

Minutes of a SPECIAL MEETING of the
PRESIDENT and BOARD OF TRUSTEES
Village of Evergreen Park, Cook County, IL
Wednesday, August 18, 2010

CALL TO ORDER The meeting was called to order at 6:30 P.M. by Mayor Sexton in the auditorium of the Evergreen Park High School, 99th & Kedzie Avenue.

ROLL CALL Clerk Aparo was asked to call the roll with the following results:

Physically Present:

Mayor James Sexton
Trustee Carol Kyle
Trustee Mark Marzullo
Trustee James McQuillan
Trustee Jerome Bosch
Trustee Mark Phelan

Trustee Smith was absent with notice.

Also present was Village Attorney Joseph Cainkar

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Trustee Bosch.

The Chair explained the purpose of the meeting is to discuss the proposed settlement with the Sisters of Mercy regarding their development at 10024 S. Central Park in Chicago, Illinois.

The Chair gave a brief history of the lawsuit stating the City of Chicago Zoning Committee approved a 212 unit retirement center to be built on land owned by the Sisters of Mercy, 10024 S. Central Park in Chicago Illinois on August 21, 2008. The Village of Evergreen Park filed suit to stop the complex in September of 2008. Judge Billik ruled in December of 2009 that both sides try to reach a compromise regarding a settlement. The Chair thanked Village Attorney Joseph Cainkar and Attorney John George, representing the Sr. of Mercy for their efforts towards a compromise.

Due to the large number of audience members, approximately 175, the Chair laid ground rules for the meeting. He asked everyone speaking at the podium to give their full name and address for the record. He said this meeting is not about the brick color and landscape it is about clearly stating: "Yes, I am in favor of the settlement; or No, I am opposed to the settlement." He added everyone would be given an opportunity to speak and to limit comments to three (3) minutes.

Village Attorney, Joseph Cainkar thanked the Chair for his concise explanation. He stated there will be no vote tonight by the Board and this is a meeting for general discussion. Mr. Cainkar stated the judge has asked both parties to meet and to come to some compromise for a settlement. He added the judge stated at the last court appearance something will be built on the property. He explained the settlement is a

cost effective way to come to agreement satisfying both parties as opposed to risking an unfavorable ruling by the judge.

He added this new proposal will be beneficial to residents. The reductions from the original plans included larger setbacks which place the buildings further away from property lines, the height on the assisted living complex reduced from 5 to 3 stories, and employment hours staggered to avoid conflict with scheduled school day activities in the area. Also, amenities will be limited to the residents, family and guests.

Mr. Cainkar stated one of the most important facts to consider is if a settlement is reached, the Sisters of Mercy have agreed to record a covenant against the property prohibiting further expansion or additions to the planned development without first obtaining the consent of the Village of Evergreen Park. If there is no settlement and it goes to trial, the covenant agreement is no longer an option. Mr. Cainkar added per attorney John George, 65 – 75% of the residents will be of the religious order.

Mr. John George introduced himself and thanked the Board for this meeting. Mr. George used a power point presentation to depict the changes in the newly proposed complex vs. the original complex. (Power Point Presentation included in the minutes.)

	Original Project	Reduced Project
Number of		
Of Dwelling Units	212	146
Independent Living units	116	54
Assisted Living Units	41	44
Memory Care Units	20	24
Skilled Nursing	35	28
Height of Structures		
Independents Living	5	3
Assisted Living	4	4
Parking	156 (cars)	108 (cars)
Setbacks to 99 th St.	113 feet	122 feet

Mr. George showed a picture of the complex as approved by the City of Chicago Zoning Board. He noted the exterior will be similar to that of the buildings at SXU and Mother McAuley. He added there is no access to Village water or sewers. Construction hours will be Monday through Saturday from 7 am to 7 pm with no construction on Sunday. He added both parties have tried to address issues and concerns and he feels the proposal is fair with the significant changes as stated.

**AUDIENCE
QUESTIONS**

Catherine Manahan, 9854 S. Lawndale asked why the four-story building is not depicted in the presentation. Mr. George answered there is a drawing of the building, but it was inadvertently left out of the proposal package.

