

**VILLAGE OF HINSDALE
BOARD OF TRUSTEES MEETING
October 2, 2007
Memorial Hall**

President Woerner noted that this meeting and future meetings will be broadcast live on Channel 6. The Hinsdale Village Board of Trustees meeting was called to order by President Woerner in Memorial Hall of the Memorial Building on Tuesday, October 2, 2007 at 7:41. p.m.

Present: President Michael Woerner, Trustees Jean Follett, Thomas Cauley, Jr., by phone (Electronic Attendance Request on file), Vic Orler, 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, Deputy Fire Chief Mike Kelly, 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: Christine Martin, freelance writer for the Chicago Tribune, Pam Lannom of the Hinsdalean, Alexa Jenner of Suburban Life and Amy Deis representing The Doings and the attached list of attendees.

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 September 18, 2007 Regular Meeting, as amended, and the September 4, 2007 Closed Session Village Board of Trustees meeting minutes. Trustee Orler seconded the motion.

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

NAYS: None

ABSENT: None

Motion carried.

PROFESSIONAL SERVICES CONTRACT – CAMIROS

President Woerner asked for a motion to table the agenda item regarding Camiros to the next October meeting to allow time for further study. Trustee Williams moved to table until the

October 16, 2007 meeting **Item 10.a) Award a Professional Services contract to Camiros for an amount not to exceed \$199,530.00.** Trustee Follett seconded the motion.

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

NAYS: None

ABSENT: None

Motion carried.

CITIZENS' PETITIONS

Mr. Nick Etten, 1214 Hawthorne Lane, stated he thinks the proposed ZBA removal is a bad idea; unseemly, unnecessary and not befitting this community. Chairman Nelson and the ZBA have done nothing wrong, Mr. Nelson's term is over in seven months and there are no important matters pending. A public hearing would be time consuming and costly and who would be an impartial judge? No Village Board member. A hearing could take days, weeks and possibly stretch out for several months, it could be appealed to the circuit court, would squander tax dollars and perpetuate divisiveness.

Mr. Doug Cleveland, 727 S. Garfield, thinks the proposed public hearing would damage the individual and the Village. He believes there should be public recognition of Mr. Nelson and the ZBA for their efforts.

Mr. Jack Uretsky, 206 N. Grant St., stated that last July he asked a question of the Board; if the developers of the Foxford project would go bankrupt and leave ruins on Ogden Ave., what provisions have been made to ameliorate this situation. He still hasn't heard from the Board or the Village Manger on this. He thinks the Village Board did not look into this, but a conscientious ZBA would have.

Mr. Stan Balzekas, 521 Pamela Circle, has serious issues with the tone and thrust of the press release regarding Tom Nelson; it is slanderous and a character assassination. Mr. Nelson is a champion of the code and should be celebrated as such. He suggested that this Board's spending habits should be reviewed.

Ms. Nancy Cox, 127 E Third Street, has questions regarding the decision making process for the proposed public hearing. What does the Board hope to accomplish, what alternatives were considered and what the consequences of impeachment would be? The Trustees owe an explanation to the community. She cautioned the Board not to be fatigued into poor decision making.

Mr. John Richter, 504 N. Quincy, a member of the ZBA, described the lengthy process in the Garfield case. The decision arrived at has been challenged and upheld in the courts. Mr. Nelson is interesting, colorful, and verbose; he will cite cases and legal precedence. The decision to accept jurisdiction over Hinsdale Club was the ZBA's not just Chairman Nelsons. He urged the Board to drop the proposed public hearing.

Mr. Karl Weber, 219 E First St., stated that on behalf of Nancy Chapa and Nancy Furry, they will support the ZBA and the volunteers who serve the community. Chairman Nelson was critical in the Garfield case and also the Johannesen case. The ZBA was denied council by the Board in the Foxford case. He likened the Foxford case to the Anno Domini skating thru the approval processes. He says to slam Mr. Nelson is to slam the whole Board, they are one body. He described the FOIA that will be submitted requesting records pertaining to these issues.

Mr. Paul O'Flaherty, 138 E. Walnut Street, is offended by the press release. A bigger implication of attempted impeachment is sending a message that would delegitimatize the views of many citizens. This is divisive. Impact on long term quality of civil life; it will be hard to find volunteers, if this is how they are treated.

Bob Nieman, 326 N. Garfield, noted there is a disturbing pattern emerging from the Trustees over past several months. Mr. Woerner continues to say he is in favor of open government, but he continues to intimidate.

