

## **CONSENT REPORT OF THE VILLAGE MANAGER**

### **CONSENT PETITIONS AND COMMUNICATIONS**

- A. Permit Fee Waiver - Arlington Heights Park District Approved

Trustee Thomas Glasgow moved to approve. Trustee Jim Tinaglia Seconded the Motion.

The Motion: Passed

Ayes: Blackwood, Farwell, Glasgow, Hayes, LaBedz, Scaletta, Sidor, Tinaglia

Absent: Rosenberg

### **XI. APPROVAL OF BIDS**

### **XII. NEW BUSINESS**

- A. Sign Code Modifications - Electronic Signs  
Village-Wide - DC#09-025

President Hayes stated that at his request, after driving through other communities that have a number of electronic signs that allowing them should be explored in order to make sure that the Village maintains a competitive advantage and/or level playing field with surrounding communities, and at least a limited place for them in the Village of Arlington Heights.

Mr. Ted Eckhardt, Design Commission Chairman thanked the Board, Mr. Perkins and Mr. Hautzinger for their support of the Design Commission. He explained that after the passing of Design Commission member Alan Bombick the Commission has established and passed a resolution for an "Alan F. Bombick Annual Design Award" that would have two or three categories. Mayor Hayes thought that it was very appropriate.

Mr. Eckhardt started by saying that the Design Commission looked at electronic signs in 2006 and reviewed it again in 2007, 2008, and 2012, and talked about some sign requests, including Patton Elementary School that have been denied. He went on to say that he is one of the five voices of the Design Commission that have worked hard on this. He stated that after President Hayes' request for staff to create a report on electronic signs, Village Design Planner, Steve Hautzinger researched and put it together and gave it to the Design Commission to study.

Mr. Hautzinger gave some background on electronic signage history, saying that in 2007 there were a few sign variation requests that were denied by the Design Commission. He also said that in 2009 staff prepared a detail

study on electronic signage that was reviewed with the Design Commission where it was decided not to continue to allow electronic signs, but that manual change bulletin board sign code regulations were clarified and expanded.

In 2012 a visual preference survey that included residents, business owners, and sign companies, was conducted to evaluate many signs including electronic signage saying that there was a lack of support for them. Mr. Hautzinger noted that Patton Elementary School's signage request came back to the Design Commission in 2015 where there was a productive and thorough review, but in the end it was denied because different concerns, specifically being a nuisance in a neighborhood across from residential homes, and the precedent that would be set if approved for all schools, churches, and park facilities in residential neighborhoods.

Mr. Hautzinger continued by showing a map of the Village showing the 74 schools, churches, and parks throughout Arlington Heights, and then talked about the various types of electronic signs; LED, LCD, and Electronic Ink. He explained that LED is the prevalent signage and that it is very bright and glaring which is a big concern. He added that LED can scroll, animate, and play video. Mr. Hautzinger stated that the LCD signs are similar to high definition televisions and that they are full color, very bright, can do static images or video. He said that they are used for close-up viewing applications and have been used more for interior signage for restaurant menus, but are showing up in some drive-through menus.

Mr. Hautzinger stated Electronic Ink Technology was discovered when research was being done for a solution for Patton Elementary School. He said that Electronic Ink is easy on the eyes and has the appearance of printed ink on paper. He also said that it does not emit any light, has no glare, and is very green and sustainable because it uses little power. He said Electronic Ink has great potential, and said that the only limitation is that it is an emerging technology that is not yet prevalent and is under development for widespread signage applications. Currently it only has a white background, but they are working on perfecting it in color. He also noted that this type of signage may work for Metropolis because of all the residents around it.

Mr. Hautzinger went on to show a changeable panel sign which is an aesthetically pleasing way to change information on a sign without introducing electronic signage. He noted that the Arlington Heights sign code was recently amended to allow this type of changeable sign panel.

Mr. Hautzinger went over the questions that were discussed as staff launched into the study with the Decision Commission which included:

- Should the Village continue to explore electronic signage? What image does the Village want for its commercial corridors?
- Should they be allowed in residential districts when they are across from residential homes?

- Should they be allowed for all business and manufacturing districts?
- Should they be used for major tourism venues such as Arlington Race Course, Metropolis, Star Cinema Grill or a major development like Arlington Downs?
- Should they be allowed around Route 90 and Route 53?
- Should they be allowed as of right, or through an additional discretionary review process?
- Should we defer electronic signage until more energy efficient and aesthetically pleasing technology is prevalent and readily available?

Mr. Hautzinger finished his presentation by showing photos of electronic signs in other communities.