An unidentified woman asked how a judge can decide that something will be built on the property. Joe Cainkar answered the judge was speaking about the use of the property not the development; adding the judge is impartial. Trustee Kyle asked what the property is zoned. The Chair responded it has already been approved by the City of Chicago Zoning and this meeting is about the proposed settlement not zoning.

Joe Cainkar answered it was zoned R 4 multi family and has been rezoned to planned development with multi use.

Mr. Dennis Hannigan, 9857 Avers, asked who has expansion approval if future expansion is planned. Attorney Cainkar responded, the Village will hold a meeting and send notice to surrounding areas. The Village Board will decide and has the authority to waive the covenant or not. The Chair added this is highly unusual to give this authority to one jurisdiction (Village of Evergreen) over another in a different location (Chicago).

Trustee Marzullo stated we had a covenant with them many years ago and it was thrown away. (Applause from the audience) A promise was made to keep the property for educational purposes. Mr. Cainkar stated we did not have a covenant; it was only a promise the property would not be used for any other than educational purposes when the property was de-annexed from the Village. He added this is not a promise but a covenant, which is recorded against the property and is binding.

Kim Leonard, 9732 S. Utica, is concerned about the safety of the children and asked if precautions will be taken to assure no pedophiles or child molesters are in the construction crews due to their proximity to many schools in the area. She also wondered if more police and crossing guards will be hired to handle increased traffic. The Chair responded the contractors usually have rules and clauses in their insurance covering their employees. The Chair added if more crossing guards/police were needed the Village would provide it for the safety of our children.

Mark Flynn, 9718 S. Hamlin, questioned if the document stating the property will be used for educational purposes only has been found. The Chair stated no, it has not been found, it was dated in 1954 and he cautioned everyone if this goes to trial everything we say tonight could be used in court.

Mr. Flynn questioned the parking for the units and was concerned about more traffic in an already congested area.

Mr. David Fontin with Franciscan Sisters of Chicago answered the average age of the residents is 78 and the assisted living age is early 80's. He stated there will be very little driving done by the residents.

Amy Fitzgerald, 9858 S Homan, stated she and her husband are opposed to the construction. She stated three objections to the complex. First, it is a residential area and in 1977 there was a nursing home project proposed

for 103rd & Pulaski, which was defeated. Second, construction will disturb the children and add to traffic congestion. Thirdly, the project was proposed in April of 2008 and three years later there still has not been an environmental study on this land. She stated there has been an increase in various cancers and wonders if it could be due to unearthed airborne toxins in the area.

Diane Cody, Superintendent of District 124, Evergreen Park stated in April of 2008 the Board passed a resolution expressing concern for the safety of school children in the area. She stated at a recent School Board meeting there was no feeling one way or the other on this issue. She understands the issues of traffic congestion in the area but also understands Village budget constraints if it continues on to more court litigation. School Board members concluded it is a Village Board decision.

Bob, last name unidentified, 100th & Homan, thanked the Mayor for this evening's meeting. He stated Ray Johnson was his neighbor and told him he was acting Mayor at the time for the Village of Evergreen Park and when the agreement with the Sisters of Mercy was made and Ray always said it was to be kept for educational purposes. Bob added their word should mean something and he predicted they will want to expand in the future.

Bob Fennis, 101st & Homan, asked how long will the impact to the roads last; how many employees in the development and could a construction road be built through the Sisters property. Mr. George responded the construction is approximated at (18) months and currently there are (41) employees with expansion to (89) employees. The Chair stated construction bonds are posted to assure road repairs are completed. The Chair asked for St. Xavier or a representative to answer the question regarding the road. There was no representative from St. Xavier in attendance.

Bob Burke, 9811 Lawndale, questioned the traffic pattern with one entrance and a road thru SXU onto Central Park.

Mike Werthmann, from KLOA, Inc. who performed the traffic study answered there is an entrance on 99th Street and another on Central Park to provide better internal circulation. The Chair stated the internal road is an issue between St. Xavier University and the Sisters of Mercy.