Mr. Kim Angelo, 525 E. Third Street, a member of the Zoning Board of Appeals noted for the record that the Village Board has conducted 17 closed sessions in the last nine months. He paraphrased the press release and stated that he does not believe the Village Board could sit objectively at a hearing. He noted the Foxford FOIA and Mr. Nelson's appropriate response. He said the Closed Session recording of the ZBA was opened unlawfully. The lions' share of fees incurred by the ZBA were made as a result of the Garfield proceedings. He believes a lack of fair play and contempt for citizen's rights has been consistently demonstrated.

Sharon Cauley, 521 Morris Lane, voiced support for Mr. Nelson and asked the Board to consider the effects on the Village. This will have a chilling effect on citizen participation. Chairman Nelson is highly qualified, she asked the Board to protect and promote citizen participation by keeping Tom Nelson.

Mr. Mike Ripani, 21 Camberly Court, served 3 years on ZBA, asked where is the written charge, what has the ZBA done that is so adverse to the interests of community. Is the written charge the press release? Which Board members are frustrated and concerned? The residents are entitled to know what statute or obligation was violated by the ZBA. He described the duplicitous behavior of people who often come to apply for variations. The ZBA doesn't create legal fees; citizens hire attorneys as is their right. The cost of removing Tom Nelson is none that a resident needs to bear.

Ms. Mary Angelo, 525 E Third St, said the Board hired consultants because they can't stand insubordination. She doesn't approve of this spending. She asked what is the end game, humiliation, to teach volunteers a lesson, to ruin a man and his family?

Ms. Barbara Clark, stated that based on what she has seen and heard, maybe the Village Board and Mr. Woerner should be impeached.

Ms. Molly Hughes, 24 S. Oak Street, regarding the matter of the zoning code rewrites, a year ago she would have supported a review, but she no longer trusts the Board. She believes the 2025 survey results have been used to justify an Ogden Avenue development. The survey results are being marketed to justify a future development of out-scaled towers of condos and a hotel. We need good judgment from our elected officials; a sensitive zoning code revision should not be undertaken at this time.

Mr. Pierce McCabe, 623 S Monroe, related his inability to secure a permit after a fire. He said 3-10 days is the average for permit issuance in other communities, in Hinsdale it takes much longer.

Mr. Michael Meissner pointed out that the ZBA is a subordinate body to the Village Board of Trustees and is not a policy setting Board. Mr. Nelson performed a valuable service to the Village in the Garfield matter, but the ZBA had no place to be conjoined in the Foxford matter. The ZBA is an important body which provides relief to petitioners, residents or developers. He described his experience when he asked for a variation for 18 W. First Street. He was there for an elevator, but he was asked questions about height and parking. There were four to five months of extended hearings. He had asked for a continuance, and it was denied. He was disquieted by a number of things. He was not treated with respect and challenged Mr. Nelson that he had appeared before countless ZBA's and had never experienced anything like this. He doesn't think the ZBA should be dismissed, but going before that Board is a meat grinder. He thinks Mr. Nelson is a brilliant attorney, but he has his own agenda.

Mr. Bill Haarlow, 112 N. Lincoln St., member of the ZBA, and said there is something rotten in Denmark (Hinsdale) but it is not Tom Nelson. If Tom is guilty of anything, it is in holding his tongue under a smear campaign by the Village Board. When the Trustees liked the possible results of the ZBA, as in the Garfield case, Mr. Nelson was good, but in the Foxford case, even though there were 75 code variations, the Board was dazzled by dollars and wanted no input. Regarding jurisdiction in the Foxford case: all members voted aye. There were compelling arguments, on both sides, but since the Village sued the residents he sided with the residents. \$200,000.00 is an unnecessary expenditure for yet another consultant. A transparent veneer of legitimacy is provided by consultants. Residents don't trust the Board, except Trustees Cauley and Smith. This public hearing would be a violation of public trust and a shameful legacy. He suggested a revisit to Hinsdale's organization chart; at the top are the citizens of Hinsdale, below is the Village Board.

Mr. Bob Barr, 704 Bittersweet Lane, is embarrassed and history repeats itself. Absolute power corrupts absolutely. We are all Hinsdaleans; there is no 'i' in Trustee or team. What Village sues its citizens or impeaches its citizens? Check your personal agenda at the door.

Mrs. Carol Smith, 425 W. Hinsdale, addressed Mr. Meissner, and quoted the zoning code, wherein it states that the ZBA decisions are law and subject to appeal. The ZBA isn't a policy

setting board with their own agenda. If there is a hearing, it will be the darkest hour of Hinsdale.

