



## Meeting Minutes

Village of Downers Grove – Council Meeting

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Council Chambers

February 15, 2022

7:00 PM

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### 1. Call to Order

Mayor Barnett called to order the Village Council meeting at 7:00 p.m. and led those in the room in the Pledge of Allegiance to the Flag.

### 2. Roll Call

**Council Attendance (Present):** Mayor Barnett, Commissioner José, Commissioner Walus, Commissioner Sadowski-Fugitt, Commissioner Kulovany, Commissioner Gilmartin, Commissioner Glover

**Council Attendance (Not Present):** None

**Non-Voting:** Village Manager Dave Fieldman, Village Attorney Enza Petrarca, and Village Clerk Rosa Berardi

### 3. Minutes of Council Meetings

**MIN 2022-9318** — A. Minutes: Village Council Meeting Minutes - February 8, 2022

**Summary:** Village Council Meeting Minutes - February 8, 2022

**MOTION:** To adopt the meeting minutes of the February 8, 2022 meeting, as presented.

**RESULT:** Motion carried unanimously by voice vote.

**MOTIONED TO APPROVE:** Commissioner José

**SECONDED BY:** Commissioner Walus

**AYES:** Commissioners José, Walus, Glover, Gilmartin, Kulovany, Sadowski-Fugitt, Mayor Barnett

**AYES:** None

### 4. Public Comment

Mayor Barnett gave the guidelines for public comment and explained that members of the public can ask questions or engage Council members through the Village's rEMarks system, the CRC (Community Response Center), direct email, phone and when there are lessened COVID restrictions, at Coffee with the Council.

David Rose, Resident, asked if there were any rEMarks submitted and inquired about the link on the website.

### 5. Mayor's Report

No Mayor's Report.

## 6. Consent Agenda

**BIL 2022-9319** — A. Bills Payable: No. 6646 - February 15, 2022

**Summary:** No. 6646 - February 15, 2022

**COR 2022-9320** — B. Claims Ordinance: No. 6445, Payroll - January 28, 2022

**Summary:** No. 6445, Payroll - January 28, 2022

**MOT 2022-9321** — C. Motion: Approve a Three-Year Agreement with Amita Health Medical Center of Bolingbrook, Illinois in a Not-to-Exceed Amount of \$150,000.00 for Annual Fire Department Fit for Duty Medical Exams

**Summary:** This motion approves a 3-year agreement with Amita Health Medical Center of Bolingbrook, Illinois in a not-to-exceed amount of \$150,000.00 for annual Fire Department Fit for Duty Medical Exams.

**RES 2022-9324** — D. Resolution: Approve a One-Year Extension to the Agreement with B&F Construction Code Services, Inc. in a Not-to-Exceed Amount of \$31,000.00 for Building Inspection Services **RES #2022-15**

**Summary:** The resolution approves a one-year extension to the agreement with B&F Construction Code Services, Inc., in a not-to-exceed amount of \$31,000.00 for building inspection services.

**RES 2022-9325** — E. Resolution: Approve a One-Year Extension to the Agreement with Safebuilt Illinois, LLC in a Not-to-Exceed Amount of \$31,000.00 for Building Inspection Services **RES #2022-16**

**Summary:** This resolution approves a one year extension to the agreement with Safebuilt Illinois, LLC in a not-to-exceed amount of \$31,000.00 for building inspection services.

**MOT 2022-9326** — F. Motion: Approve a Purchase from Foster Coach Sales of Sterling, Illinois in the Amount of \$727,030.00 for Two 2023 Ford F550 Ambulances

**Summary:** This motion approves a purchase from Foster Coach Sales of Sterling, Illinois in the amount of \$727,030.00 for two 2023 Ford F550 Ambulances

**MOT 2022-9327** — G. Motion: Approve a Purchase from West Side Tractor Sales Company, Lisle, IL in the Amount of \$273,839.57 for Two John Deere 410 L Backhoe Loaders

**Summary:** This motion authorizes a purchase from West Side Tractor Sales Company, Lisle, Illinois in the amount of \$273,839.57 for two John Deere 410 L Backhoe Loaders.

**RES 2022-9316** — H. Resolution: Approve a 36-month License Agreement Renewal with Sentinel Technologies of Downers Grove, Illinois in the Amount of \$40,818.82 for the Village's Cisco VoIP Phone System **RES #2022-17**

**Summary:** This resolution approves a 36-month license agreement renewal with Sentinel Technologies of Downers Grove, Illinois in the amount of \$40,818.82 for the Village's Cisco VoIP Phone System.

