

Meeting Minutes

Village of Downers Grove - Council Meeting

Council Chambers

1/8/2019

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 introduced the members of Scout Pack #57 and asked them to assist in leading those present in the Pledge of Allegiance to the Flag.

2. Roll Call

Council Attendance (Present): Commissioner Barnett, Commissioner Walus, Commissioner Earl, Commissioner Waldack, Commissioner White, Commissioner Hosé; 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 2019-8041 — A. Minutes: Council Minutes - December 18, 2018

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

Mayor Tully declared the motion carried by voice vote.

4. Public Comments

This is the opportunity for public comments.

Jennifer Hosnedl, 1100 Norfolk Street, said that some new construction took place next to her approximately one year ago. She was concerned about it because of the water the property held for many years. After construction began and since she notified the Village about the problem, she is experiencing flooding. She said it has a lot to do with the design of the home. She has never had flooding problems before, and brought photographs of the flooding of her yard now. She explained that she is not in a flood zone and her property is routinely flooding.

Mayor Tully said that staff agrees with the issues she's expressed and is taking steps to address the situation. He thanked her for sharing the photographs.

5. Consent Agenda

COR 2019-8042 — A. Claims Ordinance: No. 6295, Payroll, December 21, 2018

BIL 2019-8043 — B. Bills Payable: No. 6432, January 8, 2019

Motion: Commissioner White moved to approve the Consent Agenda. Commissioner Earl seconded the motion.

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

Nay: None

Mayor Tully declared the motion carried.

6. Active Agenda

RES 2018-8032 — A. Resolution: Authorize an Amended Employment Agreement with David B. Fieldman, Village Manager

Summary: This authorizes execution of an amended employment agreement for Village Manager David B. Fieldman.

**A RESOLUTION AUTHORIZING EXECUTION OF AN AMENDED EMPLOYMENT AGREEMENT
FOR DAVID B. FIELDMAN**

RESOLUTION 2019-01

Motion: Commissioner White moved to adopt "A Resolution Authorizing Execution of an Amended Employment Agreement for David B. Fieldman," as presented. Commissioner Earl seconded the motion.

Commissioner White said that he thinks the employment agreement is deserved and appropriate.

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Commissioner Waldack expressed a problem with both this Resolution, and the next with regard to the Village Attorney. He said that the hardest job is evaluation of employees and compensation. There are three direct appointments, the Village Manager, Village Attorney and Village Clerk. He said the process is important. What they do and the way they do it is extremely important. Commissioner Waldack said that the Council did not conduct an evaluation, as indicated in the Manager's memo. A decision like this is not meant to be in a meeting. There was no discussion. Commissioner Waldack said he had asked for an Executive Session but there was no discussion. He said the Mayor came in, said the Council had the materials, and the Mayor said they should give a 2.5% increase. Commissioner Waldack said he made comments but doesn't know if they were shared with other Council members. This was not a good process and sets a precedent. Because of the lack of process and the way this was done he will not support it because he sees it as lazy and perfidious. He added that this is not a reflection of the employees but is a reflection of the lack of process.

Commissioner José said he will be supporting both measures and thinks perfidious is a strong word. Any concern regarding process rests with the seven Council members. Input was taken by the Mayor. He thinks the employees involved are doing a tremendous job and sees no problem moving forward.

Commissioner White said he is impressed by the process in that there is constant feedback. Staff is very responsive.

Mayor Tully commented that there was a process. He said he objected to the word "perfidious" because it means deceitful and untrustworthy, so he will give Commissioner Waldack the benefit of the doubt and assume that the word he meant was "perfunctory." The Mayor said he was responsible for the process his colleague did not like. Every process of evaluation is different due to the makeup of the Council and the various occupations they represent. There was a process, and not everyone agreed with the process. He said he was not aware of a request for an Executive Session and did not see a request in the emails. All seven members shared their views.

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

Nay: Commissioner Waldack

Mayor Tully declared the motion carried.

RES 2018-8033 — B. Resolution: Authorize an Amended Employment Agreement with Enza I. Petrarca, Village Attorney

Summary: This authorizes execution of an amended employment agreement for Village Attorney Enza Petrarca.