Mr. Eckhardt said that coming into this, that his mind was open completely and that he believes that electronic signs are the coming thing and that they are practical but bring with them the need for some control and new technology. He said that the issues that play into this complicated decision is with the image of Arlington Heights, the nuisance factor, traffic safety, code enforcement, and the environment. Mr. Eckhardt then went over some of the Design Commission feedback on electronic signage. He did say that the Commission agreed that there is a need for public information and bulletin board signs that should be considered and that they all supported the Electronic Ink signs as a good alternative to LED.

Mr. Eckhardt stated that staff prepared five categories for electronic signage with recommendations for the Design Commission to consider. They were:

1. Community-Wide Commercial Businesses
2. Major Tourism Venues
3. Schools, Churches, Government, and Park District Facilities
4. I-90 and Route 53
5. Future Technology

The options for each were:

- Continue to not allow electronic signs
- Allow electronic signs by right
- Allow electronic signs with special review process

Mr. Eckhardt stated that the Design Commission chose "continue to not allow all electronic signs" for all five categories. He went on to say that the Design Commission members would encourage anyone to bring a sign to the Design Commission and ask for a variance for it and said that as time goes by they will find a comfortable place for electronic signs so that they are not a distraction or intrusive or be unsafe.

Mr. Jonathan Kubow said that in speaking for the Design Commission, he asks for patience from the Village Board and future and existing businesses, saying that there is new technology out there and that what

they see currently is not aesthetically pleasing. He said that it is hard to support something that they don't think would attribute to a good looking community.

Trustee Scaletta said that based on some of the comments during tonight's presentation, he is concerned that he may have a professional conflict of interest, and to avoid any appearance of impropriety he recused himself and did not participate in the Board's discussion.

Trustee Sidor asked how many participants were in the study for signage. Mr. Perkins stated that there were three sessions with 50-70 people attending each of them. Trustee Sidor felt that because of the insignificant amount of participants compared to Village population, he would not let that weigh very heavily on his opinion. Trustee Sidor thought that the Electronic Ink is boring but that it may work for the Metropolis and asked how it would look in sunlight. Mr. Hautzinger stated that the technology was developed for bright lights and added that light can be added to it at night. Trustee Sidor said he would like to see that technology in color and added that he is not sure how patient the businesses are in waiting for new technology.

Discussion took place regarding the difference between with changeable panel signs compared the electronic signs being discussed tonight. Mr. Perkins explained that the lighting on changeable panel signs is electronic, but it is not an LED sign. Mr. Eckhardt explained that the electronic signs being discussed are ones that have the ability and are programmed to change messaging or images electronically. Trustee Sidor stated that he is in agreement with the majority of the presentation, but added that he does not want to put the Village at a competitive disadvantage. He said that at certain places and under certain applications electronic signs may be appropriate if done properly.

Trustee Farwell thanked everyone on the Design Commission for their hard work, and said that he is not sure he agrees with their recommendation at this time. He asked if LED lights can be dimmed. Mr. Eckhardt stated that they can and that they have four or five settings. Trustee Farwell also asked about the lighting on Electronic Ink signs and said it was unfortunate that it is not yet available in color. Mr. Eckhardt stated that the light is internal and not face lit. He added that they are affordable but currently more expensive than LCD because they are a new technology. He added that the concluding comments from the Design Commission about being patient is because they feel like this product is something more acceptable and is coming sooner than later.

Trustee Farwell felt that he is bothered because the Board approved and installed an electronic sign a number of years ago, and that he feels like the Village is holding itself to a different standard than the businesses. He said that he worries about waiting, saying that Village businesses are smart and know what type of advertising is best for them to promote their

business, which in turn promotes Arlington Heights. Trustee Farwell felt that it may be time for the Village to allow businesses electronic signage and thoughtfully put forward an effort and set standards in a way that makes Arlington Heights look classy.

Trustee Blackwood said that she is similarly positioned with Trustees Farwell and Sidor. She is concerned with the major tourism venues within the Village boundaries and its outskirts. She gave, for example the signage for Tony's Market on Rand Road in Prospect Heights, saying that she has been contacted by several owners of smaller grocers who are very concerned about losing their customers and may not continue to compete on a semi level playing field without proper signage. She said that the Village has the ability to look at the signs, implement good graphic presentation, and satisfy some of the business owners that may not have the patience in waiting for new technology.

Trustee Blackwood asked if 2/3 backlit 1/3 messaging signs were looked at. Mr. Eckhardt stated that discussions had taken place regarding 30% to a maximum 50% movable signage and that none of the commissioners supported 100% movable. Trustee Blackwood then asked why there was such a strong positioning on a "no electronic signs" for the tourism venues. Mr. Eckhardt said that in general the Commission favored those signs but were concerned about allowing them by right and having to police them. He continued by saying that the Design Commission is a recommending body, and said that their position is that if a request comes in and has the right proportions, is classy, and would be able to be policed they would grant a variance for it. Again he stressed that the Commission would not discourage someone for asking for a variance.

