

**VILLAGE OF HINSDALE
VILLAGE BOARD OF TRUSTEES
MINUTES OF THE MEETING
March 17, 2009**

The Hinsdale Village Board of Trustees regularly scheduled meeting was called to order by President Michael Woerner in Memorial Hall of the Memorial Building on Tuesday, March 17, 2009 at 7:30 p.m.

Present: President Michael Woerner, Trustees Jean Follett, Tom Cauley, Kevin Connor, Cindy Williams, Bob Schultz and Michael Smith

Absent: None

Also Present: Village Attorney Ken Florey, Village Manager Dave Cook, Assistant Village Manager/Director of Finance Darrell Langlois, Director of Community Development Tim Bleuher, Police Chief Brad Bloom and Deputy Village Clerk Christine Bruton

Also Present: Christine Martin with the Tribune, Don Grigus with the Hinsdalean, Ken Knudson with the Suburban Life and Amy Deis representing The Doings

PLEDGE OF ALLEGIANCE

President Woerner led those in attendance in the recitation of the Pledge of Allegiance.

APPROVAL OF MINUTES

Trustee Williams moved **approval of the Closed Session Minutes of February 3, 2009 and the Closed Session Minutes of February 17, 2009 of the Village Board of Trustees.** Trustee Connor seconded the motion.

AYES: Trustees Follett, Cauley, Connor, Williams, Schultz and Smith

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.

CITIZENS' PETITIONS

(Pertaining to items appearing on the agenda)

President Woerner asked those citizens wishing to speak to the Garfield project to hold their comments until that agenda item is addressed for the sake of continuity.

Mary Angelo, 525 E Third Street, thanked Chief Bloom, the Deputy Chief and police station staff for assisting her daughters earlier this year in acquiring the information they needed to go out of the country. She said they were very helpful.

VILLAGE PRESIDENT'S REPORT

President Woerner explained that life-long resident Jerry Sweeney had introduced him to Mr. Richard R. Boykin with Barnes & Thornburg, LLP. Mr. Boykin is a Washington lobbyist and could help secure funds for Hinsdale from the stimulus package. President Woerner and Trustee Cauley met with Mr. Boykin yesterday. Mr. Boykin addressed the Board providing his personal and professional background. He looks for ways to bring resources back to communities; many communities are already positioning themselves to take advantage of federal resources. The stimulus bill can fund infrastructure projects throughout the State, but you have to be in a position to get the money. He also remarked that there hasn't been a capital bill in Springfield in nine years. Governor Quinn will be putting together a bill this year and there will be a project call in April from communities. Through the stimulus, grant funding and the capitol bill there are funds available to communities throughout the State.

Trustee Williams expressed concern that there is very little time for the request for proposal process; this could be very expensive and there are no guarantees. Mr. Boykin said there are already people in Springfield talking about their projects; he stated he would welcome an RFP, but it would take precious time. He said he is mindful of expenses and is cost conscious. Trustee Connor said we need to look at ways to fund projects, and we need to follow up with this idea as a Board. Trustee Smith recommended that this item be put on a Board agenda for resident input. The Board will discuss this matter on April 7th.

CONSENT AGENDA – (Omnibus Vote)

Items Recommended by Zoning & Public Safety

- a) Ordinance Approving Site Plans and Exterior Appearance Plans for Modifications to an Office Building at 534 E. Chestnut (*removed from consent agenda*)
- b) Ordinance Amending Section 9-1-4 ("Permit Fees") of Chapter 1 ("Administrative Provisions") of Title 9 ("Building Regulations"), of the Village Code of Hinsdale regarding Permit Fees for Work Performed Without a Permit

