

**VILLAGE OF HINSDALE  
BOARD OF TRUSTEES  
MINUTES OF THE MEETING  
June 5, 2007**

The regularly scheduled meeting of the Hinsdale Village Board of Trustees was called to order by President Woerner in Memorial Hall of the Memorial Building on Tuesday, June 5, 2007 at 7:58 p.m.

Present: President Michael Woerner, Trustees Jean Follett, Thomas Cauley, Vic Orlor, Cindy Williams, Bob Schultz and Michael Smith

Absent: None

Also Present: Village Attorney Ken Florey, Village Manager Dave Cook, Assistant Village Manager/Director of Administration Doug Cooper, Police Chief Brad Bloom, Fire Chief Pat Kenny, Director of Public Services George Franco, Director of Parks and Recreation Carrie Hauptert, Director of Community Development Tim Bleuher and Deputy Village Clerk Christine Bruton

Also Present: Eric Martin of The Doings, Christine Martin, freelance writer for the Chicago Tribune and Polly Rix of The Hinsdalean.

**PLEDGE OF ALLEGIANCE**

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

**APPROVAL OF MINUTES**

Trustee Follett moved approval of the May 1, 2007, May 15, 2007 and the April 17, 2007 Closed Session Village Board of Trustees meeting minutes. Trustee Williams seconded the motion.

**AYES:** Trustees Follett, Cauley, Orlor, Williams, Schultz and Smith

**NAYS:** None

**ABSENT:** None

Motion carried.

**VILLAGE PRESIDENT'S REPORT**

President Woerner approached the podium to deliver his remarks. He stated that he felt it was appropriate to review and reaffirm the comments he made when he took office two years ago. The leadership traits he embraced were inclusion, delegation, a transparent government and to improve all levels communication. To create a government where the Trustees are not afraid to ask hard questions and think outside the box. A proactive Board, a trusting team, embracing lively debate, committed, accountable and focused on the needs of the community.

The first task was to develop a strategic plan; authentic and respectful of a unique community. This is Hinsdale 2025. Over 200 volunteers participated, resulting in eight topics of community concern. Moving to implementation, there were 74 recommendations, all assigned to the various commissions, task forces and committees. To date, over thirty have been completed.

One of the main objectives regarding the proposed text amendment to the Zoning Code is to reduce legal fees. He outlined the communities that have an advisory Zoning Board of Appeals. The Village Board Trustees vote on the recommendations of the ZBA. In the advisory scenario, a variation request would be reviewed by the ZBA, ZPS and the Village Board, whereas in Hinsdale a case is only heard once. This three step review process reduces litigation. President Woerner stated he welcomes the discussion and will always be committed to exploring ways to improve our governmental process. If a proposal is positive or right it will stand up to public scrutiny. He believes the Plan Commission should interview all involved people and make a finding of fact and a recommendation to the Village Board.

## CITIZENS' PETITIONS

**Mr. Karl Weber, 219 E. First Street**, has written each Trustee an email of his comments but reiterated his disagreement with the proposed change to the status of the ZBA. He stated that Hinsdale is a governmental microcosm and the Board is trying to take away the power of the judiciary. Further, a 'zoning czar' can be wined and dined by developers with lots of money.

**Mr. Jim Johannesen, 222 E. Fourth Street**, is attempting to develop his property Fourth and Elm. He believes it is dangerous to bury our heads and not look at other options that might eliminate the flawed processes of the ZBA. He remarked on the politics of obstruction and delay. He outlined the specifics of the delays he has experienced and applauds and appreciates efforts to find a better way.

**Mr. Ralph Mueller, 1202 Hawthorne Lane**, stated he feels the Hinsdale Club deliberations are a 'banana republic'. He further stated due process has been violated, there is no transparency and Village officials are not listening to residents. The citizenry should be allowed to go to the ZBA to fine tune the proposal. There has been no opportunity to review the plans and wondered what the hurry is. It is the right of citizens to appeal.

**Mr. Nick Etten, 1214 Hawthorne Lane**, stated he is one of the signatories of the appeal. He feels it is a strong arm tactic to sue residents because they disagree with rezoning. He asked who authorized the filing, was it authorized by the Board, and why was it authorized.

