

Village of Lombard

*Village Hall
255 East Wilson Ave.
Lombard, IL 60148
villageoflombard.org*



Meeting Agenda

Thursday, August 19, 2010

7:30 PM

Village Hall Board Room

Village Board of Trustees

Village President: William J. Mueller

Village Clerk: Brigitte O'Brien

Trustees: Greg Gron, District One; Keith Giagnorio, District Two;

Zachary Wilson, District Three; Peter Breen, District Four;

Laura Fitzpatrick, District Five; and Bill Ware, District Six

I. Call to Order and Pledge of Allegiance**II. Roll Call****III. Public Hearings****IV. Public Participation**

[100443](#) Proclamation - Ron Foresman Day

Attachments: [procronforesman2010.doc](#)

V. Approval of Minutes**VI. Committee Reports**

Community Relations Committee - Trustee Laura Fitzpatrick, Chairperson

Economic/Community Development Committee - Trustee Bill Ware, Chairperson

Environmental Concerns Committee - Trustee Dana Moreau, Chairperson

Finance Committee - Trustee Zachary Wilson, Chairperson

Public Works Committee - Trustee Greg Gron, Chairperson

Transportation & Safety Committee - Trustee Keith Giagnorio, Chairperson

Board of Local Improvements - Trustee Greg Gron, President

Community Promotion & Tourism - President William J. Mueller, Chairperson

Lombard Historical Commission - Clerk Brigitte O'Brien

VII. Village Manager/Village Board Comments**VIII Consent Agenda**

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Payroll/Accounts Payable

- A. [100350](#) Approval of Accounts Payable
For the period ending June 18, 2010 in the amount of \$822,483.90.

- B. [100355](#) Approval of Village Payroll
For the period ending June 19, 2010 in the amount of \$819,416.19.
- C. [100356](#) Approval of Accounts Payable
For the period ending June 25, 2010 in the amount of \$1,017,943.43.
- D. [100360](#) Approval of Accounts Payable
For the period ending July 2, 2010 in the amount of \$785,418.69.
- E. [100363](#) Approval of Accounts Payable
For the period ending July 2, 2010 in the amount of \$120,546.61.
- F. [100381](#) Approval of Village Payroll
For the period ending July 3, 2010 in the amount of \$841,597.38.
- G. [100382](#) Approval of Accounts Payable
For the period ending July 9, 2010 in the amount of \$1,831,691.55.
- H. [100384](#) Approval of Accounts Payable
For the period ending July 16, 2010 in the amount of \$753,805.51.
- I. [100391](#) Approval of Village Payroll
For the period ending July 17, 2010 in the amount of \$940,247.13.
- J. [100392](#) Approval of Accounts Payable
For the period ending July 23, 2010 in the amount of \$631,053.40.
- K. [100400](#) Approval of Accounts Payable
For the period ending July 30, 2010 in the amount of \$639,109.68.
- L. [100415](#) Approval of Village Payroll
For the period ending July 31, 2010 in the amount of \$870,334.77.
- M. [100416](#) Approval of Accounts Payable
For the period ending August 6, 2010 in the amount of \$777,882.81.
- N. [100431](#) Approval of Accounts Payable
For the period ending August 13, 2010 in the amount of \$209,697.31.

Ordinances on First Reading (Waiver of First Requested)

- O. [060514](#) PC 03-27: 240 Progress Road
Granting a further time extension of Ordinances 5358, 5550, 5717, 5918, 6236 and 6355 extending the time period for construction of the conditional use an additional 12 months (August 19, 2011). (DISTRICT #4)

- Attachments:** [CU Extension Memo 3.doc](#)
[Ord Extension 3.doc](#)
[SUBMIT_ext3.doc](#)
[59180001.pdf](#)
[CU Extension Memo 5.doc](#)
[SUBMIT_ext5.doc](#)
[Ordinance 6236.pdf](#)
[Ordinance 6355.pdf](#)
[060514.pdf](#)
[060514.pdf](#)
[080514.pdf](#)
[CU Extension Memo 6.doc](#)
[SUBMIT_ext6.doc](#)
[060514.pdf](#)
[060514.pdf](#)
[Ordinance 6504.pdf](#)

- P. [100163](#) Proposed Fee Schedule Changes - Amending Title 3, Chapter 36 of the Lombard Village Code
Amending Title 3, Chapter 36 of the Lombard Village Code with regard to creating a new planning review fee schedule for projects categorized as major plats of subdivision and development. (DISTRICTS - ALL)

Attachments: [DAH Memo.doc](#)
[Planning Review Fees.doc](#)
[Planning Review Fees Coversheet.doc](#)
[Ordinance 6505.pdf](#)
[100163.pdf](#)
[Fee Schedule Changes.pdf](#)

Mr. Stilling provided background stating that staff undertook a review of Lombard's development fees for larger commercial planned developments compared to surrounding communities. As a result, staff completed a survey of the 15 surrounding municipalities' fee schedules as they relate to planned developments, map amendments, subdivisions, annexations and conditional uses. Staff has provided several potential changes to consider and is seeking the input by the Economic and Community Development Committee. He said that Village of Lombard's fees are either consistent with or slightly higher than the median of our neighboring communities.

Mr. Stilling said that the Private Engineering Services collects a 1% plus \$500 fee for engineering review. Although significant planning review is occurring at this time, all planning fees are already collected prior to any public hearing. Those fees are supposed to partially cover staff's time and materials for processing the application during the public hearing process. He said that the Planning Services Division does not recoup any fee from a project if there was no zoning action associated with the project, even though significant planning review may be provided.

Mr. Stilling stated that although staff believes our fee schedule is appropriate for new developments, map amendments, subdivisions, annexations and conditional uses, staff recommends that additional compensation be provided for planning review time during the building permit and final engineering review process. In particular, staff recommends a new planning review fee that only applies to projects that would be categorized as major plats of subdivision and major developments, as defined in the Subdivision and Development Ordinance. Mr. Stilling provided 4 options for the Committee to consider.

- 1. An additional 1% fee based on an engineer's opinion of probable cost.*
- 2. 0.25% of total development costs for a project.*
- 3. A flat rate based on a sliding scale of total improvement costs.*
- 4. A flat hourly rate for planning review time.*

Mr. McNicholas supported option #2, provided that there is a cap.

Mr. Irion expressed some concerns about the perception on raising fees in this current economic climate.

Trustee Ware asked when the last time fees were looked at. Mr. Heniff stated that it has been about 10 years.

Mr. Carroll suggested we should specifically look at how we compete with our neighboring communities.

Mr. Stilling provided background stating that at the April 7, 2010 ECDC meeting, staff provided a review of Lombard's development fees for larger planned developments compared to surrounding communities. Specifically, staff provided a comparison of 15 surrounding municipalities' fee schedules as they relate to planned developments, map amendments, subdivisions, annexations and conditional uses. Although staff felt our public hearing fees were appropriate, staff recommended creating a new planning review fee that only applies to projects that would be categorized as major plats of subdivision and major developments, as defined in the Subdivision and Development Ordinance. The Committee continued this item to the next meeting to allow staff time to compare our fees to the six (6) surrounding communities.

Mr. Stilling stated that our findings showed that the Village of Lombard offers the lowest overall review fees. He also noted that Downers Grove, Glen Ellyn, Elmhurst and Oakbrook Terrace also collect Park District and School District impact fees. These fees are only applied to residential projects and they can add an additional \$1,000-\$6,000 per unit cost to the permit fees. Although the municipality is not directly benefiting from these fees, they still can add a significant cost to a residential project.

Mr. Stilling provided staff's recommendation. He said that Lombard's public hearing fee schedule is appropriate for new developments, map amendments, subdivisions, annexations and conditional uses, however; staff recommends that additional compensation should be provided for planning review time during the building permit and final engineering review process. In particular, staff recommends a new planning review fee that only applies to projects that would be categorized as major plats of subdivision and major developments, as defined in the Subdivision and Development Ordinance.

Mr. Stilling provided the committee with the following four (4) options to consider:

- 1. An additional 1% fee based on an engineer's opinion of probable cost. Applying this fee to the Lombard Crossing development, a planning review fee of \$9,270 would be generated. This option appears to be most inline with us breaking even for our time. However, it will not cover our planning time accurately if the project has very little site improvements.*
- 2. 0.25% of total development costs for a project. Using the Lombard Crossing development, a planning review fee of \$8,642.50 would be generated. At the last meeting, the Committee expressed an interest of capping this fee. Staff would recommend that the cap be a minimum of \$10,000.*
- 3. A flat rate based on a sliding scale of total improvement costs.*
- 4. A flat hourly rate for planning review time. Staff supports this option the least due to the logistics of calculating and collecting this fee.*

Mr. McNicholas asked if we were to adopt a new fee, would we still be in line with the other communities. Mr. Heniff replied yes and also stated that the new fee would only apply to major developments and that currently we collect no fee if a project has no zoning actions associated with it.

Mr. Hogan stated that the new fee should be a maximum not minimum.

Ms. Gannon supported the idea of creating a new planning fee and asked when this would go to the Board of Trustees. Mr. Heniff stated that staff would prepare a draft ordinance for the Board to consider at their August 19, 2010 meeting.

Mr. McNicholas suggested that the fee be 0.25% of the total development costs for the first \$4,000,000 and 1/8 of 1% or 0.13% for costs above \$4,000,000 with no cap.

