

**VILLAGE OF HINSDALE
BOARD OF TRUSTEES MEETING
June 19, 2007
Memorial Hall**

The Hinsdale Village Board of Trustees meeting was called to order by President Woerner in Memorial Hall of the Memorial Building on Tuesday June 19, 2007 at 6:35 P.M.

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

Absent: Trustee Cindy Williams.

Also Present: Village Attorney Ken Florey, Village Manager Dave Cook, Assistant Village Manager/Director of Administration Doug Cooper, Attorney Steven Ruffalo and Village Clerk Barb Grigola.

ADJOURN TO CLOSED SESSION

Trustee Follett moved to adjourn to Closed Session to discuss litigation and potential litigation to reconvene in Public Session. Seconded by Trustee Schultz. Passed on roll call vote. Trustees Orlor, Follett, Cauley, Schultz and Smith. Nays: None. Absent: Trustee Smith. Meeting adjourned at 6:36 p.m.

RECONVENE

The Hinsdale Village Board of Trustees meeting was reconvened by President Woerner in Memorial Hall of the Memorial Building on Tuesday June 19, 2007 at 7:38 P.M.

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

Absent: Trustee Cindy Williams.

Also Present: Village Attorney Ken Florey, Village Manager Dave Cook, Assistant Village Manager/Director of Administration Doug Cooper, Police Chief Brad Bloom, Public Works Superintendent George Franco, Director of Parks and Recreation Carrie Hauptert, Director of Community Development Tim Bleuher, Attorney Steven Ruffalo and Village Clerk Barb Grigola.

Also Present: Christine Martin, freelance writer for the Chicago Tribune and Kendra Garstka representing The Doings.

PLEDGE OF ALLEGIANCE

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

APPROVAL OF MINUTES

Trustee Orlor moved approval of the June 5, 2007 Board of Trustees minutes and the June 5, 2007 Closed Session Meeting. Seconded by Trustee Cauley. Trustee Follett requested some editorial corrections (not content) and Trustee Orlor moved approval of the corrected minutes. Passed on roll call vote. Trustees Follett, Cauley, Orlor, Schultz and Smith voted Aye. Nays: None. Absent: Trustee Williams.

CITIZENS' PETITIONS

Bill Mehuron of 803 S. Clay requested that the sidewalk issue not be included in the Consent Agenda when it is voted on by the Board. Mr. Mehuron also asked where the information was about real estate experts opinions on the potential impact of sidewalks. Village Manager Cook replied that it would be posted on the website. Mr. Mehuron requested that the information be e-mailed to the group.

Phil Moriarity of 914 Harding Road noted that the judge issued a summary judgment against the Garfield developer today and gave credit to Nancy Chapa, Nancy Fury and Karl Weber for their efforts in the case, saving the Village from a monumentally flawed development agreement. He urged that we the fast track on this new colossal development be slowed in the best interests of the residents.

Susan Williams of 1204 Hawthorne Lane spoke against the Foxford Development citing the following points: Trustee Orler stated that the results of the survey indicated citizens want retail, commercial development and residential accommodations, but she does not feel that have to all be on the same site. She also disagreed with Trustee Follett's assessment that the main issue is the best use of the land, not revenue. Williams questioned whether a lot of tall buildings is the best use of the land and suggested that unseen hands may be involved in the Board's decision. She noted that, while the developer has made accommodations since the first proposal, that first proposal was shoddy. She said that there is nothing of this height along Ogden from Hinsdale to as far west as Belmont, indicating that our neighboring suburbs have decided not to go to the heights we are considering. She stated that traffic is already a problem and that this development would funnel more traffic down to York and Ogden.

Nick Etten of 1214 Hawthorne Lane said he and his wife are among the 60 citizens being sued for their objections to The Hinsdale Club. He said the 60 defendants have done nothing wrong and have not violated any laws or damaged any property. He has learned that President Woerner's decision to file the lawsuit at the advice of the Village Attorney and without the other Trustee's and that the Village Attorney is not an elected village asked that he and the Trustees join in the motion to withdraw the lawsuit.

