

MINUTES OF A REGULAR MEETING OF THE GURNEE VILLAGE BOARD
GURNEE VILLAGE HALL
~~DECEMBER 6, 2004~~ FEBRUARY 7, 2005

The meeting was called to order at 7:~~30~~40 p.m. by Mayor Rudny.

Roll Call, Present: ~~Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kova~~Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik
Absent: ~~None~~

None

Other officials present: James T. Hayner, Village Administrator
Rudolph Magna, Village Attorney

~~_____ Tina Smigielski, Director of Finance~~
~~_____ Dudley Onderdonk, Director of Community Development~~
~~_____ Tracy Velkover, Village Planner~~
~~_____ David Ziegler, Village Engineer~~
~~_____ Jay Patrick, Police Commander~~
~~_____ Tracy Velkover, Village Planner~~
~~_____ David Ziegler, Village Engineer~~
~~_____ Fred Friedl, Fire Chief~~
~~_____ Richard Berndt, Fire Marshal~~
~~_____ Tim Tanner, Fire Captain Paramedic~~
~~_____ Joe Hubbard, Fire Captain Admin Officer~~
~~_____ Patrick Muetz, PIO/Management Analyst/PIO~~

~~Mayor Rudny led the Pledge of Allegiance.~~ Mayor Rudny led the Pledge of Allegiance.

Mayor Rudny stated Sean Maher, who attended Warren Township High School, was killed in action in Iraq. He asked for a moment of silence to remember this courageous young man. The wake will be held on Thursday at the Almond Campus.

From the audience, Mr. Tom Daily, 1861 Pine Meadow, suggested the developer from the previous Public Hearing not create a cul-de-sac, but a lazy "J" street exiting on Fuller Road with three (3) houses on one side and four (4) on the other. With heavy snow storms and shared drives, there is only one (1) side to pile the snow. You would also need to have nice neighbors.

Mayor Rudny stated the Village Board does not want shared driveways either.

The Village Administrator stated the Village prefers a minimum of three hundred (300) feet between streets and he will have to check if there is that much distance between Red Pine Avenue and the proposed street.

Mr. Daily asked what the difference would be between a street coming out on Fuller Road or several driveways? There is a greater chance for accidents with driveways onto Fuller Road than there is with a street with a stop sign.

Mayor Rudny stated the advantage of the cul-de-sac is no driveways on Fuller Road.

From the audience, Mr. Jeffrey Romano, 1915 Pine Meadow, stated his property in the Boulders is a little more than the ten (10) to twelve (12) thousand sq. foot lots the developer was talking about in the previous hearing.

From the audience, Mr. David Grosskopf, 3985 Dorchester, stated he does not want the discussion tonight to include the use of the old police station property. He does not want to be misconstrued as being disrespectful to the brave soldiers who gave their lives for his right to be

able to speak. He is concerned with the facts that have been presented to the public lately. Last week there was a Committee-of-the-Whole meeting for possible adoption of the ICC Codes. He is concerned with where the Village presently stands with the ISO rating. The cover letter for that presentation package from Trustee Thoma talked about the Village's rating and homeowner's premiums. He asked if anyone could update him on where the Village stands with the need for these codes?

Trustee Thoma stated per the last Village Board meeting the issue was remanded back to the Building and Zoning Committee which is meeting this Thursday to discuss the matter.

Mr. Grosskopf stated it his understanding the Village filed for an extension because the work has not been completed according to a letter from January 2004.

Trustee Thoma stated she would repeat it has been remanded to the Building and Zoning Committee and will be discussed Thursday at a meeting open to the public.

Mr. Grosskopf stated he just wanted to know if the Village has known about the need to upgrade building codes since January 2004.

Trustee Thoma stated as part of the April 2004 Budget Hearings, it was brought to the Village Board's attention that the codes needed to be updated.

Mr. Grosskopf asked if the Village will suffer a denigration of our current rating if these don't get passed soon?

Trustee Thoma stated the Building and Zoning Committee needs a chance to do the research.

Mr. Grosskopf stated the only reason he is asking is because the last line of Trustee Thoma's cover page states "the Village is doing this to upgrade the Fire Rating which reduces insurance costs for businesses and citizens". That is a different situation than if we are under the gun and stand a chance of being denigrated. You are promoting lower insurance rates when if this work doesn't get done, there maybe an increase.

Trustee Thoma asked Mr. Grosskopf to give the Building and Zoning Committee a chance to look at the issue.

Mayor Rudny stated Mr. Grosskopf should come to the meeting on Thursday.

The Village Attorney asked what BOCA Code the Village is presently under?

From the audience, Dudley Onderdonk, Director of Community Development, stated the Village is currently operating under two (2) sets of codes. One is the 1989 CABO Code for single-family and two-family homes and the 1996 BOCA Code for Mechanical/Commercial Codes.

The Village Attorney asked if those are updated every two (2) years?

The Director of Community Development responded the National Model Code Agencies update them every three (3) years. He stated there is a complicating factor in that CABO no longer exists and neither does BOCA because of a merger of organizations to create the new International Code Council.

The Village Attorney stated this is something that has been pending for years. The Village could have adopted several previous versions and upgraded. This is not something that has been lingering for the last three (3) to four (4) years. There have been opportunities to update this code for a number of years, but because it went for so long the Village has had to do a very large leap, so it is not that we are being denigrated because it has been ignored for the last two (2) to three (3) years. It has been overlooked since 1989 on CABO, so there is a great deal of upgrading and that is what the Building and Zoning Committee is working on very hard.

Mr. Grosskopf stated he was just trying to get the facts straight on the timing and where it actually stands. He stated there were figures presented at the same meeting regarding sprinkler

costs. He followed up the next day with an email on what he thinks are the true costs. A good resource to use would have been the new Police Station. On every payment application that comes before the Village Board the sprinkler contractor is listed at \$28,000.00 or \$2.56 per sq. foot. The numbers presented were less than that. He thinks it is important to get the right numbers to the public. There is a complicated energy calculation within those building codes which will not make housing more affordable. Revision of the codes is a good thing for public safety. At the last Plan Commission meeting information was relayed regarding a Village Board meeting in August in which the Mayor stated that Ward Miller was present at the meeting “just to tell the truth”. As it turns out, he wasn’t giving the right portrayal of what he was trying to imply that night. Mr. Grosskopf asked if the Mayor had any comments?

Mayor Rudny responded he believed Ward Miller was there to tell the truth at the time. He did not look at the information presented at the Plan Commission meeting. No one has given him the information from a FEMA Director. He has not talked to this Director, so he stated he has no comment on it. He stated Ward Miller is a hard-working individual with Stormwater Management Commission and when he came before the Village Board to speak, he came to tell the truth.

Mr. Grosskopf stated the implication of what Ward Miller said that night was that Gurnee would be cut off from IEMA funding. That misled many people, including him.

Mayor Rudny stated if the bank produces the letter stating otherwise, he would have to agree. It was agreed by the Plan Commission that the floodplain was not an issue at that meeting and the Plan Commission moved forward without considering that.

Mr. Grosskopf stated the whole issue of tearing down the old police station was such a quagmire. The Village placed itself in a perilous situation. The building was torn down on the premise of mitigating a storm water situation. The impervious surface of the parking lot was left. The church has used this lot for a long time and as long as they can continue to use it, that’s fine. He would just like some consistency. The old police station was knocked down based on some statement that the Village wouldn’t be conforming and getting IEMA funding.

Mayor Rudny stated that is a different situation than the bank development because the bank property is owned by someone else and not the Village. The bank has development rights there. The old police station property is owned by the Village and it is zoned public. In order for the Village to develop that, the property would have to be sold and re-zoned. His belief is that FEMA would look differently on that property because of the Village’s ownership. If the Village were to sell that property for development and at the same time team up with FEMA to buy other properties in the floodplain, it would not be looked upon favorably. In fact, the Village received commendation from an association in Illinois of flood mitigation specialists for setting a good example by razing the police station. The parking lot issue is something the Building and Zoning Committee will be looking at. It may be recommended that the impervious surface needs to be removed to meet some improvement in flood mitigation. The decision to raze the police station was made in August. The flood occurred in May. Something had to be done about the old police station because it was continually deteriorating. He believes no complications have been created by that.

Mr. Grosskopf stated he thinks there is a problem with the way it sits now. It isn’t complying with Stormwater Management. There is no silt fence around it. The structure that is draining the site is full of about four (4) feet of silt. The site is not properly set-up.

Mayor Rudny stated Mr. Grosskopf’s remarks will be checked out. He thanked Mr. Grosskopf for the input.

Mr. Grosskopf suggested the members of the original flood mitigation committee, including Trustee Kovarik and Trustee Balmes, deal with this property while the Building and Zoning Committee is busy with other issues. They are probably the most knowledgeable and most qualified. He doesn’t think a dental hygienist can review appraisals as well as a mortgage banker can.

Mayor Rudny stated the Building and Zoning Committee is just looking at the use of the property, not flood mitigation issues. If that needs to be done, the help of Village staff and experts will be incorporated.

Mr. Grosskopf stated the way the site sits is a glaring example. He stated the other Trustees wrote the flood mitigation plan and they are being exiled. Maybe they are not running on the right slate to get the assignment, but he thinks it is being botched.

Trustee Thoma stated the old police station is in the flood way and not the floodplain like the proposed bank. As far as redeveloping the old police station site, a developer would have to demonstrate that the capacity of the flood way is not changing. The Trustees who wrote the flood mitigation plan would concur with that. It is stated on page thirty-nine (39) Section three (3) of the Lake County Stormwater Management Watershed Ordinance.

Mr. Grosskopf stated that is exactly the point. The ordinance is not being followed. There is the ethical issue of the parking lot remaining. He asked Trustee Chamberlain if he was a member of the church that uses the parking lot?

Trustee Chamberlain stated he was a member of that church. He stated he was not answering political questions.

Mr. Grosskopf stated these are not political questions. There is a liability position involving the Village with the parking lot. Should special consideration be given to every other congregation in the community because this church uses a public parking lot?

Mayor Rudny stated Mr. Grosskopf is making an accusation that special treatment is being given to the church because one of the Trustees is a member.

Mr. Grosskopf stated the innuendo is there.

Mayor Rudny responded Mr. Grosskopf is creating the innuendo.

Mr. Grosskopf asked what happens if someone falls and hurts themselves? Who is the litigant? Is it the Gurnee Community Church or the Village?