Village Attorney Ken Florey responded regarding the declaratory judgment stating the Village could have responded by merely informing people that this item is not under the jurisdiction of the ZBA, but they felt this would result in debate. Therefore, they opted to take the high road and make the difficult choice to get an outside decision. There are no damages sought or liabilities from the residents who signed the appeal. The ZBA is authorized to review administrative decisions but they are a subordinate group to the decisions of the Village Board and therefore an appeal to the ZBA in this case is invalid.

**Tracey McGonigal, from Rathje & Woodward, LLC**, read a letter from Attorney Mark Daniel wherein he stated that it was his hope that the Board would not proceed with the text amendment. It is his opinion that the hearing officer process is not appropriate when there are capable citizens who give their time. This is an expensive proposition for the citizens and he suggested the item be referred back to the Zoning & Public Safety Committee for discussion of alternatives.

**Bob Nieman**, said he would attempt to try to tone down rhetoric and provide an explanation of why last week's actions are so upsetting and give President Woerner a chance to explain. Notices went out on Friday for a Special ZPS meeting the following Monday, a lawsuit was filed seeking a declaratory judgment that the ZBA had no jurisdiction and Mr. Woerner's quote in the paper all contributed to the problem before the Board. The hastily scheduled meeting gives the appearance of impropriety and the lawsuit seemed like a strong-arm tactic. Let the ZBA say they have no jurisdiction; send a letter explaining how the code works instead of a lawsuit. People feel the Village is jamming the Hinsdale Club down everyone's throat. He asked Mr. Woerner to explain these events.

President Woerner responded regarding the article in the Hinsdalean stating it was the result of a coincidental interview with the reporter, and that both he and Plan Commission Chair Laura LaPlaca were together. She said this is not a ZBA issue and that a PUD is never an issue heard by the ZBA. President Woerner stated he was frustrated that people would not listen to just words and he felt, at the time, that the strongest, fastest way to get clarity on the issue would be if a judge makes the ruling that this appeal is not to be heard by the ZBA. He decided this was the way to go. Further he apologized for the quote. Regarding the reference to the sheriff, the question by the reporter was 'don't you think these people will be surprised' to which he responded yes. He would like to put an end to frivolous lawsuits. He reiterated his intention was not to frighten people, but he was addressing the overload issue on the ZBA. The Zoning & Public Safety Committee had the Hinsdale Club on their May 21<sup>st</sup> agenda; however, no action was taken on the item. He discussed the scheduling of the Monday meeting with Trustee Michael Smith and they agreed to notice the meeting.

Mr. Nieman said that one more conversation with these people would have been in order; additionally he stated that he is not against this redevelopment, but thinks the scope and density are a problem.

**Mr. Phil Moriarity**, remarked that the current ZBA was appointed by the current Village President and approved by the Board and has served the community well. He commented on the high ethical standards exhibited by the ZBA.

**Mr. Michael Meissner**, architect, stated that the goal is for the community to thrive and the real issue is that the ZBA needs to be strengthened. The current ZBA Chair is a liability. The ZBA is not a court of law; it is a lay body of volunteers serving on a Board to provide relief for zoning hardships. He is proposing a temporary restraint on the current ZBA and to revisit this issue later.

**Mr. John Bohnen**, feels the action being considered tonight is a slippery slope and will be a detriment to the future of Hinsdale. The ZBA is outside the reach of politicians as it is currently established and transcends a particular administration as an independent Board. He believes the Village staff has misinformed variation applicants and that has resulted in ZBA cases. He applauded the Chairman and the members of the ZBA; they are the only safeguard the citizens have for a decision that is not influenced by politics.

**Mr. Dale Kleber, 120 E. Walnut Street**, provided history of the group CHART that he championed in 1995-1997. He outlined his personal experience with the ZBA this year, Case V-1-07, which was approved. He thinks the ZBA is conducting itself like the Supreme Court, but it is inefficient, expensive, lengthy and inflexible. Nevertheless, he thinks it would be a mistake to neuter the ZBA. The ZBA is a checks and balance structure of our government and, as such, should be maintained. He described the downside to an advisory body. If the ZBA is advisory, then the Village Board of Trustees will have many hours of deliberations before them as the final deciding body. He has heard rumors that Chairman Nelson has collaborated on the petition; if there is any truth to this, it needs to be discovered as it raises serious questions of propriety.

