



MINUTES - SHOREWOOD BOARD OF TRUSTEES
Committee of the Whole Meeting
February 1, 2021

1. Call to Order

Tr. Stokebrand called the Committee of the Whole meeting of the Village Board to order at 6:01 p.m.

2. Statement of Public Notice

Clerk Bruckman stated that the meeting had been posted and noticed according to law.

3. Roll Call

Clerk Bruckman called the roll. Present via teleconference: Trustees Davida Amenta, Tammy Bockhorst, Jessica Carpenter (6:05 p.m.), Arthur Ircink, Kathy Stokebrand and Wesley Warren. President Rozek was excused

Others Present: Village Manager Rebecca Ewald, Planning and Development Director Bart Griepentrog, Deputy Clerk/Customer Service Director Diane DeWindt-Hall

4. Presentation on open records – Atty. Claire Silverman, League of Wisconsin Municipalities (6:01 p.m.)

Attorney Claire Silverman reviewed the public records law. She urged the Village Board if they are considering enacting a policy, to consider what the current law does not do that the policy should entail.

Tr. Amenta questioned when the open records law was written and has it been updated. Atty. Silverman replied she was not aware when it was originally enacted but it was modified in the early 1980's and hasn't been modified much since. She shared that as technology has been changing, there has been an increase in the number and complexity of questions regarding the law.

Tr. Ircink questioned if technology like Facebook is a gray area for the open records law. Tr. Ircink questioned if someone was utilizing an application like Facebook Messenger for conducting Village business, how would the requester know where to ask the request from. Atty. Silverman clarified Facebook Messenger would definitely be a record and if it's within your official responsibilities then it's considered a record. She further explained part of the difficulty is how do you retain things on a non-municipality offered platform. She explained it's the content and not the location of the media format that determines if it's a record.

Tr. Stokebrand questioned how would you know someone's request was a factual record; that the record wasn't manipulated. Atty. Silverman explained you wouldn't have a copy of the non-factual record.

Tr. Carpenter questioned if this applies to all appointed members of other committees. Atty. Silverman explained you would have to consider if it is a local office.

Tr. Stokebrand clarified if the request could be done written and orally. Atty. Silverman explained yes, but the requesters need to put their request in writing in order to have certain rights such as appeal of a decision.

Tr. Warren questioned if there has been direction provided on what a rate per copy should be. Atty. Silverman explained public records law used to advise anything between \$.10 and \$.25 would be considered reasonable. She explained the Village should evaluate what it costs to make copies and not charge more than that amount. She clarified redacting cannot be charged for.

Tr. Amenta questioned if there was an excel spreadsheet and there is a request specially for source data, if we are keeping the data as an excel spreadsheet and someone does an open records request and the request is fulfilled by providing a PDF. Is there an obligation to provide a digital file of the excel data as opposed to a PDF? Atty. Silverman explained the data that is actually in the spreadsheet is the record, not necessarily the spreadsheet or how the data is kept. Tr. Carpenter explained the reasoning for requesting an excel and then receiving the request in PDF makes it difficult to understand any trends or how those numbers are all related. Would the resident need to ask for the request to be fulfilled in a specific format? She relayed the method and how some of the requests are produced is a very important factor. Tr. Ircink clarified if the request came in PDF the resident would have to take the data and put it in a spreadsheet themselves to figure out the trends. Atty. Silverman explained if the excel sheet could not be shared, then yes because they have a right to the data that was put in, but they do not have a right to receive that data as a particular record if it doesn't exist. Tr. Warren clarified the Village does not have the obligation to say turn over the excel spreadsheet, we have the obligation to turn over what's populated in that spreadsheet. He further clarified that the information is the record and the Village could choose the manner in which the record is produced; the Village Board could say as a policy anything in excel, word, etc. we will turn over in that format. Atty. Silverman explained yes unless it's proprietary software.