Mayor Rudny stated he doesn't know what the usage of the parking is by the church. He knows they have used it in the past. The Village will take a look at the usage of the lot. As far as future uses, that will be looked into by the Building and Zoning Committee. He stated Mr. Grosskopf's input will be taken into consideration as to whether or not the lot should exist. It may be used by other businesses in the community.

The Village Attorney stated the Village as a municipal body enjoys certain torte immunities, more than individuals, unless there is willful or wanton misconduct. There is no condition that exists that is different than if the building was there. The Village does not suffer any adverse possession or implied easement by allowing a private party to park there. At some point, the Village should have a policy on the use of the lot. If you start to show preference, an issue may come up. Village staff will look into storm water management issues.

Mr. Grosskopf stated he did not want to see the Gurnee Community Church denied use of that parking lot. He wanted to make the point that a thorough analysis of the situation was not looked at by the Building and Zoning Committee because in his opinion the right people are not on the Committee. He thought about the snow and ice issue when Al Maden of Rolf Campbell gave his testimony at the Plan Commission meeting. Mr. Grosskopf has not seen Mr. Maden involved in other plans recently. He did not see Rolf Campbell's review of anything, including snow removal, at the Great Northern Resort, the Rohrman property and CenterPoint. He asked what was the need for Mr. Maden's testimony on the Gurnee Community Bank project?

Mayor Rudny stated Village staff consults with Mr. Maden on a regular basis and has for years. When Mayor Rudny was on the Plan Commission, Mr. Maden commented on every plan before

them. In the case of the bank, there was concern from a traffic standpoint and a land planning standpoint.

Mr. Grosskopf stated he only asked about three (3) recent projects.

Mayor Rudny responded that he does not know. He stated the Building and Zoning Committee did not review the old police station property before it was razed. The Committee is assigned to determine the use of the property after the razing. The Committee will also be addressing other floodplain property the Village owns.

Mr. Grosskopf stated he read a headline about a planned memorial on the site of the old police station. He asked that amidst all the confusion, the Village Board not hasten to put up the memorial until there is more public input on the issue. It is not appropriate with how explosive the issue has been to rush something through.

Mayor Rudny stated it is not being rushed through. It is being addressed by the Building and Zoning Committee. Their meetings are public. The individuals involved recognize the sensitivity of the issue. Two (2) professionals are donating their time to the project. It will be well reviewed and thoroughly thought out.

Mr. Grosskopf stated he had a comment for Trustee Wasser regarding her Letter to the Editor of the News-Sun rebutting a District 56 supporter. The issue was revenue sharing. He asked if she stated the Village boundaries are the same as the Gurnee Park District boundaries?

Trustee Wasser stated she did not know if she stated that verbatim. She stated they share the same or similar boundaries. She was being chastised for the Village giving money to the Aquatic Center. Her point in that letter was that the Aquatic Center serves all the residents of Gurnee as opposed to how the school districts were divided eons ago and each district serves a different set of residents.

Mr. Grosskopf stated he had a map with the Gurnee Park District boundaries which are quite different than the Village boundaries. He requested she have accurate information when she writes letters.

Trustee Wasser stated her information was stated correctly.

Mr. Grosskopf stated he wanted it to be known that Trustee Wasser and Trustee Thoma did not sign the letter supporting the last Gurnee District 56 referendum.

From the audience, Mr. Steve Carlson, 36235 Mill Court, member of the Lake County Board, stated he knows Ward Miller and he talked to him about his concerns and the statements he made were made with his knowledge to that time.

From the audience, Mr. Jack Sojer, 1012 Oakwood Street, stated he has been attending Plan Commission and Village Board meetings. He is learning a lot, but he can recognize hard work. He stated he has respect for the Village Board members. He wants to recognize the work of Trustee Thoma and Trustee Chamberlain, but especially Trustee Wasser. She does an excellent job for the neighbors. He recognizes compassion and caring.

From the audience, Mr. Ross Sorrentino, 1031 Oakwood Street, stated he started attending meetings because of the storage unit going up in the neighborhood. He asked if any of the Trustees is responsible for the area of their neighborhood?

Mayor Rudny responded the Trustees are elected at large, which means they all represent the entire Village.

Mr. Sorrentino stated he wished to recognize Trustees Thoma and Wasser for the hard work they put in with the neighbors on Oakwood. They put a lot of time and effort into what the neighbors wanted. He suggested that Mayor Daley could put an "X" in the parking lot at the old police station. He stated his vision for Old Grand is some place where residents could spend the day

shopping and walking up and down the streets. There is a lot of bickering going on and the Trustees need to take a leadership role and Mayor Rudny needs to take charge and not let Gurnee fall by the wayside because of politics. We will be watching to see what you want in ten (10) to fifteen (15) years. Gurnee needs to be a great place where people will want to come. He and a lot of other people will be voting on what the vision is for Gurnee and Old Grand Avenue. Don't allow the river to run our way of thinking. Instead of deadening the corridor of Old Grand Avenue and O'Plaine Road, where Gurnee first took hold, let's embrace the river and make it a plus to have the river run through our Village and not a negative. Are there things that we can do with our representatives downstate to make something happen there? He wants to know where everyone stands on the "old town"? Let's make it unique to Gurnee.

He stated at the Plan Commission meeting we were talking about where we will put the snow and bushes and twenty-four (24) hour ATMs on the bank site at 1:30 a.m. The big concern was the complaints of the two (2) people who lived across the street from the bank and they weren't there at 1:30 a.m. Everyone is here because they care about Gurnee and what it will be in the future. He asked if there was a Veterans' Statue on Old Grand?

Mayor Rudny responded the war memorial was moved to the new police facility in Veterans' Memorial Park.

Mr. Sorrentino suggested honoring Gurnee's Marines at that park with something special where it belongs, not between a church and a saloon.

Mayor Rudny stated the Veterans' Memorial Park has a Walk of Honor, so it is for all Veterans. There is a brick for Geoffrey Morris there.

Mr. Sorrentino said we have a brick and now we are going to have entire memorial for one (1) marine. Are we going to put up another park for each one that dies?

Mayor Rudny stated that is being addressed. He stated we did lose another marine who didn't live in Gurnee, but went to Warren Township High School and Geoffrey Morris' father is going to be helping with the park. It may be a park dedicated to all the soldiers who have died in Iraq and Afghanistan. He doesn't believe Gurnee lost anyone in Desert Storm. Warren Township's War Memorial does address all the soldiers that died fighting for our country in all of the wars, even back to the Civil War.

Mr. Sorrentino stated any future building in the floodplain should be raised five (5) feet above the floodplain and then roll with it. Let's make this corridor something that we are proud of – like we are proud of the other side of Gurnee. He stated there is a rumor that when Mayor Welton left office there was \$12,000,000.00 in the bank and now we don't have it.

The Village Administrator stated the Village has not used any of the reserves.

Mr. Sorrentino stated there is another rumor that there is \$3,000,000.00 that can't be accounted for. There was furniture bought and now the furniture is not here.

Mayor Rudny asked when people hear rumors and find out the truth to please call the person with the false information and tell them the truth.

Mr. Sorrentino asked the Village Board to stop rumors. We are all united for Gurnee.

Trustee Chamberlain stated Mr. Sorrentino is doing the best think in coming and asking. Mr. Grosskopf wants to spread lies.

The Village Administrator stated the only furniture purchased in the last three (3) years was for the new Police station. It was about \$420,000.00 worth and it is all at the Police station.

Mr. Sorrentino stated he hoped the Village Board would share in his vision for Gurnee and Old Grand and keep the area growing. He wants to know if he has to move to a nicer place, because he will. He has heard there was vandalism at Trustees houses.

Trustee Wasser and Trustee Thoma stated the vandalism occurred at their houses.

Mr. Sorrentino stated this is what's happening in Gurnee and it's not going forward. It is up to the Mayor and the Village Board to harness this and run on where we are going to take Gurnee.

Mayor Rudny stated he will be giving his vision of the Old Grand Corridor and the Village Center, which includes O'Plaine Road to Washington Street. There are a lot of good things going on. He asked that Mr. Sorrentino meet him and walk down Old Grand and he will give the history of how that zoning district was formed. There is a plan in place and it has been moving forward. The Old Grand area was originally mostly residential, but it was older homes and they were deteriorating.

Back in the 1970's, the administration at the time felt allowing a combination of commercial and residential would help the area and it has. There are a number of businesses that are thriving in the area. There are also parks and public land.

Mr. Sorrentino stated it would be nice to have a Starbucks there; people would want to move there.

Mayor Rudny stated something like that doesn't happen overnight. He thinks the development of the Washington Street and O'Plaine Road area is somewhat unique.

Mr. Sorrentino stated you have three (3) government buildings right there. Where is the unique restaurant? Mix it up a little.

Mayor Rudny stated the East Grand Gateway has good things happening there. The Village has put some money and landscaping into the area.

Mr. Sorrentino stated there are all the same chain restaurants on the west side with nothing unique.

From the audience, Mr. Jeff Romano, 1915 Pine Meadow, asked where the issue of a train station for Gurnee stands?

Mayor Rudny stated it is extremely costly and will take Federal funds so there is a consortium that includes Green Oaks and the City of Waukegan working together to try to encourage that. The idea is to do a joint train station with Waukegan at the old Lakehurst site. The only location Gurnee has is in the flood plain and there would be parking issues. It probably won't happen for at least five (5) years.

Trustee Thoma requested the meeting minutes from December 6, 2004 and January 3, 2005 be removed from the consent agenda.

Damijonaitis moved, seconded by Wasser, to approve the amended consent agenda as presented.

There was no comment from the public.

Trustee Wasser requested number eleven (11) of the consent agenda, Approval of proposed sign changes for the Salvation Army Family Store per East Grand Avenue Overlay District guidelines, be removed for further discussion.

Damijonaitis moved, seconded by Thoma, to approve the amended consent agenda as presented.

RR Roll Call, Aye: Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik
Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik

Nay: NoneNone

Absent: NoneNone

Motion

Carried.

