

Meeting Minutes

Village of Downers Grove - Council Meeting

Council Chambers

5/16/2017

7:00 PM

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 Earl, Commissioner Waldack, Commissioner White, Commissioner Hosé, Commissioner Barnett; Mayor Tully

Absent: None

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 2017-7378 — A. Minutes: Council Minutes - May 9, 2017

Motion: Commissioner White moved to approve the minutes as presented. Commissioner Waldack seconded the motion.

Village of Downers Grove

Council Meeting

May 16, 2017

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

Nay: None

Mayor Tully declared the motion carried.

4. Proclamations

Mayor Tully proclaimed the week of May 21 – May 28, 2017, as Public Works Week in the Village of Downers Grove. He presented the proclamation to Nan Newlon, Public Works Director.

Nan Newlon, Director, Public Works, invited people to the Public Works Open House and advised people of the native tree and plant sale and the rain barrel sale. Information is available on the website at www.downers.us.

Mayor Tully then proclaimed the week of May 14 – May 20, 2017, as Police Week. He presented the proclamation to Police Chief Kurt Bluder.

Police Chief Kurt Bluder thanked the Mayor and Council for recognizing National Police Week. He invited people to attend the annual Barth Ceremony on Thursday, May 18 at 1:00 p.m. at the First Presbyterian Church. He said Officer Barth was murdered in 1974 in the line of duty.

Mayor Tully encouraged people to attend; he said it is a moving ceremony. The memory of Officer Barth, the only Downers Grove Police Officer to be killed in the line of duty, is not forgotten.

5. Public Comments

This is the opportunity for public comments.

Victoria Masciopinto, 5420 Grand Avenue, said she has lived in her house 20 years. She is looking to downsize and she cannot sell her house. Her house has been on the market for two years. She said her neighbor does not take care of her property and has trucks, shanties, tires, etc. on it. She wants code violations to be written against her neighbor's property. She shared pictures of her home and her neighbor's property. Ms. Masciopinto said she is not getting assistance from Code Services. There are possums, raccoons and skunks everywhere and she needs to know where to go from here.

Mayor Tully expressed his appreciation in Ms. Masciopinto attending the meeting. He said he will look into the history of this matter.

Ms. Masciopinto said the neighbor was taken to court because of three inch nails she had surrounding her property. She was ordered to remove those and has replaced them with barbed wire.

Luke Wielgosz, a resident of Woodridge, said Access Health Center, 1700 75th Street, offers services to men and women. On Saturday mornings at 5:30 a.m. men with signs and pictures yell at the windows. They disguise themselves as clinic workers. This keeps him up at night. He has noticed many women in tears. Regardless of one's stance, religion or politics, intimidating women at the clinic is wrong. The people at this clinic are vulnerable and have no one to stand up for them. He said the Police Department issues warnings every week.

Mayor Tully asked if people have made complaints.

Mr. Wielgosz said people at the clinic have called the police many times.

Mayor Tully said staff can look into this matter.

Mr. Wielgosz said he does not see the police protecting the weak from deception. It is not okay to do nothing. We need elected officials to do something. He said he talks to officers every week and nothing is done. The police are not protecting the people using the clinic. He hurts because he can see others hurt. People should not be intimidating women as they walk into the clinic. He wants something done about this.

Village of Downers Grove

Council Meeting

May 16, 2017

Mayor Tully said it seems as though the police are responding although they may not be doing what Mr. Wielgosz wants them to do. He will ask for more information from the Police Department.

6. Consent Agenda

COR 2017-7379 — A. Claims Ordinance: No. 6211, Payroll, April 28, 2017

BIL 2017-7380 — B. Bills Payable: No. 6330, May 16, 2017

RES 2017-7373 — C. Resolution: Authorize an Agreement with Engineering Resource Associates, Inc.

Summary: This authorizes a contract for engineering and survey services to Engineering Resource Associates, Inc., of Warrenville, Illinois in the amount of \$17,950.00 for engineering services for stormwater local drainage project #14, Jefferson and Middaugh (SW-080).

A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE AND ENGINEERING RESOURCE ASSOCIATES, INC.

RESOLUTION 2017-36

RES 2017-7377 — D. Resolution: Authorize the Sale by Public Auction of Personal Property Owned by the Village of Downers Grove

Summary: This authorizes the Village to sell surplus vehicles and equipment.

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

RESOLUTION 2017-37

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

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

Nay: None

Mayor Tully declared the motion carried.

7. Active Agenda

ORD 2017-7340 — A. Ordinance: Authorize a Special Use for 7221 Lemont Road to Permit an Animal Boarding Facility

Summary: This authorizes a special use to operate an animal boarding business at 7221 Lemont Road.