**A RESOLUTION AUTHORIZING EXECUTION OF AN AMENDED EMPLOYMENT AGREEMENT
FOR ENZA PETRARCA**

RESOLUTION 2019-02

Motion: Commissioner White moved to adopt "A Resolution Authorizing Execution of an Amended Employment Agreement for Enza Petrarca," as presented. Commissioner Earl seconded the motion.

Mayor Tully said that disagreement on the process should not reflect upon the personnel involved.

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

Nay: Commissioner Waldack

Mayor Tully declared the motion carried.

7. First Reading

ORD 2019-8040 — A. Ordinance: Annex 5614 Katrine Avenue to the Village of Downers Grove

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Mr. Fieldman asked Stan Popovich, Director, Community Development, to make the presentation.

Stan Popovich, Director, Community Development, showed a slide depicting the location of the property, which is currently in an unincorporated section of the Village, just south of Maple Avenue. The property will maintain an R-1 zoning upon annexation. The Comprehensive Plan shows the land use as estate residential which increases the residential diversity of the Village property. This request meets the standards of the annexation policy.

A resident asked whether the property is residential or industrial. Mr. Popovich said it is residential, and is the largest lot in residential zoning.

REP 2019-8039 — B. Report: Options for Regulating the Sale of Dogs, Cats and Rabbits

Mr. Fieldman said the presentation for this issue would be made by Dan Carlsen who works in the Manager's office.

Dan Carlsen, Management Analyst, presented the framework of the laws and regulations currently in place and the options available. He said that animal sales are regulated by the Animal Welfare Act, which was amended in 2014 and 2017 for regulations of sale warranties, and Illinois pet stores sourcing standards. The Village has three options.

Option 1 would have no new regulations at this time with no impact to the Village operations or pet sale practices.

Option 2 supports Senate Bill 2280 which includes the regulations for the sale of dogs, cats and rabbits only if the pet shop operator has obtained the animal under certain conditions, including obtaining the animals from a recognized rescue facility.

Option 3 would establish Downers Grove regulations to A) prohibit retail sales of dogs, cats and rabbits; B) restrict the retail sale of dogs, cats and rabbits; C) establish mandatory warranty periods after purchase. Option B requires a higher administrative burden. Option C would entitle consumers to be reimbursed if the animal is determined to be ill or diseased by a recognized veterinarian.

Mayor Tully prefaced Council discussion by saying that the Council has received numerous communications from various individuals and organizations over the past few weeks who have an interest in the topic. The Council has been presented with a fair amount of reading from many sources including what will be said tonight.

Commissioner Waldack said his concern is individuals that have pets, and the female has a litter. They may need help handling the disposition of the puppies. He wondered if any decision made by the Council could improve the ability of individuals to dispose of the pets.

Commissioner White said that staff's report gives all the information we need to make a decision. In response to Commissioner Waldack's comment, this would be a one-off and not a retail sale.

Mr. Fieldman said they could carve out an exemption in a draft ordinance.

Commissioner White said he prefers prohibiting the retail sales. He wants the Council to take ownership of this and to make a decision. He's been thinking about this since it was originally brought to Council's attention last October. He likes the Humane Society's draft ordinance. He is aware that Naperville talked about this for more than a year and ended up doing nothing. He doesn't want to see that happen in Downers Grove.

Mayor Tully said that the Council does not have a proposed ordinance before them tonight. They have a report of current regulations and options available. An ordinance would be voted upon at a later date.

Commissioner Earl said she supports Option 3A. She noted that the Council has examples from other communities. She doesn't want the Village not to support the Senate Bill.

Commissioner Barnett commented that the Senate Bill would have the effect of prohibiting the sale of anything that didn't come through a rescue facility. The prohibition seems like an overreach and doesn't necessarily hit the mark in his opinion.

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Commissioner Walus said she also supports Option 3A at the moment, but realizes that this is a concern to many people. She looks forward to hearing more from the public.

Commissioner José said that he is also inclined toward supporting Option 3A, although it might be a bit too broad. He doesn't like the administrative burden that comes along with Option 3B. He would like to see them move this forward expeditiously.

