



Village of Downers Grove Meeting Minutes Downers Grove Village Council

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

Tuesday, August 9, 2011

7:00 pm

Council Chambers

1. Call to Order

Mayor Martin Tully called the regular meeting of the Village Council of the Village of Downers Grove to order at 7:00 p.m. in the Council Chambers of the Downers Grove Village Hall.

Pledge of Allegiance to the Flag

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

2. Roll Call

Present: Commissioner Marilyn Schnell, Commissioner Bob Barnett, Commissioner William Waldack, Commissioner Sean P. Durkin, Commissioner Becky Rheintgen and Mayor Martin Tully

Absent: Commissioner Geoff Neustadt

Non Voting: Village Manager David Fieldman, Village Attorney Enza Petrarca and Village Clerk April Holden

Commissioner Durkin arrived at 7:03 p.m.

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 of a general matter. If a public hearing is scheduled for this meeting, an opportunity is given for public comments and questions related to the subject of the hearing. Finally, an opportunity is given for public comments and questions on items appearing on the Consent Agenda, the Active Agenda and the First Reading.

The presiding officer will ask, at the appropriate time, 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. Remarks should be limited to five minutes, and asked that individuals refrain from making repetitive statements.

Mayor Tully said there are agendas located on either side of the Council Chambers, and he invited the audience to pick up an agenda and follow the progress of the Council meeting.

3. Minutes of Council Meetings

Council Meeting - August 2, 2011

Mayor Tully asked for a Motion to approve the minutes as submitted.

Commissioner Schnell moved to approve the minutes as presented. Commissioner Barnett seconded the motion.

The Mayor declared the Motion carried by voice vote.

4. Public Comments - General Comments on Matters Not Appearing on Tonight's Agenda

Tom LeCren, 545 Chicago, said he missed last week's meeting regarding the stormwater utility. He would like people to consider sump pump discharge and referenced the ordinance regulating discharge. If you are within 200 feet of a storm drain you can connect directly to the storm sewer whereas others cannot and must keep their discharge within five feet of their lot line.

5. Public Hearings

6. Consent Agenda

BIL 00-04590 A. List of Bills Payable: No. 5924, August 9, 2011

Sponsors: Accounting

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

Indexes: N/A

BID 00-04586 B. Bid: Award \$438,292.50 to Martam Construction, Inc., Elgin, IL, for the Davis Street Storm Sewer Improvements

Sponsors: Public Works

Approve

Indexes: Storm Sewers

BID 00-04587 C. Bid: Award \$304,765 to Martam Construction, Inc., Elgin, IL, for the Washington Street Storm Sewer Replacement

Sponsors: Public Works

Approve

Indexes: Storm Sewers

RES 00-04578 D. Resolution: Approve Final Plat of Consolidation for 336 Ogden Avenue

Sponsors: Community Development and Plan Commission

Summary of Item: A RESOLUTION APPROVING THE FINAL PLAT OF CONSOLIDATION FOR 336 OGDEN AVENUE

RESOLUTION 2011-52

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

Indexes: Consolidation Plat

RES 00-04579 E. Resolution: Approve Final Plat of Subdivision for 226 6th Street

Sponsors: Community Development

Summary of Item: A RESOLUTION APPROVING THE FINAL PLAT OF SUBDIVISION FOR 226 6TH STREET

RESOLUTION 2011-53

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

Indexes: Subdivision, Plan Commission, Subdivision - 226 6th Street

RES 00-04594 F. Resolution: Authorize Submittal of Application to the DuPage Mayors and Managers Conference for FY 2012 Surface Transportation Program (STP)

Sponsors: Public Works

Summary of Item: A RESOLUTION AUTHORIZING SUBMITTAL OF APPLICATION TO THE DUPAGE MAYORS AND MANAGERS CONFERENCE FOR FY 2012 SURFACE TRANSPORTATION PROGRAM (STP)

RESOLUTION 2011-54

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

Indexes: STP Funding

MOT 00-04592 G. Motion: Note Receipt of Minutes of Boards and Commissions

Summary of Item: Library Board - July 13, 2011

Plan Commission - June 6, 2011 & July 11, 2011

Zoning Board of Appeals - April 27, 2011

A motion was made to Note Receipt Of this file on the Consent Agenda.

Indexes: Boards and Commissions Minutes

Passed The Consent Agenda

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

Votes: Yea: Commissioner Schnell, Commissioner Barnett, Commissioner Waldack, Commissioner Durkin, Commissioner Rheintgen and Mayor Tully

7. Active Agenda

ORD 00-04580 A. Ordinance: Authorize a Special Use for 333 Ogden Avenue to Permit an Automobile Dealership

Sponsors: Community Development

Summary of Item: This will authorize a specialuse to permit an automobile dealership at 333 Ogden Avenue.

