

# Meeting Minutes

Village of Downers Grove - Council Meeting

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Council Chambers

1/16/2018

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 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 2018-7658 — A. Minutes: Council Minutes - January 9, 2018

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

Mayor Tully declared the motion carried by voice vote.

#### 4. Public Comments

This is the opportunity for public comments.

Mary Maier, 217 White Fawn Trail, commented on the heavy rains of October 2017. She represents Deer Creek Subdivision and reviewed the history of flooding events in their community. Ms. Maier said they have asked repeatedly for Village help with no change. She noted the numerous expensive measures Deer Creek homeowners have taken to protect their homes from the flooding. Ms. Maier requested the Village's help. In an October 26, 2017, email to the Council she documented the number of homes that were damaged by the rains of October 14. She received no response. The holding areas are not holding enough water and this affects 100 homes. The timeframe they have been given for construction is 2020-2040, which is not acceptable. Ms. Maier said that residents are asking that their neighborhood be made a priority area. They are requesting a joint meeting with the Council and Deer Creek neighbors.

Mayor Tully replied that the Council empathizes with the situation and the conditions in Deer Creek. He noted that under modern standards this area probably wouldn't be built today. It is a challenge and the Council and staff are familiar with the situation. It is not something that the Village can solve alone. He has had conversations with the Village of Westmont about the situation. It is complicated and expensive. The Council recognizes its importance and staff is exploring ideas. This is not off the radar and is high priority. It takes a coordinated effort with the Village of Westmont as well. He said there is a similar situation at the border of Westmont and Clarendon Hills. Many Council members have met with neighbors over the years. He would be happy to meet again, and could come before or after Saturday's Coffee With The Council. It is on the "to do" list, and they will try to get some relief to that community.

#### 5. Consent Agenda

**BIL 2018-7659** — A. Bills Payable: No. 6374, January 16, 2018

**RES 2018-7657** — B. Resolution: Authorize an Addendum to the Agreement with B&F Construction Code Services, Inc. for Code Inspection Services

**Summary:** This authorizes a contract amendment to the existing B&F Inspection Services Contract to modify the not-to-exceed amount from \$25,000 to \$31,000.

**A RESOLUTION AUTHORIZING EXECUTION OF AN ADDENDUM TO THE AGREEMENT  
BETWEEN THE VILLAGE OF DOWNERS GROVE AND  
B&F CONSTRUCTION CODE SERVICES, INC.**

**RESOLUTION 2018-08**

**RES 2018-7653** — C. Resolution: Authorize an Agreement with Suburban Laboratories, Inc. for Water Testing Services

**Summary:** This authorizes a contract for laboratory services for drinking water testing with Suburban Laboratories of Geneva, Illinois in the amount of \$35,419 as a sole source supplier.

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**A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE VILLAGE  
OF DOWNERS GROVE AND SUBURBAN LABORATORIES, INC.  
FOR WATER TESTING SERVICES**

**RESOLUTION 2018-09**

**MIN 2018-7660** — D. Minutes: Note Receipt of Minutes of Boards and Commissions

**Summary:** Plan Commission - December 4, 2017

**Motion:** Commissioner White moved to approve the Consent Agenda 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.

## **6. Active Agenda**

**ORD 2017-7643** — A. Ordinance: Authorize a Special Use for 4832 Highland Avenue to Permit a School Addition with a Variation

**Summary:** This authorizes a special use for 4832 Highland Avenue to permit a school addition and a variation.

**AN ORDINANCE AUTHORIZING A SPECIAL USE FOR 4832 HIGHLAND AVENUE TO APPROVE  
A SCHOOL ADDITION WITH A VARIATION**

**ORDINANCE NO. 5679**

**Motion:** Commissioner White moved to adopt "An Ordinance Authorizing a Special Use for 4832 Highland Avenue to Approve a School Addition with a Variation," 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 2017-7645** — B. Ordinance: Prohibit the Purchase and Possession of Alternative Nicotine Products by Minors

**Summary:** This prohibits the purchase and possession of alternative nicotine products by minors.

**AN ORDINANCE PROHIBITING THE PURCHASE AND POSSESSION OF ALTERNATIVE  
NICOTINE PRODUCTS BY MINORS**

**ORDINANCE NO. 5680**

**Motion:** Commissioner White moved to adopt "An Ordinance Prohibiting the Purchase and Possession of Alternative Nicotine Products by Minors," as presented. Commissioner Waldack seconded the motion.

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

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Nay: None

Mayor Tully declared the motion carried.

**ORD 2017-7644** — C. Ordinance: Amend Theater License Provisions

**Summary:** This amends theater liquor license provisions.

**AN ORDINANCE AMENDING THEATER LICENSE PROVISIONS**

**ORDINANCE NO. 5681**

**Motion:** Commissioner White moved to adopt "An Ordinance Amending Theater License Provisions," as presented. Commissioner Walus seconded the motion.