AN ORDINANCE AUTHORIZING A SPECIAL USE FOR 7221 LEMONT ROAD TO PERMIT AN ANIMAL BOARDING FACILITY

ORDINANCE NO. 5617

Village of Downers Grove

Council Meeting

May 16, 2017

Motion: Commissioner White moved to adopt "An Ordinance Authorizing a Special Use for 7221 Lemont Road to Permit an Animal Boarding Facility," as presented. As part of the motion, Commissioner White read conditions #4, 5 and 6. Condition #4: At no time shall more than 35 dogs be within the outdoor play area. Condition #5: At the discretion of the Village Manager, Petitioner may be required to submit a report detailing compliance with Section 28.10.040.B of the Downers Grove Zoning Ordinance (Operational Performance Standards – Noise), including but not limited to the duration and decibel levels of the noise emitted from the property. Any violation of the section or of the Downers Grove Zoning Ordinance shall be deemed grounds for revocation of the Special Use granted herein and shall be subject to the remedies and enforcement powers afforded the Village in Section 28.13.020.D of the Downers Grove Zoning Ordinance. Condition #6: The hours of operation for the outdoor play area shall be limited to 8:00 a.m. to 6:00 p.m. daily. Commissioner Hosé seconded the motion.

Marvin Schaar, 909 Rob Roy Place, thanked the Council for the opportunity to speak and for their service. He asked the Council to vote against this. He referenced the special use criteria, the differences between this proposal and other two cases involving animal boarding facilities and the surrounding community.

With respect to the special use criteria, Mr. Schaar said the outdoor play area is "detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property values or improvements in the vicinity." He said that the Council has petitions signed by 179 people in the community as proof that it is detrimental to the area. The Council must look to the welfare of all the residents in the vicinity. Two of the children in the vicinity are special needs children. He said the Council has been given clear evidence by the petitions, emails and public statements. This is not just a new tenant for the shopping center owner. The proposal is detrimental to public welfare and injurious to property values according to Mr. Schaar and the residents, and therefore the third criterion is not met.

With respect to the differences between this proposal and other recent cases, Mr. Schaar said one was for veterinarian services and the outdoor use is very limited – five to seven dogs, not 35. They do not go out to play. The other request was the Doggie Depot and was different in that no residents objected. Nearly all the activities there are inside. The petitioner has tried to say this petition is like those two, but it is not. The preponderance of activity at Pete & Mac's is outside. He asked the Council to vote no.

Concerning the surrounding community, Mr. Schaar said neighbors are concerned about the outdoor play areas. He referenced Hinsdale, Westmont and Darien and said they do not allow outdoor play areas. In rejecting this, the Village would be in good company with their neighbors.

Mr. Schaar said the revised plan is detrimental to the area. This is not a game changer. It only increases the fence size with two rows of baffles instead of one. It is essentially the same plan.

Mr. Schaar then referenced the letter from Mr. Snyder indicating the sound proofing provided for in the revised plan would not be effective from a sound control perspective. Mr. Schaar then referenced a letter from Hunter Scarpa indicating that the revised plan would not be effective in controlling sound. To control sound the space must be enclosed; heavy, dense material must be used to block the sound; and light, airy material must be used to reduce the echo.

Mr. Schaar further referenced the manner in which the Doggie Depot owners engaged the neighbors through a neighborhood meeting prior to appearing before the Plan Commission.

Mr. Schaar asked Council to listen to the residents and to vote against this matter.

Mr. Schaar then said there is a condition absent from the ordinance which is a limitation on the number of dogs to be boarded. It is not clear how many dogs can be boarded.

Lastly, Mr. Schaar spoke on behalf of his neighbors. He read a portion of a letter written by one of his neighbors urging the Council to vote against this as the proposal would lessen the value of his property and that of the other residents in the area. Mr. Schaar said he hopes the Council takes this and other messages to heart.

Commissioner White asked if it is Mr. Schaar's view that any barking will cause harm.

Village of Downers Grove

Council Meeting

May 16, 2017

Mr. Schaar said if this situation were similar to that at 63rd Street with a five to seven dogs out for a very limited period of time, they would okay with that.

Commissioner White asked if the decibel level of the barking were measured, is there a level low enough that would be acceptable.

Mr. Schaar said they are talking about 35 dogs outside from 8:00 a.m. to 6:00 p.m. each day.

Commissioner White said ordinance is drafted in such a way that if the measured levels of decibels exceed the sound ordinance, it is grounds to revoke the special use.

Mr. Schaar said it is a heavy burden on the residents to make them go through Code Enforcement. The petitioner needs to meet the requirements of the special use before it is granted.

Jerry Holman, 834 72nd Street, said his family has lived in their home for 23 years. He believes this will have an adverse impact on the neighborhood and property values. He referenced the letters evaluating the sound proofing for the outdoor area and spoke about noise levels and timeframes. He said the noises from the area businesses are not intrusive. He believes the barking will have a negative impact on the neighborhood. He asked the Council to consider the impact on other people.

Jeff Heller, 1025 Claremont, said he came to represent the homeowners association. They are unanimous in their objection to the animal boarding facility, as they already have noises from Main Street and air traffic overhead.

