

Minutes - July 18, 2005

EXECUTIVE SESSION

It was moved by Alderman Poteraske and seconded by Alderman Marchese at 7:00 P.M. to move into Executive Session for the purpose of discussing Purchase or Lease of Real Estate as prescribed by Section 2(c)(5) and Personnel as prescribed by Section 2(c)(1) of Public Act 88-261.

Roll Call: Ayes: Biehl, Durkin, Gattuso, Marchese, Mclvor, Poteraske, Weaver

Nays: None

Absent: None

Results: Ayes 7, Nays 0, Absent 0 MOTION DULY CARRIED

It was moved by Alderman Biehl and seconded by Alderman Mclvor at 7:35 P.M. to move into Open Session.

Roll Call: Ayes: Biehl, Durkin, Gattuso, Marchese, Mclvor, Poteraske, Weaver

Nays: None

Absent: None

Results: Ayes 7, Nays 0, Absent 0 MOTION DULY CARRIED

Minutes of the Regular Meeting

of the City Council of the

CITY OF DARIEN

JULY 18, 2005

1. CALL TO ORDER

The regular meeting of the City Council of the City of Darien was called to order at 7:37 P.M. by Mayor Soldato.

2. PLEDGE OF ALLEGIANCE

Mayor Soldato led the Council and audience in the Pledge of Allegiance.

3. ROLL CALL — The Roll Call of Aldermen by Ms. Ragona was as follows:

Present: Richard A. Biehl Sylvia Mclvor William R. Durkin John F. Poteraske, Jr. Carolyn A. Gattuso
Kathleen Moesle-Weaver Joseph A. Marchese

Also in Attendance: JoAnne E. Ragona, Clerk's Office Supervisor Kevin P. Monaghan, City Treasurer John B. Murphey, City Attorney Bryon D. Vana, City Administrator Robert Pavelchik, Chief of Police Daniel Gombac, Director of Community Development/Public Works

4. DECLARATION OF A QUORUM — There being seven Aldermen present, Mayor Soldato declared a quorum.

5. APPROVAL OF MINUTES — June 20, 2005

It was moved by Alderman Poteraske and seconded by Alderman Marchese to approve the Minutes of the Regular Meeting of June 20, 2005, as presented.

Roll Call: Ayes: Biehl, Durkin, Gattuso, Marchese, Mclvor, Poteraske

Nays: None

Abstain: Weaver

Absent: None

Results: Ayes 7, Nays 0, Absent 0 MOTION DULY CARRIED

6. RECEIVING OF COMMUNICATIONS

Alderman Weaver submitted, for the Record, correspondence received from the following residents in regard to the proposed Steak 'n Shake: * Don & JoAnne Dibbern, 1005 Timber Lane, * Thomas & Catherine Glennon, 7537 Wilton Road, * Kristina & Andrew Ondracek, 7540 Wilton Road, * Payman Bakhtiari, 2016 Harper Road, * Yusuf Shikari, 7541 Wilton Road, * Luis Navarro, 7528 Wilton Road, * Elaine Denise Holmes, 2001 Judd Street, and * Jim & Kathy McVeigh, 7548 Wilton Road.

Alderman Biehl mentioned email from Alderman Mclvor that outlined comments made at a meeting with residents in regard to the proposed Steak 'n Shake.

Alderman Mclvor received emails and calls regarding numerous ComEd outages. She stated that Cornell Roberts, ComEd Representative, had little information to communicate about the outages. She indicated that she wanted proactive changes to eliminate future problems; she was also concerned that infrastructure was not there to support continued development and growth.

Mayor Soldato stated that he met with Administrator Vana, Attorney Murphey, and Alderman Mclvor regarding ComEd issues. He commented that when Mr. Roberts addressed Council, he indicated that ComEd would provide the City with a written response to remedy the problems but no response has been received. Mayor Soldato recommended that Attorney Murphey review the Franchise Agreement and write a letter to ComEd indicating the deficiencies and obligations under the Agreement. Alderman Poteraske asked if the City should contact the Illinois Commerce Commission. Alderman Mclvor responded that she and others filed claims with the ICC; they received a form letter from ComEd that indicated the problem was an 'Act of God' and the claims were rejected. After receiving the ComEd letter, they contacted the ICC and were informed that there was specific criteria, i.e., 25,000 residences had to be without power for a duration of four hours or more. She indicated that the outages were isolated and affected fewer residents. She suggested contacting other municipalities and approach ComEd as a united group. Mayor Soldato said that if it were a contractual matter between the City and ComEd, the City could control the filings/claims. He indicated that Administrator Vana would contact other surrounding municipalities to find what their experiences have been. Administrator Vana indicated that when an outage occurred, the City

received communication from ComEd indicating the area and the number of residences affected by the outage(s).

