



# Village of Downers Grove Meeting Minutes Downers Grove Village Council

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

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Monday, February 20, 2006

6:30 pm

Council Chambers

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## 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 and Mayor Brian Krajewski

Absent: Commissioner William Waldack

Non Voting: Village Manager Cara Pavlicek, 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

*Council Meeting - February 7, 2006*

*Workshop Meeting - February 14, 2006*

*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**

1. William McCune, 1436 Thornwood Drive, commented on the Nelson Meadow Subdivision and protection of the walnut trees to the south of the property. He referred to staff's comments from the last meeting that the Village's protection methods for public trees is the same as that for the protection of private trees. He thinks that statement is not good enough. He said that this week at 5630 Plymouth, in his area, there were three parkway trees unprotected from a building site. He contacted staff and was told that the builder had already damaged the trees to such an extent that they would have to remove the trees. He specified that this was not the Nelson Meadow builder. Mr. McCune then urged the Council to include a provision in the resolution that a chain link fence must be in place at a specified distance away from the trees during the construction. The distance should be in the resolution and determined by experts.

In regard to the detention basin, Mr. McCune said that the Plan Commission recommended that the Homeowners' Association be responsible for maintenance of the basin, and Village staff has recommended both ownership and maintenance by the Homeowners' Association. He noted that the neighbors recommend an outlot owned by the Homeowners' Association, yet the draft resolution ignores all of those recommendations. He said all should bear the burden of ownership and maintenance of the detention basin.

2. Bill Wrobel, 7800 Queens Ct., commented on Nelson Meadow as well. He said he reviewed the testimony of last week's meeting where mention was made regarding retaining walls, a pond and fencing, and all he could see was liability for the Village of Downers Grove. He said that the Homeowners' Association membership will come and go. He cautioned the Council that this proposed development creates a man-made kettle to retain the water. He would hope that there would be a better review of the plans.

3. Christine Fregeau, 1918 Elmore, commented on the Nelson Meadow project as it relates to sidewalk issues. She noted that there has been discussion on the budget surplus and developer contributions which have been a funding source for capital projects. She believes that monies which have been collected for sidewalks should be spent on sidewalks, as Commissioner Tully commented at a recent Public Services Committee meeting. Ms. Fregeau asked what presently exists in the sidewalk fund and whether it would be enough for an immediate resolution of the question concerning sidewalks for this project. She reminded the Council that the matrix is a road map, and suggested that the Council look at redevelopment and sidewalks for the Village. She further noted that one of her neighbors has retention pond responsibility, and has created a beautiful English garden in Bending Oaks. She understood concerns about these ponds, however, they can be landscaped in a safe manner.

Mayor Krajewski said that some of the funds are placeholders. In the next several months more accurate numbers will be available on a go-forward plan. In regards to Nelson Meadow, if it is approved he thinks it would make sense to have the sidewalk construction coincide with the development. He noted that the Village Manager is seeking other funding sources.

4. Jim Mazer, 5800 Carpenter, discussed the Nelson Meadow development and the issue of trees. He referenced a plan which he distributed to the Council members regarding saving the black walnut trees. Mr. Mazer said that there was a document in the Subdivision Improvement Agreement which described a plan to preserve the trees, with no mention of consultation with him. He said that plan would be approved by the Forester, again without mention of consulting him about his trees. If the trees are damaged, the developer would not be liable for the damage. Mr. Mazer said he cannot believe that was the intent of the Village and he asked that those comments be corrected.

Mr. Mazer then referred to a document from the Village Forester which discussed the critical root zone for protection. He noted that the size of trees mentioned for transplanting were much smaller than the trees in question. His trees are not good candidates to be transplanted. He

referred to the diagram prepared by the Forester that was given to the Council. Mr. Mazer referenced the Village's Tree Protection Ordinance which defines the critical root zone as 1' for each inch in diameter of the tree. He then showed a slide depicting the critical root zone as defined by the Village Forester, noting that the area in question would go beyond the fencing area proposed by the developer. He said that the Forester's recommendations differ from what has been provided by the developer. Mr. Mazer then discussed the engineering drawings, page 13, which refer to the additional excavation area proposed. The additional area would be on his property and well within the critical root zone. He asked that this proposal be rejected, and that the Council amend the Subdivision Improvement Agreement and follow the Village's guidelines as to the critical root zone.

5. Dr. Gordon Goodman, 5834 Middaugh, said he sent letters to the Council on February 5 regarding Nelson Meadow. There has been no evidence shown of special hardships or practical difficulties. Dr. Goodman said it is a bad precedent to approve these exceptions. The exceptions are to reduce the setbacks or the right-of-way. He said that the Council must consider how this subdivision fits into the neighborhood, which it does not at present. He indicated that if Lots 8 and 9 were combined, there would be a better chance of the subdivision fitting in. He indicated that the construction of the stormwater detention area is no safer than it was before, although staff has recommended acceptance of it. He encouraged the Council to reject this proposal and go into negotiations again with the developer.

Dr. Goodman then addressed the Home Rule Sales Tax revenue issue, asking whether the Village regards that as a Home Rule power action, and whether the Village has complied with the Home Rule policy in connection with it. The Village must be as scrupulous as possible in complying with its Home Rule policy, especially in light of the upcoming referendum.

The Mayor responded that the Council is following the policy, and he will ask that this issue be tabled until March 7.

