

MINUTES OF WORKSHOP MEETING

DOWNERS GROVE, ILLINOIS

MAY 25, 2004

Mayor Krajewski called the Workshop meeting of the Village Council of the Village of Downers Grove to order at 6:30 p.m. in the Council Chambers of the Village Hall.

Present: Mayor Brian Krajewski; Commissioners Marilyn Schnell, Sue McConnell, Martin Tully, Mark Zabloudil, Ron Sandack, Stan Urban; Village Manager Riccardo Ginex; Village Attorney Enza Petrarca; Village Clerk April Holden

Absent: None

Visitors: **Press:** Kevin Stahr, Downers Grove Reporter

Residents: Susan Estall; Glennette Tilley Turner; Mel Cramm, Turner Const. Co.; Sara Davis, Benesch; Barb Wysocki, Chamber of Commerce; Brian Sweeney, North Beach, 1211 Butterfield Rd.; Phil Cullen, Tom Sisul, Roger V. Butterfield, Jr., Ballydoyle, 5157 Main Street; Chris & Norah Blackhaller, 5501 Main St.; Quan Ge, Nan Kai University, PR China; Mike Kubes, 5538 Lyman; John Read, 5426 Brookbank Rd.; Gordon Goodman, PDHA, 5834 Middaugh; Willis Johnson, Tivoli Enterprises, 603 Rogers; Christine B. Fregeau, 1918 Elmore Ave.; Dave Humphreys

Staff: Pam Church, Deputy Police Chief; Dave Barber, Director, Public Works; Dave Van Vooren, Deputy Village Manager; Mike Millette, Assistant Director, Public Works; Don Rosenthal, Director, Code Services; Dorin Fera, Traffic Manager, Public Works; Carol Conforti, Liquor Liaison; Mike Baker, Assistant Village Manager

Mayor Krajewski explained that Council Workshop meetings are held the second and fourth Tuesdays at 6:30 p.m. The meetings are video taped live and for later cable-cast over cable channel 6.

The Workshop meeting is intended to provide Council and the public with an appropriate forum for informal discussion of any items intended for future Council consideration or just for general information. No formal action is taken at Workshop meetings.

The public is invited to attend and encouraged to comment or ask questions in an informal manner on any of the items being discussed or on any other subject. The agenda is created to provide a guideline for discussion.

MANAGER

Manager Rick Ginex announced that the Cash Balance Policy and Walgreens items have been moved to an agenda next month.

1. **Parking Deck Update.** Manager Ginex asked Mike Millette, Assistant Director, Public Works, to address this item.

Mike Millette, Assistant Director, Public Works, said that change orders will be discussed at this meeting. He introduced Sara Davis.

Sara Davis, owner's representative, said that everything has been going well in the last month, and they have made up some time in the schedule. This Friday the last major concrete slab on the roof deck will be poured, and they will finish placing the remainder of the concrete on the ground floor. The next operation is the application of the pre-cast panels. The crane arrived on site today to begin that operation. Work is progressing on the electrical and plumbing systems. Com Ed work is also proceeding, though they have had setbacks due to the weather. Their completion date is now June 25. They are at this time four weeks behind schedule, and that doesn't take into account the ComEd slippage or other sequencing problems.

Ms. Davis said change orders totaling \$96,000 have been approved and they are now up to \$128,000, which equals 2% of the total contract amount, which is within contingency.

2. Bids:

- a. **Uniform & Equipment – Police Department.** The Manager said staff recommends awarding the contract to Kale Uniforms even though their bid was \$3,700 higher than O'Herron. The Department is experimenting with a new uniform and Kale is the company that handles the soft uniforms. Staff also recommends that Ray O'Herron be awarded the uniform equipment contract.
- b. **Elevator.** The Manager said two companies bid and Elevator Inspection Services provided the lowest cost. The cost is anticipated to be \$18,514.00, which is \$1,400 higher than last year, but fees generated will cover the cost.

Commissioner Tully asked Mr. Rosenthal about the pass-through fee.

Don Rosenthal, Director, Code Services, said that the program for inspections covers the cost totally. The estimated cost is \$18,000 while fees bring in \$30,900. He said that fees were increased two years ago.

- c. **Change Orders #8,9,10 &11 for the Village of Downers Grove Parking Facility.** The Manager asked Mr. Millette to address this item.

Mr. Millette said he was presenting four change orders covering a myriad of issues. C.O. #8 encompasses the fire pump, which was discussed two workshops ago. The cost of \$53,745 is a combination to supply the pump and some material costs for the sprinkler pipes. C.O. #9 includes five items, including deleting the security system from the Turner contract. It will be included in Advent's contract. In addition C.O. #9 includes electrical boxes, unstable soil, fixtures for exterior lighting, and items omitted from the plans. C.O. #10 includes two items that were left out. Item A is an irrigation line for plantings, and Item B is the specifications regarding trees. C.O. #11 is a correction to an error in plans regarding the landing in Stairwell #1. There is not enough headway to meet the building code. If the Council desires he will seek reimbursement from Desman for this.

The Mayor said that Item 11 was an error or an omission, and Desman should pay for it.

Commissioner McConnell asked about the cement and casings on the fire pumps. Mr. Millette said this concerns the electrical lines that go from the generator to the fire pump. He said that they are 4' deep and don't require further protection according to Code Enforcement.

Commissioner Tully agreed that Change Order #11 was an error or omission on the part of the architect, and the Village should be accommodated on this. He asked what other change orders can be expected.

Mr. Millette responded that the pending change orders from Turner include \$120,000 for site lighting revisions and some repair work. Staff does not dispute about \$200,000 in change orders. The Village disputes an additional \$100,000 claimed by Turner.

Commissioner Tully asked if any additional change orders were anticipated. Ms. Davis said that they are waiting for a response on improving the landscaping in the median. Mr. Millette said this is an option only.

