



MINUTES - SHOREWOOD BOARD OF TRUSTEES
Village Board Meeting
November 2, 2020

1. Call to Order

President Rozek called the meeting of the Village Board to order at 7:55 p.m.

2. Roll Call

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

Others Present: Village Manager Rebecca Ewald, Village Attorney Nathan Bayer, Assistant Village Manager Tyler Burkart, and Planning and Development Director Bart Griepentrog

3. Statement of Public Notice

Village Manager Ewald stated that the meeting had been posted and noticed according to law.

4. Special Order of Business

- a. Conservation Committee update on 2025 Vision Plan Initiatives. (7:56 p.m.)

Chair Liberatore referred to the memo provide to the Village Board from the Conservation Committee. There are two primary goals, reducing solid waste in the Village by 25% and increasing renewable energy in the Village by 2025. Renewable energy is a bit more challenging to measure. Vision 2025 was a 10-year planning document, with 2025 being the deadline for the goals. The Committee wanted to reach out to the Board to see if there were any questions so far on the goals. There were no questions from the Board. In the past 7-8 months the Committee has been comparing a survey of solar permitting in neighboring communities. Shorewood has lowered fees and made it easier, but there are a few outlier regulatory barriers that put Shorewood in a small minority of communities that create a depressive effect on implementing solar in Shorewood. The Committee has also been discussing waste reduction and has come up with some ideas to incentivize waste reduction in Shorewood. Out of those two research projects the Committee will develop more specific program ideas so the community can begin to chip away at those two goals.

Tr. Amenta inquired how the Committee is measuring the renewable energy, specifically, how is the total being measured. Chair Liberatore believes there wasn't description of how it would be measured at the time it was set. It refers to the Village's renewable energy; however, Shorewood could relay the Village and the community. Most communities look at their own energy footprint. For example, Milwaukee counts only their own buildings when doing that calculation. Milwaukee also utilizes WE Energies to rate their impact. A building such as the fire station would count toward that amount.

Tr. Stokebrand inquired as to whether their research will determine where we currently are with regards to percentages. It's not something that the Conservation Committee can do on its own. A lot of the work they have done has been focused on residences. The Village of Shorewood would need to undertake solar projects on their own buildings. Waste is more complicated because the Village only has a portion of its residences under the garbage contract. The Conservation Committee has contributed with the composting program. Tr. Stokebrand noted that until we have baselines, we will not have an idea of where we are going. Chair Liberatore noted that we are currently at zero with regards to waste; however, the community has had an impact with composting. We have seen higher recycling numbers, but have not seen improvement on waste reduction or recovery rate. Shorewood is stuck at about a 32% recovery rate and that has not changed in several years.

Tr. Warren was supportive of generating metrics. Tr. Carpenter likes the suggestion of exploring inverting the

collection cycle because it would require residents to strategically think about what they put in their trash can. This could potentially be a pilot.

Tr. Ircink thanked the Committee for their work and expressed his desire to move the needle further. Tr. Bockhorst also thanked the Committee and expressed the desire to look at ways to reduce the carbon footprint in the future. President Rozek inquired about the conditional use permit for solar. In 2015, there was some resistance to removing the conditional use permit requirement and when you look at the comparison of permitting processes, he would like to see the Village in a better position. It will take the Trustees to ask staff to consider alternatives. Chair Liberatore concluded by noting that Committee will flush out more specific proposals moving forward.

5. Consent Agenda Items (8:22 p.m.)
 - a. Accept Presentation of Accounts – November 2, 2020
 - b. Consider Committee of the Whole and Village Board Minutes – October 19, 2020
 - c. Consider funding request from the Village Initiative Capital Account for village gateway On-Street Overnight Parking Permit requirements and Alternate-side Night Parking modifications in an amount not to exceed \$4,000.
 - d. Consider Application for Special Privilege Approval for planters within and an awning above the public right of way at 4512 N. Oakland Ave.
 - e. Consider authorization to hire for Forester position.

Tr. Bockhorst moved and seconded by Tr. Carpenter to approve the consent agenda. Motion carried 7-0.

6. Items Removed from the Consent Agenda – none.
7. Public Hearing(s) – 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. (8:23 p.m.) – none.
9. New Business
 - a. Consider Resolution #2020-38 Providing for the Sale of Approximately \$2,000,000 Sewerage System Revenue Bonds, Series 2020D. (8:24 p.m.)

