

**MINUTES
COMMITTEE-OF-THE-WHOLE
PRESIDENT AND BOARD OF TRUSTEES
VILLAGE OF ARLINGTON HEIGHTS
BOARD ROOM
MONDAY, July 8, 2024 7:00P.M.**

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

BOARD MEMBERS ABSENT: Tinaglia

STAFF MEMBERS PRESENT: Randy Recklaus, Village Manager; Hart Passman, Village Attorney and Kim Peterson, Recording Secretary

SUBJECTS:

A. Discussion of Possible Meeting Agenda Modifications

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 Possible Meeting Agenda Modifications

Mr. Recklaus advised that just recently Staff learned that Novus, the Village's agenda management system, was no longer going to be supported by the parent corporation that owns the software, therefore they are in the process of transferring to Select by Civic Plus. Staff is currently in the process of setting up the new software. Recklaus explained how when Mr. Passman first started with the Village, Staff asked him to continually identify things that the Village is doing that might be illegal or out of the norm and not considered following best practices. Mr. Hartman identified the agenda as one of those items that could be revisited. Staff believes that now would be a good time to discuss and possibly make changes to the agenda format based on Hart's recommendations so that the new software can be programmed with the updated concept. Mr. Recklaus advised that there is nothing that is being recommended tonight, with the exception of possibly one item, that has to be done from a legal perspective, as these are generally preferences, therefore it

is up to the Board to decide what should be done. Mr. Recklaus stated that Staff is planning on implementing the new software sometime next month.

Mr. Passman advised that his firm specializes in municipal and zoning law and represent as general counsel 16 municipalities, as well as special counsel to several others, which allows them to have some perspective in regards to identifying best practices or things that might be problematic. Mr. Passman advised that all of his recommendations are areas for improvement and the Board can choose to go in a different direction. His goal is to identify what is the best practice for Arlington Heights, as every town is different.

Mr. Passman advised his first recommendation has to do with categorization of agenda items. Mr. Passman stated that the Village's agenda is set forth in the Village code and identifies certain breakdowns of how some items appear and are considered by the Village Board. Mr. Passman has found that Staff is sometimes confused about where to put a particular item, therefore changes can be made to the way things are listed, as none of this is required by law. All the law requires is that the Village has on the agenda what the general subject matter is that the Village Board will be considering and taking action on. How it's organized and where it is put on the agenda is not dictated by state law. Mr. Passman stated that he thinks this categorization is unnecessary and may be easier on Staff and the Board to do away with some of the categorization.

Mr. Passman advised that his second recommendation is removal of consent agenda items by the public. Mr. Passman stated that Illinois Municipal Code, which is the statute that governs how municipalities operate in Illinois, conflicts with what the Village knows as a consent agenda. Functionally it just means that the Board is voting on several items all at once. There is no restriction on the type of action that can be taken on a consent agenda. All members of the body have to agree to take it as a consent agenda and if any one member wants an item that has been designated on a consent agenda to be voted on separately, then it must be. Village Code identifies procedures with the consent agenda that are largely consistent with statute, although Mr. Passman stated that it is his opinion that it is not a best practice to permit a member of the audience to remove an item from the consent agenda. He recognizes that this is something that many people favor and does not consider this a serious problem if the Board continues to allow it. Mr. Passman stated that this is the Board's meeting and they have the legislative discretion. What goes on the agenda is the purvey of the Manager, the purview of the mayor, or if there is a sufficient plurality of the Board. Mr. Passman stated that he does not believe this option to remove an item from the consent agenda by a member of the audience has been abused, but he would be remised if he didn't point this out. Mr. Passman advised that this does not mean that the public should not have an opportunity to weigh in on items on the consent agenda, and he encourages

the Board to solicit feedback, but he believes that keeping control of the meeting in the hands of the Village Board is a best practice.