AN ORDINANCE AUTHORIZING A SPECIALUSE FOR 333 OGDEN AVENUE TO PERMIT AN AUTOMOBILE DEALERSHIP

ORDINANCE NO. 5203

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

Votes: Yea: Commissioner Schnell, Commissioner Barnett, Commissioner Waldack, Commissioner Durkin, Commissioner Rheintgen and Mayor Tully

Indexes: Plan Commission, Special Use - 333 Ogden Avenue

RES 00-04589 B. Resolution: Abrogate a Certain Portion of a Public Easement in the Village of Downers Grove - 898 Ogden Avenue

Sponsors: Community Development and Plan Commission

Summary of Item: This abrogates a certain portion of a public easement located at 898 Ogden Avenue.

A RESOLUTION ABROGATING A CERTAIN PORTION OF A PUBLIC EASEMENT IN THE VILLAGE OF DOWNERS GROVE - 898 OGDEN AVENUE

RESOLUTION 2011-55

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

Votes: Yea: Commissioner Schnell, Commissioner Barnett, Commissioner Waldack, Commissioner Durkin, Commissioner Rheintgen and Mayor Tully

Indexes: Subdivision - 898 Ogden Avenue, Abrogation - 898 Ogden Avenue

RES 00-04582 C. Resolution: Approve Final Plat of Subdivision and Accept Certain Public Easements for 898 Ogden Avenue

Sponsors: Community Development and Plan Commission

Summary of Item: This approves the final plat of subdivision and accepts certain public easements for the property located at 898 Ogden Avenue.

A RESOLUTION APPROVING THE FINAL PLAT OF SUBDIVISION AND ACCEPTING CERTAIN PUBLIC EASEMENTS FOR 898 OGDEN AVENUE

RESOLUTION 2011-56

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

Votes: Yea: Commissioner Schnell, Commissioner Barnett, Commissioner Waldack, Commissioner Durkin, Commissioner Rheintgen and Mayor Tully

Indexes: Subdivision, Subdivision - 898 Ogden Avenue

ORD 00-04581 D. Ordinance: Authorize a Special Use to Permit a Service Station at 898 Ogden Avenue

Sponsors: Community Development and Plan Commission

Summary of Item: This authorizes a special use to permit a service station at 898 Ogden Avenue.

AN ORDINANCE AUTHORIZING A SPECIAL USE TO PERMIT A SERVICE STATION AT 898 OGDEN AVENUE

ORDINANCE NO. 5204

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

Votes: Yea: Commissioner Schnell, Commissioner Barnett, Commissioner Waldack, Commissioner Durkin, Commissioner Rheintgen and Mayor Tully

Indexes: Special Use - 898 Ogden Avenue, Subdivision - 898 Ogden Avenue

8. First Reading

ORD 00-04597 A. Ordinances: Annex Certain Territories to the Village of Downers Grove, Illinois

Sponsors: Manager's Office and Community Development

Dave Fieldman, Village Manager, said this matter concerns annexation of certain territories to the Village. He outlined reasons for considering annexation. It improves service delivery

efficiencies, aligns cost of services with those who benefit, and enhances the Village revenue base. The annexation initiative is a 2011 high priority action item for the Village Council and was discussed as part of the 2010-12 Long Range Financial Plan and the 2010 annexation analysis and plan.

Mr. Fieldman reviewed the process and schedule for the annexations. A meeting of the Finance & Administrative Committee was held on May 11, 2011, followed by three neighborhood meetings held May 21 - June 2, 2011. Official notice letters were sent to the affected property owners on June 14 and July 15, 2011. Tonight is the first Council meeting discussing these annexations and the ordinances will appear on the Active Agenda at the Council's August 16, 2011 meeting for a final vote. Mr. Fieldman said information has been available on our website and includes frequently asked questions, a map of the annexation areas, sample property tax bills, reports and meeting minutes.

All of the territories under consideration qualify for involuntary annexation. The annexations would be effective January 1, 2012. Those properties would then qualify for Village services including street maintenance, new sidewalk program, and stormwater management programs.

Mr. Fieldman presented a map depicting the areas to be annexed. They include properties near 39th & Glendenning; Ogden & Cross; 63rd & Springside; 75th & Main and Fairview & 66th.

Commissioner Barnett asked if any of these areas are not served by municipal water. The Manager said there are a few areas in the northwest and southeast that are not served by municipal water. He said a policy issue related to when and how the Village extends watermains into those areas and how they will be paid for will be brought forward later. The Village currently has an ordinance and agreements with the Environmental Protection Agency (EPA) that prohibit drilling new wells. If an existing well fails, the property must be served by Village water. To address this issue, the Village will be designing watermains to serve these areas immediately, to be installed at a later date. If a well fails and there is an immediate need to install a watermain, staff would proceed accordingly. A policy issue that will be presented at the time of watermain extension is how to pay for them. Mr. Fieldman outlined available options: 1) A recapture ordinance which would cover the cost of the construction and would require residents to pay their share of the watermain construction cost once they connect to the system; or 2) Using proceeds from the planned Water Fund bond issuance to pay for the construction of the watermains and recoup the fees through the normal user fees. Residents with a functioning well can continue to use their wells and maintain them. Only if the well completely fails would they have to connect to the watermain.

