

**Approved April 1, 2002**

**PUBLIC SERVICES COMMITTEE**

*Minutes of Public Meeting*

*February 18, 2002*

Village of Downers Grove  
Committee Room  
801 Burlington Avenue, Downers Grove

Commissioner Schnell called the February 18, 2002 meeting of the Public Services Committee to order at 2:04 p.m.

**ROLL CALL:**

PRESENT: Commissioner Marilyn Schnell, Chair Public Works Committee  
Commissioner Martin Tully and  
Mr. Jack Bajor, Director of Public Works

STAFF: Chrys Rymas, Stormwater Engineer  
Don Rosenthal, Director of Code Services  
Megan Dugard, Recording Secretary

ABSENT: None

*Visitors: Marilyn Gerloff, 4241 Highland*

**Commissioner Schnell** called the Publics Works Services Committee Meeting to order at 2:04 p.m. The minutes for the December 11<sup>th</sup> meeting were approved as submitted. Council members will receive copies in the next meeting packet.

This meeting is to discuss the status of the Storm Water and wetland projects resultant of the Environmental Concerns audit in January of 1999. We are here to gather facts. Council has directed the committee to find out what happened, why it happened and what can we do to prevent this from happening again. Staff will make their presentations, questions will be asked by the committee, which may not be answered today, and we will schedule a future meeting. Don Rosenthal was asked to participate in today's meeting since one of the questions asked is how do we give permits to the projects?

**Mr. Bajor** stated he and Chrys Rymas worked together to collect the necessary information as to what brought us to this point. Rick Ginex, the Village Manager asked a series of questions regarding this matter. One question was how did we hire Planning Resources? Files were reviewed and the packet you received was compiled. This information was provided to answer the questions posed by the Village Manager. The one question asked was who gave Planning Resources permission to proceed without a contract. The Public Works Director at that time responded in the margin of an internal department correspondence. The note stated to proceed and advise when near the \$10,000 figure.

Mr. Bajor continued to explain the process responding to the questions of the Village Manager and the documentation in the packet provided.

**Ms. Rymas** stated she has been with the Village of Downers Grove for 8 years. She continued to explain the audit process and services provided by Planning Resources as documented in the packet.

**Commissioner Schnell** questioned a reference made in a letter regarding the SMA review was the responsibility of Christopher Burke.

**Ms. Rymas** responded Christopher Burke, SDI and a couple of other wetland firms were on an "On Call" basis. A project that contained a wetland or SMA was submitted for their review.

**Commissioner Schnell** inquired if this was indeed the process we followed.

**Ms. Rymas** stated we did submit documentation for review. In reviewing the documentation at this time it is understood this was not sufficient.

**Commissioner Schnell** stated this is her concern. We are presently contracted with Christopher Burke. They work well with the County. If some of our problems occurred due to the fact that Christopher Burke did not follow through we may have some recourse.

**Commissioner Tully** stated that based on his review of Bruce Maki's letter dated December 8, 1998; he understood that Christopher Burke Engineering had been retained in order to demonstrate the requisite expertise needed to meet the Storm Water qualifications for attaining complete waiver status. The letter pointed to two deficiencies: 1) the general lack of understanding of the ordinance and 2) repeated failure to utilize qualified expertise necessary to perform the type of reviews expected of a complete waiver community. To his understanding this means we had people available that were not being called upon.

**Ms. Rymas** stated the manner in which past reports were written was not always accurate. Our response should have been to advise the applicant of additional work required.

**Commissioner Schnell** states we need to see the scope of services in the contract with Christopher Burke. What did we expect from them and if our expectations were that they were going to work through the wetland and the SMA project to its conclusion. The answers are not clear in the documentation provided. We need to find these answers.

**Mr. Bajor** responded he meets with Kay Whitlock every Tuesday. This matter will be discussed. In addition, Christopher Burke is proficient in wetland elimination litigation engineering, however Planning Resources in Wheaton does only wetland elimination litigation engineering. There may be some confusion with the correspondence. Christopher Burke is probably containing their professional contribution in the regulatory flood plain.

**Commissioner Schnell** stated this information was from 1992. We need to see the signed contract to determine the actual agreement. We have some very large projects that are not closed. We issued permits. It is correct that the 107 projects reviewed were not in violation. These projects involved wetland or SMA over the past 10 years.

**Ms. Rymas** explained the first audit involved wetland issues. We did not have a wetland consultant in place to be used properly. After this, a year and half passed (1997) we attended all the pre-application meetings, we performed correctly with our wetland consultant Planning

Resources. In meeting the necessary procedures we were off probation. The issue we are presently facing is not a wetland issue but a detention issue. Bradley is a detention problem. There is not enough detention holding capacity, volume and not enough out-fall release rate. It just happens there is also a wetland at the location. We are presently back on probation for a different issue.

