

**VILLAGE OF HINSDALE
BOARD OF TRUSTEES MEETING
October 16, 2007**

The Hinsdale Village Board of Trustees meeting was called to order by President Woerner in Memorial Hall of the Memorial Building on Tuesday, October 16, 2007 at 7:41. p.m.

Present: President Michael Woerner, Trustees Jean Follett, Thomas Cauley, Jr., 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, Deputy Police Chief Mark Wodka, 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: Christine Martin, freelance writer for the Chicago Tribune, Pam Lannom of the Hinsdalean and Amy Deiss representing The Doings

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 October 2, 2007 Regular Meeting and the September 18, 2007 Closed Session Village Board of Trustees meeting minutes. Trustee Schultz seconded the motion.

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

NAYS: None

ABSENT: None

Motion carried.

CITIZENS' PETITIONS

Mike Ripani, 21 Camberly Court read a statement regarding his comments made at the October 2nd Village Board meeting. He said that after further review he realized that he had misspoken and apologized for his remarks.

Jack Uretsky, 206 N. Grant St. apologized to Mr. Cook for comments made at the October 2nd Village Board meeting. He then read a portion of a letter he wrote to Trustee Orlor in

regards to the Nelson public hearing. He stated that President Woerner mischaracterized Judge Popejoy's remarks regarding the Hinsdale Club/Foxford project.

Mr. Jerry Hughes, 24 S. Oak Street expressed approval of the newly painted crosswalks clearly painted at Chicago and Oak. On the subject of the \$200,000 expenditure for a consultant to rewrite the zoning code, he doesn't think this is the right time. He believes it is politically unwise because of the current turmoil and mistrust. He believes there was a betrayal by the Board of statements made to citizens, and the hiring of this consultant signals a path with a preordained conclusion. He asked, for the public record, who were the nine SEG members who supported moving forward with this initiative. He further commented that on August 14th, President Woerner stated that a rewrite of the zoning code might not be necessary, but an RFP had already been issued for a comprehensive revision of the code. He suggested the Zoning Code Rewrite Task Force meet, evaluate the code, create a mandate then go forward with an RFP.

Mr. Karl Weber, 219 E. First Street, read a list of consulting costs for projects over the last 12 months resulting in expenditures of \$1.56 million. He believes the zoning code task force should review the code before moving forward with spending money on another consultant.

Mr. Jeff Finley, 220 N. Monroe, replied to previous comments. He stated that he participated in the RFP consultant interviews, and noted that they are still anticipating negotiating with consultants to define the scope of the project. He stated the task force has made every effort to make this an open process. They welcome anyone to come and help; to point out problems and possible solutions for the code.

Kim Angelo, 525 E. Third St. objected to the special prosecutor for the Nelson hearing meeting unilaterally with some members of the ZBA.

Mr. Charlie Hartley, President of the Rotary Club, reported that the Wellness 5K Race was very successful with over 2,500 runners participating. He thanked the Village for their help and cooperation. He also stated that he hopes all future concerts are held in town not at KLM.

Mr. Mike Ripani, asked if the approved hearing procedures will be the procedures in place for Mr. Nelson's public hearing. He would like them published so that residents can see them and review them.

Village President's Report

President Woerner commented on the Zoning Board of Appeals issue, stating that members of the Village Board have reached out to Tom Nelson but to no avail. Constructive dialogue requires two sides. A meeting was held with two ZBA members this weekend, in an effort to come to a resolution before a public hearing. President Woerner stated this is not a fight between Mr. Nelson and the Village Board, but between Mr. Nelson and the law. The hope is this will end respectfully with dialogue with Mr. Nelson. They are still looking for a mutually agreeable solution.

President Woerner read a proclamation for Charles Foster Day. He noted that Community Strategist Tim Scott will be honored as Outstanding Young Professional and Trustee Vic Orler will be honored as Outstanding Citizen. Awards will be presented at a dinner held on October 19th at Ruth Lake Country Club.