Alderman McIvor received communication from Phil Gardner, 2100 Manning Road, in regard to a proposed up-scaled townhome development along Manning Road.

7. MAYOR'S REPORT

A. SWEARING IN OF NEW SERGEANT - JAMES TOPEL

Mayor Soldato turned the meeting over to Chief Pavelchik who welcomed all and commented specifically about Officer Topel. He introduced the Fire and Police Commission: Chairman Noverini, and Commissioners Gierut & Piccoli. Chairman Noverini administered the Oath of Office to James Topel. Sergeant Topel received congratulations from the City Council and a round of applause from the audience. Chief Pavelchik said that a cake and coffee reception was being held in the Police Department to honor Sergeant Topel.

8. CITY CLERK'S REPORT

Supervisor Ragona stated that the Environmental Committee meeting scheduled for July 19th and the Planning and Zoning Commission meeting scheduled for July 20th had been cancelled.

9. CITY ADMINISTRATOR'S REPORT

No report. Administrator Vana mentioned that Clerk Coleman was home recuperating.

10. DEPARTMENT HEAD REPORT

Police Chief Robert Pavelchik ...

... commented about an editorial that recently appeared in newspapers regarding theft. He asked residents to utilize common sense, to be aware of surroundings, and to use safety measures.

... indicated that if a person were stopped by police that the person should stay within the vehicle, listen to the officer's statement(s), and keep hands in clear view. He noted that traffic stops were 'high risk' situations for officers and asked that everyone cooperate.

11. TREASURER'S REPORT

A. WARRANT NUMBER 05-06-05

It was moved by Alderman Gattuso and seconded by Alderman Marchese to approve payment of Warrant Number 05-06-05 in the amount of \$279,919.56 from the General Fund; \$196,233.66 from the Water Fund; \$294,438.21 from the Motor Fuel Tax Fund; \$8,075.00 from the Water Depreciation Fund; \$4,194.67 from the Darien Area Dispatch Fund; \$9,552.71 from the Joint Use Facility Fund; \$227,044.50 from the General Fund Payroll for the period ending 06/23/05; \$24,458.06 from the Water Fund Payroll for the period ending 06/23/05; \$26,058.78 from the D.A.D.C. Fund Payroll for the period ending 06/23/05; \$210,228.93 from the General Fund Payroll for the period ending 07/07/05; \$25,315.76 from the Water Fund Payroll for the period ending 07/07/05; \$27,794.21 from the D.A.D.C. Fund Payroll for the period ending 07/07/05; for a total to be approved of \$1,333,314.05.

Roll Call: Ayes: Biehl, Durkin, Gattuso, Marchese, McIvor, Poteraske, Weaver

Nays: None

Absent: None

Results: Ayes 7, Nays 0, Absent 0 MOTION DULY CARRIED

B. TREASURER'S MONTHLY REPORT – JUNE 2005

City Treasurer Monaghan reviewed all sources of revenue and expenditures for the month of June 2005 with the following year-to-date fund balances: General Fund \$4,859,283; Water Fund (\$59,366); and Motor Fuel Tax Fund \$628,502.

Alderman Poteraske inquired about the negative water fund; Treasurer Monaghan responded that a check would be forthcoming from DuPage County for water. Administrator Vana stated that a payment was charged in error to the Water Fund, which would be adjusted; he noted that the General Fund was higher due to real estate taxes.

12. STANDING COMMITTEE REPORTS

Administrative/Finance Committee — Chairman Weaver submitted, for the Record, Minutes from the December 13, 2004, April 11, 2005 and May 16, 2005 meetings.

Planning/Development Committee — Chairman Poteraske announced that the Committee would meet on Monday, July 25th, at 6:30 P.M.

Public Works Water/Streets Committee — No report.

