

These minutes are merely a summary and an attempt to reference comments that took place on the Board.

VILLAGE OF BARRINGTON HILLS

Minutes of the Special Meeting of the Board of Trustees
Monday, December 15, 2014
At Countryside School

President Pro Tem Gohl called the Meeting to order at 7:07 p.m. Roll Call.

Present

Martin J. McLaughlin, President (absent)
Fritz H. Gohl, President Pro Tem
Joseph S. Messer, Trustee
Karen S. Selman, Trustee
Patty Meroni, Trustee
Colleen Konicek, Trustee
Michael Harrington, Trustee

Acting Police Chief, Richard Semelsberger
Mary Dickson, Acting Village Attorney
Robert Kosin, Village Administrator
Anna Paul, Deputy Village Clerk

Guests

B. Rae Buckley	Kari Magnus	Gwynne Johnston
Thomas F. Fitch	Leslie Coolidge	Barbara Reed
Terry Freeman	Tedd Gagen	Steve Knoop
Chet & Eve Perry	Mathew Carter	Dennis Kelly
Deanna Amore, Court Reporter	Raynette Boshell	Ginger Underwood
Brian Cecola	Joan Wolfgram	Linda Adair
Lou Flannery	Bryan Muche	Janice Gohl
Amanda Marrazzo, Chicago Tribune	Katie Rose	Paula Jacobsen
Matt Yeterian	Cindy Schuman	Catherine Keady
Dede Wamberg	John & Karen Rosene	Kim Van Fossan
Dan Wolfgram	Jim O'Donnell	Angela Wilcox
James Crawford	Russ Schuman	Kelly Mazeski
Richard Lamkey	Jean Maddrell	David Stieper
Benjamin & Cathy LeCompte	Anne Majewski	Jack Reich
Meredith Halas	Jennifer Rousseau	Martha Komli
Mary Naumann	Emily McHugh	Patti Fahey
David Buckley	Jeannie Tisbo	Marilyn Patrick
Gisela Baltensperger	Jim Phely	Jonathan Traub
Sally Robinson	Sandra Boston	John Pappas
	P. Denise Israel	Bryan Croll
	Michelle Peart	
	Jim Hammond	

PUBLIC SESSION

Pledge of Allegiance

Robert Kosin reported on the "ZBA Horse Boarding Text Amendment Ord." submitted by the Zoning Board of Appeals for approval to the Board of Trustees.

ZBA Horse Boarding Text Amendment Ordinance

Trustee Messer motioned to approve the ZBA Horse Boarding Text Amendment. Trustee Harrington seconded.

Deputy Clerk read text amendment into record.

Discussion ensued.

Trustee Selman commented on the proposed text amendment.

Trustee Harrington read into the record a document attached to these minutes.

On Acting Village Attorney's suggestion, the Deputy Clerk read the ordinance itself into record.

Discussion continued.

Trustee Meroni commented on the proposed text amendment.

Trustee Messer commented on the reasons that the Trustees who called the meeting, also called for allowing public comment at the end, rather than the start, of the meeting.

Trustee Messer commented on the proposed text amendment.

Trustee Konicek read into record a statement from the Village President who was unable to attend the meeting. The statement is attached to these minutes.

Trustee Konicek commented on the proposed text amendment.

Trustee Selman commented on the proposed text amendment.

Trustee Meroni motioned to end discussion, Trustee Messer seconded.

President Pro Tem Gohl asked for a voice vote. The motion carried.

On a roll call vote:

Ayes: 5 (Harrington, Meroni, Selman, Messer, Gohl)

Nays: 1 (Konicek)

Absent: 1 (McLaughlin)

The Motion to adopt Ord. 14-19 passes.

President Pro Tem Gohl welcomes public comment.

Trustee Konicek states a point of order questioning the legality of the rules for public comment, as distributed for the meeting.

PUBLIC COMMENTS: Public Comments were given by the following:

- | | |
|--------------------|---|
| 1. Dede Wamberg | 7. Raynette Boshell |
| 2. Gwynne Johnston | 8. Matt Carter – attorney for James Drury |
| 3. Meredith Halas | 9. Kari Magnus |
| 4. Russell Schuman | 10. David Stieper |
| 5. Brian Muche | 11. Jack Reich |
| 6. John Pappas | 12. Lou Flannery |

Audio on these comments can be located at the Village Web Site – www.vbhil.gov. Any written comments handed to the Village Clerk will be posted as an attachment to the Agenda.