Trustee Blackwood asked if there was any discussion on various districts, like the hotel district right off of Route 90, saying that the hoteliers are requesting some assistance in welcoming guests to Arlington Heights and that district. She stated that the reason we have signs is to promote businesses and said that not allowing it by right makes it seem like it is not possible even though a variance will allow it. She suggested that this get looked at in a more opening and softer way to encourage the use of the sign to be just what it is intended for, promotion of Arlington Heights, its businesses, and its entities, and thought the signage should be up to the entity or the district. Mr. Eckhardt said that he personally thought that signage at major events is important and said that the Commission has to go by with what is allowed currently, and that when they see them it will be as a variance.

Trustee Tinaglia stated that he was on the Design Commission for eleven years and that in looking at the minutes from 2009 regarding signage, his comment was that he felt that moving signs were offensive, and that the manual hand change signs were old looking and that something needed to happen. He said that he feels the same way and that the businesses in town really want signs and that something has to change. He also said that

something has to happen for the larger important components of our community, whether it is the Racetrack or Metropolis Theatre.

Trustee Tinaglia questioned the electronic sign that is at Hersey High School. Mr. Recklaus explained that the sign went up during a period where it was believed that the Village did not have the ability to regulate what was done at a high school. Mr. Perkins went on to say that in 1992 the Village Board discussed whether to enforce the zoning and sign codes on schools because of the State school building code. Mr. Recklaus stated that since then there are new interpretations and that it is clearer on what the Village can and cannot enforce. Mr. Perkins stated that about a year ago, there was a case in Crystal Lake where case law clarified what municipalities can and cannot do and said that as a result of that, the Village started enforcing the zoning regulations.

Trustee Tinaglia felt that there can be an opportunity for a special commission, like the liquor commission, to be put together for electronic signs that would not be as overwhelming as the variance process. He said that change in signage is going to happen at some point, saying that the Electronic Ink is a great compromise, especially if they are made in color. Trustee Tinaglia felt that not every business or big entity has the patience to wait anymore and said it is time to do something to give them a break. He is hoping that we can pull together some way to make this happen and give someone a good opportunity. Mr. Eckhardt agreed. Trustee Tinaglia said that he looks at it like a liquor license, saying that the business would need to prove that they can control it and not be offensive with lots of visual movement, and said that if they can't they can be reprimanded or the license can be taken away.

Mr. Recklaus wanted to clarify that the Electronic Ink concept has not been tested in an area with our climate, and said that the manufacturer said that there are heating elements that could be added. He also said that although the Board hires staff and appoints commissions for their expertise and perspective, they are the enforcers of the Board's values. He went on to say that the Design Commission and staff do their best work when the Board clearly defines what it is that it wants to see happen. Mr. Recklaus said that if the Board believes it can define its values and that it can be captured in ordinance type form, he thought that is what should be pursued. He went on to say that if we think this is too difficult, if we do not want to provide something by right, or if it is not possible to capture in ordinance, then he would ask that the Board give staff as much clear direction as they can with what their desire outcomes are.

Mr. Recklaus said that it is dangerous that we will go through an open-ended variance process. He said that since staff understands what the Board would be prone to approve or not, they generally tell applicants that it may be a waste of their time to pursue a variance or that there is a realistic ability to obtain one. He said that the Design Commission is in the "look good business", and that their role is very narrow and only looking at

the design element. The Board looks at things broadly, not only the design aspects but also the compromise, the balance, and the business friendliness. So it may not make sense to have them handle variances on electronic signs at their own discretion without further guidance from the Village Board.

Mr. Eckhardt said that when teardowns were becoming prevalent, guidelines were created, and thought that a similar guideline be developed for electronic signs with what the Board wants.

Trustee Glasgow appreciated Mr. Recklaus' and Mr. Eckhardt's statements of the difference and distinction of formulating policy, which is what the commissions and the Board do, and the implementing policy, which is what staff does. He went on to say that one of the reasons we have specialized commissions is to help the Board formulate policy, and said that the commissions have the time and energy to delve into things that the Board does not have. He said that the Design Commission has had five months to put together a recommendation and that the Board has had about ten days to review it. Trustee Glasgow also said that he has to take into consideration that 2/3 of the people polled were against signs at every venue. He understands that businesses want the signs and need to make a profit, but said that it needs to be tempered with the Village's ability and duty to make sure that the look good business that the Design Commission is in is enforced and aesthetically pleasing.