Consent Agenda – Omnibus Vote
Environment & Public Services Committee

- a. Award of Bid - 814 The Pines Drainage Project – Riccio Construction Corporation, in the amount of \$14,500, pending the reimbursement from the adjacent property owners in the amount of \$11,600
- b. Resolution Approving Funding of the Ogden Avenue Watermain Improvements per “Exhibit B” of an Agreement with the State of Illinois
- c. Fee Waiver Request – Denial -522 W. Hickory – Permit Renewal Fees
- d. Street Closure Request - Washington Square Retirement Community

President Woerner read the Consent agenda as presented. Trustee Smith asked why Item C was a vote to deny. Trustee Follett explained that the staff has no authority to waive fees. Village Manager Cook said the resident requested the Board review. Trustee Follett said the vote was 3-0 at the EPS meeting to deny.

Trustee Follett moved to **approve the Consent Agenda as amended**. Trustee Schultz seconded the motion.

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

NAYS: None

ABSENT: None

Motion carried.

Administration and Community Affairs

Accounts Payable

Trustee Follett moved **Approval and Payment of the Accounts Payable for the period of September 28, 2007 through October 12, 2007 in the aggregate amount of \$901,238.85 as set forth on the list provided by the Village Treasurer, of which a permanent copy is on file with the Village Clerk**. Trustee Cauley seconded the motion.

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

NAYS: None

ABSENT: None

Motion carried.

Referendum Ordinance

Ordinance Placing a Referendum on the February 5, 2008, Primary Election Ballot Regarding Imposing a Non-Home Rule Municipal Retailers' Occupation Tax and Non-Home Municipal Service Occupation Tax in the Village of Hinsdale

Trustee Orlor introduced the item explaining that the ACA Committee discussed and met at length with the Finance Commission. The ACA Committee agreed unanimously to move the item forward based on the recommendation of the Finance Committee. The success of this referendum will be an uphill climb and will require a major educational campaign. Trustee Orlor read the ballot question, explaining that the sales tax will increase by 1%. This would nearly double Village sales tax revenues as the Village currently only gets 1% of sales tax revenue. Monies would be targeted for infrastructure, streets and sewers. Food, drugs and automotive purchases are exempt. It appears that 2/3 of retail sales are made by non-residents of Hinsdale. This referendum is a solution to not have to go to residents for a property tax increase. He hopes that an independent resident group will promote and educate the residents of Hinsdale.

Trustee Smith asked if this is the same referendum question as last time. Village Attorney Ken Florey said yes. Trustee Schultz said Chairman Kevin Kane and the Finance Commission did a great job analyzing the situation. He reiterated that this solution defers a large portion of the cost outside the community.

Trustee Orlor moved to approve an **Ordinance Placing a Referendum on the February 5, 2008, Primary Election Ballot Regarding Imposing a Non-Home Rule Municipal Retailers' Occupation Tax and Non-Home Municipal Service Occupation Tax in the Village of Hinsdale.** Trustee Schultz seconded the motion.

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

NAYS: None

ABSENT: None

Motion carried.

Trustee Schultz will act as the Board liaison for this project.

Zoning and Public Safety

Award of a Professional Services Contract to Camiros

President Woerner began the discussion by stating that this item was tabled at the October 2nd Village Board Meeting. He read a statement recommending retaining Camiros for

Phase I of the Zoning Code review. Upon completion of Phase I, the Board will review the recommendations of the Zoning Code Task Force. Camiros is a nationally recognized firm with 30 years of experience. He stated that portions of the code are outdated; 20 years old. An expert review of the code will preserve Hinsdale, protect property values and provide for sensible land use. The goal is to protect and preserve. The building department has made many revisions to the code over the years. The approach recommended is to tackle the project yet be fiscally conservative. The cost to the Village is greater if staff and attorneys continue to 'revise' the code on an as needed basis. Attorney Florey added that the contract before the Trustees is subject to final review.

Board discussion followed. Trustee Follett stated that everyone agrees to protect the community character, the downtown and to maintain a single family residential community. She noted the misinformation and semantics problems surrounding this issue. This has become divisive because of the misinformation. Trustee Williams echoed these comments. No one wants to rewrite the fundamental premise that this is a single family community. The code has problems; we can't approve logical things, we've spent a lot of money on attorney fees as a result. The code needs to be clarified and conflicts reconciled. She has confidence that Coleman Tuggle and Jeff Finley will act as true leaders. Trustee Schultz noted that attorney fees are consultant fees, too. Interpreting the code requires ongoing attorney and staff time.