Commissioner Tully asked for an elaboration of the site lighting change order. Ms. Davis responded that that the exterior lighting mounted on the building has been recommended. What is still pending is the lighting for the rest of the site along the entranceways, including light poles and underground conduits which were not included in the original plans. She was not sure why this was not included. There were references to light poles which were not specified. Regarding the repair work, Ms. David said it is replacement of a piece of structure that they decided would be best to remove in relation to the installation of the large discharge pipe. The best solution was to remove the wall below and now it needs to be replaced. She said both items were still being negotiated. She said the price for the discharge pipe is \$35,000, and the repair to the wall should be less than \$10,000.

The Mayor asked whether the Village has a bond from Desman. Ms. Davis said we do.

3. **Request for Amendment to Agreement – Alfred Benesch.** The Manager asked Mr. Millette to explain the amendment to the agreement with Alfred Benesch.

Mr. Millette said that they are seeking an amendment to Benesch's contract to provide Ms. Davis and her services to the Village. Benesch thought that the project had expanded, in that they had to do a more expansive review at the beginning of the project. They have looked at the extended hours. Mr. Millette said that there are two facets to the amendment: 1) compensate for work already done; 2) add time for Ms. Davis from this point forward. The method of doing this is to recommend going on an hourly reimbursable basis to cover Ms. Davis' time from now until completion of the deck.

The Mayor said that he still asks how they can only have \$1,000 per day damages in the contract. He said that most other contracts have bigger liquidating damages. He does not understand what the extensive review at the beginning of the project included.

Commissioner Tully asked what work was done beyond that which was contemplated at the beginning of the project. He said more information is necessary to justify additional compensation. The other issue is extra time going forward which is a legitimate request. He understands it is supposed to be a cost plus which means out of pocket expenses and an hourly fee. He asked for the best estimate of the amount of time they will require the benefit of the services of the owner's representative on site. Mr. Millette said the estimated hours shown are approximately 850 to complete construction of the deck, and 180 hours to close out the books and deal with punch list issues. There are 34 hours and 8 hours for quality control as well.

Commissioner Tully asked if staff has an opinion as to whether the Village would be in a position to have Benesch on an as-needed basis or if an on-site representative is required to the same

degree as has been appointed to date. Mr. Millette said they are presently full bore on construction and would expect Sara to be there full time. Once the deck is open, her hours would diminish. His opinion is that they are still in need of her services full time until sometime in August.

Commissioner McConnell said that it looks as though Ms. Davis will be full-time through the middle of October based on the work estimates. Mr. Millette said this is a good estimate, but once Turner's done being on-site full time, Sara could be cut back as well. Commissioner McConnell said there obviously has to be a transition phase in terms of Ms. Davis' expertise. She asked if that process is included in the close out and Mr. Millette said it was.

Commissioner Sandack said he agrees that more information is needed with respect to the underlying contract. He said they need to continue having Ms. Davis' services, but they also need to see what is coming forward.

Commissioner Zabloudil said that he believes they need a copy of the contract to review the language.

The Mayor confirmed that the original contract was for \$318,000 and Mr. Millette said that was correct. The Mayor said it appears there is an amendment of another \$100,000 which is over 33%. That seems high to him.

4. **Ballydoyle Sidewalk Café Agreement.** The Manager said Carol Conforti, Liquor Liaison, would address this item.

Carol Conforti, Liquor Commission Liaison, said that Ballydoyle is asking to utilize a portion of Village-owned property for private use for a sidewalk café. The property is approximately 570 square feet, and there is a 5' right-of-way owned by the building owner. Ballydoyle is asking for approval of a 6'x95' right-of-way owned by the Village in connection with their sidewalk café license. She said that representatives from Ballydoyle are present to answer questions. She noted that a number of Village departments reviewed this request already. Ms. Conforti said that safety codes will need to be adhered to, and specific restrictions such as food cooking will apply to this area. As for consumption of alcohol, Ballydoyle will present before the Liquor Commission on June 3 for outdoor liquor service. The area in question will be commonly known as the CBD Pedestrian Parking Deck walkway. A number of improvements such as pavers, lighting, etc., will be done by the Village. The Council must determine what would be required by the licensee in terms of restoration, cleanliness, maintenance, etc. Another issue concerns entertainment and music in this area. There could be an effect on surrounding neighbors which may require a restriction by the Village. Cost is obviously another determining factor, such as rental of the property, or payment of administrative fees.

The Mayor asked how many outdoor licenses we have. Ms. Conforti said there has been only one license issued and that was to Founders Hill.

The Mayor then asked about costs for the licenses. Ms. Conforti said that Founders Hill paid \$750 for the first year, and in subsequent years they paid \$100 and liquor license fees. She would need to look at the number of hours she spent, as well as legal and other departments. She said they used the hourly rate of the individuals involved.

Mayor Krajewski said he noticed recently that all of the grass was ripped out by Starbucks and was replaced with cement. Attorney Petrarca said the Village did that.

The Mayor asked about the comment that liquor service would be contingent upon a positive recommendation of the Liquor Commission and the Liquor Commissioner. Ms. Conforti said that serving alcohol would be contingent on approval by the Liquor Commissioner.

Regarding non-alcohol licenses, Ms. Conforti said she deals with the alcohol related uses only. The Mayor asked about any other licensed agreements on public property.

Mike Baker, Assistant Village Manager, said that those establishments have temporary use licenses, and have to pay a license and inspection fee. He said that temporary licenses are flat fees.

Village Attorney Enza Petrarca said that for sidewalks cafes, they use administrative fees. The Mayor asked whether they can give an estimate of the costs. Ms. Conforti responded that it is done on a case-by-case basis. The Mayor asked whether they can do this on a go-forward basis, and Ms. Conforti said that it is more complex than a temporary use. The Mayor said he would like to see an estimate of hours made available.

Commissioner Zabloudil asked how much of Village property will be used for the sidewalk café, and Ms. Conforti responded it would be 570 square feet in this case.

Commissioner Zabloudil said he would like to know the square footage of the Village property occupied by any other group on public property. He said that based upon the maps provided, the right-of-way looks about 21' wide, of which half will be accessible to the deck area. He asked if that is an adequate width for pedestrians to access that pedestrian way. Ms. Conforti said there will be 11' available. There will be planters installed. The Fire Department needs room to run a hose from the front of the building alongside the sidewalk café.