Commissioner Barnett asked if there is an estimated change in EAV. Mr. Fieldman said staff did not find a direct correlation to just the watermain; however, generally there is a higher EAV when municipal services are provided in front of your property.

Commissioner Durkin said at the meeting held May 11, there was only one resident that attended whose property is to be annexed ; however, the meeting was attended by many residents of the 39th & Glendenning area who are not being annexed.

The Mayor asked when this would come before the Council for a vote. Mr. Fieldman said it is scheduled for next week, but effective January 1, 2012.

The Mayor asked for questions and comments from the audience.

Vanessa Culver, Village Square Condominiums, asked what Village services she will be receiving as a result of annexation. Mr. Fieldman said she will receive all services, including police, fire, public works, and library, except sanitary sewer, which is handled by another municipal body. In response to Ms. Culver, Mr. Fieldman said residents in this area would continue to pay taxes toward the Indian Prairie Library bond until the bond is retired. Mr.

Fieldman said he would provide information as to the life of the bond.

Stephanie Glaser, 3848 Glendenning, said she is working with Public Works in regard to a drainage issue. She said she is currently part of York Township and those properties in York Township will have the highest increase in taxes when they are annexed. She noted that York Township does snow plowing and does it faster than the Village. She is already part of the Park District. She asked as to the benefits of the additional \$1,000 in taxes.

Scott Hollmeyer, 6235 Springside, expressed his displeasure at not being sent letters regarding the first meeting. He still gets letters addressed to the previous owner. He said he is concerned about the enhanced revenue base. He is currently on a septic system and he is concerned he will be forced to go on the Village system. The Mayor said the annexation will not affect the Sanitary District. Mr. Hollmeyer said the Village Manager can condemn his sewer system. He is concerned this will turn into an "assessment city" and that curbs and sidewalks will be installed. This will amount to a de facto eminent domain that will force him to move. He wants lower middle class people to still have a home in Downers Grove. The Mayor said there is a long list of areas needing curb and gutter.

Preston Straub, 7318-2 Winthrop Way, Village Square Condominiums, asked if their water lines could be dedicated. Mr. Fieldman responded that their water mains are privately owned. Mr. Straub asked if they will receive benefits of sidewalks, etc. The Mayor said all residents and businesses benefit from sidewalks and streets. Mr. Fieldman said the area is served by a public sidewalk, but the interior portion of sidewalks is privately owned. Mr. Straub asked if the condo owners could get a portion of their taxes back to take care of their streets and sidewalks. The Mayor said there are examples of creative partnerships that could be discussed. Mr. Straub asked if the Village would enforce occupancy restrictions. Mr. Fieldman said the Zoning Ordinance and the International Property Maintenance Code could be reviewed. The Village does not have a rental dwelling inspection program. Mr. Straub said his area is currently served by the Darien/Woodridge Fire Protection District. He asked what the expected response time will be by Downers Grove. Mr. Fieldman said the Village has a mutual aid agreement with Darien/Woodridge and whichever department can respond faster will do so.

Steve Chalmers, 4848 Francisco, said his street does not have a watermain, so the issue of recapture becomes very important. He is not sure why there is no watermain. He feels this is a water district responsibility. He is concerned about the total cost. Mr. Fieldman said the estimate cost is \$200 per linear foot for the watermain plus additional fees to tap into the watermain, etc. Mr. Chalmers said this would be a \$20,000 expense which represents 10% of his home value. He said this seems unfair to him. Mr. Fieldman said the Village will work with homeowners when water mains are necessary. The Mayor said the Village will be open minded in terms of creativity.

Shirley Walker, 5S146 Francisco, asked Council to rethink the recapture fees for Village watermain construction costs. She thinks taxes should be used to pay for water. The policy places an unfair burden on taxpayers. She asked that Council reconsider this unfair policy.

Mike Crowell, 7445 Webster, said he moved to his house two years ago because it is in unincorporated Downers Grove. He doesn't need another tax bill. Sidewalks are not needed in his area as it will ruin the yards. He is not happy that the residents do not get to vote on this.

Porus Dadabhoy, 216 39th Street, said he lives in an area that may be subjected to annexation in the future. This seems to be self-serving when the economy is bad and annexation may not be appropriate at this time.