The Village Administrator read the amended consent agenda for an omnibus vote as follows:

1. Approval of the minutes from the October 18, 2004 and October 25, 2004 meetings, and

Approval of the minutes from the December 20, 2004 meeting, and

~~2. Approval of Ordinance 2005-06 .—Approval Ordinance 2004-87, approving the First Amendment to an agreement between the Village of Gurnee and the Solid Waste Agency of Lake County, Illinois for fuel, operation and maintenance of a vehicle, and to publish in pamphlet, and~~

Amending Chapter 78, Section 78-61, Schedule A, of the Gurnee Municipal Code by designating certain streets as stop streets within the Estates at Churchill Hunt Subdivision, and to publish in pamphlet form, and

~~3. Approval of Ordinance 2004-88, approving a proposal for civil and traffic engineering services with Gewalt Hamilton Associates, Inc., and to publish in pamphlet form, and~~

~~4. Approval of Ordinance 2004-89, abating the tax heretofore levied for the year 2004 to pay Debt Service on \$3,140,000.00 General Obligation Refunding Bonds, Series 2004 of the Village of Gurnee, Lake County, Illinois, and to publish in pamphlet form, and~~

~~5. Approval of Ordinance 2004-90, abating the tax heretofore levied for the year 2004 to pay Debt Service on \$1,775,000.00 General Obligation Refunding Bonds, Series 2003 of the Village of Gurnee, Lake County, Illinois, and to publish in pamphlet form, and~~

~~6. Approval of Ordinance 2004-91, abating the tax heretofore levied for the year 2004 to pay Debt Service on \$10,000,000.00 General Obligation Refunding Bonds, Series 2002B of the Village of Gurnee, Lake County, Illinois, and to publish in pamphlet form, and~~

~~7. Approval of Ordinance 2004-92, abating the tax heretofore levied for the year 2004 to pay Debt Service on \$1,635,000.00 General Obligation Refunding Bonds, Series 2002A of the Village of Gurnee, Lake County, Illinois, and to publish in pamphlet form, and~~

~~8. Approval of Ordinance 2004-93, abating the tax heretofore levied for the year 2004 to pay Debt Service on \$4,400,000.00 General Obligation Refunding Bonds, Series 2000 of the Village of Gurnee, Lake County, Illinois, and to publish in pamphlet form, and~~

~~9. Approval of Ordinance 2004-94, accepting the Final Plat of Subdivision of First Re-subdivision of CenterPoint Business Center—Gurnee, and to publish in pamphlet form, and~~

~~10. Approval of Ordinance 2004-95, accepting the Public Improvements for Victorian Village—Phase III, and to publish in pamphlet form, and~~

~~11. Approval of Payroll for the period ending November 18, 2004 in the amount of \$527,815.50, and Approval of Ordinance 2005-07 Vacating the right-of-way of Pine Grove from Grand Avenue (State Rte. 132) to a point 121.25 feet south thereof, and to publish in pamphlet form, and~~

~~12. Approval of the Payroll Transfer Journal for the period ending November 18, 2004 in the amount of \$564,958.06, and Ordinance 2005-08 Accepting a permanent bus shelter, public utility and drainage easement from Mr. David Berkson (by and along parts of State Rte. 132 at Pine Grove Avenue), and to publish in pamphlet form, and~~

~~13.5. Approval of Ordinance 2005-09 Extending a moratorium on the establishment of off-premise advertising signs by amending Ordinance #2003-06, and to publish in pamphlet form, and~~

~~6. Approval of Ordinance 2005-10 Accepting the Final Plat of Subdivision of Gold's Gym Re-subdivision, and to publish in pamphlet form, and~~

Formatted: Tab stops: 4.39", Left + Not at 1" + 2"

7. Approval of Engineering Division's request for authorization to solicit Requests for Qualifications for engineering design services for the Grandview Avenue Water Main Improvement Project, and

8. Approval of Firemedic David Douglass' request to pursue his Associates Degree in Fire Science Technology from the College of Lake County through the Village's Tuition Assistance Program, and

9. Approval of request from The Salvation Army to conduct their two (2) annual fundraising events: A. Donut Day on June 3 and June 4, 2005; B. Christmas Kettles from November 18 through December 24, 2005, and

10. Approval of Payroll for the Period ending January 27, 2005 in the amount of \$542,560.38, and

11. Approval of Payroll Transfer Journal for the Period ending January 27, 2005 in the amount of \$578,634.09, and

12. Approval of Bills for the Period ending February 7, 2005 in the amount of \$445,361.27.

Thoma moved, seconded by Damijonaitis, to approve the amended consent agenda for an omnibus vote as read.

Bills for the period ending December 2, 2004 in the amount of \$743,805.40, and

Roll Call, Aye: Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik
Nay: None
Absent: None Motion Carried.

Trustee Thoma stated that in the meeting minutes of December 6, 2004 on page 5147A, the two italicized words in line five (5) were to be removed with the sentence reading "Negative concerns expressed during the process were resolved."

Damijonaitis moved, seconded by Thoma, to approve the amended minutes of the December 6, 2004 Regular Meeting.

Roll Call, Aye: Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik
Nay: None
Absent: None Motion Carried.

Trustee Thoma stated she was not present for the January 3, 2005 meeting and does not feel comfortable approving the minutes.

Chamberlain moved, seconded by Damijonaitis, to approve the minutes of the Regular Meeting of January 3, 2005.

Roll Call, Aye: Damijonaitis, Chamberlain, Balmes, Wasser, Kovarik
Nay: None
Absent: None
Abstain: Thoma 5 Aye, 1 Abstain Motion Carried.

Thoma moved, seconded by Chamberlain, to approve a Proclamation designating February 2005 as National African American History Month in the Village of Gurnee.

Roll Call, Aye: Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik
Nay: None
Absent: None Motion Carried.

The Village Administrator stated the Village Board received a memo from the Associate Planner regarding granting a Special Use Permit to United Propane and Energy allowing a propane

distributor's and sales facility at 3895 Clearview Court. The memo included the Plan Commission's Findings of Fact and unanimous favorable recommendation.

Thoma moved, seconded by Wasser, to approve Ordinance 2005-11 granting a Special Use Permit to United Propane and Energy allowing a propane distributor's and sales facility at 3895 Clearview Court, and to publish in pamphlet form.

Roll Call, Aye: Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik
 Nay: None
 Absent: None Motion Carried.

The Village Administrator stated the Village Board received a memo from the Associate Planner regarding re-zoning property from R-2 to R-3 on the petition of Michael Rogers (3701 Florida Avenue). He stated the property is located on the southwest corner of Magnolia Avenue and Florida Avenue. Parcels to the east and south are zoned R-3. The proposed parcel is one hundred and sixty-five (165) feet wide and is to be divided into two (2) lots, which meets the minimum requirements.

Wasser moved, seconded by Balmes, to approve Ordinance 2005-12 Rezoning property from the R-2 District to the R-3 District on the petition of Michael Rogers (3701 Florida Avenue), and to publish in pamphlet form.

Roll Call, Aye: Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik
 Nay: None
 Absent: None Motion Carried.

The Village Administrator stated the Village Board received a memo from the Associate Planner regarding major building/site changes per the East Grand Gateway Overlay District for the property located at 3747 Grand Avenue (Temps Now) as recommended by the Plan Commission. The property is located at the southeast corner of Waveland Avenue and Grand Avenue. The building has been vacant for a number of years. Temps Now, the new owner of the property, wants to renovate the building and property on an incremental approach. The Plan Commission forwarded a favorable recommendation, provided they return with the remainder of the plans by May 2005.

Trustee Chamberlain asked how long the building has been empty?

The Village Administrator responded for at least eight (8) to nine (9) years.

From the audience, Mr. Scott Poland, one of the owners of Temps Now, introduced Mark DiGanci, the architect for the project.

From the audience, Mr. Mark DiGanci stated they will be doing new window penetrations in the rear of the building. The roof has been redone, all mechanical systems have been replaced, and the entire interior will be redone. The large sign will be removed and replaced with a monument sign. The exterior lighting has been redone. At the present time, nine (9) hardwood trees will be added and a complete landscape study will be completed. The big push was to get Temps Now into the building. The three thousand (3,000) sq. feet at the front of the building will be open for lease. Part of the façade design will be incorporated around the new tenant. The landscaping, exterior changes and parking will be addressed in May.

Trustee Wasser commended Temps Now for making the changes and for moving to East Grand Avenue.

Wasser moved, seconded by Thoma, to approve major building/site changes per the East Grand Gateway Overlay District for the property located at 3747 Grand Avenue (Temps Now) as recommended by the Plan Commission, including the Plan Commission's recommendations and to publish in pamphlet form.

Roll Call, Aye: Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik
 Nay: None

Absent: None Motion Carried.

The Village Administrator stated the Village Board received a memo from the Village Planner regarding proposed sign changes for the Hyundai of America dealership at 6301 Grand Avenue. There was miscommunication between the proprietor and the sign contractor. Last month, sign changes for this dealership were brought forward, but those signs are not consistent with what Hyundai is looking at for a flagship store.

From the audience, Mr. Mark Batista, the Rohrman Group, stated the dealership is open for business. He stated they are asking for an additional twenty-eight (28) sq. feet on the monument sign at the front of the building. Hyundai has a new image program that started at the beginning of the year, which indicates specific signage for all dealerships nationwide. The handout presented to the Village Board shows the Hyundai insignia as required.

Trustee Thoma asked what year Hyundai notified dealers of the changes?

Mr. Batista responded they were notified in March 2004.

Trustee Thoma asked if he was aware almost a year ago that the signage before the Village Board previously was wrong?

Mr. Batista stated when the dealership came before the Village Board last month, they asked for changes on the wall signage because they received notification from the sign company that the monument sign had already been approved with the additional square feet. It wasn't until 2-1/2 weeks ago with the receipt of a confirmation letter from the sign contractor stating the signs being built were the ones approved with the PUD Agreement and not the Hyundai required signs that the Rohrman Group realized the error.

Mayor Rudny stated he doesn't really understand what it is the Rohrman Group is asking for. If this is a major change, it may be sent back to the Plan Commission because this is deviating substantially from what was originally approved with the PUD. Hyundai Corporate needs to abide by the agreements signed with municipalities.

Trustee Thoma stated as part of the agreement, there were to be no cars parked on the green space and up until today cars were parked on the green space. The Rohrman Group needs to keep an eye on this situation. She considers the signage to be a major change that should be sent back to the Plan Commission.

Trustee Chamberlain asked the Village Planner for her recommendation.

From the audience, Tracy Velkover, Village Planner, stated it was more a question for the Village Attorney because there are definitions of what major and minor changes are. There is one definition about changes to final government covenants/agreements. This exhibit was attached to the PUD Agreement. She would defer that recommendation to the Village Attorney. It is taking the sign from eight (8) sq. feet to forty-five (45) sq. feet and there is an issue with not being able to meet the setback. There is a fourteen (14) foot green space with a minimum requirement of a seven and a half (7-1/2) foot setback and the sign is ten (10) feet wide.

Trustee Chamberlain asked what would be the downside of that sign overhanging the parking area?

The Village Planner responded a departure from the setback requirement could set a bad precedent.