6. John Spriet, 1209 Jefferson, said his family moved into the Village in 1999 because of the country feel in that area of Downers Grove. It is a shame to see it being cut up and looking more like Chicago each day. He would have liked the property sizes to have been kept in line with the area. His concern, however, is with the storm sewers and the sanitary sewers. The detention pond is a big hole. He asked about the maintenance of the property, saying it is a better idea to have the Homeowners' Association maintain it. He would like to see the Village maintain the area.

7. Patty Paczkowski, 7421 Main Street, asked about agenda item ORD 00-02250, the Family Shelter. She said that the entrance to the facility will be off of Frontage Road rather than Old Main Street as recommended by the Plan Commission, and she asked if that is what the vote is about.

Village Manager Cara Pavlicek said the recommendation is to require the preliminary approval of the application and to make the entrance off of the access road. Ms. Pajowski said she agrees with the Plan Commission. Main Street is too busy to have the entrance there. She would like to see the entrance off the service road.

8. Dan Dreiser, 4624 Lee, said he lives across the street from Banchory Woods. He believes there is some legitimacy to the concerns expressed by neighbors of the Nelson Meadow subdivision in light of his own experiences. His property is downhill from the Banchory Woods development and continues to be plagued with clay and silt runoff from the construction site, despite complaints by Mr. Dreiser to Mr. Andersen and the Village. The detention pond in Banchory Woods is basically raw soil and there is no erosion control, which the Village said should have been planned. He thinks the Nelson Meadow neighbors have a great deal of cause

for concern. He also was concerned that Banchory Woods was given a number of exceptions in order to maintain the character of the neighborhood, such as the width of the street and right-of-way. However, Banchory Woods is not in the character of the neighborhood and the residents are no longer in a rural area.

9. Gail Mazer, 5800 Carpenter Street, spoke regarding the walnut trees, and asked for consideration by the Council of four recommendations. She is glad that the petitioner will employ a certified arborist. However, the Mazers asked that the Subdivision Improvement Agreement be modified as follows: 1) allow them to maintain legal protection for their property; 2) require that the Village Tree Protection ordinance be followed; 3) move the construction fencing north to protect the root zone; and 4) extend construction fencing the full length east and west along their side of the property so that when the construction fencing stops it will not create a potential for construction encroaching on their property.

10. Mark Cronin, 1117 Jefferson, thanked the Council for their concerns with respect to having his driveway torn up. He is still concerned about the placement of the cul de sac and asked why it is not terminating exactly north of his property as was stated in a January 1988 meeting.

The Mayor said he has concerns about the whole project, but the wording was "immediate."

Commissioner Schnell said it's been almost 20 years, but her recollection was that they were trying to give the homeowner flexibility to develop his property. She said she is not sure whether the bulb would have been in that exact location. She believes they were trying to acquire enough right-of-way so that if it was developed there would be no encroachment on his property. In looking back at those minutes, it appears the intent was to make sure that it did not go through to Carpenter. Commissioner Schnell said she has walked the property. She cannot recall staff's report from 20 years ago.

Mayor Krajewski said he understands Mr. Cronin's expectations, having driven down that street.

Mr. Cronin said that he is not convinced that the Council has had enough time to consider the ramifications of this complicated proposal. He does not understand what the hurry is on this issue.

11. Edith Makra, community trees advocate for the Morton Arboretum, 4100 Illinois Route 53 in Lisle, said she was pleased with the consensus reached in regard to the critical root zone. She said that the trees will be impacted, and it is difficult to predict how they will be impacted. Her suggestion is to err on the side of extra protection for the trees.

Commissioner Schnell asked if what has been proposed by the developer gives the trees the best opportunity to survive. Ms. Makra said that the plans she saw showed the fence still at 5'. She said that the trees may be fine, but she cannot guarantee that. She also volunteered to be involved in any discussions with the arborist.

12. Robert Paczkowski, 7421 Main Street, commented on the sheltered care facility proposed on Main Street, as well as the construction at 75th and Old Main Street. Mr. Paczkowski said that the Family Shelter wants their entrance on 73rd Street; however, neighbors do not want it there because they believe the human component has to be considered. There will also be the construction at Old Main Street to consider. The street is a classic area for short cuts, and there are drag races there in the evening. The proposed driveway for the facility will shine their lights directly in his neighbor's front window. He noted that this is the only area of concession in which the neighbors have any say, and he asked that the Council keep with the recommendation of the Plan Commission.

*The Mayor said that agenda item RES 00-02254 is an unincorporated area where the proposed car wash/oil change business is planned. The Village's Future Land Use Plan is opposed to that use for that area.*

*13. John Schofield, 1125 Jefferson Avenue, said he is speaking on behalf of five families regarding the negative impacts of the Nelson Meadow development on them. They are concerned about the safety of the graded slopes, the character of the existing neighborhood, the preservation of the existing trees, and the conflicts with the Village Codes. Mr. Schofield said the petitioner is trying to squeeze more lots onto the property than naturally fit. He said the neighbors believe that eight or nine lots would be doable. He noted that the petitioner's representative said that the design was created to meet the Village Code, but the Village Code only specifies minimum requirements. It does not compel the petitioner to lay out the property in the best manner. Mr. Schofield said neighbors would hope that the Council, if it decides to vote tonight, either rejects the petition, or amends it in the following three ways: 1) combine Lots 8 and 9 to provide space to move the retention pond north and west and reduce the slope to more reasonable levels; 2) remove the two right-of-way exceptions from Brookbank and Carpenter; 3) direct Village staff to take additional steps to provide more protection for the trees, rather than just authorizing the Village Forester to remove them.*

