

**MINUTES
COMMITTEE-OF-THE-WHOLE
PRESIDENT AND BOARD OF TRUSTEES
VILLAGE OF ARLINGTON HEIGHTS
BOARD ROOM
MONDAY, FEBRUARY 12, 2024 7:00P.M.**

BOARD MEMBERS PRESENT: President Hayes; Trustees: Baldino, Bertucci, Dunnington, Grasse, LaBedz, Shirley, Schwingbeck and Tinaglia

BOARD MEMBERS ABSENT: None

STAFF MEMBERS PRESENT: Randy Recklaus, Village Manager; Courtney Willits, Village Attorney; Nicholas Pecora, Chief of Police; and Kim Peterson, Recording Secretary

SUBJECTS:

A. Discussion of an Update Noise Ordinance

Other Business

Adjournment

President Hayes called the meeting to order at 7:00 PM. The Pledge of Allegiance was recited.

New Business

A. Discussion of an Updated Noise Ordinance

Mr. Recklaus advised that Chief Pecora would be presenting a draft noise ordinance for the Board's consideration. Staff is not looking for a final vote tonight, however if the Board is supportive of this draft ordinance, they could recommend to bring this to the Village Board meeting for consideration. This draft ordinance came up because of a general dissatisfaction with the Village's noise regulations. The Village adopted the State of Illinois Noise Pollution Control Regulations many years ago, which has standards that are very hard to enforce. Strict adherence to these rules would require the Village to purchase either expensive equipment or hiring consultants on a regular basis and always having them at the right time and the right place. To be admissible in court, the equipment would always have to be appropriately calibrated and deployed or else violations would be thrown out. Mr. Recklaus explained how noise enforcement is inherently subjective, as one noise at a certain volume could be considered a nuisance by all, while another noise at the same volume wouldn't be bothersome to almost anyone. The duration, location and time of day also makes a big difference in how a noise is perceived. The Village has

used a broad reasonable test for noise issues, which is proven to be overly subjective and could put our police officers in a difficult position, as no two individuals have the same definition of reasonable. Therefore, Staff worked with the Village Attorney to develop a new ordinance to identify some subjective standards, but also allow for some officer discretion.

Chief Pecora discussed the current Illinois Noise Pollution Control Regulations, which the Village adopted several years ago, and how the average police officer would not be able to apply these scientific regulations. Chief Pecora explained how the conversation came up about a year ago to see how this ordinance can be changed to make it more reasonable, objective versus subjective, and easier for enforcement. The draft ordinance that is being proposed applies the reasonableness standard to what is unreasonably loud or raucous noise/sound, unreasonably disturbs and is from the perspective of a reasonable person with ordinary sensitivity, while still allowing police officer discretion. Chief Pecora provided a few examples of some of the noise complaints the police received and responded to last year. In addition, he explained how in 2022 the police received 528 noise complaints, with an additional 138 neighbor complaints, and in 2023 the volume went down with 473 noise complaints, and an additional 138 neighbor complaints. Chief Pecora advised that the police department needs an ordinance to help them address the noise complaints that they receive that cannot be handled through voluntary compliance. Chief Pecora advised that 59% of noise complaints are received between the hours of 10 p.m. and 6:00 a.m. Chief Pecora discussed the factors for determining whether a sound is unreasonably loud and raucous, Per Se Violations, as well as exceptions to the ordinance. Lastly, Chief Pecora explained the penalties for violating the ordinance, advising the first and preferred outcome is voluntary compliance. The police also have the option to issue a warning ticket, or verbal warning, for minor infractions. If the noise complaint rises to the level of enforcement, for a first violation in a 12-month period, the police department is recommending a fine somewhere between \$25 and \$40. For a second violation in a 12-month period, there will be a mandatory hearing appearance, with a fine somewhere between \$500 and \$750.

Mr. Recklaus advised that there are exceptions to the Per Se Violations regarding Animal and Bird Noises when it comes to permitted kennels, boarding facilities and animal hospitals. Although the noises coming from animals in these facilities are still contingent on them following standards in their approval. Mr. Recklaus also advised that there is a reference in the ordinance to residential areas, which the downtown district is not considered a residential area, although some provisions like yelling and shouting, would still apply.

President Hayes thanked Chief Pecora and Mr. Recklaus for this effort, as the Village does receive a number of noise complaints and the need to make the ordinance more objective than subjective is necessary. President Hayes asked Ms. Willits to address the unreasonable standard and how that might hold up in court when a police officer tries to apply that in a particular situation. Ms. Willits advised that the ordinance is written in the subjective viewpoint for reasonable noise and is not concerned that it could be challenged legally. President Hayes stated that he thinks the Village is obligated to protect the quality of life for the residents and the

quiet enjoyment of their space and believes this is a good effort.