Trustee Cauley said the new phased proposal of four \$50,000 increments is the same proposal as the original \$200,000 proposal. He agrees that the code needs to be looked at, but takes issue with the word 'rewrite'. The Camiros proposal is a rewrite of the code. He suggested that before the Board moves forward with a consultant, have the committee articulate to the Board what is troubling with the code. Trustee Smith agrees with this approach. He also pointed out that the new contract is the same language as the last one. Attorney Florey pointed out that that is why this contract is subject to final review. Additionally, indemnification language needs to be added before it is ready for signature. Trustee Orler read into the record a letter from Coleman Tuggle. Trustee Orler said he has confidence in Coleman and rest of task force.

Trustee Orler, in reference to Mr. Weber's remarks about total monies spent on consultants, pointed out there is a difference between consultants and contractors. Staff can't do all this themselves, consequently some work is outsourced. He read a list of all consultants and contractors since May 2005, and clarified that only \$550,000 of the \$1.56 million Mr. Weber quoted is actual consulting fees.

Trustee Cauley made a point of order, noting that the original recommendation from the ZPS committee was to approve \$200,000.00. Two weeks ago the Village Board Agenda and packet included materials to that effect. Yet, the motion before the Board tonight is for \$50,000.00, he asked if this is proper. Village Attorney Florey clarified that the Board can make any motion of any value. Trustee Schultz explained that the \$200,000 is a cap not to exceed.

Trustee Follett moved to **approve a Professional Services Contract with Camiros, Ltd. for Phase I at \$50,000.** Trustee Orler seconded the motion.

AYES: Trustees Orler, Williams, Schultz

NAYS: Trustees Follett, Cauley, Smith, President Woerner

ABSENT: None

Motion failed.

Trustee Follett made a motion to **approve a Professional Services Contract with Camiros, Ltd. for an amount not to exceed \$199,530.00.** Trustee Orler seconded the motion and noted that this money would be spent over three fiscal years. Trustee Smith said he has read the code and he understands it; he wants to know specifically what needs to be addressed and whether Section 1 is being addressed, it is not clear to him. Trustee Cauley agreed.

AYES: Trustees Follett, Orler, Williams, Schultz

NAYS: Trustees Cauley, Smith

ABSENT: None

Motion carried.

Environment and Public Services

Approval of the Statement of Hearing Procedures

Village Manager Cook introduced Mr. Rob Bush, an attorney with Ancel Glink, who has been engaged as special counsel to represent the Village in the public hearing to consider removing Chairman Nelson from the Zoning Board of Appeals. He has prepared a statement of procedures to be used at the public hearing on October 30th. This will protect the Village and Mr. Nelson, aid in the accessing of materials and questioning of witnesses. The procedure needs fairmindedness; this process will enable this.

Trustee Williams asked if we can reach Tom Nelson's attorney on input for objections to this process. Mr. Bush said technically yes, but it isn't customary to do so. If some suggestion comes from Mr. Nelson or his counsel, procedural rules can be amended at the time of the hearing. She also asked if Board members are allowed to talk to ZBA members or Mr. Nelson. Mr. Bush recommended if you are going to have conversation on merits, then no, it would not be wise to do so. A judge will engage in pretrial efforts all the time, to the extent of reaching out for a resolution, that's not objectionable. This should be done thru a single member of the Board to Mr. Nelson, his attorney or the ZBA.

Trustee Cauley asked about Step #7; he would like it clear that the burden of proof is on the Village Board; he would like that clarified. Mr. Bush said we could write that in. Village Attorney Florey explained that as he had been advisory to the ZBA, this posed a conflict of

interest and therefore he has recused himself. Mr. Bush will represent the Village Board at the hearing to be sure procedures are appropriate, to give advice on evidentiary materials and make sure the Board acts in a quasi-judiciary manner.

Trustee Orlor commented that this is not a criminal trial, the purpose is to find out if cause exists to remove the Chairman. Trustee Smith asked if there has ever been a case like this in Illinois. Mr. Bush said not with a Zoning Board, but there were a couple Fire and Police Commissioners in Connecticut. Mr. Bush said guidance will be provided as to what evidence would constitute sufficient cause. President Woerner asked if these procedures should be made public before approval. Mr. Bush said no; it would be fair and reasonable to make them available to the public and Mr. Nelson by tomorrow. If the Board is persuaded down the line that the procedures are not acceptable, they can be revised.