*Regarding the drainage easement. Mr. Schofield said that the section behind the wall encroaches significantly onto the critical root zone. The right-of-way exception is too narrow, which means less buffer space. It is particularly bothersome on the Brookbank side where the Village appears to want to cut down the 28 trees. Mr. Schofield said he thought that there are no practical difficulties which cause hardship. He believes it sets a bad precedent to grant the exceptions. Mr. Schofield said initially the neighbors thought the Village would do whatever it could to protect trees, however, that did not happen. They ask that the Village Council take the time to be sure that the trees which remain as an asset to the community are protected.*

*14. Jim Russ, attorney for the petitioner, spoke regarding Family Shelter and the driveway. He said they still need to consult with the staff and the owner of the shopping center. The access off of the private road is private property over which they have no control. If the property owner chooses not to allow an easement or ingress/egress to that property, the petitioner has no other choice than to seek access off of Main Street.*

*The Mayor asked who was the owner of the property, Mr. Russ said he does not recall the name right now, though they have been in contact. Manager Pavlicek said that staff's recommendation is that they make a condition of preliminary approval that they obtain that access off that site.*

*Mr. Russ then addressed the Nelson Meadow issue, saying that they will be discussing everything regarding the trees and plans for the trees with the property owners. They will amend the agreement to include the property owners in the plans. He added that they have spoken with Ms. Makra as well regarding meeting with Mr. Stewart, the arborist, about tree preservation.*

*Mr. Russ then added that in regard to construction, they can only work on their property, and cannot go on the neighboring property. Tree preservation will depend upon the type of fencing required. As for the exceptions being sought, Mr. Russ said that at the first Plan Commission meeting the criteria was specifically addressed.*

*Commissioner Schnell asked Mr. Russ if they would be adverse to a modification to the developer's agreement which would say that the construction fence would extend to the property limits. Mr. Russ said they would not be adverse to such a modification. Commissioner*

Schnell then asked whether the petitioner would agree with recommendations made by the arborist, even if it requires changing the distance of the fencing to protect the trees. Mr. Russ responded that if it can physically be done, they would agree with what the plan says. He said it is a condition of the agreement that they come up with a plan.

Commissioner Schnell said her concern is that it be clear that everything possible will be done to protect the trees, even if it requires additional distance from the property line for fencing, or installation of chain link fencing. She wants both the builder and the residents to be clear as to what is being agreed to. She clarified that they have agreed to extend the chain link fence the entire length of the property, and that they would agree with whatever the arborist recommends for tree preservation.

Mayor Krajewski commented on the residents' and staff's recommendation not to build on Lot 8, and asked if the petitioner was interested in following those requests. Mr. Russ responded that the petitioner believes they have met the Code with regard to Lot 8.

14. Rick O'Halloran, 1202 Jefferson, said his neighbor is the Village, and he borders 297' of the right-of-way that the Village is looking to give to the developer. That will result in 28 trees being torn down. He is looking for the Council to be creative. He hates to see the Village lose the 28 trees. There are also other trees that have not been tagged including black walnuts. He noted that there is a water main that will run four feet off of his property and run through the trunk of a black walnut tree. He said there are many other trees that are not tagged. He asked why they have not been tagged, because as it is they will probably lose about 40 trees. Mr. O'Halloran said he will be losing trees on his property as well, including some of his pine trees.

## **B. Comments and Questions on General Matters**

1. Bill Wrobel, 7800 Queens Court, said he was in the audience last Tuesday night for the Village's presentation on Home Rule. He abided by the request for no commentary at that time although it would have been customary to have commentary on agenda points. After the presentation by the staff, the Mayor and Commissioner Schnell proceeded to discuss sales tax and hotel taxes. Mr. Wrobel said he wanted to point out to the residents that Westmont, Oak Brook and Lisle do not have Home Rule and they have a very vital hotel industry. He mentioned a new hotel under construction in Lombard. He said those communities compete with the Village for hotel taxes. He said that Lisle repealed Home Rule 27 years ago, and Villa Park repealed theirs in 1980. Lombard repealed theirs in 1981 and Rockford in 1983. Since then the population has grown, voter registrations have tripled. He pointed out that it is a massive undertaking to meet the requirements today to put a referendum on the ballot.

The Mayor noted that those communities also have the highest property taxes.

Commissioner Schnell clarified her statement from last week, saying that as a member of the Legislative Committee of the DuPage Mayor and Managers, she has seen non-Home Rule municipalities lobby the State Legislature to use hotel taxes for economic development purposes. She was merely making a statement of fact.

The Mayor said that Lisle can only use their hotel tax for tourism, not for economic development.