Trustee Glasgow is concerned with allowing signs as a matter of right, saying that if you make a rule for one, you make it for all which he said creates a law for unintended consequences. He explained that giving someone a license or a right creates a property right, and said that taking that right away because they have too many lumens, leaving the sign on, or because the images change too quickly would create an enforcement nightmare for staff which he is extremely concerned about.

Trustee Glasgow felt that allowing signage in one place, doesn't necessarily set a precedent for somewhere else and said that every piece of real estate is unique in where it sits. He said that he agrees with the Design Commission's recommendations, although with signage regarding major tourism venues he said that he doesn't see how anything other than a variation can be done. He continued by saying that he is not adverse in granting a variation for Arlington Park, Metropolis, or anywhere else that has a unique circumstance and characteristic. Trustee Glasgow said that he is in full favor of following the recommendations of the Design Commission because of the amount of time they have spent on this.

Mr. Eckhardt stated that the Design Commission wants to allow signs in every category, but needs to figure out how it can happen. He said that the major tourism venues category would be the most appropriate to have the electronic signs in order to keep up with larger communities, followed by the Churches and Schools which have messages to get out.

Trustee Glasgow asked Mr. Eckhardt how long the Village is supposed to wait and continue granting variances if the Electric Ink signs are the next big thing the Village should move into. Mr. Eckhardt said he cannot speak to their readiness, but the company is working very hard on some of the issues, and said that they may be more affordable within a year and thinks they may come out in color at the same time. He also said that LCD signs will also become more affordable if the Village has size restrictions, adding that they would have to be site appropriate.

Trustee LaBedz thanked the Design Commission and staff for all their work and historical information provided on this topic, saying that she finds this to be a very difficult issue. She felt that something needs to be done, and that she is concerned with telling people to wait for the Electronic Ink option when it is not fully known if and when it would be ready. Trustee Labeledz stated that major tourism venues would benefit tremendously from electronic signage, and asked if there would be a legal issue or first amendment issue if the major tourism venues were allowed to go forward with electronic signs once they are defined, and not allowing them for other businesses. Ms. Ward said that it would not be a first amendment issue, but that there may be challenges in permitting only the major tourism venues and that it would also be challenging to differentiate the types of signs and types of businesses. Trustee Glasgow said that a variance is a safer way to do this rather than excluding others through an ordinance.

President Hayes said that in looking at community surveys that were done, he saw that a neighborhood community allows electronic signs through a conditional or special use process saying that he does not like the outcome. He said he was afraid that if all businesses were allowed to apply through a variation or special use permit process that the Board would have a difficult time saying no. President Hayes said that he is not in favor allowing all businesses and uses to apply for special use. He did say that he was in favor of what Chairman Eckhardt suggested which is allowing application through a variation process for certain categories, specifically to include the major tourism venues and to consider churches, schools, governments, and park district facilities.

Tony Petrillo, Arlington Park General Manager, said that he wanted to let staff know that Arlington Park's intent is to develop a digital billboard on their property. He said that they have been seeking some type of signage at the corner of Euclid and Wilke for some time, but have been reluctant to pursue it because they felt there were too many hurdles. Mr. Petrillo went on to explain that Arlington Park has vendors that rent their buildings or a permanent facility on their property and that they are losing business because some vendors felt that there is not good signage for them to advertise. Mr. Petrillo said they would like to market and promote business for those that drive on Route 53, and said the sign can be community rooted by being able to show amber alerts, weather alerts, and highlight



events being held in the Village, and noted that no residents would be affected. He went on to say that they would like some type of opportunity for some type of process that would allow them to acquire a sign that will be able to change images. He noted that they would not be in favor of moving signage or video type of images, and that static signs would be most appropriate. He asked the Board to consider the sign for Arlington Park when they draw their opinions on electronic signage.

Trustee Farwell mentioned the five requirements for sign variations, and noted one in particular "The applicant's business cannot reasonably function under the standards of this chapter". He said that this requirement has always been hard for businesses to properly argue successfully in front of almost any board. Trustee Farwell stated that we can't use this particular section of the code to give variances on the design elements of a sign, and said that a section of the code would have to be created and shouldn't be called a variation. He said he would be open to a special use process because a special use is given to a business and that once a business transfers hands or closes, then the use sunsets. Trustee Farwell also stated that to be more business friendly, everyone should have the right to apply regardless of what industry they are in or where they are located. Trustee Farwell thought that the Design Commission could tailor special use process and come back to the Board for more dialogue.