13. QUESTIONS AND COMMENTS — AGENDA RELATED

Robert Pugliese, attorney with the law firm of Lord Bissell Brook LLP, spoke on behalf of Steak 'n Shake and owner of the property located at 2019 75th Street. He articulated why the Steak 'n Shake merited the Council's affirmative vote; he asked that the matter proceed because it had been pending for a long time. He commented about his letter dated July 11, 2005, which was included with Council packets; he indicated that new developments since submission of the letter included revised conditions and restriction within the proposed 'draft' ordinance. He thanked Alderman McIvor for interacting with all concerned and for compiling the list that outlined resident concerns and suggestions. He specifically spoke about the City's Zoning Ordinance because it made no distinction between fast food and fine dining but did make applicable distinction between those that had a drive-thru facility and those that did not. A drive-thru facility required a Public Hearing that included public suggestions/comments. He said that both the Planning and Zoning Commission and the Planning/Development Committee provided positive recommendations for Steak 'n Shake; he indicated that residents wanted to address impacts that could affect them, particularly noise and their privacy. He said that zero development of the site would be the ultimate solution but, regardless, the site would have a commercial development. Mr. Pugliese posed a question that he wanted to address: 'how does the Steak 'n Shake proposal stack up against what they might and can expect from other permitted development of this commercially zoned site'. He spoke about the PUD approval for the property, which anticipated a restaurant use; he indicated that final PUD approval would not require a Public Hearing if the final plan was in compliance with the approved preliminary plan. Steak 'n Shake requested a 'special use permit' and there would not have been a public hearing if they had proposed a restaurant without a drive-thru. He said that a restaurant without a drive-thru would be under no obligation to either design or operate its site in compliance with the restrictions that Steak 'n Shake would be bound to; they were willing to address the issues of cars, people, noise and privacy, which he felt was a crucial consideration.

Mr. Pugliese requested Matt Anderson, Civil Engineer, to assist with display of the proposed site layout. He indicated that the rear yard setback and buffering had been increased for privacy. He indicated that according to Code, the building could be constructed 40' from the property line but was proposed to be 152' from the property line; parking could be located within 30' of the resident back yards but the proposed parking had been setback 82'. He said that within the 82' setback there would be a masonry wall and a four-foot landscape berm, which would provide greater privacy and noise barrier. He addressed the 'speaker box' noise issue and quoted staff's statement that indicated that adequate measures had been taken to prevent or limit the level of noise from the box. He noted that Steak 'n Shake did not serve alcohol; they agreed to limit hours of the drive-thru and restaurant, no outdoor seating, no trash pickup before 7:00 AM, no deliveries after 10:00 PM or before 8:00 AM, and no outdoor music or paging system. He provided history about Steak 'n Shake and stated that they were a 'good neighbor'; he commented about the neighbor's concerns, stated that the hours of operation and loading were restricted, that the garbage dumpster location was selected by City staff, that a berm would be installed and would include landscaping, and that the drive-thru speaker had been relocated to eliminate noise. He said that residents requested a 12' fence, which they felt would be a mistake because it would be an eyesore and would make the berm irrelevant; he compared it to the fence near Home Depot. He spoke about the rear access road to Fairview Avenue; he said that the road was part of the PUD and was necessary to move traffic in a westbound direction.

Alderman Poteraske specified what the hours of operation would be as outlined in the proposed ordinance, which included restaurant hours of 6:00 AM to Midnight Monday thru Friday and 6:00 AM until 1:00 AM Saturday thru Monday; drive-thru hours of 6:00 AM until 11:00 PM Monday thru Friday and 6:00 AM until Midnight on weekends. Mr. Pugliese affirmed that the drive-thru would close one-hour earlier than the restaurant.

Yusuf Shikari, 7541 Wilton Road, expressed concern with the proposed restaurant. He spoke about previous discussion amongst Council members in regard to restricting the hours of operation for all restaurants; he asked Council to consider the restrictions. He felt there was no urgency to have Steak 'n Shake approved. He addressed Mr. Pugliese's letter and said that some comments made were speculative. He indicated that the only issue before the Council was the Special Use, which had standards. He spoke about what was deemed necessary for public convenience, detrimental to neighbors, injurious to use and enjoyment of other properties, and could not impede the normal development of surrounding properties. Mr. Shikari noted that the Plan Commission and Planning/Development Committee made their recommendations on the applicable regulations/laws/ordinances to the proposed restaurant and that City Council must consider the recommendations as well as the interest, welfare, and quality of life for the residents. He objected to the Special Use for the Steak 'n Shake and he urged Council to unanimously reject the Special Use.

Luis Navarro, 7528 Wilton Road, reiterated some remarks made by Mr. Shikari. He stated that there were 52 families within the subdivision that would be impacted by the Steak 'n Shake; he felt that he represented most of those residents. He indicated that he contacted Border Books as an additional option for the commercial site; they were interested but would be too limited due to the lot size and the owner already had a pending contract with a probable tenant. He felt that there could be other good opportunities but did not want Steak 'n Shake to go away. Mr. Navarro commented that residents were unaware of the Steak 'n Shake proposal when it was reviewed by the Plan Commission and the Planning/Development Committee and residents did not have the opportunity to express concern. He addressed resident concerns: they felt there was a better use for the site and they identified specific conditions if development proceeded. He reiterated about volume and nature of traffic, which included safety issues and hours of operation that residents felt should cease at 11:00 PM.

