



Village of Downers Grove Meeting Minutes Downers Grove Village Council

Civic Center
801 Burlington
Downers Grove, IL 60515
630-434-5500

Tuesday, June 1, 2004

6:30 pm

Council Chambers

1. Call to Order

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

Pledge of Allegiance to the Flag

Mayor Krajewski led those present in the Pledge of Allegiance to the Flag.

2. Roll Call

Present: Commissioner Sue McConnell, Commissioner Ron Sandack, Commissioner Stan Urban, Commissioner Marilyn Schnell, Commissioner Martin Tully, Commissioner Mark Zabloudil and Mayor Brian Krajewski

Non Voting: Village Manager Riccardo Ginex, Village Attorney Enza Petrarca and Village Clerk April Holden

Mayor Krajewski said he would like to remind everyone present that 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 the past meetings, an opportunity will be given for public comments and questions on the active agenda items for this evening's meeting. Following this, an opportunity is given for public comments and questions on any subject. Finally, 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.

The Mayor stated that at the appropriate time the presiding officers will ask if there are any comments from the public. If anyone wishes to speak, the individual should raise their hand to be recognized and, after acknowledgment from the presiding officer, approach the microphone and state their name and address. He stated that remarks be limited to five minutes, and asked that individuals refrain from making repetitive statements.

The Mayor 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 Workshop and Council Meetings

Executive Session Minutes for Approval Only - May 11, 2004

Council Meeting - May 18, 2004

Workshop Meeting - May 25, 2004

There being no additions or corrections to the minutes, Mayor Krajewski said they would be filed as submitted.

4. Public Comments and Questions

A. Comments and Questions on Active Agenda

Nina Fotopoulous, 57 Sheridan Avenue, Clarendon Hills, said she is the Branch Manager and Broker at Coldwell Banker at 5207 Main Street. She expressed concerns about the proposed sidewalk café that will run along the corridor of Ballydoyle. Specifically, they like that Ballydoyle is there and bringing people into the community; however, she does not like the idea of putting speakers in the corridor. Ms. Fotopoulous said their conference rooms are located along the corridor where they meet with people who are buying and selling homes. Many times it is a stressful situation and to have music played outside that corridor can present an issue to them and interfere with their ability to conduct business. She said that currently they can hear the voices of the workers along the side. Speakers will be on the walls that run along side where the conference rooms are located. She said it will inhibit their ability to do business. She encouraged the Council to consider eliminating the music from this resolution.

In response to Mayor Krajewski, Ms. Fotopoulous said their offices are open until 8:00 p.m. Her understanding is that they will have the ability to play music from 11:30 a.m. to midnight within that corridor. Many times people are in the office in early evening and to have that interference will create a problem for them.

Dr. Gordon Goodman, 5837 Middaugh, congratulated the Village on being able to support the Community Grants program again this year. He said he was struck by the quality of the grants and the good things this will do for the community as well as by the comments in the history of the program that mentions that the original recommendation was to fund this program at 8% of the hotel tax receipts. The current funding is on the order of 6.4%. The uncertainty of how much money will be available persists. The Commissioners suggested that Council might want to set a definite percentage. Dr. Goodman said he hoped it would be 7 or 8% of the hotel tax so the Community Grants Commission will know what is available at the beginning of the year and can have a more orderly grant award process.

Mayor Krajewski said that during the final stages of the budget process, a majority of the Council added back \$5,000 to the program. There were discussions during the budget reviews to tie the program to hotel tax. He said this will be discussed as budget discussions begin again this year. A number of Commissioners discussed a fixed percentage.

Commissioner Schnell said the McNulty report recommended a fixed percentage because it was a benefit to the community and would attract visitors. It worked that way for a considerable amount of time. It is a way of rewarding the grants if the hotels do well because they get more money.

William Waldack, 1409 Willard Place, said a proposal for the Ballydoyle outside café is before the Council tonight. He said last week's Workshop was more than 80% questions and 20% answers. He said he had the opportunity to review the agreement. He said he was pleased with the changes that were made. The proposal for the cleanup seems comprehensive and the requirements that the noise complaints will be acted upon is a good solution to a potentially serious problem. He said he was still concerned that the Village is turning over public property to private enterprise for profit without an appropriate rental charge. The Village charges others who rent from the Village and has paid for office space in the past. If the Village went to Mr. Cullen for office space, he said he was sure the Village would be charged rent.

The Mayor said the Village has other places where public sidewalk property is being used by private establishments where the Village is not charging rent.

Mr. Waldack said he was still pushing for the possibility of charging rent.

Mr. Waldack said there was a question he should have asked last week that he will ask tonight

and would like an answer tonight. He preferenced it with background information. Commissioners Sisul and Gilbert, both as members of the Council and addressing the Council from the visitor's podium, on numerous occasions have questioned the veracity, interests and loyalties of a member of the Council who lives in Downers Grove, operates a business in downtown Downers Grove, and is employed outside the Village. As Council members, Commissioners Sisul and Gilbert were instrumental in the planning and implementation of downtown redevelopment, especially the parking deck and the walkway. How fortuitous it is that Ballydoyle's should be at a location that can take maximum advantage of both the parking deck and the walkway; can use a portion of this walkway for an outdoor café, possibly rent free; that former Commissioner Sisul has an interest and is the attorney for Mr. Cullen for Ballydoyle's as well as other downtown properties; and that former Commissioner Michael Gilbert is a managing partner of Ballydoyle. Such relationships, especially those involving individuals who played such a large role and have repeatedly questioned the motives of others should raise flags. He said someone must ask the question and each Council member should answer the question: "Do you or any member of your family have any financial or economic interest in the Ballydoyle, or do you or any member of your family have a business relationship with the Ballydoyle or its partners which could result in a financial gain to yourselves, the family members or the business?"

Mayor Krajewski asked Mr. Waldack to repeat the first part of the question. Mr. Waldack repeated the questions he thinks each Council member should answer.

Mayor Krajewski answered no to both parts of the question. He said the only financial interest he has in Downers Grove is a condo building he owns on Warren Avenue for his business. All his other investments are purposely invested outside of Downers Grove. He said he has a number of investments but they are outside of Downers Grove. He said he is building an 18-hole golf course in Bolingbrook and the wording in the mountain is considered a sign.

The Mayor asked how Mr. Waldack knows that former Commissioner Gilbert is a managing partner of Ballydoyle's.

Mr. Waldack said he is listed as a managing partner of Ballydoyle.

Commissioner Sandack said that was incorrect. Mr. Gilbert is listed on the license as a managing partner of the real estate.

The Mayor reiterated that neither he nor his relatives have any financial interest in Ballydoyle.

Mr. Waldack said he appreciated the answer. He is not making any accusations.

Commissioner Tully said his answers were no to both questions. He said he cringes every time somebody tosses around speculative accusations. Anybody who has been following Village activities for some time would know that the parking deck was in the planning stages for a long time. Many people have been cognizant of where the deck would go, where the access routes would be, and saw opportunities to build and keep businesses, and sell property. He said he did not hear any accusations of those people. It was commonly known for years that there would be pedestrian and vehicular access ways to this deck. Anybody attending the meetings, watching on TV, looking at the maps would know that there would be a new streetscape. A business person might think it would be worthwhile to put in a restaurant and outdoor café. In building the deck, the Council wanted to create opportunities for residents and all sorts of businesses downtown to do things they previously could not do in what was a surface parking lot that was not owned by the Village. He said it is quite a stretch to make an accusation that there is a cozy relationship, either now or in the past, that led to Ballydoyle's and the sidewalk café. It is a simple issue of the deck coming and people saw opportunities and took them. There

is nothing wrong with that. In fact, the Village is trying to encourage those types of opportunities for businesses and residents in the Central Business District. He said he does not see any basis to the accusations at this time or at any time he has been on the Council.

