

**VILLAGE OF HINSDALE
MINUTES OF THE MEETING OF THE
VILLAGE BOARD OF TRUSTEES
June 21, 2011**

The regularly scheduled meeting of the Hinsdale Village Board of Trustees was called to order by President Tom Cauley in Memorial Hall of the Memorial Building on Tuesday, June 21, 2011 at 7:34 p.m.

Present: President Tom Cauley, Trustees Christopher Elder, J. Kimberley Angelo, William Haarlow, Doug Geoga, Laura LaPlaca and Bob Saigh

Absent: None

Also Present: Village Attorney Ken Florey, Village Manager Dave Cook, Assistant Village Manager/Finance Director Darrell Langlois, Director of Community Development Robb McGinnis, Director of Parks & Recreation Gina Hassett, Police Chief Brad Bloom, Fire Chief Mike Kelly and Village Clerk Christine Bruton

Also Present: Joseph Hillenmeyer – Patch.com, Ken Knudson – The Hinsdalean, Chuck Fieldman – The Doings, Bridget Doyle – Tribune

PLEDGE OF ALLEGIANCE

President Cauley led those in attendance in the Pledge of Allegiance.

APPROVAL OF MINUTES

Trustee Geoga recommended clarifications to the section of minutes pertaining to the platform tennis matter. Trustee Elder moved **to approve the minutes of the Regular Meeting of June 7, 2011, as amended.** Trustee Saigh seconded the motion.

AYES: Trustees Elder, Angelo, Haarlow, Geoga, LaPlaca, Saigh

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.

CITIZENS' PETITIONS

None.

APPOINTMENTS TO BOARDS AND COMMISSIONS

President Cauley read list of appointments as follows and asked for a motion to approve.

Economic Development Commission

Elizabeth Garvey appointed to a 3 year term through April 30, 2014 (replacing Brad Summers – Resident Member)

Steve Potter reappointed to a 3 year term through April 30, 2014 (Retail Member)

Historic Preservation Commission

John Howell appointed to a 3 year term through April 30, 2014 (replacing Liza Buckowski)

JoAnn Murphy reappointed to a 3 year term through April 30, 2014

Park & Recreation Commission

Matt Klucenek appointed as Chairman to a 3 year term through April 30, 2014 (replacing Jeff Curran)

Susan Owens appointed to a 3 year term through April 30, 2014 (replacing John Deppe)

Marybeth Dougherty reappointed to a 3 year term through April 30, 2014

Plan Commission

Pam Sullins reappointed to a 3 year term through April 30, 2014

Police Pension Board

Bill Moucka reappointed for a 2 year term through April 30, 2013

Trustee Haarlow moved **to approve the list of appointments as recommended by President Cauley**. Trustee Saigh seconded the motion.

AYES: Trustees Elder, Angelo, Haarlow, Geoga, LaPlaca, Saigh

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.

VILLAGE PRESIDENT'S REPORT

No report.

CONSENT AGENDA

President Cauley read the Consent Agenda as follows:

Items Recommended by Administration & Community Affairs Committee

- a) Ordinance Approving a Lease Agreement with the Hinsdale Center for the Performing Arts (Omnibus vote) (O2011-30)
- b) Award Bid #1494 to George's Landscaping in the Amount of \$4,223 for the Landscaping of the KLM South Shelter (Omnibus vote)

Items Recommended by Environment & Public Services Committee

- c) Award Chestnut Street Improvements Project to Martam Construction, Inc. in an Amount not to Exceed \$3,728,195.50 (Omnibus vote)
- d) Award the 2011 Resurfacing Program to Brothers Asphalt paving, Inc. in an Amount not to Exceed \$1,312,577.50 (Omnibus vote)
- e) Award the 2011 50/50 Sidewalk Program Bid (IDOT Sec No. 11-00000-01-GM) to D'Land Construction in an Amount not to Exceed \$60,796.95 (Omnibus vote)
- f) Award the Engineering Services to the Design Engineering of the 2012 Road Resurfacing Project to J.J. Benes and Associates, Inc. in an Amount not to Exceed \$63,192.00 (Omnibus vote)

Items Recommended by Zoning & Public Services Committee

- g) Ordinance Approving a Special Use Permit for a Carryout Eating Facility, a Design Review Permit for the Construction of a Quick Serve Restaurant and the Site Plan and Exterior Appearance Plan for the Property Located at 149 E. Ogden Avenue (Omnibus vote) (O2011-31)

Trustee LaPlaca **moved to approve the consent agenda as presented.** Trustee Angelo seconded the motion.

AYES: Trustees Elder, Angelo, Haarlow, Geoga, LaPlaca, Saigh

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.

ADMINISTRATION AND COMMUNITY AFFAIRS

Trustee Angelo moved **Approval and Payment of the Accounts Payable for the Period of June 4, 2011 through June 13, 2011 in the aggregate amount of \$932,204.38 as set forth on the list provided by the Village Treasurer, of which a permanent copy is on file with the Village Clerk.** Trustee Elder seconded the motion.

AYES: Trustees Elder, Angelo, Haarlow, Geoga, LaPlaca, Saigh

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.