EXECUTIVE SESSION: There was no executive session.

ADJOURN: Trustee Messer motioned to adjourn the Meeting at 9:36 p.m. Trustee Selman seconded. All present voted “aye.”

Meeting Adjourned

Approved _____

ATTACHMENTS

Mike Harrington
Comments at the Special Meeting of the Barrington Hills Board of Trustees
December 15, 2014

1. My wife and I moved to BH 20 years ago. We moved here because BH is unique. It is unique because of its open spaces and equestrian amenities and lifestyle. I know many other residents moved here for the same reason. Like everyone who lives here, we could have lived in any of the many other suburbs of Chicago. In fact we actively looked at the North Shore for about 6 months before we discovered BH but we chose to live in BH because of the unique open space and equestrian amenities. As a long-time resident of BH, my family and I wish to continue enjoying the open space and equestrian amenities that make this village unique. I believe the vast majority of BH residents feel the same way. It is clear to me, and confirmed by the recent VBH resident survey, that most residents, even those who do not own horses or ride, love the beauty of horses and large horse farms. Many responsible government officials who served before me had the long-term vision and foresight to protect the unique open spaces and equestrian amenities that all of us now enjoy. I believe we as trustees have the same responsibility to serve as stewards for future generations so that our kids and their neighbors and future residents of this great village can enjoy the great amenities that we enjoy. So my first point is that I strongly believe the unique open space and equestrian amenities of our village are worth preserving.

2. The question of horse boarding has been actively debated since 2005. That's ten years! This issue has been more thoroughly debated than any issue in the history of this village. Many have spoken, many others have spoken many times, and much information, some true and some unfortunately misleading or inaccurate, has been circulated. We have beaten the proverbial dead horse and, in my opinion, there is no need to beat this horse further. The existing village code with respect to boarding is vague and confusing and it is obvious that clarity is sorely needed. I have no interest in passing the buck. It's the responsibility of this board to decide and now is the time to do it. So my second point is: ten years of debate is enough and it's time to move forward.

3. When I ran for office and was asked about horse boarding I said I would be open to reasonable regulation. A reasonable solution means that there has to be some balance and some compromise. When an issue has become as politically charged as this one, a perfect solution – one which makes everyone happy – simply does not exist. As such I have no illusions that any action taken by me or this board relative to this issue will make everyone happy. Even if we debated this thing for another 10 years, the outcome would be the same - not everyone is going to get everything they want. So my third point is that I believe my responsibility is to decide if this proposed text amendment is a reasonable solution.

In arriving at my decision, I considered many issues, I heard from many people, talked to many people, attended many meetings and read a large quantity of materials. In the interest of time I will address my position on a few of what I consider to be the big questions surrounding this issue:

1. First, does this proposed text amendment provide additional regulation and clarity? The answer is yes. It adds or enhances language relative to the regulation of boarding and training of horses in the following key areas: hours of operation, residency requirement (e.g. owner or operator must reside at the property), animal waste management, lighting, nuisance causing activities, traffic, indoor toilets, maximum floor area ratio requirements, and for the first time, places limits on the number of horses that can be kept at a property.
2. Second, does the proposed text amendment invite other commercial activity? In my opinion, a reasonable person would conclude that the language is very specific in its strict application to horses and horse-related activities and this specificity provides sufficient protection from non-conforming commercial activities. Does this mean that there is a 100% certainty that a clever lawyer won't try to manipulate our code in order to build a Jimmy Johns or a Speedway? No, it does not and the current code without the amendment does not provide 100% certainty either. But the chances of such an effort succeeding are extremely slim and I am confident our own village, with the help of a reasonable court of law if necessary, and the help of our very politically active, resourceful and vocal residents, could successfully block any such effort.
3. Third, is the proposed text amendment likely to help or hurt property values? I believe this amendment has the potential to help real estate values for three reasons. First, it removes uncertainty. Uncertainty, also known as risk, is the enemy of valuation. A basic principle of asset valuation is that the greater the risk the higher the expected return that is necessary to compensate for the risk. Real estate buyers manage risk by paying lower prices. So removing uncertainty/risk is good for prices. Second, the laws of supply and demand come into play. Current horse owners and riders who were drawn to the equestrian amenities of BH could easily be repelled if BH does not remain a horse friendly community. If horse owners and riders don't feel comfortable here or their lifestyle is threatened, they will choose to live elsewhere. This means more sellers and more homes on the market; in other words, more supply. On the demand side of the equation, if we chase away equestrian buyers, we will have fewer buyers for our properties. Basic economics tells us that greater supply and lower demand leads to lower prices. And it's not lower prices for only equestrian properties. Comparable sales prices are the primary means of setting asking prices. If the sales price of equestrian properties in your neighborhood go down, the value of non-equestrian properties will go down too. Thirdly, solidifying our village's existing equestrian image or brand, is value-enhancing. It helps make our community unique and stand out from the many other communities in suburban Chicago. Uniqueness and rarity contribute to value; Sameness and similarity do not! Why would we ever trade uniqueness for sameness? The equestrian image and lifestyle are highly desirable and having these attributes as part of our brand is very valuable. Ralph Lauren understands the power and appeal and aspirational lifestyle attractiveness of the equestrian image, which is why he created the fabulously successful and timeless equestrian-image-based Polo and Chaps brands, which by the way helped Ralph amass an \$8 billion fortune. It is in the best interests of all BH property owners to protect and enhance the equestrian image that is a tremendously positive part of the BH brand.

4. Fourth, will the text amendment harm our ground water? Horses have been in BH since before the village was incorporated in 1950's and there is no evidence that horses have contaminated our aquifers. The key to making sure that it never becomes a problem is multi-faceted. Density is one issue and this text amendment addresses density by placing limits on the number of horses per acre, for the first time. Currently no such limits exist in our village code. Density is also mitigated by over 7,000 acres of park district land and the many properties, some of which are very large, that have no horses. Secondly, proper manure management is important. The existing village code section 7-2-5 outlines specific requirements for manure management and the proposed text amendment reiterates the necessity for horse owners to comply with the specific provisions of this section of the code. I believe horse owners can be counted on to practice proper manure management because it is in the best interest of their own health and the health of their horses. Thirdly, proper well installation, siting and maintenance are key factors. Accordingly to BACOG, the few instances where well contamination was reported related to flooding of older, open pit wells and poor maintenance of well heads, where something as simple as dirt or insects can cause contamination.

I believe the risk of aquifer contamination from horses is a manageable risk and the risk is no greater than the risk from other sources of potential contamination. These sources include wild animals such as geese and deer, other pets such as dogs and cats, naturally occurring minerals such as arsenic, man-made contaminants such as chloride (aka road salt, which is already registering elevated levels in ground water), nitrogen released into Flint Creek by the village of Barrington sewer treatment plant, potential hazardous spills from the CN railway and the highly effective defoliant they use to keep their right of way amazingly clear. Every time we (and our neighbors) spray our lawns, some portion of the various fertilizers, herbicides, fungicides and insecticides leaches into the ground or drains into surface waters. Not to mention the chlorine we use in our pools, the algaecides we use in our ponds and problems that can develop with our own wells and septic systems, which by design deposit everything that goes into our toilets and drains into the ground on our properties.

I also have to consider the risk of ground water contamination if the large horse farms disappear and are replaced by residential development. A 125 acre horse farm that is developed into 25 homes on 5 acre plots with 25 new septic systems servicing 250 -500 new residents also poses a risk of ground water contamination. Additional homes and residents increase the risk of accidental spills, improper well construction or cap contamination, the amount of chemicals (including nitrogen) sprayed on lawns, Chloride spread on driveways and sidewalks, dog and pet manure, etc. I believe the risk of contamination from additional homes and humans is at least as great as the risk of contamination from additional horses.