Mr. Waldack said this was not meant to be an accusation. It is an opportunity to put rumors to rest. He said he is not accusing anybody of anything although some people do question it. He said it is a fair question.

Commissioner Tully said he felt Mr. Waldack's statement was highly accusatory and despite Mr. Waldack's attempts to back off it, it was an accusation, plain and simple. There was not basis for the accusation other than speculation and rumor. He said he felt it was unprofessional, at best.

Mr. Waldack said former Commissioner Sisul is an attorney.

The Mayor said the question was fair to ask the Council members, but the questions with regard to former Commissioners is of no concern to the Council today.

Commissioner Sandack, in response to Mr. Waldack's questions, answered no to both. Commissioner Sandack asked Mr. Waldack to watch himself on the tape of this program as Mr. Waldack's comments were entirely accusatory. Commissioner Sandack said he takes great umbrage to the comments. Commissioner Sandack said that had Mr. Waldack had any really inquiry, he would not have preferenced his queries the way he did. He urged Mr. Waldack to look at his notes. He said Mr. Waldack's comments implied some level of untowardness and Commissioner Sandack said he took great offense to that.

Mr. Waldack said he would be happy to submit his notes to the Clerk.

Commissioner Schnell said that neither she nor any member of her family has any interest in Ballydoyle's or any property downtown. Furthermore, she said that if she did, which she does not, she believes she would have both a legal and a moral obligation to disclose it and not vote on it. She said there is an Ethics Ordinance that prohibits one from voting on an issue in which they have an economic interest. She said she has gone so far as asking if she could vote on a matter in light of being a member of a certain church. She reiterated that her answers were no. Morally and legally she does not think a Council member with an interest could vote on it.

Commissioner Zabloudil said he respectfully declined to answer because, as Commissioner Schnell identified, the Council members have taken an oath of ethics. For Mr. Waldack to ask that question speaks volumes. He chooses not to answer. He said he was sure the incorporated documents for Ballydoyle's, the land holdings as well as the operating unit, include the public records as to who has a financial investment. He suggested Mr. Waldack do his research before accusing the Council.

Commissioner McConnell said her answers to the questions are both no. She said the verbiage used was inflammatory. Whether it was meant that way or not, it was easy to interpret it that way. She said she hoped Mr. Waldack would take the comments the Council made in the light in which they were intended which is that the Council wants to have a positive dialogue and that needs to be on all sides. That is why some of the Council members answered the questions. The Council does have a Code of Ethics. The conflicts are spelled out very clearly. Whenever a Council member has a conflict, they ask the Village Attorney for a professional opinion and then do the right thing for the Village. That is the Council's obligation. She said a great deal of time was spent last week talking about the Ballydoyle café request. Council has asked the petitioner to do a number of things, which she feels are appropriate. She said she feels the Council needs to hold Ballydoyle's feet to the fire just as they would anyone else. The Village

staff is doing exactly that which is Council's expectation. She said she does not think Ballydoyle's is being treated any differently than anybody else.

Commissioner Urban said that as of May 1, 2004, his answers to both questions are no. He said prior to May 1, 2004, he had a business in downtown Downers Grove and there was association with some of the members of the Ballydoyle group. His lease was terminated as of May 1, 2004 and he now has no association with them, nor do any of his relatives. He still has a business in downtown Downers Grove.

Mr. Waldack thanked the Council for their answers. He said he was sorry the Council took his comments as an accusatory statement. He said he would be happy to leave a copy of his comments with the Clerk for the Council's review. He said his statement was not meant to be accusatory and apologized if it came across that way. It was a way to clear the air.

Mayor Krajewski said it is a fair question to ask the Council members if they have a financial interest. Ethically, the Council needs to disclose that information if they do have an economic or financial interest.

Phil Cullen, Ballydoyle, said that regarding Mr. Waldack's questions he is an investor and his family members are investors. He said Tom Sisul is his attorney and has been his family attorney for 12 years. Because he is Mr. Cullen's attorney, he is not an investor in Ballydoyle and has never been. Mr. Gilbert has no association with the Ballydoyle and is not an investor in Ballydoyle.

Commissioner Schnell asked Mr. Cullen to comment on the concerns of Coldwell Banker about the music and effect it may have on their business.

Mr. Cullen said it is an unproven facet of the outdoor dining. He said that very active downtowns have music everywhere. He visited a downtown over Memorial Day where music was piped throughout the entire downtown. He said there were some original plans from Linda Kunze to have speakers throughout our downtown, but they could not afford it at the time. Music adds ambiance. If one goes to a store and there is no music, it seems empty and does not seem right. The music he wants is meant to be compatible with conversation. He noted that there is a concrete wall with bricks between his establishment and Coldwell Banker. If it is loud enough to go through that, it is loud enough to disturb many people downtown. He said he does not think it will ever get to that point.

Commissioner Schnell asked if it would include bands from inside Ballydoyle's.

Mr. Cullen confirmed it would be music with a separate volume control. He said the area is all commercial.

The Mayor said Mike Baker recently attended a seminar in a town with speakers in the trees up and down the street. They were next to condo buildings and music was played throughout the area.

Commissioner McConnell asked Mr. Cullen to describe the types of music he would be playing as some types of music vibrate more than others. Further, she noted there was language in the agreement that allows the Village to have some control over how loud it is and whether it is even being played.

Mr. Cullen said this is new for everybody. The music played within the Ballydoyle does not have a lot of bass. It is older, traditional Irish music. It is not heavy bass and drums that would vibrate. The workers in the alley now cause vibrations in the earth. The bass travels through

brick and concrete walls easier than the high and mid-range tones. If necessary, they will address this situation and try to fix it. They are not unfriendly neighbors.

Commissioner McConnell suggested that Mr. Cullen talk to the people at Coldwell Banker a week after they start the sidewalk café to monitor this situation. Mr. Cullen agreed.

The Mayor asked if the music was intended to be background music so people could sit and talk with one another. Mr. Cullen agreed. He said that is how it is in Ballydoyle now. It is meant to be background music. He does not think it will be a problem, but they have never done it before.

Commissioner Zabloudil said the music is intended as background music. He said the overwhelming noise one hears in any restaurant are the conversations from the tables, the dishes, silverware, glasses, etc. which make more noise than the music and sometimes drown the music out. He does not think the music will overwhelm someone in an office next door.

George Swimmer, 4905 Main Street, said he has been in the downtown area on and off for approximately 25 years. He said he was in the downtown when it was dying and was a ghost town. People stayed away from downtown. Mr. Cullen helped revitalize the downtown. He said Every Day's a Sundae and others toughed it out in the downtown area. If the Council and Village have an opportunity to help these businesses out, he thinks it should be done. He said he remembers when no sales taxes were generated. The downtown is not that now. It is a robust, growing, nice community. He said he came in the middle of Mr. Waldack's comments and felt the comments were accusatory.

Megan Schroeder, 6036 Ridge Court, said she works at 5207 Main Street at the Coldwell Banker. She said she has worked at this building for six years during festivals, ice sculpture activities and during events with entertainment and music. She said at times it is fine, but if there is anything directly in the alley it is a sound chamber. She asked for a control once this is started so that they can test where the sound can be heard and determine the appropriate volume. She said as the evening goes on, voices and volume will go up. Because of their work schedule, she would like a way to control the music. Regarding the entertainment, she said the agreement states that no live entertainment shall be permitted in the café area; however, music from inside the pub, whether live or recorded, shall be piped. Live music will be piped whether there is more bass or not. She said she hopes they can all be good neighbors. She said the ordinance pits neighbor against neighbor in that they would have to call the police if there is a problem. She said it would be better for all if it could be settled before it starts.