Mr. Passman advised that the third recommendation he has involves approval of the Committee of the Whole meeting minutes. Mr. Passman stated that the Committee of the Whole is a separate public body and it is not uncommon for municipalities to have a Committee of the Whole. It is his recommendation that Committee matters be kept before the Committee and Village Board matters before the Village Board. Mr. Passman stated that he recommends approval of Committee of the Whole minutes during Committee of the Whole meetings and not at Village Board meetings. Mr. Passman also advised that it is practice in Arlington Heights that when there is a Committee of the Whole meeting, it is reported out at the Village Board meeting and another motion is made then. Mr. Passman stated that the reporting out is helpful to let people know what was discussed, but the idea of having another motion is probably unnecessary.

Mr. Passman advised that his fourth recommendation, which worries him the most, has to do with approval of contracts. It is common for every Village Board agenda to include the approval of several contracts or agreements. Mr. Passman explained that too often, the Board does not have clarity as to what they are approving. The actual details are not provided, including who is going to sign it, and the contract itself is not there. Mr. Passman stated that what he would hate to see happen is someone who should not be signing a document, whether they know it or not, executing something following a Village Board vote. Mr. Passman advised that he would like to see the contracts that the Board is approving in their agendas. He would also like to see them approved by resolution or ordinance and who it is they are authorizing to sign. Mr. Passman wants the Board to see the contracts that they are approving and have the comfort of knowing the terms of that contract.

Mr. Passman advised that the fifth and final recommendation has to do with consideration and approval of zoning and subdivision matters. Mr. Passman explained that the Village has taken a two-step process when it comes to approving zoning and subdivision matters, which he is fine with, although he thinks it would help to clarify this process if changes are made in both the text of the agenda and the language that is used verbally in the meetings. It needs to be made clear to applicants, proponents and opponents, what is being done in each of the two meetings. If the Village chooses to stick with the two-step process, which Mr. Passman stated that he thinks is a good one, although not necessary, the first meeting is just consideration, which the agenda should say that. The Staff report should indicate that the recommended action is to direct the drafting of final approval documents, not approval of them. The second meeting, assuming the Board has given the okay during the first meeting, is where the agenda should say approval of an ordinance, or approval of a resolution, something that indicates that this is the final approval. Finally, the motion at the first meeting is not to approve, it's to direct drafting, and if that

motion passes, that is not the time to congratulate the petitioner. After the second meeting, if the ordinance or resolution is adopted, that is the time for congratulations, as the applicant is done.

President Hayes thanked Mr. Passman for all of his hard work, guidance and direction, and stated that he has no objection to Items 1, 3, 4 and 5, but does have some concerns about the suggestions for Item 2. President Hayes stated that he disagrees with Mr. Passman in that his primary rationale for wanting to modify the removal of consent agenda items by the public is because of the current practice and the appearance that it gives the same authority to the public that the Board has. President Hayes stated that they are not granting the right to mandate the removal of an item by the public, as the agenda specifically states, "citizens in the audience may ask to remove any item on the consent agenda." President Hayes advised that he has always granted that request, not the right, and in the 33 + years on the Board, it's never been abused. President Hayes is not comfortable about granting any change into the current practice. He stated that as a Chair, he can make it clear that the audience does not have that right to remove an item, they have to ask, and it is up to the Chair's discretion to allow that request. President Hayes asked if Mr. Passman is suggesting that the Chair ask for public comment on the consent agenda before the motion is approved, even if no items have been removed. Mr. Passman stated that he thinks it is great, and actually endorses, that if a member of the public can request that an item be removed from the agenda. Mr. Passman advised that it seemed to him that it became perceived as a right of the public to remove something from the consent agenda. The issue of commenting on the consent agenda, it is not required by law to entertain comment at that point. In other communities that Mr. Passman represents, it is common for the Chair to ask for any substantive comment on a matter on the consent agenda. Mr. Passman stated that he thinks either of these methods can work, however there is no automatic right for anyone to speak on anything except during public comments or a public hearing. It's the Board's discretion, whether to allow discussion on any item, consent agenda or otherwise. President Hayes stated that moving forward, he needs to make it more clear that the public doesn't have a right to remove an item, but they can certainly ask. It is his preference to leave the practice as is.

Trustee Bertucci advised that he agrees with Mr. Passman on all of the items. He stated that he went online to see what other municipality's websites look like and he does think most of them are much clearer and simplified. Trustee Bertucci advised that he does think it should be stated clearer on the agenda that members of the audience are requesting to have an item removed from the consent agenda and thinks it's a good idea for the mayor to make the same statement during the meeting. He agrees that he wants the public to have the opportunity, but wants to make it clear that just because someone is asking it's going to be granted.