Which leads me to the question as to whether this text amendment will attract significant new or larger scale horse operations to our village. I think the answer is no. As stated by our village president on several occasions and in his village newsletter, horse boarding is currently not illegal in Barrington Hills. While the proposed text amendment adds regulations and restrictions, it does not change the fundamental status quo of horse boarding as not being illegal. So why should we expect a big change in the number of barns or horses? Additionally, property values in our village reflect

residential property prices, roughly about \$90,000 per acre currently, are too expensive to attract large-scale barn operators. Passionate and wealthy hobbyists perhaps but these land prices would not be attractive to self-sustaining, stand-alone commercial barn operators. Larger, less expensive and more economically-viable land parcels are available in other nearby areas such as Marengo.

Another key factor governing horse density is the cost of feed. To the extent that you can provide your horses with good pasture, you can keep your cost of supplemental feed down. It is easier to reduce your supplemental feed costs by maintaining reasonable horse density, and proper pasture rotational grazing. Horses are expensive to buy and expensive to maintain. With rare exception, horse owners take great care of their horses. It is safe to say that many horse owners love their horses. Great care includes ample, clean and healthy pastures and turn outs, clean stalls, and proper manure management.

Ground water pollution concerns me greatly. That is why I am working with the Health Commission and the Village Administrator to develop a base line study of ground water quality and a method for measuring changes and pollution of any kind from any source.

5. Fifth, will the text amendment affect our property taxes? I don't believe so for a simple reason - What we call our properties on a local level has no bearing on how the county assessor views our properties. Wouldn't it be great if our village government could classify properties to reduce property taxes? If this were the case then we could implement a zoning ordinance at the next trustee meeting re-classifying our entire village as a "Property Tax Free Zone." I'm sure that is something we could all agree upon! Unfortunately, and for obvious reasons, the county assessors and the state are not likely to recognize our self-serving and self-defined status. What we call our properties on the local level has no bearing on how the assessors view our properties. The assessors have their own definitions, criteria and methodologies and they don't care what our village government calls our properties.
6. Sixth, will the text amendment negatively affect our roads? As previously stated, I do not expect the text amendment will materially affect the number of barns and horses in our village so I do not expect we will see a change in traffic if we adopt this amendment. I also have seen no evidence that horse trailers and hay delivery trucks are any more taxing on our roadways than vehicles of similar or heavier weight. Such vehicles include garbage trucks, school buses, fire trucks, boat trailers, car haulers, water delivery trucks, landscaping trucks and trailers, construction rigs, moving trucks, septic pumpers, and UPS delivery trucks, among others. The good news is we have ample regulations at the federal, state and local level that regulate vehicle weight. Our own village regulations require an overweight permit for vehicles weighing in excess of 36,000 pounds. Permits are voided during March, April and May. The chief can verify that these regulations are vigorously enforced.

7. Seventh, and finally, concern was expressed about “what kind of people we are attracting to our village.” I am not exactly sure how to interpret this concern but I will assume that there is fear that this proposed amendment may attract criminals to our village. I do not share that concern. I have seen no evidence that horses, horse barns or horse boarding attract people that are any less desirable, or any more prone to criminal activity, than our own residents. Furthermore, I have seen no evidence that horse hobbyists are any more prone to criminal activity than other hobbyists in our village, including car collectors, golfers, tennis players, gardeners, swimmers, birders, hikers, wine collectors or runners. My own research on the matter included a recent trip to the riding center on Bateman road, where I observed 3 middle-aged women and two teenage girls riding horses. Despite the fact that they were wearing helmets, leather boots and spurs and carried whips, I did not feel threatened in any way. These people did not scare me. Furthermore, I was not afraid when attending the Landowners Cup polo event (although two years ago an overly happy and distracted fellow wearing a cowboy hat did walk into the side of my car and spilled wine on my hood.) This year’s event was attended by more than 2,000 people, many of whom were from outside Barrington Hills, and all of whom had at least a passing interest in the equestrian sport of polo. There were no criminal incidents at this event. Similarly, our village-sponsored “Hills are Alive” event was attended by more than 500 people, again many of whom were from outside our community, and again without criminal incident. For years we have hosted various charity “rides and runs” open to 100’s of non-residents, again without criminal incident.