B. Comments and Questions on General Matters

Dr. Gordan Goodman, 5834 Middaugh, said he wanted to raise two issues related to residential redevelopment and heritage. The first is dealing with the demolition ordinance. He said he has spoken and sent e-mails regarding the missing features in the current demolition ordinance adopted in January 2004. It is very good as far as it goes. It controls the sites at which demolition occurs, but there are some missing features. It is a requirement that someone complying with the ordinance has to go to his neighbors and show the proposed site plan for the redevelopment, but the proposed site plan is nothing official. If it involves a lot split or other decision that has to be made by Village authorities, it has no status because it hasn't been submitted to the Planning Department or Code Enforcement. It is just something that the proposed developer shows to the neighbors. It could be just a fantasy if it involves a lot split or variances or exceptions that have to be granted by the Council. It could take beyond the 60 days given after a demolition occurs for construction to begin. Dr. Goodman asked the Council to take this matter up on the June 22 Workshop. The current ordinance requires that the site plan which has no status or significance be shown to neighbors. It requires that construction begin within 60 days but there is no assurance that the Village will sign off on the needed

plans. Perhaps if a single-family house is brought down on a lot that is just going to be redeveloped all by itself, there may be a case to be made for the way this ordinance is written. But whenever a redevelopment entails a lot split or some other redesign that requires Village approval, that approval should be in hand before the permit for demolition is issued. He said there are a few other desirable features the Council could look at in the Hinsdale ordinance such as the stormwater management beyond a silt fence, etc.

The Mayor said Commissioner Tully will poll the Council members. If there are not four willing to look at changing this, it will not be brought forward to a Workshop. If there is interest, they will take it up.

Dr. Goodman said he is the chair of the Pierce Downers Heritage Alliance. This organization started to look at the preservation of residential structures about two years ago. At the time it seemed like too big a problem with no focus in Downers Grove. But, in light of the interest in the Lyman House at 806 Maple Avenue, they now see this as something that has wide interest in the community. At their next board meeting on Wednesday, June 16, 2004, at the Lincoln Center auditorium they will be inviting the Historical Society and other community groups. Jean Follett who spoke at the Downers Grove Watch presentation, will speak. People from various constituencies will describe their concerns and what they hope to accomplish. They will then break into groups to organize the next steps. He said he hoped some of the Commissioners will be able to attend as well as Park District Commissioners and District 58 Board members. This issue seems to be of concern and strong interest to all three bodies.

George Swimmer, 4905 Main Street, said he has come before the Council periodically for the past eight or nine years to talk about railroad safety. Downers Grove has six crossings. He had an office located next to one crossing. He said four or five years ago the Heritage Festival was on both sides of the tracks and the police officers were controlling the traffic going back and forward over the tracks with a gate barrier they would open and close. Someone crossing from the south going north had a stroller and other children walking with her when the gates went down. One of the wheels of the stroller got caught in the tracks. The Downers Grove police officer assisted the woman and her children. A few months ago a man assisted a woman who was stuck on the tracks with her motorized vehicle. He said these were heroic acts.

Mr. Swimmer said he wanted to talk about the Belmont underpass. He said he has concerns about it. He said the Mayor asked him to be part of a committee that met to bring some financing together. They have not met for 1½ years and he feels it is going nowhere. He feels Metra is in charge of it and it is not going to get done in his lifetime. Metra has a unique way of not executing. He believes the squeaky wheel gets the grease. They had important people come to the meetings. Metra was to have put up the money for the underpass and now he hears that their money is going to be tied up in a project called "Create," which has not been approved yet for funding. He feels inflation will take its toll and this project will not come to pass.

Mr. Swimmer said recently a number of children have been killed at crossings and stations. One took place when the mother, daughter and son were at one crossing and the father was on the other side. The train pulled out and the child saw his father, ran across the tracks and was killed. Metra fired a couple of Locomotive Engineers and one student engineer because of this accident. Mr. Swimmer said trains always pass along our tracks when there is a train in the station, although they are not allowed to enter or pass through stations along certain other tracks such as the Union Pacific. Downers Grove and Hinsdale have had fatalities where trains were passing through a station where another train was parked in the station or just exiting. He discussed this with Metra's Safety Director several years ago and we still have the same problem. He has a film of a woman being hit at Fairview if any of the Council members want to see it. Mr. Swimmer said trains go too fast in Downers Grove. At Fox River Grove, trains were going 70 mph, when they had the horrible school bus accident. After the accident they lowered

the speed and since then it has been ruled one of the safest crossings in Illinois. He is not aware of an accident there since the speed was reduced. He asked the Council for feedback as to why trains are allowed to pass, at high speeds, trains stopped in stations or those just pulling out. He asked the Council to look into this.

Mayor Krajewski said there is no longer a need for the task force to meet as everything is in place except for the money to be funded through the ICC by authorization of the Governor. He said he has not had much luck in getting the money released. IDOT and Metra's money is there and ready to go, but we do not have ICC funding. Senators Cronin and Dillard have met with the Chairman of the ICC, Ed Hurley. There was legislation introduced in Springfield that was going to give IDOT the ability to control railroad crossings and the funding for the crossings. Representative Bellock attended ICC hearings and followed up with calls and letters. The Mayor said he has made calls and met the chief of staff Cross and others. IDOT has said the legislation is going nowhere. ICC will be in charge of the funding this year. They have worked with Representative Biggert to get federal money which has not yet been released. They have worked with DuPage County Board Chairman Schillerstrom and with the US Speaker of the House Dennis Hastert to get federal money to replace the ICC funding. The ICC has said there seems to be some other projects downstate and in Chicago that may be more important.

The Mayor said the ICC needs to put Downers Grove in the five-year plan and get the funding in place. All the other elements are in place and ready to go in terms of the studies, engineering or land acquisition. The Mayor said he, the Village Manager and the Village Attorney met with Metra recently. They are waiting for the US EPA to do contamination testing north of the tracks. Results are expected in July. Without the ICC funding of \$12-18 million, the project will not go. He urged people to call the Governor's office.

Mr. Swimmer said the ICC has approximately \$25 million per year for railroad safety projects. There are 10,000 crossings in Illinois, many of which are dangerous. Belmont Avenue is one of the most dangerous ones.

The Mayor said ICC funding comes from IDOT. When he and Rep. Bellock met with the former head of IDOT they were told the money was there, but with the change in administration the money is no longer there to be given to ICC.

Mr. Swimmer spoke with the head of the railroad safety section for the ICC. They discussed bridge funding or a bond issue and whether the ICC could commit to pay to pay the money back in 7-10 years. Mr. Swimmer was told that this is something to think about. There are ideas out there and people who want the crossing. It is a waste of life to not have a crossing there. Good Samaritan Hospital is the one Level 1 Trauma Center in DuPage County and ambulances have to wait at Main Street all the time. He said he thinks the same thing holds true at Belmont. He said there have been two fatalities at Belmont since he's been involved in railroad safety. Money has evaporated. Metra has taken the easy way out. We have to become the noisy wheel. He said people can't just sit on their hands.

Dr. Gordon Goodman, 5834 Middaugh, said good progress is being made on the shelters being built on the south side of the train tracks. He asked if there will be a permanent shelter on the north side.

Village Manager Rick Ginex said there will be two on the south side. The majority of people waiting are on the south side. For that reason and due to the cost, Council decided they would rather have the shelters on the south side.

Dr. Goodman said one of the temporary shelters was taken from the south side and put up on the north side. He thinks a little more protection should be put on the north side if it can be

done relatively inexpensively and if another temporary shelter is available it should be put on the north side.

5. Public Hearings

6. Consent Agenda

COR 00-01625 Claim Ordinance: No. 5531, Payroll, May 14, 2004

Sponsors: Accounting

A motion was made to Approve this file on the Consent Agenda.

Indexes: N/A

COR 00-01626 Claim Ordinance: No. 5533, Payroll, May 28, 2004

Sponsors: Accounting

A motion was made to Approve this file on the Consent Agenda.