## **5. Public Hearings**

## **6. Consent Agenda**

**COR 00-02227** Claim Ordinance: No. 5623, Payroll, February 3, 2006

**Sponsors:** Accounting

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

**Indexes:** N/A

**BIL 00-02228** List of Bills Payable: No. 5612, February 20, 2006

**Sponsors:** Accounting

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

**Indexes:** N/A

**BID 00-02229** Bid: Award a Contract to J. Kyle Braid Leadership Group for Parking Garage Vendor for 2006 Heritage Festival

**Sponsors:** Tourism and Events Commission

**Indexes:** Heritage Festival 2006

**BID 00-02230** Bid: Award a Sound Contract to R.J. Recording in an Amount Not to Exceed \$15,600 for 2006 Heritage Festival

**Sponsors:** Tourism and Events Commission

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

**Indexes:** Heritage Festival 2006

**BID 00-02231** Bid: Award a One-Year Extension of the 2005 Tent, Chairs Agreement to Braun/Chicago Party Rental for 2006 Heritage Festival

**Sponsors:** Tourism and Events Commission

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

**Indexes:** Heritage Festival 2006

**RES 00-02233** Resolution: Authorize an Agreement with Vee See Construction Co., Inc. for McCollum Park Satellite Maintenance Facility - Phase II

**Sponsors:** Public Works

**Summary of Item:** A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE AND VEE SEE CONSTRUCTION CO., INC.

RESOLUTION 2006-14

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

**Indexes:** McCollum Park-Satellite Maintenance Facility

**BID 00-02232** Bid: Award \$619,079.60 to Vian Construction, Inc., Elk Grove Village, to Construct the 2005 Water Main Improvements

**Sponsors:** Public Works

**Indexes:** Water Main Improvements

- BID 00-02234** Bid: Authorize a Change Order in an Amount Not to Exceed \$23,087 to Desman & Associates for Architect/Engineering Services re: Central Business District Parking Facility Project  
**Sponsors:** Public Works  
**Summary of Item:** This will authorize execution of a final amendment to the contract with Desman & Associates in the amount of \$23,087.00 for additional architect/engineering services relative to the CBD Parking Deck Project.  
**A motion was made to Approve this file on the Consent Agenda.**  
**Indexes:** Central Business District - Parking Deck
- BID 00-02235** Bid: Award \$33,695.04 to Miles Chevrolet, Decatur, Illinois, for the Purchase of Two 2006 Chevrolet Impala Sedans  
**Sponsors:** Public Works  
**A motion was made to Approve this file on the Consent Agenda.**  
**Indexes:** Vehicle Purchases, Police Vehicles, Fire Prevention
- AGR 00-02236** Contract: Authorize Village Manager to Negotiate a Contract with Williams Architects for Architectural Design Services for Fire Station 2  
**Sponsors:** Deputy Village Manager  
**Summary of Item:** This will authorize the Village Manager to negotiate a contract with Williams Architects for architectural design services for Fire Station 2.  
**A motion was made to Placed on Consent Agenda this file on the Consent Agenda.**  
**Indexes:** Fire Station #2
- RES 00-02237** Resolution: Authorize an Extension to the Contract with B&F Technical Code Services, Inc.  
**Sponsors:** Fire Department  
**Summary of Item:** A RESOLUTION AUTHORIZING EXECUTION OF AN EXTENSION TO THE CONTRACT BETWEEN THE VILLAGE OF DOWNERS GROVE AND B&F TECHNICAL CODE SERVICES, INC.  
  
RESOLUTION 2006-15  
**A motion was made to Pass this file on the Consent Agenda.**  
**Indexes:** Fire Prevention
- RES 00-02238** Resolution: Authorize an Agreement with Hilb Rogal & Hobbs for Insurance Renewals  
**Sponsors:** Human Resources  
**Summary of Item:** A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE AND HILB ROGAL & HOBBS  
  
RESOLUTION 2006-16  
**A motion was made to Pass this file on the Consent Agenda.**  
**Indexes:** Insurance - Risk Management

**RES 00-02239** Resolution: Authorize a License Agreement with United States Cellular Operating Company of Chicago, LLC to Install, Maintain and Operate an Antenna on Village Property at 67th Street Water Tank

**Sponsors:** Village Attorney

**Summary of Item:** A RESOLUTION AUTHORIZING A LICENSE AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE AND UNITED STATES CELLULAR OPERATING COMPANY OF CHICAGO, LLC TO INSTALL, MAINTAIN AND OPERATE AN ANTENNA ON VILLAGE PROPERTY (67TH STREET WATER TANK)

RESOLUTION 2006-17

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

**Indexes:** Antenna Equipment

**RES 00-02240** Resolution: Authorize a License Agreement with United States Cellular Operating Company of Chicago, LLC to Install, Maintain and Operate an Antenna on Village Property at Highland Avenue Water Tank

**Sponsors:** Village Attorney

**Summary of Item:** A RESOLUTION AUTHORIZING A LICENSE AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE AND UNITED STATES CELLULAR OPERATING COMPANY OF CHICAGO, LLC TO INSTALL, MAINTAIN AND OPERATE AN ANTENNA ON VILLAGE PROPERTY (HIGHLAND AVENUE WATER TANK)

RESOLUTION 2006-18

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

**Indexes:** Antenna Equipment

**RES 00-02241** Resolution: Authorize An Agreement with Verizon Wireless for Police and Fire National Access/Broadband Access

**Sponsors:** Manager's Office

**Summary of Item:** A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE AND VERIZON WIRELESS

RESOLUTION 2006-19

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

**Indexes:** Fire Equipment, Miscellaneous, Police Equipment, Verizon

**RES 00-02253** Resolution: Authorize an Agreement with Downers Grove Grade School District 58 re: Abrogation and Establishment of Easement for the 63rd Street Well

**Sponsors:** Village Attorney

**Summary of Item:** A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE AND DOWNERS GROVE GRADE SCHOOL DISTRICT 58

RESOLUTION 2006-20

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

**Indexes:** Well - 63rd Street

## 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 and Mayor Krajewski

## 7. Active Agenda

**ORD 00-02244** Ordinance: Amend Home Rule Sales Tax

**Sponsors:** Manager's Office

**Summary of Item:** This will continue the collection of Home Rule Municipal Service Occupation Tax and Home Rule Municipal Retailer's Occupation Tax.