Trustee Wasser asked with the modifications to signage approved last month and this increase, will the Rohrman Group exceed the signage maximum?

The Village Planner stated they are still under the maximum limit.

Trustee Wasser concurs with Trustee Thoma that it should be sent back to the Plan Commission.

Trustee Damijonaitis agrees it is a major change. This proposed sign looks like a pole sign and the Village is trying to get rid of those.

The Village Attorney stated if the Village Board is willing to provide for technical deviations, a letter in the form of a motion could be attached to the agreement. In regard to the setback issue, the leading edge of the sign violates the setback. He suggested the sign post remain in the same position, but slide the sign to the south.

Mr. Batista stated the pedestal would remain in position and the sign would slide back three (3) feet to meet the setback.

Mayor Rudny stated these are Plan Commission issues and they will look at the details.

The Village Attorney asked if the issue is going back to the Plan Commission for a Public Hearing or for refinement?

Mayor Rudny stated the Village Board can remand it back to the Plan Commission as a minor amendment. The Plan Commission is in a better position to see how this change impacts the whole site.

Mr. Batista stated there are signs that were approved under the PUD agreement that they are not even using.

Wasser moved, seconded by Thoma, to remand the approval of sign changes for the Hyundai of America Dealership at 6301 Grand Avenue to the Plan Commission as a minor change with a request for recommendations from the Plan Commission.

Roll Call,	Aye:	Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik
	Nay:	None
	Absent:	None
		Motion Carried.

The Village Administrator stated the annual request for new squad cars is before the Village Board. The cut-off for ordering from the State Program is March 15, 2005. He stated the two (2) low bids are Landmark Ford in Springfield, Illinois and Miles Chevrolet in Decatur, Illinois. Because of the issue with Ford regarding lawsuits relative to the safety of the cars, Chief Jones is recommending that we switch to the Chevrolet Impalas. They are the Police Squad package. The seven (7) replacement squads and the detective car are necessary. The Village is getting three (3) years out of the squads now and that is about as good as you can expect. The question is if you need to add another car for additional personnel. This is a budget issue and the numbers are going to be tight for additional personnel.

Trustee Wasser asked if this issue could be held off until the budget sessions in early March? It would provide an opportunity to discuss the maintenance schedule on these cars.

Trustee Damijonaitis asked if the Village Board approves the request as presented with nine (9) cars is the Village committed to buying the vehicles?

The Village Administrator stated if we order the cars, we are committed to purchasing.

Trustee Damijonaitis stated the Village Board can't commit until they have had budget discussions.

Trustee Chamberlain stated he thinks the Village Board should take the Village Administrator's recommendation and purchase eight (8) cars and if we want to add one (1) later, then we can.

Mayor Rudny stated he went through the replacement schedule. It looks as if when the Police Department has a vehicle that isn't that old but has considerable miles, it is used for something other than a squad car.

Chamberlain moved, seconded by Damijonaitis, to approve the order of seven (7) squad cars and one (1) detective car for fiscal year 2005-2006 from Miles Chevrolet under the State Bid as per the Village Administrator's recommendation.

Trustee Damijonaitis asked if the budget would reflect the increased cost of carrying inventory for two (2) different makes of squad cars?

The Village Administrator stated there may be an increase.

Roll Call, Aye: Damijonaitis, Chamberlain, Balmes, Thoma, Kovarik
Nay: Wasser
Absent: None 5 Ayes, 1 Nay Motion Carried.

Trustee Balmes stated she wanted to commend the Management Analyst/PIO for the Annual Report Calendar. She asked if there was the possibility of including dates for the schools and other organizations?

The Village Administrator stated Village staff will look at that. He stated Patrick Muetz basically took the Annual Report from beginning to end, and did the vast majority of the work and is to be congratulated.

Mayor Rudny stated he has had good comments on the Annual Report/Calendar.

Trustee Damijonaitis suggested the calendar run from February to February since it doesn't go out until then.

From the audience, Mr. Hank Schwarz, 5062 Glendale Drive, stated the resident survey results in the Annual Report were very good. The lifeblood of the community is the collection of the Amusement and Sales Taxes. He asked if the Village surveyed the businesses to see how we are doing with them? He thinks that would be a good barometer because they keep the community going.

The Village Administrator stated they haven't done that in the past.

Thoma moved, seconded by Chamberlain, to adjourn the meeting.

Roll Call, Aye: Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik
Nay: None
Absent: None Motion Carried.

The meeting was adjourned at 9:22 p.m. by Mayor Rudny.

Mary Jo Kollross
Village Clerk

~~14. Approval of Payroll Transfer Journal for the period ending December 2, 2004 in the amount of \$745,264.08, and~~

~~15. Approval of Bills for the period ending December 6, 2004 in the amount of \$2,231,698.11.~~

~~Chamberlain moved, seconded by Thoma, to approve the amended consent agenda for an omnibus vote as read.~~

~~Roll Call, Aye: Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik
Nay: None
Absent: None Motion Carried.~~

~~Trustee Wasser recommended that discussion of the proposed sign changes for the Salvation Army Family Store per East Grand Avenue Overlay District Guidelines be postponed. She would like to see a monument sign rather than a pole sign. She suggested working with the Village Commons in changing the sign. She indicated the Salvation Army should be allowed to keep the current pole sign during negotiations.~~

~~Trustee Damijonaitis stated this site is one of the larger developments on the East Grand Corridor. He would like to avoid a huge divergence from the effort put forth to move toward monument signs.~~

~~Damijonaitis moved, seconded by Wasser, to table approval of the proposed sign changes for the Salvation Army Family Store per East Grand Avenue Overlay District Guidelines to discuss a possible monument sign.~~

~~Roll Call, Aye: Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik
Nay: None
Absent: None Motion Carried.~~

~~Mayor Rudny, Fire Chief Fred Friedl and Fire Captain Tanner presented Certificates of Completion to the members of the Gurnee Fire Academy Class of 2004. Chief Friedl thanked the citizens who participated and Fire Department staff who were instructors. Mayor Rudny stated two (2) members of the Fire District Commission were participants in this year's class. Captain Tanner thanked the Village Administrator, the Mayor and the Village Board for allowing the time to recognize the participants.~~

~~Mayor Rudny and Chief Friedl presented a Plaque of Appreciation to Tim Olk, for his support and assistance, especially in taking pictures, during the flood of 2004.~~

~~The Village Administrator stated the proposed 2005 Village Board Meeting schedule needs to be changed because Police Chief Jones is being installed as President of the Illinois Police Chiefs Association on January 10, 2005. The regular meeting originally scheduled for January 10, 2005 has been changed to January 24, 2005 with a Committee of the Whole meeting scheduled for January 31, 2005.~~

~~Wasser moved, seconded by Thomas, to approve the amended 2005 meeting schedule for the Village Board.~~

~~Roll Call, Aye: Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik
Nay: None
Absent: None Motion Carried.~~

~~Mayor Rudny stated the Canadian Pacific Railroad Holiday Train would again be stopping in Gurnee at Depot Road on December 9, 2004 at 7:15 p.m. The event is sponsored by the Lake County Chamber of Commerce and the proceeds go to the Northern Illinois Food Bank. He encouraged everyone to attend.~~

~~Mayor Rudny stated a Committee of the Whole meeting has been set for December 13, 2004 at 7:30 p.m. for the presentation of the Majestic Harbor Resort. The presentation had been~~

~~scheduled previously and was postponed due to additional information regarding traffic concerns and analysis by staff.~~

~~Wasser moved, seconded by Damijonaitis, to approve a special Committee of the Whole meeting of the Village Board on December 13, 2004 at 7:30 p.m. at the Village Hall.~~

~~Roll Call, Aye: Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik
Nay: None
Absent: None Motion Carried.~~

~~Mayor Rudny stated he had received communication from Rabbi Tenenbaum of the Jewish Center in Gurnee requesting the Village display a menorah. After conferring with the Village Administrator and the Village Attorney, it was determined the Village Board will need to formulate policy regarding this issue, but there will not be time this year. Alternatives will be presented to the Village Board for consideration for next year.~~

~~From the audience, Rabbi Tenenbaum stated he is the Director of the Habad Jewish Center in Gurnee. There is an initiative to display menorahs on either public or private property. He displayed a DVD on the worldwide initiative.~~

~~Mayor Rudny stated the Village Board will be exploring options. The Village Administrator and the Village Attorney will meet to address the legal issues involved.~~

~~Trustee Chamberlain stated this issue should be on a January or February agenda.~~

~~The Village Attorney stated it would be advisable to consider this topic for a Committee of the Whole meeting. What other communities are doing can be discussed. Potential entanglements with Church and State issues need to be addressed. Options can be discussed and the Village Board can give directions as to which option is preferable. If there is a cost involved a February meeting discussion would be timely for inclusion in the budget process.~~

~~Mayor Rudny stated approval of Ordinance 2004-96 authorizing the Village President to execute and the Village Clerk to attest to an Eighth Amendment to the Annexation Agreement for Gurnee Mills is before the Village Board. The Village Board forwarded a favorable recommendation on the Marcus Cinema signage issues at the Public Hearing earlier.~~

~~Damijonaitis moved, seconded by Thoma, to approve Ordinance 2004-96 authorizing the Village President to execute and the Village Clerk to attest to an Eighth Amendment to the Annexation Agreement for Gurnee Mills, and to publish in pamphlet form.~~

~~Roll Call, Aye: Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik
Nay: None
Absent: None Motion Carried.~~

~~Mayor Rudny stated the approval of Ordinance 2004-97 amending the signage Ordinance for Gurnee Mills is before the Village Board.~~

~~Thoma moved, seconded by Chamberlain, to approve Ordinance 2004-97 amending Village Ordinance No. 88-117 captioned "An Ordinance rezoning and granting a Special Use Permit with respect to the property located at the northwest quadrant of Grand Avenue and I-94" and Village Ordinances No. 96-88, No. 97-132, No. 99-104, No. 2001-89, No. 2003-18 and No. 2004-74 amending Village Ordinance No. 88-117, and to publish in pamphlet form.~~

~~Roll Call, Aye: Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik
Nay: None
Absent: None Motion Carried.~~

~~Mayor Rudny stated the approval of Ordinance 2004-98 granting a Special Use for signage for Marcus Cinema is before the Village Board.~~

~~Thoma moved, seconded by Wasser, to approve Ordinance 2004-98 granting a Special Use for Certain Signage for the Marcus Cinema at Gurnee Mills, and to publish in pamphlet form.~~

~~Roll Call, Aye: Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik
Nay: None
Absent: None Motion Carried.~~