Nola Armento, 4911 Bryan Place, said she has been a realtor for 40 years. As far as values go, it is hard to say whether the facility will affect values, but she said people are very concerned about barking dogs. It will affect showings and the number of people that might otherwise be interested in a property.

Kathy Nicola, 613 72nd Ct., said she is concerned about hygiene and attractive nuisances. The facility will be immediately next to a grocery store. There will be a lot of foot traffic, distracted dogs, etc. This should be taken into consideration. It is not appropriate to put this so close to a food establishment.

Susan Lesniak, 912 Applegate, said she is against this. She is disappointment with the revised plans. The only way to address noise is by rejecting the outdoor kennel. She asked the Council to put themselves in the residents' position. The neighborhood cannot live with 35 barking dogs. She asked that the Council vote to deny this.

Bill Stycznski of Studio 21 Architects and a resident of the Village said he submitted a document that addresses diminishing the noise levels over distance. He discussed the chart and how the sound levels come down over distance. The information relates to the Avondale Arizona facility. Ambient sound ranged from 60-80 decibels on the north side of the property. He said the closest residential property is about 350' from the outdoor play area, and once you are about 50-100' from the play area the noise would be lower than the ambient sound levels in the area.

Mr. Stycznski said the drawings he submitted were to give more clarification. They were not intended as a redesign. The fence has been raised to eight feet. Mr. Stycznski said he was told it was not necessary to have a meeting with the neighbors. Mr. Schaar set up an appointment to meet, but did not show up.

John McIntosh, 7233 Lyman, said there is a kennel on Dunham Road. He is a gardener and he hears the dogs barking all day long. Barking dogs gets on one's nerves. He urged the Council to vote no on this facility. There will be a problem with the noise.

Jim Schloss, 814 Old Orchard Avenue, said Downers Grove is a nice, quiet community, but residents have been assaulted with noise as things change. Noise is a quality of life issue.

Mayor Tully said a sound analysis can be requested.

Mr. Schloss said events will not occur in a predictable manner. It will be difficult to change this once it is approved. He would accept a solution of an indoor play area, and he thinks others would accept that as well. He asked the Council to reject this.

Village of Downers Grove

Council Meeting

May 16, 2017

Richard Weglarz, 1036 73rd Street, said he is a disabled veteran. He addressed ambulance and fire truck noise in the neighborhood. He said that dogs not from the area may be disturbed by this noise. There are many vacant buildings in Downers Grove. He urged the petitioner to look at those instead of seeking a special use.

Mr. Schaar said he has never had an experience like this where he was accused of not showing up for a meeting. He explained he reached out to Mr. Styczinski and no time was ever established for a meeting.

Jeff Magill, 1040 Pinewood Drive, said he questions the application of the decibel standard at it applies here. Barking dogs are a unique situation.

Commissioner Earl said she walked the neighborhood and saw the site. She noted that any business will make more noise than an empty building. She said the question for her is what is an acceptable noise level for the neighborhood. Constant barking by a multitude of dogs is not acceptable to anyone. She visited the site several times over the past weeks, and has been a customer at this location. This shopping center has never been quiet due, in part, to car repair shops that do work with their doors open. It is quiet on or near the sidewalk on Old Main Street due to the distance. She noted that a dog boarding facility is not a new type of facility and referenced others in the Village. In this neighborhood there is a dog kennel facility that has been noisy at times. It operates on an old style business model and does not operate under any of the conditions proposed as part of this special use. There have been no noise complaints about the Ogden Avenue facility whose outdoor play area adjoins a residential backyard. Another facility operates within a few blocks of two of the Council Commissioners. There have been no noise complaints about this facility. Neither of these facilities has anything near the sound minimizing being required of this facility.

Commissioner Earl said the main key to keeping dogs quiet is to have them supervised. A dog will bark if no one is there to stop it. She requested that the special use include a provision that the outdoor dogs be attended at all times. She said the owners are proposing a new business model. The conditions in the special use acknowledge the concerns of the neighbors. She thinks all the conditions taken together address the concerns. Her experience is unattended dogs are the problem and she thinks this has been addressed. She thanked residents for coming to the meeting tonight.

Commissioner Waldack said the major issue appears to be noise, not sound. Sound is measure in decibels; there is nothing to measure noise. He said 35 dogs is a ridiculous number. He can hear dogs barking from a kennel that is not nearby. Noise is cumulative. People ask why a kennel would be put next to a grocery store. There is no upside here. He has made complaints about the shopping center behind his house three times and he would donate money to a rescue dog center if staff can produce any of his complaints. This looks good on paper, but it will not happen. The residents will have to complain and fill out papers constantly and each time it happens they will have to start over, while the facility will shop for a friendly firm to assist it. As for the special use being revoked, the Council has never done so and if it were to revoke it, the Village would wind up in court. He referenced TCD3; the major finding was the Village should encourage neighborhood groups. He hopes people will continue to participate in the process. The advantage of this facility to the Village is minimal and could be detrimental.