Trustee Tinaglia agreed with Trustee Farwell that it shouldn't be a variance. There are a lot of questions to be answered such as; whether it will be a special use, a license, will a committee be involved, who will handle the special use or license, how many of them, how often they are handed out, etc. He also thought there was merit in developing guidelines on what the signs should look like and what they will be allowed to do. He also said that enforcement will be the biggest problem.

Mr. Recklaus said that although a special use or a variance can be done, he wanted to make a distinction and said that if we do anything outside the variation process, like a special use or amendment to the code, then you open the door to be able to get these by right. He went on to say that when you set criteria, and that criterion is met, it is more difficult to turn down. Mr. Recklaus said that as difficult as the variance process is, it does provide more control than a special use.

Ms. Ward explained that in terms of creating guidelines for electronic signs, which you can't create for something that is currently not permitted. She said that the direction would have to be whether you want to move towards letting them continue to be variations but be more encouraging for people to apply for them, or do you want staff to work on some sort of code amendment that permits them but provides some sort of process whether a special use process or a Design Commission process.

Mr. Schuster, added that based on some of the comments brought up this

evening, that there are ways to design certain regulations and criteria that would have to be met in order to have a special use, so that not everybody can come forward with a sign. He mentioned a Supreme Court Reid case where you can get into trouble when you start to regulate types of speech, but said you have the ability to control how bright the signs can be, or where they are placed on property lines, etc. Mr. Schuster said that you have to decide whether you want a system with hardships that have been brought up with a variation, or do you want to go into studying suggestions about what type of specific regulation across the board would apply regardless of the type of message on a sign.

Trustee Glasgow said that staff has gotten a lot of direction from the Board this evening and said that he is in favor of just accepting the recommendations of the Design Commission. He said that to make having these signs a matter of right would be a big mistake of by the Board.

President Hayes asked the Board members if any of them would like to leave things status quo. No Board members would. He then asked if any Board member would like to allow electronic signs by right with some restrictions. No Board member would. President Hayes thought that leaves the Board with two options; a special use process for any and all businesses with Arlington Heights or a special use process for certain categories for business. Ms. Ward said that a special use process for certain categories will potentially cause Reid case issues, and said that a general special use process which sets out within in the kinds of limitations (lumens, locations, etc.) can be more easily drafted under Reid case. President Hayes stated that his preference would be to allow a special use process for electronic signage within the Village based on certain criteria.

Trustee Farwell asked if a special use application or permit be tailored based on zoning. Ms. Ward stated that you can make zoning district distinctions. Trustee Farwell stated that he would be open for a special use based on commercial and multi-use zoning and the variation process for other zoning areas. Trustee Glasgow disagreed and is concerned with having zoning distinctions and that it should be done on a case by case basis. Trustee Farwell said that he would be open to that if it was the will of the Board. Ms. Ward said that currently, special uses go to the Plan Commission, saying that is where the public process is but that it can be changed to go to the Design Commission.

Trustee Tinaglia said that we have to be prepared for what comes next and that the big issue is the policing of the signs and in making sure people do what they say they are going to do or don't do want they are not supposed to do. He has concerns on how to make sure that there is enough staff to make sure that things are dealt with appropriately once they are in place.

The Board directed staff to further research and draft a special use process to allow electronic signage that meet certain conditions.

President Hayes thanked the Design Commission and staff for their hard work on this, saying that there is a long way to go yet.

### **XIII.LEGAL**

- A. An Ordinance Amending Chapter 13 of the Arlington Heights Municipal Code (Addition of Class "L" liquor license) Approved

Trustee Joe Farwell moved to approve 16-036. Trustee Thomas Glasgow Seconded the Motion.

The Motion: Passed

Ayes: Blackwood, Farwell, Glasgow, Hayes, LaBedz, Scaletta, Sidor, Tinaglia

Absent: Rosenberg

- B. An Ordinance Amending Chapter 13 of the Arlington Heights Municipal Code (Making available a Class "A" liquor license) Approved

Trustee Joe Farwell moved to approve 16-037. Trustee Thomas Glasgow Seconded the Motion.

The Motion: Passed

Ayes: Blackwood, Farwell, Glasgow, Hayes, LaBedz, Scaletta, Sidor, Tinaglia

Absent: Rosenberg

### **XIV. REPORT OF THE VILLAGE MANAGER**

### **XV. APPOINTMENTS**

### **XVI. PETITIONS AND COMMUNICATIONS**

President Hayes stated that National Night Out will be held on Tuesday, August 2, 2016 at North School Park from 5:30 until 8:00 pm where the Police Department and other agencies demonstrate what they do for residents on a daily basis in terms of providing for health, safety, and public welfare.