Commissioner Waldack added that he sees nothing wrong in Option 2 that puts pressure on the State to act. He would support Option 3B and proposed that the Village outsource inspections to the Humane Society or Anti-Cruelty Society. The money could come from fees on boarding facilities. He feels this would protect animals and address the high administrative burden.

Mayor Tully said that in concept, this is simple. However, in execution it is more complex.

1. Brian Krajewski, 6455 Nash, and member of the DuPage County Board, complimented staff on their report. Banning the sale of animals through puppy mills is going to happen. It is not an issue of "if," but "when." Downers Grove Township and York Township have passed bans already. Westmont has passed a ban as well. They are looking for Downers Grove to take the lead on this. He noted that the Humane Society has model language for an ordinance. He then submitted a petition from Downers Grove residents. He noted that the County is unanimous in their support of this ban.

2. Chuck Holtzen, 5226 Carpenter Street, said she felt this was targeted to commercial breeders. She expressed hopes that this is passed. Ms. Holtzen said she supports rescue, and she gets her dogs from a reputable breeder. It is long past due to get this done and she hopes it doesn't affect reputable breeders. Ms. Holtzen said she supports Option 3A.

3. Curt Fiedler of Chicago and lobbyist for the Illinois Pet Lovers Association said he reviewed this staff packet on Friday. He addressed the 2017 negotiated law that limits the sale to rescues, reputable breeders, USDA licensed breeders if it is a commercial breeder and subject to rules and regulations. Mr. Fiedler said the USDA website was pulled down due to a violation of the Freedom of Information Act laws, but store owners must have this information. He is disappointed that the 2017 amendment was not addressed in the staff report. He wants to make sure that puppy mill breeders are gone. This would open doors to USDA breeders. Pet stores account for sales of 5% nationwide.

Mayor Tully thanked Mr. Fiedler. He said the Council received information in the fall from a number of sources, and again recently.

Commissioner White commented that a Home Rule preemption was proposed and the General Assembly removed that deliberately as part of the negotiations. His interpretation was that the 2017 law was not comprehensive and did not end the discussion.

Mr. Fiedler replied that they negotiated a minimum standard. Others have their rulings in place and wanted to keep them. The question wasn't that it was not comprehensive enough. He commented that he resents being called a puppy mill lobbyist.

Commissioner Waldack said he is disappointed that there are not enough inspectors in the USDA. He addressed the issue of running out of dogs.

Mr. Fiedler said that the USDA would disagree that they don't have enough inspectors. There are certain breeders where the demand may be low. There are rescues and he thinks they may never run out of dogs.

Commissioner José asked about disciplinary actions. Mr. Fiedler replied that disciplinary actions could be taken against stores. However in terms of how many times it has happened, he said there were zero times.

4. Jonathan Bernie of Happiness Is Pets commented on Illinois Public Act 100-0322, which sets clear standards from where puppies can be obtained. He said that a puppy mill is an operation that sells dogs for money, breeds them inappropriately and does not provide adequate all-around care. The ASPCA's definition of a responsible breeder is someone who takes lifetime responsibility for the animals that are bred, which basically means that a breeder will take a dog back from a purchaser if requested to do so. He said that breeders for Happiness is Pets meet all the requirements of responsible breeders. They offer a 4-year general warranty, do not purchase from puppy mills, and he hopes the Council will visit some of the breeders and see for themselves. Prohibiting sales will not eradicate the sale of dogs and will not shut down puppy mills.

5. A resident from Lombard said she is campaign coordinator for the Animal Protection Society and noted they have been protesting Happiness is Pets for over ten years. She said that they use breeders from the Indiana Amish country. Their group has been receiving complaints for years, and they will continue to protest and support the concept of "adopt don't shop."

6. Laura Crawford of Chamber 630 said they support free market, but do not support abuse, neglect or harm of any animal, nor do they support puppy mills. Only one business will be affected in Downers Grove, a family owned business that has been in the Village for 23 years. She challenged Downers Grove to be innovative. Ms. Crawford is a dog person and has owned 11 dogs. She said that they have to take a little time to examine a broader spectrum of resources that may truly accomplish the Village's goal. She provided examples of work done in Ohio. Ohio has gone from some of the nation's weakest provisions to having one of the nation's strongest puppy mill laws. She asked the Village to do what's right for the animals through support of a Statewide bill.