Commissioner Zabloudil asked about the fee structure for Founders Hill. Mr. Conforti said it was administrative costs. The first year is the most difficult because it requires reviewing the petition and the application, as well as safety factors, etc.

Manager Ginex said the café for Founders Hill was about 320 square feet. Commissioner Zabloudil said he would like the number of square feet approved for the first and second applications for Founders Hill. Regarding the fee structure, he would like an estimate of the first time fees and subsequent fees. There will be establishments who will want to do this as the Curtiss Block is developed.

Ms. Conforti said that, at a minimum, the Legal Department, Code Enforcement, Fire Prevention are all involved. Commissioner Zabloudil suggested looking at the fee structures for other communities.

Commissioner Sandack asked if the fee structure is a recapture expense. M. Conforti said that the Council could charge a rental fee toward utilization of public property. In the event the café goes away, the area may have to be restored.

Commissioner Sandack said he though they should try to recapture the expenses and not seek a profit. He said they should make sure that the licensees are given proper notice. He thought fixed fees may be burdensome. The Commissioner said it is important to advise potential applications of the range of fees, noting that it can vary dependent upon the work involved. He said there are

two licenses potentially at issue, one for inside and one for outside, and they are on an annual renewal basis. Ms. Conforti said that outside licenses are \$200 a year.

The Mayor said they should look at other sidewalk usages.

Commissioner Schnell said that she agrees they need to recapture fees of staff time. She concurs with the Mayor that as they go forward with other potential licensees they need to be sure to recapture all expenses by staff. She said that there is \$200,000 plus improvements to the alleyway, and it is important that the Village has a mechanism in place to recoup any expenses incurred. The Commissioner said that this would not be just for Ballydoyle, but for all others including the Curtiss Block, etc. Taxpayers should not incur any additional expense for what is being used as private property.

Ms. Conforti said they could require some kind of cash bond.

The Mayor said it could be addressed in the lease.

Mike Baker said he understood Commissioner Schnell's question to be how much of the construction cost for the alley is for this portion. He said they calculated that the cost per square foot for the overall improvement is just over \$54.00.

Commissioner Schnell said that the suggestion of a bond is not a bad idea. She noted that this is an extremely expensive improvement. Ballydoyle has indicated that they would sweep up the area at night, but not necessarily clean it. She asked if Founders Hill was required to clean it up at night, and Ms. Conforti said they were required to clean it up. The Commissioner asked why this has changed, and Ms. Conforti said it is based on the proposal. Commissioner Schnell said that the spills should be cleaned up immediately.

Commissioner Schnell then asked about the use of speakers outside, as noise travels. She asked if there is a stipulation that the speakers be pointed away from residential areas or to buffer the noise so that it stays within the immediate confines, and not infringe on the residential area. Ms. Conforti said she did not know what the placement of the speakers is, but she knows there is some internal control and they could turn down the volume. The Commissioner said that they must respect the fact that residential units exist in this area. She said that this would be open much later than Founders Hill was. Ms. Conforti said that outside noise was denied for Founders Hill.

Commissioner Schnell then asked whether they were doing exterior illumination. Ms. Conforti said that the improvements to the lighting are the Village's lighting. Commissioner Schnell wanted to know whether the Staff concurred with the statement that there was sufficient lighting in the area. Ms. Conforti suggested that Code Services and Fire Prevention pay particular attention to the exit areas and marked emergency exits. Regarding fencing, Commissioner Schnell asked if it would be breakaway in case of emergency. Ms. Conforti said her understanding was that it would be on some type of pedestal.

The Mayor said that Commissioner Schnell brought up some good points. He referenced Bombaleo's which is on private property, and cannot be regulated by the Village. He asked if there have been any complaints about their outside area. Ms. Conforti said she is unaware of any, noting they have no outdoor music. She said that it could be checked with the Police Department.

Commissioner Tully said that this is the second proposed sidewalk café license with alcohol. He thinks sidewalk cafes are a good thing for the Village, particularly for the development of the CBD area. However, criteria and parameters need to be established to assure that the cafes are not a problem. He said this will probably not be the last request.

The Commissioner said that he understood that the fencing would connect the boxes in the pedestrian walkway. Ms. Conforti said they originally proposed to connect the planters in the middle. However, that was changed to putting the fencing on the face of the planters to avoid the trench area and to keep people away from the lights. The trench will serve as an area to collect wastewater when the area is cleaned. She further responded that the fencing would be removal metal fencing made of wrought iron.

Commissioner Tully then said an important issue is aesthetics. The petitioner will be required every evening to take the tables, chairs, etc., and cover them with a tarp. Ms. Conforti said that was correct. The Commissioner then asked how that can be done so it looks good, as this is a major walkway to and from the parking deck.

Phil Cullen of Ballydoyle said the requirement to store the outdoor seating came from the Village. He thinks it would be better if it were left in place. They think they will group them together and then tarp them, although he thinks it would look more like a café if they were left in place. Commissioner Tully said he was concerned about how the tarp and chains would look. But that raises the issue of the equipment being taken away during the night. Mr. Cullen said that they have to move and stack and clear things out of the way. He said they attended an equipment show and found a product that stacks well and might not look offensive.

Commissioner Tully said there has been an investment made to make this area look good. He doesn't want to detract from that. Regarding the fencing, the Commissioner asked for clarification that it would be out for the outdoor season and removed when the season ends, and Mr. Cullen said that was correct.

Commissioner Tully said he envisions the walkway with many people walking about, and he asked whether they have plans for policing to be sure that people don't congregate and block that walkway. Mr. Cullen said they haven't considered it, and would have to work with their doorman. He said there will be a supervisor on staff at all times on the patio.