Trustee Smith asked if it is controversial to deliberate in private. Mr. Bush explained that it is not contrary to the Open Meeting Act to go to closed session if you wish. Trustee Williams asked if there is a single representative for the ZBA. Mr. Bush said you could ask the ZBA to appoint a representative, but you can't control the ZBA and they are not a party to this case. Trustee Smith said what if Mr. Nelson asks for a continuance? Mr. Bush recommends convening on the 30th regardless, and make a decision on a request or any other resolution that may have arrived at that time. The Board can take action to decide to proceed or consider some other option offered by staff or an attorney.

Trustee Orlor moved to **approve the Procedures for a Public Hearing**, as amended. Trustee Schultz seconded the motion.

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

NAYS: None

ABSENT: None

Motion carried.

Open Meetings & Freedom of Information Workshop

President Woerner reminded those present that the Village is hosting an Open Meetings and Freedom of Information Workshop to be held on October 18th at 6:30 p.m. in Memorial Hall. A presentation will be followed by a question and answer session. He encouraged everybody to attend.

Reports from Advisory Boards and Commissions

Presentation from Bicycle Task Force

Mr. Matthew Griffin, Chair of the Bicycle Task Force, addressed the Board, stating this Bicycle Master Plan has been a two-year project. The plan was drafted by TY Lin International and is a 20 year framework encompassing infrastructure, policy and capital

implementation. He thanked President Woerner and Trustee Follett for their encouragement and thanked members of the task force for their hard work. The diversity of opinion and experience and desires have produced a better product. He believes this plan will provide increased welfare and enjoyment for the entire population.

Present this evening are Mr. John LaPlant, Director of Traffic Engineering, Suzan Pinosof and Tim Gustafson from T.Y. Lin International. Mr. LaPlant made a power point presentation regarding the various aspects of the bicycle master plan and proposed improvements for the short and long term. He noted this plan is a 20 year recommendation, almost 90% of the system is installed by the Village, he recommended the Village look to grants for major costly improvements. Mr. Cook explained that some of the improvements can come from operating costs and normal maintenance work, larger projects fall into the infrastructure master plan and would be funded by grant money. These recommendations can be prioritized with other capital projects. Trustee Follett said the initiative to move these projects forward would come from Parks & Recreation, but the Board should keep this plan in mind as future budgets are planned. Mr. LaPlant said the Bicycle Plan is never final, but always fluid. He said an advisory group can be helpful. Trustee Follett pointed out that you can't get grant money unless you have a master plan in place.

Trustee Follett moved to approve the **Resolution Endorsing Bicycle Master Plan Improvements**. Trustee Orler seconded the motion.

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

NAYS: None

ABSENT: None

Motion carried.

Items Taken Out of Order

Environment & Public Services

Trustee Follett reported on two presentations; 1.) the storm water master plan and combined sewer overflow, 2.) preliminary draft session from Drainage and Woodlands Task Force. She urged people to get involved in the public meetings.

Zoning & Public Safety

None.

Administration & Community Affairs

None.

Staff Reports

None.

Citizens' Petitions

Mr. Nick Etten, 1214 Hawthorne, regarding the procedures adopted tonight, heard references to Mr. Nelson's attorney. He asked if the Board had made a decision to assume the cost of Mr. Nelson's defense. Mr. Etten believes Mr. Nelson is entitled to representation, he urged the Board to provide equal representation for Mr. Nelson and underwrite reasonable legal fees. Trustee Follett noted that Mr. Nelson has not asked for money for this purpose to date. Mr. Bush recommends that the Village not pay for this representation pointing out that in our American system each party pays for their own representation, but the Board is free to decide how to handle this. Trustee Follett stated that when the request comes in, the Board will respond.

Mr. Jerry Hughes, expressed his anxiety from watching Village Board meetings. If we are setting out on a multi-year effort regarding the zoning code, can we get on a paper the specific mandate of the Zoning Code Task Force. He said the letter from Coleman Tuggle was comforting, still not sure about the preamble, what's in and what's out. He believes the scope of the task force should be clearly defined and asked if the scope of services from the consultant line up with that.

Adjournment

President Woerner stated there was no need for a closed session this evening. Trustee Smith moved to adjourn the meeting. Trustee Williams seconded the motion.

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

NAYS: None

ABSENT: None

Motion carried.

Meeting adjourned at 9:51 p.m.

ATTEST: _____
Christine M. Bruton, Deputy Village Clerk