Tim Truhlar, 1634 63rd Street, asked what would happen if the sewer system is needed for some, but not all houses in an area. Mr. Fieldman said this would be handled by the Sanitary District and said he will provide contact information to Mr. Truhlar.

Gerald Dawes, 3840 Wilcox, asked if the Village has considered a referendum on annexation. The Mayor said we can only call for a referendum for our own citizens. Mr. Fieldman said only the residents of the Village of Downers Grove would have the right to vote on such a referendum. The Mayor said he does not know if there is a State vehicle by which this could be done. In further response to Mr. Dawes, the Mayor said the Council cares deeply about how citizens and property owners feel. This has been under discussion for two years. We are following the vehicle State law allows. Mr. Dawes asked if property owners could voluntarily have their property annexed into the Village. Mayor Tully said they could, when specific criteria are met. Mr. Dawes said one of the key benefits as explained by the Village Manager is to better align the cost of services to those who benefit from them and it appears there is already a mechanism to allow that by allowing people who want to become part of the Village to do so. The Mayor reiterated that they must qualify to be annexed. There are some situations where people cannot voluntarily be annexed into the Village, so in some respects, this provides a vehicle for annexation that might not be available to an individual.

A speaker noted there is a vehicle for Illinois citizens to put a referendum on the ballot. He asked a question concerning who issues "letters of intent to incorporate." Mr. Fieldman said he is not familiar with the terminology, but will work individually with the speaker. The speaker said when homes were built in the North Fairview area, agreements were signed when people bought or built their homes. Mr. Fieldman said the Village has a vehicle similar to that which is a preannexation agreement and is required to receive Village water services for those who reside outside the Village boundaries. These agreements are for 20 years and expire at the end of that term. In further response, Mr. Fieldman said he will provide information as to when water and sewer was installed in the North Fairview area.

Tom Szot, 3848 Florence Avenue in the North Fairview area, said in May the North Fairview group presented a petition to the Finance and Administrative Committee signed by a majority of residents as opposed to annexation. The residents live in York Township. They have unbeatable winter services, and in summer, the Township picks up branches, limbs, etc. while in Downers Grove there are still branches to be picked up. Year after year, York Township has provided very efficient services. He asked why would they pay more to receive less. That is why they are against annexation.

Donna Samiec, 4615 Drendel, offered a solution to the referendum issue. She said the Village could send a ballot by registered mail to all the affected parties. The Mayor noted that this would not be an election, but rather a survey. Ms. Samiec said that if the areas under discussion are involuntarily annexed, the Council members would be their Council members. The Mayor agreed and said that Council would be reporting to them.

A speaker said she lives in the unaffected area and does not want to be annexed. Commissioner Durkin said this area is greater than 60 acres, which is larger than what can be considered for involuntary annexation. The speaker said the North Fairview district is the affected area and it has been reduced by five lots. It will be picked apart until it is within the eligible size.

Michelle Kelly asked if, once the five parcels are annexed, the remaining areas will be able to be annexed. Mr. Fieldman said they could not be.

Indexes: Annexation

ORD 00-04591

B. Ordinance: Authorize a Special Use for 160 Ogden Avenue to Permit a Drive-Through Window

Sponsors: Community Development and Plan Commission

Mr. Fieldman asked Tom Dabareiner, Director, Community Development, to address this matter.

Tom Dabareiner, Director, Community Development, said the petitioner is requesting a Special Use to construct a drive-through window onto an existing Panera Bread restaurant at 160 Ogden Avenue. Staff is seeking approval of this ordinance on the August 16, 2011 Active Agenda. Mr. Dabareiner showed the location of the property at the northeast corner of Ogden Avenue and Cumnor Road. It is zoned B-3, General Services and Highway Business.

The petitioner is proposing a 550 s.f. one-story addition to the southwest facade to house the drive-through window. Five parking spaces would be removed, but this will still meet the parking requirements per Section 28.1410 of the Municipal Code. The petitioner will remove eight trees and numerous shrubs. New landscaping with shrubs and ornamental grasses will be required around the proposed drive-through lanes. The proposal meets the bulk requirements of the Zoning Ordinance, and sidewalks will not be impacted. This was considered by the Plan Commission on July 11, 2011. The Plan Commission expressed concerns regarding the proximity of the drive-through lane to the sidewalks along Ogden Avenue and Cumnor Road, and the potential for headlights to shine into the adjacent rights-of-way. The petitioner has addressed those concerns by proposing installation of a nine-inch barrier curb along portions of the drive-through lane and installing an evergreen hedge row to eliminate headlights shining into adjacent rights-of-way. The Plan Commission recommended approval unanimously and staff concurs with this recommendation.

Commissioner Schnell said the trees appear to be outside the lot boundary.