**Mr. Bill Haarlow, 112 N. Lincoln**, is a current member of the ZBA, and addressed the intent of the Board to reduce legal costs and streamline the process. Is not having an appeal process in place power to the government not to the people? The sequence of events bears a disturbing resemblance to Garfield. He described the process and the time line in the Johannesen case. He stated that Chairman Nelson runs things by the book and this can be time consuming, but it serves to protect everyone involved. There are reasons to be cautious and careful in order to protect and to set proper precedence. The ZBA has had nine meetings this year as opposed to the required five. The majority of cases heard are approved; just because some cases are not approved does not mean the system is broken. He asked the Board if they truly believe that one hearing officer is fairer and less influenced than a Board of seven rotating volunteer citizens. He asked the Board to approve an independent ZBA.

**Michael Ripani, 21 Camberly Court**, a former member of ZBA, stated he served two of his three years under Chairman Nelson, and asked the Board to deny the text amendment that would disarm the ZBA. To make the ZBA advisory makes it meaningless. The ZBA provides a necessary check and balance. All decisions of the ZBA can be reversed at the circuit court level. Residents are entitled to have their fellow residents remedy a dispute. Why not table the item and talk to members of the ZBA before proceeding.

**Kim Angelo, 525 E Third Street**, a current member of the ZBA, read the Request for Board Action attached to the proposed text amendment regarding the litigation costs the item is attempting to alleviate. He made the point that the extensive work and legal expertise provided by the ZBA is free.

**Mr. Mike Nelson, 424 N. Monroe**, stated he feels like Hinsdale is up for sale and believes the ZBA, as an independent body, is necessary to protect the citizens. Developers get what they want, and the residents get whatever is leftover. He asked the Board not to neuter the ZBA; the voice of the residents should take precedence now and in the future.

**Mr. Norm Chimenti**, attorney and former long time resident of Hinsdale, asked the Board to stay focused; the only matter before the Trustees is the idea of amending the code and that it is worthy of a full airing in a Public hearing, so that the hearing body can make recommendations. Whether or not the current system is flawed is irrelevant, this is an opportunity to review the system.

**Laura Johnson, 719 N. County Line Road**, commented that the functioning of an independent ZBA was indispensable. She stated that rushed meetings and a lack of information are eerily like Garfield. Why hastily and why now? She reminded the new Trustees of their campaign promises and Trustee Williams' remarks to the Doings and challenged them to keep their promises.

**Mr. Bill Seith, 917 Cleveland Road**, stated that his father had been Chairman of the Cook County ZBA which has been in existence since the mid-sixties. They operate like Hinsdale's; the Board is appointed and independent and its decisions are appealed to the circuit court. That is a 100 year old system and is intensely legal; that is the nature of the beast. He asked the Board to keep this model in mind as well.

**Mr. Stan Balzekas, 21 Pamela Circle**, is concerned by the way this item was brought forward, he feels it is not transparent government. A quickie meeting of the ZPS was called on Monday; the notice met the legal requirements, but it does not speak to the spirit. Further, he took issue with the language of the agenda item which he felt was not to be understood by the average citizen. Additionally, a citizen could not get a copy of the proposed changes until Monday morning.

**Mr. Jim Schuler, 5544 S County Line Road**, stated that tonight's proposal would take away checks and balances; you can sue one Board as easily as another. Hinsdale is special; the other communities cited are irrelevant and their practices are not a

reason to approve this amendment. He outlined the pitfalls of this legislation because the Board would be: 1.) buried in zoning issues they don't want or don't have the expertise to administer, 2.) besieged by developers, realtors and their legal representatives, 3.) boxed into a no-win situation, the ZBA's problems will be your problems. 4.) will be exposed to more litigation, 5.) a real and active conflict of interest.

**Mr. Sam Eddins, 202 E Fourth St**, noted that we are a long way from a consensus and that this should be sent to the ZPS. This proposal might not be the only good one, it should be vetted in public and the ZPS allowed to figure out what the best proposal is at properly published meetings.

As there were no other citizens coming before the Board, President Woerner closed the Public Comment portion of the meeting, noting that there is another opportunity to address the Board later in the meeting. He thanked everyone for their time, opinions and comments. He stated that he is not afraid of an open public debate, his intent was to send this to the Plan Commission for this lengthy debate, but this was beneficial, as well.