Jerry Hughes of 24 South Oak Street said he is not against developing this property, but he agreed with Mr. Moriarity that it is unwise for the Village to proceed with such speed. He feels it could have enormous consequences and precedents, so we should proceed with caution. He asked why we should do this in haste and suggested that the argument that the developer might walk sounds like a used car salesman. He said it looks like a bunch of promises in exchange for firm commitments from the Village. He cited the example that Illinois state law requires that Illinois hotel tax revenues be used solely to promote tourism and asked if we are going to spend those dollars on tourism instead of roads and sewers. He also questioned the permitted uses that are being approved. He urged the Board to vote to give the Village more time to consider this properly.

Charles Landefeld of 6 East 8th Street asked why the Village needs to rip out landscaping and build a sidewalk on East 8th Street. He feels there is not a public need for it and the money could best be spent elsewhere.

Ralph Mueller of 1202 Hawthorne Lane said he agreed with Mr. Hughes and noted that he is concerned about the Village granting 5 liquor licenses to the Hinsdale Club development without knowing what businesses would be in there. He asked that the Board take more time to add specificity to some of these issues.

Jim McMahon of 600 Franklin asked that the Board discuss the agenda items fully before voting on them tonight to achieve clarity and closure.

Dale Kleber of 120 East Walnut said that while he feels it's wise to take time to fully vet the Hinsdale Club, he wanted to note the benefits as outlined on our website. He said the developer would make a \$1.3 million donation to our parks, and that 2 of the 20 acres of the development would be dedicated to common space and green areas. The developer has offered to work with the Cook County Forest Preserve to try to obtain a 99-year lease for the Village to develop the 30 acres of park land in that area. There is also a projected \$1,132,000 net positive impact to Village, a \$1,266,000 net operating impact to District 181 and an \$833,000 impact to Dist 86. He suggested that the

development would be a significant benefit to our village and the right use of that land and we should go forward with it with caution.

Brad Summers of 314 North Garfield spoke on behalf of the Economic Development Commission saying that they commend the Plan Commission for a thorough process and fully endorses their conclusions. They ultimately reached a conclusion for the common good of all citizens. The EEC believes that the efforts of the Plan Commission, the Trustees and the President optimized the impact on the Village in the present and for the long term. It highlights that Hinsdale is a worthwhile place to invest and do business.

Leslie Savickas of 14 East 5th Street said she is a member of the Finance Commission, which is in support of this project and any reasonable measures to increase the revenues of the Village.

Mary Angelo of 525 East 3rd Street said that she is dismayed that our Village is on the block for \$1.3 million dollars, which may be lower than the average price of a home in Hinsdale and asked that the Board think about it.

Paul Sigfusson of 311 E. 7th Street in Hinsdale, former Chairman of the Park and Recreation Commission, said the Commission worked hard to get additional park property for the Village. We have a great opportunity to have the Hinsdale Club developer open doors for us with Cook County and hope to have a long-term agreement to have a small version of Veeck Park there with multiple playing fields, walking paths, a structure, etc.

Bob Neiman of 326 North Garfield said that although some think the developer has made wonderful accommodations to the Village's concerns by bringing down the height of the buildings, their original proposal was so absurd that he feels it was designed to be cut in half in order to seem reasonable. He also said that while the Plan Commission and the Board can grant a special use permit for a development, our Code requires that it still be in keeping with the tone of the Village. The Hinsdale Club plan still includes 70 changes to the zoning code, which he feels simply doesn't meet that standard. He said he'd heard that the State of Illinois may be considering building a hotel as the Hinsdale Oasis and said that no one has asked the developer what affect that could have on their ability to attract a hotel. He also questioned the survey statistics quoted by Trustee Orlor saying that statistics can be manipulated. He proposed that had the survey asked whether you'd like a nine-story hotel, six condos, a strip mall and five liquor licenses, the response would have been "Have you lost your mind?" He suggested that there is a state statute that allows us to challenge the validity of the Board's ordinance, but we don't want to do that. He suggested that we save attorneys fees and have the open dialog here and skip the litigation.

