

SYCAMORE CITY COUNCIL

AGENDA

July 21, 2003

City Council Workshop Meeting

6:00 P.M.

Historic Preservation in the Downtown Business District.

At the last regular City Council meeting of July 7, the Council heard recommendations from the Ad Hoc Architectural Review Committee regarding several requests for loan assistance. The Committee also asked for further Council direction regarding the “look” desired in the downtown business district before any additional loan requests were considered. This led to some discussion about how the Council might arrive at a consensus about the desired look of downtown facades, and then what regulations might be necessary to assure that the look would be maintained.

This workshop will allow for a fuller discussion of the Council’s intentions and will hopefully lead to an action plan. The City of Sycamore is not alone in desiring the preservation of its historic downtown facades. Many communities across Illinois and the nation have taken stock of the visual image they present to visitors and residents alike, and have taken a range of actions to assure that the mental image of their town is enhanced, rather than tarnished, by the look of their town center. This effort is not without some challenges. When the older and sometimes historic downtown buildings were erected, the center of urban commerce was the downtown. Today, outlying strip centers and larger commercial retail developments along wide transportation corridors tend to dominate urban commerce. Most communities are searching for ways to attract new retail development to remain economically competitive, while retaining economic vitality in older commercial districts. Consumers, as well as urban planners, are again looking for shopping opportunities and services in walkable downtown business districts with a charm that makes them uniquely attractive. Keeping the “charm” of the place is what the Ad Hoc Committee was created to do.

Where do we go from here? To bring some focus to the Council’s discussion, the City Manager suggests we consider the following logical steps:

1. First, we document how we presently look, block by block, from Sacramento Street to Main Street. We could later look at one block north and south of State Street. This exercise can be done with the assistance of a planner or architect with experience in creating or maintaining downtown historic districts.
2. Second, we develop some renderings of how we want to look along the State Street corridor, with the assistance of the same consultant.
3. Third, the Council involves the Ad Hoc Committee and the Plan Commission in the review of such renderings, and works with them to arrive at a consensus on the restored “look” we want to achieve.

4. Fourth, we formulate an “overlay” in our zoning code to establish the look as public policy, not unlike the Urban Design Standards we approved in October 2001. Such an approach would encourage voluntary cooperation.
5. Fifth—and this would be more controversial—we go a further distance in requiring property and business owners to allow publicly-appointed officials to comment upon, or even condition, the use of their property. Such reviews would be performed by a permanent historical commission. Some background information on historical commissions and their role in downtown redevelopment is attached.

Recommendation

The City Manager recommends a number of interim steps in the current fiscal year that can be taken without amending the budget or committing extraordinary staff time. Such steps are also consistent with the recently-approved Comp Plan, which calls for a zoning overlay to “assure that the historic building facades in the downtown area are preserved, and that future signage and uses are more appropriate to the community’s self-image (p. 58)”.

- **Step One**: Commit monies from the Capital Assistance Fund (06-8331) toward consultant services that could create digital renderings of the current downtown look, as well as renderings of restored facades, block by block. The FY04 Capital Fund budget has \$25,000 for “architectural/engineering services”. This allocation was set aside for just such contractual planning and mapping services, as the text of the fund budget states. In line with this recommendation, the City Manager could circulate a request for proposals in the coming weeks. One mailing will go to Land Vision, Inc. The firm already has some digital images of the downtown area from the image preference survey conducted in January, and has several persons on staff who are experienced in downtown redevelopment and historic design. The present balance in the allocation for consultant services is about \$24,000. The likely contract will be less than \$10,000. The balance of the allocation could be reserved for architectural services associated with the completion of the remodeling at the former city hall at 535 DeKalb Avenue.
- **Step Two**: Upon the completion of the design study, the architectural consultant and city staff would present the findings to the Council in a joint workshop with the Plan Commission and the Ad Hoc Committee. If a consensus is reached, a special zoning “overlay” could be formulated to distinguish the downtown streetscape in more detail than the present language of the “C-2 Central Business District”.
- **Step Three**: Make the Ad Hoc Committee permanent, in the form of an historical commission. This commission could take up the present duties of the Ad Hoc Committee with respect to revolving loan requests, and also take on some expanded duties, such as reviewing downtown façade improvement plans in an advisory capacity, regardless of whether the building owners may request loan assistance. If exercising an advisory role only, they would recommend measures to property owners wishing to make certain alterations but would not “veto” the owners’ plans. While such oversight may delay work for a period of several weeks, it would offer a third party’s view of intended alterations in keeping with design standards identified by the Council. It should be noted that such advisory commissions couldn’t prevent adverse alterations from occurring. An advisory commission could also devote its energies to the designation of historic structures, with the Council’s approval. The

City presently has a 99-acre historic district of which the downtown is a part. The broad district includes 209 structures (excluding garages and other minor outbuildings), 40 of which possess special historic or architectural significance, but few are listed on the state or national registers.