Russ Whitaker, attorney for the petitioner, said the lot is part of a larger PUD. What appears to be outside the lot is part of the PUD and the petitioner has the owner's permission to do this.

Commissioner Schnell asked if there will be agreement between the owner and the tenant.

Mr. Whitaker said they are one and the same.

Commissioner Schnell said she has concerns with the site plan in terms of the exit of the drive-through and the proximity of the handicapped parking spaces and the outside eating area.

Mr. Dabareiner said there would be signage to direct drivers. He said the Plan Commission and staff felt this option had the least impact on the handicapped parking area.

Commissioner Schnell asked if curbing could be used to direct drivers through the lane or to better define the exit.

Mr. Whitaker said the petitioner plans to have a stop sign, pavement markings and a new landscape island between the egress of the drive-through and the handicapped parking spaces.

Commissioner Schnell said she would like to look at the plans.

Commissioner Barnett asked as to the recourse should there be problems.

Mr. Fieldman said all Special Uses have to continue to meet the Zoning Ordinance standards. There is a process for a hearing to remedy problems or to rescind the Special Use.

Mr. Dabareiner added that the property would be subject to the International Property Maintenance Code and could be ticketed if in violation.

Commissioner Rheintgen suggested that developing the curb to force drivers to the right would address Commissioner Schnell's concern.

Mayor Tully said this is a permitted Special Use request in support of a thriving business. It is consistent with the Zoning Ordinance, Section 28.1902 which provides the standards for approval of a Special Use. It is a Special Use that is allowed, it is in a part of town where we like to have drive throughs and it would support our economic base. He would like to see this business in this area continue to succeed. He said Commissioner Schnell's question is directed at the provision of the Special Use criteria that refers to not being detrimental to the health, safety, morals, and general welfare of persons residing or working in the vicinity or injurious to property values or improvements in the vicinity. Mayor Tully said he appreciates the fact that these issues were raised at the Plan Commission level. In working with the Plan Commission and staff, many improvements and suggestions have been made and he is confident that accommodations will be made to make sure this meets the Special Use criteria.

Tom LeCren, 545 Chicago Avenue, asked as to the distance between the drive-through and the sidewalk.

Mr. Whitaker said it is 2-1/2 feet. Mr. LeCren said this is not enough space to plant properly.

Indexes: Special Use - 160 Ogden Avenue

ORD 00-04595

C. Ordinance: Final Planned Development Amendment to Planned Development #31 for Additions to the Existing Parking Garage and the Construction of a New Six-Level Parking Garage

Sponsors: Community Development and Plan Commission

Mr. Dabareiner said an ordinance has been prepared for a Final Planned Development amendment to Planned Development #31 for Sara Lee at 3500 Lacey Road. This is to construct a five-story addition to the south side of the existing parking garage with a side yard setback variation, a five-story addition to the north side of the existing parking garage, and a new six-level parking garage with a side yard setback variation. This construction is proposed to occur in three phases. Staff is seeking approval of the ordinance on the August 16, 2011 Active Agenda.

The property is zoned ORM, Office, Research and Manufacturing, and includes a detention basin on the west side of the parcel, a 600,000 s.f. office building, and a parking garage. The petitioner is requesting approval, but does not intend to pursue immediate construction.

The property currently complies with the parking requirements; however, the existing parking ratio may not meet the needs of future tenants. Phase A is construction of a 62 foot by 300 foot addition to the south side of the existing garage. Phase B is the construction of a 62 foot by 167 foot addition to the north side of the existing garage. Phase C is the construction of a new six-level, 203,634 s.f. parking garage along the north property line.

The Plan Commission found that this request meets the requirements for a final planned development amendment and that the variance requests promote an integrated site plan per Section 28.1615 of the Zoning Ordinance. The Plan Commission recommended approval and staff concurs.

Commissioner Schnell said she is not in favor of the side yard variances as they are huge and brings the height of the building to pedestrian level. This location is next to the Forest Preserve which originally thought the request was for a two foot variance. This is much larger. The Forest Preserve expressed hope that the Village would adhere to its zoning requirements. Commissioner Schnell noted that the Council held Midwestern University held to a standard that the setback and landscape fit in. She feels people will see the height rather than greenspace. She feels they are asking for a variation that is excessive. She also noted that there is not currently a tenant that needs this. She said she is very uncomfortable with this.

Commissioner Durkin asked if there is a definite need for this as there is currently no parking issue. He asked if this is due to the possibility of Sara Lee leaving and this request is to open the space to new tenants.