Laurel Haarlow of 112 North Lincoln Street said that the benefits to the Village of the Hinsdale Club that have been strongly endorsed by the Economic Development Commission, the Finance Commission, the Parks and Recreation Commission don't disappear if we take more time. She asked that the Board please vote tonight against approving the development agreement as it stands and take more time to hammer out the details.

VILLAGE PRESIDENT'S REPORT

GARFIELD LITIGATION

President Woerner explained that the Circuit Court judge today granted the Village's motion for partial summary judgment that sought court approval of the Village's decision not to issue a building permit for the Garfield project. The judge stated that the developer never submitted, and the previous Board never approved, any plans that complied with the Village of Hinsdale Zoning Code and that the developer never acquired any vested rights and they failed to satisfy its burden to comply with the Village Code. He thanked Village Manger Dave Cook, Village Attorney Ken Florey, Steve Ruffalo and Mark Daniel, as well as Karl Weber, Nancy Chapa and Dr. Nancy Fury and the past Village Board members for their courage to protect our zoning code. He stated that the Village Board stood united and strong to pursue the right path for its residents.

RULES AND PROCEDURES OF BOARDS AND COMMITTEES

President Woerner said that the mission of our three standing committees – Administration and Community Affairs, Environment and Public Services and Zoning and Public Safety – is to review all matters and to refer them to the full Board. The committees may make the following recommendations: 1) to approve, 2) to deny or 3) to request that the Village Board refer the matter back to the committee or to another committee for further review. He stated that any Trustee of the Board can attend any committee meeting and that any Trustee can pull an item from the Consent Agenda. A quorum of each standing committee is three members of the committee and the meetings are subject to the open meetings act. Trustee Smith then asked for clarification of the rules and a discussion followed regarding whether the Committees or the Board can table a vote. A suggestion was made to discuss these procedures at the next ACA meeting.

APPOINTMENTS TO BOARDS, COMMISSIONS AND TASK FORCES

Trustee Follett moved to **Approve the appointments of Joe Ryne, Nancy McKeague, Brian McElwain, Candy Cleveland and Penny Bohnen to the Beautification Task Force.** Seconded by Trustee Orlor. Passed on roll call vote. Trustees Follett, Cauley, Orlor, Schultz and Smith voted Aye. Nays: None. Absent: Trustee Williams.

CONSENT AGENDA

President Woerner presented the following Consent Agenda items for approval.

ITEMS RECOMMENDED BY THE ADMINISTRATION & COMMUNITY AFFAIRS COMMITTEE

Item #1: Move to **Approve a professional services agreement with Unicom.arc to provide services related to the development, reporting and analysis of a voter survey to aid in the formation of a long-term financing plan for the Village's Infrastructure Maintenance Plan for the amount not to exceed \$14,750.00.** (Omnibus vote)

ITEMS RECOMMENDED BY THE ENVIRONMENT & PUBLIC SERVICES COMMITTEE

Item #2: Move to **Adopt an ordinance adopting prevailing wage standards.** (Omnibus vote)

Item #3: Move to **Adopt an ordinance vacating the east half of public alley right-of-way adjacent to and west of 532 W. Eighth Street for a purchase price of \$18,000.** (Omnibus vote)

Trustee Follett moved to approve the above items. Seconded by Trustee Schultz. Passed on omnibus roll call vote. Trustees Follett, Cauley, Orlor, Schultz and Smith voted Aye. Nays: None. Absent: Trustee Williams.

ADMINISTRATION AND COMMUNITY AFFAIRS

ACCOUNTS PAYABLE

Trustee Follett moved **Approval and payment of the Accounts Payable for the period of June 1, 2007 through June 15, 2007 in the aggregate amount of \$1,293,855.04 as set forth on the list provided by the Village Treasurer, of which a permanent copy is on file with the Village Clerk.** Seconded by Trustee Schultz. Passed on roll call vote. Trustees Follett, Cauley, Orlor, Schultz and Smith voted Aye. Nays: None. Absent: Trustee Williams.