Village President's Report

President Woerner noted there is another opportunity for citizen petitions later in the meeting.

President Woerner stated there will be a workshop on Saturday, October 13th to discuss the building department processes and procedures; builders, developers and citizens are invited. President Woerner paraphrased a memo from Director of Community Services Tim Bleuher that reported the actual time for plan review, as well as the number of inspections and permits issued in August and the comparative percentages to years past. The goal of the meeting is to improve processes.

Set a Public Hearing to Consider Removing the Zoning Board of Appeals Chairman

President Woerner read from a prepared statement (copy attached for the record) and asked for a motion to set a public hearing. He wants the facts to see the light of day. Mr. Michael Ripani asked President Woerner to speak to the charges that were made. Trustee Smith suggested that Mr. Ripani may have information that is relevant to the consideration of making a motion. Trustee Smith **moved to reopen public comment.** Trustee Cauley seconded the motion.

AYES: Trustees Cauley, Williams, and Smith

NAYS: Trustees Follett, Orlor and Schultz

ABSENT: None

Motion failed.

Trustee Orlor moved to **Set a Public Hearing to Consider Removing the Zoning Board of Appeals Chairman.** Trustee Williams seconded the motion.

Trustee Cauley stated he was disturbed by the press release, he didn't see it till it was released and felt it suggested the Board unanimously agreed to impeachment. He stated that he strongly opposed this action. Mr. Nelson's term expires soon enough; a public hearing is extremely divisive, ill-conceived and expensive. This appears vindictive. He thinks the Board should spend it's time and energy to fix roads.

Trustee Williams stated the hearing isn't about the Hinsdale Club or Mr. Nelson taking a contrary position to the board. She has no issue with the appeal, the Village filed for declaratory judgment to determine which is the correct path. Residents could dismiss themselves. The hearing is not about eliminating someone or grabbing power, not about the ZBA as a whole, not about a preordained outcome. It is about insuring that the law has been followed, that is the purpose of the hearing. When allegations have been made that the law or code has not been followed, investigations have been instituted. When the ZBA suggested

that there was impropriety regarding fee payments for permits in the building department, a full scale investigation was instituted. The Board takes these allegations seriously. The FOIA issue is key for her. It would be easier to turn her head at this point; it is a harder decision to move forward with this unpopular vote.

Trustee Orler stated a public hearing would get the facts out for review. He has only seen one side of the facts, he is frustrated, Mr. Nelson has not replied with the other side of the story. This is not easy; the Trustees are volunteers, too. All facts should be disclosed.

Trustee Follett agreed with those statements made by Trustees Williams and Orler. She expressed her deep concern.

Trustee Smith stated that he can't support the motion. He believes the FOIA violation is the most serious allegation, but suggested that there may be plausible defenses and this may not be as serious as it appears. He believes a stay order was violated by the Village Board and that this is similar to the violation we accuse of Mr. Nelson. Regarding the procedures and rules, we only have Attorneys Ruffalo and Florey's opinion that there are problems. He believes the Village Board violated an ordinance when they sued the residents, but we didn't impeach President Woerner, and we shouldn't. A difference of opinion is not cause to impeach.

Trustee Schultz agreed with those statements made by Trustee Williams.

President Woerner asked when the written charges would be available. Village Attorney Ken Florey stated that if the Board moves forward, they would be available as soon as the formal notice is published. Trustee Cauley stated that the Board should have the charges before them before a vote is taken and asked who is the court in this matter. Mr. Florey stated that Illinois Municipal Code authorizes the body who appointed the person to rule at the hearing.

Mr. Nieman approached the podium to make a suggestion on the pending vote. Attorney Florey reminded the Board that each resident should be treated equally, therefore, Trustee Williams moved to **reopen Public comment**. Trustee Smith seconded the motion.

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

NAYS: None

ABSENT: None

Motion carried.

CITIZENS PETITIONS

Mr. Nieman suggested, rather than voting to have a hearing to fire Mr. Nelson, vote to have a hearing to investigate the underlying causes, then if necessary vote to fire him. Why rush to impeachment, the investigation should come first. President Woerner explained that the

hearing is the investigation. Mr. Nieman said this isn't the way it is phrased, seems to foreclose a free debate.

Mr. Ripani stated that he doesn't believe that Chairman Nelson flat out refused to respond to the Village Board. Trustee Orlor admitted he's voting for the hearing only knowing one side of the story, but he reiterated that Chairman Nelson has been asked multiple times for a response, this seems to be the only way to get both sides. Mr. Ripani said the Board needs more facts before going forward.