***MOTION:*** To adopt all items on the Consent Agenda, as presented

***RESULT:*** Motion carried unanimously by voice vote.

***MOTIONED TO APPROVE:*** Commissioner Hosé

***SECONDED BY:*** Commissioner Walus

***AYES:*** Commissioners Hosé, Walus, Glover, Gilmartin, Kulovany, Sadowski-Fugitt, Mayor Barnett

***NAYES:*** None

## 7. Active Agenda

### **ORD 2022-9308** — A. Ordinance: An Ordinance Amending Certain Zoning Ordinance Provisions **ORD #5914**

**Summary:** This ordinance amends certain Zoning Ordinance provisions.

**MOTION:** *To adopt an ORDINANCE AMENDING CERTAIN ZONING ORDINANCE PROVISIONS, as presented **ORD #5914***

**RESULT:** *Motion carried unanimously by roll call.*

**MOTIONED TO APPROVE:** *Commissioner José*

**SECONDED BY:** *Commissioner Walus*

**AYES:** *Commissioners José, Walus, Glover, Gilmartin, Kulovany, Sadowski-Fugitt, Mayor Barnett*

**NAYES** *none*

### **Public Comment**

Marshall Schmitt, 4923 Seeley, stated that he was not in favor of the text amendments and said that the Council should enforce the Ordinance as written. He said that he received and reviewed the lot consolidation documents that the Village provided him. He stated that not all of the consolidations included residential properties with buildings that cross a lot line. He noted that he was in favor of the Village being preserved.

William (Bill) Natale, 422 Lake Ave., asked why the developer of Longfellow is being allowed to build over the lot line. He said that he pursued a redevelopment of a property near Maple and Cumnor and was told that he could not construct houses on two back to back lots. He stated that he was not in favor of the text amendments.

Terence (Terry) Mahoney, 4832 Montgomery Ave., stated that he was not in favor of the text amendments and that he was in favor of developers following the same lot consolidation rules as the residents. He said that he reviewed the lot consolidation documents and that the Village applied the Ordinance in 135 instances. He further stated that he is concerned about stormwater runoff and flooding issues with the development of the Longfellow property.

Pamela (Pam) Johnson, 4833 Montgomery Ave., said that she was not in favor of the text amendments. She stated that the Village should follow the guidance in the Comprehensive Plan in keeping the historic character of the neighborhood with less density of housing and more mature trees and green space.

Amy Grippando, 4836 Montgomery Ave., said that she is not in favor of the text amendments and has concerns about stormwater runoff. She stated that the Village should consider residents with houses located at the lowest spots. She noted that the Village should take additional time to consider these issues.

### **Village Council Questions/Comments**

**Mayor Barnett** stated that the text amendment concerning non-conforming lots clarifies the language, it does not change how the Village applies the code and regulates development on non-conforming lots. He stated that the code will be applied the same way before and after the amendment, that the Village prides itself on consistent predictable application of codes and that the code contains a set of rules applied equally to all properties and all petitioners; good government demands the same. He explained that the Village was made aware that the Village Zoning Ordinance was not being interpreted by residents in the same manner as the Village and that the residents were requesting the Village apply the regulations concerning non-conforming lots differently than they've been applied in the past; differently than those who sat on Council in 2014 intended. He stated that the Village was taking steps to clarify the code and make sure all readers interpret the code the same way in order to avoid confusion. He explained that the clarification represents the intention of the 2014 Village Council and the application of the Ordinance since then. It also represents the intention of the current Village Council. He noted that the amendment does not expand or change the property rights or the application of the code, that the 2014 Zoning Ordinance regulations for non-conforming lots have been consistently interpreted and applied and that the current Village staff, Village Council and 2014 Council members all

have the same understanding of the code. He summarized the public engagement process which resulted in the adoption of the 2014 Zoning Ordinance.

The Mayor said that the regulation of non-conforming lots from 2014 to present is consistent with the policy direction from the Council at that time, and that the approval of the text amendments will clarify the regulations regarding non-conforming lots in residential districts, and that the Village Council will have reaffirmed its legislative intent. The Mayor stated that he was in favor of the text amendment.