- Q.** [100406](#) Liquor License Amendment - King's Hall, 1000 Rohlwing Road
Amending Title 11, Chapter 112 of the Village Code reflecting an increase in the Class "K" liquor license category. (DISTRICT #1)
Attachments: [Agenda Form.doc](#)
 [memoincrease.doc](#)
 [ord increase early.doc](#)
 [Ordinance 6506.pdf](#)
 [100406.pdf](#)
- *R.** **Title 15, Chapter 150, Section 150.141 - Overtime Building Inspection Fees
(Moved to IX-A)**
- S.** [100424](#) Sale of Surplus Equipment
Declaring 10 Village vehicles as surplus equipment and authorizing their sale at the Tri State Automobile Auction of Chicago. Staff is requesting a waiver of first.
Attachments: [100424.pdf](#)
 [Ordinance 6507.pdf](#)
- T.** [100433](#) Supplemental Act Assessment Bonds (Special Assessment Number 217C) Series 2010
For the issuance of \$215,000 Supplemental Act Assessment Bonds to be used to pay for the residents' share of the project costs. (DISTRICT #4)
Attachments: [Sale of SA Bonds 217C.doc](#)
 [Draft Lombard SSA Bond Ordinance 217C.doc](#)
 [100433.pdf](#)
 [Bond Closing Documents.pdf](#)
 [Ordinance 6508.pdf](#)
 [Petition.pdf](#)
 [Final Statement of Facts.pdf](#)
- U.** [100435](#) Liquor License Amendment - Hyatt Place, 2340 S. Fountain Square Drive
Amending Title 11, Chapter 112 of the Village Code reflecting a classification change to the Hyatt Place's liquor license. (DISTRICT #3)

Attachments: [ordclasschange2.doc](#)
[memo new class.doc](#)
[Agenda Form.doc](#)
[Ordinance 6509.pdf](#)
[100435.pdf](#)

Other Ordinances on First Reading

- V. [060542](#) ZBA 06-21: 820 E. St. Charles Road
Granting a further time extension to Ordinance 5935, as amended by Ordinances 6094, 6247, 6373, and 6515 relative to the approval of a reduction in the minimum required lot area for the property located at 820 E. St. Charles Road. (DISTRICT #4)

Attachments: [apoletter 06-21.doc](#)
[coversheet.doc](#)
[ORDINANCE 06-21.doc](#)
[PUBLICNOTICE.doc](#)
[Referral Let 06-21.doc](#)
[Report 06-21.doc](#)
[WTL referral memo.doc](#)
[ORD 5935.pdf](#)
[coversheetextension.doc](#)
[Ord Extension.doc](#)
[Extension memo.doc](#)
[60940001.pdf](#)
[Ordinance 60940001.pdf](#)
[coversheetextension2.doc](#)
[Extension memo2.doc](#)
[Ordinance 6247.pdf](#)
[coversheetextension3.doc](#)
[Extension memo3.doc](#)
[Ordinance 6373.pdf](#)
[060542.pdf](#)
[060542.pdf](#)
[060542.pdf](#)
[Extension memo4.doc](#)
[coversheetextension4.doc](#)
[060542.pdf](#)
[060542.pdf](#)
[Ordinance 6515.pdf](#)
[060542BOT08_18_11.pdf](#)
[060542-CoverPage-9-1-11.pdf](#)
[Ordinance 6640.pdf](#)

Robert Mueller presented the petition. He described the location of the subject property as well as the surrounding zoning and land uses. There was previously a dilapidated residence on the property that has been removed. He became aware of the need for a lot area variation after submitting plans for a building permit. In this case there is no way to meet the lot area requirement because there is no available land.

Chairperson DeFalco then opened the meeting for public comment. There was no one present to speak for or against the petition.

Chairperson DeFalco then requested the staff report.

Jennifer Backensto, Planner II, presented the staff report. The subject property is currently a legal Lot of Record; however, it does not meet the minimum lot area requirements for the B4 District. The petitioner is requesting a lot area variation to allow for the redevelopment of the property as an office building. Aside from the lot area requirement, no other zoning relief is being requested.

When this property was developed as a single-family residence in 1927, there were no minimum lot area requirements. In 1986, the Village approved a rezoning of the western side of the block from B4 to R2, leaving two remainder B4 parcels that did not meet the minimum lot area requirements for that district.

Staff finds that the physical surroundings of the subject property create a hardship. Due to the configuration and zoning of the adjacent lots, there is no way this property could be redeveloped without some sort of zoning relief. There are three scenarios under which redevelopment could occur, all of which would require approval through the public hearing process: the proposed lot area variation, rezoning of at least three of the single-family residential properties to the north and consolidation with those properties, or a variation to the subdivision regulations regarding lot configuration. Staff feels that a lot area variation would be the most appropriate type of zoning relief in this case as it would avoid both the encroachment of commercial development into the neighboring residential area as well as setting a precedent to allow unusual, "L" shaped lots.

Although the B4 zoning within the East St. Charles Road corridor reflects the Village's general desire to see redevelopment of entire block faces within this corridor, the previous approval of R2 zoning at 806 E. St. Charles Road prevents such a consolidated development. The granting of the requested lot area variation would not alter the character of the neighborhood or negatively impact the surrounding properties as the subject property has maintained the same boundaries since its development in 1927. Furthermore, the granting of this variation would not grant a precedent for other properties within the corridor as the nearby R2 zoning and irregular lot configurations present a unique situation that is not found elsewhere in the corridor.

Chairperson DeFalco then opened the meeting for discussion by the Board Members.

Mr. Young asked if there were any other issues associated with the redevelopment. Ms. Backensto stated that the permit had already been reviewed and the lot area variation was the only relief necessary. All transitional yards and other B4 District requirements will be met.

***W. PC 10-08: Text Amendments to the Zoning Ordinance (Green Code) (This item has been removed from the agenda at the request of Trustee Moreau)**

***X. PC 10-09: Text Amendments to the Sign Ordinance (Sandwich Board Signs) (Moved to IX-B)**

Y. [100352](#) ZBA 10-05: 208 S. Westmore-Meyers Rd
Requests a variation from Section 155.212 of the Lombard Zoning Ordinance to allow two (2) central air-conditioning units as a permitted obstruction within an interior side yard in the R2 Single-Family Residence District. (DISTRICT #5)

Attachments: [apoletter 10-05.doc](#)

[DAH referral memo.doc](#)

[PUBLICNOTICE 10-05.doc](#)

[Referral Let.doc](#)

[Report 10-05.doc](#)

[Cover Sheet.doc](#)

[100352.pdf](#)

[Ordinance 6516.pdf](#)

Mohammed I. Mohiuddin, 208 S. Westmore-Meyers, presented the petition. Mr. Mohiuddin stated that he is requesting a variation for two existing air conditioning condensers. He stated that the location of the units is not a problem because the adjacent property is commercial and the business is setback roughly thirty-five (35) feet from the property that they share. Mr. Mohiuddin then stated that he called about five contractors to see what it would take to have the units moved. The contractors told him that the units would be required to move about one hundred (100) feet away from the current location, which might not allow the units to function properly. He also added that the cost would be around \$2400 to have the units moved.

Mr. Mohiuddin stated that the commercial property to the north does not have an issue with the location of the air conditioning condensers. He added the adjacent business is unable to hear the units. He then stated that the neighbor to the south does not have a problem with the units. Lastly, Mr. Mohiuddin stated that he plans to erect a fence that would conceal the air conditioning condensers.

Michael Toth, Planner I, presented the staff report.

As part of the construction of a new single family residence, two (2) existing air conditioning condensers were placed three (3) feet from the northern property line on the subject property, located within the interior side yard. As new air conditioning condensers are not listed as a permitted encroachment in the interior side yard, a variation is needed.

The petitioner purchased the home under construction on the subject property in 2009. The previous property owner had been advised by the Village that the placement of new air conditioning condensers was not permitted in the interior side yard. The air conditioning units were not depicted on the approved plans

for the new residence. In conducting the final inspection for the Certificate of Occupancy, the Building Division noticed that the air conditioning units were placed in the interior side yard and notified the Planning Services Division. When the property owner requested a Certificate of Completion for the project, he was notified that the Community Development Department could not sign off on a final Certificate of Completion unless the new air conditioning condensers were relocated or a variation was granted.

The Zoning Ordinance lists new air conditioning condensers as permitted encroachments only within a certain portion of the rear yard, but does not list them as permitted encroachments within interior side, corner side or front yards. The intent was that air conditioning condensers within interior side yards could become a noise nuisance if it is placed too close to the windows of an adjacent residence.

The subject air conditioning condensers are located in the interior side yard along the northern side yard. The subject property shares the northern property line with a property in the B2 zoning district (Marberry Cleaners). The subject business is setback over thirty (30) feet from its southern property line (the northern property line of the subject property).

Pertaining to lots in the R2 zoning district, the Zoning Ordinance states that those lots shall have a minimum lot area of 7,500 square feet and a minimum lot width of sixty (60') feet. The subject lot has a total lot area of 16,000 square feet; however, the lot width is only 50.00 feet. Because the lot width is smaller than most typical R2 lots, the efficient areas for the condensers to be located are significantly reduced. There is adequate space behind the residence, but the petitioner has indicated in the Standards to Variations that moving the units would be costly and would diminish the efficiency of the units.

Staff finds that the air conditioning condensers are in a suitable location as the property to the north is a commercially zoned property. While economic hardship does not constitute a hardship associated with the physical composition of a property, relocating the condensers to the rear yard would be costly and would not be recommended because the efficiency of the units could be greatly reduced.

Concluding, Mr. Toth stated that the Standards for Variations have been affirmed and staff is recommending approval of ZBA 10-05, subject to the three conditions outlined in the staff report. Mr. Toth then made reference to the Private Engineering Service comment, which states that the air conditioning condensers are to be elevated out of the drainage swale.

Chairperson DeFalco then opened the meeting for public comment and discussion by the ZBA members.

Chairperson DeFalco asked how the units were placed in the interior sideyard when the Village had notified the homebuilder about the prohibited locations.

Mr. Toth stated that the specifics are outlined in the staff report. He added that the situation (as to how this issue came about) was put in the staff report to illustrate that the petitioner was not responsible for the location of the condensers.

Mr. Young asked about the status of the home purchase. He indicated that the plat of survey leads him to believe that the property is bank owned. He asked the

petitioner if the home was in fact bank owned.

Mr. Mohiuddin replied, yes, it was bank owned.

Mr. Bartels asked if you need a permit to move an air conditioning unit.

Mr. Toth stated that you would need a permit to move an air conditioning unit as there is electrical work involved in such an undertaking.

Mr. Tap asked the petitioner had an issue with raising the air conditioning condensers.

Mr. Mohiuddin replied, no.

Mr. Tap asked how staff would handle this.

Mr. Toth stated that the raising of the air conditioning condensers would be addressed during the permit process.

Mr. Young asked the petitioner if he was residing in the home.

Mr. Mohiuddin replied, yes.

Mr. Young then asked whether the petitioner had a full occupancy license.

Mr. Toth stated that the petitioner has a conditional occupancy license, which will become a full occupancy license, once the air conditioning unit issue is resolved.

Z. [100373](#)

Harding East of Fairfield

Resident request to install No Parking signage. (DISTRICT #6)

Attachments: [100373 bot.pdf](#)

[Ordinance 6517.pdf](#)

Kalisik reviewed the item. The Resident has no objection to No Parking year round. Mr. Tufo suggested that the south side be signed because if people park there they will use the resident driveway to turn around. Schwarz asked if there was a concern about the width of the road. Kalisik answered that there is, the road is only 26' and emergency traffic will not have the ability to get in there if there is parking on both sides. Snead asked where the traffic will move if that area is no parking on both sides, are there parking restrictions on Fairfield and Harding west of Fairfield? Kalisik said there is no parking on the north side of Harding west of Fairfield. Johnson answered that there are not any parking restrictions on Fairfield. Kuehl asked if the issue is that the parking lot is full. She suggested that perhaps the Park District could come up with something. Schwarz asked how many parking spots there are. Sherretz pointed out that there is another parking lot that people could use if they would walk a little further. Corbino commented that it is a safety issue and there is parking elsewhere. He suggested that the committee agree with the staff recommendation of no parking on both sides. Mr. Tufo agreed that he would like no parking on both sides. He further added that any given week there are probably 100 cars that pull in his driveway, therefore, if everybody was facing west, that would help. In his opinion if it's not on the south side, it makes no difference. Difino asked if Fairfield is 26' wide as well, because if there is overflow parking on Fairfield we may create more problems. Snead suggested that at the least there should be a recommendation to sign the south side and the

committee can revisit the issue if it doesn't solve the problem. Difino suggested that perhaps traffic could be informed of additional parking with signage and then sign no parking 6-8 p.m. Kalisik pointed out that it would be difficult to enforce. Difino explained that at least it would give some direction. Johnson suggested that the softball league could hand out a map of the park showing the parking lots and ask them to park in parking lots. Difino suggested that if someone is parking on the street because the lot is full, perhaps they could put a sign in the park saying where additional parking is. There was a consensus among the committee members to sign the south side of Harding from Fairfield to Madison Meadows Park No Parking.