Alderman Biehl spoke about hours of operation; he stated that the Administrative/ Finance Committee intended to review hours and would make a recommendation to change all hours of operation. Mr. Navarro commented that Steak 'n Shake was on record stating that 1:00 AM was the earliest they could close. Alderman Biehl inquired what the concern was with cars utilizing the rear drive; Mr. Navarro

responded that they were concerned with vehicles turning onto Fairview Avenue and vehicles crossing the sidewalk.

Tom Glennon, 7537 Wilton Road, was concerned about the rear roadway exit that abutted the masonry wall/barrier; he indicated that use would impact six homes adjacent to the property. He felt there was a safety issue with the wall. Alderman Marchese stated that the roadway was part of the PUD; Mr. Glennon said that it was more of a safety issue and disruption due to the hours of operation.

Mr. Uddin, 7536 Wilton Road, inquired about a statement made by the Steak 'n Shake representative that there would be 'no noise' violation. He indicated that approximately ten years ago the residents voiced concern about noise from the Home Depot; he said that a twelve-foot high fence and trees were installed but noise could still be heard.

Matt Anderson, Civil Engineer with Joseph Schudt & Associates, spoke about decibel levels that the speaker box would generate; he said that if there were no obstructions, the speaker box at the window level of a car would generate 70 decibels, which was 10 decibels over normal speech. He indicated that the decibel level from the speaker to an adjacent house would be 38 decibels, which was just above a quiet bedroom at night. Alderman Durkin stated that he visited a few Steak 'n Shake sites and indicated that most of the noise was from car radios; he asked if the 'extra' noise was included in the analysis. Mr. Anderson responded that they utilized the City's Zoning Ordinance, which standard did not include/consider the car. He said that it would fall under other nuisances within the City Code. Alderman McIvor said the noise issue was not the output from the speaker box but was car noise.

Ken Lechner, 7532 Wilton Road, commented that there was confusion in regard to loading for Steak 'n Shake; it had been indicated to begin at both 6:00 AM and 8:00 AM. He noted that Home Depot was restricted to begin loading at 8:00 AM but trucks could be heard at 4:00 AM. He reiterated that it was a quality of life issue and asked Council to take resident concerns into consideration when voting.

Ms. Zakar, 2008 Harper, said the berm was good but vehicles on the roadway could create load noises that a berm would not eliminate. She indicated that another use for the parcel would be better; that she did not want cars with blaring radios. She said that she listened for the attorney to say something positive about Steak 'n Shake rather than painting a picture. She asked Council to say 'no' to the drive-thru and no to having cars race in her backyard in the middle of the night.

Mike Walsh, 7631 Wilton Road, a 31-year resident of Darien, said that he was against the 24-hour or late night drive-thru operation of Steak 'n Shake. He indicated that the Glenview plan was not acceptable in Darien because Glenview was more commercialized, more industrialized, and a larger town.

Mike Stratis, property owner, made comments regarding the suggestions about better uses; he indicated that over the past eighteen months that he met with the residents in regard to various proposals of which there was never a consensus. He indicated that he sent approximately 350 mailings to various restaurants and retail users of which he received 3 or 4 who were interested others declined because of the commercial use to the west and/or lack of a median break onto 75th Street. He hired the largest realty company in the Midwest who marketed the property through various avenues for approximately three months and had one developer respond. The property was then contracted with the developer and the contract lapsed. Mr. Stratis stated that he exhausted the marketing of the site; he noted that the 3.5 acres had been zoned B-2 prior to development of Farmingdale Ridge 4. He noted that he has been sensitive to the issues by meeting with the residents and the City; he noted that the City wanted restaurant or retail and supplied a listing of what was not acceptable. He indicated that the rear roadway, which provided access to southbound Fairview Avenue and westbound 75th Street, was needed for whatever was developed on the parcel; he attained a permit from DuPage County to install a median break on 75th Street in order to take 50% of traffic off the access drive.

Luis Navarro stated that he made a commitment to Mr. Stratis, which was to work with him. He said they had asked Mr. Stratis to put Steak 'n Shake aside in order to find a better option for development on the parcel.

