

**From:** deerparkneighbors@comcast.net  
**Subject: June Events from Deer Park Neighbors**  
**Date:** June 1, 2006 9:10:46 AM CDT

Dear Neighbors,

Welcome to summer. Two important local events invite your attention.

[Sunday, June 4, the DPN Open House will feature our own "Cliff Notes on Budget and Appropriations." \(See Hearing Notice Below.\) 2-4 pm, Palatine Senior Center, 505 S. Quentin Rd.](#)

A number of our members--former trustees and commissioners--will explain how the budgetary process and appropriations ordinance work, the specifics of of the new Fiscal Year (last year ended April 30), and how this process impacts each and every one of you.

This information will prove vital to you when you attend the next Board of Trustees Meeting, Monday, June 19, 7 pm, Quentin School. This notice was published in the Daily Herald.

[Notice of Public Hearing Village of Deer Park, Lake and Cook Counties, Illinois Approval of the Annual Appropriation NOTICE IS HEREBY GIVEN that at 7:00 p.m. on the 19th day of June, 2006 at the Quentin School, 21250 Shirley Road, Deer Park, Illinois, a Public Hearing will be held by the President and Board of Trustees of the Village of Deer Park, Lake and Cook Counties, to consider the approval of the annual appropriation for 2006-2007. The proposed appropriation document will be accessible for examination at the Village Hall office located at 23680 West Cuba Road in the Village of Deer Park. All interested persons will be given an opportunity to be heard at the Public hearing. By order of the President and the Board of Trustees of the Village of Deer Park, Lake and Cook Counties, Illinois. DATED this 25th day of May, 2006. /s/ H. Scott Gifford Village President /s/ Kari Diesen Dahl Village Administrator Published in Daily Herald May 30, 2006 \(3753914\)N](#)

At the appropriate (no pun intended) point on the agenda, President Gifford will ask for a motion to open a Public Hearing. During the Public Hearing, residents may ask questions about line item appropriations--with which you will be familiar because you came to our Open House.

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Frankly, this point in the agenda may well come late in the evening--just the way things are! As we like to say, democracy doesn't exist in a vacuum, it requires citizenship. So please, do what you need to do (baby sitters or bring the kids, alternate with your

spouse as to who attends meetings, bring a pillow to sit on) to participate in your hometown government.

Dollars and cents, what could be more a matter of public scrutiny. After all, it is your money!

Included in this email are two items: First, attached is John Lahr's UNOFFICIAL SUMMARY of the budget proposed 4/24/06--there may have been changes since then, this is what we have right now.

Second is the complete text of a letter written to President Gifford by Sarah Klaper, community lawyer, Citizen Advocacy Center. Of course, we have this letter signed by her and on CAC letterhead, but wanted to transmit its content to you in the most efficient manner. You may certainly write back to request a fax or copy of the original.

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As you may know, DPN has been working with Citizen Advocacy Center for several months. Their motto is "Building Democracy for the 21st Century," and their web site is <http://citizenadvocacycenter.org>.

President Gifford had contacted Sarah after her last appearance at a Trustees' meeting and asked her how the village can improve communications with residents. Sarah's letter outlines, objectively and from a legal point of view, precisely how his goals can be achieved. This is a terrific opening of a new dialogue.

Deer Park Neighbors were on the Agenda for the May 15 Trustees' meeting. We hoped to cover the matters in the CAC letter, but the hour was late and there were many other items still to be covered by the board. Out of consideration for the board's time, we requested to defer the discussion on the agenda to the June 19 meeting. We also passed out copies of this letter to our Trustees.

We won't know until the Friday before the meeting if Deer Park Neighbors is on the agenda, but these subjects deserve careful and open discussion, as they are matters of law that extend far beyond our village.

At our July and August DPN meetings, we will offer "Cliff Notes" on the Freedom of Information Act and the Open Meetings Act. That's what we're about, "community education, community action." First, we research, learn and discuss; then, where needed, we take action.

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Please take a moment to **REPLY AND ANSWER A FEW BRIEF QUESTIONS.**

1. Will you attend the DPN meeting June 4?
2. Will you attend the VODP Board of Trustees Meeting/Hearing June 19?
3. Can you tell three new people about Deer Park Neighbors and ask them to join our email list?
4. What are the top village issues that affect your property or subdivision?
5. Can you volunteer some of your time (or funds) to support our newsletter and web site?