Indexes: N/A

BIL 00-01627 List of Bills Payable: No. 5528, June 1, 2004

Sponsors: Accounting

A motion was made to Approve this file on the Consent Agenda.

Indexes: N/A

BID 00-01623 Bid: Contract Renewal with Fire Safety Consultants, Inc. for Plan Review Services

Sponsors: Fire Department

The Mayor asked for a motion regarding this bid to pull this item off the consent agenda.

Commissioner Tully moved to remove this item from the Consent Agenda. Commissioner Urban seconded.

VOTE: YEA - Commissioners Tully, Urban, Sandack, Zabloudil, McConnell, Schnell, Mayor Krajewski

Following approval of the Consent Agenda absent Bid No. 00-01623, Commissioner Urban moved to approve Bid No. 01623 as presented. Commissioner McConnell seconded.

The Mayor said this issue was brought to a recent Workshop meeting. There was a discussion as to whether errors and omissions (E&O) insurance should be required for Fire Safety Consultants, Inc. The Village Manager and Fire Chief e-mailed information to the Council, and to see if there were four people interested in requiring them to have the insurance, but there was not enough time to get a response back.

The Mayor said three bids went out, only one carries E&O insurance. This company stated they used to have it but since they have not had a claim in 15 years, they decided not to carry it any longer due to the expense. They said the cost of the insurance is \$150,000. The Mayor said he was not comfortable allowing this company to review sprinkler fire prevention for buildings without having E&O insurance. If there is a faulty error or omission in their plan review and something happens, the Village would become liable. The question is whether the Council wants to award this bid without requiring the company to carry E&O insurance.

Commissioner McConnell thanked the Mayor for the information. She said she thinks they should require the E&O insurance or some kind of coverage the Council is comfortable with before putting this in place.

In response to questions, Village Attorney Enza Petrarca said the Council could table this item, after which this item could no longer be discussed tonight.

Commissioner Tully said the concern is that the Village reviews for fire safety purposes building plans and other plans. This proposal is to contract some of the reviews out to a private firm in conjunction with our in-house reviews. If the outside firm doing these plan reviews does not carry Errors and Omissions insurance, there is a potential question of liability if they do something wrong. This question was not adequately answered in the time allotted. He said he agreed that this should be tabled until this is reviewed further.

Commissioner Schnell said she agreed this should be tabled. She said there is a need to protect the Village.

Village Attorney Petrarca said the Village has an indemnification clause in the agreement within the Village is indemnified for that type of negligence. However, she said an insurance policy is an easier, cleaner and safer way to go.

The Mayor said as a consulting firm they may have few assets that could be attached.

Commissioner Zabloudil said the Fire Prevention Chief said that the more complicated plans would be the ones farmed out. This is all the more reason why we should consider the requirement for carrying E&O insurance. He referenced an issue on the parking deck wherein a stairwell was designed wrong.

Commissioner Tully motioned to table this item. Commissioner Urban seconded.

VOTE: YEA - Commissioners Tully, Urban, Sandack, Zabloudil, McConnell, Schnell, Mayor Krajewski

Mayor Krajewski declared the motion carried and this item has been tabled.

Indexes: Fire Prevention Fees, Fire Prevention

BID 00-01630 Bid: Award Contracts to Ray O'Herron Company for Police Uniform Equipment and Kale Uniform Company for Soft Uniforms

Sponsors: Police Department

Indexes: Police Equipment, Police Uniforms

BID 00-01631 Bid: Award Contract to Elevator Inspection Services, Inc. for Elevator and Escalator Inspections Services for FY 2004/05

Sponsors: Code Services

Summary of Item: Total cost is approximately \$18,540.00.

A motion was made to Approve this file on the Consent Agenda.

Indexes: Elevator Inspections

BID 00-01632 Change Orders: Authorize Execution of Contract Change Orders #8,9,10&11 for the Village of Downers Grove Parking Facility, Project #14-00

Sponsors: Public Works

Summary of Item: The change orders are as follows:

Change Order #8 - \$53,745.00

Change Order #9 - \$35,038.00

Change Order #10 - \$28,623.00

Change Order #11 - \$7,147.00

A motion was made to Approve this file on the Consent Agenda.

Indexes: Central Business District - Parking Deck

Passed The Consent Agenda

A motion was made by Commissioner Tully, seconded by Commissioner Urban, that the consent agenda be passed. The motion carried by the following vote:

Votes: Yea: Commissioner McConnell, Commissioner Sandack, Commissioner Urban, Commissioner Schnell, Commissioner Tully, Commissioner Zabloudil and Mayor Krajewski

7. Active Agenda

RES 00-01633 Resolution: Authorize Sidewalk Cafe License Agreement with Ballydoyle, LLC

Sponsors: Liquor Commission

Summary of Item: This will authorize a license agreement with Ballydoyle Irish Pub & Restaurant to permit and regulate the operation of a sidewalk cafe on public property.

A RESOLUTION AUTHORIZING EXECUTION OF A SIDEWALK CAFE LICENSE AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE AND BALLYDOYLE, LLC

RESOLUTION 2004-29

Commissioner Tully moved to adopt a Resolution Authorizing a Sidewalk Cafe License Agreement with Ballydoyle, LLC as presented. Commissioner Urban seconded.

Commissioner McConnell said her comments were for Mr. Cullen and his general manager. Ballydoyle and the sidewalk café are trend-setting types of activities in the downtown. With that comes an extra responsibility. She implored the petitioner to do this right and well and do that all of the time. She said she appreciated their willingness to be a good neighbor and reach out to the people around them. She expressed her hope that this become a good experience for the whole community.

Commissioner Schnell said she has concerns about the music and its effect on the neighbors. The current ordinance states that the music will close down at 10:00 p.m. Instead of putting the impetus on Coldwell Banker regarding the noise, she asked the petitioner to work with Coldwell Banker to find a comfort level as far as the noise level so they can both conduct their businesses. There needs to be a happy medium where both parties can work together. She said it behooves Ballydoyle as a good neighbor to work with Coldwell Banker. She said the Council does not want people pitted against each other. She urged Ballydoyle to be proactive and work with Coldwell Banker to come up with an agreement acceptable and good for both.

Commissioner Sandack voiced his appreciation to the representatives of Coldwell Banker. He said their concerns are appreciated and heard, particularly Ms. Schroeder's comments that no one likes to be the one who has to complain. Unfortunately no Village, including Downers

Grove, has the resources to police every aspect of the Village including the downtown Central Business District. He said he was impressed that Mr. Cullen has shown a concern that he wants to be a good neighbor. Everyone wants the downtown to be vibrant and Coldwell Banker appreciates that. It is good for Coldwell Banker's business to have people gathering. He said the idea of having background music that is conducive to dinner and conversation that also does not interrupt the business next door is entirely doable. He said good neighbors will try to appropriately work out any issues that occur. If that does not work, the Council has the mechanism in the ordinance to appropriately police the situation. He thanked everyone for their constructive comments and concerns.

Mayor Krajewski said, regarding the background music, he thought only Commissioner Schnell suggested the 10:00 p.m. timeframe. He said Coldwell Banker is the closest neighbor and they close at 8:00 p.m. There are no residents that live in the vicinity. He said he was not sure why they have the 10:00 p.m. time restriction. He said he would like the ability to limit the noise regardless of the time.

Commissioner Schnell said sound travels at 1:00 a.m. She said she is concerned about this. She said she thinks 10:00 p.m. is a good compromise. There are residents about a block from this site. She said she thinks it is reasonable to allow people to have a quality of life within their own apartments and condos. She said 10:00 p.m. is a compromise which allows everybody to have a certain quality of life.

The Mayor asked about his request regarding complaints about Bambaleo's.

The Village Attorney said she would check with Carol Conforti.