- **Step Four:** At a later point in time, after the historic commission is experienced in its new role, investigate the relevance and wisdom of a more substantial role for the commission. In most cases, historic preservation commissions have the authority to
- Adopt their own procedural rules;
 - Conduct surveys of historically significant structures;
 - Recommend the adoption of ordinances designating properties or structures as landmarks on local registers and the National Register;
 - Recommend certain districts or groups of properties as historically or architecturally significant;
 - Maintain a local register of designated structures and properties;
 - Determine the appropriateness of certain historic markers;
 - Advise property owners of procedures for including their structures on the National Register;
 - Educate local residents on the value of historic preservation;
 - Establish specific design guidelines for the alteration of structures;
 - Hold public hearings on applications for construction, reconstruction, or alteration of designated landmarks;
 - Review and recommend zoning amendments, variances, and special use applications in concert with city zoning boards and planning commissions;
 - Accept and administer preservation grants in behalf of the City.

There are some cautions associated with such an expanded purview. Property owners have challenged historic preservation ordinances on the following grounds:

- a) “Takings” argument. The Fifth Amendment to the U.S. Constitution reads in part: Nor shall private property be taken for public use, without just compensation.” The U.S. courts have found, however, that a “taking” occurs when a public body denies all reasonable use or return from a property. This is almost never the case when only certain alterations are prohibited.
- b) Due process. In recent years, historic preservation ordinances have become more sensitive to procedural issues and are seldom successfully challenged on this basis. Challenges could be successful if it is shown, for example, that the criteria for landmark designation are vague; or the standards for the review of alterations are vague; or no clear time limits are provided in the Commission’s review of alterations; or adequate notice is not given to property owners.
- c) Equal Protection. With reference to the Fourteenth Amendment’s prohibition of discrimination in the application of the law, some challenges have argued that preservation ordinances single out certain landowners but not others. These challenges are also usually unsuccessful so long as there is a fair and public process of review, and no deliberate effort to exclude any eligible property over time.

- d) Economic hardship. Denial of an alteration permit may result in increased costs to the property owner, and sometimes it is more expensive to renovate in a historically sensitive manner. However, when there is evidence that historically-sensitive renovations in an area add value to properties, and if the presumed increase in property value offsets the estimated cost of the more compatible alterations over a reasonable timeframe, the challenge is unlikely to succeed.
- e) Owner Consent. With respect to historic nomination and designation procedures, owner consent is not necessary. Courts have likened such procedures to the land planning prerogatives of municipalities that entitle them to determine the most desirable land uses within their planning boundaries, regardless of property owner preferences. Owner objection can keep a property from being individually listed on the National Register, but Commissions can succeed in getting the National Trust for Historic Preservation to consider a property “eligible” for listing, and thereby prevent federal funds or agencies from aiding in unauthorized alterations or demolitions.
- f) Political Remorse. Some City Councils have regretted sharing their “prerogative” over land use decisions with historic commissions. Councils that delegate their ultimate authority over certain land use decisions to appointed groups of “experts” are open to the criticism that they have removed certain economic decisions from public servants more directly accountable to representative political processes.

City Council direction is requested.

Regular City Council Meeting
At the Sycamore Center
7:00 P.M.

- 1. CALL TO ORDER**
- 2. INVOCATION**
- 3. PLEDGE OF ALLEGIANCE**
- 4. APPROVAL OF AGENDA**
- 5. AUDIENCE TO VISITORS**

6. CONSENT AGENDA

- A. Approval of the Minutes of the Regular City Council Meeting of July 7, 2003;
- B. Payment of the Bills for July 21, 2003;
- C. Plan Commission Minutes for the Meeting of June 9, 2003.

7. PRESENTATION OF PETITIONS, COMMUNICATIONS, AND BILLS.

- A. Presentation Honoring Peter Smith, Alex Smith, and Elaine Snyder for their dedicated service in behalf of the City's legal needs.
- B. Proclamation Noting the 50th Anniversary of the Armistice Ending the Korean War. Jane Craddock, treasurer of the Sycamore Veteran's Memorial Home Board, has requested the proclamation.

8. REPORTS OF OFFICERS

9. REPORTS OF STANDING COMMITTEES

10. PUBLIC HEARINGS--None

11. ORDINANCES

A. Ordinance No. 2003.35—An Ordinance Approving an Agreement Between the City of Sycamore and Cliffe, Foster, Corneille & Buick for Legal Services. First and Second Reading.