Mr. Etten hopes the lawyers on the Board are familiar with due process. The charges have to be filed first; this Board is attempting to set up a hearing when Mr. Nelson doesn't know the charges. Trustee Orlor reminded those present that the Board is following state statutes; this is not an impeachment, Mr. Nelson was not elected.

Mr. Meissner said this is a way to get Mr. Nelson to come forward and explain himself; he would like to hear Mr. Nelson's side of the story.

Mr. Angelo asked for enumeration of the Board's efforts to contact Mr. Nelson. The Board responded that there have been several by mail and by phone.

Attorney Florey stated that due process begins after a public hearing is set. Chairman Nelson would still be a member of the ZBA during the public hearing period.

Mr. Haarlow thinks an investigation before a hearing has merit. He believes that the letter requested on the FOIA was related to the Johannesen case, not the Hinsdale Club. He said that at the last ZBA meeting, Trustees Schultz and Orlor stayed after and spoke for two hours to Mr. Nelson so, how can you say there is no communication? Trustee Orlor reported the Hinsdale Club was discussed, nothing more.

Trustee Cauley stated he did speak to Tom Nelson and that if we investigate these things, they will most likely go away.

Ms. DeeDee Miller 745 S. Oak, asked the Trustees to consider how this will look to the rest of the world, she believes the Board should investigate first. This is a big deal; there will be mud on somebody's face. Step back and do some research.

RETURN TO PUBLIC HEARING DISCUSSION BY TRUSTEES

Attorney Florey stated that he will recuse himself from the hearing because of his involvement with the Garfield case, however, special counsel will be appointed and he or she will prepare written charges and procedures. A date for the hearing can be selected tonight; he described the public notice process.

The question regarding the public hearing was called.

AYES: Trustees Follett, Orlor, Williams and Schultz

NAYS: Trustees Cauley and Smith

ABSENT: None

Motion carried.

There was some discussion by Board members regarding possible hearing dates, it was agreed that they would contact the Village Manager with their availability.

Trustee Smith moved **to adjourn the meeting**. There was no second.

It was moved and seconded to take a five minute recess. Roll call vote taken, all in favor, motion carried.

MEETING RESUMES AFTER RECESS

The meeting was resumed at 10: 27 p.m. Roll call taken.

Present: President Michael Woerner, Trustees Jean Follett, Thomas Cauley, Jr., by phone, Vic Orlor, Cindy Williams and Bob Schultz

Absent: Trustee Michael Smith

Consent Agenda – Omnibus Vote

Administration & Community Affairs Committee

- a) Approve a Recreational License Agreement between the Village of Hinsdale and the Hinsdale Platform Tennis Association
- b) Approve a request from Cub Scout Pack #52 and Boy Scout Troop #52 to utilize the Community Swimming Pool parking lot on Friday, November 16, 2007, to distribute wreaths
- c) Approve a request from the 'Hinsdale Doings' to perform a photo shoot at Burlington Park on October 4, 2007
- d) Approve a request from the Hinsdale Community Services for a waiver of KLM Lodge Rental Fee in the amount of \$200.00
- e) Refer matter to Park & Recreation Commission regarding commemorating Jim Thome's 500th Home Run
- f) Award Bid #1418 –Signage Projects in the amount not to exceed \$16,835 to Design Group Signage for the Washington Street Parking Lot Directional Sign and the Shopping Directory

Zoning & Public Safety Committee

- a) Waiving competitive bidding and Approving the contract change to IDOT Contract 62911, in the amount of \$263,486.00 to R. W. Dunteman

- b) Ordinance Vacating the East Half of Public Alley Right-of-Way Adjacent to and West of 640 S. Bruner Street
- c) Ordinance Authorizing Major Adjustments to the Planned Development for the Evangelical Covenant Church of Hinsdale (O2006-34) (Plan Commission Case A-15-2007)

President Woerner asked if any item should be removed from the consent agenda. Item 8. 3) To commemorate Jim Thome's 500th Home Run was removed. President Woerner read the Consent Agenda as amended. Trustee Follett moved to **approve the Consent Agenda as amended**. Trustee Orler seconded the motion.

AYES: Trustees Cauley, Follett, Orler, Williams and Schultz

NAYS: None

ABSENT: Trustee Smith

Motion carried.

Administration and Community Affairs

Accounts Payable

Trustee Schultz moved the **approval and payment of the accounts payable for the period of September 14, 2007 through September 28, 2007 in the aggregate amount of \$861,767.82 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 Cauley, Follett, Orler, Williams and Schultz

NAYS: None

ABSENT: Trustee Smith

Motion carried.