Commissioner José thanked his colleagues for raising concerns about this request by the Tivoli, stating, however, that he disagrees with most of those concerns. The Ordinance makes sense to keep the Tivoli competitive. The Tivoli is an exemplary applicant. He thanked the Tivoli for investing in Downers Grove and said he will support this request.

Commissioner Waldack noted that the Liquor Commission minutes referred to "Mr. Willis" which he assumed was referencing Willis Johnson. He suggested that be corrected in those minutes.

Commissioner Waldack said he agrees that the Tivoli is a gem, and he has a great deal of respect for the Johnson family. They are pillars of the community; however, Commissioner Waldack said this isn't just about the Tivoli. It is about setting standards. It is the duty of government to protect people from the irresponsible minority that will over-indulge or will serve alcohol to minors. It is not about being nice to one business. He said that when things are placed on cruise control, they go awry. This is about serving and monitoring liquor being taken into a darkened theater. Commissioner Waldack discussed enforcement issues. He sees this as a lessening of standards. If the Council approves this they must apply the new standards across the board. What applies to the Tivoli should apply to anyone who applies for a liquor license. He is not ready to lower the standards. He mentioned the Park District selling alcohol at concerts, golf courses or the concession stand at McCollum Park. They would have more controls than at the Tivoli. The idea of protecting children would be gone. He said he can see why the Chamber of Commerce supports this. We have spot licensing or designer classifications in Downers Grove. Spot zoning is illegal. We can approve what and who we like and not approve others. Commissioner Waldack explained that they can help those who are in our tribe, or not help those in the other tribe. They are lowering their standards for a T license for any place that meets the definition, which is a place that provides film or live entertainment in the downtown area that seats a minimum of 900 people. Only the Tivoli can classify for that license. Most venues that sell liquor are better lit, have better controls, servers are of age and are trained. Only a class T license can show R-rated films. Other license holders may be better qualified for this license. He said the Council should not do this because it is the Tivoli, they should not show favorites, and they should not be hypocrites.

Commissioner Walus thanked the public for their civil engagement and asked that they be respectful of opinions that are not their own.

Commissioner Barnett said he is supportive of this. He heard what was said last week. Sec. 3.33 aims at trying to prevent liquor licenses being made available to gambling houses and public adult live entertainment. The Ordinance does not say those things are now okay. Those things are still illegal but this Ordinance distinguishes that showing an R-rated movie or film does not constitute a violation of the Ordinance. He classifies this more as a change of standards rather than a "lowering" of standards. He wants people to know that the Village is interested in seeing or hearing the ideas from the public. Not every new type of business or business idea works. This Ordinance is an attempt to evolve with changes. The definition of the Class T license is extremely narrow. Most liquor licenses are narrow and he will support this. He has all the confidence that they will be able to regulate this forward in a positive way.

Commissioner White expressed his support of this and thinks they must keep theaters competitive in the modern world. He does not feel the concerns are great enough for him to vote “no” and he is comforted by the fact that the current Ordinance makes it a violation for a person under 21 to have possession of alcohol in the facility. He said he does not know if this is a big risk, but he thinks they will find out. The applicant simply has to follow the Ordinance.

Commissioner Earl said she had questions last week and the Johnsons answered her questions. She will support this because she believes there is no one else in town she would rather try this with than the Johnsons. If anyone deserves a chance to try this, it is the Johnsons.

Commissioner José said he appreciates the concern of protecting young people from exposure to potential problems, but children are in places all over town with liquor licenses where children are allowed every day. He doesn't see that expanding the Tivoli will cause more problems. He expressed concern about the concept of “tribalism” and is disappointed in this comment from the dais.

Commissioner Waldack said he is not accusing anybody. When you create specific classifications it leaves open the possibility of favoritism or tribalism, and that is why he has a problem with designer ordinances. He asked that his comment be taken in the spirit it was meant.

Mayor Tully expressed his support of this ordinance. He noted that since he has been involved with Village government, there's been a long history of requests by petitioners for many categories of liquor licenses. They have specific categories and defined licenses, and they try to assure the issuance of licenses in a responsible manner. The Mayor said the Village is open to hearing what petitioners have to say before turning them away. There is a big difference between the license and the license holder. He mentioned the license that was created for the wine boutique, which was a business that did not previously exist in the Village. The T license is not the Tivoli license, but rather a theater license first proposed and adopted in 2009. The Village has had ten years of experience with the T license, with numerous events in theaters. He is struck by the fact that in those ten years there have been no issues. The Council talks about the creation and parameters of the license. The administrative/executive function comes with the Liquor Commissioner (Mayor), which is the control aspect of the licensing. He said that the biggest standard is that they expect the holders of the liquor licenses to demonstrate responsibility. Violators are punished swiftly and he takes issue with the suggestion that there is going to be a lessening of the standards.