The reality is that we live in an open community with nearly 40 miles of roads (many of which are county and state roads), and 7,000 acres of park district property, all of which are open to the public. We have thousands of people pass through our village every day, including many service workers and vendors who visit our private properties and help us with maintain and repair our homes, and provide valuable services to us and our families. The only way I know to keep non-residents out is to construct gates and fences. There is no evidence that such an extreme and expensive measure is necessary. We employ a very capable police department and we have ample laws on the books that will exact a high price for individuals who engage in criminal activity. Our community is arguably extremely safe compared to most major metropolitan areas of the US and the world. We are frequently referred to as an “exclusive” community based upon the average home price, but I would hope that we never develop a reputation as being exclusionary.

Conclusion:

I know there were more issues raised than the few I addressed and there will be some people who come away thinking I did not address their specific concern. I tried to address what I think are the bigger issues and also do it in a reasonable time frame.

In summary, our open space and equestrian amenities are worth protecting. This is what makes our community unique and this is why we moved here and this is what promotes value. In my judgment, the proposed text amendment is a reasonable solution to a debate that has gone on for far too long. It provides additional, reasonable regulation and clarity around horse boarding and related activities. The risk of it inviting non-related commercial activity is extremely low. I believe the clarity it provides should

be helpful to valuations. I don't believe it will harm our aquifers. It does not create any way for horse owners to reduce their property taxes and it will not incrementally harm our roads. And there is no evidence that it will increase criminal activity in our village. I have no interest in trading large horse farms for more residential development.

Although the proposed amendment is not perfect, in that it won't make everyone happy at the same time, it does represent a reasonable compromise. That is why I intend to vote in favor of the proposed amendment and I encourage my fellow trustees to do the same.

President McLaughlin's statement read by Trustee Konicek

To my neighbors in this Village; I am sorry that this unnecessary meeting has been called. I am in Louisville on business which was scheduled for tonight back in October to make sure that I would be available for our regularly scheduled board meeting on the 18th. It saddens me as a resident of this Village that your representatives are so dead set on changing our laws to save a single property owner at the expense of our entire Village and our long standing equestrian heritage of successful cooperation with neighbors, and that they have decided to assemble without the Village President.

Mr. Gohl who called this last minute meeting, along with Trustee Selman, should know better than to disregard the schedules of the public in such a manner; particularly, on an issue as important as this. It is their statutory right to do so and Mr. Kosin can provide you the code. As to the question of whether they should or not, I will leave it to you to judge. These trustees are bringing forward this item against the recommendation of Special Counsel Bond Dickson who provided an opinion in May that changing a law favoring one party over another in an active lawsuit was fraught with problems and they strongly advised against doing so.

Not only did Bond Dickson see a problem with this, so did Matuszewich Kelly, Flood McCardle, and Ancel Glink. Three firms who were recently interviewed by this board.

These trustees are convening and forwarding this item with the assistance of the Village Administrator Mr. Kosin, who himself owes our public an explanation of how he assisted in the coordination of the Schuman letter and its endorsement. That decision and the events surrounding its creation, solicitation, and implementation by some on this board and the former administration has done harm to our community in ways well beyond just the legal.

Contrary to some opinions, no other property in our community is in jeopardy. No court decision between Dr. LeCompte and Mr. Drury effects any properties in our community, no matter how many solicited legal opinions have been alleged to have been provided to certain commission members and trustees outside of this public arena. Only under public review and scrutiny can any opinion be validated.

Attempting to change a law favoring one neighbor over another is bad enough. Attempting to do so retroactively, to cover up for those responsible for years of this debacle is reprehensible. This will now involve the Village in the Drury/LeCompte lawsuit during my administration if this hastily assembled board acts tonight.

We just got out of 18 years of legal wrangling with Sears, costing our taxpayers over 1.5 million dollars, and just removed a potential liability in the form of a 15 million dollar judgment.

Haven't we learned anything?

When you can avoid costly and unnecessary litigation; you should do so.

We have roadways that are in serious condition and are estimated to repair at over 4 million dollars.

We have a Police Pension fund which is underfunded by 6.3 million.

Why provide an opportunity for a new and unnecessary legal expense?

