

**VILLAGE OF HINSDALE
VILLAGE BOARD OF TRUSTEES
MINUTES OF THE MEETING
April 20, 2010**

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, April 20, 2010 at 7:31 p.m.

Present: President Tom Cauley, Trustees J. Kimberley Angelo, Bob Saigh, Laura LaPlaca, Cindy Williams, Doug Geoga and Bob Schultz

Absent: None

Also Present: Village Attorney Ken Florey, Village Manager Dave Cook, Assistant Village Manager/Director of Finance Darrell Langlois, Fire Chief Mike Kelly, Acting Director of Community Development Robb McGinnis, Director of Public Services George Franco and Deputy Village Clerk Christine Bruton

Also Present: Amy Deis representing The Doings, Pam Lannom with The Hinsdalean and Don Grigus, Suburban Life

PLEDGE OF ALLEGIANCE

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

APPROVAL OF MINUTES

President Cauley made corrections to the minutes. Trustee Angelo moved to **approve the minutes of the Regular Meeting of April 6, 2010, as amended.** Trustee LaPlaca seconded the motion.

AYES: Trustees Angelo, Saigh, LaPlaca, Williams, Geoga, Schultz

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.

CROSSING GUARD PROCLAMATION

President Cauley read the proclamation naming May 4th, 2010 as Crossing Guard Appreciation Day.

NATIONAL PRESERVATION MONTH PROCLAMATION

President Cauley read the proclamation. The theme this year is 'Old is the New Green'.

CITIZENS' PETITIONS

President Cauley requested that individuals wishing to speak to the cell tower and height in the B-2 issues please save their comments until those agenda items are addressed by the Board.

Mr. Greg Bjorkman of 923 S. Bruner complimented Chief Bloom as he witnessed an officer administer a ticket to someone who was blocking traffic in front of the post office. He also complained about the distribution of TribLocal flyers that end up as litter in the curbs and parkways.

Mr. Jim McConachie, Labor Council, asked for confirmation that Bid #1467 for sewer cleaning awarded to American Underground will be a prevailing wage job. Director of Public Services George Franco confirmed that it is a prevailing wage job.

VILLAGE PRESIDENT'S REPORT

President Cauley stated that Senator Kirk Dillard and Representative Patti Bellock should be commended for their hard work helping to secure funding for the reconstruction of the Oak Street Bridge. They have recently written a letter to IDOT asking them for the \$4-5 million remaining to be raised for the project.

CONSENT AGENDA

President Cauley read the Consent Agenda as follows:

Items Recommended by Environment & Public Services Committee

Item A: Resolution Approving and Accepting a Plat of Consolidation to Consolidate the Properties Commonly Known as 337 and 341 E. Chicago Avenue in the Village of Hinsdale, County of DuPage (Omnibus vote) (R2010-11)

Item B: Resolution for the Veeck Park Wet Weather Facility Contract Change Order Number 4 to Change the Retainage for the Construction Completed to Date of the Veeck park Portion of the Contract from Ten (10) Percent to Five (5) Percent on the Condition that John Burns Construction Company will Maintain their Contract Prices for the Third & Princeton Project Through the End of November 2010. Further, the Village will

Retain Ten (10) Percent of Each Payment for the Third & Princeton Construction (Omnibus vote) (R2010-12)

Item C: Award Bid #1467 - Sewer Cleaning, Televising and Root Cutting to American Underground, Inc. in the amount of \$37,400. (Omnibus vote)

Item D: Award Bid #1468 - Annual Leak Detection Survey to Associated Technical Services in the amount of \$12,660 (Omnibus vote)

Item E: Award Bid #1469, Elm Tree Inoculation, to be split between Landscape Concepts Management and Nels Johnson Tree Experts with a comparative bid price of \$11.00 per diameter inch (Omnibus vote)

Item F: Award Bid #1470 - Street Sweeping to Dejana Industries per the unit prices bid (Omnibus vote)

Items Recommended by Zoning & Public Safety Committee

Item G: Ordinance Approving Site Plans and Exterior Appearance Plans for Dugout Improvements at 550 Walnut Street (Omnibus vote) (O2010-19)

Item H: Ordinance Amending Title 4 (Health and Sanitation) Chapter 1 (General Health Regulations) Section 4-1-9 (Ambulance and Life Support Service Fees) (Omnibus vote) (O2010-20)

Item I: Ordinance Amending Title 9 (Building Regulations), Chapter 9 (Fire Code), Section 9-9-2 (Amendments, Revisions, and Changes) of the Village Code Instituting a New Fire Inspection Fee (Omnibus vote) (O2010-21)

Item J: Ordinance Amending Title 5 (Police Regulations) Chapter 5 (Alarm Devices) of the Village Code of Hinsdale (Omnibus vote) (O2010-22)

Item K: Ordinance Authorizing the Sale by Auction of Personal Property Owned by the Village of Hinsdale (Omnibus vote) (O2010-23)

Trustee Angelo moved to approve the Consent Agenda. Trustee LaPlaca seconded the motion.