- c) Denial for the Request for a Waiver of Fees for the Permit Extension Required to Complete Work at 203 N. Adams
- d) Denial of a Waiver of Fees for the Permit Extension Required to Complete Work at 347 E. Hickory
- e) Deny Pursuing a Community Planning Grant based upon the need to develop a list of deliverables that meets the Regional Transit Authority's (RTA) requirement for a planning-centric scope of services
- f) Ordinance Authorizing the Sale and/or Disposal of Items of Personal Property Owned by the Village of Hinsdale
Items Recommended by Environment & Public Services
- g) Ordinance Amending Subsection 7-4B-2(A) of the Village Code of Hinsdale Regarding Water Rates
- h) Approval of the Installation of a Public Storm Sewer on South Park Street and the Connection to the Main on Third Street for the Purposes of Draining a Localized Flooding Problem at 125 S. Park Street (*removed from consent agenda*)
- i) Ordinance Amending Title 7 (Public Ways & Properties), Chapter 7 (Streets & Sidewalks), Article B (Excavations), Section 7 (Excavation Restoration) of the Village Code of Hinsdale (*removed from consent agenda*)
- j) Award Bid #1450 Custodial Services to Dan Mar for a two-year period in the amount of \$99,963.00.
- k) Award Bid #1451 Elm Tree Inoculation Program to Landscapes Management in the comparative bid amount of \$144,950.00.
- l) Award Bid #1452 Service of Gasoline Delivery to Texor Petroleum Company with the bid comparison quantity of \$13,465.66.
- m) Award Bid #1453 Sewer Cleaning, Televising, and Root Cutting to American Underground, Inc in the contract price of \$39,600.00.
- n) Award Bid #1454 Tree Removal for FY 2009 – 2010 to Homer Tree Care, Inc. in the bid comparison quantity of \$42,975.00.
- o) Award Bid #1456 Annual Leak Detection Survey to the M.E. Simpson Co., Inc. in the amount of \$13,600.00.
- p) Award Bid #1457 Service of Mosquito Abatement to Clarke Mosquito Control for a three-year period in the amount of \$161,566.00.
- q) Award Bid #1458 Fertilizer and Pest Control to Tru-Green Limited Partnership in the amount of \$35,720.00.

President Woerner read the consent agenda as presented. Trustee Smith requested that Items a) and h) be removed from the consent agenda. Trustee Follett noted that the amended copy of Item i) had not been redistributed to the Trustees, it was also pulled from the consent agenda. Trustee Williams moved to **approve the Consent Agenda as amended**. Trustee Follett seconded the motion.

AYES: Trustees Follett, Cauley, Connor, Williams, Schultz, Smith

NAYS: None

ABSENT: None

Motion carried.

Ordinance Approving Site Plans and Exterior Appearance Plans for Modifications to an Office Building at 534 E. Chestnut

Trustee Smith stated that Section 3 of the ordinance does not specify the distance of fence from the sidewalk, but he believes that 25' was the agreed upon distance. Trustee Cauley and Mr. Cook concur that 25' was the recommendation of the Committee. Mr. Cook agrees that Section 3 should be amended to include the specific distance. Trustee Smith moved to amend the **Ordinance Approving Site Plans and Exterior Appearance Plans for Modifications to an Office Building at 534 E. Chestnut, Section 3(G) to include the specification of 25'**. Trustee Cauley seconded the motion.

AYES: Trustees Follett, Cauley, Connor, Williams, Schultz, Smith

NAYS: None

ABSENT: None

Motion carried.

Trustee Smith moved to approve the **Ordinance Approving Site Plans and Exterior Appearance Plans for Modifications to an Office Building at 534 E. Chestnut, as amended**. Trustee Cauley seconded the motion.

AYES: Trustees Follett, Cauley, Connor, Williams, Schultz, Smith

NAYS: None

ABSENT: None

Motion carried.