Trustee Schwingbeck asked if the mandatory hearing appearance for repeat offenders would be done through the adjudication process, which Chief Pecora stated it would. Trustee Schwingbeck discussed the number of noise complaints received in 2022 and 2023 and asked if any of these complaints are from repeat offenders, which Chief Pecora advised some of these are from repeat offenders, who often times live in multi-family dwellings and many of them are from the south end of town. Trustee Schwingbeck asked if there is a large percentage of complaints coming from the residents in the downtown Al Fresco area, which Chief Pecora advised there are some, but not a large percentage. Trustee Schwingbeck asked how many complaints will reach the last penalty category, which Chief Pecora explained that with proper education and some PSA's, hopefully not many, if any. Trustee Schwingbeck also asked if the residents are usually complaint when an officer responds to a noise complainant, which Chief Pecora stated for the most part they are, although it can be quite frustrating for those who make a noise complaint and are told the Village doesn't have a noise ordinance by the officer mainly because they don't know how to apply the existing ordinance. Trustee Schwingbeck stated that although the ordinance has been tightened up and some criteria has been included in it, there is still that subjectiveness in here and the officers still won't have something that they can all agree on a particular level. Chief Pecora explained that's why they tried to incorporate language like reasonableness and from an ordinary person's perspective to try and give the officers some context about how they should apply the proposed ordinance. Chief Pecora advised that staff will receive training so that this ordinance is applied appropriately.

Trustee Baldino used the example of a resident blowing off fireworks and asked if there might be a time when this ordinance is used in conjunction with another ordinance and multiple citations might be issued, which Chief Pecora stated no. Mr. Recklaus advised if there was an extreme enough instance, a resident could be cited on the first offense, but the standard practice is to modify behavior and seek compliance.

Trustee Dunnington asked if there is a policy that allows people to notify the Village if they are going to have a party or some other event that might create loud noise, which Mr. Recklaus advised that generally speaking, they appreciate when someone puts something on the Village's radar, like an upcoming block party, however the Village will still enforce the noise ordinance if necessary. Trustee Dunnington asked about protests and what rules would apply, which Chief Pecora advised that someone's ability to express their concerns is covered by the first amendment and therefore hard to regulate. Ms. Willits explained how the time of day and where it is at, or if it hasn't been approved by the Village, there may be some control over that, but the Village would need to be careful to not violate the protestors first amendment rights. Mr. Recklaus advised that there have been numerous protests in the past and there really haven't been many problems. Trustee Dunnington advised that she would like to see this noise ordinance also eliminate gas powered blowers, as there are alternatives to gas powered blowers. Trustee Dunnington explained how other cities and states are banning them and thinks the Village should take a phased approach to allow time for landscapers and homeowners to

make changes to comply with the ordinance. Trustee Dunnington discussed six reasons why she thinks the Village should ban gas powered blowers and how the ban could be implemented over time and how she would like to see this ban as part of the noise ordinance.

President Hayes asked Trustee Dunnington if her intention is for the Village to ban gas powered leaf blowers, which Trustee Dunnington stated yes. President Hayes advised that Item J of the proposed noise ordinance does include gas powered blowers, but it does not completely ban them. Mr. Recklaus advised that Highland Park recently adopted a ban on gas powered leaf blowers and if the Board is interested in doing something like this, Staff can do some research on it. Mr. Recklaus stated that a phased approach would be easier and this issue doesn't have to be tied to the noise ordinance. Mr. Recklaus did explain how making this change would put an additional burden on police officers. President Hayes stated that he thinks these are separate issues and would not like to see a ban on gas powered leaf blowers included in this ordinance. President Hayes discussed the issue of neighborhood parties and encouraged residents to be neighborly and provide their neighbors with advance warning of an impending party.

Trustee Grasse advised that she would be interested in discussing the phasing out of gas-powered blowers at a later time, as the biggest complaint she hears from her neighbors is the sound of the gas-powered leaf blowers at 7:00 a.m. on the weekends. Trustee Grasse asked if perhaps the time could change from 7:00 a.m. to 8:00 a.m. on weekends for the gas-powered leaf blowers and asked Chief Pecora if this is a common complaint the police department receives. Chief Pecora advised that it is not and most likely because people don't want to call 911 to report the noise generated from these blowers, although if residents want to have a police officer respond to a complaint, they need to call 911. Mr. Recklaus advised that if the Board prefers a later time, that can be changed, which Trustee Grasse stated that she would like to see it moved to 8:00 a.m. Trustee Grasse asked Chief Pecora if the majority of the noise complaints come from multi-family units, which Chief Pecora advised they do. Trustee Grasse advised that she appreciates this, especially if it helps the police officers do their job.

Trustee LaBedz advised that she agrees with Trustee Dunnington and supports the idea of Staff exploring the possibility of banning the use of gas-powered leaf blowers, just not in this ordinance. Trustee LaBedz also agrees with Trustee Grasse about moving the time to later than 7:00 a.m. on the weekends. Trustee LaBedz would like to see a campaign started to let residents know that they shouldn't be afraid to call 911 if they would like a police response. Trustee LaBedz asked if the ordinance would address people yelling and screaming in the downtown area at 2:00 a.m., which Chief Pecora advised this type of behavior perfectly applies to this situation. Trustee LaBedz also asked about early morning deliveries to businesses outside of the Al Fresco area and what time applies to them, which Mr. Recklaus advised that it is 7:00 a.m. Trustee LaBedz asked if it is a violation to blow off fireworks in residential areas, which she was advised that it is. Lastly, Trustee LaBedz asked about trucks and the beeping noise they make while backing up, and if that noise is included in the ordinance, which Mr. Recklaus advised that the beeping noise is required by federal law and would pre-empt anything in the

ordinance. Trustee LaBedz advised that she does think this is great and would like to reinforce the idea of residents calling 911 when it's loud.