At the June 16 Council meeting, the City Manager reported that a request for proposals to perform the City's contractual legal services had been circulated, resulting in one submittal from the law firm of Cliffe, Foster, Corneille and Buick. The Council concurred in the City Manager's recommendation to work out a contract with this firm.

The attached ordinance authorizes an agreement between the City of Sycamore and Cliffe, Foster, Corneille & Buick with the following terms:

- a) The term of the agreement extends from July 21, 2003 through June 30, 2004.
- b) The firm shall perform certain services as part of its retainer fee of \$4,500 per month. Such services will include, among other things, attendance at all Council, Plan Commission, and Zoning Board meetings, the drafting and review of ordinances and resolutions, regular meetings with the City Manager and staff regarding items on various public agendas, the prosecution of ordinance violations, and service to the Liquor Commissioner.
- c) The firm shall provide other legal services such as the review of bond issues, annexation reviews, labor negotiations, and special projects at the rate of \$125.00 per hour. Additionally, the City attorneys shall keep legal records, files, and documents and retain closed files for a period of five (5) years.

City Council approval is recommended.

12. RESOLUTIONS--None

13. **CONSIDERATIONS**

A. Consideration of a Report on Various Safety Concerns Along the Foxpointe Drive Corridor.

Police Chief Thomas will lead the staff report on a recent meeting with a gathering of Foxpointe residents, and will make some recommendations to the Council. He will be assisted in his presentation by City Engineer John Brady and Public Works Superintendent Fred Busse.

In a recent mailing from an engineering firm that performs work across the northern Illinois area (see attachment), the topic of neighborhood traffic regulations was addressed. The conclusions reached by the writer are very relevant to the concerns of the Foxpointe residents, and bear out the assumptions of our staff.

B. Consideration of a Proposal To Provide Notice to Prospective Purchasers of New Development Lots Concerning Nearby Farming Operations.

Sycamore's recent residential growth in the direction of active farms has raised anxiety among farm families that may not be appreciated by nearby urban neighbors. Frankly put, these families are concerned that the routine operations of their farms, livelihoods that pre-dated the new residences by years or decades or even generations, will appear to be nuisances to their neighbors, and that the same neighbors may legally challenge their ability to continue their operations. The Illinois legislature recently enacted law—the Illinois Farm Nuisance Suit Act—that generally defines the difference between routine farm operations and activities that might reasonably be considered negligent or improper. Over time, the Illinois courts will probably refine the definitions of “negligent” and “improper.”

For the present, and in order to insure that legitimate farm operations are not hampered by nuisance suits, the City Manager recommends that the Council consider putting some modest language in all future annexation agreements that requires the developer to notify all lot purchasers of nearby farm operations. Such a local enactment would not expose the City to any liability, and would encourage a more careful review of the environs. This may seem unnecessary, but it is not unusual for buyers to ignore a variety of circumstances outside the lot lines (e.g. high voltage poles, airport flight paths, animal barns, etc.).

The City Manager recommends the attached ordinance draft. If the draft is acceptable, an ordinance could be presented at the next regular Council meeting.

C. Consideration of an Administration Report on Various Options for Funding Certain FY04 Capital Projects.

The FY04 City Budget contains a new fund—Fund 26—that was created to receive about \$500,000 in bond proceeds to finance public sidewalk improvements (\$250,000) and a new fire engine to replace the 1979 Engine No. 1 (\$250,000). Upon the approval of the FY04 Budget in late April, the City Manager pursued the underwriting necessary to borrow the funds. In early May, bond market rates were at 40-year lows and a package was prepared in anticipation of prompt Council action. However, at the same

time, it appeared that the City might encounter difficulty in qualifying for low-interest loan assistance from the IEPA for all aspects of the \$2.9 million water improvements slated for later this fiscal year. The original funding plan was shelved and new scenarios were formulated, assuming the City might benefit from a larger bond offering that included some of the water improvements.

It now appears likely that the City will indeed be eligible for IEPA loan assistance for all phases of the planned water system improvements, that include the new Well #9 as well as radium treatment facilities at Wells 6, 8, & 9. As progress was being made in June with the IEPA, the bond market rates dramatically turned upwards. This shows the difficulty of timing private money markets, and the importance of proceeding with the funding of the sidewalk program and fire equipment.