Approval of the Installation of a Public Storm Sewer on South Park Street and the Connection to the Main on Third Street for the Purposes of Draining a Localized Flooding Problem at 125 S. Park Street

Trustee Smith watched the EPS meeting and the conclusion of the Committee made sense. However, where will the water go when it comes out of the sewer on Third Street? Trustee Follett commented that it will go to Princeton, which will be taken care of by the Veeck Park project. Trustee Smith is concerned that one resident's problem will become someone else's problem. Discussion followed regarding the timing of the redirect from Third Street and the connection to Veeck Park and the overall impact of this added water on Princeton. Trustee Smith is also concerned that this is precedent setting. Trustee Follett noted that we have a plan in place to

separate the sewers, so if we are committed to the plan, then we will see this problem be taken care of. Mr. Bill Seith addressed the Board stating that if this is done before the Third and Princeton fix, it could be a problem for Flagg Creek. Trustee Connor recommended approving the ordinance but delaying the start of the project until Third and Princeton is fixed. FCWRD would need to be notified and they will ask for a delay, noted Mr. Seith.

Trustee Follett moved to approve **the Installation of a Public Storm Sewer on South Park Street and the Connection to the Main on Third Street for the Purposes of Draining a Localized Flooding Problem at 125 S. Park Street, subject to it being done after installation of the bypass at Third and Princeton.** Trustee Cauley seconded the motion.

AYES: Trustees Follett, Cauley, Connor, Williams, Schultz, Smith

NAYS: None

ABSENT: None

Motion carried

**Ordinance Amending Title 7 (Public Ways & Properties), Chapter 7
(Streets & Sidewalks), Article B (Excavations),
Section 7 (Excavation Restoration)
of the Village Code of Hinsdale**

Trustee Follett explained the ordinance requires flowable fill to be used by private contractors during street excavation, but it allows the Village to be exempt from the ordinance and to use flowable fill at their discretion. Trustee Cauley seconded the motion.

AYES: Trustees Follett, Cauley, Connor, Williams, Schultz, Smith

NAYS: None

ABSENT: None

Motion carried

ADMINISTRATION AND COMMUNITY AFFAIRS

Trustee Williams moved **Approval and Payment of the Accounts Payable for the period of February 27, 2009 through March 13, 2009 in the aggregate amount of \$552,380.95 as set forth on the list provided by the Village Treasurer, of which a permanent copy is on file with the Village Clerk.** Trustee Follett seconded the motion.

AYES: Trustees Follett, Cauley, Connor, Williams, Smith

NAYS: None

ABSENT: Trustee Schultz

Motion carried.

ENVIRONMENT AND PUBLIC SERVICES

Trustee Follett said that as a result of the efforts of the residents on north Washington Street and staff, the EPS Committee will bring to the Board in April a proposal to replace this street with bricks. The cost will be shared by residents and the Village.

ZONING AND PUBLIC SAFETY

Garfield III Text Amendments

President Woerner introduced the item and read the findings of fact from the Plan Commission, there were 10 items and their voting recommendations. Mr. Kluchenek and Mr. Byrnes from the Plan Commission were present and addressed the Board to give the commission's rationale and thoughts behind their decisions. Of the three proposed text amendments, two were approved. The one that wasn't was the trailer tractor amendment. They heard fairly substantial testimony regarding the potential of semi-truck deliveries, although there wasn't any evidence or empirical data that there were semi-truck deliveries. Other significant buildings do not have a truck turn around, they generally have alleys but this property does not. The question was, is there adequate egress and ingress for safety and not tie up traffic. Different solutions were discussed but none were satisfactory, which is why they recommended unanimously not to approve this text amendment. Director of Community Development, Mr. Tim Bleuher stated a revised traffic study would be available by Thursday.

Jeff Findlay, Chairman of Zoning Code Rewrite Task Force, addressed the Board regarding form based zoning wherein a building would be consistent with the existing area. None of that impacts the text amendments before the Board this evening he said.

Yvonne Mayer, a Burr Ridge resident and middle school parent expressed safety concerns with respect to Garfield III. She asked the Board to follow the Plan Commission recommendation for the safety of students and pedestrians. She said a federal study in 2006 estimates an average of 129 back-over injuries per week.