Finally, if you have suggestions for how we at Deer Park Neighbors can better embrace your individual concerns or better schedule meetings, phone conference, appearances at your subdivision meetings, just call or email.

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To add or remove an address from this email list, simply hit REPLY and put the word "ADD" or "REMOVE" in the subject line. We will not share this email list with anyone.

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[Unofficial Proposed Budget Summary prepared by John Lahr](#)

Text of letter from Sarah Klaper, Citizen Advisory Center, to President Scott Gifford

May 8, 2006

Scott Gifford,  
President  
Village of Deer Park  
23680 Cuba Rd.  
Deer Park, Illinois 60010-2490

RE: Open Government

Dear President Gifford:

You contacted my office requesting input regarding ways to improve both the management of Deer Park, and interactions with concerned citizens. As I advised on the phone, I discussed the matter with the leadership of the Deer Park Neighbors. Their concerns are numerous, but ultimately fall into three categories: open government issues, appearances of impropriety, and zoning code/statute compliance. I break down the concerns below:

Open Government

1. Compliance with the Illinois Open Meetings Act
  - a. The Open Meetings Act requires all meetings of a public body to be properly noticed at least 48 hours in advance, and that no vote be taken on any item not on that properly-noticed agenda. The Act and corresponding case law are clear that public business is to be conducted in public. Our office has represented a client on this issue at the Second District Appellate Court on two occasions. The court has remained steadfast

that proper notice is required for any “final action,” including a vote.

It is evident in Deer Park that many “emergency” votes are taken without proper notice to the public, over the phone as a “straw poll” to be verified at a later meeting. Such phone votes/straw polls are a clear violation of the Open Meetings Act. If an emergency exists, the Act specifically provides a process for calling special meetings, and the proper notice for those meetings. Illinois courts could not be more clear on this issue. The Deer Park Board of Trustees must immediately stop meeting by phone without giving the public proper notice and the opportunity to attend. “Straw poll” votes must also immediately cease as they are in stark contrast to the Open Meetings Act mandate for public bodies to conduct public business in public.

b. Section 2.06 of the Open Meetings Act dictates that minutes of public meetings shall include both a summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken. The above language is mandatory, not permissive. The Board’s vote in April to eliminate discussion from meeting minutes is a direct violation of the Open Meetings Act. The new Deer Park policy effectively prevents any member of the public who could not attend a meeting from being able to know what happened and why it happened. It eliminates the public from the process, and gives both the public and public officials very little to rely on when holding their representatives accountable.

c. Individuals in attendance at Board of Trustees meetings find that it is extremely difficult to hear the discussion of their representatives. It was somewhat disturbing at the April Board meeting to have the public ask you and the Board to speak up, and then to have the elected officials actually speak more softly. Again, the purpose of the Open Meetings Act is to ensure that public bodies deliberate and conduct the people’s business in public. Conducting a meeting in a manner that does not allow anyone to hear the meeting does not meet the requirements of the Act. In the Gerwin case, the Appellate Court discussed at length the mandate that meetings be held in a “convenient” location – in that case, one that accommodated a large crowd so that all could hear and participate properly. A meeting location cannot be considered convenient if, as in Gerwin, the public is effectively shut out of the meeting because they cannot hear and participate. This issue can be easily remedied by purchasing a wireless/portable microphone system that can accommodate all of the meeting participants.

d. The fact that Deer Park permits public comment at its meetings is a good thing. Public comment provides the people with an opportunity to interact with their representatives as a whole. Attempting to limit public comment based on viewpoint (i.e. eliminating criticisms of public employees) is unconstitutional, as has been held repeatedly by the federal courts, and serves only to chill public participation in the process.

e. The complete Board packet should be available to the public, press, and community groups who request it, at least 48 hours prior to each meeting. It is impossible for the public to fully understand or participate in the discussion of public business if they do not know what is being discussed and voted upon because they cannot review the packet prior to the meeting. If you do not want to make numerous extra copies, have at least two copies available for review and possible copying (without a FOIA request) at the Clerk's office at least 48 hours prior to the meeting, and post a copy online. Preventing the public from fully understanding the subjects up for discussion and votes prior to a meeting shuts the public out of the governmental process.

f. The Deer Park Village Board and subsidiary body meetings should be broadcast on the local cable television outlet. Cable broadcast can and should be negotiated into the cable franchise agreement. Broadcasting the Village Board meetings allows everyone in the Village to view and become informed as to the business of their village.