AN ORDINANCE AMENDING HOME RULE SALES TAX

*Commissioner Tully moved to table this item until March 7, 2006. Commissioner Urban seconded the motion.*

*Commissioner Tully said he agreed that this should be tabled. He said that with respect to the Home Rule Sales Tax, there was a statement in the newspaper that needed to be clarified. When the Home Rule Sales Tax was passed, it included a sunset clause. The purpose was that it would sunset automatically. The question would then be whether it should be reinstated. It was inaccurate to state that the Council went back on their word. There was never any promise that it would not be reinstated. The Council must take action to reconstitute it. The purpose of the reconstitution is to use these monies capital improvement the Village's infrastructure. No one has gone back on their word.*

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

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

**Indexes:** Home Rule Municipal Retailers Occupation Tax, Home Rule Municipal Service Occupation Tax

**ORD 00-02245** Ordinance: Abate a Portion of the 2005 Tax Levy Related to the General Obligation Bonds, Series 1999

**Sponsors:** Financial Services

**Summary of Item:** This will abate the 2005 tax levy for the General Obligation Bond Series 1999 in the amount of \$180,525.00.

AN ORDINANCE ABATING A PORTION OF THE 2005 TAX LEVY RELATED TO THE GENERAL OBLIGATION BONDS, SERIES 1999

ORDINANCE NO. 4748

*Commissioner Tully clarified that the impact of abating these taxes would be not to levy a portion of the property taxes.*

*Manager Pavlicek said that was correct. Staff is able to identify other revenue sources so they would not need to collect or levy property taxes to pay for this debt.*

*Commissioner Tully then asked if the abatement Ordinances are passed whether it would impact the property tax rate, and the Manager said it would reduce it.*

*Mike Baker, Assistant Village Manager, said that what they will act on this evening is consistent with what was presented in December. The tax rate is 6.2% below the 2004 rate.*

*The Mayor said that the state mandates payments by the Village into the police and fire levies, and if those were removed it would be closer to a 10% decrease. He then asked what the TIF revenue stream was. Mr. Baker said in the current fiscal year it was about \$1million. The Manager said that is what allows the Council to abate these taxes.*

*The Mayor clarified that the water revenues are the reason for the water tax abatement.*

**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 and Mayor Krajewski

**Indexes:** Tax Levy Abatement

**ORD 00-02246** Ordinance: Abate a Portion of the 2005 Tax Levy Related to the General Obligation Water Bonds, Series 2001A

**Sponsors:** Financial Services

**Summary of Item:** This will abate the 2005 tax levy for the General Obligation Bond Series 2001A in the amount of \$515,433.00.

AN ORDINANCE ABATING A PORTION OF THE 2005 TAX LEVY RELATED TO THE GENERAL OBLIGATION WATER BONDS, SERIES 2001A

ORDINANCE NO. 4749

**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 and Mayor Krajewski

**Indexes:** Tax Levy Abatement

**ORD 00-02247** Ordinance: Abate a Portion of the 2005 Tax Levy Related to the General Obligation Bonds, Series 2002

**Sponsors:** Financial Services

**Summary of Item:** This will abate the 2005 tax levy for the General Obligation Bond Series 2002 in the amount of \$369,733.00.

AN ORDINANCE ABATING A PORTION OF THE 2005 TAX LEVY RELATED TO THE GENERAL OBLIGATION BONDS, SERIES 2002

ORDINANCE NO. 4750

**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 and Mayor Krajewski

**Indexes:** Tax Levy Abatement

- ORD 00-02248** Ordinance: Abate a Portion of the 2005 Tax Levy Related to the General Obligation Bonds, Series 2003A  
**Sponsors:** Financial Services  
**Summary of Item:** This will abate \$721,915.00 of the 2005 tax levy for the General Obligation Bond Series 2003A.  
  
AN ORDINANCE ABATING A PORTION OF THE 2005 TAX LEVY RELATED TO THE GENERAL OBLIGATION BONDS, SERIES 2003A  
  
ORDINANCE NO. 4751  
**A motion was made by Commissioner Sandack, seconded by Commissioner Tully, 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 and Mayor Krajewski  
**Indexes:** Tax Levy Abatement
- ORD 00-02249** Ordinance: Abate a Portion of the 2005 Tax Levy Related to Fairview Avenue Debt Service  
**Sponsors:** Financial Services  
**Summary of Item:** This will abate the 2005 tax levy for the Fairview Avenue debt service in the amount of \$273,540.00.  
  
AN ORDINANCE ABATING A PORTION OF THE 2005 TAX LEVY RELATED TO FAIRVIEW AVENUE DEBT SERVICE  
  
ORDINANCE NO. 4752  
**A motion was made by Commissioner Tully, seconded by Commissioner Urban, 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 and Mayor Krajewski  
**Indexes:** Tax Levy Abatement
- ORD 00-02250** Ordinance: Approve Preliminary Planned Development Amendments to Planned Development #18 for a Sheltered Care Facility  
**Sponsors:** Plan Commission  
**Summary of Item:** At their meeting of January 9, 2006, the Plan Commission recommended approving preliminary planned development amendments to Planned Development #18.  
  