Trustee Schwingbeck asked who sets the items for the consent agenda, which Mr. Recklaus advised that he is generally the one who does that, although he does sometimes consult with the mayor. Trustee Schwinbeck stated that if there is an item on the consent agenda that the residents want to comment on or discuss, they should have the ability to at least have their questions addressed. He agrees that it is a good idea for the Board to have the final say to remove an item from the consent agenda if an audience member makes a request, but residents should at least have the opportunity to ask questions about items on the consent agenda. Trustee Schwingbeck explained how during his time serving on the Board, when a resident wants to pull something off the consent agenda, they automatically give them that ability, and 99% of the time it's really just a clarification question. He really wants to make sure are residents are given the ability to ask questions.

Trustee LaBedz asked about Mr. Passman's first recommendation, categorization of agenda items, and what the agenda might look like if the Board follows his recommendation. Mr. Passman advised that he would simply take out everything that it is currently in the code that has a categorization, with a possible exception of Old Business. The Village could experiment and possibly list things by topic, or department, or no particular order at all. Mr. Recklaus advised that it can be kept real simple, perhaps with just Approval of Minutes, Citizens to be Heard, Consent Agenda, Old Business and New Business. Mr. Recklaus stated that if the Village does reduce it to just Old Business, Consent Agenda and New Business, the Board can have another conversation about what will go in those categories. The goal right now is to determine what the agenda will look like so they can put it in the software. Trustee LaBedz asked if some of the contract information is included in the Friday Packet, which Mr. Recklaus advised that he does agree with Mr. Passman in that the Village has been inconsistent with how contracts have been shared, mainly because some of them are just so lengthy. Mr. Recklaus advised that he agrees that all of the contracts should be included. Trustee LaBedz asked about the zoning and subdivision requests and if what Mr. Passman was describing is what some places call first reading, second reading, which Mr. Passman advised that it is. Trustee LaBedz stated that she does agree with President Hayes when it comes to allowing residents to ask to have items removed from the consent agenda. Trustee LaBedz stated that she does understand that it is the Board's agenda, however she is most proud of the Board's willingness to listen and engage in open discussions and does not want to do anything to prevent that.

Trustee Grasse advised that she concurs with President Hayes and Trustee LaBedz in regards to their concerns with removal of consent agenda items by the public. Trustee Grasse stated that she understands Mr. Passman's desire to improve efficiency, but sometimes efficiency can hinder transparency. She

thinks there is great transparency that come from being able to discuss items that are on the consent agenda. Transparency is equally as important as efficiency and agrees with keeping things the way they are. In regards to having Committee of the Whole meeting minutes approved at Committee of the Whole meetings, Trustee Grasse advised that she is in agreeance, but asked about the liquor licenses and commission interviews and if those would just stay in the Committee of the Whole or would they come before the Village Board. Mr. Recklaus advised that things could be discussed in the Committee of the Whole meeting and recommended approval of the liquor license, and then it would just be on the agenda for approval. It would not need to be reported out on, but it could be. Trustee Grasse asked about the process of getting items on the agenda, and what the number is to reach the plurality of Trustees, which Mr. Recklaus advised that he is unsure of the number but stated that the Village Manager always works hard to ensure that all items proposed by Board members are placed on the agenda. Mr. Passman advised that according to Village Code, the Village Manager and President of the Board have the authority to put items on an agenda. If there are four Trustees that wanted a particular item to be voted upon, they could call a special meeting. It is more efficient to do that at a regularly scheduled meeting, therefore it is advised that the Village Manager add that item to the agenda.

Trustee Shirley discussed the current process regarding the consent agenda and how the Board addresses removing items, and asked if Mr. Passman's recommendation suggests that the Board approve the motion before asking for public comment. Mr. Passman advised that he is comfortable with soliciting for public comment before the motion is made or after the motion is made but before a vote is taken. Once a vote is taken it's done. Mr. Passman stated that public comment can be solicited at any point in the process, and if the Board sees fit, pull the item based on the public's request.

