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MEMORANDUM

TO: Public Works Committee
THROUGH: Carl S. Goldsmith, Director of Public Works
FROM: David P. Gorman, PE, Asst. Director of Public Works
SUBJECT: DuPage County and Village of Lombard Stormwater Ordinances
DATE: June 6, 2012

The Village of Lombard must take certain actions following the enactment of the revised DuPage County Countywide Stormwater and Flood Plain Ordinance. This revised Ordinance contains major changes in direction for stormwater management since the Ordinance was originally enacted in 1992. In addition to adopting the revised Countywide Ordinance, the Board of Trustees must also adopt new General Certifications and amend the Village Code to maintain more stringent detention requirements.

Overview of the Countywide Ordinance:

The County Board passed the Ordinance on April 24, 2012 and it is now effective. Since the Spring of 2011, Village Staff had participated on the Steering Committee that drafted the Ordinance as well as in two stakeholder groups that provided comments. While the Ordinance does represent a consensus document, Staff finds that it will be more flexible and streamlined for permitting without losing important flood control and environmental protections. The Board of Trustees must formally adopt the new Ordinance before it takes effect in Lombard.

There were three goals for the new Ordinance: (a) to better meet local, state and federal regulations, (b) to preserve a high level of flood control and environmental protection for residents, and (c) to be as flexible as possible for the benefit of land development. The highlights of the changes are described below, as organized in the various Articles of the Ordinance. Articles with no significant change are omitted from this memo. Note that the term "Director" refers to the DuPage County Director of Stormwater Management and the term "Administrator" refers to Lombard's Stormwater Administrator (Community Development's Private Development Engineer).

Administration - Article 2: The Municipal Engineers Group (MEG) is now formalized with bylaws to advise the Director on technical matters pertaining to the Ordinance. The MEG is comprised of the Administrators from each community. The effect of this change will be an increased municipal involvement, consensus and understanding for technical clarifications in administering the Ordinance. The MEG's only official role will be to provide guidance to the Director and, when requested, to the County Stormwater Committee.

Stormwater Management Certifications - Article 4: As a partial waiver community, projects in Lombard must obtain a certification from the County when (a) the site contains a flood plain, wetland or buffer, (b) there will be more than 2,500 sf of net new impervious area, or (c) there will be more than 5,000 sf of aggregate area disturbed. The Administrator may now issue "Letters of Permission" for minor projects with less than 2,500 sf of net new impervious area, and when the project is located outside of a flood plain and at least 100 ft from a wetland. Likewise, new "General Certifications" are pre-approvals that may be used by an Administrator to forgo the need to submit to the County provided that a project meets the conditions stated therein. The following General Certifications are attached and they must be formally approved by the Board of Trustees before taking effect in Lombard: (1) Accessory Structures; (2) Boardwalks; (3) Boat Lifts and Piers; (4) Decks; (5) Demolition of Structures; (6) Posts, Fencing, and Guard Rails; (7) Recreational Facilities; (8) Sidewalks, Trails, Patios, and Driveways; (9) Storm Sewer Outfalls and Outlet Channels; (10) Shoreline or Stream Bank Stabilization Measures; (11) Topsoil and Sand Restoration; and (12) Utilities.

Certification Submittals – Article 5: Submittal requirements are now clearly stated so that permit applicants may have a clearer understanding of the process at the beginning of the project.

Performance Security and Easements – Article 6: Clarification is now provided that a financial security, such as a bond, is no longer required for government projects.

Post Construction Best Management Practices – Article 8: "PCBMPs" are required when there is an increase of more than 2,500 sf in total impervious area (TIA) in order to remove pollutants and reduce runoff volume. The term PCBMPs also includes Volume Control BMPs (VCBMPs). There are exceptions for certain projects including minor roadway widening, public paths, and utilities. When deemed impractical, the Administrator may accept a fee in lieu of providing an on-site PCBMP. The VCBMP requires that 1.25 in of rainfall on new impervious areas be caught and released over a period extending at least 48 hours. VCBMPs include constructed wetlands, ponds, trenches and infiltration swales. The effect of this change will be an increase in rain gardens, depressed parking lot islands, and underground detention chambers.

Site Runoff Conveyance, Storage & Field Tiles – Article 9: Detention for 100-yr runoff at 0.10 cfs/acre will still be required but only when the net total impervious area (TIA) on a lot increases by at least 25,000 sf unless one of three conditions is met: (a) the net TIA without detention will be within 25,000 sf of the TIA that existed on 2/15/92, or (b) the TIA will decrease by at least 5% from its highest level in the past 3 years, or (c) the TIA will be less than 10% of the entire development property area. These first two exceptions would apply to many developments in Lombard. However, Staff proposes to keep the Village Code more stringent than the County Ordinance in the interest of local flood control, which will be explained later in this memo. Public roadway and open space development projects need only detain to the extent to prevent an increase in 2-yr and 100-yr runoff rates.