Tr. Amenta questioned if a resident could bring their own scanner and scan the records themselves. Atty. Silverman explained the law gives the custodian the discretion to decide whether it's appropriate or not.

Tr. Amenta questioned if public officials should go through the open records process. Atty. Silverman explained the public records law does not give an elected official a greater right than the members of the general public to access public records. The governing body could have a policy to say we don't want the elected officials to have to go through the public records law, as long as those records are subject to disclosure. As the Village Board you would have that ability but as a single trustee you wouldn't have the right to all records of the Village. Tr. Amenta stated she would support a policy on this.

Tr. Stokebrand asked for clarification on the custodian getting to decide on how the copy is made. Atty. Silverman explained the custodian is the one with the responsibility to safeguard records and the law gives the custodian discretion on how to handle how the copy is made.

Tr. Warren questioned if there has been any push to update this statute to bring us into the digital age. Atty. Silverman explained the League of Wisconsin Municipalities has suggested the legislature take a look and update it to take into consideration all the technologies and the legislature does not want to touch it.

Geoff Davidian, 4101 N Prospect Ave., Shorewood, 53211; explained the Village Attorney of Shorewood is a contracted vendor but also an employee and official of the Village. The records of the Village attorney are subject to the Village retention policy or the records are the property of the Village and the attorney cannot dispose of them without the approval of the Village. Atty. Silverman explained the records of the law firm aren't necessarily the property of the municipality. Records of officials who contract with the municipality are subject to the public records law. Mr. Davidian explained the Supreme Court rules say that the attorney has to turn the files back over to the client when the employment is terminated. The Village attorney is employed by the Village, making the Village the client, questioning if there is a distinction of records as a municipality as a client. Atty. Silverman explained she did not have that answer. Mr. Davidian questioned if there are two requesters with the

same request does the custodian have the authority to provide the request in the same format. Atty. Silverman explained she would need to know specifics about the request.

Tr. Ircink questioned if a resident made a large open records request but didn't want to pay for the copies, could the requester take pictures and not pay for the copies. Atty. Silverman explained if the request has been fulfilled and the requester needs to pay, they should not necessarily be allowed to take pictures. There are many municipalities who fulfill large requests that no one comes to pick up which is a lot of time and material expended by the municipality. She explained you can require prepayment if it exceeds \$5.

5. Discussion on open records ordinance/policy (7:11 p.m.)

Tr. Carpenter explained the Village has some technology updates that need to be addressed.

Tr. Stokebrand requested input from the department heads on the call. Clerk Bruckman explained one main concern is we don't have a record, but staff could run a report in a short time frame. Is that something the Village Board would like staff to do?

Tr. Amenta explained she would like to see what type of data the Village has and how it's stored. The Village needs to look at how we can organize information in a different way in order to expedite or make public records more easily accessible.

Tr. Ircink requested to have each department breakdown what they would like to see moving forward or what would make open records requests easier going forward.

Tr. Amenta explained we know the number of requests but we don't know time or cost. She explained data is in different formats and how do we accommodate that? How do we maintain data in a way that facilitates open records requests? We need to evaluate technology issues and access for people with disabilities.

Ms. Ewald explained this will be discussed at the next JP&L Committee meeting and there are some members of the JP&L Committee interested in drafting something. Departments can review what data they do have and how it's stored. Tr. Carpenter requested the departments provide the method that information can be extracted.

Tr. Ircink requested that if technology needed to be updated, to provide a price point.

Tr. Stokebrand requested from each department what would make public record easier to obtain and more accessible

6. Tr. Ircink moved and no seconded was recorded to adjourn at 7:31 p.m. Motion carried 4 – 2 with Trustees Amenta and Bockhorst voting nay. It was noted the Tr. Amenta and Tr. Bockhorst voted nay because an additional citizen comment was not taken.