Commissioner Tully said the Council wants to encourage outdoor seating and outdoor cafes because they want the downtown businesses to thrive responsibly. The businesses and restaurants benefit tremendously from increased pedestrian traffic. It is also an amenity for those who live and work here. Outdoor cafes work wonderfully in this part of the country because nothing attracts people like other people. He said the Council is working toward creating additional opportunities through the Central Business District development to have things like this in the future. This only heightens the need to have a comprehensive ordinance addressing this subject both on private and public property. With respect to this permit, he said part of what has raised this discussion is that the Council has not done this too many times on public property or in quite this way. Commissioner Tully said his preference is to have this worked out in advance so there would be defined parameters as to what one can or cannot do. He said he thought a business person would appreciate knowing what was and was not permitted in advance. The current ordinance states that "in the event the Village receives complaints regarding the licensee's operations of the café, the licensee shall voluntarily assist the Village in remedying the complaint by reducing or eliminating the hours of amplified music and/or operation of the café." The Village furthermore has the absolute and discretionary right to terminate the license and require everything to be removed anytime under the proposed ordinance. Commissioner Tully said he hopes there will not be any need to pit businesses against businesses. He said there is a "kill switch" on the music held by both commercial and residential people in the Central Business District.

Commissioner Tully asked if staff had additional information about what the anticipated wear and tear would be.

Mike Millette, Assistant Director, Public Works, said they looked at areas with similar use. There is no exact area where there is wrought iron furniture on the same tiles. On the sidewalk itself as well as the paver stones, it is no more noticeable than other normal wear and tear. There does not appear to be any greater deterioration based on the anticipated use than

normal walking.

Commissioner Tully said the proposed ordinance has a 10:00 p.m. limitation.

The Mayor said if there are complaints, the Village has the ability to shut the music off so it does not matter what the hour is.

Commissioner Schnell said she thinks this pits the condo association against a business owner. She said she thinks 10:00 p.m. is reasonable.

The Mayor said it sounds that if there are to be complaints they will probably come at 6:00 p.m. or 7:00 p.m. when there is a meeting next door rather than 10:00 p.m.

Commissioner Schnell said they have not heard from residents.

Commissioner Tully said he thinks the petitioner has heard that they need to tread carefully because the ordinance as proposed gives the Council the absolute right to cut off the music if there are complaints regardless of the timeframe. He thinks the petitioner will be extra careful and cognizant of any concerns.

The Mayor asked for a map of the downtown property lines.

Attorney Petrarca said Mike Millette can get it.

Commissioner Sandack said they close at 1:00 a.m. weekdays and 2:00 a.m. on weekends, as per their license. He said he hears and appreciates Commissioner Schnell's comments, but the timing is a distinction that really does not matter because if there are complaints the license can be pulled. He said he does not have a problem with changing the time limit to be an hour before closing. With regard to the sentiment expressed by Coldwell Banker, Commissioner Sandack said he is certain that Mr. Cullen and representatives of Ballydoyle will be appreciative of their neighbors and will do whatever they can to make sure it is a meeting and gathering place that is befitting Downers Grove and helps enhance the neighborhood.

Commissioner Sandack moved to amend the proposed ordinance to extend music to one hour before closing. Commissioner Tully seconded the motion.

Commissioner Schnell said she cannot support this. She does not think music in the downtown at 1:00 a.m. is appropriate and she will not support it. She said it is unfortunate that something as important as this will not have the unanimous support of the Council because of the music blaring at 1:00 a.m. She does not feel this is appropriate in our downtown.

Mayor Krajewski said if he were to put a timeframe on the music he would consider 7:00 p.m. to midnight because the neighbors are businesses working during the daytime and the area will be fairly vacant at night.

Commissioner McConnell said she was more comfortable with 10:00 p.m. but is willing to try the later hours. She referred to her previous comments about trend setting and responsibility, and said these comments are now even more appropriate. There are people who live nearby and they will likely hear the music. She suggested that the number of complaints be few before action be taken.

The Mayor said he thinks if there is a problem it will probably be due to people being loud instead of the music. He said it gets loud at Bambaleo's and that is why he asked the question about complaints from residents that live on Curtiss.

Commissioner Urban said his business was the first to apply for an outdoor café license 12 years ago. He is fully aware that people on the street draw more people. It is good for business and brings people to the downtown. It makes it look like a vibrant town. He said he is concerned about the noise. As a good neighbor of Ballydoyle for a few months, you could hear the music across the street when the doors would open and people would leave. The music can be heard 90 feet away. He said he is not in favor of going past 10:00 p.m. because he does not want to pit neighbor against neighbor. He said he does not think it will increase or decrease Ballydoyle's bottom line to have music an additional 2, 3 or 4 hours. The outdoor café will hopefully increase his bottom line.

Commissioner Tully said he thought the timeframe issue is somewhat a misnomer because if its going to be a problem, it will be a problem at any given point of the day and probably more likely in the earlier hours. He reiterated that there is a "kill switch" in the proposed ordinance. If the Village receives complaints, meaning two, then the music hours are eliminated. He said he would prefer to have all this spelled out so there were parameters as to what could and could not be done in terms of acoustics, volume, direction, etc.

The Mayor said this license expires in October and has to be renewed next year. As such, the Council could set new terms.

Commissioner Schnell said she is not against outdoor cafes and a vibrant downtown is extremely important; however, she will vote against this because she feels it is totally inappropriate that residents will hear music at 1:00 a.m. Some of those people have not had a good association with noise and may have gotten to the point where they don't complain because they have decided it is part of living downtown. She does not think it is appropriate at midnight or 1:00 a.m. to have music blaring. She will vote against it. She said she thinks it is unfortunate because she is not against an outdoor café and this is an appropriate place for an outdoor café. This is beyond a reasonable hour.

Commissioner Zabloudil said Commissioner Tully pointed out that the ordinance has a "kill switch." If there are complaints, there is a mechanism in place to further discussions to get the noise regulated where it makes sense and minimizes complaints. If not, they have the option to have a cease and desist order. He said he will support Commissioner Sandack's amendment.

Commissioner Urban said he understands there is a "kill switch" and if there are complaints they can pull the license. He asked how many complaints there would have to be. He suggested setting the ground rules so everyone knows when the plug would be pulled. He suggests leaving it at 10:00 p.m. so there is no judgment call to be made.

Commissioner Sandack said the time is irrelevant. He said a rule of reasonableness needs to pervade. His amendment allows a licensee to engage in business with background music while people eat dinner. If it gets noisy, regardless of the time, an issue would be brought forth. He agreed with Commissioner Tully's comments this is a new endeavor and perhaps there should be some concrete procedures going forward; however; this ordinance is a flexible, working document. The license agreement and the ordinance give the Council and the Village tremendous flexibility and discretion to ameliorate any issue. He said violations will be dealt with. The timeframe is irrelevant.

YEA: Commissioners Sandack, Tully, Zabloudil, McConnell and Mayor Krajewski

NAY: Commissioners Urban and Schnell

The Mayor declared the motion to amend the hours has carried.

A vote was then taken to pass the Resolution as amended.

YEA: Commissioners Tully, Sandack, Zabloudil McConnell and Mayor Krajewski

NAY: Commissioners Urban and Schnell

(Commissioner Urban changed his vote from YEA to NAY.)

The Mayor declared the motion to adopt a resolution authorizing the Ballydoyle's sidewalk cafe license has carried.

Indexes: Sidewalk Cafes

ORD 00-01634 Ordinance: Amend Policies Concerning Liquor Violations

Sponsors: Liquor Commission

Summary of Item: This will amend certain liquor policies and raise fines for liquor violations.