AYES: Trustees Angelo, Saigh, LaPlaca, Williams, Geoga, Schultz

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.

ADMINISTRATION AND COMMUNITY AFFAIRS

Accounts Payable

Trustee Saigh moved Approval and Payment of the Accounts Payable for the period of April 2, 2010 through April 16, 2010 in the aggregate amount of

\$534,879.36 as set forth on the list provided by the Village Treasurer, of which a permanent copy is on file with the Village Clerk. Trustee Angelo seconded the motion.

AYES: Trustees Angelo, Saigh, LaPlaca, Williams, Geoga, Schultz
NAYS: None
ABSTAIN: None
ABSENT: None

Motion carried.

ENVIRONMENT AND PUBLIC SERVICES

No report.

ZONING AND PUBLIC SAFETY

**Ordinance Approving a Special Use Permit, Site Plans and Exterior Appearance Plans for the Installation of new Cellular Antennas and an Equipment Shelter at the Property Located at 333 W. 57th Street
and**

Resolution Approving Lease Agreements with T-Mobile, Verizon Wireless, U.S. Cellular and Clearwire for the Installation of Cellular Antennas

President Cauley began by stating that four cell phone companies have requested a special use permit to put cell phone antennas on the Village water tower located near Hinsdale Central High School. The Board has received many emails in support of this proposal because of the poor cell phone reception in south Hinsdale, but has also received many emails expressing concern about radio frequency emissions (RFE). He explained that the Federal Telecommunications Act of 1996 severely restricts the discretion of local governments when it comes to applications from cell phone carriers to install cell towers. Federal law specifically prohibits this Board from taking into account environmental or health concerns; courts have held that the reference to 'environmental effects of radio frequency emissions' refers to health concerns related to such emissions. Therefore, so long as the carriers comply with federal standards, which they have agreed to do and are bound to do by federal law, this Board cannot deny a request for cell towers on the basis of environmental or health concerns. Our federal government has determined that cell towers pose no safety risk if federal RFE standards are met and that cell phone coverage is an important enough national interest that municipal government should not be able to thwart the installation of cell towers without substantial evidence to support a denial. Such evidence shall be in writing and contained in a written record. Courts have overturned municipal government decisions to deny cell tower permits based on health concerns and have disregarded unsupported allegations of decline in property values or the possibility of

alternative sites. The court also held that generalized expressions of concern with aesthetics cannot serve as substantial evidence on which to base a denial. President Cauley then stated that the Board can deny the application based on substantial evidence that was adduced at the public hearing by the Plan Commission so long as that evidence does not relate to possible health concerns posed by RFE's.

Village Attorney Florey confirmed that President Cauley had accurately described the facts in this matter and cautioned the Board that this is pre-emptive federal law. Trustee Williams referenced a similar request on the Union Church tower which the previous Board denied and further stated that the President and the Village Attorney are trying to intimidate the Board. She does not believe that there will be legal consequences if the Board denies this request. President Cauley replied that she may be right, but it is his job to provide these facts to the Board. Trustee LaPlaca commented that in response to resident concern there have been modifications to the agreements: the operation of the antennas shall be continually in compliance with the FCC and State and local regulations and in no event shall a cure period exceed six months and that, in response to access concerns, the carrier, on a monthly basis, must provide information as to who has had access to the tower. Each person authorized access will have a key card to produce an electronic record of access. Discussion followed regarding the circumstances under which the church request was denied, it was noted the discussion regarding Union Church focused on the historic nature of the building. Trustee LaPlaca commented that people could become more aggressive with enforcement of cell tower related issues because of emergency situations, business operation and because as a society fewer persons have land lines. President Cauley stated that the cell phone companies have the burden of prove as to why an antenna is required.

Catherine Nemesnyik of 318 W. 57th Street read a letter to the Board from her mother Carol, stating that she is against the installation on the water tower of cell phone antennas in the midst of children and homes. She believes other options and locations exist.