AA. [100376](#)

PC 10-10: 1150 E. Jackson Street

Requests that the Village grant a conditional use, pursuant to Section 155.206 (A)(2) of the Lombard Zoning Ordinance, to allow an antenna associated with a personal wireless service facility for the subject property located within the R4 - Limited General Residential District. (DISTRICT #6)

Attachments: [apoletter 10-10.doc](#)

[Cover Sheet.doc](#)

[DAH referral memo.doc](#)

[PUBLIC NOTICE 10-10.doc](#)

[Referral Letter 10-01.doc](#)

[Report 10-10_final version.doc](#)

[100376.pdf](#)

[Ordinance 6518.pdf](#)

Mike Howley, 2210 Midwest Road, Suite 213, Oak Brook, stated he was representing T-Mobile and requesting a conditional use permit to allow construction of a rooftop wireless facility on the Jackson Terrace Condominiums located at 1150 E. Jackson Street.

Prior to giving site specifics, Mr. Howley indicated he would like to visually clarify what is being proposed. Using the overhead projector he displayed a number of photographs:

** A winter snapshot of the Jackson Terrace Condominium building showing how it currently looks from Jackson Street looking east.*

** A rendering of the building and roofline showing what is being proposed. He explained that on the penthouse elevator shaft T-Mobile would be placing six antennas.*

** A photograph looking west from Jackson toward the building. This shot was again taken in winter and he noted that the building was hard to see even with no leaves on the trees.*

** A photograph taken at the intersection of Jackson and Addison looking slightly northwesterly. The building is a five-story condominium complex located in the R4 district.*

He further explained that on the east side of the building they were proposing to place three antennas on a sled mount and on the penthouse elevator shaft they are proposing six antennas which would be directly affixed to the brick. Mr. Howley then continued showing photographs of other building rooftop installations:

- *A hotel building on the north side shows 2 antennas on sled mounts which is similar to what is being proposed for the east side of the Jackson Terrace facility.*
- *Photograph of an actual installation of a sled mount of 3 antennas similar to what is being proposed on the east side of the building.*

In an effort to explain their request for a conditional use, Mr. Howley stated he would talk about the telecommunications industry and how wireless technology works. He mentioned his 12 years experience in the industry and noted how subscription rates have grown to more than 244 million subscribers today. He mentioned other applications subscribers are looking to have, which require an increased need for more transmitter locations. Wireless technology operates in a low power line of sight and is extremely safe. The sites for wireless carriers are set up on a honeycomb pattern. Each site is close enough, but far enough away to cover an area. When there is a gap in coverage it is the result of one site being too far away from another.

On the overhead projector he displayed a propagation map and explained how it shows the current coverage in the area as well as the location of the adjacent transmitter sites which were denoted in blue. The next map shows the change in coverage should the Jackson Terrace site be approved. He explained that the industry rates coverages into several different levels: excellent in-building, excellent in-vehicle and excellent outdoor. He noted that their goal is to improve service to their subscribers by trying to achieve excellent in-building coverage which is denoted on the map in the green areas.

T-Mobile searched for other suitable structures in the area that could potentially serve as a transmitter site. These structures would have to be tall so their first search was to look for water towers or monopoles in the area. As this is primarily a residential area, those types of structures do not exist. The Jackson Terrace building was one of the taller structures in the area which would give a coverage boost to area users and be an improvement for wireless subscribers. Because the proposed site is zoned R4 and not R5 or R6, the construction of a rooftop wireless facility would not be permitted outright and would involve the conditional use process.

Lastly, Mr. Howley indicated that along with the rooftop structures, there is also other equipment needed to make the site functional, such as radio cabinets and cables that run to the antennas. These cabinets would not be placed on the roof but located on the ground level in a nook in the back of the building on the north side. He showed a photograph of a 21' x 6' area where this auxiliary equipment would be placed. He noted the cement pad the equipment would be placed on and showed how it will run in a straight line about one (1') foot north of the foundation wall in an east/west direction. A wood fence would enclose all the equipment so it would not be visible.

Chairperson Ryan asked if there were any questions of the petitioner.

Commissioner Sweetser asked the petitioner to explain the level of radio frequency waves coming from these antennas.

Mr. Howley explained radio frequency emission. He noted that the FCC developed guidelines that are strict and quite conservative and contain the maximum permissible exposure limits. He noted how sophisticated the technology has gotten in that an independent engineer can review via computer,

results of a study to show the radio frequencies. Pertaining to the proposed site, we find that at the ground level the exposure is thousands times the levels below the FCC limit. The level of radio frequency is diminished by distance. These rooftop facilities are lower powered line of sites and because they operate at low power per antenna by the time you get to the ground level, the exposure is minimal.

Attorney Wagner stated that under federal law, the Village cannot consider issues related to exposure or affects of radio frequency emissions. The purview of the Commission is to review the petition based on the standards in the Village Code as to a conditional use. We can listen to concerns about radio frequency emission but cannot consider it when making a decision.

Chairperson Ryan then opened the meeting for public comment. There was no one spoke in favor of the petition.

To speak against the petition was Shameen Habiba, 1146 E. Cambria Lane, Lombard. She explained how her unit is a three-bedroom located on the second floor and faces across from where they are proposing to put the antennas on the east end of the condominium building. As the antennas will be clearly visible from her unit, she wouldn't be able to enjoy the scenery and her surroundings. She was confused by the petitioner's scientific explanations and noted that people distrust corporations especially as it relates to the environment. She was worried about radiation effects and decreased property values and was not in support of the petition.

Ms. Habiba mentioned she had a letter from her neighbor, Rubina Hafeez, 1140 N. Cambria Lane, Lombard, who was unable to attend the meeting. Ms. Hafeez was also against the petition and she wanted to read her reasons:

1. The tower is going to be across the street from her house in a residential area.
2. The view will be obstructed. She does not want to look at a metal structure while trying to enjoy the nature and beauty of the landscape.
3. Building the tower will decrease property values and give off radiation waves 24/7 365 days in and out.

Ms. Hafeez requested that the Committee consider her objection.

Mr. Howley rebutted. He displayed on the overhead projector a photograph of the northerly view as well as an illustration showing how it would look to the east side. He stated that the antennas would be painted to match the brick so they would blend in. Village Code allows for personal wireless structures to be placed up to 15' above the building itself. He added that they are only proposing that the antennas be 7' above the roofline, which is only half of what could be allowed by Code. Lastly, he noted that what is being proposed are antennas not towers. He requested that the Commission respectfully uphold the recommendation of the planning staff for a conditional use permit. Given the location and the coverage needed, it is a minimally intrusive structure. With the acknowledged coverage problem in this section of the town, their request is consistent with the intent of the code. For the record, he requested that their answers to the standards for conditional use be entered into the record.

Chairperson Ryan then requested the staff report.

Michael Toth, Planner I, indicated that he had made amendments to the staff report and will note the changes when he gets to the portion that has been

amended. The amended report has been distributed to the Commissioners.

T-Mobile is proposing to install a rooftop wireless antenna facility at the Jackson Terrace Condominiums, which is located on the northwest corner of Jackson Street and Addison Avenue. Any personal wireless service facility that does not comply with the associated requirements of the Zoning Ordinance may be authorized only in accordance with the procedures for conditional uses. The subject property is located in the R4 - Limited General Residential District. As personal wireless service facilities are only allowed (as-of-right) in the R5 - General Residence District and R6 - Central Residence District, conditional use approval is required.

The petitioner is proposing to install three (3) structures with three (3) antenna panels on each structure for a total of nine (9) cellular antenna panels as part of their personal wireless service facilities plan. The proposed antennas are designed to fill a coverage gap in T-Mobile's network.

The subject property was selected due to the height opportunity of the existing 5-story multi-family building. All nine (9) antennas would be installed on the roof of the five (5) story multi-family dwelling. The subject property is located within the R4 - Limited General Residential District. As previously stated, personal wireless service facilities are only allowed (as-of-right) in the R5 - General Residence District and R6 - Central Residence District.

Mr. Toth noted that this section was amended. The proposed personal wireless service facility meets all other requirements of the Zoning Ordinance. More specifically, personal wireless service facilities shall not add more than fifteen (15) feet to the height of the structure. The highest portion of the subject dwelling unit is forty eight feet and two inches (48'2") in height. Only three (3) of the nine (9) antennas will be mounted on a ballasted antenna frame, which will extend seven and a half (7.5) feet above a different portion of roof. Staff notes that the other six antennas will be located on the tallest portion of the building; however, the proposed panels only extend an additional six feet and two inches (6'2") over the highest portion of the building. According to the petitioner, the personal wireless service facility will be designed in a manner that will blend in with the current physical environment of the Jackson Terrace Condominium Complex. Staff also notes that the antennas will be the only appurtenances that will be located on the roof - all other associated equipment will be housed within a leased area on the ground, directly adjacent to the building, and screened by a six (6) foot fence.

As the zoning restrictions are the only cause for needing conditional use approval, staff has examined the subject property in accordance with the surrounding area and pertinent zoning regulations. The subject property is predominantly surrounded by single-family residential properties and attached single-family dwellings. The intent of allowing personal wireless service facilities as-of-right in the R5 - General Residence District and R6 - Central Residence District is largely contributed to the height restrictions within those districts. Essentially, the higher the personal wireless service facility is located, the less of a visual impact it will have on adjacent properties. The maximum height restriction in the R5 - General Residence District is five (5) stories or 65 feet, whichever is less and eight (8) stories (or 100 feet) in the R6 - Central Residence District. Conversely, the maximum building height in the R4 - Limited General Residential District is only three (3) stories (or 36 feet). As the multi-family building on the subject property is five (5) stories in height, the height of the structure is similar to that of the height restrictions of the R5 -

General Residence District; and, therefore would have a minimal visual impact on the surrounding properties than a standard structure in the R4 - Limited General Residential District. Staff notes that ground mounted antennas (monopoles) are only permissible in the I - Limited Industrial District. The closest I District property is located one-and-a-half (1.5) miles from the subject property, which further demonstrates that a monopole tower is not a practical solution to address a gap in coverage for this area.