Commissioner Waldack reviewed the special use criteria. In terms of the proposed use at the proposed location being necessary or desirable and contributing to the general welfare of the neighborhood, he said this facility is not necessary and does not contribute to the general welfare, and the neighbors do not want it. In terms of it being detrimental to people residing in the vicinity or injurious to property values, Commissioner Waldack said this will be detrimental with the outdoor play area. The petitioner fails to meet the special use criteria and he will not support it.

At this time Mayor Tully asked that the audience please show respect and asked that there be no applause.

Commissioner Walus said she understands the benefits and draw of a facility that gives dogs outdoor time. She has had an opportunity to hear residents. She thinks Pete & Mac's Pet Resort will be a great addition, but not at this location. She will stand with the residents.

Village of Downers Grove

Council Meeting

May 16, 2017

Commissioner Hosé thanked the residents for their participation and feedback. He asked if the time has come to change the Zoning Ordinance provision that allows this use on commercially zoned property. This location is not contiguous to residential properties. Conditions on the special use will limit the noise that can emanate from the property. The petitioner has every incentive to comply. Failure to comply lands them back in front of the Council. He said he lives 550-600' from the new location of the Doggie Depot. He believes with conditions, compliance can be achieved. He will support this.

Commissioner Barnett said this use is in the Zoning Ordinance because Council put it there. The special use process allows for restrictions to address concerns. He does not see a good path for a remedy should this be a problem because the Code identifies decibel levels, not a remedy. Barking is unique noise and he does not see how it can be measured. It is necessary to address the nuisance aspect of this in terms of how much people should have to endure or what will be done about it. He thinks the Council can do more. However, he noted that no one is entitled to no change in their environment. It is necessary to figure out how to manage those changes. He does not think this will be injurious, but he would like to have more time to think about this.

Commissioner White asked if 88 beds equal 88 dogs.

Dave Fieldman, Village Manager, said they are not necessarily equal.

Commissioner White asked if the petitioner has an objection to limit the number of dogs to 88.

Gay Barwald, President and CEO, Pete & Mac's Pet Resorts, said there are times when a family of dogs would share a room. There could be occasions when there are 100 dogs in the facility when people are on vacation or during holidays. Their normal occupancy is probably 50% or lower.

Commissioner White said he will consider making a motion to amend the special to put an upper limit on the number of dogs permitted at the facility.

Commissioner White asked if Section 15.5.1(b) regarding the noise regulations in the Municipal Code could be added as a condition of the special use such that a conviction in the Circuit Court of violating the ordinance would be cause for the Village Council to consider whether to revoke the special use.

Mr. Fieldman said procedurally the results of a sound study would come before the Council before this matter would be in front of the Circuit Court.

Commissioner White said he wants to keep the decibel limitation as a condition of the special use. People have indicated that the decibel level may not be the only concern. A conviction would be an objective measure. This is a matter of balancing principles. The neighborhood is entitled to be protected against unreasonable barking and howling. On the other hand, we respect private property rights and if someone owns property and there is a special use currently allowed by law, we should not take that away from them lightly. If this petition is denied, he suggested that the Council should outlaw outdoor dog play areas anywhere in the Village.

Commissioner White said he does not feel the barking will be as loud as the neighbors perceive it will be. The sound will dissipate over distance. If the neighborhood is subjected to barking and howling dogs, he would like the ability to revoke the special use.

Mayor Tully said that any motion has to come from one of his colleagues.

The Mayor said he has seen this type of situation before and usually it is not as bad as the dissenters have presented it to be. Distance is a factor here. He noted there was opposition when Family Shelter Services went into the neighborhood. The Mayor said he knows the neighborhood well. Mayor Tully said distance is a big factor for him, and he went back to the neighborhood and walked it twice.

The Mayor referenced the special use criteria and the ability to add conditions to the special use. The Council has the power to impose conditions. He feels the conditions on this special use will mitigate concerns. Council has never been presented with a request to revoke a special use. He said he would not hesitate to revoke a special use if necessary.

Village of Downers Grove

Council Meeting

May 16, 2017

Motion: Commissioner White moved to add an additional condition to the special use, namely that the number of dogs be limited to 94. Commissioner Earl seconded the motion.

Commissioner White said he arrived at this number by adding 88, the number of rooms, and 100, the number of dogs that could be expected at one time, and dividing by two.

Commissioner José asked if this makes a difference, given that the objection is to the outdoor play area.

Sharon McIntosh, 7233 Lyman, asked if there would be any additional dogs allowed.

Commissioner White said a total of 94 dogs would be allowed at any one time.

Mr. Schaar said in terms of the underlying issue of the undesirability of the outside play area, the total number of dogs is irrelevant.

Mr. Holman said he believes the total number of dogs could have an impact on the number of dogs outside.

Mr. Weglarz said when this petition was first brought forward it was for 88 dogs. He would like it capped at 88 dogs.

Mr. Schaar said the key metric is 35 dogs in the outdoor play area. The opposition is to the play area; 35 dogs in the outdoor play area is excessive by any measure.