Trustee Tinaglia asked Chief Pecora what currently happens when a noise violation occurs and if there are fines. Chief Pecora advised that there is not an ordinance that the police can apply, therefore fines have never been assessed. Trustee Tinaglia asked how this ordinance will work with some of the downtown establishments such as Hey Nonny or the Arlington Ale House. Mr. Recklaus advised that for businesses in the Al Fresco zone, the Village has the ability/authority to ask the establishment to stop if the music or noise emanating is obnoxious, because they are playing on the Village's public right of way. These establishments are allowed to play music until 11:00 p.m. and there haven't been many complaints during the last year or two. Mr. Recklaus explained the noise complaint coming from a resident near the Arlington Ale House, but that is an isolated incident that the owner is working to rectify. Mr. Recklaus explained how downtown is different and there is a reasonable expectation that music and activity will be heard if you buy property or rent there. Trustee Tinaglia explained how the Arlington Ale House and Hey Nonny are two establishments that worry him as far as loud noise goes in the downtown area. Trustee Tinaglia asked Chief Pecora if the police have to hear the noise that prompted the noise complaint, which Chief Pecora advised they do, although the complainant does have right to attend the administrative hearing and testify first hand if they would like to. Lastly, Trustee Tinaglia advised that he is glad that this is being done, but does want to make sure the businesses downtown are protected. Trustee Tinaglia asked if Staff can report back in a year or so to let the Board know how it is going and if anything needs to be changed, which Mr. Recklaus stated that the nice thing about the Village having its own ordinances is that they can always tinker with it to make sure it is working the way it was intended to.

Trustee LaBedz asked about Tuscan Market and how this ordinance applies to them, which Mr. Recklaus explained how they are regulated with a sidewalk license agreement and the Village has the authority to regulate them. Trustee LaBedz stated that many of the downtown residents moved in before the Village created the Al Fresco zone, and she thinks the Village needs to be sensitive to those who live there.

Trustee Bertucci advised that it is a balancing act in the downtown area, and is glad that the police will now have the ability to write tickets if necessary to control noise levels.

Trustee Baldino moved, seconded by Trustee Schwingbeck, that the Board of Trustees recommend that the Village Board approve an Ordinance Amending Chapter 19 of the Municipal Code regarding noise regulations at an upcoming meeting.

Upon a voice vote, the motion passed unanimously.

Mr. Recklaus asked President Hayes about the suggestion to move the time later on the weekends for gas powered leaf blowers, which President Hayes advised that he

is concerned because they would have to include lawn mowers as well. Mr. Recklaus explained that the Board can write this any way they would like, as long as it reflects the will of the Board. President Hayes advised that he prefers to leave it at 7:00 a.m. Trustee Grasse said she is fine leaving it the way it is, although she does welcome some future conversation about phasing them out and more community awareness about the damage they do. Mr. Recklaus advised that the Board could leave the time at 7:00 a.m. and then Staff can reevaluate it in six months to a year, and if the Village receives a lot of complaints, adjustments can be made.

Trustee Dunnington stated that she is happy to have more discussions about the gas-powered blowers.

Trustee Tinaglia advised that he is not in favor of banning gas powered blowers, as all of the landscapers that he knows, would really struggle without these.

Trustee Shirley stated that he is not in favor either, as the cost of landscaping services will go up and it might force some landscaping companies out of business.

President Hayes stated that he is not in favor of banning gas powered leaf blowers either and doesn't want to see a lot of Staff time spent on researching this issue, but he doesn't have a problem with continuing to monitor any complaints that are received.

Trustee Grasse asked if the Board can see Highland Park's ordinance and acknowledged that change is hard sometimes, but it is important for the Village to be aware of what is out there and respond to the changing times.

Trustee Dunnington asked if this is something the Environmental Commission could weigh in on, which Mr. Recklaus advised that they can if that's what the Board's wishes.

Trustee Baldino advised that it is important that the Board understands that they are not trying to make a decision on leaf blowers right now, they are just trying to have a discussion. Trustee Baldino stated that he does think it's appropriate for the Environmental Commission to weigh in on.

President Hayes stated that he doesn't see anything wrong with the Environmental Commission looking into this.

Mr. Recklaus advised that Staff will get the ordinance ready to go for an upcoming meeting.

Other Business

None.

Adjournment

Trustee Tinaglia moved, seconded by Trustee Bertucci, to adjourn the meeting at 8:06 p.m. Upon a voice vote, the motion passed unanimously.