Recess called. Reconvened at 10:46

### WASHINGTON SQUARE PROCLAMATION

President Woerner read the proclamation for Washington Square. Trustee Smith moved **Approval of the Washington Square Proclamation**. Trustee Williams seconded the motion.

**AYES:** Trustees Follett, Cauley, Orlor, Williams, Schultz, Smith

**NAYS:** None

**ABSENT:** None

Motion carried.

### MORRIS THE CAT PROCLAMATION

President Woerner read the proclamation for Morris the Cat Day in Hinsdale. Trustee Orlor moved approval of the **Morris the Cat Proclamation**. Trustee Smith seconded the motion.

**AYES:** Trustees Follett, Cauley, Orlor, Williams, Schultz, Smith

**NAYS:** None

**ABSENT:** None

Motion carried.

### APPOINTMENTS TO BOARDS, COMMISSIONS & TASK FORCES

Trustee Williams moved to **Approve the re-appointment of Dennis Parsons to the Plan Commission through April 30, 2010, the appointment of John Callahan and Marc Connelly to the Zoning Board of Appeals through April 30, 2012, the student appointment of Katie Witham to the Park & Recreation Commission through April 30, 2008, the student appointment of Katherine Weller to the Historic Preservation Commission through April 30, 2008 and the student appointment of Aleksandar Djuric to the Economic Development Commission through April 30, 2008**. Trustee Cauley seconded the motion.

**AYES:** Trustees Follett, Cauley, Orlor, Williams, Schultz, Smith

**NAYS:** None

**ABSENT:** None

Motion carried.

**Items taken out of order.**

**Resolution Approving a Development Agreement By and Between the Village of Hinsdale and Foxford, LLC for the Hinsdale Club, a Mixed-Use Development**

Trustee Smith remarked that there is a stay on this item; therefore, it cannot be addressed. Attorney Florey explained why there is no stay and no appeal. Trustee Cauley read a statute which in his opinion indicates that there is a stay in place. Trustee Cauley invoked Rule 7 to defer the item for two weeks. Trustee Smith seconded the motion. President Woerner said the vote will be delayed to June 19<sup>th</sup> where it will reappear on the Village Board agenda for a vote; however it can still be discussed tonight. Trustee Smith objected because this item is still before ZPS and was tabled by that body until June 25<sup>th</sup>. Trustee Smith asked for further clarification. Attorney Florey explained that the function of the advisory committees is to review items and recommend them to the Board and these are put on the consent agenda. A negative recommendation or no recommendation is not put on the consent agenda, but can be placed on the agenda. Regarding the Hinsdale Club, there was no recommendation nor a motion from the ZPS, therefore the item is not on the consent agenda, but the Village President has the authority to place the item on the agenda. Trustee Smith asked for written rules of order from the attorney and asked President Woerner to direct counsel to provide these. President Woerner did so. The proper way to refer an item back to committee is by motion stated Attorney Florey.

**Mr. Scott Hardek**, attorney for Foxford, LLC, addressed the Board regarding the approval of the development agreement. Procedurally, the Board has approved the development. Before the Board this evening is a document of the terms agreed upon to proceed with the project. There are specific sections regarding uses employed, but otherwise it is a template provided by the Village. Regarding the parcel where the hotel will be, the developer has agreed not to place a tenant without the approval of the Village, as a good faith gesture. He outlined the various concessions made by Foxford while working with the Village staff in order to arrive at a mutually agreeable document.

President Woerner invited the Board to comment on the agreement. Trustee Follett stated that this is a good gateway project for the Village. Trustee Cauley remarked that he was not here when the ordinance was passed, but Foxford is a world class developer and the property should be developed. However, he has some reservations about the height and the \$1.1 million in hotel revenue that would be a benefit to the Village when we have no assurance the hotel will be built. Trustee Orlor commented that he supports the building of the development; this has been going on for two years and several public meetings have been held. He supports it because strategic planning and survey results indicate overwhelming support for a project of this nature. He outlined the advantages to parks and schools, streets and sidewalks. Trustee Williams recommended that during the next two weeks, before this item is on the next agenda, let residents see the development agreement and provide comment. Village Manager Cook confirmed the agreement will be on the website. She commented on the significant give and take with the developer and the unanimous approval of the Plan Commission. Trustee Schultz stated he will support the agreement; he has concerns about the density, but commented favorably on the park and forest preserve benefits. Trustee Smith supports the plan in place, but has reservations about the development agreement. He feels we are under a stay, and he feels rushed.