Terry Schulte, 9631 Central Park stated she is a consultant to an assisted living facility. She asked if residents will be Medicare or Medicaid patients. Mr. George answered no federal funding is used and the residents will be Medicare only. Ms. Schulte questioned what happens when Medicare runs out and there will be no patients to fill the beds. She questioned the status of the Sisters of Mercy Homewood facility; stating it has changed ownership at least three or four times since the Sisters owned it.

Steve Bardusky, Franciscan Sisters of Chicago, stated in their 115 years of care the Sisters of Mercy, Franciscan Sisters did not have a decertification. He stated there will be no Medicaid patients; primarily Medicare eligible retired clergy.

Jack Walsh, 3245 W 97th Street, thanked the Chair for the opportunity to speak. He questioned if 65-75% of the residents are religious what the composite of the 25 % balance is. The Chair answered it was approved as stated by the City of Chicago and no one can say what the other 25% - 35% will be. A discussion took place stating most construction will not be on 99th Street and the use of Chicago sewer and water services and right of ways for the development.

Carol Mutaszak, 10120 S. Utica, stated she has worked with the Sisters of Mercy for (15) years she supports the unit for the retired Sisters. She added she hopes lay persons and private paying people will be considered in the future for residency. She added anyone who purchases a home near open land has to know there is always the possibility the land would be developed.

Nancy Small, 10046 S. St. Louis questioned how the complex will impact the EP Fire Department, i.e. ambulance services, and if they should contribute to emergency services in the Village.

Tom, (no last name given) 98th & Albany, asked what type of law Mr. Cainkar practices. Joe Cainkar answered his law firm which represents (7) municipalities, 30 Park Districts, Fire Districts and Library Districts, election law and civil rights law and has tried cases before the Supreme Court. The resident asked if a settlement is reached how quickly would construction begin. Mr. George answered probably late fall of this year.

Beth Amado, 9848 S. Lawndale, stated the City of Chicago has a copy of document #141, which was signed sealed and filed. ** Clerk's Note (#141 is the Village ordinance passed on August 9, 1954, Ord. No. 141-1954. Approximately 157 acres disconnected from Evergreen annexed to Chicago) Mrs. Amado asked Mr. Cainkar if we pursue litigation under the educational purpose clause he stated something will be built there. Her objection is to the use of the property. She added there is a document on file with the City of Chicago signed by Sr. Regina that says the purpose will be educational use only. Mr. Cainkar responded he does not know how the judge will rule, but the judge did say something will be built there. Mr. Cainkar said he did not speak to the use of the building. He added the nuns live on the property now and the use is the use.

Mike Fitzgerald, 98th & Hamlin asked who owns the property; and if they need the approval from the people who agreed to keep it educational purposes only? He stated he has issues with the parking and the overflow that comes from Mother McAuley High School. The real issue is whether we want the development or not. Mr. Cainkar answered the Sisters of

Mercy have owned it since 1954; and there is no signed document of the agreement.

Mr. Ryan, 9747 S. Hamlin asked if it was appropriate to take a vote of audience members. The Chair responded it may be done after everyone speaks.

Ms. Betty Wodka, 9144 S. Avers stated she was heartbroken to see this happen in the Village of Churches. She said she was in favor of fighting it. She felt school children are at risk due to the traffic. She realizes a need for senior housing, but feels they should not be in the area with so many schools.

Mrs. JoAnn Riley, 9820 Lawndale asked if Section 8 housing will be allowed when the apartments are empty. Mr. George responded Section 8 housing is not allowed.

Cindy Kamp 9829 S. Ridgeway, stated it starts out as long term care, as the numbers decrease they are forced to take other people. Her worry is that it will become a situation like Emerald Park on 91st and Pulaski. She asked if the Village can get further concessions from the Sisters of Mercy.

Tom Sopa, 9814 Lawndale, stated the Village should install cul de sacs like the ones used on 87th Street. The Chair answered it is a consideration, but it only diverts traffic to other streets in the area. Mr. Sopa asked who was involved in the lawsuit. Mr. George, Attorney representing the Sisters of Mercy, the City of Chicago, Mr. Joe Cainkar, representing the Village of Evergreen Park and homeowners, Mrs. Amado and Mrs. Manahan.