**Commissioner Hosé** noted that a zoning change is within the legislative discretion of the Village Council. He further stated that the legislative intent and history of this particular zoning code and this particular provision is very clear; and that the amendment clarifies the code avoiding any misunderstanding and comports with what the application has been. Commissioner Hosé stated that he was in favor of the agenda item.

**Commissioner Gilmartin** stated that he understands residents' concerns and that he has listened to everything they have said. He explained that the amendment will not change the ordinance's application nor its enforcement on any lots, and will clarify an existing code. He stated that he does not believe the intention of the code was to reduce the rights associated with an existing buildable lot. He stated that an alternate interpretation of the code could result in diminished property rights for all owners of non-conforming lots in the Village, and would result in an arbitrary application of the code based on nothing except one's proximity to a lot line. He further explained that if the intent of the code was to force consolidations for all contiguous non-conforming commonly owned lots, the language would be much more specific and not rest on something as simple as "common ownership" to trigger the consolidation. He explained the Subdivision Ordinance requirement of 75 ft. lots in contrast to the zoning ordinance requirements. He further explained that the width requirements of a non-conforming lot changes depending on what zoning district it is in.

He further stated that the Village is not bending the rules for builders and developers; there is no plausible benefit to the Village that this would provide – not more tax dollars, as more houses does not mean more property taxes. He stated that he views the text amendment regarding non-conforming lots in the same manner as he does the clarification to the Special Use Code of the Downtown Design Guidelines.

**Commissioner Glover** thanked staff for their hard work, and the residents for expressing their concerns. He stated that the purpose of the amendment was to ensure the current code is applied in the manner for which it was intended throughout the entire Village. He explained that the intention of the amendment is to clear up any misinterpretations of the code as it was intended and as to how staff has applied it. He stated that he supports the amendments, as proposed.

**Commissioner Walus** thanked residents for attending the meetings and for sending emails regarding the portion of the zoning ordinance as it relates to non-conforming lots. She stated that the amendment does not change the way the code is interpreted or applied – has been and will be applied the same way before and after the amendment. She explained that the amendment does not expand or change property rights for any properties and notes that staff has consistently applied this section of the code in the same manner since its adoption in 2014; examples clearly demonstrate this. She believes that the proposed language implements current existing policy and is consistent with the Comprehensive Plan, as it relates to non-conformities. She explained that the Village Council is responsible for making policy decisions and that if the decisions do not align with resident wishes, that should not be taken as a lack of caring, concern, disrespect or an unwillingness to listen. She stated that her support for the text amendments, as proposed.

**Commissioner Sadowski-Fugitt** echoed fellow Commissioners' sentiments and thanked residents for coming. She explained that the proposed development that people are concerned about, Longfellow, included a total of 12 buildable lots before the introduction of the text amendment and will still be 12 buildable lots based on the interpretation of the code, noting there will be no change in practice. She further explained that these types of text amendments arise when the code is not written at the same level of detail as how it has always been applied; noting it often takes a disagreement or misinterpretation to realize the code requires clarification. She stated that the adoption of the

amendment would not change any process or the way it is applied. She stated her support for the text amendments, as proposed.

**Commissioner Kulovany** thanked the residents for attending the Council meetings and Plan Commission meetings, and for all the emails. He explained that the text amendment is to clarify any misunderstanding or misinterpretation of the code. He further explained that the purpose of the amendment is to clarify the existing practice to prevent any misunderstandings moving forward. Explained that he has always understood the practice to be 50 and 60 foot lots are grandfathered in; 75 foot lots are required only for new subdivisions. He stated that he spoke with past Council members and Plan Commissioner members and they agreed with his understanding. He mentioned that the Village often receives criticism from developers and residents that it is too strict in its application of its code. He also mentioned that he was concerned about depriving residents of their property rights.

## 8. First Reading

No First Reading

## 9. Manager's Report

Village Manager Fieldman announced the launching of the Social Services Referral Program. Since its launch staff has received many requests and inquiries. The Program appears to be very well received. The Human Service Commission will be reviewing this program at their upcoming meeting scheduled on Tuesday, February 22<sup>nd</sup> at 7:00 p.m. at Village Hall. He said the public is welcome and encouraged to attend.

No Village Council meeting will be held next Tuesday, February 22<sup>nd</sup>; the next meeting and is scheduled for Tuesday, March 1<sup>st</sup> at 7:00 p.m. and will include Mayor Barnett's presentation of the 2021 Annual Report.