Flood Plain Management – Article 10: The floodway appropriate use criteria and flood protection standards for parking lots, detached garages and sheds have been relaxed to match State and

FEMA standards. The compensatory storage volume requirement is still 1.5:1 but it is now more flexible to allow 1.0:1 replacement below and above the 10-yr elevation and the additional 0.5:1 of excavation anywhere below the 100-yr elevation. Public roadway projects are at a 1:1 ratio.

Wetlands – Article 11: The avoidance and minimization requirements still apply so an alternatives analysis is required for most developments effecting wetlands. The new exception is impacts to isolated wetlands smaller than 0.1 acre that may now be allowed without an alternatives analysis or mitigation. Also, many of the General Certifications now allow a streamlined process for minor wetland impacts.

Buffers – Article 12: One catch-all classification of buffers now covers the prior categories of riparian areas and wetland buffers. Buffers still include 50 ft along regulatory wetlands and 100 ft along critical wetlands. The riparian area requiring mitigation to remove trees and native grasses along waterways is still the 100-yr floodplain but Administrators may grant a reduced width down to 15 ft from the Ordinary High Water Mark. This last item (in Section 15-92.B) is a concern to both the Mayors and Managers Conference and the DuPage River Salt Creek Workgroup since buffer vegetation is closely correlated with the integrated biology index for macro-invertebrates (mIBI), which is a key measure for the EPA in determining whether a waterway is meeting the “fishable” goal of the Clean Water Act. Failure to exceed a mIBI of 41.8 will assuredly result in ever-tightening IEPA permit requirements for municipalities and wastewater treatment authorities. Therefore, the engineers, scientists and administrators for both of these stakeholder groups will work within the Municipal Engineers Group to propose that the minimum width for the IEPA-assessed streams and rivers be increased to 100 ft, as documented to be necessary to protect the waterways from further declining index scores.

Fee-in-Lieu Programs – Article 13: In addition to the detention fee-in-lieu program and the wetland mitigation fee-in lieu program, the Ordinance now provides a BMP fee-in-lieu program with a defined fee schedule. The Administrator must determine that an on-site BMP is impractical in order to qualify. The rates in Schedule B range from \$3,000/acre for single family developments to \$30,000/acre for roadway projects. Any variance fees collected would be provided to the County to utilize for BMP projects. However, the Board of Trustees could enact an ordinance to establish a BMP fee-in-lieu program for Lombard. At this time, Staff does not foresee that many variances will be needed.

### **Proposed Village Code Amendment for Stormwater Detention:**

Village Code §151.55 has served Lombard well by incorporating stormwater detention into developments and redevelopments since 1978. This Code requires detention for any project other than single-family developments whenever there is any increase in imperviousness or a change in land use (such as a parking lot to a building). Lombard’s requirements have been more stringent than the County minimum standards and the result has been a gradual improvement in local flooding as more detention basins are constructed. There are now 327 detention basins in the Village, all functioning to release runoff in a controlled manner into the public storm sewerage.

The new Countywide Ordinance necessitates a revision to Lombard's Code since the 80% impervious provision is no longer applicable. Staff recommends that Lombard maintain a more stringent detention requirement. Whereas the County Ordinance's threshold for requiring detention is 25,000 sf of increase in total impervious area (TIA), Staff proposes to use a lower threshold of 5,000 sf. This would exempt the typical single family residence. The first paragraph of Village Code §151.55 would be replaced with the following and the remainder of §151.55 (Subsections A through D4) would remain unchanged:

“§151.55 RETENTION/DETENTION BASINS.

All new development that increases the total impervious area, “TIA”, of the development property by more than 5,000 square feet after July 1, 2012 shall require surface water runoff of the limits of said lot to be limited by detention or retention to the maximum of 0.10 cfs per acre of land or fraction thereof for the 1% annual recurrence (100-yr) rainfall event, unless (a) the net TIA without detention will be within 5,000 square feet of the TIA that existed on 2/15/92, or (b) the TIA will decrease by at least 5% from its highest level in the past 3 years, or (c) the TIA will be less than 10% of the entire development property area.”

**RECOMMENDATIONS:**

Staff recommends that the Committee vote in favor of recommending the following actions to the Board of Trustees. Each should be voted on by separate motions.

1. Recommend that the Board of Trustees adopt the Countywide Ordinance last revised on 4/24/12 and approve the list of eleven General Certifications for use within Lombard. (The draft ordinance is attached.)
2. Recommend that the Board of Trustees amend Village Code §151.55 to lower the threshold for stormwater detention to 5,000 square feet. (The draft ordinance is attached.)

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attachments: Countywide Ordinance, draft ordinance to adopt Countywide Ordinance & GCs, draft ordinance to amend §151.55

cc: David A. Hulseberg, Village Manager

William J. Heniff, Director of Community Development

David A. Dratnol, PE, Village Engineer