Approve a Lease Agreement for Veeck Park Concession Stand Operations

President Cauley introduced the item and noted that Trustee Geoga had asked for a more detailed proposal for the Board at the ACA meeting, but basically residents want to sell concessions to raise money for skate park maintenance. Mr. Scott Banke, representing the residents, addressed the Board and thanked the ACA Committee and Director of Parks & Recreation Gina Hassett for their help and stated that the group is amenable to the agreement as presented and will donate the money back to Village. Trustee Geoga moved to **Approve a Lease Agreement for Veeck Park Concession Stand Operations**. Trustee Elder seconded the motion.

AYES: Trustees Elder, Angelo, Haarlow, Geoga, LaPlaca, Saigh

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.

ENVIRONMENT AND PUBLIC SERVICES

Award Contract to Earth, Inc. for Dirt Removal at Veeck Park not to Exceed \$108,000

President Cauley introduced the item regarding the dirt left at Veeck Park after the installation of the stormwater overflow facility. Trustee LaPlaca has spearheaded negotiations for the Village with the contractor and the engineer on the project for the removal of the dirt. Each party will put in \$30,000 toward the removal of the dirt, the objective is to bring Veeck Park back to its original condition. Trustee Elder moved to **Award a Contract to Earth, Inc. for Dirt Removal at Veeck Park not to exceed \$108,000**. Trustee Angelo seconded the motion.

AYES: Trustees Elder, Angelo, Haarlow, Geoga, LaPlaca, Saigh

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.

Ordinance Establishing Prevailing Wages for Public Works in the Village of Hinsdale, Cook and DuPage Counties, Illinois (O2011-32)

Trustee Geoga explained that the State of Illinois requires municipalities entering into contracts with prevailing wage contractors to comply with State wage requirements. While this is a choice, it is the only practical choice. He objects, on principal, because the Village is a better steward of its finances than the State. Trustee Geoga moved to approve an **Ordinance Establishing Prevailing Wages for Public Works in the Village of Hinsdale, Cook and DuPage Counties, Illinois**. Trustee LaPlaca seconded the motion.

AYES: Trustees Elder, Angelo, Haarlow, Geoga, LaPlaca, Saigh

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.

ZONING AND PUBLIC SAFETY

Ordinance Approving a Special Use Permit for a Planned Development, a Special Use Permit for a Personal Care Facility and Site Plan and Exterior Appearance Plan for the Property Located at 10 N. Washington Street

President Cauley introduced the item explaining that Eden Supportive Living is asking the Board to approve a special use permit for a planned development and a site plan and exterior appearance plan for the property that was formerly Washington Square. The matter was introduced at the February 28th ZPS meeting and presented at the March 1st Village Board meeting. Public hearings were held in April and May at the Plan Commission, whereupon the matter was sent back to ZPS on May 23rd. President Cauley pointed out that he and the members of the Board have either attended or watched these meetings and the transcripts from the Plan Commission have been read. He doesn't believe a full presentation from Eden is necessary again, but what would be helpful is for the applicant to address the zoning issues in the application. The proposed function for the property is a laudable goal and the Board is acutely aware of the need for new businesses, however, the Village has a detailed zoning code which must be applied. The zoning code is the law and the Trustees have taken an oath to uphold the law. The question is whether the application upholds the code. Whether this application meets the planned development requirements was discussed at the Plan Commission in great detail. His concern relates to the provision in the code that states there can be no nursing home or personal care facility in the R-5 district or next to any single family district. At the northeast corner of the property are single family residences. Eden has asked for a waiver to this provision, however, according to the code, this Board does not

have the authority to waive this provision. On his reading, the code prohibits a personal care facility across the street from a residential district.

Pursuant to questions he has received from residents, President Cauley pointed out that the proposed use is not the same as the senior housing that formerly occupied the space. The Eden application is for residents 22-64 years in age. This is not an elder care facility. The zoning code has different requirements for senior housing and personal care facilities. Additionally, the code requires there be ready market demand for the proposed housing. He also reported that no one has complained about living across from Washington Square, but that does not change the fact that the zoning code requirements must be met. There are two key issues; 1. what basis does this Board have to waive the prohibition of a personal care facility across from single family residences, and 2. has Eden satisfied the requirements of planned development setback and density.

Mr. Mike Hamblet, representing Eden, addressed the Board and thanked President Cauley and the Trustees for their efforts to familiarize themselves with the application. He pointed out that 10 N. Washington is technically catty-corner from the residential district and it could therefore be argued the “across the street language” would not apply. He explained that the Federal Housing Act requires villages to make reasonable accommodations and give the benefit of doubt to organizations that provide care to disabled persons. Further, there are problems in the Hinsdale zoning code. This isn’t a new project and there would be no disruption to the Village. There is no assisted living provided in Hinsdale and residents are forced to go elsewhere.