**Commissioner Tully** asked to go back to the Christopher Burke situation. His summation, if correct, is there was an audit request, permits were reviewed and on December 8, 1998, Bruce Maki's memo stated what was needed. This was discussed and on December 29, 1998 Bob Jungwirth sent a letter to Tony Charlton stating this matter could be worked out. There was no need to meet for a discussion. On January 4, 1999 a memo was sent by Bruce Maki to Bob Jungwirth that it was understood there are certain areas that were deficient. He continued to read the report, which stated that a complete waiver status community was required to maintain, either by a staff member or by a consultant, someone with expertise to review permits for flood plains in wetland areas. The village's waiver petition in previous years listed Christopher Burke, as well as Environmental SE, as the outside consultants with such expertise who were available to the Village. The report continues by stating that County staff found there was incomplete or missing documentation evidencing review by the village's consultant. To him, this says the village has someone available as required for complete for waiver status, as being an available through an outside consultant, but in Bruce Maki's view, we were not using them. Ultimately, this was stated in the final formal January 26, 1999 audit finding issued by Bruce Maki. County viewed this in the same manner. We need to locate copies of any billing records. This should show what the consultants were actually doing. Does Christopher Burke have any records available?

**Commissioner Schnell** agreed to the need for locating the billing records from both Environmental SE and Christopher Burke. This will also show what costs have been involved over the years.

**Ms. Rymas** stated we are presently on probation. We do not have the documentation in our records and we are pulling information from several different resources.

**Commissioner Tully** stated if Christopher Burke or Environmental SE, actually did wetland review of the permits but County states the reviews are not in file and is giving us the opportunity to comment by naming five actual projects. We can go back and get a copy to Bruce Maki. The billing records will show the review charges.

**Commissioner Schnell** stated Council was told there was no problem; this was very minor and would be worked out with the County. Mixed signals were delivered. In reading the information, this is the first knowledge of being fined \$750 per incident totaling \$7500.

**Ms. Rymas** stated we negotiated the \$7500 fine. The money was put into a fund for future projects.

**Mr. Bajor** stated recent files were again reviewed such as the Bradley Brookbank Subdivision, Warren Avenue and Park & Recreation. Warren Avenue and the Park & Recreation were approved. Bradley was held onto for deficiencies.

**Commissioner Schnell** questioned the July 20<sup>th</sup> memo. Does the developer pay the consultant fees?

**Ms. Rymas** responded the people who could afford to pay the fee would be the developer. Yes the developer would be billed the consultant fee. If a resident is involved the village pays the consultant fee.

**Commissioner Schnell** asked if we had a policy for this matter.

**Don Rosenthal** stated in Code Services there is a policy in place. Anything incurred we pass along to the applicant.

**Commissioner Tully** asked if for example the \$78,000 incurred with Planning Resources from 1999 to present how much of this was passed through. How much was for audit review opposed to incoming permit review.

**Commissioner Schnell** questioned the costs for Christopher Burke, and are we passing those costs along to residents or developers.

**Ms. Rymas** responded the costs were being passed along to residents and developers. Our ordinance states the costs can be passed for wetlands, but the ordinance does not state so for regular storm water submittals.

**Commissioner Schnell** asked if there has been a change in philosophy.

**Mr. Bajor** concurred. Presently we are working with Dan Blondin not only on pass through billing, but also we are looking at the structure for our own review.

**Commissioner Schnell** stated she feels better with the change and knowing we will recoup some of the costs.

**Mr. Rosenthal** referred to a question asked earlier on how a permit can be issued if the storm water review was not performed. From his viewpoint everything was fragmented when he first arrived at the village. Fragments of permits processed occurred throughout the village. Building does plumbing, electrical and mechanical. There could be storm water problems, which had nothing to do with Building.

**Commissioner Schnell** answered it was always her understanding of the planning process everything had to be in place before a building permit was ever issued.

**Mr. Rosenthal** stated this is the way it is right now.

**Commissioner Schnell** stated that is why she does not understand our present situation. Why do we have fragments where we do not have documentation and there are problems if it is a process we follow?

**Mr. Rosenthal** stated one of the benefits of centralized permits, was the Building Department was connected with Public Works through Ms. Rymas and Bob Sandmann who address issues immediately. The storm water issue, which recently is occurring, has dispersed the two departments again.