Commissioner Tully said that right now the outdoor café license contemplates that it is on an annual basis and operates at the discretion of the petitioner. Ms. Conforti said it is not actually on an annual basis. She explained how the seasons are determined. It would be reviewed, but the first agreement will be based on one season, which will be through October 31. Commissioner Tully said they might want to review these on an annual basis due to the number of changes that could occur over a year. He then asked if there is any benefit to spelling out the months that it covers, and Ms. Conforti said this license will terminate on October 31. The potential season is April 1 through October 31. They would not want to approve it for an entire year as they could have parties in the winter.

Regarding the tarping, Ms. Conforti said that the tarp was considered in the event of an emergency, and only the fencing would have to be moved. She also said that they were not sure of the materials to be used for the table and chairs, so it might be a benefit to tarp it. She doesn't anticipate that their furniture will be blown around.

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Commissioner Tully said that the process sheet is very useful, and asked whether it could be done electronically. Ms. Conforti said that she had to cut and paste most of it. The Commissioner then referred to one of the questions in the process sheet concerning how to balance deck construction and loading zone areas. Ms. Conforti said that is a concern that has to be addressed for the CBD in general. Commissioner Tully said if they get into a situation where considerable staff time is being spent on an application such as this, the petitioner should be given a "heads up" or an option to withdraw due to potential excess costs. Ms. Conforti said they could give them notice. She suggested that this notice be given before the application is placed on a Council agenda.

Commissioner Tully then asked about wear and tear, and how much additional stress the project would place on the use of the Village property. Mr. Millette said they can evaluate this based on other sites and get an answer to that question.

The Commissioner then asked about the maintenance and restoration requirement that the petitioner restore the area to the condition it was in before the license was issued. He would be in favor of a bond so the Village would not have to chase someone for the funds. It could be a letter of credit. As to the music, he said he didn't know if there was any criteria for that. Ms. Conforti said that they don't have anything regarding the speakers. She did note that many Grove residents had concerns about the noise level, and those concerns were addressed.

The Mayor said that only a couple of people showed up regarding Grove Street. Ms. Conforti said the residents had a representative speak for them.

Commissioner Tully said that they could develop criteria for the music. He would not want to rely strictly on the noise ordinance. Mr. Cullen said that the intent is to provide background music. He said people can sit and talk in the pub even with live bands. The outdoor area will be less noisy with speakers off the building pointing down to the café area. It is not meant to be loud blaring music. Commissioner Tully said he would appreciate checking with outdoor café music in other communities. Mr. Cullen said that people like to hear background music with their dinner. He would like to have it playing until the close of the café. After 10:00 p.m., they would bring the levels down.

Tom Sisul, 5120 Main Street, said he was the attorney for Ballydoyle. He said that perhaps some of these items could be covered as conditions to the operation in the Agreement itself. Then the Village could enforce the issues because they would be conditions to the Agreement.

Commissioner Tully said under Section 19.49, entertainment or electronically enhanced music or sound may be prohibited or restricted if the Council directs before granting the license.

Commissioner Urban said he is in favor of the outdoor café license, either permanent or temporary. He had the first outdoor café license issued by the Village, and they have come a long way in the past 11 years. He is also in favor of a bond, security deposit or rental agreement. His café was on private property. This café is on property valuable to the Village and it must be protected. The Village needs to recapture the expenses for administrative costs. He then asked Ms. Conforti whether Emmett's has expressed any interest in an outdoor café, and she responded that they have. She said they have not asked what the cost would be, and that she explained the process to them.

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Commissioner Urban referred to the licensing process sheet and asked about Deputy Van Vooren's comments regarding what would happen if the building to south wanted to redevelop and use the alley. He asked if there is enough room to do this on the other side.

Dave Van Vooren, Deputy Village Manager, said on the other side there is not as much private property owned. In this situation Ballydoyle owns 4.5 to 5 feet. He said that it needs to be fair and consistent that property owners could either seek the use of Village property, or cannot seek the use of Village property. If the Agreement was done annually, a second request from an adjacent property owner could be denied, or reduced. He doesn't think that just because a business is the first one in they should assume they will always have the right to use of that property. He noted that in this case the applicant is recommending the hours of operation and sound conditions, and those items will have to be dealt with in all future requests. Mr. Van Vooren said that criteria must be established, and adhered to and enforced fairly. Staff has not recommended the time frames or sound. It is the request of the applicant.

Commissioner Urban asked if they might open themselves to overexposure. Attorney Petrarca said she doesn't see that as a problem, but agrees with Mr. Van Vooren that an annual review with an April 1 deadline would be in order.

The Mayor said that if a new business comes in he would not want to close them out of the opportunity to apply.

Commissioner Urban then asked whether liquor licenses are pro-rated, and Ms. Conforti said they are.

Commissioner Urban asked what the height of the fence would be, and Ms. Conforti said originally it was 36" but is actually now 50" high.

Commissioner Urban asked about what type of glassware that will be used, and Ms. Conforti said it would be glass. The Commissioner asked if they will have to purchase food with their drink. Ms. Conforti said they can drink inside or outside without food.

Commissioner Urban asked whether the fencing is freestanding, and Ms. Conforti said it is freestanding on a pedestal base.

Commissioner McConnell said she thought it was a great idea to put something in that location. Her thought is that the Village may not have enough experience in evaluating sidewalks cafes to put together formal rules or criteria. They may need to maintain flexibility for a while, but have the ability to make changes for public safety reasons, etc. Attorney Petrarca said that was correct.

Commissioner McConnell said that noise is a concern as there are residences not too far away from the location. She said they need to monitor the situation and have the ability to pull it back if there are problems. Regarding the storage, she feels that if there is not a public safety issue, they should be allowed to leave the furniture in place. She noted that Ballydoyle has a number of entrances and doors, and she asked whether all of those would be used to access the café. Ms. Conforti said they will use the first set of double doors.

Mr. Cullen said that two doors will be used, the first double doors where the hostess will take them and seat them. There are also double doors at the cathedral room.

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Commissioner McConnell said she supports the Letter of Credit, and that Section 4.5 addresses the topic of restoration.

The Mayor asked that the process form be sent electronically.

Mayor Krajewski then asked whether Starbuck's came to the Village and asked to eliminate the grass. He has no recollection of them coming to the Village. The Manager said that he thought it was just a general problem with not being able to grow grass there.