ENVIRONMENT AND PUBLIC SERVICES

Assistant Village Manager Cooper explained that the Village has ended its 60-day objection period and it received enough petitions to nullify Special Service Areas # 10, 11 and 12. No petitions were received against Special Service Area #9, so that would be voted on tonight.

Trustee Follett moved **Approval of an ordinance establishing Special Service Area #9 (Localized Drainage Solution Program) in the Village of Hinsdale.** Seconded by Trustee Orlor. Passed on roll call vote. Trustees Follett, Cauley, Orlor, Schultz and Smith voted Aye. Nays: None. Absent: Trustee Williams.

Trustee Follett moved **Approval of a resolution authorizing certain special times of work** by Tully Brothers Pavement Restoration, Inc. for the Chestnut Street Parking Lot. Seconded by Trustee Schultz. After a discussion between the Board and Mr. Tully, the resolution was amended to extend hours to 7 a.m.-7 p.m. Monday through Friday and 7 a.m. through 3:00 p.m. Saturday for only the first month. Passed on roll call vote. Trustees Follett, Cauley, Orlor, Schultz and Smith voted Aye. Nays: None. Absent: Trustee Williams.

Trustee Follett said that they would be discussing the sidewalk issue at next month's EPS meeting.

ZONING AND PUBLIC SAFETY

No reports.

MATTERS RELATED TO HINSDALE CLUB DEVELOPMENT

RESOLUTION RELATED TO THE STATUS OF THE BALDWIN LITIGATION

President Woerner explained that he made a decision on May 29th to seek declaratory judgment and not to have the appeal be sent to the Zoning Board of Appeals. He apologized for not including the Trustees in the decision, though he had been advised that he had the authority to make the decision alone. He explained that the next agenda item vote gives the Trustees the opportunity to vote on that resolution. Attorney Florey advised that the Board could select either 2a (to continue litigation) or 2b (to voluntarily dismiss the action). Trustees weighed in with their opinions on the topic, with Trustees Smith and Cauley asking that we not sue our residents and Trustee Orlor stating that we need the clarity of a court decision to rule on a matter on which there are many conflicting opinions. President Woerner replied to a question of how this case differs from Garfield by saying that the decision was made by the former Village Manager and this was made by the Board and is thus not appealable.

Trustee Smith moved to Approve a resolution regarding the complaint of Declaratory Judgment filed in the case of Village of Hinsdale v. Baldwin, et. al., Option 2B, to voluntarily dismiss the action and refer the application for appeal filed regarding Village Ordinance Number O-2007-33 to the Village's Zoning Board of Appeals. Seconded by Trustee Cauley. Failed on roll call vote. Trustees Smith and Cauley voted Aye. Nays: Trustees Follett, Orlor and Schultz. Absent: Trustee Williams.

Trustee Follett then moved to Approve a resolution regarding the complaint of Declaratory Judgment filed in the case of Village of Hinsdale v. Baldwin, et. al., Option 2A, to continue to litigate the action. Seconded by Trustee Orlor. Passed on roll call vote. Trustees Follett, Orlor, and Schultz, as well as President Woerner voted Aye. Nays: Trustees Smith and Cauley. Absent: Trustee Williams.

The next agenda item, a vote on the Resolution to withdraw the Baldwin Lawsuit and refer the matter to the ZBA, having been voted on in the prior resolution, was withdrawn from the agenda.

RESOLUTION APPROVING DEVELOPMENT AGREEMENT

President Woerner explained that our Code says the Board must act to approve or deny within 60 days of receipt of a recommendation from the Plan Commission. He assured the residents that the liquor licenses to individual businesses would still need to be approved by the Village if this development agreement gets approved tonight. He then reviewed the history of the Hinsdale Club as follows leading up to today, June 19th, saying that there had been numerous open meetings and meetings with Graue Mill residents that were heavily attended before the decision was made:

November 1, 2006: Foxford filed its application for a special use permit

November 1, 2006: Foxford met with Graue Mill residents

November 8, 2006: The Plan Commission received this application and scheduled its first public hearing for Dec 13

December 13, 2006: The Plan Commission held its first public hearing, chose to continue the discussion and subsequently hired Houseal Lavigne to advise the Village

January 10, 2007: The next Plan Commission Meeting was held and they chose to continue deliberations and requested major changes. The Village then retained a consulting firm, Houseal Lavigne.