Aside from the zoning requirement, the proposed personal wireless service facility meets all other provisions of the Zoning Ordinance. Moreover, the subject property is currently improved with a 5-story multi-family dwelling; therefore, it is more aligned with properties in the R5 - General Residence District and R6 - Central Residence District. Furthermore, staff finds that the proposed personal wireless service facility meets the intent of the Zoning Ordinance. As previously mentioned, the proposed antennas are designed to fill a coverage gap in T-Mobile's network. The Village acknowledges a cellular service issue as residents have voiced a number complaints, more specifically relating to poor cellular service on the east side of the Village.

Mr. Toth noted that the second paragraph under the findings and recommendation section has been updated. Staff recommends approval of this petition subject to the three conditions noted in the staff report.

An unidentified female audience member from 1150 E. Jackson, Lombard, referred to the petitioner's comments that radio frequency emissions would not be troublesome at lower levels. She asked how they would affect people at higher levels, specifically people who are living on the top floors. Mr. Howley explained that the sites are designed to project the energy outward in order to be effective not downward toward the roof. The unidentified female then asked if this proposal was similar to the one that was proposed to be on clips. Mr. Howley indicated that this petition includes 3 sectors of antennas, 2 sets are affixed to the penthouse wall and the other set is on a sled mount located on top of the far east end of the building. He displayed an illustration depicting their locations.

Doreen Natalino, 809 S. Addison Avenue, Lombard, asked if the equipment would interfere with televisions, phones, internet, satellite dishes or wireless fire alarms. Mr. Howley answered there would be no interference with any of them. They are all different wireless providers and each carrier operates within a certain spectrum of radio frequency.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

The Commissioners had no comments or questions.

BB. [100377](#)

PC 10-06: 229 W. St. Charles Road

Requests that the Village grant a conditional use amending Ordinance 3623 to allow for an expansion and changes to the existing outdoor dining area and amendments to the original conditions of approval pursuant to Section 155.103 (F) (13) of the Lombard Zoning Ordinance. (DISTRICT #1)

Attachments: [apoletter.doc](#)
[PUBLIC NOTICE 10-06.doc](#)
[Cont. Memo.doc](#)
[Cover Sheet.doc](#)
[Referral Letter.doc](#)
[REPORT 10-06.doc](#)
[100377.pdf](#)
[Ordinance 6519.pdf](#)

Pavel Tykvart, 1600 Ohvie Court, Wheaton, presented the petition. He stated that he is the owner of the Praga Restaurant and Bon Ton Wine Bar and has been living in this country for 23 years. He reminisced about his parents as well as his childhood and family experiences prior to coming to this country. He stated that he does not value any personal or financial goals just personal freedom in his life and as a business owner. He told about a movie that he had seen as a boy that is similar to his situation today. The movie was about an old town trying to revitalize itself and the challenges that the developer and townspeople faced in doing so.

In Lombard that is what we are experiencing today. Prior to his business, there was nothing beforehand. He commented that Downtown Lombard will not continue to prosper and thrive if things don't change. In order for a restaurant business to survive, there are certain components needed. These components include what you serve, the price of what you serve, and having an atmosphere in perfect harmony, a part of which is having music. He believes that people should be walking in the streets, laughing, smiling and enjoying what the town offers for them. Progress is being made and we should not be trying to stop progress.

Chairperson Ryan asked if there were any questions of the petitioner.

Richard Pearson, 212 W. St. Charles Road, Lombard, asked Mr. Tykvart how long he has owned Praga Restaurant. Mr. Tykvart answered 8 years in December. Mr. Pearson asked if he had outdoor dining at that time. Mr. Tykvart answered that he did. Mr. Pearson asked how many tables there were. Mr. Tykvart answered that the experience is not how many tables you have but whether or not they are filled. This is the measure of success. Mr. Pearson noted that the approved ordinance states that you can have 6 tables. Currently you are not complying with the ordinance. You attempt to justify the noise that emits from your restaurant and you are not considerate of the people that live in the area. There is a condominium building across the street and two others to the east and you continue to let patrons sit outside until the wee hours of the morning. He mentioned how the business has been cited for serving underage patrons and for serving alcohol after closing time. Mr. Pearson asked for a response.

Chairperson Ryan then opened the meeting for other public comments prior to the petitioner rebutting. To speak in favor of the petition were:

Art Frerichs, 248 West Road, Lombard, noted he is a non-solicited third party. He indicated that he has some hands-on experience with Praga Restaurant. A few years ago he was the President of the Chamber of Commerce and they were located next door. At that time, Praga had outdoor dining and he realized that

they were an expanding and growing business. The Chamber realized they were smothering Praga's business and decided to relocate so Praga could expand into the area they currently existed in. He mentioned that when the Chamber was located next door they were never inconvenienced by Praga and to his knowledge there were never any negative impacts as a result of Praga using the patio area. He also noted that since he considers the area dead space, there is no better use for it. Mr. Frerichs stated that, in his capacity as a member of the Chamber of Commerce and being a business member of the Lombard Town Centre, in these times when small businesses are closing rather than expanding, he encouraged the Commission to allow him to expand and use his business as a model for more businesses in the downtown instead of empty spaces.

Dan Harris, 386 Stonewood Circle, Carol Stream, stated he is the owner of the building. He commented that Mr. Tykvart has done a great job in contributing toward making the town vibrant. He is in support of the expansion and commented that if people buy a house in a residential area that is part commercial, they have to be acceptable of the fact that there has to be some noise from traffic or pedestrians. This might only be an issue 6 months out of the year. He noted they are hard working people and likes the appearance of the business. He hasn't had any other negative feedback from other tenants in the building.

Joseph Wanders noted that he is a dentist located in the suite next to Praga Restaurant, 233 W. St. Charles Road. He stated that the only concern he has is visibility. He has asked the petitioner that the tables in front of his office be cleared when he is open for business to allow patients to go in and out. This request has not been honored. He submitted photographs to the Commissioners and explained them. He noted that one picture shows how Mr. Tykvart maintains access to his restaurant so why can't he do the same for him. Other than that he does not have any other concerns. He stated he cannot address the noise issue as this happens after he is gone.

Speaking against the petition were:

Nancy Pearson, 212 W. St. Charles Road, Lombard. She explained that she lives in the condominium located across from Praga. She mentioned that they started having problems with loud music in May, 2007 which could be heard until midnight or 1 a.m. She mentioned how she has requested the assistance of Village officials and while it helps initially, the loud music is played again after a few days. She stated that Village officials also came to a meeting at the condominium in 2008 to discuss the problem and indicated that they would review the summer hours and the time the music be turned off. They also suggested that the two speakers used by the restaurant be turned in a downward position, rather than an outward position, in order to minimize the music from traveling. Ms. Pearson indicated that they now have three speakers instead of two and they are all directed in an outward position. She stated that this goes on all year except on Monday when they are not there. In reviewing Ordinance 3623 and 3622, it allows for outside dining and 6 tables along with certain hours. Currently there are 30 tables and they serve until 2 a.m. She asked how the beer garden is allowed to operate without an ordinance. She commented that the abutting residents have rights also and asked where the cooperation was as it is hard to live under these conditions. Ms. Pearson recalled on August 6, 2008 she was awakened by yelling and commotion and realized the noise was coming from Praga. It was 2:45 a.m. and she called 911. When the police arrived at the restaurant to investigate they were told it was the waitress's fault. She questioned how it could be the waitress's fault. Ms. Pearson mentioned the

Texan BBQ and how they requested outdoor dining. At their public hearing, residents from the nearby condominiums were present and it was agreed to have the dining end at 10 or 11 p.m. She asked why that can't be a standard in town. She distributed pictures to the Commissioners and explained them. Lastly, Ms. Pearson commented that it's nice to have a restaurant in town but they must be considerate of the residents.

Richard Pearson, 212 W. St. Charles Road, Lombard, stated that a comment was made earlier that if you live in the downtown you have to expect noise. When we moved in, we have had the noise from the railroad and the St. Charles Road traffic, among other things, but did not have a bar across the street. As far as the Village ordinances are concerned, the petitioner has been violating them since he took over the restaurant. His opinion of the restaurant is that it is the most inconsiderate, self-centered neighbor he has ever had to put with. He shared his experiences on how he has had to call 911 three times after 10 p.m. to complain about the noise and they complied. Then after a few days it would be the same.

Mr. Pearson then commented on the Zoning Ordinance enforcement. After all these years the petitioner has had excess tables and late hours. Other businesses in the area have had to comply with ordinances and questioned why some are enforced and others are not. Lastly, he requested that the petitioner be denied the right to expand their outside service and be required to purchase permits for all the previous years they have been violating the ordinance.

Nancy Pearson, 212 W. St. Charles Road, Lombard, added that Village officials have indicated that their only recourse is to call 911 after 10 p.m. and reference the noise ordinance. She asked what they can do as it doesn't seem to work.

Mr. Tykvard rebutted. He indicated that since they started having the outdoor patio, every year and thereafter they have paid for outdoor seating permits and renewal fees. He mentioned that the restaurant is located on property that is privately owned by Mr. Harris, therefore, that might be the reason why the Village enforced the other zoning ordinances. In answer to the hours of operation, he proposes that every business have the right in Downtown Lombard to have hours of operation to the last second allowed on their alcohol permit because that is the only reason to stay in the business. He mentioned how they received a grant from the Village in the amount of \$100,000 to build a bar and used \$150,000 of his own money to add a state-of-the art, most modern bar he wants people to enjoy. He suggested that times have changed and the zoning ordinances also need to be changed to allow life, dancing and entertainment. If I knew before what I know now, I never would have built the business. Now is the time to make changes that are up to par with the times as that is the only way to move forward. He thanked the Pearsons for coming tonight to express their views but just as they are here, there are a thousand more people who feel the same way as Praga and want to help them out. Lastly, he stated that he is an employee who works hard 7 days a week and gives people jobs. As they are the only restaurant/bar open later, the spotlight is on them and only them. If there were 5 more restaurants and 5 more bars, this lifestyle would become part of normal everyday life.

Chairperson Ryan then requested the staff report.

Christopher Stilling, Assistant Director of Community Development, presented the staff report. The subject property, Praga/Bon Ton Restaurant, is located at the southeast corner of Elizabeth Street and St. Charles Road. The petitioner

requests that the Village grant a conditional use amending Ordinance 3623 to allow for an expansion and changes to the existing outdoor dining area and amendments to the original conditions of approval in the B5 Central Business District. The original outdoor dining area was approved in 1992 by Ordinance 3623 for the former Lorica Restorante. In 2002, the current restaurant operator for Praga took over the space and has increased the total area of the existing outdoor dining space from what was originally approved. Since they are seeking to maintain its current layout, an amendment to Ordinance 3623 is required.

Inter-Departmental comments were noted from the Building Division. The outdoor seating as shown requires the removal of any open flame lighting (tiki torches) and/or any temporary lighting such as strings of lights run overhead from the building. Permanent lighting shall be installed to provide minimum code light levels. This shall include emergency lights to provide an illuminated pathway to the public way.

The Fire Department commented that the petitioner shall provide/maintain unimpeded egress out of the structure and out of the patio to a public way (sidewalk). Table and seating layouts shall not block egress paths.