7. Marc Ayers, Illinois State Director of the Humane Society of the United States, thanked the staff for the information packet they prepared. He said this is an exciting topic, and is sweeping the nation. There are about 300 local humane ordinances and the goal is to pass this Statewide. Local governments help that effort. He said they would like to see Downers Grove enact a humane ordinance. He supports Option 3A, but doesn't include bullet point #2. He explained that Option 2 would take a while.

Commissioner Barnett asked for clarification that the goal of the Humane Society is to prohibit the retail sale of dogs, cats and rabbits. Mr. Ayers replied that retail stores do not operate on a model that doesn't sell commercially bred animals. The Humane Society definition of retail is non-rescue. Mr. Ayers said that no responsible breeder will sell to a pet store.

Commissioner White said he has a copy of a current Humane Society ordinance and it talks about an adoption model. The store doesn't sell the pet to the customer, but serves as an intermediary for a relationship with the adoption agency. They cannot sell animals retail, but can facilitate adoptions with rescues. They cannot take payment for an animal.

Mayor Tully said that the objective is unanimously shared but the question is how to reach that objective. The Humane Society of the United States has a guide as to how to get there and options available. He appreciates that the guide is available on the Internet.

8. Kimberly Backman, 1321 67th Street, said she is a volunteer with the Humane Society and spoke about USDA inspections. She encouraged people to look on-line for information. She noted that more than 126,000 female animals are kept in deplorable conditions in USDA facilities, are not taken out for exercise, have no veterinary care, etc. They estimate that 2.3 million puppies are being sold, and 3 million dogs and cats are euthanized.

9. Dr. Barb Hanek is the DuPage County Veterinary Administrator. She said that their agency would be more than happy to take a litter of puppies mentioned by Commissioner Waldack. She said it would be difficult to administer Option 3B, but she would be happy to talk to Council members if they want that information. Regarding rabbits, the County accepts animals that people do not want. They are a major concern and are time-consuming. She feels Option 3A is the most responsible and humane. She spoke about the antibiotic resistant bacteria that animals can have that can affect human beings as well.

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10. A resident from Joliet said she has a dog rescue facility. This is the worst time of year because dogs are relinquished that were given as Christmas gifts, or older dogs are given away due to the younger puppy's appearance. She related personal accounts of her own dogs, some of which were purchased from puppy stores. She said that Downers Grove should restrict the sale of dogs, cats and rabbits and exercise its Home Rule rights.

Mayor Tully thanked everyone for their comments.

Commissioner Waldack said he changed his preference to Option 3A. He would like feedback on options to defray administrative costs. He also said to let him know if anyone wants a Siberian Husky puppy.

Mayor Tully commented that he would like to better understand the administrative burden. He would not want to generate a tax without better understanding the costs involved.

Commissioner Earl agreed with the Mayor's comments, saying they need to better understand the costs.

Commissioner White expressed his agreement with Option 3A. He likes the wording of the Humane Society in facilitating adoptions. It is in the public interest to educate people on the responsibilities of pet ownership.

Commissioner Barnett said he would also like to understand administrative costs.

Mr. Fieldman said staff will prepare an ordinance and administrative costs and procedures for Council's review. He said they should expect a draft ordinance by mid-February.

8. Mayor's Report

Mayor Tully said that he has served as the County District 3 Representative to the Stormwater Management Committee for the last eight years, and today was his last meeting. Steve Nero of Westmont was chosen as his replacement. The Countywide flood plain mapping letters of determination are on track and new maps are expected for August 2019. He added that the County did an assessment of stormwater needs and they came up with services and levels of service. He noted that Level Service 2 was selected for most services, except water quality, which was Level 1 previously. Progress to date was addressed at today's meeting, and he shared that report with staff.

9. Manager'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 annexing 5614 Katrine Avenue to the Village of Downers Grove

11. Council Member Reports

12. Adjournment

There being no further questions or discussion, Mayor Tully adjourned the meeting by voice vote at 8:59 pm.