Director Emanuelson recalled the unplanned storm sewer failure on the bluff and the Board also approved advanced engineering for the southeast sewer project, so the resolution provides for these projects and also a reimbursement resolution so that the projects may move forward. The funds would be taken from operations and when bond proceeds come in, operations would be reimbursed and count against those specific project costs.

Tr. Amenta moved and Tr. Warren seconded to approve Resolution #2020-38 Providing for the Sale of Approximately \$2,000,000 Sewerage System Revenue Bonds, Series 2020D. It was clarified that the storm water was estimated at \$880,000 and \$985,000 for advance engineering and other side sewer projects that will not start until 2021 or 2022. Motion carried 7-0.

- b. Consider Resolution #2020-39 reimbursements for sewer projects. (8:29 p.m.)

Tr. Carpenter moved and Tr. Warren seconded to approve Resolution #2020-39 reimbursements for sewer projects. Motion carried 7-0.

- c. Consider Ordinance 3016 Amending Subsection 500-16C Alternate-side parking. (8:30 p.m.)

This item was in follow-up to the October 19 meeting that changes alternative side parking regulations from 3

a.m. – 5 a.m. starting January 1.

Tr. Ircink moved and Tr. Warren seconded to amend Ordinance 3016 Subsection 500-16C Alternative-side parking. It was clarified that enforcement would begin January 1, 2020, signage was addressed for this change on the consent agenda this evening, there will be no changes for winter parking this year and there are some streets wide enough for alternate parking in some locations of the Village. Motion carried 6-1, President Rozek voting nay.

- d. Consider seasonal extension of Special Privilege Approvals for parklets and outdoor seating in the public right-of-way at: (8:36 p.m.)
 - i. Camp Bar, 4044 N. Oakland Ave.
 - ii. Draft & Vessel, 4417 N. Oakland Ave.
 - iii. Three Lions Pub, 4515 N. Oakland Ave.

The requests include outdoor seating and parklets. Staff has recommended that the code be maintained for any enclosures the Village permits. DPW has requested snow removal plans be maintained. All three businesses noted they could contract with Ideal Landscaping for snow removal; however, no formal plans have been submitted at this time. It was clarified that an exception was made for North Shore Boulangerie height compliance. Director Griepentrog noted they are concerned with the heating element code compliance. It was noted these requests are not allowed in bus stop locations.

Tr. Stokebrand moved and Tr. Carpenter seconded, subject to inspection and code-compliance of any additional furniture, fixtures or structures, and administrative approval of snow clearance operations from DPW, to approve the seasonal extension of Applications for Special Privilege Approval for parklets and outdoor seating in the public right-of-way at Camp Bar, 4044 N. Oakland Ave., Draft & Vessel, 4417 N. Oakland Ave. and Three Lions Pub, 4515 N. Oakland Ave. (phase 1). Motion carried 7-0.

- e. Consider policy #37: Signs, Objects, and Other Communicative Structures on Public Property. (8:43 p.m.)

President Rozek moved and Tr. Stokebrand seconded to table this item and follow board direction from last year to allow the Village Manager to make the call.

Manager Ewald relayed that the vote taken last year there was not consensus to light the tree or not. The motion failed by a 3-3 vote. If the Board directs the manager to act in accordance with the policy that has not yet been approved my direction will be to take the advisement of the Human Relations Commission position letter which would result in not lighting the tree.

Tr. Amenta relayed that last year with the 3-3 vote the Village Manager took direction to light the tree, and this year the manager would be taking direction to not light the tree. She did not understand the inconsistency. Manager Ewald noted that the policy takes under advisement the HRC recommendation to not light the tree. Tr. Amenta clarified that the situation is the same as last year if the matter was tabled and no decision made. President Rozek and Tr. Amenta further clarified their desire to table the item because the Board tabled the item last year and did not ask to put it back on the agenda.

Manager Ewald also relayed that the Board wanted to be informed on any decisions made with the lighting of the tree, so if the Board desires to light the tree, we will proceed with the tree being lite. President Rozek and Tr. Amenta clarified they were not requesting to light the tree, but they would like to defer the discussion.

Tr. Bockhorst asked for clarification on whether the item is being deferred or being deferred after hearing the direction from the Village Manager. Either we give her direction to make the decision or we discuss it. She was fine with tabling it or discussing it.