~~The Village Administrator stated the Village Board received a memo from the Village Planner regarding the location of accessory structures. There was a hearing before the Plan Commission and the Zoning Board of Appeals where text amendments were reviewed. One text amendment reviewed was the current ten (10) foot setback requirement between the principal structure and an accessory structure in the Zoning lot. After discussion, the ten (10) foot setback remains, but can be reduced to five (5) feet upon approval of the Fire Prevention office. He stated the ten (10) foot setback predates 1977 and was based on fire concerns. This setback was reiterated in the 1980 Zoning Ordinance.~~

~~Trustee Chamberlain asked if there are any NEPA Ordinances or codes regarding this issue?~~

~~From the audience, Richard Berndt, Fire Marshal, stated there are none under the Fire Codes.~~

~~Trustee Chamberlain stated in his research he found few communities who have reduced the ten (10) foot setback, but he couldn't find any reasons why. Those communities that have reduced setbacks require one (1) hour Fire ratings on the accessory structure.~~

~~The Fire Marshal stated he agrees with that requirement. He stated the concern is if a rescue could still be managed from a second story window with a five (5) foot setback.~~

~~Trustee Chamberlain asked under what criteria would the Fire Marshal allow the setback to be reduced to five (5) feet?~~

~~The Fire Marshal stated his direction was to look at the accessory structure placement from a rescue standpoint.~~

~~Trustee Chamberlain stated those criteria can change.~~

~~Trustee Damijonaitis stated he conducted research also. Someone from a homeowner's association spoke to an official from the National Institute of Standards and Technology Fire Research Lab and they were opposed to discussing the reduction in accessory structure setback. In a discussion with someone from the Society of Fire Protection Engineers the same was stated. He spoke to a former colleague who suggested not lowering the standard unless there was scientific information that stated it would be acceptable. He feels the distance should remain at ten (10) feet.~~

~~The Fire Marshal stated that he believes it was a natural extension of the hot tub regulations.~~

~~Trustee Thoma stated she would leave the setback at ten (10) feet. She stated accessory structures often store flammable objects. There is also a cost to the Village to have the Fire Marshal's assessment of the reduction in setback and she is not in favor of that.~~

~~Trustee Chamberlain stated this issue needs to be sent back to the Zoning Board of Appeals with recommendations from the Fire Department on what they want.~~

~~From the audience, Tracy Velkover, Village Planner, stated Vernon Hills was the only community surveyed that doesn't require a ten (10) foot setback. She stated this was a resident initiated petition. There were three (3) sheds constructed that didn't meet the ten (10) foot setback, so they requested a text amendment to reduce the setback. She stated no one in the five (5) communities surveyed could determine why the separation was ten (10) feet. She met with the Building Official and Fire Marshal to determine if there were any Building Code or Fire Code issues and none could be found. From a Zoning perspective, there are setbacks to get light~~

~~and air into a structure. Since other structure's setbacks can be reduced to five (5) feet on a case by case basis, it seemed reasonable to reduce this to five (5) feet with approval. There was no determination the distance should remain at ten (10) feet.~~

~~Mayor Rudny asked if this was a problem for residents?~~

~~The Village Administrator stated there have been minimal problems.~~

~~Mayor Rudny stated he thinks an accessory structure should be as far away as possible from the primary structure.~~

~~From the audience, Mr. Pat Herrick, 6935 Revere Court, stated the Associate Planner stated a five (5) foot setback was acceptable. He stated in order to get a ten (10) foot setback; the shed would need to be in the middle of his backyard. He stated there should be a scientific basis for the setback whatever distance is selected. The current ordinance should be uniformly enforced because there are many sheds not ten (10) feet from the principal structure.~~

~~The Village Planner stated depending on the size of the structure, the setbacks are five (5) feet from the rear and three (3) feet from the side.~~

~~Trustee Chamberlain stated this issue needs to go back to the Zoning Board of Appeals and the Plan Commission and the Fire Department needs to write an official statement regarding their stand on this issue.~~

~~Trustee Wasser concurred with sending it back and looking at the issue from the fire perspective rather than from the rescue perspective.~~

~~Trustee Damijonaitis suggested the ordinance contain criteria that would allow for a reduction in setback.~~

~~Wasser moved, seconded by Damijonaitis, to remand amending Section 8.5.4 of Article 8 of the Zoning Ordinance back to the Zoning Board of Appeals and Plan Commission.~~

~~Roll Call, Aye: Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik
Nay: None
Absent: None Motion Carried.~~

~~The Village Administrator stated the Village Board received a memo from the Associate Planner regarding granting a certain variation and denying a certain other variation from the Zoning Regulation for the property at 3415 Florida Avenue. He stated the existing home is six (6) inches into the thirty (30) foot setback and so is non conforming. The Plan Commission recommends granting a variance to make the home a conforming use. The second variance was to add a covered front porch which would intrude into the front yard setback. The Plan Commission forwarded an unfavorable recommendation on that variance.~~

~~Trustee Kovarik asked why the wrap around porch was turned down?~~

~~From the audience, Tracy Velkover, Village Planner, stated the porch would encroach into the front yard setback. She stated an uncovered porch can encroach by four (4) feet, but a covered porch cannot encroach.~~

~~Trustee Kovarik stated she is struggling with this issue because it is a nice looking addition.~~

~~The Village Planner stated this affects other properties, so there will be others requesting a variance. The Zoning Board of Appeals looked at reducing the front yard setback a few years ago, and decided the setback is there for a reason. If it is reduced, the houses start encroaching on the streetscape and reducing the open space.~~

~~Trustee Damijonaitis asked if the surrounding homes have porches that encroach four (4) to five (5) feet in the front yard setback?~~

~~From the audience, a representative from the petitioner stated other homes have enclosed vestibules that extend into the setback.~~

~~The Village Planner stated if there are structures that encroach, they were built before annexation into the Village.~~

~~Thoma moved, seconded by Wasser, to approve Ordinance 2004-99 granting a certain variation and denying a certain other variation from the Zoning Regulations for the property located at 3415 Florida Avenue, and to publish in pamphlet form.~~

~~Roll Call, Aye: Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik
Nay: None
Absent: None Motion Carried.~~

~~The Village Administrator stated the matter of granting a Special Use Permit to the Gurnee Community Bank has been continued from a few weeks ago. The request for a Special Use is to allow a bank with a drive-thru facility for the property located on the east side of O'Plaine Road between Old Grand Avenue and Highway 132. He stated the Village Board received a binder from Gurnee Community Bank and should be familiar with the matter at hand.~~

~~From the audience, Mr. Brad Nickerson, President, Gurnee Community Bank, reviewed the process followed in requesting the Special Use Permit. In meetings with Village staff, Gurnee Community Bank was encouraged to go through the process. The bank has modified its plans during the process to meet concerns. Negative concerns were not expressed during the process. Then came the flood. There were indications the Village Board would not approve new construction in the floodplain. Three (3) Trustees expressed concerns regarding flooding and building in the area in individual meetings. Trustee Chamberlain stated at a meeting, the Village Board needed to determine if building in the floodplain would be allowed. The intent of the bank has been to keep open communication with the Village Board and to be a good neighbor in the community.~~

~~Mayor Rudny stated he did say the building looked nice, but Gurnee Community Bank needed to go through the process. He stated this property is in a C/S 3 Zoning District, which is a very restrictive zoning district set up in 1980. This area is mostly residential and the intent was to convert some properties to low intensity businesses. As a member of the Plan Commission for sixteen (16) years, he heard many petitions for businesses wanting to come into that area. The residents have expressed concerns about businesses in the area. There is no way he indicated this was something he would totally support. The flood provided the opportunity to talk to the neighbors across the street, who are against this project. The zoning district was established to protect the residents. The zoning ordinance specifically addresses the compatibility of the business uses that are allowed with the residential uses. Until the vote is taken, the minds of the corporate authority can be changed. Some examples in the binder are in the C/B 2 district, which is unrelated to the C/S 3 district. Any project for the C/S 3 district needs to be scrutinized through this process. It is unfair to state there was some sort of pre-approval.~~

~~Trustee Chamberlain stated at the meeting with Mr. Nickerson he stated he was only one member with no authority to speak for other Village Board members. He was misled at the meeting. He was under the impression the property was in the C/B 2 district, not C/S 3. He stated it is a beautiful building.~~

~~Trustee Wasser stated in the meeting one of her concerns was with people who would need to get to their lock box during a flood. She stated she has been very consistent in her concern with the zoning of the property. She stated it is a beautiful building, but the high intensity use is not appropriate for this property. She would like to see the bank building elsewhere in Gurnee.~~

~~From the audience, Mr. Alan Richards, representing the Gurnee Community Bank, stated they would be addressing four (4) concerns raised by Village Board members at the August 16, 2004 Village Board meeting. He expressed concern that a decision of this type is being made based upon what residents have communicated to the Village Board. There is a specific procedure.~~

~~Village professionals will work with bank professionals to develop a project that will be acceptable to the community. At the Plan Commission level, the public is invited to express their views along with the presentation of the developer, which allows the Village Board to make a decision on a proper, accurate and factual basis. This decision will be based upon the record that exists in this proceeding. That record does not include comments people may have made to the Village Board at some point, nor does it properly include the hearsay Mr. Ward Miller was allowed to espouse last time he was at the meeting. Mr. Richards stated there are some due process considerations.~~

~~The Village Attorney stated the bank's representatives had the floor to make comments and assertions and to plead their case. It is important that all that counts when the Village Board makes its decision is the record below.~~

~~Mr. Richards stated he disagrees.~~

~~The Village Attorney asked how the record is being supplemented this evening? He stated Mr. Richards has just talked about the process where the case can be made before the Plan Commission, which is the body designated to hear petitions for Special Use. He stated you can plead your case based on the record. We are not here to collect new evidence. The Village Board will be making its decision upon the record before it and any reasonable arguments or proposals based upon the information and evidence within that record. There are standards which were included in the bank's binder presented to the Village Board at the last meeting that this Village Board must consider in granting or denying a Special Use. Those standards are in the Zoning Ordinance under 5.7.6, paragraph 2.~~

~~Mr. Richards requested that as the Village Board members vote on this issue, if they are voting against the Special Use Permit, please articulate which of the twelve (12) criteria they feel is not satisfied and what facts in the record they base their opinion upon. Then there will be a complete and accurate record. He stated your understanding of the record and mine has one huge difference. As you look at the presentation binder that was put together on November 15, 2004, it was presented to facilitate a discussion addressed to the four (4) issues raised during the August 16, 2004 meeting. Everything in the binder is based upon the record as it existed through the Plan Commission. The deviations in that record are based solely and directly as a result of questions asked by the Village Board. The bank has the right to answer these questions. Mr. Richards stated it is his position if the Village Board asks questions and the bank doesn't have the right to answer them, then they should not ask questions.~~