AN ORDINANCE AMENDING POLICIES CONCERNING LIQUOR VIOLATIONS

ORDINANCE NO. 4590

A motion was made by Commissioner Urban, seconded by Commissioner McConnell, to Adopt this file. Mayor Krajewski declared the motion carried by the following vote:

Votes: Yea: Commissioner McConnell, Commissioner Sandack, Commissioner Urban, Commissioner Schnell, Commissioner Tully, Commissioner Zabloudil and Mayor Krajewski

Indexes: Liquor Ordinance Amendments

RES 00-01635 Resolution: Authorize Intergovernmental Agreement with County of DuPage, Illinois for the Final Phase of the Lacey Creek Stream Corridor Restoration Project

Sponsors: Manager's Office

Summary of Item: This will authorize an intergovernmental agreement between the Village of Downers Grove and DuPage County for the final phase of the Lacey Creek Restoration Project.

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

RESOLUTION 2004-30

A motion was made by Commissioner McConnell, seconded by Commissioner Schnell, to Adopt this file. Mayor Krajewski declared the motion carried by the following vote:

Votes: Yea: Commissioner McConnell, Commissioner Sandack, Commissioner Urban, Commissioner Schnell, Commissioner Tully, Commissioner Zabloudil and Mayor Krajewski

Indexes: Lacey Creek, Orchard Brook Homeowners Association, DuPage County

RES 00-01636 Resolution: Authorize Submittal of Grant Application to the Illinois Clean Energy Community Foundation for FY 2004 Energy Efficient LED Traffic Signal Upgrade Grant Program

Sponsors: Accounting and Public Works

Summary of Item: This will authorize submittal of a grant application to the Illinois Clean Energy Community Foundation for funding in the amount of \$25,255.00 to replace existing traffic signal bulbs with energy efficient bulbs. Note, the Village must also contribute approximately \$42,000 toward the traffic signal upgrade project not covered by the grant.

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

RESOLUTION 2004-31

The Mayor asked about the funding for this program regarding whether there are terms in the agreement specifying that the Village does not have to comply with making all of our traffic signals LED if we do not receive full funding.

Village Attorney Petrarca said this is not funded through the State. It is private funding.

A motion was made by Commissioner Schnell, seconded by Commissioner Sandack, to Adopt this file. Mayor Krajewski declared the motion carried by the following vote:

Votes: Yea: Commissioner McConnell, Commissioner Sandack, Commissioner Urban, Commissioner Schnell, Commissioner Tully, Commissioner Zabloudil and Mayor Krajewski

Indexes: Traffic Signals

MOT 00-01637 Motion: Approve Community Grants Recommended by Community Grants Commission

Sponsors: Community Grants

Summary of Item: This is to approve grants in the amount of \$52,063.00 of Hotel Use Tax receipts to be used for expenses as identified by the applicant in the budget submittal, as approved by the Community Grants Commission. These grants are to be paid on a reimbursement basis upon submittal of paid receipts.

The Community Grants Commission, at their meeting of May 3, 2004, recommended approval of the following grants: AAUW - Book Sale Support \$2,000; DG Choral Society Season \$10,000; DG Concert Association Season \$10,000; DG Downtown Management Hospitality Sunday & Santa Parade \$2,500; DG Friends of the Library Storybook Parade \$500; DG Junior Women's Club - July 4th Float \$400; DG Kiwanis - Easter Egg Hunt \$600; DG Rotary Club - Halloween Window Painting \$1,000; DGSMS Mustang Music Bowl \$1,000; Grove Players Season \$3,000; Midwest Ballet Theatre Peter Pan \$3,200; Our Town Productions Christmas Carol \$3,000; Squires of DG Golf Tournament \$400; VOX Caelestis Concert Series \$1,400; West Suburban Humane Society Barkapalooza & Pet Expo & Walk \$2,000; Indian Boundary YMCA - Y-Games \$1,200; YMCA 5K Run \$900; DG Historical Society Cemetery Restoration \$3,840; New World Repertory Theater Wait Until Dark \$3,000; West Towns Chorus Christmas Show \$1,200; Maple Hill Recreation Corp. 4th of July Float \$400; Administrative Costs \$523.00.

The Mayor urged the Council to consider tying a percentage of Hotel Tax receipts to this in the future.

Commissioner Tully suggested Workshopping this issue.

A motion was made by Commissioner Sandack, seconded by Commissioner Zabloudil, to Authorize this file. Mayor Krajewski declared the motion carried by the following vote:

Votes: Yea: Commissioner McConnell, Commissioner Sandack, Commissioner Urban, Commissioner Schnell, Commissioner Tully, Commissioner Zabloudil and Mayor Krajewski

Indexes: Community Grants

RES 00-01638 Resolution: Authorize Addendum to Agreement for Professional Services with Alfred Benesch & Company

Sponsors: Public Works

Summary of Item: This will authorize an addendum to the professional consulting services agreement dated November 5, 2002 between the Village of Downers Grove and Alfred Benesch & Company.

A RESOLUTION AUTHORIZING EXECUTION OF AN ADDENDUM TO AN AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE VILLAGE OF DOWNERS GROVE AND ALFRED BENESCH & COMPANY

Commissioner Tully said in last week's discussion there were two parts to the proposed amended contract with Alfred Benesch & Co. with respect to being our owner's representative for the Central Business District parking deck project. One component had to do with a request by Alfred Benesch for additional funds for work already completed. The other component was an extension of the existing contract to cover timeframes beyond when it was originally contemplated the deck might be finished. He asked if the present resolution is both components.

Mr. Millette said it was both components. Mr. Millette said this agreement predates his arrival at the Village. The contract was a lump sum contract for a certain number of man-hours. The phases were approximations primarily so staff could evaluate how fast Benesch was running through the contract. Due to a number of issues, including stormwater, Benesch was asked to start working sooner than anticipated. The stormwater issue took a considerable amount of time. They had to ask the architect to redo structural drawings for the foundation of the building. They asked Sara Davis to do an extra peer review as she is a structural engineer. They were asked to account for the stormwater portion of the building separately for possible future recapture. The schedule of values as presented by Desman did not contemplate that work. It was never part of Desman's contract to do that. Sara wrote the schedule of values for what was and what was not going to be stormwater. Those activities took much longer than anticipated. That component of the work and the timeframe went longer. Every other consultant, the designer and the geo-technical consultant all had additional fees authorized to do the components for stormwater work. Christopher Burke, from the master plan, was a component of that also. Benesch did not have additional fees authorized for this.

Mr. Millette said this is also going forward. It is shocking value based on percentage of total contract, but that is how much time staff anticipates, in a worst case, going forward from today to the end of the contract.

The Mayor asked if Benesch spent 280 hours reviewing the contract. Mr. Millette said that was the original proposal. It ended up about 780 hours reviewing the contract, meetings with the architect, resolution of issues.

The Mayor said she did not review the contract enough to put more than \$1,000 liquidating penalty in it.

Mr. Millette said that was something Benesch was not asked to look at. She was looking at the structural components of the contract and the pay schedule based on the stormwater issue.

The Mayor said he felt that one of the most basic aspects of the contract would be to make sure the contract is completed on time and if it is not completed on time, then there are damages.

The Mayor asked if the alleyway discussed as part of the sidewalk café was originally part of the deck and why it incurred more time to take it out. Mr. Millette said the meetings to decide to pull the alley out is what represents the time. It probably represented one meeting.

Commissioner Tully said he understands and appreciates the need to have an owner's

representative on a going forward basis. He said it may have been unrealistic to expect that the deck would be done by the time of the Heritage Festival. It is probably at the pace projects of this size should be. He is troubled because he does not feel he has enough details to justify the additional expenditure of sums for work that was already done. This is why he made the motion to table this. He is not convinced that there is enough to justify the money requested on top of what was already spent for work that was and should have already been done. He said he does not want to be unfair to Alfred Benesch & Co., but he does not have enough information to justify paying for work already done. He would like to have a better grasp on this. If there is an equitable basis for additional compensation, then it would be considered. He said he does not have sufficient basis in which to approve this.