Trustee Dunnington stated that for the consent agenda, she does think they should continue the practice of allowing people the opportunity to remove items from it, as she feels it is important for transparency.

Trustee Baldino advised that he is enthusiastically behind Item 4, Approval of Contracts, as it does bother him that they don't know who is signing what. In regards to Item 3, Approval of Committee of the Whole Minutes, he agrees that the Committee of the Whole and the Village Board are two separate bodies. Trustee Baldino advised that he does somewhat disagree with Item 2, Removal of Consent Agenda Items by the Public, as it could be perceived the Board is taking away transparency if they remove the public's ability to take an item off of the consent agenda. He believes doing this will not promote engagement. Anything the Board can do to promote public comment or engagement, is something they should do, and agrees with President Hayes.

Trustee Baldino stated that the uncategorized agenda makes him a little nervous, but is okay with it if it helps with the new agenda software.

Trustee Bertucci stated that he wants to reiterate that he doesn't want to change anything in regards to the consent agenda, but he would like the Board to further clarify that the agenda clearly state that this is a request to have an item removed from the consent agenda. In addition, President Hayes can make the same statement about it being a request. Mr. Recklaus advised that one way this could be done is that President Hayes can say "does anyone in the audience wish to request removal of an item on the consent agenda. I am inclined or I'm not inclined to support your request." If the request is not granted, it could be put up to the rest of the Board.

Trustee LaBedz stated that she would like more clarification when it comes to how motions should be read. Mr. Passman advised that the motions that the Board is making on reporting out are unnecessary. The Committee of the Whole meetings are a great place to have discussion, but formal motions are made during the Village Board meeting. Mr. Recklaus advised that Staff can just ask for a head nod during a Committee of the Whole meeting if there is support for them to revisit that report out issue and come up with a memo with suggestions. President Hayes advised that the proper motion at the Village Board level is to approve.

Trustee Schwingbeck discussed Item 5, Initial Consideration of Zoning and Subdivision Requests, and how the first step is consideration and the second step is approval, and asked Mr. Recklaus if the second step would most likely happen at the next meeting. Mr. Recklaus advised that generally speaking, yes. Mr. Passman advised that the two-meeting process is not required. Trustee Schwingbeck stated that in regards to the consent agenda, he thinks it's important to hear what residents have to say and agrees with President Hayes asking if there is anyone who would like to request to have an item removed, and also if there is an audience member who would like to just ask a question, before a motion is made.

Public Comments

President Hayes advised that in regards to Item 2, Removal of Consent Agenda Items by the Public, there is a consensus by the Board to not make any substantive changes other than to make it clear that members of the public do not have the right, as the Village Board does, to remove an item. A member of the audience can ask, or request, to remove any item on the consent agenda, and then it's up to the discretion of the Chair and the Board to remove an item upon that request.

Bill Manganaro, 409 S. Bristol Lane, stated that he really appreciates the transparency with how the Board operates. As a resident he can access documents, videos and really educate himself about the issues and observe and participate in open discussions about them.

Keith Moens, Arlington Heights resident, thanked President Hayes for his service to our community and recognized him for his many accomplishments, including encouraging public participation at the Village meeting. Mr. Moens stated that he would like the Board to continue to allow the public to pull items off of the consent agenda. Mr. Moens advised that he does agree that the Committee of the Whole is a separate public body from the Board of Trustees.

Shannon Silverman, resident/League of Women Voters – Arlington Heights, waived her opportunity to speak.

Bill Slankard, 201 N. Vail, waived his opportunity to speak.

Mr. Recklaus advised that what he has heard from the Board is that they would like to retain the current practice for Item 2, Removal of Consent Agenda Items by the Public, and to make it clear that any removal of requests are subject to President Hayes' approval. The Board agrees with everything else that Mr. Passman recommended and Staff will work on some options for better management of the report outs from the Committee of the Whole to the Village Board and make some recommendations as to what might be necessary or what could be streamlined.

Other Business

Adjournment

Trustee Baldino moved, seconded by Trustee Schwingbeck, to adjourn the meeting at 8:26 p.m. Upon a voice vote, the motion passed unanimously.