Jeff Holland of 723 S. Lincoln Street commented that since there are no long term studies available regarding the effects of RFE's, these antennas should not be put within 1,000 feet of a school. He also believes there should be stronger language in the contract to allow for immediate termination. Attorney Florey confirmed that the appropriate termination language is in the contract.

Kathy Gartlan of 616 S. Lincoln Street read her recent letter to the Board. She believes there are alternative locations for the tower, she raised aesthetic concerns and security concerns; she believes the tower may be an increased temptation to teenagers. She wondered if these towers would really provide the service they are supposed to. She pointed out that the International Association of Firefighters does

not want fire stations used for base stations until more scientific information is available.

Kai Schueler of 734 S. Adams Street believes that as far as FCC regulations are concerned, they promote communication and are not experts on health concerns. The World Health Organization advises strongly against placing antennas near schools. She asked the Board to choose safety over profit.

Michael Gartlan of 616 S. Lincoln Street urged the Board to reject this proposal. He believes it will be hideous in an open area and that is ample reason alone to reject the proposal, ignoring health concerns. There are boosters and alternate locations if necessary.

Catherine Ashton a Clarendon Hills resident stated there is a rule at school that prohibits texting and telephoning in the school, this will improve that ability. She referenced a study on people who lived near cell towers, wherein it was noted that there was a significant deleterious effect on melatonin which regulates sleep. She also pointed out that these are tall antennas on a tall tower and this is a tornado district.

Betsy Bradley of 333 S. Park Avenue stated there is a lot of research on developing brains and radiation affects this; she likened it to the effects of smoking.

Nancy Cox of 127 E. Third Street said the Union Church antennas were turned down because of lack of screening and the church had promised no more construction. She also referenced the failed attempts of the Technology Task Force to acquire coverage maps from the cell phone companies.

Maria Bill a Clarendon Hills resident stated that several years ago the high school turned down the installation of cell phone antennas and there was no lawsuit. President Cauley explained it was turned down at that time because of the easement. The school had not granted the Village an easement at that time, however, the school board and the cell carriers worked out the easement issue. Mr. Cook explained that this matter was properly noticed; a public hearing was held, legal notice was in the paper and certified mail was sent to residences within 250' of the subject property.

Julie Bernini, resident, asked the Board if they would sit under that cell tower eight hours a day, five days a week. She also stated she has no issue with her Verizon coverage.

Steven Lee of 322 W. 57th Street stated that he doesn't want anything bad to happen to Hinsdale, and according to Chinese beliefs, drinking water is very important to life. He believes it would be bad luck to install antennas on the water tower and urged the Board to find another location.

There being no further comments from the audience, President Cauley stated the burden is on the carrier to prove current coverage is inadequate, that this is the only viable location option, and that boosters on other towers will not remedy this situation.

Mr. Ray Shinkle from Insight Inc. addressed the Board. He provided visual illustrations showing the existing towers, hospital, etc. He noted that these are all co-locations, all other existing structures have been exhausted and there are no other options. Further, the proposed antennas do not exceed existing height, and will be painted to match the water tower. An elaborate structure to contain ground equipment will be constructed. Regarding boosters, they have already been installed on existing surrounding towers. Mr. Kevin Meiss, T-Mobile Design Engineer, provided technical information regarding the boosters and sectors installed in this area. He explained that the FCC has designated an MPE, maximum permissible emission, level and that each site has to satisfy a checklist. Based on science and a study done, at a site with the specifications of the proposed, the power levels drop way below the FCC levels. The phone itself has higher emission levels. He explained that proximity is everything; the phones have a power control, and if the site is further away, it will power up. This site installation will enable phones to operate at an even lower level.

Nancy Cox noted the Village code states existing sites should be used; a new tower should not be build. Kathy Gartlan commented that cell phone usage is a personal choice, but the antenna is not and if AT & T is not a part of this, why do it. Jeff Holland asked what Mr. Shinkle and Mr. Meiss are paid. Mr. Shinkle explained there is no set standard, they are paid on milestones, but it has no bearing on the application. Michael Meissner stated that he does not think the cell antenna is additional incentive to climb a water tower.

Mrs. Gerald Martin of 323 W 57th Street asked why the school board changed their mind about the easement. President Cauley stated the Village Board had nothing to do with the school board's decision, that question would have to be answered by them.

Ronald Katz of 827 S. Garfield stated that old cell phones ran many more watts of power than today and doubts if these phones are a danger to kids.