The Mayor said more information is coming. He would be more comfortable knowing what the extra time up front was spent on. He agreed with Commissioner Tully that they will need an owner's representative to finish this project. He would like to know why so much time was spent up front to go through the contract.

Commissioner Sandack said he does not want to be unfair to Alfred Benesch & Co. either. He thinks Ms. Davis has been very helpful when she has presented information to the Council. He also agrees for the need for her continued services on a go-forward basis. He said he wants to understand the contract and talk to the Village Attorney to see if there is an obligation for a recapture component, or if the spirit of the contract was supposed to be a lump sum irrespective of what actually took place. He said it would help to have detailed billing breaking forth the number of hours expended on different components. Ms. Davis's company is asking for a large sum of money for work already done and he would like the Council to see the detail behind it to determine that it is reasonable and that it is required to be paid under the contract. Her company is asking for another significant sum of money on a go forward basis. At this point, Commissioner Sandack said he does not feel comfortable approving either request. He feels the motion to table this is entirely appropriate.

A motion was made by Commissioner Tully, seconded by Commissioner Urban, to Table Indefinitely this file. Mayor Krajewski declared the motion carried by the following vote:

Votes: Yea: Commissioner McConnell, Commissioner Sandack, Commissioner Urban, Commissioner Schnell, Commissioner Tully, Commissioner Zabloudil and Mayor Krajewski

Indexes: Central Business District - Parking Deck

ORD 00-01628 Ordinance: Amend and Create Certain Boards and Commissions

Sponsors: Mayor

Summary of Item: This will create a Transportation Advisory Commission and make certain amendments to the Tourism and Events Commission.

AN ORDINANCE AMENDING AND CREATING CERTAIN BOARDS AND COMMISSIONS

ORDINANCE NO. 4591

A motion was made by Commissioner Zabloudil, seconded by Commissioner Schnell, to Adopt this file. Mayor Krajewski declared the motion carried by the following vote:

Votes: Yea: Commissioner McConnell, Commissioner Sandack, Commissioner Urban, Commissioner Schnell, Commissioner Tully, Commissioner Zabloudil and Mayor Krajewski

Indexes: Boards and Commissions

RES 00-01639 Resolution: Repeal a Waiver of Certain Provisions of the Charter Customer Contract with the DuPage County Water Commission

Sponsors: Village Attorney

Summary of Item: This shall repeal a waiver of Subsection 12(c) of the Charter Customer Contract between Downers Grove and the DuPage County Water Commission.

A RESOLUTION REPEALING A WAIVER OF CERTAIN PROVISIONS OF THE CHARTER CUSTOMER CONTRACT WITH THE DUPAGE COUNTY WATER COMMISSION

RESOLUTION 2004-32

The Mayor asked the Manager to forward to the Council the article in The Daily Herald regarding the Water Commission. At the last meeting there was some discussion to put County Board Schillerstrom on one of the task forces. It required a super majority vote. The six municipal members voted against it. Chairman Vondra who is the appointee of the Water Commission from the County decided he would not put forward any of the new people to fill any of their subcommittees. There are four or five vacancies on the subcommittees and some may lack quorums.

A motion was made by Commissioner Tully, seconded by Commissioner McConnell, to Adopt this file. Mayor Krajewski declared the motion carried by the following vote:

Votes: Yea: Commissioner McConnell, Commissioner Sandack, Commissioner Urban, Commissioner Schnell, Commissioner Tully, Commissioner Zabloudil and Mayor Krajewski

Indexes: DuPage Water Commission

8. Mayor's Report

Materials to be Received - Minutes

Community Grants Commission - May 3, 2004

Library Board - May 12, 2004

Liquor Commission - May 6, 2004

Performing Arts Study Commission - April 17, 2004

Plan Commission - April 19, 2004

Zoning Board of Appeals - April 28, 2004

A motion was made by Commissioner Tully, seconded by Commissioner Urban, to Note Receipt Of this file. Mayor Krajewski declared the motion carried by the following vote:

Votes: Yea: Commissioner McConnell, Commissioner Sandack, Commissioner Urban, Commissioner Schnell, Commissioner Tully, Commissioner Zabloudil and Mayor Krajewski

New Business

Materials to be Placed on File

9. Manager's Report

Manager Ginex said the Village received word from the EMS Medical Director of Advocate Good Samaritan Hospital that the Downers Grove Fire Department was the winner of the 2004 Joseph Hartmann Award for Excellence. The award is given annually to the crew or department exhibiting excellence in the delivery of care in a pre-hospital setting. This arose out of an incident on April 16, 2003, where a barricaded subject ended up getting shot. Our tactical EMS unit was put into action for the first time and coordinated and treated the individual and saved the person's life. The award will be presented at the Oak Brook Hills Country Club on June 22, 2004.

The Commission on Fire Accreditation Association awarded the Village an approval of statement of findings indicating that our Fire Department was in compliance last year with all of the reporting requirements.

A number of police officers on the SWAT Team competed in an annual SWAT competition downstate. Officers Jeff DeZur, Ken Lister and Jeremy Thayer worked with three other individuals from the FIAT SWAT Team. On March 24-26, they competed in a number of competitions. Our team competed in a six-man competition. The team won three awards: 1st place for hostage rescue; 2nd place for a team carbine course; and 3rd place in the challenge course. Two of our officers won competitions: Officer Ken Lister earned 1st place for the Sniper Competition and 2nd place for the carbine course; Officer Jeff DeZur earned 1st place in the Ironman Competition. He congratulated the officers. They paid their own way to compete. They did a great job.

The Manager said he passed out to the Council a proposal from the Downers Grove Rotary Club. They came to the Council a few months ago discussing a project - a design competition for a monument and mural. They have put together a proposal and the Manager asked the Council to get back to him with any comments by the end of the week so the Rotary can begin the competition.

10. Attorney's Report

Future Active Agenda

11. Committee Standing Reports

Finance Committee

Commissioner Zabloudil said the Finance Committee did not meet this evening.

Public Safety Committee

Commissioner McConnell said they met this morning. They had three agenda items and met separately with the Fire and Police Departments.

The first item was an update on the mission statement. The Public Safety Committee would like to write a mission statement, but believe they should delay it until the Village's overall mission statement has been reviewed and updated.

Also discussed were capital expenditures. This was discussed in two phases: 1) Facilities - a subgroup of the Mayor and Commissioner Urban are looking at this. Police & Fire will provide any information and feedback the subgroup feels may be useful. Some information on a previous fire station location study that was done in 1999 was provided. Commissioner McConnell will pass that information onto the Mayor and Commissioner Urban. 2) The Public Services Committee will focus on equipment and other related capital expenditures for the next five years. They have the Police Department's five year plan already as they are required to do it as part of their accreditation. The Fire Department will be working on theirs and anticipate bringing it back to the Committee in mid-August.

An issue the Fire Department discussed has to do with the Village's ISO rating. We currently have a ISO 3 rating in the Village. A significant portion of the ISO rating is related to the water supply capabilities. With our new tower and some additional changes being made in hydrant maintenance, the Fire Department believes that the Village may be able to move up its ISO rating. The Fire Department will compile some information regarding this.

The last item discussed was current trends and issues. In the Fire Department, they are getting ready to do some firefighter testing. She mentioned the Hartmann award. The Command staff, including chiefs and company officers, are attending a series of classes to help them with their skills at managing large and comprehensive incidents. In the future staff will need to show

proof of this training when applying for any federal funding. Regarding the Save a Heart campaign, a girl raised over \$300 at last night's Friday night car show.

Regarding the Police Department, the Village will be sending a person to a seminar in Washington, DC related to incident commands and terrorism. The Department of Justice will be paying for it. Chief Porter will be attending the FBI Academy for ten weeks starting in September, paid for by the Department of Justice. She said our relationships with these agencies is paying off for us.