The Mayor then referred to Shoofly Pie who has a large area outside of their store. They do not know who owns the area to provide outside seating. He asked that staff look at this situation.

Regarding the issue of cleanliness, the Mayor said that is an issue that pertains to the entire CBD, especially on Sundays. This needs to be looked at and addressed.

The Mayor also said that he agreed that a Letter of Credit is needed.

Commissioner Tully noted that the Agreement does not reference a letter of credit; however, the Ordinance does address it. It should be include restoration and maintenance.

Commissioner Urban asked whether they anticipate being open during Heritage Festival. Ms. Conforti said that the Agreement states for specific events such as Heritage Festival, the café could be closed. More of the access way might be needed during that weekend. Commissioner Urban asked whether that has to be specifically stated, and asked that staff confer with the Ballydoyle people to make sure they are aware of this.

The Mayor said that they can just provide 30 days notice to the owners informing then that the Village will require use of that area during the Heritage Festival weekend.

Willis Johnson, 603 Rogers, said he is concerned about getting information. The first time he saw this was in the electronic newsletter on Friday. He called and asked for information from Joe Skatch, but did not get a response. Mr. Johnson asked whether the amount of money allocated for improvements included the Ballydoyle right-of-way, and was told that it did. He said that sidewalk cafes add ambience to the downtown. He said that he believes Oak Park has an ordinance regarding noise levels with outdoor cafes.

Dr. Gordon Goodman, 5834 Middaugh, said he thought that sidewalk cafes give a good ambience to the community. He questioned access control to the café. He said he thought there is a distinction between cafes with no liquor or those that have liquor. He wanted to be clear that the fence had no gates allowing customers to leave other than through the main building. He said the hostess station in the main area should be the control for the outdoor area as well.

The Mayor agreed, and said they had this issue with Founders Hill and other restaurants. People are required to go through the restaurant and then be seated. It is required for cafes with liquor but not for those without liquor.

Commissioner McConnell said they require gates for emergency purposes; however, those will be controlled. Ms. Conforti said that they should be clearly posted as emergency exits.

Dr. Goodman said that the second issue concerns keeping the downtown area neat, in particular by servicing the public waste containers that are in the general vicinity of outdoor cafes. That

should be either the responsibility of the café owner to service those waste containers, or the Village should have a special patrol responsible for managing the overflow. He also said that quite often, after a nice weekend and people have visited the CBD, when waste containers are emptied the waste is on the street as they are not emptied carefully. It takes until Thursday to get the downtown area looking clean. The waste haulers who empty those containers must exercise special care to get the waste material into their trucks.

Mayor Krajewski agreed and asked Staff to look into this.

William Waldack, 1409 Willard Place, said he had a lot of questions when he came but the Council covered a lot of the material. This is private use of Village property and should not be discussed strictly from the basis of recouping the expenses. He recommended serious consideration be given to the rental agreement. Mr. Waldack added that noise could be a real issue, and needs to be considered carefully. They can require that the noise be toned down after a specified hour. As for the opening of the café during Heritage Festival, he said it might take business away from the beer garden.

The Mayor said that the rental agreement is a policy decision for the Council. They would have to do this with every establishment using public property.

Commissioner Urban asked if they charge for the Train Station coffee shop, and Attorney Petrarca said they do. The Village leases from Metra and sublets it.

5. Liquor Ordinance – Amending Fines. The Manager said Ms. Conforti would address this.

Ms. Conforti said that the Liquor Commission has recommended an increase in fines to establishments or persons in violation of the Liquor Control Ordinance. They have submitted a draft Ordinance increasing fines from \$10,000 to \$15,000 as allowed by state statute. The Ordinance eliminates the current cap on progressive fines as well. This is strictly for those who violate the Ordinance, including underage selling. She said this would also be an avenue to address those instances where people without a license or a parent serving a minor could be charged with the violation. Ms. Conforti said that she has had concerns expressed about the potential for a fine of up to \$15,000 for a first violation.

The Mayor asked who the licensees were who expressed concern about fines. Ms. Conforti said there was Shanahan's Pint House, and she has met with the Chamber of Commerce.

Commissioner Tully said there are two parts to the proposed Ordinance. The first increases the cap that the Village can currently assess someone for a violation. The cap was \$1,000 per violation, which was not much of a hardship. This Ordinance provides flexibility to the Liquor Commission and the Liquor Commissioner up to invoking \$15,000 on an annual basis. Multiple violations could not exceed fines of \$15,000 in total for the year. He has no problem with allowing this flexibility. Some instances would require a fine of more than \$1,000. He noted that the Liquor Commissioner has the authority to reduce any fine established if he deemed it necessary.

Commissioner Tully said that the issue is to provide flexibility so that an appropriate penalty can be assessed that means something to the violator. He said that maybe a factor to be considered would be the amount of sales tax generated. He understands that the Chamber of Commerce has indicated increasing the fines further with respect to servers who violate the Ordinance. The

Village needs appropriate penalties to assure that the Ordinance is followed, yet they also want to have businesses flourish.

Commissioner Tully said that the other part of the Ordinance concerns requiring mandatory training, and he doesn't see a problem with this.

Ms. Conforti said that two packaged alcohol licenses brought this forward, requesting that an additional fine be assessed in lieu of suspension. The Liquor Commissioner can suspend a license up to 30 days. There is not much flexibility on the fines established. Provisions have been made to give additional suspension in lieu of the fines for those that do not sell much liquor. She reiterated that this is strictly for violators of the law.

The Mayor said that on occasion people have asked for multiple days in lieu of a fine. He referred to increasing fines on the servers, which has been a long debate. Ms. Conforti said that a voice vote was taken and they chose an amount of \$150 to \$500, with agreement on \$200. This can be increased. She said that her licensees are in favor of fining the servers, since they are actually doing the selling to the minors. This is an attempt to stop a trend. Each time the Village has amended fines and fees the failure rate for the liquor control buy has dropped. In the 90s, 18% of their licensees were violating the Ordinance, while now the failure rate is 10.53%. She indicated that there has been one fine of \$200 to a server in the last six months. She said that an increase in fines results in a lower failure rate.