Commissioner Earl asked for clarification on revocation of a special use.

The Mayor called for a roll call on the motion to amend the ordinance limiting the total number of dogs allowed at any one time to 94.

Notes: Yea: Commissioners White, Earl, José; Barnett; Mayor Tully

Nay: Commissioners Walus, Waldack

Mayor Tully declared the motion to amend carried 5:2. The Mayor said the motion to approve the special use now has an additional condition.

Motion: Commissioner White moved to add a condition with respect to a violation of Section 15.5.1(b), "No person shall keep within the Village any dog or other animal which makes any unreasonable barking, howling or other noises which disturbs the peace." Upon conviction in the Circuit Court, that shall, by itself, be grounds to bring the matter before the Village Council to consider revocation of the special use. Commissioner Barnett seconded the motion.

Mr. Fieldman said, in response to Commissioner Earl's question, traditional Code Enforcement requires documentation of an alleged violation by the Village staff. Staff takes it to DuPage County Circuit Court where a judge presides over the hearing. It can be a very lengthy process of notification, etc. and very cumbersome. The way this ordinance is drafted is that if there are any violations to the conditions of the special use, staff would simply schedule a hearing before the Village Council. The Council would be in the role of deciding what steps to amend or revoke the special use. This would be a much quicker process. Given that the ordinance has the condition in it that would allow us to take any noise related barking type issues to the Council, it would be highly unlikely that staff would ever file a violation of Section 15.5.1(b) before a court. It would make more sense to bring the special use hearing in front of the Council. Mr. Fieldman said he does not see any scenario under which staff would have a citation under Section 15.5.1(b). It is highly unlikely that the addition would achieve the intended result.

The Mayor said we have more power under the special use ordinance; it would be faster, it would provide for more control, and it would be before the Council.

Commissioner White said the amendment does not limit any existing remedies. It simply adds a new one.

Commissioner Barnett said it adds a different reason for revocation. The special use restrictions speak to specific issues, but not to the nuisance element.

Village of Downers Grove

Council Meeting

May 16, 2017

Mr. Fieldman said all special uses must comply with all Village laws, ordinances, regulations, and policies. Staff could bring a show/cause hearing to amend or revoke a special use for violations of any ordinances in our Code at any time.

Commissioner White said this addition does not add anything, given the Manager's explanation.

Commissioner Earl asked as to the steps a neighbor would follow with respect to a complaint.

Mr. Fieldman said staff will respond to a complaint. Staff would observe the situation and if it was felt there was a violation, they would bring it to the attention of the petitioner and then bring it to the Council.

Commissioner Earl asked as to the timeframe for this.

Mr. Fieldman said staff would pursue a resolution for a couple of weeks before bringing it back to the Council. This would be a land use case and a special use case.

Commissioner Barnett said the special use itself is contingent upon compliance with all Village laws, ordinances, regulations, and policies as well as federal, State and County laws. That addresses his concerns.

Commissioner Earl said that would go for any violation.

Commissioner White said he agrees with the Mayor. Once the facility is in place, it will not be as bad as people think. People can speak at a Council meeting if they have concerns. He reiterated that he does not want people subjected to excessive noise. He is not persuaded that this facility will cause that.

Motion: Commissioner White moved to withdraw the second proposed amendment with permission of the seconder.

Commissioner Barnett agreed and gave his permission to withdraw the second proposed amendment.

Mayor Tully said the motion has been withdrawn.

Commissioner Barnett said the special use makes several references to revocation. This is a question of control. Council has a number of ways to control this situation.

Commissioner Waldack said the process described by the Manager was overly simplified. Someone would have to sign an official complaint. There will have to be multiple complaints. The Village Manager, at his discretion, will require a test and the petitioner gets the results of the test. It is a complex remedy, and it is not that simple.

Motion: Commissioner Waldack moved to amend the previously amended ordinance to require that there be no outdoor play facility and that all play facilities be conducted inside the facility. Commissioner Walus seconded the motion.

Commissioner Barnett said the process to revoke a right should not be easy. There are two sets of property rights being balanced. He said he will be surprised if there is a problem.

Mayor Tully asked for a show of hands in the audience of those who want an enclosed play area.

Mr. Schaar said the question is how much residents have to endure.

Mr. Weglarz urged the Council to err on the side of caution. He said he suffers from PTSD. Some frequencies are very difficult for him and he sometimes ends up at Hines Hospital. The Fire Department will not take him to Hines Hospital and he asked if the Village pay the bill if this happens to him.

Mayor Tully said he is not equipped to answer that question.

Mr. Magill said the deliberation confirms that this has a negative impact on property values.

Commissioner White said, in response, that after Pete & Mac's is built, a prospective buyer could stand in your driveway and listen to determine the impact of the facility.

Cindy Tory, 7217 Webster, said she would like to see the play area enclosed.

Village of Downers Grove

Council Meeting

May 16, 2017

Sonja Kasche, 1011 Pinewood, said she would like to see the facility enclosed with no outdoor play area.