Kim Angelo, 525 E. Third Street, addressed the 3 text amendments. A group of residents filed an appeal to the ZBA regarding the certificate of compliance issued by the Village Manager. He read in the paper that the Village Manager did not forward the appeal. He believes residents are being denied due process. He accused Village Attorney Florey of making prejudicial statements to the local papers. He urged the Board to affirm the findings of the Plan Commission in the Garfield III matter.

Laura Running, 22 S. County Line Road, stated she is opposed to the Garfield project, particularly the text amendment regarding trucks. She feels this location is the gateway to our Village and we should be in no rush to approve a building that is not well-designed and compatible.

Charles E. Crook, an urban planner from Lake Forest spoke to the Board on behalf of the Alliance for Hinsdale. Section 9-105(c)3 requires development be designed to prohibit backing out of the site, but this section does not specify how the developer should address this situation. To the best of his knowledge every community he knows would not consider this amendment. This property is not served by an alley, and is adjacent to a middle school, there are semi-trucks in our downtown and there will be large vehicles coming to this site. Further, he knows from personal experience they will deliver when they want and can't be controlled. Regarding the traffic study, there hasn't been a final study and for them to comment that a turn-around is not necessary was gratuitous. Development traffic needs to be analyzed in terms of the school activity. Trustee Cauley asked if certain other types of trucks could turn-around here. Mr. Crook did not know, but said that we should expect that all kinds of trucks will be used.

Phil Moriarty, 914 Harding, believes the developer has demonstrated unconscionable disregard of our young residents. The Board has an ethical responsibility to protect the health, safety and well-being of the children and deny this text amendment.

Beth Barrows, 319 N. Washington, stated that she is a teacher and knows that this Board takes school issues seriously. She referenced the impending need for portable classrooms at Hinsdale Middle School. Regarding the Garfield issue, she said there are four major egresses on Garfield between 1st and 2nd Streets and thinks there should be a traffic study done on this matter.

Bill Seith, 917 Cleveland, noted that there was once a grocery store and an active parking lot at that location, to suggest there is a potential traffic or safety issue might be borne out from historical data from that time period. With respect to trucks, the service entrance is off First Street not Garfield. Secondly, if a turn-around is required for Garfield, he asked the Board make a consistent application. When this Board recently considered Lincoln and First Street, the same issue was

discussed and it was decided the building owner didn't need the turn-around. If the Board decides this isn't necessary in downtown Hinsdale, perhaps they should go thru the process to remove it from the code. He noted that backing up happens at the Corner Bakery alley; the problem already exists.

Richard Gammonly, representing Anno Domini, commented that the Hinsdale zoning code was adopted in the mid-80's and the truck turn-around is leftover from the Northbrook code of that time, the model for the existing Hinsdale code. The text amendments are for the B2 district not for this particular site. He named numerous towns with similar demographics as Hinsdale; they don't have truck turn-arounds. No property in the Village has a tractor trailer turn-around. The traffic study was done for the site plan and exterior review, not for the text amendments; however, the traffic study is an expert opinion. He believes that retailers can be instructed on what kind of truck to use.

Karl Weber, remarked that this new building will be there for 100 years and we don't know what will be in there, but we do know that today semi-trailers come into town every day and businesses can't dictate what people drive.

Ruben Peña, Hinsdale Middle School principle, expressed concern about heavy school bus traffic and safety during and after construction. He has worked with Chief Bloom to manage current traffic; to try to mitigate traffic backup by various measures, but reiterated the substantial number of students coming from The Lane School moving forward.

Jeff Findlay, stated to clarify that a number of the buildings mentioned by Mr. Gammonley are grandfathered in and he himself had a brush with a semi-truck this winter.