In 1992, the Village Board approved Ordinance 3623 granting a conditional use for outdoor seating for the former Lorica Restorante. A copy of Ordinance 3623 and the approved layout are attached as Exhibit A. The Village Board also approved Ordinance 3622 granting a variation to not require the petitioner to pay into the Lombard B5 Public Parking Fund. As this provision no longer exists in the Zoning Ordinance, an amendment to Ordinance 3622 is not required.

Ordinance 3623 granted the outdoor seating subject to 6 conditions. In addition, the ordinance was tied to a specific site plan showing no more than 6 tables. Over the years the outdoor seating area had been expanded beyond what was originally approved. In 2002, the current restaurant operator for Praga took over the space and in 2007 expanded its use to include the Bon Ton Wine Bar. With the addition of Bon Ton, the petitioner increased the total area of the existing outdoor dining space from 6 tables to 12-14 tables. To allow for the expansion, staff determined that the 6 additional tables could be allowed as part of an "Outdoor Café" for Bon Ton, which is permitted in the B5 Central Business District. An "Outdoor Café" is defined as an accessory use to a restaurant when no more than six tables, with a maximum of twenty-four chairs, are located between the restaurant building and the public right-of-way, provided said area is either a front yard or a corner side yard as defined in this Section.

Staff recently became aware that the outdoor dining area had been expanded to its current layout of 25 tables with a total of 64 seats. Since this expansion is greater than what is allowed by the Zoning Ordinance and by conditional use Ordinance 3623, an amendment is required. Furthermore, the petitioner has been operating the outdoor seating area to match their current hours of operation (Sunday through Thursday - 4:30 PM to 1 AM and Friday & Saturday- 4:30 PM to 2 AM). These hours are also consistent with their current liquor license. While doing our initial research, staff found that not only did Ordinance 3623 restrict their total number of seats, it also restricted the hours to no later than 11:30 p.m. In an effort to memorialize how they have been operating, an amendment to Ordinance 3623 related to the hours for the outdoor seating area is also required

The petitioner wishes to operate the outdoor seating area in accordance to what currently exists today. As Illustration 1 shows, the outdoor seating area is located completely outside of the public right-of-way and extends along the entire north elevation of the building (approximately 100 feet) along St. Charles Road. The outdoor area has 25 tables with a total of 64 seats and is approximately 1,700 square feet in area. Typically staff requires some type of fencing separating the outdoor seating area from the public right-of-way. In lieu of the fencing, the petitioner has provided several wooden planter boxes along the perimeter of the area. The planter boxes are approximately 3 feet in height. Furthermore, as Illustration 2 shows, the petitioner also provides black colored boards in between each planter box with the name and website of the establishment. Staff has determined that this type of signage is incidental to the outdoor seating and can be considered as part of the conditional use request, similar to how drive-thru signage is considered as part of that process. Should the Plan Commission and/or the Village Board decide not to approve the signage on the boards, they could be turned around. It should be noted that the petitioner does have an existing A-frame sign located in front of the establishment. Staff has noticed that the sign is not removed when the business is closed. Pursuant to the existing Sign Ordinance, the sign shall be brought inside once the business has closed, however no later than 9:00 PM. The pending text amendments, if approved by the Village Board, will allow the sign to be placed outside until 2:00 AM.

The existing Praga/Bon Ton and the outdoor dining area require 36 parking spaces based on the parking requirements of the B5 district. The existing site has 64 spaces along with on street parking along St. Charles. Staff finds that sufficient parking is being provided.

The petitioner is requesting that the hours of the outdoor seating area be memorialized to match the restaurant's current hours of operation. The hours are Sunday through Thursday - 4:30 PM to 1 AM (They are typically closed on Mondays) and Friday and Saturday- 4:30 PM to 2 AM

Mr. Stilling noted the amendments being requested by the petitioner

1. The petitioner is seeking approval to have the outdoor seating area extend along the entire north elevation of the building (approximately 100 feet) along St. Charles Road. Staff has been in contact with the tenant located directly east at 233 W. St. Charles (Dentist Office). He has expressed a concern that his customers cannot see his establishment with the expanded outdoor seating area. Since their area is on private property, staff has let the landlord know about the concerns of the tenant.
2. The petitioner is seeking approval to have the outdoor seating area to include 25 tables with a total of 64 seats, as shown on the attached site plan showing the existing conditions.
3. The petitioner is seeking to maintain their current layout showing several 2-person and 4-6 person tables as shown in illustration #1.
4. The petitioner is seeking to maintain their outdoor seating hours as follows:
 - * Monday through Thursday and Sunday- 4:30 PM to 1 AM
 - * Friday and Saturday- 4:30 PM to 2 AM
5. A condition will remain that the outside service area shall be kept free from all litter and debris.
6. The tables and chairs provided by the petitioner are not permanently attached. Historically, the petitioner has removed the tables and chairs during cold weather months.

The Comprehensive Plan denotes this area as Central Business District Mixed Use Area. The outdoor dining concept is appropriate to a Central Business District and is considered an enhancement to downtown development, provided that it operates in compliance with Village Code.

The subject property is bounded by mostly commercial uses on all sides, with the exception of Lincoln Terrace Condominiums located across the street (approximately 90' to the north). Staff has received a letter signed by 18 residents located in the Lincoln Terrace Condominiums concerned about the hours of operation for the outdoor seating area. Specifically, they would like to see the original hours that were set in Ordinance 3623 maintained. Furthermore, they are concerned about the existing music that is played on the speakers located outside. Staff has also received 2 letters in support of the project from residents located in the Lincoln Terrace Condominiums.

Given the unique nature of Downtown Lombard as a mixed use business district, staff can support the petitioners request to have the hours for the outdoor seating area memorialized to match how they have been operating for the last several years. Although other outdoor dining areas have been restricted to 11:30 PM, those areas were within mixed use buildings that have residential units directly above. Staff does recommend that a condition be added that limits any outdoor music and entertainment (TVs, etc) to the hours outlined in Ordinance 3623. Staff also suggests a condition that all customers must be leave the outdoor dining area no later than thirty minutes after the outdoor dining area is scheduled to close. Therefore staff will be recommending that the outdoor seating area officially close 30 minutes earlier (12:30 PM for Sunday through Thursday and 1:30 AM for Friday & Saturday). This will allow patrons time to finish their food and beverages.

The petitioner has represented that they meet the standards for the conditional use. Staff offers the following response to the standards:

a. That the establishment, maintenance, or operation of the conditional use will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare;

Staff believes that the outdoor dining area is an enhancement for the downtown area. In addition the business helps improve commerce for the surrounding downtown businesses. The petitioner will still be required to maintain the use so as not to be a nuisance to the surrounding area.

b. That the conditional use will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood in which it is to be located.

Staff finds that the outdoor seating area is an overall benefit to the downtown area. Throughout all of the recent downtown planning and visioning events, residents have expressed a strong desire for a place to gather. The Praga/Bon Ton restaurant plays an important role for the downtown by drawing people from all areas.

c. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

Staff finds that the outdoor seating area will not impact overall redevelopment activity along St. Charles Road. In fact, the use could be considered an asset to the corridor.

d. That adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided;

The use will not require permanent connections to municipal utilities.

e. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;

Staff finds that the proposal is a suitable location for the market. The site has ample parking with good access to St. Charles Road.

f. That the proposed conditional use is not contrary to the objectives of the current Comprehensive Plan for the Village of Lombard; and

The use serves as an enhancement to the downtown area as it is an attraction for visitors to the area. Staff finds that the use is consistent with the retail objectives in the Comprehensive Plan.

g. That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified pursuant to the recommendations of the Plan Commission.

Staff finds that the use will be consistent with Village Codes. Should the use become a nuisance or create noise levels greater than allowed by Code, the Village will have the opportunity to enforce those Ordinances to ensure minimal impact.

Lastly, Mr. Stilling noted that staff recommended approval of the petition subject to the conditions in the staff report with conditions #3 and #4 being amended to read:

3. The outdoor dining activity shall not be open past 12:30 AM on Sunday through Thursday and 1:30 AM on Friday and Saturday.

4. All patrons shall leave the outdoor dining area no later than thirty minutes after the time in which the outdoor seating area is scheduled to close.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Burke referred to the Standards for Conditional Use, specifically item b. He asked if staff's answer was incomplete as it doesn't address the enjoyment of other properties in the vicinity as the testimony presented tonight indicates otherwise. Mr. Stilling answered that staff cannot respond to the values of the property but from staff's prospective, this is a mixed use district and the use is appropriate.

Commissioner Sweetser stated that she likes what staff has done and with certain stipulations the Commission could speak to Commissioner Burke's concern, which she agreed with, about enjoyment of other property in the vicinity. She felt that the Commissioners can come close to meeting the needs of both parties as to the hours and the new regulations that allow things by right.

As the Village is changing and growing, there has to be the realization that things do not stay the same and we have to get along. If there is a way to mitigate sound, especially music, then that needs to be taken into consideration.

Commissioner Sweetser noted that while she lives near the area, although not in the immediate vicinity, she hasn't experienced anything that she finds objectionable. If it meets code, the speakers are turned down, the hours are met and activity is regulated by law, she is amenable to that. She recommended that a condition be added that clear access be maintained to the dentist office at all times.

Mr. Tykvart commented on the access to the dentist office. He indicated that he changed the entrance due to the amount of dust which resulted from the construction on St. Charles Road. He believed that prior to the construction clear access was maintained.

Commissioner Olbrysh stated that he agreed with the staff report and Commissioner Sweetser. For years we have heard comments on how boring Downtown Lombard is compared to other communities. Praga has now brought excitement and growth to the downtown area but needs some restrictions and enforcement of the sound problem. Lastly, he commented it was good to have Praga in the downtown.

Commissioner Flint addressed the petitioner and asked if he had reviewed the staff report and was in agreement with it. Mr. Tykvart answered yes.

Commissioner Nelson stated that the petitioner should keep his neighbors in mind with the noise late at night.

Commissioner Burke stated he was reluctant to approve a petition asking for expansion when the petitioner is currently not operating under approved conditions and is being less than cooperative with his neighbors and enforcement officials. He questioned how the petitioner will be able to avoid future conflicts if the petition is approved as well as how the Commissioners could ensure that these new conditions are enforced - would it require the residents to keep calling the police? Mr. Stilling answered that we have a nuisance ordinance and the residents need to call the Police Department as that is what they are there for. The Police Department can enforce the ordinance and can do random checks during their shifts.

Commissioner Burke asked what can be done if these conditions are continuously violated. Mr. Stilling answered that staff could ask for a hearing to review the meaning of the standards and repeal the conditional use.

Attorney Wagner stated that the immediate answer is that the business would be cited each and every day for violating those conditions and would have to appear in the Circuit Court. That is the strongest enforcement method we have.

Mr. Stilling clarified his earlier statement by stating that there is a repeal provision in the ordinance which would be considered by the Village Board.