Mayor Tully said the issue is not really about an inside or outside facility. The objective is not to disturb the neighborhood and there are other ways to achieve that. Council tries to address these issues in the least intrusive manner possible. Before going to more extreme measures or outlawing something, he feels it is appropriate to try less intrusive measures. Some of the conditions proposed are in direct reaction to the input from the community and are a more appropriate way to go and if those are not sufficient, the other alternative is to withdraw the special use and there will be no dog boarding facility.

The Mayor asked for a roll call on the motion as amended to require that there be no outdoor play facility.

Votes: Yea: Commissioners Walus, Waldack

Nay: Commissioners Earl, White, José; Barnett; Mayor Tully

Mayor Tully declared the motion to amend failed 5:2.

The Mayor said there has been a great deal of input on this. Changes to the ordinance were made based on input and engagement of those in the audience and as a direct request of those in the neighborhood. This has been a good conversation. This is a good example of civic involvement.

Commissioner White said this decision is a balance of property rights and competing interests. This special use is allowed under our current ordinance. If this is an unreasonable situation, the owner has every incentive to mitigate the problem because the revocation of the special use, with cause, would be the death for their business after they open it.

The Mayor called for a roll call on the motion to adopt the ordinance authorizing a special use for 7221 Lemont Road to permit an animal boarding facility as amended to put a cap of 94 on the total number of animals at any one time.

Votes: Yea: Commissioners White, José, Earl; Barnett; Mayor Tully

Nay: Commissioners Walus, Waldack

Mayor Tully declared the motion to amend carried 5:2.

Mayor Tully said he would take the next item out of order, as the petitioner is in the audience.

RES 2017-7360 — D. Resolution: Grant Historic Landmark Designation for 4709 Linscott Avenue

Summary: This grants historic landmark designation for 4709 Linscott Avenue.

**A RESOLUTION GRANTING HISTORIC LANDMARK DESIGNATION FOR 4709 LINSCOTT
AVENUE**

RESOLUTION 2017-38

Motion: Commissioner White moved to adopt "A Resolution Granting Historic Landmark Designation for 4709 Linscott Avenue," as presented. Commissioner Waldack seconded the motion.

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

Nay: None

Mayor Tully declared the motion carried.

The Mayor presented Ms. Lockerby with a certificate designating her home as the Lottie McDougall House.

ORD 2017-7357 — B. Ordinance: Grant a Stormwater Variance for 4710 Highland Avenue

Village of Downers Grove

Council Meeting

May 16, 2017

Summary: At their meeting of April 13, 2017, the Stormwater and Flood Plain Oversight Committee recommended a stormwater variance for the property located at 4710 Highland Avenue.

AN ORDINANCE GRANTING A STORMWATER VARIANCE FOR 4710 HIGHLAND AVENUE

ORDINANCE NO. 5618

Motion: Commissioner White moved to adopt "An Ordinance Granting a Stormwater Variance for 4710 Highland Avenue," as presented. Commissioner Waldack seconded the motion.

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

Nay: None

Mayor Tully declared the motion carried.

ORD 2017-7358 — C. Ordinance: Amend Water Rates

Summary: This amends the Municipal Code regarding water rates.

AN ORDINANCE AMENDING WATER RATES

ORDINANCE NO. 5619

Motion: Commissioner White moved to adopt "An Ordinance Amending Water Rates," as presented. Commissioner Waldack seconded the motion.

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

Nay: None

Mayor Tully declared the motion carried.

8. First Reading

ORD 2017-7369 — A. Ordinance: Rezone Certain Property Located at 4801, 4832 Main Street and 4824, 4832 Highland Avenue

Stan Popovich, Director, Community Development, said this property is St. Joseph's school and church. He showed the location of the church, rectory and parking lot. The petitioner is proposing to rezone the property to INP-1 to include the parking lot on the west side of Main Street, and eliminate a curb cut on Main Street. The rectory building is proposed for demolition to create additional parking. He also discussed the landscaping plans. This complies with the Comprehensive Plan and meets the standards of the Zoning Ordinance as it relates to the rezoning, special use and variation.

Commissioner Earl said the rezoning does not include the single family residence included as part of the property.

Mr. Popovich said that is correct.

ORD 2017-7368 — B. Ordinance: Authorize a Special Use for 4801, 4832 Main Street and 4824, 4832 Highland Avenue to Expand Parking for a Religious Assembly Use with Two Variations

MOT 2017-7381 — C. Motion: Direct Staff to Negotiate Key Terms of a Contract Extension with Republic Services

Village of Downers Grove

Council Meeting

May 16, 2017

Deputy Village Manager Mike Baker said the Village has had a long-standing relationship with Republic Services. This would direct staff to negotiate directly with the waste hauler and the matter would be brought back to Council. The current contract expires March 31, 2018.

Mayor Tully noted that staff has done an excellent job with respect to the solid waste contracts.

