

MEMORANDUM

TO: David A. Hulseberg, Village Manager

FROM: William J. Heniff, AICP, Director of Community Development

DATE: January 20, 2011

SUBJECT: TEXT AMENDMENTS TO SECTION 150.144 & 145 – BONDS FOR PROTECTION OF PUBLIC PROPERTIES

Over the past year and one-half, staff has been seeking opportunities to address the backlog of bonds for right of way protection being held by the Village for development projects that have failed to be completed. Through this continual process, staff has also begun to review the policies and procedures pertaining to collected bonds and the necessity for keeping such bonds for many construction projects. The result of this effort is proposed amendments to Section 150.144 and 145 of the Lombard Building Code significantly relaxing the requirements for parkway restoration/protection bonds.

BACKGROUND

Through code provisions and/or policy interpretations, the Village currently collects a parkway restoration bond for both residential (\$1,000) and non-residential (\$2,000) construction projects that include the pouring of a foundation or most concrete work. The bond has been collected as collateral to ensure that the parkway is not damaged and if it is damaged, the Village has leverage to ensure that it is properly repaired. However, if the project is never completed, the bond is held indefinitely. Throughout 2010, staff sought a number of ways to encourage applicants to finish out the projects so the bonds could be returned. Key responses included a lack of funds to complete the project, change of property ownership, or the contractor is no longer associated with the project. The vast majority of these cases do not have any outstanding issues associated with the parkway that would necessitate holding onto the bond.

Staff recognizes the importance of collecting bonds in some cases, but notes that adjustments to the policies and procedures would be in the best interests of developers, residents and the Village for the following reasons:

1. The bond cannot be used to address any deficiencies associated with the building construction activity itself;
2. Lack of effectiveness, as the bonds cannot be used by the Village or property owners to finish projects;
3. Resident concerns about “tying up” their money while their construction project is occurring.

4. Of the nearly thousands of bonds that have been collected over the past decade, staff can only think of one bond that was actually pulled;
5. Inordinate amount of staff time processing and refunding the bonds (approx. 1-2 hours a day);
6. Some older bonds were pulled by property owners that no longer own the property or businesses no longer in operation – the funds would then be turned over to the State of Illinois and serve no Village benefit; and
7. The Village auditor has commented that we should not hold bonds indefinitely, but code does not provide for their return until a project is finished;

Given these issues, staff will be proposing a major change to the bonding provisions and will allow the owner/contractor to sign an acknowledgement form in lieu of a bond. We will also set parameters for noncompliant contractors. However, this amendment will not affect bonds or letters of credit collected by Private Engineering for constructing public improvements or bonds for commercial projects.

Key benefits of these changes are that the amendments limit the scope and applicability to those projects most likely to impact or damage the parkway. Additionally, any collected bonds will be released upon the completion and approval of the parkway improvements and not the project itself. Lastly, exemption provisions are made for driveway repair/replacement activities and the reductions in water and sewer repair activities are more fully identified. The fees for water and sewer deposits are reflective of the cost to replace a sidewalk section, and are purposely intended to be lower than other construction bonds, as such improvements are usually completed in a very short time frame and without much advance notice.

Staff sees these changes as being beneficial for all parties concerned. The necessity for bonds will be significantly reduced for existing residents and the Village will significantly reduce the time allocated for processing bonds.

RECOMMENDATION

Attached is a draft ordinance for consideration amending Section 150.144 and 145 amending the bond process. Please place this item on the January 20, 2011 Board Agenda. Staff recommends approval of the proposed amendments.