Chairperson Ryan added that even before it gets to that point of revocation, the business would be cited and there would a court order for charges brought up against them.

Attorney Wagner answered that there is a provision for revocation in the Zoning

Ordinance which states that a conditional use permit may be revoked if the conditional use as established or constructed on the site does not conform to the established conditions for approval. The Village Board would be advised and authorize the Plan Commission to schedule a public hearing to consider revoking the conditional use permit. It would go from the Plan Commission to the Board of Trustees for revocation. The most immediate method would be enforcement through citation.

Referring to the music that is being directed toward surrounding properties, Commissioner Sweetser asked if there is a certain decibel level allowed by code and if we know what decibel level the music is being played at. She noted that until we have that specific information we will not know if anything is actually being violated or if it is just a perception. She suggested that a standard be determined so that when enforcement needs to occur, it can be enforced and a citation can be issued. Mr. Stilling answered that a police officer can also determine if there is music playing past the stipulated hours and that would result in a citation being written. He also referred to the nuisance ordinance that all residents are subject to regardless of the hours. We encourage people to call the Police Department if they feel it is not being adhered to. Commissioner Sweetser stated that while the nuisance ordinance can be enforced, it is not as specific as providing a certain decibel level.

Chairperson Ryan stated that a decibel level can be violated not only at night but also during the day. Mr. Stilling stated that our nuisance ordinance doesn't have a decibel level attached to it.

Commissioner Sweetser stated she thought this standard should be something different and separate from the nuisance ordinance. Chairperson Ryan added that in the past the Commissioners have put a condition on decibel levels for other restaurants along Roosevelt Road when the neighbors were complaining. Part of Code Enforcement was that it was randomly checked.

Commissioner Burke asked what noise requirement level should be used tonight and questioned how the Commission could move forward with the petition.

Attorney Wagner stated that the provision in Village code refers to violation of noise emission standards adopted by the Illinois Control Board to implement the Environmental Protection Act. He added that he does not know what those numbers might be.

Commissioner Burke added that whoever was going to conduct the noise reading would have to know where to read it, how to read it and how high to read it. The person would have to be well versed in doing so.

Chairperson Ryan stated that there are standards that inspectors should know or be trained in but those are codes we have enforced in other parts of the town.

Attorney Wagner stated that the easiest way to enforce a noise nuisance is to make it subject to certain hours.

***CC Text Amendments to the Sign Ordinance - Political Campaign Signs (Moved to IX-C)**

DD. [100395](#)

ZBA 10-08: 322 E. Elm Street

Requests that the Village take the following actions for the subject

property located within the R2 Single-Family Residence District:

1. A variation from Section 155.407(F)(2) of the Lombard Zoning Ordinance to reduce the corner side yard setback to (17.68) feet where 20 feet is required to allow for a second-story addition.
2. A variation from Section 155.407(F)(2) of the Lombard Zoning Ordinance to reduce the corner side yard setback to (13.69) feet where 20 feet is required to allow for the enclosure of an existing roofed-over porch, which was granted per Ordinance 5033. (DISTRICT #4)

Attachments: [apoletter.doc](#)

[Cover Sheet.doc](#)

[DAH referral memo.doc](#)

[PUBLICNOTICE.doc](#)

[Referral Let 10-08.doc](#)

[Report 10-08.doc](#)

[100395.pdf](#)

[Ordinance 6520.pdf](#)

The petitioners, Larry and Jodi Coveny of 322 E. Elm Street were present. Mr. Coveny stated that he was before the ZBA two years ago for the same variations. He stated that the addition plans were to remain the same as they did two years ago. Mr. Coveny reiterated that the 2nd story addition is on the existing house and would not encroach any further into the setback and the enclosed porch on the side of the house is the main entrance to the house. He added that the enclosure of the porch would allow for safe entrance into the home.

Chairperson DeFalco asked if anyone was present to speak for or against the petition. There was nobody in the audience to speak for or against the petition.

Chairperson DeFalco then requested the staff report. Michael Toth, Planner I, stated that the property contains a one-story single family residence built approximately 17.7 feet from the side property line along Stewart Avenue. The petitioner's request has been separated into two separate approvals as each poses its own unique land use issues. The first action requiring relief is to erect a second-story addition above the existing structure that will hold the same setback that the house currently maintains. The second action is to enclose an existing covered side stoop/porch, also located within the required corner side yard. As the house is legal non-conforming due to the insufficient corner sideyard setback, a variation is required for both proposals. All other setback requirements relating to the principal structure are presently conforming.

The petitioner had already received prior approval of both of the aforementioned variations in 2008, per Ordinance 6159. However, construction had not commenced on the subject property within one year of approval. As such, Ordinance 6159 subsequently expired March 20, 2009.

As part of ZBA 08-01, staff originally recommended denial of the corner side yard porch enclosure, due to a lack of hardship. However, the Zoning Board of Appeals overturned staff's recommendation and recommended approval. Subsequently, the Village Board approved the variation. Staff believes that precedence has been established that the porch enclosure in the corner side yard is appropriate for the subject property. As such, staff is now recommending

approval of the porch enclosure. Also, staff still supports the variation for the second-story addition.

Chairperson DeFalco then opened the meeting for discussion by the Board Members.

Mr. Bartels asked the Zoning Board of Appeals what was the hardship associated with the porch enclosure. He stated that he was not on the ZBA during the first petition and was just curious.

Mr. Bedard stated that the hardship was associated with the lack of space provided to get into the home (at that entrance). He added that the enclosure is only a small platform, but due to the configuration of the internal staircases, it allows the family enough space to get into the home safely.

Mr. Tap added that the enclosure is not usable space. He added that there isn't enough room there to place any furniture.

Larry Coveny confirmed that the enclosure area is only four (4) feet by five (5) feet.

Mr. Tap asked the petitioner if the plans were to remain the same as they were in 2008.

Mr. Coveny replied, yes.

Ordinances on Second Reading

Resolutions

*EE First Amendment - RedSpeed Illinois, LLC (Moved to IX-E)

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FF. [100418](#) SA 217C Semi-Final Balancing Change Order No. 1
Authorizing a decrease in the amount of \$166,491.77 to the contract with Abbey Paving. (DISTRICT #4)

Attachments: [100418.pdf](#)
[R 20-11.pdf](#)
[Change Order #1 Abbey.pdf](#)

Other Matters

GG. [100389](#) FY 2011 Preservative Surface Treatment Program
Request for a waiver of bids and award of a contract to CAM, LLC in the amount of \$70,000.00. Public Act 85-1295 does not apply.

Attachments: [100389.pdf](#)
[100389 corrected cover sheet.pdf](#)
[100389.pdf](#)
[Contract M-11-04.pdf](#)
[Change Order 1 Final CAM.pdf](#)

- HH.** [100401](#) 2011 Crack Sealing
Award of a contract to Denler, Inc., the lowest responsible bid of two bidders, in the amount of \$140,000.00 for the FY 2011 Crack Sealing contract. Bid in compliance with Public Act 85-1295. (DISTRICTS - ALL)

Attachments: [100401.pdf](#)
[Contract M-11-03.pdf](#)

***II. FY 2011 Automated Meter Replacement Program (Moved to IX-F)**

- JJ.** [100423](#) FY 2011 Road Salt Purchase
Request for a waiver of bids and award of a contract to North American Salt Company in an amount not to exceed \$351,808. Public Act 85-1295 does not apply.

Attachments: [100423.pdf](#)

- KK.** [100428](#) Emergency Alternate Bituminous Mix Supplier
Request for a waiver of bids and award of a contract to DuPage Materials in an amount not to exceed \$29,921.81. Public Act 85-1295 does not apply. (DISTRICT #1)

Attachments: [100428.pdf](#)

- LL.** [100434](#) 2010 North Avenue Standpipe Exterior Painting Project
Request for a waiver of bids and award of contract to Tecorp, Inc. in an amount not to exceed \$301,776.00 for additional work including repairing the roof and completely cleaning and painting the interior of the standpipe. (DISTRICT #1)

Attachments: [100434.pdf](#)
[Contract # WA 10-02-B.pdf](#)

***M Solid Waste Contract (Moved to IX-G)**

M.

***NN Lawn Mower Grant Program (Moved to IX-H)**

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- OO.** [100385](#) Letter of Credit Time Extension - Yorkshire Woods Development Project
Motion to allow a one-year time extension for the Letter of Credit posted as a Construction Guarantee for the Yorkshire Woods Development Project located on the southwest corner of 17th Street and Norbury

Avenue. (DISTRICT #3)

Attachments: [Motion to Extend LOC Yorkshire - Memo.doc](#)

[Motion to Extend LOC.doc](#)

[100385.pdf](#)

***PP Rain Barrel Grant Program Amendment (Moved to IX-I)**

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- QQ.** [100412](#) The Garden Club - Temporary Signage for Prairie Days
Motion granting approval to place temporary signage on three Village owned properties for the purpose of promoting Prairie Days from September 16 through September 26, 2010. (DISTRICTS #3, #4 & #6)

Attachments: [Priaire Days temp signage.doc](#)
[BOT Memo Garden Club Sign.doc](#)
[100412.pdf](#)

- RR.** [100430](#) Agreement Release/Clover Creek Apartment Complex
Motion to ratify the approval and execution of a regulatory agreement release to facilitate the sale of the Clover Creek Apartments, with the proceeds of the sale being used, in part, to pay off the outstanding bonds in full.

Attachments: [Agreement Clover Creek.pdf](#)
[100430.pdf](#)
[Regulatory Agreement Release.pdf](#)

IX. Items for Separate Action**Ordinances on First Reading (Waiver of First Requested)**

- *A.** [100408](#) Title 15, Chapter 150, Section 150.141 - Overtime Building Inspection Fees
Amending Title 15, Chapter 150, Section 150.141 of the Lombard Village Code to add a subsection for overtime building inspection fees. (DISTRICTS - ALL)

Attachments: [BOT Memo.doc](#)
[Cover Sheet.doc](#)
[BOT Memo 2.doc](#)
[Ordinance 6521.pdf](#)
[100408.pdf](#)

Other Ordinances on First Reading

- *B.** [100346](#) PC 10-09: Text Amendments to the Sign Ordinance (Sandwich Board Signs)
The Village of Lombard requests text amendments to Section 153.234 of the Lombard Sign Ordinance amending the provisions for Sandwich Board Signs. (DISTRICTS - ALL)

Attachments: [PUBLICNOTICE 10-09.doc](#)
[Referral Letter.doc](#)
[Report 10-09.doc](#)
[DAH referral memo.doc](#)
[Cover Sheet.doc](#)
[DAH referral memo PC 10-09 Remand.doc](#)
[Cover Sheet Remand.doc](#)
[PC memo remand.doc](#)
[Referral Letter \(remand\).doc](#)
[100346.pdf](#)
[Ordinance 6549.pdf](#)

Michael Toth, Planner I, presented the petition. Village staff has been requested by the Lombard Chamber of Commerce to discuss and review aspects of the Sign Ordinance, particularly relating to sandwich board signage. Additionally, staff notes that there have been other practical concerns pertaining to the Village's regulations that warrant additional discussion. As such, staff conducted a workshop session for direction regarding sandwich board signs at the May 17, 2010 Plan Commission meeting. Staff is now bringing forward text amendments to amend the Sandwich Board Sign regulations.