~~If during the presentation tonight, there is anything that gets into the record that the Village Attorney believes qualifies as new evidence and, therefore, improper or impermissible evidence, the Village Attorney will state the evidence cannot be introduced or if it is in the record and the two (2) parties are in court, the Village Attorney will need to exclude the improper evidence.~~

~~The Village Attorney stated a third party may declare their due process rights were denied by this Village Board citing evidence to the record. There may be more parties involved in this than the bank and the Village Board.~~

~~Mr. Richards asked if after the bank's presentation there would be opportunities for comments from the public either in favor of or against the request for a Special Use Permit?~~

~~Mayor Rudny responded yes the public would be allowed to comment.~~

~~Mr. Richards asked if the Village Board would consider comments from the public in their decision to grant or deny the request for the Special Use Permit?~~

~~Mayor Rudny stated the Village Board members might consider public comment because they may be making similar arguments to the bank's presentation. If they make a cogent and persuasive argument, the Village Board may be swayed by those arguments. He stated he does not believe the Village Board members have to give a reason for their vote.~~

~~Mr. Richards stated he will request that Village Board members specify the reason for their vote.~~

The Village Attorney stated no one is under oath. Citizens may make comments they think are based upon the record; the jury will disregard the irrelevant, the nonsensical and the improper. That is the only instruction he can give. If there is to be any semblance of public participation in this process, we should hear public comment. He stated we are not to make a new record. The bank will present their arguments based upon the record below.

Mayor Rudny suggested Mr. Richards make his presentation and move forward.

Mr. Richards stated the Plan Commission voted in favor of this Special Use by a vote of five (5) to two (2). In so doing, the Chairman of the Plan Commission observed and recognized that in making their determination, they were to consider the twelve (12) criteria set forth in the Village ordinance, seven (7) of which apply to Special Use Permits throughout the Village and five (5) of which pertain to this particular zoning district. It was the opinion of the Plan Commission that what the bank wanted to do on this site was consistent with the general intentions of the district as indicated in the description of the district. Regarding the issue of zoning, the Plan Commission resolved that issue in favor of the bank. The Gurnee Community Bank presented to the Village Board on August 16, 2004. During that meeting there were four (4) basic issues that the Trustees identified as concerns. The four (4) concerns are summarized as follows: 1) The use of actual traffic survey data vs. ITE data; 2) the proximity of the bank to the middle school across the street; 3) the adequacy of stormwater detention on the site; 4) the issue of the property being in the floodplain.

Not all questions raised could be answered at the August meeting. After a great deal of discussion concerning the floodplain, the Village Attorney made it abundantly clear that the decision of the Special Use Permit was not to be based upon the fact that the property was in the floodplain. Mr. Richards stated while that is good legal advice, he is dubious that in some way it will be impacting or affecting the Village Board's decision. It is clear from comments made by the Village Board in earlier meetings that the philosophy of this Board is to remove properties from the floodplain and return them to their natural state. Someone invited Mr. Miller of the Stormwater Management Commission to speak and give a rather gruesome explanation concerning what might happen if the Village were to allow development in the floodplain. Mr. Richards stated it should be noted that everything the Gurnee Community Bank has done concerning engineering and building in the floodplain has been done in accordance with all the Village of Gurnee's Engineering rules and regulations and the Village Flood Mitigation Plan.

This plan contemplates that in this particular area the property is subject to flood. Even in those instances where the Village was to acquire ownership, the property is supposed to be put to use for which the particular district exists. That means put it back to residential/commercial in a compatible environment.

Mr. Richards stated the first fourteen (14) pages of the presentation binder were meant to be an overview of everything that occurred through the Plan Commission. It also endeavored to set out information that was contained in the existing record that was responsive to the four (4) issues the Village Board made inquiry about. In addition, several exhibits were placed in the binder which includes copies of Village documents—the traffic impact and pedestrian studies completed; the project traffic reviews by Gewalt Hamilton, the Village Traffic Consultant; the Bleek & Bleek Architectural Plans and the Village's Flood Mitigation Summary. The new additions consisted of a letter from the Gurnee District 56 Superintendent, which indicated approximately thirty (30) students walk to Viking School; a statement from Glen Christiansen, a land planner; and conclusions of an appraiser, Jim Leech. These were added in response to the questions of the appropriateness of this use in the zoning district. What is in the binder are opinions of professionals based upon the data that existed at the Plan Commission level. Since the Village Board put these concerns on the table, Gurnee Community Bank needs to respond to these concerns. The building will be constructed to be out of the way of the flood and the existing three (3) buildings will be removed. This seems to be a winning solution.

Mr. Richards stated two (2) traffic studies have been conducted by LSI, the bank's traffic consultant, both of which were reviewed by the Village's traffic consultant. The conclusions of LSI and Gewalt Hamilton are that the actual traffic data used by LSI is more reliable than the ITE data. A third review, submitted by Gewalt Hamilton in direct response to questions raised at

~~the August 16, 2004 meeting, stated the ITE data is not accurate. It severely overstates the amount of traffic because those studies were done in the 1970's to 1990's and banking is no longer conducted as it was then. Much of today's banking is done from off site. In considering a Special Use, the Village Board will accept the factual findings even if they disagree with the results. Gewalt Hamilton's review stated LSI may have overstated left turn traffic out of the O'Plaine Road access drive. The site as developed will have no detrimental effect on traffic. It has been established through the data that there are sufficient gaps in the traffic on O'Plaine Road to accommodate exiting bank traffic whether the ITE or local survey data is used. Queuing along O'Plaine Road does not back up past the access drive and the drive thru will not pose any on-site stacking problem. This particular use will not create a traffic problem. If you take the position that this use would create a traffic problem, then nothing save a residence or two could be approved for that site.~~

~~Mr. Richards stated at the August 16, 2004 meeting, the concern of safety for students walking to school came up which had never been addressed at any previous meeting. No one in the meeting knew how many children this involved. The bank offered to pay for a crossing guard at the O'Plaine access drive. LSI did a survey of the students walking to school and the results are included in the presentation binder. Mr. Todd Fagan of LSI can further discuss the results of the survey which was done over a four (4) day period. It is not legitimate to express concern for this development based upon student safety. There is a greater risk for them walking out of their door at home.~~

~~Mr. Richards asked if he should continue or pause to answer questions?~~

~~Mayor Rudny responded he should continue. If there are specified areas the Trustees have questions on, they can ask at the end of the presentation. This is not just a matter of whether the traffic functions as addressed by the experts, but there is the issue of compatibility with residential use. This is something that needs to be reviewed from the C/S 3 zoning aspect.~~

~~Mr. Richards stated another Village Board concern was whether the proposed banking facility is "in harmony" with the C/S 3 zoning district. The only thing you can do in this district without a Special Use is to construct a residence. However, the ordinance has included a list of things which can seek a Special Use Permit to the exclusion of everything else. So, the Gurnee Community Bank needs a Special Use Permit, but a bank with a drive in facility is one of the uses which is specifically included as a use appropriate for requesting a Special Use Permit. If it is not in the list, you cannot ask for it. If the Village Board didn't want a bank with a drive thru, it should have been taken it out of the list. There is no better place in this district for a bank with a drive thru.~~

~~Mr. Richards stated there has been discussion about this use being more intense than any other use in this district. Intense can be described in one of two ways—the physical or the activity which will occur on the site. This building from a physical structure point of view is anything but intense. It is a small bank facility at only seven thousand (7000) sq. feet. It has one of the best FARs in Gurnee. No one can say the physical structure is too intense. Therefore, there must be a claim that the use is too intense. The traffic data from ITE was overstated forty five (45) to seventy five (75) percent. Banking in the 21st century is not what it was in the 1970's. Later, Glenn Christensen, the land planner, and James Leech, the appraiser, will give their interpretation of the suitability of this proposed use in terms of zoning. The fact is the proposed use is consistent with the zoning and the Comprehensive Plan. The Comprehensive Plan identifies this district as a service business district. Residences in this area are being converted into businesses.~~

~~Mr. Richards stated the last concern was stormwater. At the August 16, 2004 meeting, questions were asked why the Village was considering a fee in lieu of on-site stormwater detention. The fee is used to improve detention elsewhere in the Village. This concept originated with the Village Engineering Department. The Gurnee Community Bank's engineer was in full concurrence with the concept. A site can be engineered anyway you want it. If you want on-site stormwater detention, it can be engineered that way. Neither the Village's engineer nor the bank's engineer feels that is an appropriate solution. They are best suited to explain the reasons for the recommendation.~~

~~Mr. Richards stated the information in the presentation binder will show there is no problem with stormwater management, there is no issue concerning the floodplain, there is no issue with student safety and there is no issue concerning use and compatibility. This is a beautiful bank building, architecturally compatible with other buildings in the general vicinity and a facility that any community would be proud of. This facility will add to the revenues of the schools. He urged the Village Board to think about supporting this issue. The Gurnee Community Bank will be a good neighbor and will enhance the properties around it.~~

~~Trustee Thoma stated she represents the citizens of this community and she will listen to their comments, concerns and questions. She stated she has concerns as to the accuracy of some of the background information presented to the Village Board. On page 2, paragraph 2 of the binder, it states "A bank with a drive thru is a commercial use expressly permitted in the C/S 3 District by Section 5.7.2 of the Village Zoning Ordinance". She stated it is not a commercial use, it is a service use. If you look at the ordinance it is listed under service use.~~

~~Mayor Rudny stated that is a false statement. A bank with a drive in is not expressly permitted in the C/S 3 zoning district. A bank with a drive in is a Special Use in this district.~~

~~Mr. Richards stated if the statement is read within the context, a bank with a drive in is one in the list of Special Uses which has been found to be appropriate for consideration in this district as opposed to other uses which are not listed.~~

~~The Village Attorney asked how Mr. Richards distinguishes between permitted use and Special Use?~~

~~Mr. Richards responded a permitted use is a use for which you don't need any authorization from the Village Board. A Special Use requires that you present a request and satisfy the criteria set out in the Village ordinance. In this particular instance, there are twelve (12) criteria.~~

~~Trustee Thoma stated on page 9, paragraph 3B, it states "The property in its present condition has three (3) curb cuts, two (2) are on Delany Road and one (1) is on Old Grand Avenue".~~