Ordinance Amending Article IX (District Regulations of General Applicability), Section 9-105 (Off Street Loading) Subsection D (Required Spaces) of the Hinsdale Zoning Code (Plan Commission Case No. A-11-2008)

Trustee Follett moved to approve an **Ordinance Amending Article IX (District Regulations of General Applicability), Section 9-105 (Off Street Loading) Subsection D (Required Spaces) of the Hinsdale Zoning Code**. Trustee Schultz seconded. Trustee Follett commented that this is common sense; you don't want multiple loading docks. The Plan Commission unanimously approved this item.

AYES: Trustees Follett, Cauley, Connor, Williams, Schultz, Smith

NAYS: None

ABSENT: None

Motion carried

**Ordinance Amending Article V (Business Districts), Section 5-102
(Permitted Uses) of the Hinsdale Zoning Code
(Plan Commission Case No. A-11-2008)**

Trustee Follett moved to approve an **Ordinance Amending Article V (Business Districts), Section 5-102 (Permitted Uses) of the Hinsdale Zoning Code**. Trustee Schultz seconded the motion. Mr. Florey explained that this ordinance clarifies that when a dwelling unit is part of a project in the B2, no setbacks apply only lot areas. This item is a clarification and provides an opportunity to avoid litigation on the setback issues. Trustee Smith asked for clarification of the implications of approval of this ordinance. Community Development Director Tim Bleuher explained that only bulk regulations, the density of the units, would apply. Mr. Cook stated that one dwelling per 5,000 square foot of lot area is applicable; that is the provision that kicks in from the R-5. In the case of the Garfield property, that would allow a maximum of 6 units. All other restrictions of the B2 still apply; height and all other restrictions.

Attorney Bob O'Donnell representing the Alliance for Hinsdale, addressed the Board stating that R5 requirements apply to business district condos, he referenced Section 5-102(g). He outlined his interpretation of the code based on this section. Dwelling units are not permitted in the R5 district only in the R6; a special use permit is necessary to put condominiums in the R5 district. The applicant asked for relief for dwelling units in the B2 district from the dimensional requirements, he did not ask for relief from use restrictions in R5. Multiple family dwellings in the B2 should still require a special use permit. The Plan Commission made the changes that are before the Board tonight. Dwelling units shall be subject to the lot provision applicable to the R5 district; only lot area provisions would remain. This ordinance eliminates the need for a special use permit and will eliminate a regulatory process and control. He believes there are implications far beyond this project. It eliminates a use restriction, allowing condos or multiple family dwellings in the B2. Mr. Florey commented that he disagrees with Mr. O'Donnell's interpretation of the code. In Section 5-102(g) the code states that a dwelling unit is a permitted use in the R5 district not a special use. Mr. O'Donnell referenced Section 4-103(d) to make his point. Trustee Cauley asked for clarification of what regulation would be sacrificed. Mr. O'Donnell referenced Section 11-602(e) wherein standards for special use permits are specified that an applicant must satisfy; these are the regulatory controls that would be lost. Mr. Florey said this is an example of more confusion under our code. Trustee Follett stated that these sections conflict, both are in the code, one does not supersede the

other. It was noted that the Plan Commission approved this unanimously. Mr. Cook clarified that dwelling units include condos by definition in our code and based on definition, dwelling units are permitted in the B2. Density is the key regulatory control and would prohibit any large apartment dwellings. Mr. O'Donnell said the code requires it be interpreted in the most restrictive manner.

AYES: Trustees Follett, Cauley, Connor, Williams, Schultz

NAYS: Trustee Smith

ABSENT: None

Motion carried

Ordinance Amending Article IX (District Regulations of General Applicability), Section 9-105 (Off Street Loading), Subsection C (Design and Maintenance) and Subsection D (Required Spaces) of the Hinsdale Zoning Code (Plan Commission Case No. A-11-2008)