One additional consideration might be pondered before the bond documents are prepared for the Council's review and action. Renewed interest in the redevelopment of the Kmart site has again prompted developer questions about the timing of the completion of Oakland Drive from a point east of the Kmart property to a point about 800 feet west of Peace Road. A roadway linking these points would travel a serpentine path of about 1,955 feet to remain within Sycamore's jurisdiction, and to fairly serve all proximate parcels including the Klages farm. The cost of a two-lane truck route linking these points within a 66-foot right-of-way would be about \$775,000, including curb and gutter, storm sewer, water and sanitary sewer main extensions, sidewalks, street lighting, and top soil and seeding. This assumes that the City would not have to purchase right-of-way.

The City could take the position that the parties developing the adjacent land should pay for the road extension. In the very competitive market for national retailers, it is not likely that such retailers or the commercial developers that contract with them would offer to pay for such an extension so long as other nearby cities were picking up the tab for similar improvements at competitive sites. To remain competitive, it is likely that the City will need to consider some form of public incentive package to promote the redevelopment of the Kmart site. Commercial developers are aware that Sycamore provided substantial incentives when Menard's and Farm & Fleet were courted.

An extension of Oakland Drive would also serve the industrial-zoned land within Mr. Krpan's "Thanks America" subdivision, north of the former AGCO (Caterpillar) operation. The City Manager needs some direction from the Council as to their interest in pursuing the funding of this project at the same time that we might pursue the acquisition of a fire engine and the financing for an expanded sidewalk replacement program. The additional annual debt service for the proposed road improvement would be about \$71,000 over a 15-year period, inclusive of all costs of issuance.

There is presently no dedicated source of funding for this additional debt service. An alternative would be to wait for a project to materialize on the Kmart site, then in the negotiation over possible incentives, roll in the possibility of a street extension to be completed within, for example, a year of the opening of any new center (or, about two

years from the date of any development agreement). This would give the City the experience of about one year of a new revenue stream from the redeveloped site. The risk is that the expanded sales tax stream fizzles some years later, and is no longer sufficient to fund the portion of the debt owing to the road extension.

City Council direction is requested.

D. Consideration of a Presentation by Ken Blood and Jerry Boose of B&B Development, Inc. Concerning the Status of Their Development Work in the Community and Their Interest in Further Development.

Until the Council adopted a revised Zoning Code in January 2001, any developer wishing to pursue a planned development in Sycamore first had to present his or her development plan in concept form to the City Council. The Council then determined whether the Plan Commission should pursue a preliminary discussion of the concept plan, usually in a workshop format. Partly in recognition of the Plan Commission's diligent and thorough reviews, as exemplified by their creation in May 2000 of the first new comprehensive plan in thirty years, and partly in recognition of the time-consuming and circular process of going first to the Council, then the Commission, then the Council again, the City Council streamlined the subdivision review procedures early in 2001.

Since the disparate Council and Plan Commission votes on the North Grove Crossing project, the many development firms interested in land options and contracts within Sycamore, particularly in the Northeast Sub-Area, have pressed the City staff about the wisdom of proceeding with any concept plans. The names of these firms include Insignia Homes, Kennedy Homes, Neumann Homes, Saratoga Homes, Amdur Associates, Summit Homes, Wiseman-Hughes, and B&B Development, among others. The staff have matter-of-factly stated to these firms that the 6-3 vote on the John Clare plan indicates that further annexations, in the near term, will likely need to exceed the June 2003 Comp Plan expectations, generate positive fiscal results for all local taxing bodies, and guarantee a development pace compatible with the service and debt capacities of the City, the School District, and the Park District.

Ken Blood and Jerry Boose, principals of B&B Development, Ltd., have met with the City staff and the Mayor in recent days and have proposed a novel approach. Without meaning to upstage the Plan Commission, they are interested in proposing some developmental exactions and amenities that so far exceed present regulations and planning expectations that they are more correctly a matter of public policy than simply planning considerations. They would like to get the sense of the Council on these features and contributions, before proceeding to any elaboration of development plans. Messrs. Blood and Boose are also familiar with the previous system of prior Council review and referral. When they first introduced their interest in developing the Engh property in 1998, they appeared several times before the Council to introduce concepts that were unique at the time. In the past five years, these concepts have become more typical because the City has adopted them as required components of any residential development (e.g. abundant open space, bike and pedestrian paths, generous

neighborhood park space, etc.). They propose to introduce new features that could “raise the bar” even further. The City Manager has invited them to present their refreshing approach to the Council on July 21. Given the scope of their proposed contributions, and the scope of the land they are interested in developing, this conversation can potentially lead to results that will assure the satisfaction of the Comp Plan’s more innovative goals (e.g. the green belt, new gateway features, a deliberate pace, etc.).

14. APPOINTMENTS

15. ADJOURNMENT