AN ORDINANCE APPROVING PRELIMINARY PLANNED DEVELOPMENT AMENDMENTS TO PLANNED DEVELOPMENT #18 FOR A SHELTERED CARE FACILITY  
  
ORDINANCE NO. 4753  
**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 and Mayor Krajewski  
**Indexes:** Planned Development #18-Venture

**RES 00-02251** Resolution: Approve Final Plat of Subdivision for the Nelson Meadow Subdivision with Exceptions

**Sponsors:** Plan Commission

**Summary of Item:** At their meeting of December 12, 2005, the Plan Commission recommended approval of the Final Plat of subdivision for the Nelson Meadow Subdivision with exceptions.

A RESOLUTION APPROVING THE FINAL PLAT OF SUBDIVISION FOR THE NELSON MEADOW SUBDIVISION WITH EXCEPTIONS

RESOLUTION 2006-21

*Mayor Krajewski noted Commissioner Waldack's absence this evening. He further noted that there have been concerns expressed in the past about taking a vote when a Council member is absent. He asked for a motion to table this item until March 7, 2006.*

*Commissioner Tully moved to table this until March 7, 2006. The motion failed for lack of a second.*

*Commissioner McConnell then moved to approve the final plat of subdivision for the Nelson Meadow Subdivision with exceptions as presented. Commissioner Schnell seconded.*

*Commissioner Schnell said she has questions regarding the 32 foot setback. Deputy Manager Fieldman said that the intention is to measure all setbacks at the 32 foot line, and it could be written into the Ordinance. He said that Section 20 of the Subdivision Improvement Agreement specifies 32 feet as the new minimum setback required.*

*Commissioner Schnell then asked about the pine trees which are on private property, and the chain link fence to delineate where the street would go. She said if they are protecting the walnut trees on private property, there should be consistency of the protection of the other trees on private property. She asked whether it would be possible to leave the fence up as a protection measure. Deputy Manager Fieldman said it is the intention that the developer follow the Forester's recommendation to preserve the trees, and he believes they can make sure the fence stays up during construction. Commissioner Schnell said she wants to make clear that the Village standards for tree protection be adhered to, and she wants it in writing so there are no questions. That would address the concerns expressed by the other property owner regarding his pine trees and other black walnut trees. Mr. Fieldman said that Section 15 of the Subdivision Improvement Agreement requires the developer to follow the Village Forester's direction, and in her follow-up memo, the Forester does require the chain link fence. Commissioner Schnell said that does not address the trees on private property. She wants to know how they will make sure that the trees on private property are protected. Mr. Fieldman responded that was the intent of Section 15. He said that can be further clarified if the Council directs.*

*The Mayor thanked the residents for raising the issues and concerns regarding their neighborhood, especially with regard to parks, proximity to schools, detention ponds, greenspace, the impact on the neighborhood, etc. He also thanked the staff for their work. He thinks that this development will be out of character for the neighborhood. He knows the developer has tried to meet the Village's Codes. He believes the Village needs to be smarter on developments. There are many in-fill projects coming before the Council. The Council does not have enough authority at this time to make the projects and developments fit better into the neighborhoods. He said that the Council needs more control and the opportunity to take into consideration the concerns of the residents, which are legitimate concerns.*

*In regard to this project and tree protection, the Mayor said that it is only for the public*

right-of-way trees. Staff has worked well with the developer in trying to save the private trees, though the Village has no tools to enforce that preservation. He was concerned about the elimination of Lot 8. The stormwater basin does comply with the Code. He understands the residents' concern, and he is uncomfortable with it but he is told that it does meet Village requirements. In regard to tree protection, he is having a hard time with the trees on Brookbank and preservation of them. He also has a problem with the right-of-way exceptions with regards to Carpenter and to Brookbank. The Mayor said he reviewed the Plan Commission minutes and found no details in the minutes as to an explanation or review of the exceptions. Regarding practical hardship, he has seen no evidence presented to support this. Even if the Village does not allow the exceptions, the developer could redesign the lots so they need no exceptions. Looking from Brookbank and Jefferson, the Mayor said there will be a 14 foot parkway on Jefferson, but on Brookbank there will be only 12 feet, and less greenspace. The Mayor said he will not support this project because of the two right-of-way exceptions. He does not think the requirements for exceptions have been met. He would like to see in-fills fit into the existing neighborhoods. He appreciates that the residents and the developer came forward on this development. If this passes, he hopes that the Village can enforce the fencing and that the trees will be protected.

Commissioner McConnell said there are a lot of lessons to be learned from this process, and she hopes the Council will take time to go back and evaluate what could have been done differently. If they want to go beyond just meeting the Code, they need to work quickly. She also said that the amount of public input was well organized and helped her see the development from their point. She said that they are putting a lot of faith and control in the staff's hands. She also said staff needs time to do the oversight. To the builder, Commissioner McConnell said her expectation is that everything committed to in this process will be done without hassles. She said she would be voting for this.

Commissioner Schnell questioned how the waterline would be installed in terms of tree impact. Deputy Manager Fieldman responded that the watermain proposed on the south side of the development near the walnut trees in question would be installed using trenchless technology. That causes less damage to the tree roots.

Commissioner Schnell asked, in the event there are major changes that have to be made to the detention pond, if those have to come to the Council. Mr. Fieldman said they would.

Commissioner Schnell reiterated that she wants to see wording as strong as possible for the protection of the two sets of trees. She referenced the sidewalk gap, saying she understood staff listened to Council and has committed to putting the sidewalk in where the gap is being created. She understood that the additional funds would be sought as part of the budget hearing process. Mr. Fieldman said that was correct.