President Rozek requested to reread the motion. President Rozek relayed that she moved to table this item

and to follow the protocol from last year. Manager Ewald asked for clarification on the protocol last year. President Rozek again reiterated that she did not ask to have a policy discussion again. It was clarified that the discussion was regarding the Atwater tree. Manager Ewald relayed that she was confused with the direction the Board was advising. President Rozek relayed that she wanted to proceed in the same manner as last year and not light the tree. Tr. Amenta clarified that last year, in the absence of direction, staff would continue to light the tree. President Rozek and Tr. Amenta clarified they are not directing the Manager to light the tree, but requests the Village proceed as they did last year, which was not considered direction.

Tr. Carpenter clarified that last year the HRC recommendation was not to light the tree and Atty. Bayer's recommendation was to light the tree and that was how we went forward. The Board moved forward with Atty. Bayer's recommendation. It was a failed vote, with no direction and in the absence of direction the Village Manager moved forward with what was done in the past. Manager Ewald thanked Tr. Carpenter for the recap of past events. Tr. Carpenter was not certain that the Board is taking the right direction.

Tr. Bockhorst suggested to table the item and discuss it again in two weeks. She relayed that the Board is tabling something and providing a non-answer. The community is asking us to make decisions, even if they are unpopular. The holidays are coming up. She is hearing that the board members want to defer this and let it fall on the manager.

Tr. Amenta relayed the board didn't provide direction last year and in the absence of direction the manager made a decision. Nobody asked on the board to discuss this issue again. If the manager didn't have an issue making a decision last year, it shouldn't be an issue this year. This board never authorized this tree being there in the past and her impression is that DPW just started doing so a long time ago. She would prefer to be talking about the DPW study and other important policy items instead of items like this.

Atty. Bayer clarified that the previous legal question was whether or not the lighting of the tree violated state or federal law and the answer is no, but the response was not meant as a policy decision. It was a response to a legal question as he is not involved in policymaking. The policy stemmed from other general issues relating to placement of signs and communicative structures in the public right-of-way and on public property. What happens when third parties begin placing things on public property, and once you allow that, you open a box and have to determine how to do it fairly and equitably. Again, he is not advocating for a specific policy.

Tr. Bockhorst relayed when the board does not make policy decision we want to punt to her (manager) and she hears inconsistency from the board. The board is not making a decision and the board is not willing to discuss this item at the board level. The HRC made a recommendation. She is fine deferring, giving the manager direction, but she is not fine half in or half out.

President Rozek relayed again that the motion on the table is to defer the item and follow the protocol from last year. It was noted that Tr. Carpenter clarified the decision from last year. President Rozek clarified that the decision was left to staff.

President Rozek further clarified her motion, which was to table the item and follow the protocol from last year which was to leave it up to the administration. Tr. Stokebrand confirmed her second.

Tr. Ircink asked if the manager likes this decision and liked the motion. Manager Ewald heard that she is going to light the tree and she did not have lack of clarity. President Rozek noted that was not her motion. The manager has the discretion to light the tree or not.

President Rozek requested the motion be read again for clarification: to table the item and follow the protocol from last year which was to leave it up to the administration. President Rozek asked if that clarified it, because it did not state to light the tree. Tr. Bockhorst relayed that she was hearing that we were going to light the tree **if** we are leaving it to the administration.

Tr. Amenta moved to amend the motion to only state that the item is being tabled. Tr. Stokebrand seconded

the amendment.

Tr. Bockhorst moved and Tr. Ircink seconded to amend the amended motion to include: until the next board meeting.

The board voted on the second amendment that added: until the next board meeting. Motion passed 4-3, with President Rozek, Trustees Amenta and Stokebrand voting nay.

Atty. Bayer asked to put aside the issue with the tree, which is a very small item in comparison to the substance of the policy, which is in regards to outdoor displays and protects the Village in general against claims of equal protection. The policy is far more broad and provides direction on anything to be placed within the public right-of-way or public property. If the board chooses not to take it up now, the board should look at having some type of written policy. President Rozek inquired as to whether the policy this year is different than the one last year. Ast. Burkart relayed that the board requested the Community and Business Relations Committee to review the policy and then bring it back to the board. The failed 3-3 vote from last year was on the tree not the policy. Tr. Stokebrand inquired on the policy coming out of committee. Burkart clarified it was 3-0 to recommend the policy to the board.

It was discussed and then clarified that the board was now considering the first amendment to the motion: to remove "and follow board direction from last year to allow the Village Manager to make the call" to reflect only "to table this item". Motion carried 7-0.