Sean Murphy, 10130 Clifton Park stated he felt we are being bullied by the City of Chicago. He ten years from now it will be a free for all. He questioned the cost and asked for a better dialogue with the Sisters of Mercy.

Mr. Tom Panfil, 101st & Central Park, thanked the Village for the chance to voice his opinion. He asked Mr. George to return to the drawings of the buildings and explain the locations and uses. Mr. George complied. Mr. Panfil questioned what happens when all the religious people are gone and the numbers drop below the expected residency; could the complex become a commercial facility?

Sr. Sheila responded Mercy Circle is a non-profit organization and administers to the elderly. It is a 501C. If ownership changes, the covenant with the Village remains the same. Mr. Cainkar stated the unit uses and restrictions are spelled out in the covenant; this could not become another Emerald Park situation as the Village has the authority to file suit.

Betty Wodka, 9144 S. Avers, thanked the Board for tonight's meeting and stated the importance of the safety of the school children on 99th Street.

Mrs. Flaherty, 9831 S. Lawndale, was concerned about the impact of construction and noise for the estimated (18) months. Mr. George responded the structure goes up first and then interior work is done, reducing the impact of noise in the area.

Laura Lofquist, 9956 Clifton Park, thanked everyone involved and stated she was still confused regarding the drawings. She added she moved to Evergreen Park to get away from the city and tall buildings. She stated she took a night off from work to attend this meeting and she overheard a lady in the audience say it is a done deal.

Mrs. Beth Amado, 9848 Lawndale reiterated that Document # 141 was signed by Sr. Mary Regina of the Mercy Order and they did promise to use the property for educational purposes only. She added the Sr. of Mercy owed the residents at least that much. (Applause from audience.)

Trustee Mark Phelan stated (2) two years ago he attended a meeting regarding traffic and development and questioned what their studies show.

Mr. Mike Werthmann, presented information from the traffic study done by KLOA, Inc. and found the 144 units and the senior housing for assisted living to be a low generator of traffic; stating most traffic will be by the employees. This is addressed by using staggered employment hours and visitor's hours limited to nights and weekends. Based on the standards set by the State our road can accommodate it; there are also two access drives which limit the impact on the road.

Mr. Brett, no address given urged the Board to approve the compromise and spoke in support of the Sisters of Mercy. He appreciated their positive impact at Mother McAuley on generations of his own family.

Todd Telander, 9952 Clifton Park asked what days and times were used in the traffic study adding not 8:00 a.m. or 3:00 p.m. Mike responded Tuesday, January 15th during the morning and afternoon when school was in session.

Resident from 2910 W. 99th Street stated she has lived across from Brother Rice for 26 years and has a difficult time getting out of her driveway due to the current amount of traffic.

Judith Bobber, 9821 S. Springfield stated she is an 18 year resident and supports the facility. She added SXU built student housing at a 5 story level and it has greatly improved the property. She is in support of the compromise and is disappointed with the number of residents resistant to the complex. She said she would prefer to go forward now and accept the compromise rather than go to court and absorb more legal costs in the

future. He asked the cost of the legal fees; the Chair responded to date the cost is \$ 76,000.

Trustee Bosch stated when the Village went to the City of Chicago Zoning meeting they waited over six (6) hours and were given only three (3) minutes to explain its position on this matter. He added the Village has welcomed everyone's input and ideas. He implored Mr. George to take all the opinions stated tonight into consideration.

Mr. George thanked Mayor Sexton, the Board of Trustees and the audience for the opportunity to make the presentation tonight.

The Chair thanked everyone for their comments and stated the Board will consider all their statements. He stated a decision will be made and the matter may be placed on the agenda for the September 20, 2010 Board meeting. The first meeting in September is scheduled for a proclamation for fallen former EPPD officer, Thomas Wortham.

ADJOURNMENT

With nothing further to come before this meeting, motion by Trustee Kyle second by Trustee Phelan that this Regular Meeting of the President and Board of Trustees adjourn. Upon roll call voting YES: Trustees Marzullo, McQuillan, Bosch, Phelan and Kyle; voting NO: NONE. The motion was passed and so ordered by the Chair at 8:07 P.M.

Catherine T. Aparo, CMC, Village Clerk