The Mayor asked staff to address the changes in the plans for Banchory Woods which did not come back to the Council. Residents have been concerned about flooding issues. He asked whether the Banchory Woods issues had to do with the detention volume. Mr. Fieldman said his understanding is that the slight changes in grading had nothing to do with detention volume or storage of the water, but rather it had to do with the interpretation by staff and the developer of the words "substantial conformance." The changes at Banchory had nothing to do with detention volume.

Commissioner Tully said he would address his views on the project and possible improvements. There was no lack of information on this proposal. There has been no lack of effort by the developer or staff as everyone wants a good project. He believes the project has gotten better, but as of now he is not sure the project is where it should be. He believes this should have come to the Village as a Planned Unit Development (PUD), but it did not. Issues could have been

*better addressed in that context.*

*Commissioner Tully said there are aspects of the project that do meet the Code requirements; however, due to the exceptions he cannot vote in favor of the project. He heard it said that the exceptions were unnecessary, and that makes him ask why they were requested. There has been no evidence that there is a hardship or that practical difficulties exist, and that puts him in an awkward position to approve exceptions which are not necessary. This should have come to the Council as a preliminary plat or a PUD as issues could have been better addressed in this context. There are other factors that could potentially apply to indicate that the standards have not been met. In granting exceptions, the Code is clear that the Council may put conditions on the granting of exceptions. He believes if this passes, there are still things to be done to improve this project.*

*Regarding the sidewalks, Commissioner Tully agreed that they should be constructed along the portions of Carpenter being recommended by staff in front of Lots 8, 9, 10 and 11. He does not want to see gaps created. Regarding the detention basin, Commissioner Tully said that the Code allows it, and it's going in the most logical place from the standpoint of the Stormwater Ordinance. In terms of ownership and responsibility, he agrees that this should be through a Homeowners' Association ownership with individual liabilities as well. He then asked how that is addressed in the present Subdivision Improvement Agreement. Mr. Fieldman said that the basin would be part of Lot 8 and maintained by the individual owner of Lot 8. Commissioner Tully said that he believes it should be more than one person, with steps taken for individual liability since everyone in the subdivision will benefit from this. He is concerned about safety issues, even though he understands that a fence will be constructed around the retaining wall.*

*Commissioner Tully then stated that he believed the walnut trees at the south border should be protected by moving the zone of construction as far north as possible. They should do more than the minimum requirements. He said that in the Subdivision Improvement Agreement, the Village cannot release the developer of liability to third parties, but only to liability to the Village. Any damage on private property that may be caused by the developer has nothing to do with what is being discussed by the Council. That is between the homeowner and the developer. He agrees that involving the Mazers in discussions is useful. He also appreciates Ms. Makra's offer to participate with the tree discussions. As to the trees along Brookbank, there might be a way to use traffic calming devices to preserve the trees. If the exceptions are granted, he appreciates the developer's offer for the setbacks. He noted that the petitioner has expressed his willingness to provide a walking path. Commissioner Tully said that he realizes having the Subdivision Improvement Agreement was a substantial step forward and an excellent suggestion by staff.*

*Commissioner Sandack noted that this has been an interesting in-fill development, and a great deal has evolved from the input. One issue that has evolved concerns possible Code changes. He said we should expect that developers would go to the minimum of the Code requirements. He said this matter is before Council under the existing Code and has to be addressed in terms of that Code. Without the exceptions requested, the development meets Code. The detention pond also meets the Code. To apply a different standard to the project would be patently unfair and would invite chaotic results. Everyone needs to know the rules from the start so they may adhere to them.*

*Commissioner Sandack congratulated and acknowledge a very involved, organized, good-natured and well-intended community group that changed the aspects of the plan from what was original proposed. The minimum setback requirements are 30 feet, which was set forth in 1999. The developer coming back with 32 feet is a good give and take. The real give and take is the Subdivision Improvement Agreement, which is not part of the Code. There has*

been considerable discussion about the trees and that more could be done; however, they are on private property. He thinks it is encouraging that there will be discussions with arborists and the Forester to preserve the trees with appropriate fencing. In terms of the exceptions, they may be outcome determinative. Commissioner Sandack said that Commissioner Tully's suggestion regarding a PUD or preliminary plat are good suggestions, but the rules belie this. As for the requirements for an exception under the Subdivision Control Ordinance, there must be a showing of practical difficulties or particular hardships. There has been some discussion as to what are practical difficulties or particular hardships, but they are not limited to whether the exception is consistent with the trend of development in the area and the surrounding uses. The fact of the matter is, and he has not heard one compelling argument to the contrary, that up and down Carpenter and Brookbank there are 66' rights-of-way. He thinks the essential character is 66 foot rights-of-way. Denying the petition which in every other material sense almost completely adheres to the Code would be distasteful. If they want to change the rules, and have a public debate over what those rules should be, he would support that. But they need to be known and they need to adhere to them. He thanked staff for their work on this project, and he will vote in support of this updated plan.

Commissioner Tully said that this exact exchange is the problem the Village has had over and over again, with the same language being looked at by the same people and coming up with two different outcomes. There is no right or wrong. He thinks that some things are not well described.

The Mayor said that arguments made on both sides can reach different conclusions even with the same criteria. He questioned if the two exceptions on Brookbank and Carpenter were not allowed, whether that would require the lots to be smaller than Code requirements. Mr. Fieldman said that they would require a lot depth exception or a redesign of the project. He believes it would require exceptions for the majority of the lots. The Mayor asked whether staff asked the petitioner to go back and reduce the exceptions, and Mr. Fieldman said they probably did.