The Village President wanted to clarify what they are taking a vote on when this is taken up again in the future. Tr. Amenta relayed that she will vote no if we are tabling until the next meeting because she would rather discuss it now. President Rozek relayed she will vote no because no one asked to discuss the policy and reconsider a policy that failed. Tr. Bockhorst relayed that we do not have a policy and it would make sense that our manager would like direction or consensus. President Rozek relayed that she requested this item be removed. She relayed that the agenda was put together with the administration. Tr. Bockhorst relayed that the manager has the right to place it on the agenda. She will be voting yes because the board should be making the decision. Tr. Amenta recalled the vote last year, being in this position, with Tr. Carpenter absent. There were three in favor and herself, Tr. McKaig and Tr. Maher voted not to light the tree.

Ast. Manager Burkart recapped what happened last year. There are two sections to the policy, a section for public requests and private requests. The board wanted to take a further look at the policy so the board asked for it to go to Community and Business Relations for review. It was asked at that time, that until we have an approved policy, how the Village should proceed with public and private requests. The first vote involved private requests and the Village Board signs for communicative structures by a private party should complete a special privilege or special event application and get Village Board approval. The second vote dealt with staff using their discretion when putting up decorations on public property, with an attempt to uphold the policy position of the HRC letter. This second vote failed 3-3. So the second vote was not on the policy, the policy was deferred to Community and Business Relations and now it is coming back to the board following a 3-0 recommendation to approve the policy. If we defer on the policy, we can, but it was coming back for that reason. President Rozek inquired if the policy provides direction on lighting of the tree. Ast. Manager Burkart relayed that the original motion this evening never clarified what was tabled. The recommended motion states whether or not the Board wants to approve policy 37 and then if the Board does not want to pass the policy, then it should provide direction on the lighting of the Atwater tree.

The Board then considered the motion: to table this item until the next board meeting. Motion failed 3-4, with President Rozek, Trustees Amenta, Carpenter and Stokebrand voting nay.

President Rozek moved and Tr. Stokebrand seconded to table this item. Tr. Bockhorst asked for clarification on what this means for the Village if we do not act on this tonight. Atty. Bayer relayed that if the Village receives requests to place signs or symbols on public right-of-way or in a public space staff doesn't have a written policy to fall back on. There is currently not a policy in place. Where municipalities run into issues is

when someone relays there is an equal protection problem if another group was provided access at another time. If we show if and when something should be placed, it's more uniform and provides the municipality and the requestor with clear guidance. The other thing that it does is that it refers questions concerning this policy, to the Village Manager and the Village Manager should consider the HRC recommendation. We will not have a written policy to fall back on and discusses the holiday decorations. The lights on the trees are secular, but the draft policy notes we should take our direction from the attached letter from the HRC and that would give direction to the manager on the Village regarding decorations. Village Manager clarified it was on the agenda because a policy was not established last year. Tr. Carpenter inquired on what tabling it means. Atty. Bayer relayed it will stay there until someone makes a motion to place it back on a future agenda and review it again, a similar effect to essentially adjourning it. Tr. Stokebrand wondered if it would be wise to send it back to the Community and Business Relations Committee, since two of the members have changed. In her mind, the policy they approved allows the tree to be lite, but then refers to the HRC recommendations that relays that the tree not be lite. The history is confusing and she would rather send it back to committee for clarification.

Tr. Bockhorst moved to amend the motion, to refer the item to the Community and Business Relations Committee at the next meeting for further review. Board members believed that it invalidated the original motion and the board preferred to finish the motion on the table. The amendment to the motion failed for lack of a second.

Motion: to table the item. Motion passed 4-3, with Trustees Bockhorst, Ircink, and Warren voting nay.

10. Village Official Reports (9:31 p.m.)

Tr. Ircink noted that he attended a presentation of the Wick bench presentation in front of the old Kensington Liquor.

Tr. Carpenter watched the mountain bike group and their COVID friendly parade. This weekend is also the yard clean up and it is still happening with COVID.

Tr. Bockhorst was on a call with the League that dealt with discrimination around the election.

Tr. Warren wanted to give a shout out to Village staff and volunteers for tomorrow's election and doing this in this unique and challenging environment.

Village Manager updated on ranking of initiative and future agenda items. The Board needing to focus and the desire to accomplish more items, delegating others to committees. It was clarified that this ranking was for the next quarter and then a new ranking would take place. As items were accomplished, then we could move on to additional items pending board time and staff availability.

10. Adjournment.

Tr. Stokebrand moved and Tr. Warren seconded to adjourn at 9:55 p.m. Motion carried 5-2, President Rozek and Tr. Amenta voting nay.

Respectfully submitted,

Rebecca Ewald, Village Manager