MINUTES - SHOREWOOD BOARD OF TRUSTEES
Village Board Meeting
February 2, 2021

1. Call to Order

Tr. Stokebrand called the meeting of the Village Board to order at 7:35 p.m. Clerk Bruckman reviewed the meeting protocols.

2. Roll Call

Clerk Bruckman called the roll. Present via teleconference: Trustees Davida Amenta, Tammy Bockhorst, Jessica Carpenter, Arthur Ircink, Kathy Stokebrand and Wesley Warren. President Rozek was excused

Others Present: Village Manager Rebecca Ewald, Village Attorney Nathan Bayer, Assistant Village Manager Tyler Burkart, Public Works Director Leeann Butschlick, Planning and Development Director Bart Griepentrog and Police Chief Peter Nimmer

3. Statement of Public Notice

Clerk Bruckman stated that the meeting had been posted and noticed according to law.

4. Special Order of Business

a. Consider Friends of Atwater Foot Wash Station Donation (7:36 p.m.)

Mr. Burkart introduced Alicia Domack, President of Friends of Atwater. The Parks Commission reviewed the donation proposal in January and recommends accepting the donation. Ms. Domack explained that Friends of Atwater sent out a survey and gathered feedback of what people would like to see at Atwater Beach. The foot wash station was one of the suggestions. She explained there has been some issues with the plumbing in the beach house because people wash their feet in the sinks and toilets. Ms. Domack explained the group would be utilizing a grant from the Shorewood Foundation.

Tr. Ircink questioned the plumbing logistics. Ms. Domack explained the foot wash station will be placed near the bubbler.

Tr. Warren clarified the water filling station will be installed separate from this project. Ms. Butschlick explained they will not be installed on the exact same date. The foot washing station will take several days as it needs a concrete pad but the water filling station should take about a day.

Tr. Carpenter questioned if there is concern residents will still use the bathroom for washing their feet and further explained the erosion concern. Ms. Domack explained they are hopeful people will see the foot wash station as they are walking to the beach. Ms. Butschlick explained the station will be built to catch as much water as possible and cycle it out properly for discharge but we do not want the path to have any unnecessary water. Tr. Carpenter expressed the importance of signage.

Tr. Ircink moved, seconded by Tr. Carpenter to accept the Friends of Atwater's donation for a foot wash station in the middle of Atwater Park. Motion carried 6 – 0 by a roll call vote.

5. Consent Agenda Items (7:48 p.m.)

- a. Accept Presentation of Accounts – February 1, 2021
- b. Consider special Village Board Minutes – January 20, 2021

Tr. Amenta moved, seconded by Tr. Warren to approve the consent agenda. Motion carried 6 – 0 with a roll call vote.

6. Items Removed from the Consent Agenda (7:49 p.m.) – None

7. Public Hearing(s) (7:49 p.m.) – None

8. Citizens to be heard – This item is for matters not on the agenda. Discussion may follow comment on non-agenda items or discussion and action may come at future meetings. (7:49 p.m.) – None

9. New Business

a. Consider Resolution 2021-05 A Resolution Suspending Outdoor Seating and Parklet Special Privilege Application and Monthly Installation Fees. (7:49 p.m.)

Director Griepentrog explained last year all applicants paid application fees but the Village Board provided direction to suspend the collection of monthly fees for parklets.

Tr. Amenta clarified the permit starts March 15 and questioned if the end date was extended. Mr. Griepentrog explained yes, they were extended until March 15, 2021. The approval is normally through November 15.

Tr. Ircink moved and Tr. Warren moved to approve resolution 2021-05 A Resolution Suspending Outdoor Seating and Parklet Special Privilege Application and Monthly Installation Fees. Motion carried 6 – 0 by a roll call vote.

b. Consider police station tank removal and parking lot replacement (7:54 p.m.)

Chief Nimmer explained the memo in the packet discusses the replacement of the south parking lot and tank removal. He explained when the building was purchased the discussion was the tank would be removed when the parking lot gets replaced. There is funding available from the building renovation bonds phase 2b.