**Commissioner Schnell** stated it is the Building Department who ultimately issues the permits.

**Mr. Rosenthal** stated a permit is issued once the Building Department receives approval.

**Commissioner Schnell** asked Mr. Rosenthal to share these discussions with his department personnel.

**Mr. Rosenthal** assured Commissioner Schnell everything will be signed off.

**Commissioner Schnell** stated that theoretically this should not occur again.

**Mr. Rosenthal** agreed theoretically this should not occur again.

**Ms. Marilynn Gerloff**, 4241 Highland Avenue, appreciated being allowed to sit in on the meeting. One matter, it was the impression that everything was completed properly and Council was under the impression that everything was complete. Her close experience with the Walgreens situation, which was not that many years ago, was a fragmented permit issue. One entity did not know what the other entity was doing. When it came before Council and was approved in August, Council was under the impression that everything was completed. In December it was found that the Storm Water Ordinance was not properly met. Variances were applied for in a big rush. The other matter, the purpose for this meeting is to gather facts. Being a resident and not having all the information, one suggestion would be to read the minutes for the Storm Water & Flood Plain Oversight Committee Meeting from May 1999. Sometime ago, she sent a memo to Council regarding the discussions at this meeting for their review. This may be of some benefit to gather some additional facts. At this meeting Mr. Jungwirth described in great detail what issues the village was being cited for by County.

**Commissioner Tully** asked Mr. Rosenthal the meaning of going to decentralization.

**Mr. Rosenthal** responded one of the reasons of decentralization is a focal point. We can address such concerns that we are discussing here. In his mind, in taking a step back, the Building Department no longer can be the focal point for Storm Water where there is no control. In working with Jack Bajor, and Jack working with Kay trying to address these issues. One issue that comes to mind is the situation with Frieze Electronics. We sent documentation to Christopher Burke on the 29<sup>th</sup> of November and we received the first review on the 15<sup>th</sup> of January. This makes Code Services look bad. Jack is working with them to shorten the length of response time. One time per week information is passed along for review. It needs to be increased. A quicker response is needed.

The problem is not within our departments it is with the consultant.

**Commissioner Schnell** stated when a full time Storm Water Engineer is hired as outlined in the budget, hopefully this would take care of part of the problem.

**Mr. Bajor** shared the current Public Works Organizational Chart. In looking closely at job functions and specialization working placing talented people under responsible individuals. We are working to put some organization in the Public Works Department. As Don pointed out we need to work together. Don needs to be provided with a sign off stating that all has been completed according to our Ordinance and we are totally secure in making the recommendation.

**Commissioner Schnell** asked what the average turn around for Wetland Storm Water review process.

**Ms. Rymas** responded the time frame for a regular storm water review containing no wetlands, no flood plains, and no poor drainage areas, should be completed within 10 working days maximum.

**Commissioner Schnell** asked if wetlands are involved what is the review turn around time frame.

**Ms. Rymas** responded more time is associated with wetlands involved.

**Mr. Rosenthal** stated the cycle for review is ten days, however, the plans should be returned within ten days.

**Commissioner Schnell** stated there is a need to document the process. We need to follow the steps more closely. Additionally, we eliminate the need to pay a consultant to compile the necessary information in the future should there be further personnel changes. We would have the proper documentation in file.

Also questioned was the money spent in the years 2000 and 2001 totaling over \$10,000 for audit expenditures which were not presented to Council for approval.

**Mr. Bajor** stated he would check with Finance.

**Commissioner Tully** stated a contract would say an estimated amount to be paid and not to exceed an amount. At this point of \$10,000 spent Council would be presented with the payment approval.

Most of his questions have been answered. Another question that will be asked is the list provided. Is this listing of items still open?

**Ms. Rymas** pointed to the sheet showing the locations.

**Commissioner Tully** questioned if they were current audit items open from the original process.

**Ms. Rymas** confirmed this was correct.

**Mr. Bajor** shared a copy of the numbered map with Commissioner Tully.

**Commissioner Tully** asked what needs to be done to close these issues? Why are they still open? What is the status?

**Ms. Rymas** stated no work is to be completed. This is what was provided.

**Commissioner Tully** asked what is the process in resolving these issues. From the counties perspective is there a timeline or a deadline.

**Ms. Rymas** stated Kay Whitlock would like the issues completed by April.

**Commissioner Tully** asked if Christopher Burke would be actually providing or arranging for the remaining decisions.

**Ms. Rymas** stated Kay is pushing to secure a contract with Planning Resources to complete the audit as soon as possible.

**Commissioner Schnell** questioned Planning Resources completing the deficiencies.

**Ms. Rymas** confirmed Planning Resources is more familiar with the issues and have been completing them all this time.

**Mr. Bajor** stated Rick Ginex; the Village Manager has asked him to pull together a contract with a certain dollar amount to complete the audit.