~~Mr. Richards stated Delany Road was an error in that statement.~~

~~Mayor Rudny stated for clarification that should read two (2) curb cuts are on O'Plaine Road. Trustee Thoma stated on page 10B, the bank reiterates the "expressly permitted" statement. On page 11, in the opinion of the land planner about half way down, it states "Commercial and semi-public land uses are increasing resulting in a decreased number of residential structures and units.~~

~~The trend is evidenced by the implementation of such uses as Gurnee Community Church (which was there prior to the ordinance), the construction of the La Casa facility (which was constructed after the ordinance), improvements to the former Welton Grocery (that is zoned C/B 2), the Robison Architectural offices, Mackey Offices, Mike's Bikes and other office/service uses that require removal of residential structures". Trustee Thoma stated this statement is not necessarily true either.~~

~~Mr. Richards stated he believes his summary is an accurate representation of what Mr. Christensen stated in his opinion. Mr. Christensen would be the one to discuss this with.~~

~~Trustee Thoma stated she is going by what was presented to the Village Board. She stated on page 12, it stated "Included are photos of other buildings in the district which are being used for business purposes". She stated some of the photos included are not in the C/S 3 district, but in the C/B 2 district. She asked why businesses such as Swanson's Law Office, Gurnee Judo or Star Capital Investments, which are homes, were not included? She stated she walked down the street and counted the amount of houses that are used for businesses.~~

~~Mr. Richards asked if she was willing to rely on that survey in making her determination tonight?~~

~~The Village Attorney stated we are not going there.~~

~~Mr. Richards stated we need to know because he wants to know why these people are voting the way they are.~~

~~The Village Attorney stated the Gurnee Community Bank is going to call someone who was retained after August 16, 2004 to give a professional opinion. They are not under oath. They are not subject to cross examination. The Village does not have an opportunity to rebut the evidence. The Village Attorney told Mr. Richards he is not going to steer this in just one direction. If the bank is finished with the summary of the record, we can proceed. But if we are going to get into additional testimony, opinions of experts or those tendered as experts, without the Village having the opportunity to rebut or cross examine, let alone the people who have a stake in this decision, then we are going down a road where the Village Attorney won't allow this Village Board to go.~~

~~Mr. Richards stated the Village Board should swear them in and cross examine them.~~

~~The Village Attorney stated this is not part of the process. This is strictly courtesy and public statement. We can exchange as we do questions and answers. It is not evidence.~~

~~Mr. Richards stated he understands the Village Attorney's position, but for him to suggest that the Village Board on its own will decide what is opinion, what is evidence, what is considered, what is not considered, he is not willing to accept. Mr. Richards stated if he believes someone is making statements which are factually inaccurate, he needs the right to bring that to the Village Board's attention.~~

~~The Village Attorney stated we have perverted this process. This should be done at the Plan Commission level. The arguments, the evidence, the testimony, the cross examination, the rebuttal should all be done at the Plan Commission.~~

~~Mr. Richards stated the Gurnee Community Bank did that and the Plan Commission voted five (5) to two (2) in favor, so let's call it a night and give Gurnee Community Bank the Special Use Permit.~~

~~Mayor Rudny stated this Village Board consists of citizens that are elected officials who are trying to do what is right for the community.~~

~~The Village Board represents the citizens and does not represent the bank. If what Mr. Richards stated is true, we don't need the Village Board—just the Plan Commission and the presenters. That is not the way the process should work. Mayor Rudny stated when anything comes before the Village Board, he respects the Trustee that goes out and looks at the situation.~~

~~He went out and looked at the property himself because the compatibility of the surrounding area is a key in this zoning. Part of the process is to go out and look at the area and talk to the residents because that is who the Village Board represents. We are a community of people. If someone wants to start their business in this community, that is fine. They have an opportunity to present that. The Mayor and the Trustees don't completely understand legal requirements of the situation, but they can be guided by the Village Attorney. In their hearts, the Trustees are trying to do the right thing for all of the citizens of Gurnee. And now, Gurnee Community Bank comes in with a court reporter and all your experts and that's fine and we will ask the questions, but to start directing the Village Board in how they should think and asking if they will use their view of the area in their decision, is unfair. It is obvious that Mr. Richards is trying to steer this in some legal direction.~~

~~Mr. Richards stated he is trying to steer this in terms of due process.~~

~~Mayor Rudny stated the Village Board consists of average citizens trying to look at this situation fairly. There is much history in the C/S 3 district and we can't throw that out the window. This has to be scrutinized. The Village Board is trying to work through this. Mr. Richards, you have given us misleading information. Most of the photos that Trustee Thoma pointed out are not in the C/S 3 district. The area was not controlled before, so some pre-existing uses probably would not be allowed there today. The Village Board is trying to make sure the area keeps going in the~~

direction intended. Mayor Rudny stated if we are told what we can and cannot use and are told to vote in a certain way, then he doesn't understand the governmental process.

Mr. Richards stated the Mayor is correct in following the advice of the Village Attorney. Unfortunately, the laws have changed and not necessarily for the better, not the way he, as a representative of the property owner, would have asked. The Village Board has become essentially a court. It is no more unfair for you to consider evidence that has been presented, than it is for a juror in a jury room to make a decision on the guilt or innocence of someone based upon something he or she may have observed outside of the proceedings. He stated he is sorry. Due process says his client has the right to a full and fair hearing and to know exactly what facts decisions are being based upon. They have invested a considerable sum of money. There is the interest of the Village, the interest of the people the Village Board represents and the interest of the people he represents. Unfortunately, he and the Village Attorney are dealing in an area that does have some uncharted water. When he hears people saying that they are going to consider things that he does not know about or hasn't been able to learn about and then have his client not be able to use the property, it concerns him.

Mayor Rudny stated this is not a court of law and you can't make an objection and he can't sustain it. That is not the process we have here. The Village Board allowed the Gurnee Community Bank to make their presentation and the Trustees want to speak now. Whether they make a comment or ask a question, Mayor Rudny stated Mr. Richards needs to let them do that and not cross-examine them after they make their comment or question. They need to have their questions answered. No one has ever reacted like Mr. Richards has. The Village Board is not to be berated for asking a certain question.

Mr. Richards stated the Trustees can ask every conceivable question they wish to be answered. When a Trustee wants to point out problems in the presentation of a factual nature, he doesn't mind. But he is not going to be "dinged" by silliness. We all know there are three (3) curb cuts on this property. If the Trustee wants to take issue and say there is some fundamentally flawed information in the presentation binder because the name of the street was wrong, he has to react to that.

Mayor Rudny asked why Mr. Richards didn't just say it should have been O'Plaine Road?

Mr. Richards responded that he did.

Mayor Rudny responded Mr. Richards did not because he had to ask if it should be O'Plaine Road. He stated a statement that says a bank facility with a drive in is expressly permitted under the Village Zoning Ordinance is a very serious error because it is not permitted. Mayor Rudny stated let us move on in a more professional direction.

Mr. Richards stated there was some showboating on the part of the Trustee. He stated the Trustees were the ones who opened the door by asking questions in the August 16, 2004 meeting about factual matters which were not previously considered on any level. It is not fair to now try to impose some procedural limitation on his client's right to fully explore that. Secondly, no one is suggesting that a Trustee is not free to ask any questions of any one in this proceeding. We have a slight disagreement about his right to ask questions back in a manner of cross-examination. If Gurnee Community Bank is disappointed with the outcome tonight and we go to court, we go to court on the record. It is not his intent to be belligerent, but he wants to be certain that his client's due process rights are protected.

The Village Attorney stated he also has a job to do. Mr. Richards wants to cross-examine the Trustees. The Village Attorney stated he would love to see Mr. Richards cross-examine the judge. The Trustees are the ultimate fact finders in this matter. They make the ultimate decision. They act in their administrative capacity by reviewing the record below. Gurnee Community Bank has submitted some additional information. You are going to be tendering a plethora of experts. This issue should be remanded back to the Plan Commission so your client can have his due process rights, so we can get a finding of fact that does not parrot the specific language from the Zoning Ordinance, and so we have specifics from the Plan Commission which voted five (5) to two (2). There were two (2) commissioners who had a different opinion and maybe would like to file a minority report. This should go back to the Plan Commission so everyone can have

~~their rights, including the Village and staff in the event they want to bring in their own experts. We will be cast into hours long theater of asking and answering questions. These categorizations should not be here tonight. Mr. Richards has come very well prepared, but this is not the place where the zoning case is put together. That is at the Plan Commission, so that by the time it gets to the Village Board, hopefully, these questions are all answered. There has been a bit of a learning process, this has been the toughest one to date. We have the Klaeren decision. The problem is they had three (3) boards—Zoning, Plan Commission & Village Board—meeting together and no one could talk. Somehow, we are supposed to get guidance from that opinion. The Village Attorney stated he feels the best thing to do is to take this issue back to the Plan Commission. If we are going to play hardball, let us get the boundaries defined and give it the best shot we can. Give your client the best opportunity, give the Village its opportunity and we will have a better record going forward. The Village Attorney's advice to the Village Board is not to engage in debate tonight. This is a Village Board proceeding. The Village Board is here to act legislatively and in its administrative capacity to pass on the record before you.~~

~~Mr. Richards stated he thinks the Village Board is here quasi-judicially, not legislatively. They are here administratively and quasi-judicially per Klaeren.~~

~~The Village Attorney stated on the sixteen (16) other ordinances they passed tonight the Village Board is here quasi-judicially. He stated we are going to be in this process for a long time, only to have someone object in court, if it gets to court, to anything that happened tonight by way of discussion. The Village Attorney thinks that anything substantive should be before the Plan Commission.~~

~~Mr. Richards asked for a recess. Mayor Rudny stated the meeting will be recessed for ten (10) minutes until 10:00 p.m.~~

~~The meeting was recalled to order at 10:04 p.m. by Mayor Rudny.~~

~~Mr. Richards stated Gurnee Community Bank does not want to go back to the Plan Commission. That is an option that was discussed in the interim before this evening. There is no purpose in going back. The Gurnee Community Bank would prefer a conclusion be arrived at this evening.~~

~~Wasser moved, seconded by Thoma, to remand the request for a Special Use to Gurnee Community Bank back to the Plan Commission with a special meeting with the Village Board to ear new expert testimony the petitioner is introducing and to allow the Village to also introduce rebuttal testimony thereto.~~

~~Roll Call, Aye: Damijonaitis, Chamberlain, Thoma, Wasser
Nay: Balmes, Kovarik
Absent: None 4 Ayes, 2 Nays Motion Carried.~~