Presentation of Survey Results

Assistant Village Manager/Director of Administration Doug Cooper reported that the Finance Commission conducted a survey and have held two meetings regarding a 1% increase in sales tax. Results indicated an 80% probability of success when linked to the utility question. Without the utility question, the survey indicated a 10% probability for success. He also reported that the Finance commission is leery of placing this item on the February 2008 ballot because of the need to educate the public. However, they recommend this to the ACA Committee for Board approval if enough citizen education could occur.

Trustee Follett moved to **Direct the Village Attorney to draft an Ordinance for the February 5, 2008 ballot – Ability of the Village of Hinsdale to negotiate with ComEd for the Acquisition of the Village's Electrical Utility System**. Trustee Schultz seconded the motion.

AYES: Trustees Cauley, Follett, Orler, Williams and Schultz

NAYS: None

ABSENT: Trustee Smith

Motion carried.

Trustee Schultz moved to **Direct the Village Attorney to draft an Ordinance for the February 5, 2008 ballot – Authorizing the Village of Hinsdale to implement a 1% non-home rule sales tax, the proceeds of which will be used to fund infrastructure projects of the Village of Hinsdale.** Trustee Follett seconded the motion.

Trustee Orler said this will require hard work but there seems to be enthusiasm. Information and education is a challenge in front of us, but this is a way to pay for streets. Trustee Williams will be electric utility liaison, Trustee Schultz will be sales tax liaison.

AYES: Trustees Cauley, Follett, Orler, Williams and Schultz

NAYS: None

ABSENT: Trustee Smith

Motion carried.

Zoning And Public Safety

Approve an Agreement between the State of Illinois Department of Transportation and the Village of Hinsdale for the Ogden Avenue Water Main Project subject to final approval of the Village Attorney

Village Manager Cook provided background on the item, outlined the stipulations of the contract, and confirmed that this did not have anything to do with an EPS change order.

Trustee Williams moved to **Approve an Agreement between the State of Illinois Department of Transportation and the Village of Hinsdale for the Ogden Avenue Water Main Project subject to final approval of the Village Attorney.** Trustee Orler seconded the motion.

AYES: Trustees Cauley, Follett, Orler, Williams and Schultz

NAYS: None

ABSENT: Trustee Smith

Motion carried.

Ordinance Amending Title 3 (Business and License Regulations), Chapter 3 (Liquor Control), Section 3-3-11 (Alcoholic Liquor in Public Places and Motor Vehicles), Subsection A (Consumption and Possession of Open Containers in Public Places Prohibited) of the Village Code of Hinsdale

Trustee Cauley asked if this item was properly noticed. Attorney Florey confirmed that it was published appropriately.

Trustee Schultz moved to approve an **Ordinance Amending Title 3 (Business and License Regulations), Chapter 3 (Liquor Control), Section 3-3-11 (Alcoholic Liquor in Public Places and Motor Vehicles), Subsection A (Consumption and Possession of Open Containers in Public Places Prohibited) of the Village Code of Hinsdale.** Trustee Cauley seconded the motion.

AYES: Trustees Cauley, Follett, Orler, Williams and Schultz

NAYS: None

ABSENT: Trustee Smith

Motion carried.

Environment And Public Services

Trustee Follett noted that the regularly scheduled EPS meeting would be postponed one week because of the Columbus Day holiday.

Reports From Advisory Boards And Commissions

No report.

Staff Reports

Parks & Recreation Director Carrie Haupt reported on the Davy Jones Concert, stating that 2,000 people attended and it went very well. She hopes to have the opportunity to conduct a similar event next year. President Woerner thanked Public Services and the Police Department for a great job. Trustee Schultz added his appreciation to the Parks and Recreation Department as well as Tanya Hart and Patricia Montgomery from A Taste of Vino.

Citizens' Petitions

Sigita Balzekas, 521 Pamela Circle, stated that Mr. Nelson's expertise and capacity to wield the law will defend him. She made an appeal for compassion for his family, friends and his community. She suggested the Board consider another way of handling this than publicly filming this procedure. It's not just about the law; it's about the people in the Village. The actions of the Board are regarded as punitive.

Adjournment

President Woerner stated there was no need for a closed session this evening. Trustee Follet moved to adjourn the meeting. Seconded by Trustee Orlor.

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

NAYS: None

ABSENT: Trustee Smith

Motion carried.

Meeting adjourned at 10:41 P.M.

ATTEST: _____
Christine M. Bruton, Deputy Village Clerk