ORD 2017-7352 — D. Ordinance: Authorize a Loan Agreement with the Illinois Environmental Protection Agency

Ms. Newlon said she would discuss items D-G. These contracts represent \$2.5 million of water main improvements. Staff is seeking authorization of a loan agreement with IEPA in the amount of \$1,871,921.48 at 1.64% interest to finance some of these improvements, which is a savings of about \$248,000 in financing. This is the second year of loans. There are three contracts being presented tonight. Items E&F are to be financed with the IEPA loan.

MOT 2017-7361 — E. Motion: Authorize \$1,052,739.25 to Swallow Construction Corporation, Downers Grove, IL, for the 2017 Water Main Improvements Contract A

This is to award Contract A to Swallow Construction for 2,740 linear feet of water main and associated work in the amount of \$1,052,739.25. The work will be at the following locations: Douglas Road from Prairie Avenue to Wilson Street; Grant Street from Seeley Avenue to Oakwood Avenue; and Prospect Avenue from Prairie Avenue to Warren Avenue.

MOT 2017-7362 — F. Motion: Authorize \$764,660.25 to Swallow Construction Corporation, Downers Grove, IL, for the 2017 Water Main Improvements Contract B

This is to award Contract B to Swallow Construction for 1,865 linear feet of water main and associated work in the amount of \$764,660.25. The work will be at the following locations: Gierz Street from Fairview Avenue to Florence Avenue; Stonewall Avenue from 62nd Street to 63rd Street; and Maple Avenue from Carpenter Street to Lane Place.

MOT 2017-7363 — G. Motion: Authorize \$735,020.00 to Trine Construction Corporation, West Chicago, IL, for the 2017 Water Main Improvements Contract C

Ms. Newlon said this is to award Contract C to Trine Construction for 2,005 linear feet of water main and associated work in the amount of \$735,020.00. The work will be at Oak Hill Road from Venard Road to Saratoga Avenue; and Springside Avenue from the north end of Springside to Brunette Drive.

Commissioner Earl asked if this included road resurfacing.

Ms. Newlon said it is included.

Commissioner José said he is surprised to find that the contracts do not require a licensed plumber for the B box connection. He said he would like the Council to take this up as a policy matter. Regarding the Trine Construction contract, he said he has concerns about prevailing wage issues.

Commissioner Waldack asked as to the ramifications of not using a licensed plumber.

The Mayor noted that this is not currently part of the Village's specifications.

Jim Mansfield said he is a licensed plumber. He said the water main is separate from the water service. He asked the Council to do their due diligence and to have a licensed plumber make the connections.

ORD 2017-7374 — H. Ordinance: Amend Parking and Traffic Regulations

Village of Downers Grove

Council Meeting

May 16, 2017

Ms. Newlon said this concerns amendments to the Municipal Code concerning parking and traffic regulatory sign revisions. Revisions include changing two downtown parking spaces from two-hour to 15 minute spaces; adding stop signs at Plymouth Street and 61st Street as well as Plymouth Street and 62nd Street, revising parking restrictions on Powell Street adjacent to Kingsley Elementary, and revising parking restrictions at 61st and Lyman Avenue. Ms. Newlon said all four of these items went to the Transportation and Parking Committee and were approved and recommended to the Council for adoption.

Ms. Newlon then presented three staff-sponsored items. They include revisions to the ADA accessible parking spaces at Public Works; the addition of crosswalks on Blanchard Street, Carpenter Street, Middaugh Avenue and 41st Street; and a regulatory parking sign on Burlington Avenue.

Commissioner Earl asked about the hours for the 15-minute spaces.

Ms. Newlon said those spaces are designated as 15-minute spaces on a 24/7 basis.

9. Mayor's Report

10. Attorney's Report

Pursuant to Section 2.5 of the Downers Grove Municipal Code, the following are presented for Village Council consideration:

1. An ordinance rezoning certain property located at 4801, 4832 Main Street and 4824, 4832 Highland Avenue
2. An ordinance authorizing a special use for 4801, 4832 Main Street and 4824, 4832 Highland Avenue to expand parking for a religious assembly use with two variations
3. An ordinance authorizing a loan agreement between the Village of Downers Grove and the Illinois Environmental Protection Agency
4. An ordinance amending parking and traffic regulations

11. Council Member Reports

Commissioner Waldack said the Downtown Classic Car Show begins May 19. He advised people to check the website www.downtowndg.org for parking restrictions.

Commissioner Walus said people can still register for Noah's Hope Cupcake Classic at www.noahshope.com/cupcake.

Mayor Tully reminded everyone of the Barth Ceremony on Thursday, May 18 at 1 p.m. at First Presbyterian Church, 339 4th Street. The Mayor said Downers Grove Downtown Market has opened for the season. He also said there are 36 days until Rotary GroveFest.

The Mayor asked for a motion to recess to the Committee Room to discuss the Long Range Plan and General Fund Sustainability.

Motion: Commissioner White moved to recess to the Committee Room. Commissioner Waldack seconded the motion.