**Commissioner Tully** asked for an estimated figure.

**Mr. Bajor** responded the cost would be about \$55,000 to complete the audit.

**Commissioner Schnell** inquired upon completion of this audit, will the village be in total compliance with the County Ordinance.

**Mr. Bajor** confirmed we would be in compliance with the County Ordinance. Bradley is still an outstanding item.

**Commissioner Tully** stated technically, we are off probation for the open wetland issues. The present probation is a detention matter that was mentioned earlier by Chrys Rymas.

Has County responded asking for a follow up on the audits?

**Mr. Bajor** stated County has not requested to follow up on these issues. Kay Whitlock has occasion to interact with County very regularly because of other clients and her association professionally. She keeps us apprised on a weekly basis. She has been a real facilitator in that regard in our relationship with the County. We have met with County on other issues too, for instance the Watershed Plan for CBD. The County has a more wide spread Watershed Plan, in the area of \$1.3 million dollars of improvements involving the whole Watershed area encompassing the Downers Grove area. We are fortunate our two projects are converging and we can put our resources together. The only bump in the road has been the Bradley project involving some wetland issues. Pulling the permit is being considered.

**Commissioner Schnell** questioned if County has requested any other copies of files for review.

**Ms. Rymas** stated no other files have been requested for review to her knowledge. Christopher Burke firm will review the plans from Williams.

**Commissioner Schnell** asked Chrys Rymas to have the \$78,000 breakdown for the scope of services for the audit and scope of services for assistance from Planning Resources.

**Ms. Rymas** will provide the information.

**Commissioner Schnell** also asked Mr. Rosenthal to address the issues as to why there were outside agency approvals other than County, and permits were issued anyway.

**Mr. Rosenthal** will provide the information.

**Mr. Bajor** stated some might have taken place before the County actually performed the review work for the Corp of Engineers.

**Commissioner Schnell** stated it is more a question in a report. Permits were issued before all documents were in place.

**Mr. Bajor** stated he would be working with everyone reviewing the filing system making sure it is air tight and chronological.

**Commissioner Tully** raised the question brought up by Marilyn Gerloff. Since the Storm Water & Flood Plain Oversight Committee looked at the issue of permits, audit, and probation at the February 1999 meeting, was anything suggested, any recommendations, or was it just discussed?

**Ms. Rymas** stated the matter was discussed.

**Commissioner Schnell** asked to review a copy of the tape from the February 1999 meeting.

**Ms. Gerloff** stated Mr. Bajor has a copy of the minutes. They are in great detail.

**Commissioner Schnell** stated the concern is staff had a lot of information. Council was not made aware, and there needs to be a set process. Problems in any department need to be put before Council. Council needs to understand what the problems are and to have a fairly good grasp of the problems enabling Council to help.

The reason for this meeting was Council felt we did not have the information. She appreciates the fact that we were able to meet. There will be another meeting to address the concerns. In the future, if there are any future problems, Council needs to be informed at an earlier level.

**Commissioner Tully** asked if it would be completely practical to have some kind of report back to Council on the status of the project.

**Commissioner Schnell** stated a checklist signed off would be acceptable via e-mail, that these steps have been completed. This would be for information purposes to keep the Council advised.

**Commissioner Tully** stated this way we could avoid any surprises. Suggested information basis could be as simple as:

- a) project was completed exactly as proposed, or
- b) changes were made because, e.g., County involvement, Corp of Engineer involved, etc., or
- c) County changed their mind

**Commissioner Schnell** asked if it was possible to have an automatic printout that could be given to Council stating what items were completed?

**Mr. Rosenthal** stated the program in use is completely in house engineer. A change order would require going back into the program and redesigning the project. It is his suggestion to provide Council with e-mail if this is acceptable.

**Commissioner Schnell** stated e-mail is acceptable as verification.

**Ms. Gerloff** asked to review the history of the Walgreen issue. They were an extremely large developer coming into Downers Grove. In June they were told by the Village Manager, they knew they could not meet the storm water ordinance of the village, not to worry. It would be taken care of. The manager left in August. In September, when they went for the building permit, the storm water issue was raised on how were they going to meet the storm water requirements without retention/detention. The ordinance could not be met. Walgreens responded that they were told it would be taken care of. The existing storm water people did not have the authority, and informed Walgreens that a variance had to be filed. This caused a big delay. Look at the Bradley Development. We need to clean up our act. This is her main concern.

**Commissioner Schnell** stated this is the reason for meeting today. We have to properly follow the necessary steps. We need to figure how long it will take to gather the information and schedule our next meeting.

**Mr. Bajor** responded two weeks should be sufficient to gather the necessary information.

The next meeting scheduled March 11<sup>th</sup> 5:00 p.m.

Meeting adjourned 3:31 p.m.

MKD