President Woerner suggested deferring this item until the Board receives the updated traffic report. Trustee Schultz moved to approve an **Ordinance Amending Article IX (District Regulations of General Applicability), Section 9-105 (Off Street Loading), Subsection C (Design and Maintenance) and Subsection D (Required Spaces) of the Hinsdale Zoning Code**. Trustee Follett seconded the motion. Trustee Cauley read the current code regarding maneuvering space on the zoning lot for turn-around, allowing no backing up. Further, he has heard nothing tonight to overturn the Plan Commission recommendation. Trustee Smith agrees, and thinks this ordinance is misleading in the second 'whereas' paragraph regarding the Plan Commission recommendation. Mr. Florey said this should be changed to read disapprove, Trustee Smith is correct, this is a typographical area. Trustee Smith said without the in-depth traffic study during school time, he has reservations about safety, too. Trustee Connor asked staff to confirm that the difference between the current and expected traffic study only relates to the half hour between 2:30 and 3:00. Mr. Cook said that was correct, and it would also include any empirical data on the recommendation as to whether a truck turn-around should not be required, and making left hand turns onto Garfield. Trustee Connor asked if the Village had any experience with the enforcement with deed restrictions on a property. Police Chief Bloom Brad said he didn't know how we would enforce a deed ordinance or a zoning rule. Mr. Florey said municipal code can be corrected to address traffic issues. Chief Bloom stated that he believes it is safer to have the trucks on the main roadway, if a truck doesn't have to cross a sidewalk it's safer. Trustee Follett noted that there were fully occupied buildings on this site in the past that involved deliveries, it is very

important to keep in mind that there can be a maximum of six dwelling units and three, maybe four businesses. This is not a large number of occupants and this is a relatively small project. The traffic is primarily generated by HMS activity; we have the power to regulate this and create the safety solution—audible and visual signals. People are having trouble separating the specifics of this project from the applicability of the whole central business district. There should be universal applicability in the district and consistent application. Trustee Smith commented that delivery by semi-tractor is a real concern and should remain a requirement of the zoning code. The Plan Commission spent a lot of time talking about this and did a great job separating the building from the issue, their Finding #7 reflects this; to push this thru would compromise the work of the Plan Commission.

President Woerner asked the Deputy Clerk to call the question.

AYES: Trustees Follett, Connor, Williams, Schultz

NAYS: Trustees Cauley and Smith

ABSENT: None

Motion carried

REPORTS FROM ADVISORY BOARDS AND COMMISSIONS - None

STAFF REPORTS

Village Manager Cook introduced new Assistant Village Manager and Finance Director Darrell Langlois to the Board and welcomed him to the Village.

CITIZENS' PETITIONS - None

Pertaining to any Village issue

TRUSTEE COMMENTS

Trustee Smith asked the Village Manager about his role as the chief ethics officer, he is concerned about current campaign references that he believes would be a violation. Mr. Cook stated that the current ordinance gives the Village Manager a guidance role, there is nothing addressing violation reporting and how a hearing would proceed. The State law talks about misuse of funds, property, or campaigning on paid time and in reference to what Trustee Smith is referring to, those standards have not been breached. Attorney Florey confirmed Mr. Cook's statement.

ADJOURNMENT

President Woerner referenced the impending need for portable classrooms at HMS. He explained that we have a parking contract with HMS which is up in 2010 and that HMS leases the old caretaker's cottage at KLM from the Village. There is a need for a closed session to discuss this matter. Trustee Connor moved to **adjourn the meeting into Closed Session not to reconvene under 5 ILCS 120/2(c)(1) for the purpose of discussing appointment, employment and compensation of employees, 5 ILCS 120/2(c)(5) for the purpose of discussion Lease of Real property and 5 ILCS 120/2(c)(11) for the purpose of discussing pending litigation.** Trustee Cauley seconded the motion.

AYES: Trustees Follett, Cauley, Connor, Williams, Schultz, Smith

NAYS: None

ABSENT: None

Motion carried.

Meeting adjourned at 10:15 p.m.

ATTEST: _____
Christine M. Bruton, Deputy Village Clerk