Alderman Poteraske inquired if access from Fairview could be eliminated due to the median break on 75th Street; Mr. Pugliese responded 'no'. Mr. Pugliese stated there was an issue of entry and exit; westbound vehicles on 75th Street would need to enter from Fairview if the median break had not been granted, which median break would eliminate excess traffic. He said that if he had been traveling west and wanted to return in a westerly direction, he could not do that safely onto 75th Street because there was no left/westbound turn out. He indicated that the easement previously existed, provided access onto Fairview Avenue and was part of the PUD. He spoke about the reduced size of the restaurant and drive-thru.

Alderman Marchese commented that the access road curved prior to the Steak 'n Shake property, he inquired if the access drive would be expanded to go behind the parcel. The response was 'no' that the drive's purpose was to allow access to the site.

Alderman Mclvor stated that residences were affected by the diminishing berm because the roadway was closer to some that were nearer to Fairview Avenue; Mr. Pugliese responded that the statement was correct and that regardless of what was developed, it would not change. He said the issue before Council was the Special Use and hours of operation for the drive-thru. Mayor Soldato concluded that some of the issues were due to the user, Steak 'n Shake.

14. OLD BUSINESS

A. CONSIDERATION OF A MOTION TO REMOVE FROM THE TABLE AN ORDINANCE APPROVING FINAL PUD APPROVAL FOR PHASE II, INCLUDING A SPECIAL USE FOR A DRIVE-THRU LANE, AND IMPOSING CERTAIN CONDITIONS, RESTRICTIONS AND LIMITATIONS RELATED THERETO (PZC 2004-19: INTREPID PUD/STEAK 'N SHAKE, 2019 75th STREET)

It was moved by Alderman Biehl and seconded by Alderman Marchese to remove from the Table an Ordinance Approving Final PUD Approval for Phase II, Including a Special Use for a Drive-Thru Lane, and Imposing Certain Conditions, Restrictions and Limitations Related Thereto (PZC 2004-19: Intrepid PUD/Steak 'n Shake, 2019 75th Street).

Roll Call: Ayes: Biehl, Marchese, Mclvor

Nays: Durkin, Gattuso, Poteraske, Weaver

Absent: None

Results: Ayes 3, Nays 4, Absent 0 MOTION FAILED

NOTE: During QUESTIONS, COMMENTS AND ANNOUNCEMENTS, lengthy discussion continued regarding the proposed Steak 'n Shake development. Council decided to reconsider the Tabled item.

A. CONSIDERATION OF A MOTION TO REMOVE FROM THE TABLE AN ORDINANCE APPROVING FINAL PUD APPROVAL FOR PHASE II, INCLUDING A SPECIAL USE FOR A DRIVE-THRU LANE, AND IMPOSING CERTAIN CONDITIONS, RESTRICTIONS AND LIMITATIONS RELATED THERETO (PZC 2004-19: INTREPID PUD/STEAK 'N SHAKE, 2019 75th STREET)

It was moved by Alderman Poteraske and seconded by Alderman Durkin to reconsider the vote to remove from the Table an Ordinance Approving Final PUD Approval for Phase II, Including a Special Use

for a Drive-Thru Lane, and Imposing Certain Conditions, Restrictions and Limitations Related Thereto (PZC 2004-19: Intrepid PUD/Steak 'n Shake, 2019 75th Street). Roll Call: Ayes: Biehl, Durkin, Gattuso, Marchese, Mclvor, Poteraske

Nays: Weaver

Absent: None

Results: Ayes 6, Nays 1, Absent 0 MOTION DULY CARRIED

B. CONSIDERATION OF A MOTION TO APPROVE AN ORDINANCE APPROVING FINAL PUD APPROVAL FOR PHASE II, INCLUDING A SPECIAL USE FOR A DRIVE-THRU LANE, AND IMPOSING CERTAIN CONDITIONS, RESTRICTIONS AND LIMITATIONS RELATED THERETO (PZC 2004-19: INTREPID PUD/STEAK 'N SHAKE, 2019 75th STREET)

It was moved by Alderman Poteraske and seconded by Alderman Mclvor to approve an Ordinance Approving Final PUD Approval for Phase II, Including a Special Use for a Drive-Thru Lane, and Imposing Certain Conditions, Restrictions and Limitations Related Thereto (PZC 2004-19: Intrepid PUD/Steak 'N Shake, 2019 75th Street), as presented.