Trustee Smith introduced a resolution to withdraw the lawsuit and moved to **Adopt a Resolution to withdraw the lawsuit filed by the Village of Hinsdale on May 29, 2007**. Trustee Cauley seconded the motion. Attorney Florey reminded the Board that according to the Illinois Open Meeting Act, they may only take action on an item if it has been noticed 48 hours before. This item can be discussed but not voted on.

Attorney Florey noted that if an individual would like their signature withdrawn, forward a letter to the Village Manager, expressing the desire to be withdrawn.

**WORKSHOP ANNOUNCEMENT**

Trustee Smith announced the Ogden Avenue Corridor Study Visual Preference & Design Workshop to be held Monday, June 18<sup>th</sup>, at 7:00 p.m. in Memorial Hall.

**Refer Text Amendment Case #A-12-2007 “Amending Section 11-102 (Zoning Board of Appeals), Adding a New Section 11-104 (Hearing Officer), Amending Section 11-502 (Appeals) and Amending Section 11-503 (Variations) of the Hinsdale Zoning Code” to the Plan Commission for the required public hearing**

Trustee Orlor moved to refer Text Amendment Case #A-12-2007 to the Plan Commission for the required public hearing. There was no second. President Woerner declared the item closed and done.

## CONSENT AGENDA

President Woerner presented the following Consent Agenda items for approval.

### ITEMS RECOMMENDED BY THE ADMINISTRATION & COMMUNITY AFFAIRS COMMITTEE

- Item #1: Move to **Award of MFT Road Program Bid to Triggi Construction in the amount of \$756,316** (Omnibus vote)
- Item #2: Move **Approval of Hinsdale Humane Society request for Village Services related to the Midwest portion of the Morris the Cat Million Cat Rescue Campaign** (Omnibus vote)
- Item #3: Move **Approval of a request from St. Issac Jogues to waive the renewal fee for expired permits in connection with the project at 306 West Fourth Street in the amount of \$12,254** (Omnibus vote)
- Item #4: Move **Approval of a request from the Zion Lutheran School to utilize the Downtown Train Station to host a Bake Sale on the first Friday of June, July and August** (Omnibus vote)
- Item #5: Move **Approval of a Purchase Order to the DuPage Mayors and Managers in the amount of \$16,208.69 for the Village's annual Dues and proportionate share of Debt Assessment** (Omnibus vote)
- Item #6: Move **Approval of a Abrogation of Easement-114 South Stough Street, Finial Properties, LLC** (Omnibus vote)
- Item #7: Move **Approval of a request from Oak Community Church regarding a "Kite Fly"** (Omnibus vote)
- Item #8: Move **Approval of temporary parking regulations under the provisions of Village Code Sect # 6-2-3-5, Paragraph B, prorating all renewals effective July 1, 2007 for 90 days, as well as approval of purchase order to Total Parking Solution for the purchase of a Cale MP-104 XL Paystation Paybox in an amount not to exceed \$14,342** (Economic Development Commission Initiative) (Omnibus vote)
- Item #9: Move **Approval to proceed with Washington Street Parking Lot pedestrian entrance beautification project** (Economic Development Commission Initiative) (Omnibus vote)
- Item #10: Move **Approval of an Ordinance Amending Provisions of the Village of Code of Hinsdale Related to Certain Liquor License Regulations** (Economic Development Commission Initiative) (Omnibus vote)
- Item #11: Move **Approval of contract with Media Moiré to Produce a Hinsdale Promotional Video in an amount not to exceed \$18,295** (Economic Development Commission Initiative) (Omnibus vote)
- Item #12: Move **Approval of Village Contribution for Village Business Directory in the amount of \$5,000** (Omnibus vote)
- Item #13: Move approval of the **Graue Mill Antiques Fair Banner Request** (Omnibus vote)