Commissioner Sandack reiterated that there are two portions of this Ordinance amendment. One portion leads appropriately to deterrence. The first part of the Ordinance gives the Liquor Commissioner appropriate flexibility. The second portion speaks to mandatory training, which serves as a rehabilitation function. The business community should recognize that dispensing alcohol is not a right, but is a privilege. When there is a problem, however, the Liquor Commissioner can offer discipline with flexibility, but with meaning. He said we will see less control buy failures.

Commissioner McConnell said she thinks it is a great idea to go to the \$15,000 maximum. The increased flexibility to the Commissioner is also beneficial. She would like to hear from the Chamber of Commerce on this issue so as not to shortchange them.

Barb Wysocki of the Chamber of Commerce said that the consensus was that the flexibility is good. Concern was expressed about fees for violations, as well as strong conversation regarding a fine for the server to act as an additional deterrent. They recommended raising that fine as high as \$1,000 to the server. Ms. Wysocki said that the Chamber will hold quarterly meetings with license holders so they can coordinate and collaborate on training, and can form a network to prevent other establishments from hiring an individual who was fired for violating the Ordinance. She said that there was also a suggestion to have a police presence on busier nights to act as a further deterrent.

The Mayor said that they sent out information to all of the license holders in the newsletter, and only one responded.

Ms. Wysocki said that they received five responses from licensees. She said that Skuttlebutt's had a concern of too much of a fine on a first offense, and Ballydoyle also expressed concern. The Mayor asked that Carol Conforti be included in the quarterly meetings.

The Mayor said that a letter was received from the Illinois Beverage Association and asked that Ms. Conforti respond to the letter.

6. **Plan Commission Recommendation: Walgreens.** The Manager said this item would be rescheduled for some time next month.
7. **Agreement with Orchard Brook Subdivision for Lacey Creek Improvement Project.** The Manager said the Council authorized a contract with the Conservation Land Stewardship in the amount of \$20,546.00 for a five-year stewardship program. The Village is able to secure a 20% funding commitment from the County for these expenses, and the Homeowners Association will provide \$4,000 annually.

Commissioner Tully asked what the current status is of the Innisbrook Homeowners Association regarding the Hickory Ditch project. Mr. Millette said that information was sent to the Association regarding costs, and he will follow up with staff.

8. **Grant Application: 2004 Energy Efficient LED Traffic Signal Upgrade.** The Manager said this is a grant application for energy efficient traffic signals. The program is endorsed by the Illinois Municipal League. The total cost for replacement is \$67,255, of which the Village is seeking \$25,255 in grant support, bringing the Village's cost down to \$42,000. The LED will increase efficiency, energy, last longer, and increase safety. The reimbursement will be upon completion of the project with documentation.

The Mayor asked if this is a State grant, and Attorney Petrarca said it was. The Mayor asked if this would be continued in the current budget.

Dorin Fera, Traffic Manager, Public Works, said that there is a guarantee of each municipality up to \$200,000. Ms. Petrarca said she would have Sue Brassfield check that information.

9. **2004/05 Community Grants Program.** The Manager asked Dave Humphreys, Chairman of the Community Grants Commission, to address this item.

Dave Humphreys, Chairman, Community Grants Commission, said this is the 14th year of this program. He reviewed the mission of the program. It is not intended to provide funding for social service programs, but is geared toward promoting cultural, recreational, civic and other community-oriented activities. Mr. Humphreys said that the funds are primarily obtained from the hotel tax. The budget this year was \$51,540, which is an increase over last year, although it is 10% lower than three years ago. He indicated that grant applications far exceed the resources. Not-for-profit organizations depend heavily on corporate, federal, state and local grants for their continued existence, and he urged residents to continue to support not-for-profit cultural activities.

Mr. Humphreys provided a brief outline of the grant procedures this past year. On April 24, organizations were invited to meet with the Commission and discuss their applications. The Commission tried to take into account the impact to these organizations from previous years' cuts. He said that cultural arts are an important part of the Village infrastructure.

Commissioner Tully agreed on the impact of cultural and civic events on the community. When he looks at the groups and organizations receiving funds, it is almost a community calendar of events in the Village. These types of events are well woven into the fabric of the community, and he is glad that the Village could improve on last year's funding. He thanked the Commission for

its work. The Commissioner said that in the budget discussions, a suggestion was made to tie the amount of funds to Community Grants to a percentage of the hotel taxes received (such as 8%). Recently, fixed dollars have been less than 8%.

MANAGER'S REPORT

The Manager said that last week was Public Works Week and the Village celebrated with an Open House on Friday. The staff did a wonderful job that was most informative. Manager Ginex said that six members of the staff competed in the rodeo loader competition and snowplow competition at the Odeum. He said it is a tough course to navigate as exhibited in the video. He congratulated the members of the Public Works Department for their participation in the rodeo.

The Mayor said that eventually the Village Manager's and Village Attorney's goals have to be reviewed, and since the Council will be present they will look at this next week.

ATTORNEY'S REPORT

Village Attorney Enza Petrarca said she was presenting seven items to the Council: 1) A resolution authorizing execution of a sidewalk café license agreement between the Village of Downers Grove and Ballydoyle, LLC; 2) An ordinance amending policies concerning liquor violations; 3) A resolution authorizing execution of an intergovernmental agreement between the County of DuPage, Illinois and the Village of Downers Grove for the final phase of the Lacey Creek Stream Corridor restoration project; 4) A resolution authorizing submittal of grant application to the Illinois Clean Energy Community Foundation for FY 2004 Energy Efficient LED Traffic Signal Upgrade Grant Program; 5) A resolution authorizing execution of an addendum to an agreement for professional services between the Village of Downers Grove and Alfred Benesch & Company; 6) An ordinance amending and creating certain boards and commissions; and 7) A resolution repealing a waiver of certain provisions of the Charter Customer Contract with the DuPage County Water Commission.