Trustee LaPlaca moved to approve an **Ordinance Approving a Special Use Permit, Site Plans and Exterior Appearance Plans for the Installation of new Cellular Antennas and an Equipment Shelter at the Property Located at 333 W. 57th Street and a Resolution Approving Lease Agreements with T-Mobile, Verizon Wireless, U.S. Cellular and Clearwire for the Installation of Cellular Antennas.** Trustee Schultz seconded the motion.

Trustee Angelo expressed objections to the matter because the 5 year renewal by the carrier is unfavorable to the Village and should be reviewed more often, as many as 80-100 people will have 24 hour access to tower and our water supply, posing a security concern. Mr. Shinkle explained that most access is to the ground works. Trustee Saigh is concerned with potential liability issues, structural failure, sabotage, injury and accidents that could result in costs to the Village. President Cauley explained the insurance indemnification. Trustee Saigh also expressed concern about noise levels and aesthetics. Trustee Williams agrees with Trustee's Angelo and Saigh's concerns. She does not believe there has been a serious exploration of alternative sites, nor has there has been full disclosure on the part of the carriers. Trustee Geoga stated this is not a safety vs. money issue. He has researched this himself and noted that opponents take comfort in the recognition of studies that support their position, however, there rarely exists unanimity in questions of science. There exists scientific evidence on both sides of these kinds of issues, including such topics as vaccinations and fluoridated water, where there is broad scientific consensus. Further, in terms of traditional zoning factors, in most respects, the water tower is the ideal spot. Trustee LaPlaca commented that there was no outpouring from the community when antennas were installed at the Spinning Wheel Apartments and the hospital. There is a cell phone coverage issue in this area, a significant number of people, for business and personal reasons, complain about this. This is a good location. Trustee Schultz said it is hard to determine necessity, but the cell phone companies wouldn't make this investment if it weren't a necessity.

AYES: Trustees LaPlaca, Geoga, Schultz and President Cauley

NAYS: Trustees Angelo, Saigh, Williams

ABSTAIN: None

ABSENT: None

Motion carried.

Recess taken, upon reconvening, the agenda was resumed.

Ordinance Amending Article V (Business Districts), Section 5-110 (Bulk, Space and Yard Requirements) Subsection A (Maximum Height) of the Hinsdale Zoning Code Regarding Overall Building Height in the B-2 Central Business District

President Cauley introduced the item explaining this relates to height in the downtown business district. Mr. John Bohnen addressed the Board stating that they are not anti-development, but rather preservationists. He is pleased that Mr. Gammonley has proposed a two-story project. He noted that the iconic buildings built before 1920, should be revered and grandfathered into the code. He provided historical background, and referenced the form-based zoning introduced during the zoning code rewrite, noting that it is currently off the table. He believes that 30 feet

is the historical height limit, with some exceptions and that to adopt this ordinance is really a house-keeping measure that will reconcile the zoning code with reality. An historical time line was outlined regarding height in the zoning code. Karl Weber explained that in 2004 the Genesis survey didn't measure the height of existing buildings according to the code. When they came back in February 2010, they did a better job, and the results were similar, but shorter than the first survey. He stated that our downtown district is on the National Registry of Historic Places and it is one of the things that set it apart from other communities; Hinsdale cannot afford to lose that accreditation.

Mr. Bohnen stated that maintaining the streetscape, elevation and height got mixed up with the 1989 version of the code. He noted that the current code allows that architectural features allow another 20%. He indicated that if larger buildings were built, current owners would feel their buildings would be obsolete. He urged the Board to maintain our uniqueness, one too tall building could destroy this; 35' feet is too big and does not reflect our downtown. The Fall 2005 Strategic Planning survey identified issues important to citizens, wherein, regarding the charm of the downtown, 90% agreed that two-story buildings would be consistent with existing charm and style. A lot of work was done to make these determinations, but it was never revisited to correct. This is an opportunity to do so before a big building is dropped into our town.

Jane Hardies of 514 Pamela Circle distributed 100 more emails she has received in support of this text amendment and hopes the unanimous Plan Commission vote in favor will persuade this Board to vote yes.

Michael Meissner of 1405 Chanticleer stated that he is a fully licensed practicing design architect. He opposes this text amendment, believing it to be unadvised and that it takes away from property owners. He believes this amendment is more restrictive and more punitive; there is nothing positive or constructive in this proposal; there is no opportunity and no benefit. He pointed out that the most iconic buildings in the CBD, our historic Village, could not be built under this proposal. For 130 years in Hinsdale there has been freedom of expression residentially and commercially, the more we put a box on things, the more likely that's what we will get. The only choice will be to max out the height. He commented that there is no professional representation by any architects to show the merits of this change; this limits the opportunity for creative opportunity. In trying to turn back the hands of time, we miss the opportunities of the future.