Tr. Stokebrand questioned what's left to complete the police station once the parking lot is complete. Chief Nimmer explained the parking lot was not originally part of the renovation but that would be the last piece of the property. Tr. Stokebrand questioned if the community room would be a small ticket item. Chief Nimmer explained no and it would change the zoning. Tr. Stokebrand questioned if there are green infrastructure possibilities. Ms. Butschlick explained there are always opportunities but can't give specifics as no engineering has been done.

Tr. Amenta questioned why this wasn't included in the Long Range Financial Plan. Ms. Ewald explained it was not included in the renovation of the police station and they had anticipated the duration of the parking lot would have lasted longer than the current state. Tr. Amenta explained she would be voting no because the Village has spent a lot of money on this building and there is a process that Village Board members have been working on for several years to have a comprehensive understanding of what the Village's capital needs are and that goes into the Village's Long Range Financial Plan.

Tr. Bockhorst explained she would be voting yes.

Tr. Carpenter questioned the cost to remove the tank is three times more than what it was supposed to be. Chief Nimmer explained the realtor told them the \$5,000.00 was half of the cost to have the site closed, the DNR cost to close the site was just over \$10,000.00, the

\$5,000.00 off the sale price is half of that cost. He explained the other \$16,000 is the actual removal of the tank. He is not sure why that portion was not compensated. Tr. Carpenter questioned what are the other options for the bond proceeds. Ms. Ewald explained they would pay down on the bonds. Tr. Carpenter questioned if small repairs could be made to the potholes. Ms. Butschlick explained the condition is well beyond small repairs.

Tr. Amenta questioned if the engineering cost included green infrastructure. Ms. Butschlick explained no the \$8,000 to \$10,000 is the engineering of the parking lot plus the production of bidding documents and the actual bidding process. Tr. Amenta would like to incorporate this into the Long Range Financial Plan and include it in next year's burrowing.

Tr. Bockhorst moved, seconded by Tr. Warren to approve the replacement of the police department south parking lot, the removal of the underground storage tank and the closure of the site. Motion failed 3 – 3 by a roll call vote with Trustees Amenta, Carpenter and Stokebrand voting nay.

c. Consider Hubbard Park Design engineering contract (8:13 p.m.)

Ms. Butschlick explained in December 2020 we issued an engineering design request for proposal for Hubbard Park parking lot. There was a total of nine responses and staff rated those responses based on the approved criteria.

Tr. Carpenter questioned why K Singh's fee is so much lower. Ms. Butschlick said she's not sure but the hours are significantly less.

Tr. Ircink questioned which firm has more experience with green infrastructure. Ms. Butschlick explained it's more common today and each one has experience.

Tr. Amenta questioned if the cost difference is worth the amount going with SEH. Ms. Butschlick explained there is a variation in hours.

Tr. Warren questioned if one of the other engineering firms went over their hours, would it end up costing the Village more. Ms. Butschlick explained it's possible, but the Village Board would need to approve it.

Tr. Stokebrand moved, seconded by Tr. Carpenter approval of a design engineering services agreement for the Hubbard Park Parking lot with Jahnke and Jahnke in the amount of \$29,530.00.

Tr. Bockhorst stated she would be voting no because she is supporting staff's recommendation.

Ms. Butschlick shared it's the Village Board's prerogative to select a consultant as it wishes but reminded them the approved RFP included four specific criteria with weightings. She cautioned the Village Board on the message that may be received from prospective engineering consultants if the Village deviates from the approved criteria in the selection of a consultant.