I am recommending in the strongest possible terms not to proceed with discussion or decision on this subject. I defer to counsel's recommendations that doing so will harm the Village. I say this not to protect anyone in the case, but rather all other residents and taxpayers of our Village. I am a supporter of our equestrian heritage. I welcome my neighbors' decision to enjoy their properties in ways that each desires; for horses, alpacas, chickens, honey bees... Barrington Hills provides each of us an opportunity to enjoy our hobbies and passions on our land. We have done so successfully for years, and we will again with well-constructed law.

Part of our jobs as trustees and appointees is to look beyond our personal agendas for the good of the community. Also, we are tasked with forecasting what short and long term results will be from our actions as Lawmakers in our community. I am certain that, should action be taken tonight, our Village will be harmed in more ways than just financially. This will be a complete betrayal of the public's trust in its representatives and in their appointees.

I have heard these trustees and residents and others discussing winning on this issue over and over again.

What will win tonight is further division and unnecessary legal action against the Village.

I stated this publicly at the September 22 board meeting, and I will state it emphatically again tonight: The only way our community will win in any issue, particularly one that affects the property values, lifestyles, peaceable enjoyment of residences in Barrington Hills, is if all residents and all factions are at the table discussing the issues and collaborating on effective solutions together. In that way, no matter what the outcome, the entire community will be invested and have a stake in the solution . Only then and in that way can you have good representative policy/ law that will stand the test of time.

What I have seen read and listen to take place at our zoning board, where less questions were asked by certain members of the zoning board than meetings that took place, was completely appalling. I spoke with the zoning board chair in July about the limited questions and discussion and was told that issues such as special use would be discussed in detail. They were not. Why?????

The process, if it can be called that, was uncoordinated and broken. The lack of an evidentiary process disturbed all in attendance and only served very few. I am disturbed at what has been forwarded to this body for review.

Does it address the big question of Special Use verses Text Amendment ?

No it does not.

Does it address the commercial protection in residential district question?

No it does not!

Does it forecast the impact of the tax burden shift that will surely take place if current Home Occupation Protections on size and scope are removed?

No it does not.

I sent all trustees and ZBA chair and Planning Chair a memo in April/May to remind them of the higher standard each is held to regarding communication with residents in an active lawsuit. Our former village counsel, George Lynch of Burke Warren, did as well. I was appalled to learn of the ex parte communications of appointees, chairs and certain members of this board with litigants in the LeCompte Drury Case against the advice of counsel.

I have been told by some on this board that no matter what we do we will be sued. That is false. If we protect current barns and properties through special use we should do so as special use. This is the only time tested proven way to protect properties and those that surround them. There is no example of an AG text amendment for a boarding business protecting residential zoning and property values anywhere in Illinois.

Why risk this strategy upon the taxpayers of this Village? Especially when the very people, Mr. Messer and Ms. Freeman agreed with this solution less than 3 years ago?

These trustees are ready to risk your taxes, your higher insurance premiums and your property values on an experiment.

Why????

A great question.

Could it be to protect members of this board and Village from explaining their actions during the past few years?

Will Joe Messer, Karen Selman, and Patty Meroni please explain to the public why they believe they are not conflicted from voting or deciding on an issue where each of you is on a witness list to possibly testify regarding allegations of taking donations and improperly reporting them in exchange for changing zoning laws?

In my absence, I am now asking Ms. Selman, Ms. Meroni, and Mr. Messer to please provide an explanation as to why you believe you are not materially conflicted for the record before voting.

???????????????

This type of special consideration for certain residents over others is unacceptable behavior. Please consider this my objection to the meeting being assembled in the manner that it was and the decision to silence the public prior to a vote by changing the public speaking rules I had established when elected.

Further, I object to the item being discussed and voted upon without consideration of:

Request to table by the Plan Commission;

Request to table by Tthe Board of Health;

More time requested by the building department;

More time for analysis requested by the land planner; and

More time requested by the assessor to evaluate this amendment.

For the reasons stated, and for the obvious jeopardy that consideration of this item and action will place upon the Village of Barrington Hills to the detriment of its taxpayers, I urge this body to table this item.

Thank you ,

Martin J. McLaughlin
Village President Barrington Hills