Sandwich Board Signs are primarily intended to guide and provide information to pedestrian traffic. The Sign Ordinance currently places geographic restrictions on the ability to display a Sandwich Board Sign by requiring that the signs only be displayed in business districts, on public rights of way and adjacent to buildings that meet a maximum setback requirement. Staff believes that these signs can also serve a similar purpose for not only businesses, but any institution. As such, staff is proposing to modify the locational restrictions associated with Sandwich Board Signs.

The only requirement that an establishment must meet in order to display a Sandwich Board Sign is that the establishment itself must be non-residential. This would allow not only businesses to display the sign, but also other religious institutions and like uses.

Rather than the building being required to be setback ten (10) feet from the property line (to be allowed to display a Sandwich Board Sign), the only location requirement is that the sign be located within ten feet (10') of a customer entrance or service window. This amendment keeps with the original intent of the Ordinance, which is to guide pedestrian traffic to a customer entrance or service window and provide subsequent information to patrons, such as daily specials or events.

During the May 17, 2010 workshop session, staff raised a number of issues relative to the current Sandwich Board Signs. While the Plan Commission did not have any issues with changes relative to the duration and location of the signs, they did not want to amend the Sign Ordinance to allow mixed signage (Temporary Signs in conjunction with Sandwich Board Signs). More specifically, the Plan Commission was concerned that mixed signage could create a negative visual impact due to extraneous signage. The Plan Commission also suggested that Sandwich Board Signs in the downtown be

allowed additional hours of display. The Plan Commission originally suggested that three (3) additional hours be granted, which would require the signs in the downtown to be brought in at 12 a.m. In keeping with the suggestion of the Plan Commission, staff is proposing to extend the hours in the downtown. However, staff is proposing that the hours be extended to 2 a.m., which coincides with the time that businesses (with liquor licenses) are required to close.

If you go through the amendments you see applicability in that no longer are these signs required to be in a business district but non residential. The location of the sign has to be located within ten feet (10') of a customer entrance or service window. Sandwich board signs may be located partially or entirely on a sidewalk within a public right-of-way. A minimum of four feet (4') of public sidewalk shall remain unobstructed at all times. Mr. Toth exemplified Export Fitness on Roosevelt Road indicating, if the amendments were approved, they could have a sandwich board sign located ten feet (10') from their door but not on the sidewalk along Roosevelt Road.

The allowable size of the signs will remain unchanged. The design can include the "A" frame or a comparable design which would include flat panel signs on a spring mount. The allowable number would stay the same so not more than one sandwich board sign shall be permitted per establishment except when a property abuts two or more rights-of-way, then the business shall be permitted one sign per right-of-way, adjacent to a customer entrance or service window.

Time restrictions would remain unchanged with the exception of the downtown. If located in the B5 or B5A zoning district, you can have a sign until 2:00 a.m.

Concluding, Mr. Toth stated that staff finds that the proposed text amendments meet the standards for test amendments and therefore is recommending approval.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Sweetser referred to the staff report, page 3, A.2., and the statement that says the establishment has to be on the ground level. She stated that requirement has never been discussed. She is aware of one business in the downtown as well as others around town that are not located on the ground level and are currently using sandwich board signs. She was interested in staff's thinking behind it.

Mr. Toth answered that the statement was part of the original amendment and he was unsure as to why it was in there, but the intent might have been to guide pedestrian traffic. He agreed that there are establishments that have staircases and are not located on the ground level that use sandwich board signs.

Commissioner Sweetser asked if staff would be agreeable to eliminating the statement if there is not a good reason for it. Mr. Toth stated that if those situations are few and far between and the businesses have service entrances on the ground level, he doesn't think that should be a problem. Mr. Stilling stated that the layout of the downtown area is vertical in nature and the concern might have been having multiple signs. He doesn't see that being a problem and suggested that the Plan Commissioners could strike that statement if they chose to.

Commissioner Flint stated that if the entrance is on the ground level and leads to the upper floor, wouldn't that still constitute ten feet (10'). Mr. Toth stated he interprets the statement as meaning that the establishment has to be located and functioning on the ground level. Mr. Stilling indicated that staff might want to understand the historical context of the statement first by researching it. He believes the amendment isn't that old and was incorporated within the last ten years.

Commissioner Sweetser questioned whether the petition could move forward and suggested that if reasonable, give staff the ability to override the statement. Mr. Stilling answered that it could be continued to July if need be. He thought that the statement, when drafted, might have been intended solely for the downtown businesses, so the thought might have been there wasn't a demand or need for them.

Commissioner Sweetser encouraged staff to keep track of any of these situations and requests, do some research, and determine if it is reasonable or not.

Commissioner Sweetser asked if voting signs, which are often located at schools and the library and not necessarily within ten feet (10') from the entrances, are subject to this. Mr. Stilling answered that the types of signs they display are treated differently.

Commissioner Flint asked if Lombard Town Centre has a second floor. Mr. Stilling answered yes. Commissioner Flint added that should they want to promote themselves, that might be an example of not having an opportunity to utilize a sandwich board sign.

The Commissioners agreed to leave the wording as is, but that staff should research and analyze the amendment. If staff finds that the statement needs to be amended, the wording can be changed at a later date.

- *C. [100386](#) Text Amendments to the Sign Ordinance - Political Campaign Signs Amending Title 15, Chapter 153 of the Lombard Village Code with regard to prohibiting time restraints on political campaign signs located on residential properties. These amendments are to ensure compatibility with Public Act 96-904 with an effective date of January 1, 2011. (DISTRICTS - ALL)

Attachments: [Political Sign Text Amendments.doc](#)
[Amending Sign Ord - Political Campaign Signs - Public Act 96-904.doc](#)
[Ordinance 6528.pdf](#)
[100386.pdf](#)

Ordinances on Second Reading

Resolutions

- *D. [100330](#) 300-310 S. Main Street (Prairie Path Villas) (Tabled September 2, 2010) Authorizing the Village of Lombard to notify the Illinois Environmental Protection Agency that the Village will no longer agree to have certain right-of-ways act as an engineered barrier. (DISTRICT #1)

Attachments: [BOT memo TACO void cont.doc](#)
[BOT memo TACO void.doc](#)
[Cover SheetTACO agreement.doc](#)
[Memo 9-2.pdf](#)
[BOT memo TACO void 10-7 report.doc](#)
[100330.pdf](#)

Village Manager David Hulseberg gave an overview of the property. He noted that prior to development of the property there was a gas station located on the south end of the property. He reported the petroleum had leaked into the right-of-way. He noted that some had been captured, but felt there was a portion that was still contaminated. This portion is under the high fiber ducts owned by AT&T that are located on the property. If any work had to be performed and disturbed the high fiber ducts, the Village would be subject to very high fines of \$10,000 per ten minutes. He reported the developer of the property tried to vacuum the contamination, but they were unsuccessful. The Village has a highway authority agreement and this area was to serve as a barrier. The Village and developer had hoped that in time the contamination would dissipate. He felt the Village should request \$100,000 from the developer to protect the interests of the Village in this matter. The IEPA has issued a no remediation order for the property. The Letter of Credit has been called and no longer exists to protect the Village from any costs that may arise. He indicated that if any units at the development were sold they would not come with a clear title. He noted staff had met with legal counsel regarding this matter. It is staff's recommendation that the developer and property owners should be responsible. He noted a unit could be purchased and the purchaser not be aware of this issue. He indicated staff continued to work with the property owner, but felt the Village was potentially looking at being liable for expenses. He stated that since the Village Board would not be meeting in the summer, he felt this matter should be addressed since no compromise had been reached. He was looking for authorization from the Village Board to send a letter to the IEPA to put the property on notice. He felt staff could continue to work with the property owner. He indicated staff was looking at the best interests of the Village.

Katy Hurst, 310 S. Main Street, stated she is a resident and President of the Association Board. She indicated the residents want to resolve this issue and wanted to work with the Village to do so. She requested the Village give the owners some additional time to resolve the outstanding environmental issues. She noted the association did not have the money to reinstate the Letter of Credit. If the Village pursued this, they would have to look at a special assessment and she was concerned that some residents may have to walk away from the units.

Steve Kalke, 4425 Ponce de Leon Boulevard, Coral Gables, FL, spoke and requested the Village Board and staff continue to work with the developer and property owners in this matter until it can be resolved.

President Mueller spoke regarding the contamination of the property and gave some further background of the property. He spoke of the gas station, the body shop and the dairy that were located on the site years ago. He noted that the current contamination problems go back 50 years. He spoke of the improvements that had been done and the remediation that had occurred. He noted that a lot of money had been spent to clean up the site over the years. Trustee Gron questioned where this left the property owners.

Manager Hulseberg noted this was a quandary and refinancing or selling would be an issue. He indicated that staff was willing to continue to work with the

property owners and developer. He stated the Village does not need to move forward on this immediately. Staff felt it was in the best interests of the Village to bring this to the Board.

Trustee Gron questioned how the Village would document this.

Manager Hulseberg indicated the property could be re-tested and reinspected. He talked about a possible extension of the agreement. He felt by moving forward with the letter to the IEPA, the Village would be protected as the owners would have to pay the Village the \$100,000 that would be put into a fund in the event it was needed.

Trustee Ware inquired what would happen if the Village Board did not approve moving forward on this matter.

Manager Hulseberg indicated some of the 19 units could be sold to unsuspecting individuals.

Trustee Wilson questioned if there would not have to be a disclosure if a unit was sold.

Attorney Tom Bayer indicated if the remediation is filed, it will show up at closing. He stated if the Village Board approved moving forward, a letter would be sent to the IEPA.

Trustee Wilson questioned the contaminated area.

Attorney Bayer stated this is a portion under the sidewalk under the high fiber lines located in the right-of-way. He indicated if any of the utility companies such as AT&T, ComEd, or NICOR had to do repairs, the workers would need to have special equipment due to the contamination. The Village would be billed for this expense and would not have recourse at this time as there is no valid Letter of Credit. He noted the area is approximately 12 feet by 4-1/2 feet on Main Street at the south end of the property.

Trustee Wilson asked if this was a problem only if the utility companies needed to work in that area.

Manager Hulseberg indicated that was true. He stated staff could work with the property owners and developer and if they agreed not to transfer title to any units, the Village could continue discussion regarding this matter.

Trustee Gron inquired about continuing to work with the owners and developer. Trustee Moreau stated she had pulled this item from the Consent Agenda as she had just recently been made aware of it. She questioned if the primary purpose was to make certain that any potential buyers would be made aware of this issue.