Mr. Hamblet stated that an error inadvertently occurred with the application. The original was for an assisted living facility servicing people ages 22-64, it did not say a personal care facility. The Hinsdale village code does not expressly define assisted living, however, Illinois law does. It is a home for persons where 80% of the total number of residents are aged 55 and over; the other 20% includes persons with disabilities. It had not been determined if this was a new planned development or a change of use. They understood this to be a change of use, but with the assistance of Village staff, they also filled out a planned development application. At the Plan Commission, the matter was discussed and the Commission took a vote that for its purposes this was an expired planned development and an expired use. Apparently it was forwarded as a special use application. They take issue with that, they are a senior housing development because they service disabled persons and they would qualify for the exception. At the Plan Commission they indicated this was assisted living after they filed the application here and with the State. This is an assisted home for 80% seniors.

President Cauley confirmed that Mr. Hamblet is stating that residential housing is technically catty corner, federal law trumps local zoning codes and this is primarily senior housing. He noted that the application before him does not say senior housing, it says personal care, each page says ages 22-64. The Plan Commission’s review was to

allow a personal care facility. He also reminded Mr. Hamblet if Eden wants to amend its application and make it for senior citizen housing under §4-107(1), demand must be demonstrated that the facility can be filled from residents in the area for the foreseeable future. President Cauley indicated that this is a legislative board, not a fact-finding body, so any evidence concerning demand should be first presented to the Plan Commission which is the fact-finding body. The population Mr. Hamblet is describing is different than in the application. As to §4-107(2), which relates to location, and provides that a senior housing facility shall be located in an area of the Village conducive to the special needs of senior citizens, he will concede that location requirement has been met, but there needs to be a factual finding of the question of is there and will there continue to be a market demand for all dwellings. The Washington Square representatives said they closed because there is no demand. He is reluctant to make a factual finding tonight. If the intent is a combination of housing, he recommended Mr. Hamblet go back to the Plan Commission and make that case. Village Manager Cook confirmed that if the Board does not approve the Planned Development as presented, the applicant cannot return for approval for two years. Mr. Hamblet stated he would take the Board's advice and return to the Plan Commission. Trustee LaPlaca **moved to remand the application back to the Plan Commission for amendment and reconsideration.** Trustee Elder seconded the motion.

AYES: Trustees Elder, Angelo, Haarlow, Geoga, LaPlaca, Saigh

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.

Mr. Robert Buddig, Hinsdale Central Student Body President, addressed the Board on behalf of the student body asking that the Board look beyond the code and do what is right for the community. They feel this project will benefit those in need of care as well as the younger generation of this town. Students have volunteered at Washington Square in the past where they were able to learn valuable lessons.

Rick Nixon, an elder law director, stated that he is well acquainted with senior issues and that Eden Supportive Living in North Aurora filled a need. He described the long-term care issues for the baby boomer generation and asked that the Board not worry about a need for people to fill the place.

Mr. Mitch Hamblet explained that there has been confusion regarding assisted living licensure. He can only provide service that complies with what is licensed. Discussion followed regarding the definitions of the North Aurora facility and the proposed one in Hinsdale. He also stated they would not be licensed to take a Medicaid voucher.

Ms. Carla Feinstein of Ashbury Court stated the Village could use the revenue generated by the people who are coming in. She also commented that some approvals are given easily and some are nit-picking.

Reverent Dr. Thom Parrott-Sheffer, Assistant Minister Union Church addressed the Board stating he knows there is a human need for a facility like Eden. He challenged the Board to clear the pathways and partner with these people to get this project successfully through the system.

Mr. Chris Wilson 615 S. Lincoln expressed his opinion that the Eden project would provide overwhelming benefits for the community. The building is currently empty, and becoming increasingly dangerous. He asked the Board not to let the code get in the way of saving our town. This is an opportunity to increase the diversity of the town. He is also concerned that there appears to be litigation risk in this matter.

Ms. Ly Hotchkin a Burr Ridge resident described her own son who is a stroke victim and her family's personal need for this kind of facility.

Carol Wrobel, President of Washington Square, distributed letters to the Board from supportive residents commenting that there is not much community opposition to this project. She believes the proposed project will further the mission of Washington Square. She urged the Board to support the project; a market exists because of the care Eden would provide.

Donna Moucka 533 N. Grant asked the Board to please help this group, if the Board is not opposed to the proposal, work together to make the application work. It is clear there is support; this is planning for the future.

President Cauley thanked people for coming tonight and said sending the matter back to the Plan Commission will give the Board a clear picture of what needs to be approved. Trustee LaPlaca commented that it was unfair of citizens to vilify the Board before they were afforded an opportunity to ask questions. She added they are doing the best they can to find the best solutions.

REPORTS FROM ADVISORY BOARDS AND COMMISSIONS

No reports.

STAFF REPORTS

Village Manager Cook reminded everyone that the Woodlands resident meeting is tomorrow night at KLM.

CITIZENS' PETITIONS

None.

TRUSTEE COMMENTS

None.

ADJOURNMENT

There being no further business before the Village Board of Trustees and no need for a closed session, President Cauley asked for a motion to adjourn. So moved by Trustee Angelo, seconded by Trustee LaPlaca.

AYES: Trustees Elder, Angelo, Haarlow, Geoga, LaPlaca, Saigh

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.

Meeting adjourned at 9:35 p.m.

ATTEST: _____
Christine M. Bruton, Village Clerk