Mayor Krajewski then encouraged staff to move forward on tools to give the Council greater authority to make in-fill projects better fit existing neighborhoods.

**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 and Commissioner Schnell

Nay: Commissioner Tully and Mayor Krajewski

**Indexes:** Subdivision - Nelson Meadow

**ORD 00-02252** Ordinance: Authorize a Special Use for Jewel-Osco to Permit a Drive-Through Facility

**Sponsors:** Plan Commission

**Summary of Item:** At their meeting of January 9, 2006, the Plan Commission unanimously recommended that a Special Use be granted for the property located at 1148 Ogden Avenue, for a drive-through facility.

AN ORDINANCE AUTHORIZING A SPECIAL USE FOR JEWEL-OSCO TO PERMIT A DRIVE-THROUGH FACILITY

ORDINANCE NO. 4754

**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 and Mayor Krajewski

**Indexes:** Special Use - 1148 Ogden Avenue - Jewel/Osco

**RES 00-02254** Resolution: In Opposition of a Conditional Use and Variance Petition for the Property Located at the Northeast Corner of 75th and Main Streets

**Sponsors:** Deputy Village Manager

**Summary of Item:** This resolution will oppose the issuance of a conditional use and variance for the property located at the northeast corner of 75th & Main Streets.

A RESOLUTION IN OPPOSITION OF A CONDITIONAL USE AND VARIANCE PETITION FOR THE PROPERTY LOCATED AT THE NORTHEAST CORNER OF 75TH AND MAIN STREETS

RESOLUTION 2006-22

**A motion was made by Commissioner Sandack, seconded by Commissioner Tully, 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 and Mayor Krajewski

**Indexes:** DuPage County Zoning Petition

**ORD 00-02255** Ordinance: Provide for the Acquisition through Condemnation of Certain Property Known as the Belmont/Burlington Grade Separation and Transportation Safety Project/ Graf/Keytone Parcel

**Sponsors:** Village Attorney

**Summary of Item:** This will authorize the acquisition of the Graf/Keytone parcel for the Burlington Grade Separation and Transportation Safety Project.

AN ORDINANCE PROVIDING FOR THE ACQUISITION THROUGH CONDEMNATION OF CERTAIN PROPERTY KNOWN AS THE BELMONT/BURLINGTON GRADE SEPARATION AND TRANSPORTATION SAFETY PROJECT/GRAF/KEYTONE PARCEL

ORDINANCE NO. 4755

*The Mayor asked if negotiations are moving to the next stage.*

*Attorney Enza Petrarca confirmed that they were.*

**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 and Mayor Krajewski

**Indexes:** Belmont Road Grade Separation Project, Belmont Road Underpass

## 8. Mayor's Report

*The Mayor asked staff to provide additional information regarding 5630 Plymouth and the requirement of fencing for those trees.*

### Materials to be Received - Minutes

*Community Grants Commission - January 18, 2006*

*Library Board - January 25, 2006*

*Parking & Traffic Commission - October 12, 2005*

*Plan Commission - December 12, 2005*

*Plan Commission - January 9, 2006*

*Stormwater and Flood Plain Oversight Committee - September 22, 2005*

**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 and Mayor Krajewski

## **Materials to be Received - Monthly Reports**

## **Materials to be Placed on File**

## **9. Manager's Report**

*The Manager said there is a Budget Workshop meeting on Saturday at 8:00 a.m. at the Public Works facility. She indicated that the meeting will be recorded and televised beginning at 9:30 a.m. Information will be available in the Village Corner about a re-broadcast. The primary discussion will be interaction between the staff and Council. Public comments will be taken at the end of the day at approximately 1:00 p.m. There will be a two-hour Coffee with the Council on Saturday, March 11 from 8:30-10:30 a.m. That will be an opportunity for conversation with the public concerning the budget. On March 28 there will be a formal Public Hearing with budget approval scheduled for April 4.*

## **10. Attorney's Report**

### **Future Active Agenda**

**ORD 00-02219** Ordinance: Amend Stormwater Provisions (Localized Poor Drainage Areas)

**Sponsors:** Public Works

**Summary of Item:** AN ORDINANCE AMENDING STORMWATER PROVISIONS (LOCALIZED POOR DRAINAGE AREAS)

**Indexes:** Localized Poor Drainage Area

## **11. Committee Standing Reports**

*There were none.*

## **12. Council Member Reports and New Business**

*Commissioner Sandack invited and encouraged the public to participate in and attend the budget meetings. It is the most critical obligation the Council has with regard to spending of tax dollars.*

*Commissioner Schnell reminded residents that if they cannot attend the meeting they can watch the tape and e-mail their comments to the Council.*

*Commissioner Tully agreed with Commissioner Sandack. The budget process is extremely important. He noted that the budget is available for review, and touches everyone's life every day, yet there's low turnout for those meetings.*

*The Mayor expressed his appreciation to Pack #57 for inviting him to their Blue & Gold Dinner. The dinner was a celebration of their progression from Cub Scouts to Boy Scouts. They created their own CD and he recommended that they contact Doug Kozlowski to see whether it's possible to play it on the Cable TV.*

## **13. Adjournment**

*Commissioner Tully moved to adjourn. Commissioner Urban seconded.*

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

*Mayor Krajewski declared the motion carried and the meeting adjourned at 8:45 p.m.*