Mayor Soldato stated that a vote had been requested by the owner, developer and residents in regard to the Special Use for the drive-thru. He said that Council should make sure that all of the conditions are contained within the Ordinance and then vote either for or against the Steak 'n Shake. Mayor Soldato commented that he did not feel that Steak 'n Shake was the best use for the land; he said that the City would continue to work with the owner, Mr. Stratis.

Alderman Mclvor said that she delineated eight items that the residents were concerned with; she reiterated that Mr. Navarro said the most important item was that listed in her email as "1) Seven-day operations which close at 11PM for both the restaurant and drive-through." She made a motion to modify the Ordinance to include those hours.

Attorney Murphey suggested that a poll of the Aldermen who voted NAY on the Steak 'n Shake proposal be taken. There was lengthy discussion in regard to the pros and cons for the Steak 'n Shake development.

MOTION TO AMEND

It was moved by Alderman Biehl and seconded by Alderman Marchese to amend the proposed Ordinance by modifying language under SECTION 4: Conditions of Approval to include: "A. The hours of operation are restricted as follows: For the restaurant: 6:00 AM to 11:00 PM. For the drive-thru: 6:00 AM to 11:00 PM. To the extent the City adopts an ordinance of general applicability further restricting hours of operation; such restriction shall apply to the Subject Property."

"Q. The Site Plan shall be modified to eliminate the south curb cut."

"R. Owner shall take all actions necessary to complete the construction of the 75th Street median break."

There was lengthy discussion amongst Council, owner, developer and residents.

Roll Call: Ayes: Biehl, Gattuso, Marchese, Mclvor, Poteraske

Nays: Durkin, Weaver

Absent: None

Results: Ayes 5, Nays 2, Absent 0 AMENDING MOTION DULY CARRIED

There was a call for the question on the original motion, as amended:

ORDINANCE NO. O-20-05 AN ORDINANCE APPROVING FINAL PUD APPROVAL FOR PHASE II, INCLUDING A SPECIAL USE FOR A DRIVE-THRU LANE, AND IMPOSING CERTAIN CONDITIONS, RESTRICTIONS AND LIMITATIONS RELATED THERETO (PZC 2004-19: INTREPID PUD/STEAK 'N SHAKE, 2019 75th STREET)

Roll Call: Ayes: Biehl, Marchese, Mclvor, Poteraske

Nays: Durkin, Gattuso, Weaver

Absent: None

Results: Ayes 4, Nays 3, Absent 0 MOTION DULY CARRIED

15. CONSENT AGENDA

Mayor Soldato indicated that Consent Agenda Items H and I had been moved to New Business as Items A and B and therefore, New Business Items A, B and C became C, D and E, respectively.

It was moved by Alderman Poteraske and seconded by Alderman Biehl to approve by Omnibus Vote the following items on the Consent Agenda:

A. CONSIDERATION OF A MOTION TO GRANT A WAIVER OF THE RAFFLE LICENSE BOND REQUIREMENT FOR DENNIS J. MURPHY MEMORIAL FUND

B. CONSIDERATION OF A MOTION TO APPROVE AN ORDINANCE APPROVING A VARIATION TO THE DARIEN ZONING ORDINANCE (PZC 2005-06: 3053 GRANDVIEW PLACE)

C. CONSIDERATION OF A MOTION TO APPROVE AN ORDINANCE GRANTING A MINOR AMENDMENT TO AN APPROVED PLANNED UNIT DEVELOPMENT (CROSSROADS OF DARIEN PUD, 8330 LEMONT ROAD, OFFICE BUILDING F)

D. CONSIDERATION OF A MOTION TO APPROVE AN ORDINANCE AMENDING SECTION 2 OF CHAPTER 3 (PARKING), TITLE 9 (TRAFFIC REGULATIONS), OF THE DARIEN, CITY CODE (73rd STREET WEST OF PARK AVENUE)

E. CONSIDERATION OF A MOTION TO APPROVE AN ORDINANCE AMENDING SUBSECTION B OF SECTION 1-5-7 "COUNCIL COMMITTEES" OF THE DARIEN CITY CODE

F. CONSIDERATION OF A MOTION TO APPROVE AN ORDINANCE AMENDING TITLE 5A, CHAPTER 2, SECTION 5A-2-1-6 "PLANNING AND DEVELOPMENT COMMITTEE" OF THE DARIEN CITY CODE

G. CONSIDERATION OF A MOTION TO DIRECT STAFF TO WORK WITH PLANNING AND ZONING COMMISSION ON TEXT AMENDMENT TO THE ZONING ORDINANCE CONCERNING VARIATION STANDARDS

