

Staff Responses to Council Questions
February 19, 2013

6. Consent Agenda D. Resolution: Authorize an Amendment to the Agreement for Professional Engineering and Inspection Services with Tank Industry Consultants

Need better explanation, was it rain or drought?

The start of work was delayed as a result of the extreme drought conditions that existed in 2012 and extended into August. The disadvantage of starting later in the year is that the weather in the fall is less conducive to efficient working conditions for the contractor and subsequently for the resident engineer. Instead of having crews working simultaneously on the inside and outside of the tank, unfavorable weather kept them working on the interior of the tank, delaying the work on the exterior. For reasons related to temperature, light and winds they also worked more partial days and completed less work on the days they were at the site.

Payment is for observation, why are we paying for when there is nothing to observe?

The scope of services includes on-site observation of the contractor's workmanship, documentation and coordination between the Village and the Contractor. The Village pays for observation when the contractor is working on the site. The total number of weeks spent by the contractor on the site is longer than was anticipated because of the later start of the work and because the work was performed in series (as opposed to simultaneously) as described in the previous response.

Why do we have the entire risk? Can't we change the contract to pass on the risk?

Yes, the Village could use contracting methods to shift risk away from the Village and on to professional service providers. Generally speaking, the cost of shifting the risk exceeds the benefit and the Village would likely pay more for these types of projects.

If we are paying for observation of work, what about the work not getting done?

The Village is not paying for the consultant's project observation when the contractor is not mobilized.

8. First Reading A. Motion: Award a Contract for \$114,500 to Duncan & Associates, Inc. for Comprehensive Update of Zoning Ordinance and Subdivision Control Ordinance

How will the focus areas in the comprehensive plan be addressed with the zoning ordinance re-write?

The focus areas included recommendations for improving the appearance of the studied neighborhoods. Some recommendations can be translated into development controls and will be used to identify necessary changes to the zoning districts' bulk (setbacks, height, etc.) and design (parking lot, landscaping, lighting, etc.) requirements. The consultant and staff will draft regulations that implement the focus area goals and recommendations.

How will public comments be integrated into the update process?

Public input will be received by the Plan Commission as they review the draft zoning and subdivision control ordinances. The policies and recommendations found in the Comprehensive Plan will be used to draft the zoning and subdivision control ordinances. The Comprehensive Plan process included extensive public input.

What is the total cost of the contract? Is there any contingency amount? Will there be any expenses above and beyond the contract amount?

The total cost of the contract is not to exceed \$114,500. The Village did not add a contingency. Expenses would only go above the contract amount if the schedule is lengthened due to unforeseen

issues and/or the Village requests additional services. Any expenses above the \$114,500 require Village Council approval.

What is form based zoning and how would it be incorporated into a re-written zoning ordinance?

Form-based zoning focuses on the physical characteristics of an area versus strictly the separation of uses (as in traditional zoning). The tool has been in use for 10 to 15 years. It is increasingly and successfully used in downtown environments to help reduce use-related regulations, focusing instead on the physical desirability of the downtown and the relationships of one building to another. In Downers Grove, the Pattern Book provides the preliminary information required to structure a form-based approach. A hybrid approach, that considers both land uses and physical characteristics, tends to work best in suburban settings. The consultant will examine the potential for form-based zoning and, if desirable, will draft the appropriate code language.

Don't the Zoning and Subdivision Ordinances take precedence over the Comprehensive Plan and not vice versa? Cite sources.

Yes. Zoning and subdivision ordinances are the legal tools that implement the policies of the Comprehensive Plan (DG 2011 Comprehensive Plan, p. 4). The Comprehensive Plan is a guide and foundation for the legal tools, which are commonly the zoning ordinance and subdivision ordinance.

Zoning and subdivision are legal requirements, the Comp Plan is not and does not have the level of authority.

Council has heretofore enforced zoning and subdivision and took the Comp Plan as additional authority. Why is this changing and why are we spending the money to do so?

As legal tools, both the zoning ordinance and the subdivision ordinance provide the standards, procedures and triggers for approval and enforcement. The comprehensive plan adds foundation and clarification for the ordinances. This relationship does not change, although the era and the Village's goals have changed. The Village's current zoning and subdivision regulations are based on the 1965 Comprehensive Plan. That plan focused on out-migration from Chicago and the physical growth of Downers Grove. The 2011 Comprehensive Plan re-examined the state of the Village's physical development, which is largely built-out, and recommends policies for achieving the community's long-term goals. The policies described the 2011 Plan should be implemented through an update of the zoning and subdivision ordinances.