2. Compliance with the Illinois Freedom of Information Act:

a. Your attitude toward Freedom of Information Act ("FOIA") requests as documented in the recent Daily Herald article is disturbing. The records requested are public records, and should be easily accessible to the public. The purpose of the FOIA is to open government by making records readily available to the public, not to find any means possible to deny the request.

b. You complained in that article that FOIA requests have cost the Village large amounts of money. Two easy solutions can combat that issue. First, place as many public records on-line as possible. In that way, the Clerk can refer requestors to the website, and avoid FOIA requests almost in their entirety. Second, stop routing every FOIA request through the village attorney. Routine requests for minutes and other standard documents can easily be filled by the Clerk without an attorney consultation.

c. The Village should move in the direction of most other public bodies in the collar counties by putting information regarding citizen rights under Freedom of Information Act online, and by placing an email-able FOIA request form online. In today's day of technology, individuals should not have to go to village hall to request information when the request could be made online.

d. Case law and Attorney General Opinions are clear that records requested pursuant to the Freedom of Information Act are to be supplied in the manner in which they are kept and requested. Therefore, if a public record is maintained in an electronic format (i.e. meeting minutes), the requestor may ask for the record to be supplied on a computer disk or flash drive. The Village does not have the right to refuse a request for a record both maintained electronically, and requested in an electronic format. The cost for an electronic FOIA request is then merely the cost of the disk or flash drive, if provided by the Village.

### Appearance of Impropriety

1. The Deer Park Code permits the president to appoint an Ethics Advisor. It seems that now would be the appropriate time to appoint that Ethics Advisor considering the issues that continue to be raised regarding conflicts of interest. The Ethics Advisor would be the perfect vehicle to investigate those charges, and to either act on the charges, or put them to rest. Given that the Ethics Advisor language is already in the Deer Park Code, now would be an excellent time to actually appoint a well-qualified trustee to that position.

2. Deer Park residents frequently bring up issues regarding Mr. Hargadon's representation of the village while he represents developers working on open projects within the village. The legal conflict of interest issue is something for the ARDC to determine. However, this type of dual representation raises an eyebrow of an appearance of impropriety, and provides the public with little confidence that their interests are really being represented. You have made statements that the Village waived any potential conflict. Your statements beg the questions – When was the waiver given? For what representation? When and where was it discussed? Was the waiver in writing? Where is the written waiver? The fact that these questions have not been answered leads to the appearance that the Village Trustees did not consider the implications of a waiver, and whether that waiver was in the best interests of Deer Park. In order to demonstrate your commitment to open government, you should address the public on this issue, answer the obvious questions about the propriety of dual representation, and provide the public with any documentation in the Village's possession regarding the waiver.

### Zoning Code/Statute Compliance

1. On May 1, 2006, the Planning Commission gave final approval to the Red Seal development. However, the necessary steps to render a decision regarding Red Seal have not been completed. For example, the purchaser of the 2.33 acres of surplus land has not been determined. Red Seal has not yet purchased the property. It is improper for the Board to consider density calculations based on property that is not owned by the Petitioner to date. Further, despite your assurances on the phone and in the Daily Herald, it is my understanding that the Village is not securing a certified appraisal of the surplus property scheduled to be sold. The Municipal Code at 65 ILCS 5/11-76-4.1 clearly mandates that an appraisal is required. Without an appraisal, the Village cannot comply with the rest of Section 5/11-76-4.1, dictating that property cannot be sold for less than 80% of the appraised value. Without a certified appraisal, the Village cannot know that it is getting a fair price for its property.

2. Where is the need study that was to be compiled prior to development approval, per the Village Code §153.15? The Clerk states that no study was completed, but that it was an obvious need. The purpose of the study is to have the need assessed objectively instead of relying on a subjective opinion. If the study has not been done in compliance with the village code, the development cannot continue.

The above-listed issues lead to a credibility gap between the Village leadership and the residents. To address that credibility gap, the Village can take several steps. First, open the processes of government as detailed above. The Village Board conducts the peoples' business, and the people should be a greater part of that business. Second, follow Village ordinances to ensure that the proper procedure is in place and that decisions are being made in the best interests of the Village. Third, engage in a dialogue with residents that is a partnership instead of adversarial. The Deer Park Neighbors are not an anti-progress or anti-development organization. Instead, they merely want to know that the law is being followed, that the residents' concerns are being addressed, and that the best interests of the Village are at the heart of every decision.

I look forward to your reply and implementation of the above-listed policies and procedures.

Yours truly,

Sarah Klaper  
Community Lawyer