There has been an increase in calls for police service. Year-to-date they are up about 9.4%. The Police Department will need to conduct a survey related to where our traffic comes from to determine what the community looks like based on profiling of traffic tickets. The Village is required by State mandate to do this new reporting. The data will become available to the public in Summer 2005. We do not currently know the distribution of our traffic because during the daytime we have people who drive on our streets, but do not live here. We need to develop a credible way to determine who is using our streets, not just those living here. This needs to be done by July 2005 and we may not be able to wait until next year's budget to begin this work. It would behoove us to make this a priority.

In response to Mayor Krajewski, Commissioner McConnell said the Village did not hire Northwestern to do this. The Manager said it was in the budget in the preliminary discussions. Hinsdale hired them to do their study. Commissioner McConnell said the Police Department has identified a person who has skills in this area that may work for us.

The Mayor said there is the issue of the diversity of people working in buildings in Downers Grove, and the diversity of people who drive through Downers Grove going from point A to B.

Public Services Committee

Commissioner Tully said he has two meetings to report on. The first was a Public Services Committee meeting. It was a good opportunity to meet with the Director of Public Works, Dave Barber, and his senior staff on a whole host of issues including an update on the grinder purchased a number of years ago. The grinder has been a success and has saved the Village money, but its use probably has not been maximized. He expects it will be in the future. They also discussed some organizational changes within Public Works which should improve communication and effectiveness. They discussed periodic progress reports, perhaps quarterly, to the Council including the status of major capital projects. One of the Committee's tasks is to discuss capital projects and prioritization. They will continue to meet on that to come up with a ranking of the highest priority items within each category of streets, sidewalk, stormwater, etc., as well as overall highest priorities.

Commissioner Tully then reported on the meeting of the Local Transportation Subcommittee. The purpose was to keep momentum going with respect to taking steps on a budget neutral basis to enhance the Commuter Shuttle service, which is now solely a commuter shuttle service. Until the Transportation Advisory Commission, created tonight, can be appointed and take over the task, the Local Transportation Subcommittee will meet again. The next meeting is scheduled for June 17 at 6:00 p.m. At the last meeting they discussed advertising. It is proposed that the buses will be outfitted with frames to carry advertising. They will follow their own advertising policy and will solicit local businesses who want to advertise. The Committee feels there are many businesses who would want the chance to have an ad on a bus that is sitting in front of the train station when people get off the train. They recommend bus stops be identified with signs. They further recommended other ideas to better promote and market the buses in order to meet their goal of increasing ridership by 50% by this time next year. The final recommendation is to adjust the fees. One of the cornerstones of trying to enhance this

service is to adjust the rate schedule. The Subcommittee unanimously approved a revised rate schedule. These recommendations will be coming for Council approval shortly.

12. Council Member Reports and New Business

Commissioner McConnell said the Partnerships for Healthier Communities met on May 21, 2004. They reported on the downtown dialogue group, which was trying to address summer issues involving teenagers in town and promoting harmony between businesses and the teens. The meeting was well attended. The Downtown Management Corporation helped facilitate the meeting as did our Police Department and others. The COP program has been very beneficial to them. They plan to get together in the fall to see how things went this year.

Passport for Safety Day will be October 2 at the Park District Recreation Center. It was well-received last year, but needs additional promotion.

DuPage County Health Department has several initiatives: They are facilitating rescue type activities as well as activities to counter bio terrorism. Historically they have focused on medical issues. They received a grant that will allow them to expand beyond medical to create a citizen's corporation looking at additional issues, not just bio terrorism. In that regard, a meeting will take place on the June 9. Information can be found on the DuPage County Health Department web site. An exercise for those involved in this effort will take place on August 18. Details are still being planned. The Health Department is also looking at the tobacco initiative. There are only 19 cities in Illinois which can be smoke-free. Downers Grove is one of the cities that has this opportunity. We will receive information that we can use to evaluate this. Lastly, the County is beginning to promote a 10,000 Steps program. The concept is that anyone can be healthier just by walking 10,000 steps a day. Most people walk between 3,000 and 6,000 steps a day. The Health Department is looking to promote this program through team competitions and other activities.

Commissioner Tully asked that a discussion with respect to a comprehensive outdoor cafe license ordinance be put on a Workshop agenda relatively soon. This would encompass both outdoor cafes that reside on private property as well as outdoor cafes that reside upon public property. We do not have many cafes on public property. When Founders Hill applied for a license several years ago, there was discussion of a number of issues and tonight there was discussion about a number of issues concerning outdoor seating and outdoor cafes on public property. He believes the Council needs a comprehensive forward-looking view as to how these should be handled because there will be future applications for outdoor seating areas and the Council wants to encourage such licenses in respect to the Council's efforts and investments in the downtown. Council received ordinances from a number of different Villages regarding how they deal with outdoor cafe licenses. This raised a number of interesting issues such as lease or rental fees, notices, pedestrian access and loitering, refuse, liquor restrictions, and sound and noise issues. He urged the Council to be proactive on this point. He asked for the Council's support of this. He said it would be important to get community input on this matter.

Commissioner Urban said he would like to move this forward and would like to look at the temporary use licenses for outside seating. He said there seems to be confusion regarding the temporary use licenses and the outdoor cafe licenses.

The Mayor said there is a majority of the Council that would like to look at this issue.

Commissioner Tully said an ordinance was passed tonight creating a Transportation Advisory Commission. The purpose is to have a seven-member board that would consider issues pertaining to transportation. It is primarily a commuter issue but touches upon the Commuter Shuttle service, commuter parking lots, the new parking deck, usage, rates, etc. The board would also serve as a sounding board for resident and staff issues that pertain to transportation

and commuter subject matters. Commissioner Tully encouraged interested residents to submit an application to the Village web site or through Village Hall. He said they would be moving very quickly to appoint members. He thanked those who have already expressed interest.

Commissioner Tully thanked those that made the Memorial Day ceremonies at Fishel Park possible, particularly American Legion Post 80, the Downers Grove South Marching Mustangs, and all the scouts. He said it was a very moving and humbling ceremony honoring those who protect our freedoms.

Mayor Krajewski asked if all establishments with outdoor seating need a license.

Village Attorney Petrarca responded affirmatively.

The Mayor asked about Parker's Ocean Grill and others.

Ms. Petrarca said when a permanent structure is built the establishments get special uses. Temporary use license are only good for 180 days. If they have a special use, they do not need a temporary use license.

Regarding the Save Your Heart fund, the Mayor said that George Nicholaou reports that in three weeks over \$21,000 has been raised. He thanked all the residents and businesses that have contributed.

The Mayor thanked the American Legion for inviting him to speak at the Memorial Day service. He thanked Judy Barr Topinka's office for their participation.

The Mayor said he had the opportunity to throw out the first pitch at the tournament of the Downers Grove Longshots. Sixteen teams including two Downers Grove teams participated. It was a very well-run tournament based on the comments received. Commissioner Zabloudil helped organize it.

The Mayor asked the Village Attorney to review the requests for physicals made by the Police and Fire pension boards for those who have disability pensions. Ms. Petrarca said the pension boards have this authority. The Mayor asked that staff check how many times those requests for physicals have been made over the last several years.

13. Adjournment

Commissioner Tully moved to adjourn to Executive Session pursuant to Section 2(c)(1) of the Open Meetings Act to consider personnel and pursuant to 2(c)(2) to consider collective negotiating matters. Commissioner Urban seconded.

VOTE: YEA - Commissioners Tully, Urban, Sandack, Zabloudil, McConnell, Schnell, Mayor Krajewski

Mayor Krajewski declared the motion carried and the Council convened into Executive Session at 8:55 p.m.