February 7, 2007: Foxford submitted revised plans

February 12, 2007: Foxford met with Graue Mill residents again

February 14, 2007: Plan Commission conducted second meeting

March 5, 2007: Foxford submitted a second revised plan

March 8, 2007: Foxford met with Graue Mill residents again

March 14, 2007: The Plan Commission meets again on the topic, closes the public hearing and recommends approval of the plan in a 7 to 0 vote to approve special use and 6 to 1 to approve the plan development and site plan

(at 9:45 p.m. Trustee Williams joins the meeting via telephonic conference.)

March 21, 2007: ZPS Committee reviewed the Plan Commissions recommendations and voted 4 to 1 to recommend approval to the full Board

April 10, 2007: Plan Commission approved the final recommendations on the Hinsdale Club.

April 17, 2007: The Board of Trustees approved all applications of the plan in a 5 to 0 vote to approve all applications.

May 21, 2007: The ZPS received a draft of the development agreement and no action was taken

June 4, 2007: The ZPS had a special meeting and no action was taken.

June 5, 2007: Board reviewed the development agreement and no action was taken.

John Houseal of Houseal Lavigne said the Village performed a very thorough and open review process. He explained that the ZBA's role was to review variations due to hardships, whereas a PUD was intended to allow for creativity in multiple-building projects for which local building codes are not typically designed.

The attorney for the developer, Mr. Bruce Goldsmith of Dykema Gossett PLLC, clarified that the plan did not allow for banks. He explained that they requested the five liquor licenses because they would be necessary to attract upscale an hotel and restaurants, but that the applicants would still have to seek approvals for those licenses. President Woerner asked if there had been any other comments on the development agreement from residents. Village Manager Cook said that since the agreement was posted on the website the day after the last Board meeting, he had received no comments other than those comments mentioned.

Trustee Follett moved to **Approve a resolution approving the development agreement between the Village of Hinsdale and Foxford, LLC, for the property commonly known as the Hinsdale Office Park to be developed as the Hinsdale Club.** Seconded by Trustee Orler.

Trustee Cauley expressed the opinion that an appeal to the ZBA stays all proceedings and that the approval should be delayed. He stated that he was concerned that it would be illegal for the Board to vote on the Hinsdale Club in the face of a mandatory stay and that he would abstain if they continued with the vote today. Trustee Smith agreed with Trustee Cauley. Mr. Goldsmith disagreed, saying that he's been a real estate attorney for 25 years and has never seen a situation in which a village board is subservient to a village committee. He stated that there is no

appeal; there is no stay. The resolution was then discussed among the Trustees. Trustee Orlor pointed out that the positive financial impact numbers quoted were annual figures for year after year and that the net present value to the Village is therefore much greater than that. Trustee Follett emphasized that there had been a lot of study and thought given to this development. President Woerner stated he feels it is the Village's job to take over Road D once this is approved. Trustee Williams advised that she could not vote this evening because telephonic meeting attendance requires being present for the entire meeting, but that she would have voted for the development agreement.

Passed on roll call vote. Trustees Follett, Orlor, and Schultz and President Woerner voted Aye. Trustees Cauley and Smith abstained. Absent: Trustee Williams.

REPORTS FROM ADVISORY BOARDS AND COMMISSIONS

No reports.

STAFF REPORTS

No reports.

CITIZENS' PETITIONS

None.

ADJOURNMENT

Trustee Cauley moved to adjourn the meeting to Closed Session for the purposes of discussing personnel not to reconvene in Open Session. Seconded by Trustee Follett. Passed on roll call vote. Trustees Follett, Cauley, Orlor, Shultz and Smith voted Aye. Nays: None. Absent: Trustees Tuggle.

Meeting adjourned at 10:21 P.M.

ATTEST: _____
Barbara J. Grigola, Village Clerk