### ITEMS RECOMMENDED BY THE ZONING & PUBLIC SAFETY COMMITTEE

- Item #14: Move to **Refer to Plan Commission Case A-07-2007 – Applicant: Hinsdale Management Corporation – Request: Text Amendment to Section 5-102 of the Hinsdale Zoning Code to allow a small parcel store (such as United Parcel Service [UPS] or Kinkos/FedEx store) in the B-1 Community Business District as a permitted use** (Omnibus vote)
- Item #15: Move to **Refer to Plan Commission Case A-08-2007 – Applicant: Tony Kremer – Request: Text Amendment to Section 10-106 of the Hinsdale Zoning Code as it relates to the replacement of nonconforming signs at time of change in business owner** (Omnibus vote)
- Item #16: Move to **Refer to Plan Commission Case A-09-2007 – Applicant: John Weinberger/Continental Classic Motors, Inc. – Address: 420 East Ogden Avenue – Request: Text Amendment to Section 5-105 and Subsection 5-109F, Subsection 12-206P definition of planned developments of the Hinsdale Zoning Code as they all relate to the expansion of existing car dealerships along Ogden Avenue; Special Use Permit for a Planned Development to allow the expansion of an existing car dealership along Ogden Avenue; Exterior Appearance/Site Plan Review** (Omnibus vote)

Item #17: Move to **Refer to Plan Commission Case A-11-2007 – Applicant: Village of Hinsdale. Request: Text Amendment to Section 5-110 Bulk Space and Yard Requirements** (Omnibus vote)

Item #18: Move to **Refer to Plan Commission Case A-05-2007 – Applicant: Village of Hinsdale – Request: Text Amendment to Section 11-603 Planned Developments of the Hinsdale Zoning Code includes language to update procedure for planned developments and to Section 12-102 Application to Variations, Special Uses, and Development Plans (Continued from April 23, 2007)** (Omnibus vote)

Item #19: Move to **Approve the purchase of a Supervisor’s Squad Car – 2008 Ford Expedition - from Sutton Ford in the amount of \$26,193** (Omnibus vote)

Item #20: Move to **Approve the purchase of a Squad Car – 2008 Ford Crown Victoria - from Landmark Auto in the amount of \$20,500** (Omnibus vote)

Item #21: Move to **Award Bid of \$36,500.00 to “Municipal Sewer Services, LLC” for Sewer Cleaning and Televising within the Village** (Omnibus vote)

Item #22: Move to **Enter into Agreement for Professional Services for Construction Administration of the Chestnut Street Parking Lot with Seton Engineering in the Amount of \$16,300.00** (Omnibus vote)

Item #23: Move to **Approve an Ordinance Amending Section 9-1-7 of the Village Code recommending the requirement of Installation of Chain Link Fencing for Construction Sites** (Omnibus vote)

Item #24: Move to **Approve a Resolution Endorsing Safe Routes to School Initiative** (Omnibus vote)

Trustee Smith moved to adopt the Consent Agenda as read. Trustee Williams seconded the motion.

**AYES:** Trustees Follett, Cauley, Orlor, Williams, Schultz, Smith

**NAYS:** None

**ABSENT:** None

Motion carried.

#### **ADMINISTRATION AND COMMUNITY AFFAIRS**

##### **Accounts Payable**

Trustee Schultz moved the **Approval and payment of the accounts payable for the period of May 11, 2007 through June 01, 2007 in the aggregate amount of \$1,514,637.44 as set forth on the list provided by the Village Treasurer, of which a permanent copy is on file with the Village Clerk.** Trustee Smith seconded the motion.

**AYES:** Trustees Follett, Cauley, Orlor, Williams, Schultz, Smith

**NAYS:** None

**ABSENT:** None

Motion carried.

#### **ZONING AND PUBLIC SAFETY**

No report.

#### **ENVIRONMENT AND PUBLIC SERVICES**

No report.

**REPORTS FROM ADVISORY BOARDS AND COMMISSIONS**

No report.

**STAFF REPORTS**

No reports.

**CITIZENS' PETITIONS**

None.

**ADJOURNMENT**

Trustee Orlor moved to adjourn into closed session to discuss pending litigation and not to reconvene. Trustee Follett seconded the motion.

**AYES:** Trustees Follett, Cauley, Orlor, Williams, Schultz, Smith

**NAYS:** None

**ABSENT:** None

Motion carried.

Meeting adjourned at 11:42 p.m.

ATTEST: \_\_\_\_\_  
Christine M. Bruton, Deputy Village Clerk