Regarding this request, the Mayor said controls are not changing. They are only expanding the opportunities. There is no lowering of standards. He sees this as a demonstrated ability to meet the responsible handling of the sale of alcohol. If there are problems, the Village has controlled buys. If a violation happens, the Liquor Commissioner (Mayor) pulls the license. There are controls and standards that will be enforced. He does not have any concerns about this request. There is no favoritism. He understands the concerns, but does not see this as lessening their standards. The owner still has to apply and demonstrate that they can meet the privilege of holding that license. Mayor Tully said he is satisfied with this.

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

Nay: Commissioner Waldack

Mayor Tully declared the motion carried.

**MOT 2017-7606** — D. Motion: Approve Downtown Development Regulatory Framework

**Summary:** This will adopt the Downtown Development Regulatory Framework.

**Motion:** Commissioner White moved to adopt the "Downtown Development Regulatory Framework," as presented. Commissioner Earl seconded the motion.

1. Ron Castrogiovanni commented that he is supportive of the previous Ordinance as presented. He noted, however, that an event at the Tivoli could result in a great deal of parking in the neighborhood. As downtown development continues, they will continue to need more parking as they are increasing the density for both residents and businesses. It can be inconvenient to residents, especially down Rogers Street, which is not built for parking and creates hazardous situations.

Mayor Tully then asked Village Manager Dave Fieldman to highlight the next steps in this process.

Mr. Fieldman said this is a three-phase project, with the final phase resulting in ordinances and maps. The previous two phases were the Comprehensive Plan phase which addressed the issue of providing additional parking on the north side of the tracks, and this is the second phase of establishing the framework. Parking standards will be finalized in the regulations.

2. A resident thanked the Council for listening to their concerns about the Rogers block area. He thinks it is a good move in terms of public safety.

Commissioner White expressed his support for adopting the regulatory framework. There is going to be some tweaking that remains to be done. He discussed the three outstanding areas – SW corner of Rogers and Washington, the NW corner of Maple and Washington, and the NE corner of Maple and Washington. He is not convinced that these three properties fit the categories. He looks forward to proceeding with the framework, and thinks they are heading in the right direction.

Commissioner José said he also thinks this is the right outcome consistent with the Comprehensive Plan. He emphasized to those concerned about pieces of it that this is not over and there is more work to do. Things may continue to change throughout the process. He noted that they learn from their experiences as they move forward.

Commissioner Barnett commented that this is a continuation of the process. Adjustments will happen all the time. He noted that they do best by planning and engaging residents, and then implementing ideas and recommendations. He is thankful to those who have committed to this process. It is good work to plan, act and adjust.

Mayor Tully thanked all those who participated in this process. This has been a lot of work and he commended everyone who has been involved in this over the years. The Council has received great input, and it has taken time by design. The Comprehensive Plan was the painting of what they want the future to look like. This is the schematic architectural drawing of how to get to that picture. The next phase is the actual work in the field, which will also require adjustments. He said they must have flexibility to make adjustments in the field.

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

Nay: None

Mayor Tully declared the motion carried.

## 7. First Reading

## 8. Mayor's Report

Mayor Tully invited residents to attend the Coffee With The Council on Saturday, January 20, 2018, from 9:00 a.m. to 10:00 a.m. at the Downers Grove Public Library at 1050 Curtiss Street.

Mayor Tully noted that yesterday was Martin Luther King Day which is also a national day of service. He reminded everyone that DuPage County is continuing the DoGood DuPage campaign, a year-long period of service. The goal is to reach 150,000 people to transform the community through service. More information can be found at [givingdupage.org](http://givingdupage.org).

## 9. Manager's Report

## 10. Council Member Reports

Commissioner Waldack said that the Ice Festival will take place in February.

Commissioner Waldack said he is considering a new business item in light of the ordinance passed regarding the amendment to the theater liquor license provisions, particularly Section 3.33. In order to be fair, he is seriously considering a request to amend this section to allow responsible holders of liquor licenses, such as the Park District and others, to be able to have R-rated entertainment.

Mayor Tully responded to Commissioner Waldack that he would prefer to see this brought forward by petitioners on a petition basis.

Commissioner Earl invited everyone to come to Coffee With The Council at the library on Saturday from 9:00 a.m. to 10:00 a.m.

Commissioner White said that DG FROG enrollment is open and classes begin on January 27. He described the classes available including cupcake decorating and introduction to quadcopters and drone racing. More information can be found at [www.dgfrog.org](http://www.dgfrog.org).

Commissioner White commented on a program he attended Sunday at the Barn at the Downers Grove Museum Annex. The exhibit is organized by The Art Department and attempts to promote art in the community to connect and grow the community. The exhibit will be at the Barn for another six weeks and he encouraged people to attend.

Mayor Tully noted that the 2018 Ice Festival Downtown Downers Grove will take place February 9 and 10. More details can be found at [www.downtowndg.org](http://www.downtowndg.org).

## 11. Adjournment

Mayor Tully asked for a motion to adjourn.

**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 8:01 p.m.

Respectfully submitted,

April Holden

Village Clerk