Tr. Amenta questioned why the Village Board wasn't involved in evaluating the proposals. Ms. Ewald explained Director Butschlick was intending for the Public Works Committee to review but was unable due to the Committee of Whole. She further explained Tr. Warren, as Public Works Committee Chair, was consulted prior to listing this item on the agenda. Tr. Amenta clarified if Tr. Warren was asked to sit on the panel to review the proposals. Ms. Butschlick explained they have not typically done that for a smaller project, it was intended the recommendation would go to the Public Works Committee and they would provide a recommendation to the Village Board. There are some grant opportunities the Village would like to apply for and that is why approval came to the full Village Board without going to the

Public Works Committee.

Tr. Stokebrand explained for the dollar and cumulative staff score difference it warranted looking at the other proposal.

Motion: approval of a design engineering services agreement for the Hubbard Park Parking lot with Jahnke and Jahnke in the amount of \$29,530.00. Motion failed 3 – 3 by a roll call vote with Trustees Bockhorst, Ircink and Warren voting nay.

Tr. Ircink moved, seconded by Tr. Warren approval of a design engineering services agreement for the Hubbard Park Parking lot with SEH in the amount of \$37,294.00. Motion carried 4 – 2 by a roll call vote with Trustees Amenta and Stokebrand voting nay.

- d. Consider revised schedule for water meter replacement program implementation. (8:36 p.m.) Ms. Butschlick explained AMI was put on hold due to COVID. The Wisconsin Public Service Commission requires construction authorization for the installation of the AMI infrastructure and the current construction authorization expires August 7, 2021 which means the project needs to be underway prior to that time. She further explained if there is no intent to start that project prior to that time, the Village would need to refile and request a new construction authorization. She explained the Village has received a follow-up non-compliance notice from the Department of Natural Resources for the out of date cross connection inspection program. The intent had been to implement the cross compliance with the meter installation.

Tr. Warren questioned what date would workers need access to get into people's houses. Ms. Butschlick explained the target date is August 2.

Tr. Stokebrand questioned how long does an average installation take. Ms. Butschlick explained 30-50 minutes.

Tr. Carpenter questioned how the Village will know who has been in what house for the need of potential contact tracing. Ms. Butschlick explained there is a lot of record keep including the installers name.

Tr. Ircink clarified masks would be worn when they go into people's homes.

Tr. Amenta would like to arrange for the workers to be vaccinated ahead of time and require weekly testing.

Tr. Amenta moved, seconded by Tr. Warren to direct staff to being implementation of the Shorewood water meter replacement program with residential meter replacements scheduled to begin on August 2, 2021 and for staff to return prior to the implementation date to report on negotiations with Vanguard regarding staff vaccinations and testing protocols. Motion carried 6 – 0 by a roll call vote.

- e. Consider Combined Sewer Service Area Downspout Disconnection Program. (8:55 p.m.) Ms. Butschlick explained the downspout disconnection program is only for the combined sewer system area. Rule changes prohibit the connections of roof drains, gutters, and downspouts to drain directly into the combined sewer system. The deadline for disconnection is January 1, 2025 and exemptions are outlined in the memo.

Tr. Carpenter moved, seconded by Tr. Warren approval of the Combined Sewer Service Area Downspout Disconnection Program as presented. Motion carried 6 – 0 by a roll call vote.

10. Reports of Village Officials (9:09 p.m.)

- a. Village President – no report
- b. Village Trustees – no report
- c. Village Manager – no report.

11. Items for future consideration (9:13 p.m.)

Tr. Amenta requested an update on overnight parking permits. Ms. Ewald explained there will be a quarterly update.

Tr. Bockhorst would like to have regular updates on the vaccine implementation at the Village Board meetings even if Director Christianson is not available. She voiced concern about the lack of enforcement in the mask ordinance.

Tr. Amenta exited the meeting at 9:16 p.m.

Tr. Bockhorst would like the Village to evaluate the Village's consolidated service agreements.

12. Adjournment.

Tr. Bockhorst moved and Tr. Carpenter seconded to adjourn at 9:21 p.m. Motion carried 5 - 0.

Respectfully submitted,

Sara Bruckman, CMC/WCMC
Village Clerk