Beth Simmons, Hamilton Partners, said this project is very important to this property. The building is for corporate tenants. Sara Lee may downsize; she does not have information that she can share, but there is always discussion about reduction and/or leasing some of the floors. She said the site plan shows that the building dissects the property from north to south. All of the pedestrian entrances are on the north or east side of the property. There are limited possibilities for parking. She asked the Council to consider that a PUD is a long process and Hamilton Partners needs to be prepared to move quickly. It is imminent. They cannot lease space with the parking currently available. Regarding the Forest Preserve issue and the setback, Ms. Simmons noted that Midwestern University does not have pedestrian ways between the properties - they have service drives depressed down to a basement level. There are large retaining walls five to ten feet off their property. She noted that they have ten foot setbacks in their PUD. Midwestern University has expressed no reservations regarding the setback. The south setback against the Forest Preserve has a 60 foot Forest Preserve access and is not currently used as a roadway to get to Hidden Lake Preserve. They use Hamilton Partners driveway to get to their parcel. Ms. Simmons said this is a five-story addition, but only two stories are in the air. There is no impact to the tree canopy or the slope of their property.

Commissioner Durkin asked if the Economic Development Corporation has a position on this matter. Mr. Fieldman said staff will get that information.

Commissioner Durkin asked if, in regard to the six-level garage, three stories could be above ground and three stories below ground. Ms. Simmons said it would be below the storm drainage.

Commissioner Durkin asked the cost of this project. Commissioner Durkin said it is important to note the investment they are making to their property. He says he supports this request.

Ms. Simmons said preliminary estimates on a per stall basis is \$15,000 to \$17,000.

Commissioner Barnett said the proposed addition looks similar to the footprint of the existing pavement on the south border.

Ms. Simmons said that was correct and parts of the curb will be ripped up.

Commissioner Barnett asked if the petitioner would consider a larger north end structure. Ms. Simmons responded that the least impact to the site is the south addition.

Commissioner Rheintgen said it would be helpful to see the Midwestern University plan.

Commissioner Waldack said he shares some of Commissioner Schnell's concerns and thanked Ms. Simmons for her explanations. He said he has not made a decision on this matter. Initially he was against this. He said Council is expected to project what might happen and is being asked to grant a variance in advance of need, which presents a problem for him. He commented

that the Forest Preserve has a right to expect the Village to follow the rules. When Northwestern University came before the Village, it did not take a long time to process the petition and approve it. The Village has the capability to move quickly. If this is approved, including the variances, this could come up year after year. He reiterated that he has a problem approving variances ahead of the need with nothing substantive.

Ms. Simmons noted that the Northwestern University project is a 2-1/2 year project while their projects are six month projects and if they are not ready, they could potentially lose tenants.

Commissioner Durkin noted that this is Class A property and if they lost tenants this could easily go down a grade and become less desirable. This is a landmark building.

Commissioner Barnett asked if there are similar situations elsewhere in the Village where a landowner is ready for a tenant if one comes forward. The Manager said there were.

Mayor Tully said it is unusual to have a request from a petitioner to receive approval of a plan with variances in advance of a tenant, but what is not unusual, is the Village's commitment to economic development. One of the major goals of the Village is to maintain the Village as a vibrant economic base for the entire community. The petitioner wants to position the property for optimal use and occupancy when the time arrives. We have an EDC, we are proactive, innovative and creative when it makes sense and is within reason. While this request is unusual, it is not unprecedented. The Mayor said the Village is as interested in full occupancy of the building as the petitioner is. He has no problem doing this on a proactive basis. It is planning for what might happen and being well positioned for it. The Mayor said he thinks the variances are reasonable and make sense. He would hate to lose an outstanding tenant.

The Mayor then asked about the traffic study submitted by the consultant and the reference to the limitations due to time constraints.

Ms. Simmons replied that there were two issues: They were asked to do a traffic study quickly due to amount of parking being added. More parking spaces does not necessarily mean more cars. They did a one day traffic count. Usually a two to three day count is done. She said they have counts for the facility on a daily basis and the traffic consultant had access to that information. Ms. Simmons said the second issue pertains to Section 4 #8 of the proposed ordinance. At the south entrance at the Forest Preserve, the land is so much higher than the service drive and there is a difference between Lacey Road and their entrance which creates a visual block at the entrance. The ordinance is asking them to look at this to determine if there is anything they can do to fix that issue.

The Mayor asked if the parking study is sufficient for the petitioner's as well as the Village's purposes. The Manager said it is.

Frank Falesch, 820 Prairie, asked if the retention basin is required. He suggested moving all the parking to the north of the south building.

Ms. Simmons said the retention basin on the east side is a water feature that acts as detention. On the west side is the detention basin. The east side is a conveyor to the west detention basin. The road is existing and not proposed to be changed.

Indexes: Planned Development #31 - Esplanade at Locust Point

ORD 00-04596

D. Ordinance: Amend Liquor Serving Hours

Sponsors: Liquor Commission

The Manager said Village Attorney Enza Petrarca would present information on this item.