Attorney Bayer stated if the Village did not move forward with sending the letter to the IEPA, there would be no remediation listed on the title for the properties. He stated the IEPA does not move quickly. He noted if the Village approved moving forward and sent the letter to the IEPA, it would take months for the IEPA to act. He stated this would then alert any potential buyer to this problem. Trustee Moreau stated this did not just occur.

Trustee Ware questioned costs.

Manager Hulseberg stated costs were unknown as it would depend on the amount of time and how many times any repairs would need to be made. He also noted access to the lines was difficult.

President Mueller noted that the Letter of Credit had been revoked and thus the Village was responsible for any costs. He stated if the Village proceeded, that the developer and property owners would be responsible for any costs.

Attorney Bayer stated there was no Letter of Credit and nothing to reimburse the Village for any costs incurred. He noted that Village Board can approve staff's recommendation regarding the letter and the Village can hold off sending the letter to the IEPA. This will allow staff additional time to work with the property owners and developer. This will also provide some pressure to the owners and developer to work with staff to resolve the matter. That way the property owners will not be hurt immediately. He noted that the cost for removal

of the contaminated soil is far more because of the location of the contaminated area being located under the utility cables.

Trustee Wilson questioned if the Village moved forward with the letter to the IEPA, if properties would still be able to be sold.

Manager Hulseberg noted that specialists had expected the contamination to dissipate. The letter would make it more difficult for a buyer to obtain financing.

Attorney Bayer stated if the letter were filed and if work had to be done in the contaminated area, the cost would be up to the property owners.

Trustee Moreau questioned the \$100,000 amount.

Manager Hulseberg indicated the Village looked at the risk. In all likelihood, the contamination will dissipate in time.

Trustee Moreau questioned tabling the item to the next Village Board meeting.

Attorney Bayer stated the Village can have a condition included in the agreement that as long as staff is having productive negotiations with the property owners and developer, that the letter will not be sent to the IEPA. He noted the Village can determine a length of time for the resolution of the problem. He asked if the Village Board was comfortable with using the date of the next scheduled Village Board meeting of August 19th. He noted if the issue was not resolved by a date certain, the Village can proceed with the letter.

President Mueller asked that staff be given time to work with the association and the residents.

Trustee Wilson questioned tabling the item.

Steve Kalke indicated the association has no funds to replace the Letter of Credit. He noted things were tough in this economy. He spoke of possible smaller assessments over a longer period of time.

Trustee Gron indicated he would defer this to Trustee Moreau as she had pulled it off the Consent Agenda. He indicated he would like to see them move as quickly as possible as he was sure they wanted to sell the remaining condos.

Trustee Moreau asked about an additional meeting the following week. She moved to table this matter to the August 19th Village Board meeting and have staff meet with the residents.

President Mueller indicated this was an unfortunate issue, but he wanted to protect the Village and felt the Board had an obligation to protect the residents from the financial burden this may cause. He spoke of the developer, the project and the economy. He felt the project was great and it was unfortunate that the economy took a toll.

Trustee Giagnorio asked about meeting or negotiating.

Manager Hulseberg stated staff can continue dialog with the residents and staff can report back to the Village Board at the August 19th meeting.

Trustee Wilson indicated he would like to attend the meeting with the residents.

Trustee Moreau indicated that most of the trustees would want to attend.

Attorney Bayer stated this would result in the posting of a special meeting to be in compliance with the Open Meetings Act.

President Mueller suggested that staff meet with the residents along with the trustee for that district. The trustee can then report back to the rest of the Village Board. This way there is no conflict.

- *E. [100409](#) First Amendment to the First Amendment to the Agreement Between RedSpeed Illinois, LLC and the Village of Lombard
Reconsideration of the Motion to Reject the First Amendment to the First Amendment to the Agreement between RedSpeed Illinois, LLC and the Village.

Attachments: [pdredspeedfirstamend822010.doc](#)
[pdredspeedfirstamendmentcover822010.doc](#)
[pdredspeedfirstamendmentres822010.doc](#)
[pdredspeedfirstamendmentmemo822010.doc](#)
[100409.pdf](#)

Other Matters

- *F. [100407](#) FY2011 Automated Meter Replacement Program
Request for a waiver of bids and award of a contract to HD Supply Waterworks, Ltd. for the installation of water meters and automated meter reading equipment in commercial and multi-family accounts in an amount not to exceed \$1,736,044.42. Public Act 85-1295 does not apply.

Attachments: [100407A.pdf](#)
[100407C.pdf](#)
[100407B.pdf](#)
[Contract # PWU-1101.pdf](#)
[100407.pdf](#)

- *G. [100029](#) Solid Waste Contract
Recommendation to approve a contract with Waste Management for the period April 1, 2011 through March 31, 2016.

Attachments: [100029 Review of Existing Contract Memo.pdf](#)
[100129 ECC RFP memo.pdf](#)
[100029.pdf](#)
[100029 Final Rec.pdf](#)
[Solid Waste Contract.pdf](#)

Gorman: reviewed memo and options that the Village has regarding the Waste Management contract that will be expiring on March 31, 2011. (Durdic arrived at 7:42 PM) Option 1 - no changes, just renew contract through March 31, 2013. Option 2 - renegotiate contract for 5 years. Option 3 - RFP (Requests for Proposals)

Discussion ensued regarding the pros/cons of Option 2. Jendras: how will Waste Management be able to afford the difference between flat fee and pay as you throw? Gorman: there are some good things here for them, especially the fact that we are keeping our contract with them. Jendras: I would rather see the village offer the smaller toters to people instead of pay as you throw. I like the uniformity of the same cans throughout the Village. Gorman: the concern I have with the RFP option is that there is a learning curve. Right now we have 1000's of toters out there that would have to be picked up by Waste

Management, new toters would need to be delivered and paid for, etc. Adams: would we have to go with the lowest bidder if we went out for RFP's? Gorman: no, the Board has different options with that. Cooper: how long has Waste Management been our contractor? Adams: about 20 years. Gorman: smaller toters is something that could be negotiated. If the Village went with sticker program, the size of the can would be limited. Durdic: as a business owner I was not aware of the "meet and compete clause". The only Option I would go with would be Option 3 - Request for Proposal. Option 2 reminds me of my insurance negotiations I go through every year. Lyons: there are weight issues and arm issues for waste haulers. Moreau: risks of Option 3 - could all of these come in higher than what we are paying today? Gorman: yes. If we issue an RFP, we still can renew contract with Waste Management if there is enough time. Cooper: need to know if there are qualifications, etc. and do we ask for references? Waste Management is a client of my company. I feel like there could be some conflicts of interest here for me. Moreau: we can go out for bid however we want correct? Gorman: if they all come in higher than what we want we basically are going to have Option 1. Durdic: would like to see a monetary amount for the "free items" that are covered in the contract. Jendras: in the RFP or next contract we should require the amounts of waste picked up at any of these events. Cooper: it would be helpful to at least have an estimate.

RFP Specifics: exactly what we are getting now.

1 - Keep in School, Park District and Library.

2 - Keep the "meet and compete" clause. Discussion ensued regarding the pros and cons of keeping this in the RFP. The decision was made to take this out for now.

3 - anyone can opt for a 32 gallon toter - maximum of 75% of cost for large toter. No pay as you throw. Stickers for additional waste items.

Part of required reporting will be volumes from community events. Moreau: would like at least a ball park figure on what is picked up at schools and park district. Gorman: will come up with the best estimate.

Gorman: will draft RFP and bring to next meeting, then will bring to the board.

Gorman explained that what was distributed is what the contract would look like and went on to review the changes as listed in the memo. Chairperson Moreau commented that there is no risk in going out for the RFP. Gorman added that Waste Management indicated they would offer to extend for five years if after the RFP the Village chooses a contract extension instead.

Chairperson Moreau summarized that quite possibly prices will come in high, we'll stay with Waste Management, but be able to offer residents the 32 gallon instead of just the 64 gallon. Gorman pointed out that Glen Ellyn has offered a 32 gallon for a while and they now account for 61% of their toters. Bob Wagner spoke about Villa Parks program. Residents still use their own containers.

Several changes were requested by committee members. They are:

The term carts will be changed to toters throughout the document.

Page 3, Refuse Containers - change language to "all toters that are supplied by the contractor remain the property of the contractor".

Page 4, 3rd paragraph up from bottom - add "service fee" after "monthly flat rate".

Page 5, 1st paragraph - change "quarterly audit for replacement of broken carts" to "as noted".

Page 5, 1st paragraph - change "Contractor shall have thirty (30) days of requests" to "Contractor shall have thirty (30) days from the date of request."

Page 7, 2nd to last paragraph - 30 yard roll offs are not used at the

*Extravaganza, Gorman will change that to reflect what is used.
Page 8, 1st paragraph - include specific number of portalets for Lilac Parade
Page 13, Holidays - add that residents will be made aware of the change in pick up (i.e. via phone)*

Jendras suggested that the schools be required to meet with the refuse collector at least once to have shown to them what they can be recycling. Bartt suggested that a committee member should meet with the schools instead. This suggestion will be discussed further at the April meeting.

Jendras also suggested that the brush pick up not be subsidized through the contract, that residents who use it pay for it.

Gorman reviewed this item with the committee and highlighted the changes in the proposal. Durdic: who compiled these figures? Gorman: these came from Dupage Mayors and Managers. Cooper: why did our recommendation not go to the board? Moreau: I pulled it from the agenda because of this extension letter. Jendras: a lot of times when companies go out for bid, smaller contractors come in and low ball but then can't provide service. Bartt: there is a level of service and relationship that has been developed over the years with Waste Management. Durdic: questioned the CPI and the Meet and Compete Clause. Discussion ensued. Durdic: even though we did not go out for bid we are better off with this offer. Adams: the 32-gallon rate will be the senior rate? That is not specified in the letter. Gorman: yes, I have confirmed that.

***H. [100281](#)**

Lawn Mower Grant Program

Recommendation from the Environmental Concerns Committee to establish a grant program to reimburse residents up to \$40.00 for the purchase of a reel or electric lawn mower.

Attachments: [100281.pdf](#)

Effective 9/1/10 - reduce rain barrel grant amount to \$40.00 per barrel, one per household. Grant amount will be \$40.00 per mower.

***I. [100390](#)**

Rain Barrel Grant Program Amendment

Recommendation from the Environmental Concerns Committee to modify the reimbursement to \$40.00 for a maximum of one rain barrel effective October 7, 2010.

Attachments: [100390.pdf](#)

[Rain Barrel Memo to BOT.pdf](#)

[Rain Barrel Grant Application.pdf](#)

[Rain Barrel BOT Cover.pdf](#)

[100390.pdf](#)

X. Agenda Items for Discussion

A. 100432

After Action Report

Report on storm event of July 23-24, 2010.

Attachments: 100432 corrected cover sheet.pdf
100432 map.pdf
AARStorm7-23-24-10.pdf
Power Point.pdf
100432.pdf

XI. Executive Session

XII. Reconvene

XIII Adjournment

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