What kind of changes are necessary? (Council has had great flexibility in zoning and subdivision decisions, why is there a need for change?)

Many of the development standards and use lists are from the original 1965 ordinance and do not match current standards and practices. Most of the processes the Council uses would not be impacted, but rather the development standards would be modified to implement the policies found in the Comprehensive Plan.

Please cite TCD 3 sources. Council has gone out of its way to separate itself from TCD 3, so why is it doing an about face now?

TCD3 was a tool used to help draft the Comprehensive Plan. Its Appendix, along with background material from the Comprehensive Plan and meeting minutes from Council discussions, is available to the consultant to help clarify goals and directions for some of the zoning ordinance updates that might be recommended. In addition to the other resources mentioned, there will be more public meetings conducted by the Plan Commission.

Give some examples of pitfalls of current ordinances and how they might be changed?

The current zoning ordinance was originally drafted in the 1960's and have been amended on a piecemeal basis. As a result staff has identified many sections of the ordinance which are difficult to interpret, confusing and potentially contradictory to other sections of the ordinance. Here are a few examples of how the zoning ordinance may be amended as part of this process:

- The current zoning ordinance allows many non-residential uses as special uses in the residential zoning districts (e.g. hospitals, high schools, universities, churches, nursing homes, etc.). The Village may want to consider an institutional zoning classification instead of a special use.
- Use lists are outdated - the practice of using specific use lists for the districts is an outdated practice. These lists do not account for new types of businesses well (2012 Text Amendment for personal training studios in DB). The lists also contain uses that are no longer common (e.g. blacksmith shops). Current practice is to use a use matrix with more general uses (e.g. retail sales vs. clothing stores).
- The written processes (for public hearings) were written in the mid-1960s and do not accommodate current Illinois law.
- Development controls (i.e., screening adjacent residences, landscaping, HVAC screening, utility burial, sidewalk installation, etc.) do not reflect Village's current planning policies (Comprehensive Plan, Ogden Ave Master Plan, etc.). These items would be updated to match the planning documents.
- No mention of green technologies - the ordinance does not contain allowances or incentives for the use of green technologies and approaches (wind turbines, electric vehicle charging stations, use of native plantings, etc.).
- User-friendly ordinance - the format of the Village's ordinance is not conducive for citizens to use. The revised ordinance would contain more illustrations and be re-organized so all of a district's requirements are in one place.

What are samples of ordinances that differentiate between a mature village and the previous ordinances?

Some recent examples of work that has been completed by the recommended consultant are:

- Durham, North Carolina (www.durhamnc.gov/udo)
- Dunwoody, GA (www.zoningdunwoody.com) - in process
- Missoula, MT (www.co.missoula.mt.us/opgweb/Documents.htm)
- Kansas City, MO (www.zoningplus.com/regs/kansascity/)
- Evanston, IL (<http://www.cityofevanston.org/planning-zoning/downtown-zoning/>)

Our ordinances have been pretty flexible, even allowing for the Village to retrofit to a farming community if it so chooses...so why the change?

The updates to the zoning ordinance have been piecemeal. A comprehensive review will ensure all aspects of the ordinance are updated to align with the Comprehensive Plan and match current development policies.

Have there been any legal challenges to our current ordinances? Please list with details and how revisions will rectify the situation?

Yes, there have been a few individual challenges to aspects of the zoning ordinance. There are also some inconsistencies between the comprehensive plan and the Village's list of special uses that could present legal issues. Additionally, there have been judicial decisions outside of Downers Grove that require revisiting our ordinances to make sure they are compliant with those decisions. A

comprehensive review of our zoning ordinance and proactively addressing any issues will hopefully avoid any potential future challenges.

Council and its boards studied the request for neighborhood impact and found none – it was too confusing. How can we codify something that both Council and a commission could not either accept or understand?

The principal recommendation from TCD 3 is not part of the Comprehensive Plan and therefore not part of the zoning ordinance update.

Non-Agenda Questions

Have there been any lot consolidations approved this last week? If so, please provide address(es) and names of petitioner(s) and number of lots consolidated in each request.

Two lots were consolidated into one at 329 Indianapolis. The petitioner was Greenscape Inc.