Enza Petrarca, Village Attorney, said this ordinance is a follow-up ordinance to an amendment the Village Council considered six months ago. That amendment extended the liquor service hours on Friday by one hour, to 2:00 a.m. Included in the ordinance was a sunset clause due to expire on September 1, 2011. During that time, staff was asked to closely monitor police activity and service calls directly related to this additional hour. Staff has done that and has determined that it has not increased due to the extra hour. This was discussed by the Liquor Commission at their May and July meetings. The Liquor Commission recommends removing the sunset clause. This ordinance removes the sunset clause and makes the 2:00 a.m. Friday closing permanent.

The Mayor said this maintains the status quo.

Indexes: Liquor Ordinance Amendments

RES 00-04593 E. Resolution: Amend the Downtown Special Service Area Operations Agreement with Downtown Downers Grove, Inc.

Sponsors: Manager's Office

Mr. Fieldman said this is a request for an amendment to the agreement with Downtown Downers Grove, Inc. to exempt them from all Village fees related to community events.

In 1999, the Village entered into an agreement with Downtown Downers Grove Inc. to provide marketing and economic development activities. In 2010, the Village began charging fees for Village provided services in support of community events, including the Downtown Management Corporation which paid approximately \$10,000 for services provided at events. They have requested an amendment to the agreement that would exempt them from Village fees for services and related application and review fees.

In response to Commissioner Schnell, the Manager said Downtown Management is proposing that they not be charged for any events.

Commissioner Barnett said he is not supportive of this request because he feels the Council should be discussing a longer term, broader base solution to Downtown Management Corporation's fixed level of funding question. He is supportive of the concept of billing for these kinds of services, but the bigger question is that to do this now does not fix their funding long term. This is an easy answer to a bigger question. Commissioner Barnett said he suspects the Downtown Management Corporation needs more on-going funding on a long-term basis. He said he does not like the idea of changing this policy. This is ultimately a general fund money question. He said it is not that he does not support Downtown Management's need for money now and in the future.

Commissioner Waldack said he has a problem with the Council's decision to charge for events and with charge backs. He feels it is divisive and carving out certain groups from other groups is still divisive. He provided examples of the YMCA, the Rotary and others appealing to the Council on the basis that they are different from other groups and serve the entire community, but they still had to pay the fees. Now this group is saying they are different from everyone else. The other groups were not-for-profits helping nonbusiness related community needs. This is a business need. He has a problem supporting something that continues this divisiveness. The estimated cost to the taxpayers is \$10,000 and suddenly we have this money to pass on when we didn't have it for other not-for-profits. He referenced comments in the past to the relationship between the Village and Downtown Management Corporation and that we are charging ourselves. He said he understands that, but we need to keep this policy in force and we need to show the accounting for it. His other concern is that there is nothing in the agreement that prevents the Downtown Management Corporation from partnering with other groups to have events and cost-share the fees. If this were to be adopted, he would like such language included. He said he agrees that waiving the fees will not solve the budgetary concerns of the Downtown Management Corporation or the Village. There is a situation with the downtown TIF whereby

the entire community may have to contribute to resolving the matter. The problem is greater than passing a waiver on fees. It is an expense/revenue problem and he would like to address it. He said he wants the Downtown Management Corporation to succeed and he does not think this is going to solve the problem. At this point he would not consider waiving fees. He would like to look at other solutions to solve the situation.

Commissioner Rheintgen said the Downtown Management Corporation was created to promote the downtown and she has a hard time supporting charging them as it takes away from their goal. She served on the Community Events Commission, and any group wanting an event has to make application to the Village and all applications are considered. She said she doesn't think a third partnership arrangement would be considered.

Commissioner Durkin said he served as liaison to the Downtown Management board. He commented that this organization does so much for the Village. He supports waiving fees associated with their events. He agrees that this is a bandaid solution and there is more to this than \$10,000. He asked that the funding be discussed. This request does not reflect bad budgeting as they do a considerable amount on a shoe string budget.

Commissioner Schnell asked if the EDC or Visitors Bureau has to pay fees if they hold events. The Manager said they do.

Commissioner Schnell said she agrees about looking at the Downtown Management Corporation and how it functions and where it is going. This is a similar situation to the Visitors Bureau in that funds were being used and the Council discussed where it should go and how to get the most value for the money. The decision was made to combine the Visitors Bureau with the EDC. This would be a productive discussion to determine the charge of the Downtown Management Corporation in the best possible, most cost-effective way. She would welcome that discussion. She said she has a problem exempting anyone from fees. The decision was made to charge fees because the Village is not in the position to give services away for free. She would like to have a discussion as to where we can go and where we can partner to make this better for everybody. It is hard to explain why one is exempt and one is not.

Commissioner Durkin asked what would happen if the Downtown Management Corporation said they could no longer do an event, such as the Car Show, any longer.