Mayor Tully declared the motion carried by voice vote and the Council recessed at 9:52 p.m.

Village of Downers Grove

Council Meeting

May 16, 2017

12. Manager's Report - Committee Room

Mayor Tully reconvened the Council meeting at 10:05 p.m. in the Committee Room to discuss the Long Range Plan and General Fund Sustainability.

INF 2017-7382 — A. Information: Long Range Planning - General Fund Sustainability

Mr. Fieldman said revenues are not keeping pace with expenses. One of the 2017 Priority Action Items is to consider new revenue sources or enhance existing revenues. Staff is proposing implementing a 1% food and beverage tax and an increase in the property tax levy for operations as necessary.

Mr. Fieldman reviewed General Fund expenses and revenues for 2012-2019. Revenue has been declining for the last five years; expenses have been increasing slightly at 1.6%. Mr. Fieldman then reviewed expense trends. For the last ten years, there has been a commitment to cost controls, staff reduction, lean and consolidation. General Fund total expenses are 11% higher comparing 2017 to 2008, for a 1.29% yearly average. The total number of staff has been reduced from 375 to 309, a 17% reduction, including 22% in the Police Department, 9% in the Fire Department, 13% in Public Works, 13% in Community Development, and 28% in all other departments.

Mr. Fieldman said public safety pension expenses are 177% higher for the same time period, a yearly average of 19.67%. The public safety pensions are required and set by State law. These pensions are scheduled to increase by \$218,000 in FY18 and could increase up to \$474,000 or more based on actuarial assumptions. The public safety pensions are the key expense driver and account for 80% of the General Fund increase since 2008.

Mr. Fieldman said staff has and will continue to control expenses.

In terms of revenue trends, Mr. Fieldman said revenue has been down for four of the last five years for the four largest tax categories: Sales, Property, Utility and Income. Staff is proposing to implement a 1% food and beverage tax that it is estimated would have generated \$1.5 million if it had been instituted in 2016. Mr. Fieldman said this represents a large amount of money and a growing revenue source that is progressive and comparable to other communities such as Lombard, Naperville and Elmhurst. If necessary, staff will propose an increase in the tax levy for operations. The levy is \$5.85 million. Each 1% generates \$58,500. A typical house pays \$560 and each 1% equals \$5.60.

Mayor Tully said we are trying to replace the lost revenue to stay at the same level of revenue. Sales tax was performing in a way to help us meet our objectives in the past. Now this revenue is outside of our reach due to economic changes. The proposed tax captures dollars from non-residents and residents. We would not be the only community with a food and beverage tax. This is not a short-term issue. A food and beverage tax has been discussed for many years. He thinks it makes sense.

Commissioner White asked as to the purpose of this discussion.

Mr. Fieldman said it is to get Council direction regarding ways to enhance revenue.

The Mayor said this does not enhance revenue; it is maintaining revenue.

Commissioner White said this is the right way to maintain the General Fund at the existing levels.

Commissioner Earl asked if this would apply to restaurants only or include grocery stores as well.

Mr. Fieldman said prepared foods would be included as part of the tax. Staff will research the products that will fall under this tax.

Commissioner José thanked staff for the presentation. This alternative makes sense to him.

Village of Downers Grove

Council Meeting

May 16, 2017

Commissioner Waldack said Downers Grove has restaurants instead of retail. He said we will have to sell this to our residents and businesses. He suggested comparing our costs to those of other communities. People don't appear to realize that costs to maintain Village services increase just the same as their own costs for electricity or cable, etc.

Commissioner White said people get excellent fire and police protection; nothing is free. The Village delivers fair value for its tax dollars.

Mayor Tully said there is support for this at Chamber 630.

Commissioner Barnett said he thinks the food and beverage tax should be implemented. There is no reason to expect staffing to continue to go down by 11%. Staffing levels have been artificially suppressed. This requires more than a food and beverage tax and service levels; it needs to be more aggressive.

Mayor Tully said this introduces a new revenue component. A discussion of revenue and expenses should be part of the budget process.

Commissioner Barnett addressed timing issues. He is concerned that this is not enough.

Mr. Fieldman said staff will go in the direction of a food and beverage tax. It may not be enough. Through monitoring, staff will bring issues back to the Council in a timely manner and not just through the budget process.

Commissioner Earl asked about the time needed to implement the food and beverage tax.

Mr. Fieldman said the tax will be paid directly to the Village. He anticipates it being in effect January 2018.

In response to a resident, Mr. Fieldman discussed the public safety pension obligations. Models are based on 100% funding by 2040. We are funded in the mid-50% range currently. We make payments that are more than the minimum amount required, but the model keeps changing.

A question was raised about a property tax freeze. Mayor Tully replied this would take property tax increases off the table.

13. Adjournment

Motion: Commissioner White moved to adjourn. Commissioner Waldack seconded the motion.

Mayor Tully declared the motion carried by voice vote and the meeting adjourned at 10:45 p.m.

Respectfully submitted,

April Holden

Village Clerk