor's report.

Mayor Tully said he thinks that is a fair point, and he has already suggested they may need a body to vet these requests, such as a new committee to address both landmarking and honorary street naming.

**Votes:** Yea: Commissioners White, Waldack, Walus, José; Mayor Tully

Nay: None

Mayor Tully declared the motion carried.

Mayor Tully noted that the Downers Grove Public Library is celebrating its 125<sup>th</sup> birthday and a ceremony will be held on Sunday, October 16 from 1:00-4:30 p.m.

This Saturday morning there are two 5k runs—one for Belle Aire School, and another for Lester School.

The West Suburban Humane Society is holding its annual Barkapalooza event to support the Society this weekend.

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## 9. Manager's Report

## 10. Council Member Reports

Commissioner Waldack said that September 29 will be Girl's Day Out to be held in the downtown area with activities throughout the day and evening. The Downtown Management Board is sponsoring this.

Commissioner Walus congratulated the Education Foundation of District 58 for its successful Oktoberfest. She also mentioned that the Illinois Tollway Safety Fair will take place this Saturday at 2700 Ogden Avenue.

Commissioner White said that last week he attended the dedication of the solar panels at Downers Grove South high school. He suggested that government units work together on this in the future. In addition, he attended the Duluth Trading Co. clothing store opening on Butterfield Road. On the way back from that opening, he noticed construction vehicles on Ogden for the new Packey Webb site. Next week, on September 26, Amy and Dave Gassen will give a presentation at Ballydoyle on the American Foursquares for FROG.

Mayor Tully then mentioned the Super Retreat, and thanked all the different bodies that participated. The last retreat was held 15 years ago. He thanked District 99 for hosting the event. Many good ideas came out of the event, including collaboration with College of DuPage. He said that everyone agreed not to wait another 15 years to meet again.

## 11. Adjournment

**Motion:** Commissioner White moved to adjourn into Executive Session pursuant to Section (2)(c)(5) of the Illinois Open Meetings Act to consider the purchase or lease of real property for the use of the public body and pursuant to Section 2(c)(11) of the Illinois Open Meetings Act to consider pending litigation. Commissioner Waldack seconded the motion.

**Votes:** Yea: Commissioners White, Waldack, Walus, José; Mayor Tully

Nay: None

Mayor Tully declared the motion carried and the meeting adjourned at 7:53 p.m.

Respectfully submitted,  
April Holden  
Village Clerk