Mayor Tully said he agrees that funding is a broader issue and said it is not before the Council. He does not think this request requires the Council to change the policy. He also noted that if this amendment is approved, it is not a magic fix.

The Mayor said he felt the proper way to frame this issue is that the Downtown Management Corporation should never have been charged for fees in the first place. They have a contractual arrangement with the Village that no other body has. It is a unique situation. He referenced Section 2. a. i. of the Downtown Special Service Area Operations Agreement in which the Village obligates the Downtown Management Corporation to promote events. Section 3 of the Agreement obligates the Village to provide funding for said events and Section 8 is a statement of cooperation between the Village and the Downtown Management Corporation in the implementation of promotional events. We obligate the Downtown Management Corporation to hold promotional events, subject to Council permission, and the Village is obligated to fund them. The Mayor said it makes no sense to him to fund the Corporation and then pull back fees from them under a policy of charging groups for an event in the downtown. This is not an outside organization. The Village contractually obligates the Downtown Management Corporation to put on certain events. This is clearly an organization that by contractual relationship with the Village is exempt from an existing policy. This is a clear contractual exemption. The policy does not need to be questioned.

The Mayor agreed that a broader discussion with respect to the funding of the Downtown

Management Corporation is necessary. He thinks that when necessary decisions were being made to preserve funds in what was a dire financial circumstance, a policy was enacted and this is a glitch that is now being addressed. If the Village were to contract like this with a similar entity, we would not be discriminating at all. There are no other such agreements; this is unique. He noted that there are contractual limitations as to what the Downtown Management Corporation can do in that the Council is required to grant approval for events or withhold it.

Commissioner Rheintgen said it is important to note that the Agreement also includes a clause regarding the understanding that the Downtown Management Corporation will seek a waiver of any fees associated with such permits and licenses.

Commissioner Barnett said he would like some specificity and certainty with respect to addressing the longer term funding issue and whether the Downtown Management Corporation will have a vehicle by which to increase the funding long term. A cap on the revenue stream does not make sense. He would like a timetable to address this. He noted that the Downtown Management Corporation is a vital operation.

Linda Kunze, Manager, Downtown Management Corporation, said the Downtown Management Corporation was established by the Village Council in 1999. She referenced the agreement with the Village and said the Downtown Management Corporation is a partner with the Village. The downtown business area is thriving retail and business district. There were 33 new businesses last year for a total of 370 businesses in the SSA. Events have brought 15,000 families/couples to the area. Businesses have generated \$4 million in sales tax revenue in 2010. Funding to the Downtown Management Corporation has grown by only \$37,000 over 12 years. She requested approval of the requested amendment. The Downtown Management Corporation has the same goal as the Village.

Dan McCormick, board member of the Downtown Management Corporation, said this discussion was started ten months ago, but right now they need the money.

Indexes: Downtown Management Corporation

9. Mayor's Report

Mayor Tully provided an update on the ComEd reliability issue. Staff and representatives of ComEd met last Wednesday and will continue to meet regularly until they have a work plan from ComEd and implementation of the work plan to our satisfaction. ComEd has provided data for the Village internal reliability report. ComEd realizes they have work to do in Orchard Brook and in Long Meadow a transmitter was replaced in 2009. The reliability report is due to be completed by the end of August. A Town Hall meeting is tentatively scheduled to be held in September.

Materials to be Received

Materials to be Placed on File

10. Manager's Report

11. Attorney's Report

Ms. Petrarca said she was presenting four (4) items to the Council: 1) An ordinance authorizing a special use for 160 Ogden Avenue to permit a drive-through window; 2) An ordinance approving a final planned development amendment to Planned Development #31 for additions to the existing parking garage and the construction of a new six-level parking garage; 3) An ordinance amending liquor serving hours; and 4) Ordinances annexing certain territory to the Village of Downers Grove, Illinois

Future Active Agenda

12. Council Member Reports and New Business

Commissioner Durkin said the annual new teachers' luncheon sponsored by the Noon Lions Club will be held on Tuesday, August 16 at the Moose Lodge.

Mayor Tully spoke concerning the annexation discussion held earlier in tonight's meeting. He said this annexation initiative has been in the works for years and is part of the plan for sustained viability. This decision was made in the best interest of Downers Grove. He said it is not easy to follow this path. Council is obligated to make decisions in the best interest of the Village, which is the only intention with respect to this matter. He said some decisions are not popular, but are considered the best course of action for the greater good.

13. Adjournment

Commissioner Schnell moved to adjourn. Commissioner Durkin seconded the Motion.

VOTE: YEA: Commissioners Schnell, Durkin, Rheintgen, Barnett, Waldack; Mayor Tully

Mayor Tully declared the motion carried and the meeting adjourned at 9:50 p.m.