~~Mayor Rudny stated this issue will be remanded back to the Plan Commission to hear new testimony and cross-examination thereof.~~

~~Mr. Richards asked if this will result in another vote of the Plan Commission?~~

~~Mayor Rudny stated there would be another vote of the Plan Commission.~~

~~Mr. Richards asked if this Special Use is going back on the issues identified in the August 16, 2004 Village Board meeting and the new matter set out in the presentation and no other? He stated he does not want to see a new issue raised at the next Village Board meeting.~~

~~Mayor Rudny suggested Mr. Richards get together with the Village Attorney to determine the new testimony.~~

~~The Village Attorney stated they can set a stipulation as to the issues to be framed before the Plan Commission so it would be limited to that. That will still preserve your record and supplement it with new testimony.~~

~~From the audience, Ms. Lauren Schreeder of Richards, Roth & Schwab asked what is the authority of the Village Board to remand back to the Plan Commission and specifically on what is it based? She wants to be certain the record right now is preserved on behalf of the Gurnee Community Bank. She wants to be certain nothing is waived.~~

~~The Village Attorney asked what is the record here tonight? It is the Village Board meeting.~~

~~Ms. Schreeder stated the Klaeren case spoke on the due process rights that should be afforded to applicants as well as the public when municipal bodies, such as this Village Board, hold hearings on Special Use applications. Traditionally, the decision of such a Board of Trustees would not be reviewable by administrative review. However, under Klaeren the door seems to be open on this issue. Traditionally, the record may have consisted of the Public Hearing for the Plan Commission. It is unclear when a Board such as this opens up new information before it whether or not that hearing before the Board is part of the record on appeal. A trial court is reviewing a decision of a Board like this on an arbitrary and capricious standard. It is unable to do that if it does not review the basis for the Board's decision.~~

~~On the August 16, 2004 Village Board meeting date apparently it was your position that there was no Public Hearing going on. The Village Board was supposed to be taking into consideration the recommendations and findings of the Plan Commission. Ms. Schreeder stated she was not present at that meeting, but she did review the minutes of that meeting and two (2) things were apparent to her. One is that some members of the Village Board were completely ignorant of what had occurred before the Plan Commission, as well as the opinions of its own consultants. Secondly, a person by the name of Ward Miller was permitted to testify. Although, he was not sworn under oath, the Mayor stated he was there simply to state the truth. That person did not testify under oath or otherwise before the Plan Commission. Because the Board was clearly, based on some members opinions like Mr. Chamberlain, not apprized of the findings and recommendations of the Plan Commission and because of testimony from people who are not before the Plan Commission, and on top of that, several issues raised that were not before the Plan Commission, the door was open for new information or testimony. The hearing was before a legislative body acting administratively. Therefore, there are certain due process rights that should be afforded to Gurnee Community Bank because their property interest is being affected.~~

~~Ms. Schreeder stated she is not sure of the basis for the Village Board's authority to remand to the Plan Commission today. She knows that the Village Board is supposed to take into account recommendations and is supposed to make a vote on the proposal within sixty (60) days, she believes. No where in the Village's ordinance has Ms. Schreeder seen authority to remand back to the Plan Commission. She is not disputing that the Village Board can; she is not sure what the basis is. Gurnee Community Bank has voiced its desire for this Board to make a vote on this Special Use Application. The Bank has people here tonight.~~

~~Although the Village Attorney has suggested that we could be here for hours, the bank did not intend to make any further testimony take a long time, but merely to address certain issues that the Board had previously raised. Ms. Schreeder stated she did not think the Village Attorney knows what the record on appeal is right now. And if the Village Attorney is going to make recommendations to the Village Board, the Gurnee Community Bank needs to make sure that a trial court reviewing this record understands the legal arguments that we are making on behalf of Gurnee Community Bank, so could you please answer the question about what is the basis for the remand and where the authority for the remand comes from.~~

~~The Village Attorney stated Gurnee is a home rule community; therefore, it may take any action pertaining to the government affairs so long as it is not inconsistent with a pre-empted statement by the legislature. Secondly, when the petition seeking a Special Use is filed with the Village, that initiates a proceeding. A proceeding which does not conclude until the Village Board takes a final vote to grant the relief requested in the petition or to deny it. Gurnee Community Bank has no legal authority that says the Village Board must take a vote. The Plan Commission is an extension of the Village Board. It is the initial Public Hearing and the recommending body. Until the Village Board finally votes or is told by a higher authority that it has to vote, all the Village Board is doing is continuing the proceedings that were initiated by the Gurnee~~

~~Community Bank filing of the petition. When we talk about opening the door, we have been told testimony will be tendered tonight by presumably qualified experts to render opinions. Those opinions should be rendered before the Plan Commission. When we talk about due process, Gurnee Community Bank is not the only entity that has due process. When this issue goes back to the Plan Commission, both the Village in its corporate authority capacity has the opportunity to present evidence through its staff, consultants or experts as well as any members of the public who have expressed an interest in this issue. That is what Klaeren specifically addressed—the rights of the public.~~

~~Ms. Schreeder stated Klaeren states the applicant's and the public's rights. She requested the Village Attorney state for the record and have Gurnee Community Bank agree at this time whether or not the evidence presented before the Plan Commission on remand will consist of only evidence admitted in response to the four (4) issues identified at the August 16, 2004 Village Board meeting and which are identified in the presentation binder.~~

~~The Village Attorney responded yes, at this stage. If there are other issues mutually agreed upon that should be framed. He will obtain the authority to expand those issues. If there is no mutual agreement on that, we will be limited to the issues remanded tonight.~~

~~Ms. Schreeder stated she would like the record to reflect there are many members of the public who are either interested in the outcome of this Special Use Permit and/or intended to speak this evening to the Village Board. She suggested a raising of hands of people who intended to speak in favor or in opposition to the Special Use.~~

~~Mayor Rudny stated this is not appropriate for the petitioner to start asking people in the audience who is for and who is against.~~

~~Ms. Schreeder stated that is not what she is suggesting. The record should reflect the number of people here from the public who would like to speak to the Village Board either in support of or in opposition to a Special Use. She is not suggesting a count.~~

~~Mayor Rudny stated he would agree there are many people here and there are probably many who want to speak. He suggested the public will have the opportunity to speak and cross-examine witnesses at the Plan Commission meeting. At this late hour, it does not make sense to have individuals speak.~~

~~He stated on the record that there are a number of people here that would like to speak and the Village Board is not denying them the opportunity. It would just happen at a later date.~~

~~Mr. Richards asked if we know when the Plan Commission meeting will be so the people who came tonight will be able to be present?~~

~~Mayor Rudny stated if it is a Public Meeting, it will have to be noticed.~~

~~From the audience, Tracy Velkover, Village Planner, stated there have been several matters remanded back to the Plan Commission and the meetings have not be noticed. It is considered an open hearing. Procedurally, should she notice property owners within five hundred (500) feet?~~

~~The Village Attorney stated for this Plan Commission hearing he recommends a notice.~~

~~The Village Planner stated the meeting on January 19, 2005 would be a possible date.~~

~~Mr. Richards asked if there are other items on the agenda for the evening, because he is sure there will be lively debate?~~

~~The Village Planner stated there are a number of items lined up for that meeting date.~~

~~Mr. Richards stated Gurnee Community Bank will notice the meeting date.~~

~~Mayor Rudny suggested a special meeting. He stated it would be posted on the Village website. The Village will change the sign on the property.~~

~~Mr. Richards asked if a member of the public were interested in viewing the presentation binder, would there be an opportunity for that?~~

~~Mayor Rudny stated it is a public document.~~

~~Trustee Chamberlain stated his name was brought up in the Plan Commission Minutes stating he did not have them. He stated he didn't have minutes from his meeting with Mr. Nickerson of Gurnee Community Bank. According to Mr. Richards opening statements tonight, we are supposed to ignore everything that was said out there. So, everything that was said in that meeting I am supposed to ignore. He asked Mr. Richards if the Village Board members are supposed to listen to the public or not listen?~~

~~Mr. Richards responded he will let the Village Attorney determine that. He stated what Ms. Schreeder was talking about was during the August 16, 2004 Village Board meeting, there were some questions concerning why the Village was not using the ITE numbers. The answer to that was clearly set out in the Plan Commission reports and that is the basis of the concern. If the reports had been reviewed, the answer to the question was in the reports.~~

~~Trustee Chamberlain stated he agreed, but when he joined the Village Board seven and a half (7 ½) years ago an expert told him the golf course was worth \$12,000,000.00. So, he does not necessarily believe what the experts say is true. He would like the opportunity to cross examine them. He would like to look at the presentation binder and ask those questions. He didn't have the opportunity at the Plan Commission. Gurnee Community Bank provided new information and some of it was factually incorrect.~~

~~Ms. Schreeder stated what she referred to was the fact that Mr. Chamberlain asked why the ITE numbers rather than survey data was used. Gewalt Hamilton wrote several reviews of LSI's traffic study and more than once stated why the ITE numbers were not used instead of the survey data. The point was that Trustee Chamberlain had not reviewed the documents submitted by the Village's traffic consultant, nor the minutes of the Plan Commission.~~

~~Trustee Chamberlain asked if he asks a question is Ms. Schreeder implying that means he doesn't know the answer?~~

~~Ms. Schreeder replied Trustee Chamberlain made statements that an unbiased person reviewing the minutes would believe Trustee Chamberlain had not reviewed what had occurred before the Plan Commission. Reasonable minds could not disagree on that point.~~

~~Trustee Chamberlain stated you are incorrect and you don't have a reasonable mind. So everything that Mr. Richards asks us that is a repeat of something that was already said is because he is ignorant?~~

~~Ms. Schreeder stated Mr. Chamberlain was ignorant because he asked a question that was answered in the minutes.~~

~~Mr. Richards stated that is correct. He stated both the question and the conclusion are correct.~~

~~Mayor Rudny stated that is calling people names. Mr. Richards, you are supposed to be a professional. To call someone ignorant, both Ms. Schreeder and Mr. Richards need lessons in professionalism. This does not need to be carried on any further. It is all on the record, if anyone wants to review it.~~

~~There was no public comment on issues not on the agenda.~~

~~Wasser moved, seconded by Thoma, to adjourn the meeting.~~

~~Roll Call, Aye: Damijonaitis, Chamberlain, Balmes, Thoma, Wasser, Kovarik
Nay: None
Absent: None Motion Carried.~~

~~The meeting was adjourned at 10:21 p.m. by Mayor Rudny.~~

~~Mary Jo Kollross
Village Clerk~~