Roll Call: Ayes: Biehl, Durkin, Gattuso, Marchese, Mclvor, Poteraske, Weaver

Nays: None

Absent: None

Results: Ayes 7, Nays 0, Absent 0 MOTION DULY CARRIED

16. NEW BUSINESS

A. CONSIDERATION OF A MOTION TO DIRECT STAFF TO WORK WITH THE PLANNING AND ZONING COMMISSION ON ZONING CODE REVISION ESTABLISHING FOOD ESTABLISHMENTS AS SPECIAL USES

It was moved by Alderman Weaver and seconded by Alderman Poteraske to direct Staff to work with the Planning and Zoning Commission on Zoning Code revision establishing food establishments as Special Uses, as presented.

Alderman Weaver stated that the Administrative/Finance Committee had not completed discussions in regard to the hours for drive-thru restaurants/food establishments within the City. She said the Committee brought forward consideration for code revisions in regard to food establishments and banks in order to set criteria, which would make them a Special Use and not a permitted use. The proposed revision would include allowable hours for drive-thru restaurants and identify hours of operation. Alderman Biehl inquired what the reason was for making them a Special Use; Alderman Weaver said it was for more control. Alderman Poteraske stated that if the City Code was changed, all restaurants and banks would have to come before Council for approval. Alderman Marchese was concerned with the message sent to the business community, developers, food establishments, and bankers would be that the City was trying to prohibit them. Alderman Weaver said they were not prohibiting businesses; Alderman Marchese said that the change could sway a business not to develop in Darien.

Mayor Soldato said there were a few parcels left for development within Darien; he felt that the City owed the residents and developer for Steak 'n Shake an 'up or down' vote due to the commitment. Alderman Marchese said that the Council, Planning/Development Committee and Planning and Zoning Commission have always been sensitive to residents; he felt there was no need to be more sensitive. He thought it was a disservice to the residents and equally to the developer to not remove the issue from the Table in order to vote on the issue. There was discussion about the uniqueness and reason for the Special Use.
Roll Call: Ayes: Durkin, Gattuso, Poteraske, Weaver

Nays: Biehl, Marchese, Mclvor

Absent: None

Results: Ayes 4, Nays 3, Absent 0 MOTION DULY CARRIED

B. CONSIDERATION OF A MOTION TO DIRECT STAFF TO WORK WITH THE PLANNING AND ZONING COMMISSION ON ZONING CODE REVISIONS ESTABLISHING BANKS AS SPECIAL USES

It was moved by Alderman Weaver and seconded by Alderman Poteraske to direct Staff to work with the Planning and Zoning Commission on Zoning Code revisions establishing banks as Special Uses, as presented.

Roll Call: Ayes: Gattuso, Poteraske, Weaver

Nays: Biehl, Durkin, Marchese, Mclvor

Absent: None

Results: Ayes 3, Nays 4, Absent 0 MOTION FAILED

C. CONSIDERATION OF A MOTION TO APPROVE THE PURCHASE OF A SAFETY WORK PLATFORM (PURCHASE ORDER #2632) FROM PATTEN CONSTRUCTION PRODUCTS IN THE AMOUNT OF \$2,525.00

It was moved by Alderman Marchese and seconded by Alderman Biehl to approve the purchase of a Safety Work Platform (Purchase Order #2632) from Patten Construction Products in the amount of \$2,525.00, as presented.

Roll Call: Ayes: Biehl, Durkin, Gattuso, Marchese, McIvor, Poteraske, Weaver

Nays: None

Absent: None

Results: Ayes 7, Nays 0, Absent 0 MOTION DULY CARRIED

D. CONSIDERATION OF A MOTION TO APPROVE A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A THIRD AMENDMENT TO THE CITY ADMINISTRATOR AGREEMENT BETWEEN THE CITY OF DARIEN AND BRYON D. VANA

It was moved by Alderman Poteraske and seconded by Alderman Gattuso to approve

RESOLUTION NO. R-28-05 A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A THIRD AMENDMENT TO THE CITY ADMINISTRATOR AGREEMENT BETWEEN THE CITY OF DARIEN AND BRYON D. VANA as presented.

Mayor Soldato commented that Administrator Vana was the day-to-day leader within the City who made everything work. He said that Council performed their annual review and entered into a unanimous agreement with Mr. Vana for another year.