## 10. Attorney's Report

No Attorney's Report

## 11. Council Member Reports

**Commissioner Hosé** stated that he appreciated all of the feedback received from the residents who live in the Longfellow neighborhood. Stated that while he appreciated the passion shown over this topic, he had an issue with a resident that made presentations to this Council and the Plan Commission; and that he felt that individual created a disservice to the Village. He stated that the current Council was fully aware of the legislative intent of the text amendments that were voted on tonight. He stated that all of the Village's ordinances conform to applicable State and Federal laws. He explained the definition of a text amendment and the process for approval of a text amendment. He further explained that even if the proposed code change had not passed tonight, nothing would have changed moving forward, and that the development of the Longfellow property would still happen in the same manner. Lastly, he assured all that the stormwater code has gotten significantly more stringent over the past couple of years, and provided an example of its application in his neighborhood.

**Commissioner Gilmartin** explained that the Longfellow property was owned by District 58, which is another governmental entity with the right to manage its own assets. He mentioned that the Park District did not purchase the land. He stated that he shares the same environmental concerns of many residents, but that it does not supersede his responsibility to uphold the code and protect the rights of all property owners. He addressed the commitment he has made to support environmental issues facing the Village; and noted his support for environmentally sustainable features for the Village's new facility. He also mentioned his introduction and support for the development of a Comprehensive Complete Streets Policy. He stated that he hoped that the residents understood the thorough and thoughtful analysis made by the entire Village Council.

**Commissioner Walus** explained that personal feelings on matters cannot affect how commissioners vote, or how they follow the municipal code and zoning ordinances. She thanked the residents, stating that despite sleepless nights over

the issue at hand, she was unable to let those feelings affect the vote and how the code is applied.

**Commissioner Sadowski-Fugitt** said that the clarification issue originally arose due to the Longfellow redevelopment. She reminded everyone that Longfellow is not a new development or new subdivision, and that it was zoned almost 100 years ago – with 12 residential lots, each 60 feet wide. She addressed the insinuation that staff and Council were swayed by a developer. She noted Downers Grove’s stringent stormwater ordinance, and stated that it was her hope that the Village would be able to urge developers to go above and beyond the stormwater mitigations. She explained that if proper mitigations are put in place, the stormwater situation in the neighborhood may actually improve rather than worsen. She expressed her disappointment in losing the trees, and expressed her interest in exploring options to plant new trees and the possibility of creating a private tree ordinance in the future.

**Commissioner Kulovany** explained the decisions made by District 58 and the Park District regarding the Longfellow property. He said that the Village does not operate public parks. He expressed his disappointment in losing the trees and explained that Downers Grove does not have a Tree Preservation Ordinance. He noted the stringent stormwater mitigation efforts that were put into place in 2017-2018. He explained that he favors 75 foot lots and described a previous plan commission case involving a petition for a lot split.

**Mayor Barnett** stated that he has read every email and most social media posts. He further stated that the Council has had difficult issues on difficult topics, *i.e.*, marijuana, gaming, Forest Avenue and tonight’s code amendments. He explained that it is important to recognize disagreement is not the same as disrespect, and that when someone disagrees with you, it’s not reasonable or fair to assume you are unheard, not listened to or unappreciated. He explained that each Council member has different priorities, sensibilities, sensitivities and different experiences and expectations that they bring to each decision. He explained that to disagree is human; disagreements are neither uncaring attacks nor disrespectful dismissals. He asked that when the Council disagrees with residents, to not assume the worst of motivations, because they too are members of the same community. He recalled times when each of the Council members had been in the minority on a vote; leaving them frustrated. He remained certain that his colleagues know that while they could feel hurt by each other, they trust and respect each other, even when they disagree. He continued that even in disagreements they are choosing a path each genuinely believes is right for the whole community –and that it is the Village Council’s job and they will do it well.

## 12. Adjournment

Mayor Barnett asked for a motion to adjourn the meeting.

**MOTION:** *To adjourn the February 15, 2022, Village Council meeting.*

**RESULT:** *Motion carried unanimously by voice vote.*

**MOTIONED TO APPROVE:** *Commissioner José*

**SECONDED BY:** *Commissioner Walus*

**AYES:** *Commissioners José, Walus, Glover, Gilmartin, Kulovany, Sadowski-Fugitt, Mayor Barnett*

**NAYES:** *None*

Mayor Barnett declared the motion carried by voice vote and the meeting adjourned at 8:23 p.m.

Respectfully submitted,

Rosa Berardi  
Village Clerk