VISITORS

Mike Baker, Assistant Village Manager, said that he has been contacted by the Downers Grove Historical Society concerning the 806 Maple house and the efforts underway to move it as a way to preserve it. Mr. Baker said he has had conversation with the members to outline the obstacles. No Council action is required, but the Society has come to make a proposal with tradeoffs and expenses.

The Mayor asked if Kerstin von der Heide was there today. Mr. Baker said yes, she looked at the parkway trees as several would have to be moved to move the house.

Commissioner McConnell asked where they were. Mr. Baker said they are in several locations down Maple Avenue, and said they were relatively small. He has not spoken with the owners of the sites, but others have.

Greg Evans, 4641 Saratoga, gave a summary of the situation and historic preservation. Mr. Evans said that the issue is that this is the oldest home built in the Village in 1839, and is known as the Orange Lyman House. The Society does not want to infringe upon personal property rights. The home was sold to a developer and will be torn down. The only option is to move it. They have talked with the developer, John Jacobs, who is willing to work with Susan Estall to move it. They want to be sure that everyone understands the ramifications.

The Mayor asked whether there is a possibility of moving the house to the Historical Society property. Mr. Evans said the issue is where it would be placed. They have proposed a lot on Main Street.

Susan Estall, 5512 Main, said she moved a house six years and is passionate about saving old homes. She considers it a big environmental issue, because it is throwing away history. She said these homes are very well built. Someone from the AAUW told her about the Lyman House ten days ago. She said it is an important structure for three reasons: 1) the Lyman family is a significant family; 2) the age of the house; and 3) Orange Lyman was a preacher at the First Congregational Church, which was a leader in the abolitionist movement and was known for its underground railroad stance. Ms. Estall said that the best option would be to leave the house where it is. Mr. Jacobs has been good to work with. She wished there was a way to assist developers in renovating old houses. The second option is to move it to a public place. She said that the house could go on the grounds of the Historical Society, but they would need to determine its purpose.

Glennette Tilley Turner, a member of the National Park Advisory Committee for the Underground Railroad, said she has had an interest in the underground railroad and found that it had a connection to DuPage County. She published a book piecing together information on the Railroad in Illinois, which played a pivotal roll in the Railroad. As a part of her research she learned about the Downers Grove interest in and appreciation of its Underground Railroad heritage. Ms. Turner has spoken to several organizations in the Village about the Village's role with the Railroad. She said that Israel Blodgett was a main conductor who lived diagonally from the Lyman House. Ms. Turner strongly urged the Council to save the house for its historical value. It gives Downers Grove characteristics and makes it unique in that it helps to complete the story of the Underground Railroad. She urged the Council to assist in the preservation of the house. She said that the Illinois Freedom Bill is legislation intended to preserve history and increase tourism and awareness.

The Mayor said that the house was sold for \$725,000, and it was bought without knowledge of its historical significance. He noted that the Historical Society designated some houses in the 1990s. He suggested that they could do more of this in the Village. He further suggested that the developer could replace the trees. He said the biggest problem he sees is with Com Ed, since the Village has experienced problems with them. The Mayor said he will work with the Legislative Liaison, but he sees ComEd as the biggest problem. As for the variance, the lot is 120' and they could obtain a 50% variance without affecting the character of the area.

Ms. Estall said she cannot do any of this without the backing of the Village in terms of getting all of the required paperwork. She said she will need help with Code Enforcement. She will need the variance and have the plans prepared. The Mayor said that staff could help with the Plan Commission process, and will also work with ComEd. Ms. Estall said that the 12 wires might make this all cost prohibitive.

Commissioner Schnell asked if the house was worth saving. She said it is a shame that it cannot be moved across the street to the Park District. She noted that when they were looking to move some houses on Gilbert Avenue, some couldn't be moved structurally. Ms. Estall said that the biggest problem with this house is its weight. It is a heavy house due to the stucco, and makes it a complicated house to move. The mover would not undertake this project if the house were not structurally sound due to liability issues.

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Commissioner Schnell said she hates to get people's hopes up. Ms. Estall said they will look at the house more carefully by the end of the week. The house has been carefully cared for, and she said that she would be open to options for public use of the house, if a purpose were assigned to it. Commissioner Schnell said that they need help from the staff and must take this before the Plan Commission in June for a lot split.

The Mayor asked about moving the house across the street. Ms. Estall said it seems like there is room at the Park district property. Mr. Baker said he has had no conversation with the Park District. Mr. Evans said he spoke with them. Potentially there would be room to put it behind the annex and they would have to reconfigure the site. Timing is the issue. They need to get everything through the Park District, get foundation poured, etc.

Dr. Gordon Goodman, 5834 Middaugh, said that the Park District met last Thursday. The Commissioners were supportive of using the Park District property if it is suitable property. They do not have the money to move it, build a foundation or maintain it. He said that they would have the land. He encouraged the Village staff and Ms. Estall to talk to the Park district. He said they might want to review the meeting tape and talk to Dan Cermak.

The Mayor said the options are either to demolish the house or move it. He said if the best location is across the street, then they need to talk to them quickly. He asked what the approximate cost to move would be.

Ms. Estall said that the cost would be \$50,000 regardless of where it is moved.

The Mayor asked about the cost of a foundation, and Mr. Evans said that would be between \$25,000-\$30,000. He said that the Park District lot would have to be reconfigured, and they need more time for that. Ms. Estall said that a land group in Chicago advised them that the house could be disassembled and stored.

The Mayor said that from what he has heard from Dr. Goodman, the Park District is interested and has the land, but the cost is an issue. Mr. Evans said that apparently the cleanest way is to move it to private property. It will be destroyed if there is no solution found. Right now the best option is to move it potentially to Ms. Estall's lot.

Commissioner McConnell thanked Ms. Estall for taking this on. She asked about the old SEASPAR location, and Ms. Estall said that would be a great location. Mr. Evans said the issue with the Park District is the funding.

Commissioner McConnell asked what they are talking about in terms of Village support. Ms. Estall said it is about the parkway trees, and the lights that have to be swung out of the way, and one would have to be removed and replaced. They are not looking for the Village to pay part of the expenses of the move. She would take on the cost of the move.