Roll Call: Ayes: Biehl, Durkin, Gattuso, Marchese, McIvor, Poteraske, Weaver

Nays: None

Absent: None

Results: Ayes 7, Nays 0, Absent 0 MOTION DULY CARRIED

E. CONSIDERATION OF A MOTION TO AUTHORIZE THE CHIEF OF POLICE TO SIGN AN AGREEMENT WITH THE ILLINOIS LAW ENFORCEMENT ALARM SYSTEM (ILEAS) FOR A \$25,000 – LOCAL LAW ENFORCEMENT HOMELAND SECURITY GRANT AND AUTHORIZE THE PURCHASE OF SAID EQUIPMENT

It was moved by Alderman Gattuso and seconded by Alderman Biehl to authorize the Chief of Police to sign an Agreement with the Illinois Law Enforcement Alarm System (ILEAS) for a \$25,000 – Local Law Enforcement Homeland Security Grant and authorize the purchase of said equipment, as presented.

Roll Call: Ayes: Biehl, Durkin, Gattuso, Marchese, McIvor, Poteraske, Weaver

Nays: None

Absent: None

Results: Ayes 7, Nays 0, Absent 0 MOTION DULY CARRIED

17. QUESTIONS, COMMENTS AND ANNOUNCEMENTS — GENERAL

Alderman Biehl inquired about the current sidewalk program and asked for a breakdown of cost per yard for the red and white concrete; Director Gombac stated that he would provide Alderman Biehl with the requested information. Alderman Biehl also inquired about tree trimming along 75th Street; Administrator Vana responded that the area had been trimmed in preparation for the Fourth of July parade.

Mayor Soldato inquired if Council's intention was to keep Steak 'n Shake as a Tabled item until the Administrative/Finance Committee made their recommendation. Alderman Weaver stated that Mr. Navarro asked why Council would approve Steak 'n Shake with specific hours and then have the Committee make a recommendation to change hours of all establishments. She wanted to know why Steak 'n Shake would build the restaurant when they previously stated what their 'drop dead' hours were. She indicated that the Administrative/Finance Committee would review hours of operation at their next meeting; she commented that it was not an easy task because the existing food establishments within Darien were not a "one size does not fit all" situation. Alderman Marchese asked if there was a possibility that the item may not come before Council until October; that was affirmed because the Committee would develop criteria and the Planning and Zoning Commission would recommend code revision language changes. Mayor Soldato spoke about Steak 'n Shake and the Special Use; he said that elected officials wanted to protect residents and look at everything closely before it could become a permitted use.

Alderman Poteraske invited all Aldermen to attend the next Administrative/Finance Committee meeting. Alderman Marchese responded that there could be more difficulty making a decision with seven present instead of the three Committee members. Alderman Marchese suggested that they consider: 1) the message sent to the business community that would like to develop within Darien and 2) the disservice that Council did to the developer and the residents by not voting the matter up or down. He said that he was angry because Council had responsibility to residents and developer regardless if they did or did not supported the development. He indicated that Darien had to be a nice place to live for both residents and businesses.

Michael Stratis agreed with Alderman Marchese and said 'enough is enough'; he said that no action was a further delay. He indicated that Steak 'n Shake was willing to deal with whatever Council decided. He said that while the project was on hold, it conservatively costs \$10,000 per month. He respectfully requested Council to vote on the development.

Luis Navarro asked that the motion be shaped in accordance with the residents' specifications, particularly the hours of operation.

Mayor Soldato commented that it was a legal matter; he further explained to the audience what Mr. Navarro asked the Council to do and wanted to make sure that the residents could live with the other items outlined in Alderman McIvor's email. Mr. Navarro asked that priority be given to the hours of operation; Mayor Soldato said that the other conditions should also be considered.

Alderman Biehl verified with Mr. Navarro that the main concern was the hours of operation; Mr. Navarro agreed. Alderman Biehl stated that Steak 'n Shake understood that the Administrative/Finance Committee could make a recommendation to change hours of operation for all restaurants; he said that they would have to complete the building process and comply with all regulations including hours of operation. Alderman Poteraske suggested that Council agree with the residents and restrict the hours of operation to 11:00 P.M. instead of the hours requested by Steak 'n Shake.

NOTE: Discussion continued and Council decided to reconsider the Tabled item. SEE OLD BUSINESS ITEM A.

18. ADJOURNMENT

There being no further business to come before the City Council, it was moved by Alderman McIvor and seconded by Alderman Poteraske to adjourn.

VIA VOICE VOTE – MOTION DULY CARRIED

The City Council meeting adjourned at 10:25 P.M.

Mayor _____ City Clerk jr All supporting documentation and report originals of these minutes are on file in the Office of the City Clerk under File Number 07-18-05.