Mr. Bohnen replied that the tools are in place for a taller building, for the exception.

Molly Hughes of 24 S. Oak Street believes that this text amendment is forward looking and will contribute to the revitalization of the business district; it will preserve what is right. The scale of buildings is core to the character of the

downtown fostering a sense of place. This will maintain a height that is scaled to functional purpose and adaptive reuse. The Plan Commission unanimously recommends support of the text amendment. She urged the Board to support a code that is in sync with what residents want.

Beth Barrow of 319 N. Washington stated she is a preservationist and asked the Board to support the Plan Commission recommendation and grandfather the existing buildings. When working on the SEG, they realized that multiuse buildings along the Burlington and parking garages were inappropriate to Hinsdale.

Sam Eddins of 202 E. Fourth supports this amendment. He believes Hinsdale fortunate not to have a taller building put in, and with the vacancies; there is no need for a larger project. This Board has the ability to adjust the code going forward on any project should they choose to do so.

Frank Gonzales of 219 Justina Street is a preservation architect and as such, is trained to work within limits; he does not believe this proposal is limiting. He is in favor of the 30' feet restriction and believes we have a reason to be concerned to protect what we have.

Trustee Saigh moved to approve an **Ordinance Amending Article V (Business Districts), Section 5-110 (Bulk, Space and Yard Requirements) Subsection A (Maximum Height) of the Hinsdale Zoning Code Regarding Overall Building Height in the B-2 Central Business District.** Trustee Angelo seconded the motion.

Trustee Schultz commented that no other comparable town limits the building code to 30' feet. He is not persuaded by the photo shopped example of the large building in the streetscape; he believes measurements of the downtown should be made by a professional. The amendment before the Board does not contain the necessary language to protect the existing iconic buildings and as nothing has been built in a long time, he sees no compelling reason to act tonight. Trustee Angelo supports the text amendment and remarked that were it not for procedural ignorance this matter would not have been sent back to the Plan Commission. The 2004 Plan Commissioners were given incorrect numbers, and this Board has a chance to rectify these errors. Trustee Saigh said there has been good thought on both sides of the argument and he believes the time has come for this amendment. He likes what the 30' foot standard signals for Hinsdale, he believes it is a step forward, a commitment to preservation and the zoning code. Development is supposed to serve the residents and should protect our unique downtown. Trustee LaPlaca stated that she would not have voted to refer this to the Plan Commission. When the change to 35' was referred, there was no reference to a 30' foot restriction, and all the same people spoke glowingly of the 35' foot amendment. The EDC spoke

against it at that time, but agreed that with 35' feet you could still have three viable stories. The current code has adequate protection; nothing has been built in 35 years; she expressed confidence that the code can be applied in a meaningful way. She cautioned that the method by which the iconic buildings are protected would require special considerations. Trustee Williams stated that she is pragmatist and has seen the Village deadlocked with development and not moving forward in any way. The Garfield proposals have cost millions of dollars and thousands of hours, she is hopeful that with this amendment there will be consensus and allow Hinsdale to move forward, therefore, she is in favor of text amendment. Trustee Geoga stated he is not in favor of this text amendment, but underscores where reasonable minds can differ without calling into question whether we treasure the unique character of the Village. He voted against referral because he believes the protections in the zoning code are many and already prevent the 'terrible project'. It is possible that a project in the future that might be taller than 30' feet or three stories would be desirable, such as those that currently exist. No one here can see into the future to know what opportunities we are restricting, this may foreclose future opportunities and this amendment is not necessary to preserve the character of the town.

President Cauley commented that the code could be amended at a later time to grandfather in existing buildings and that no one would disagree that is necessary.

AYES: Trustees Angelo, Saigh, Williams and President Cauley

NAYS: Trustees LaPlaca, Geoga, Schultz

ABSTAIN: None

ABSENT: None

Motion carried.

REPORTS FROM ADVISORY BOARDS AND COMMISSIONS

None.

STAFF REPORTS

None.

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, Trustee LaPlaca **moved to adjourn the meeting of April 20, 2010.** Trustee Angelo seconded the motion.

AYES: Trustees Angelo, Saigh, LaPlaca, Williams, Geoga, Schultz

NAYS: None

ABSTAIN: None

ABSENT: None

Motion carried.

Meeting adjourned at 11:12 p.m.

ATTEST: _____
Christine M. Bruton, Deputy Village Clerk