Commissioner McConnell said that there was some concern about the amount of time and money it would take for the staff to assist. Manager Ginex said that the last move was over 12 hours for the actual move to occur. Someone would have to have move some of the lights, and provide traffic control.

Commissioner McConnell said she is trying to get an understanding of how much money is necessary, and the Manager said it depends upon where it is moved.

Commissioner McConnell said that the logistics have to be worked out.

Commissioner Tully thanked Ms. Estall and Mr. Evans for taking this on. He said it is the Council's desire to facilitate this if it is within our means and timeframe. He said that they need to know what is actually involved in terms of cost, time and resources. He said that moving the house to the Park District historical area would be a good opportunity. Ms. Estall said that there may be some variables that they may not be able to foresee.

The Mayor said that the Council is in favor of this but needs more information.

Commissioner Tully said they need to know the costs. He noted the state and national significance of this home. He asked if there were state and federal funds available for this. Ms. Estall said the issue again is timing. She said that after keeping the home for a time, she might be able to offer the house back to the community at a later time. This has all happened so fast, that the community is not ready for this, but she hoped it would open a dialogue as to the need to plan for other situations that may arise.

Commissioner Tully then asked about the location of the trees. Ms. Estall said they are between the house and Main Street. She cannot say exactly which trees would be affected. It is a wide and a tall house.

Commissioner Tully said he looked at the home three years ago. The connection to the underground railroad was on the realtor's information sheet. He is surprised no one was aware of its significance. He then said they may want to think about creating a voluntary set of regulations and restrictions for properties where owners voluntarily submit their homes to be identified and to adhere to restrictive covenants. This would provide for enforcement. By creating a voluntary system it would eliminate the problem of taking personal rights of the owners.

Mr. Evans said this was very well received by the Historical Society. Preservation is getting owners of older homes to want to preserve and protect the homes. They are in favor of identifying older homes in the community.

The Mayor asked that they get some financial data for the cost of the move across the street, and also to 55th Street, the foundation costs and staff time.

Mr. Baker said that they will get the information. The larger concern is the process required for a lot split. They may not be able to get before the Plan Commission in a timely fashion.

The Mayor said that the statutory requirement is 14 days. They would need to meet. Ms. Estall thanked the Council, and said she would like to see this become a public building at some point.

Gordon Goodman, 5834 Middaugh, said this was a good conversation. He pointed out three more significant points to consider.

The first is money, and people in Downers Grove are often willing to vote for money to preserve specific areas, as was done with Lyman Woods. This stretch of Maple is the sort of area that other towns create, while we already have it. A bond referendum could stabilize this area, and he believes the community can be motivated to do this.

Secondly, Dr. Goodman said that the Park District is willing to cooperate as is the Village. District 58 may be willing to cooperate as well. A popular program in Naperville uses historical

buildings for educational purposes. He encouraged the Village staff and the Park District to approach District 58.

Thirdly, Dr. Goodman said there is an issue with the timetable and whether the Plan Commission can consider this in time. Communities like Hinsdale and Wheaton require an approved plan for use of the land prior to issuing a demolish permit. Those communities have to sign off on future use before a permit is issued. The Village should have this on an emergency basis. He said it would be in the interest of the Village to require a 30-day waiting period and prior approval of development plans prior to issuance of a permit. He urged the Council to add this to the next Workshop.

Dr. Goodman then asked about the status of Walgreens.

Mayor Krajewski said the attorney for Walgreens asked to have this item pulled from tonight's agenda due to travel obligations on the part of Walgreens' representatives.

Mr. Evans said it is important to keep a balance between preservation and government involvement. He said he is a big advocate of less government is better.

Norah Blackhaller, 5501 Main Street, said it is important to work toward a solution to save the house. Very few houses have the significance of this house or are as old as it is. She urged the Council to approve the zoning as there are many old houses in the area.

COUNCIL MEMBERS

Commissioner McConnell said the Character Counts! Coalition will meet on Wednesday, May 26 at 7:00 p.m. in the Village Hall.

Commissioner Tully congratulated Public Works on a successful Public Works Week and Open House. He said the Public Services Committee, Local Transportation Subcommittee, will meet on Thursday, May 27 at 6:00 p.m. in the Committee Room to look at budget neutral ways to enhance the Commuter Shuttle.

Mayor Krajewski congratulated Dave Bolton for receiving the District 58 Distinguished Service Award. Mr. Bolton teaches Social Studies and History at Herrick Middle School.

The Mayor welcomed the high school band from the City of Bietigheim-Bissingen, Germany who performed at a concert on Sunday at North High School. He said there has been an exchange program between the two schools for 20 years.

The Mayor said Tuesday was the kick-off of the Fishel Park Concert Series with a performance by Downers Grove North and South High Schools.

The Mayor said the annual Memorial Day Parade and Ceremonies will be held on Monday, May 31. The parade begins at 10:45 a.m. at Main Street and Burlington Avenue.

Regarding the "Save Your Heart" fund, the Mayor said George Nicholaou reports that \$16,000 has been raised, which is 30% of the goal and pays for one machine. There have been 97 donors.

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The Mayor reported on a meeting with the EDC chairs last week. He provided tapes of the meeting to the Council. He said the Village Manager will provide the handout.

The Mayor said he has received information regarding certain projects that may not be funded under the no growth budget from the State. He outlined some of the projects that would be lost including road projects, schools, etc. He said Representatives Bellock and Biggins will not vote to reduce our share of the State income tax. There has been discussion regarding repealing fees for the National Pollution Discharge Elimination System (NPDES), Phase II. The State budget deficit is between \$1.7 and \$4 billion.

Commissioner Tully said he received information regarding infills from Ron Stapleton, Village Trustee for the Village of Lemont. He met Mr. Stapleton at the DuPage Mayors and Managers Conference in Springfield. He will circulate the information to the Council and staff.

There being no further discussion, the Workshop meeting was adjourned at 10:33 p.m.

April K. Holden
Village Clerk

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