

A regular meeting of the Board of Trustees of Whitefish Bay was held in the Board Room of Whitefish Bay Village Hall, 5300 North Marlborough Drive, May 6, 2019

Pursuant to law, written notice of this meeting was given to the press and posted on the public bulletin boards.

I. Call to Order and Roll Call

President Siegel called the meeting to order at 6:00 pm.

Present: Trustees Saunders, Serebin, Demet , Davis, Buckley, Fuda and President Siegel

Also Present: Village Manager Paul Boening
Village Attorney Chris Jaekels
Police Chief Michael Young
Director of Public Works John Edlebeck
Director of Building Services Joel Oestreich
Assistant Manager Tim Blakeslee
Finance Director Jen Amerell
Deputy Clerk Caren Brustmann

II. Consent Agenda

It was moved by Trustee Davis, seconded by Trustee Demet, and unanimously carried by the Village Board to approve the consent agenda as presented.

1. Minutes of the regular meeting held on April 15, 2019.
2. Claims for April, 2019.
3. Appointment of Tammy Herpel to the Architectural Review Commission for a term to expire in 2020.
4. Appointment of Aaron Hoffmans to the Architectural Review Commission for a term to expire in 2020.
5. Approval of easement to enable the City of Glendale to construct a connecting trail between Richard E. Maslowski Park and the Milwaukee County Oak Leaf Trail through a portion of a Whitefish Bay owned yard waste site.

III. Report of Village Officers

1. **Village Attorney** – No report
2. **Village Manager**

Village Manager Paul Boening recognized the success of Recycle Day in the Bay as well as Bay Day, noting the perfect weather and great turn out.

3. Village President

Village President Julie Siegel welcomed newly elected Trustee Kevin Buckley to the Village Board.

4. **Miscellaneous Trustee** – No reports

IV. Petitions and Communications - None

V. General Business

1. **Discussion/action on Interconnection Agreement with We Energies for the Public Works Facility Passive Solar Array Project.**

Director of Public Works John Edlebeck introduced items 1 through 3 collectively. Details were provided regarding the Interconnection Agreement with WE Energies. Also discussed was the FOE RECIP grant funding for approximately 30% of the total project cost. Mr. Edlebeck also shared the expected project payback period with estimated savings over the next 25 years. It should be noted there is no financial burden at this time if agreements are approved, as the grant can be declined at a later date without penalty.

It was moved by Trustee Serebin, seconded by Trustee Saunders, and unanimously carried by the Village Board to accept the WE Energies Interconnection Agreement approval.

2. Discussion/action on Incentive RECIP Grant Award Agreement with Focus on Energy for the Public Works Facility Passive Solar Array Project.

It was moved by Trustee Serebin, seconded by Trustee Saunders, and unanimously carried by the Village Board to approve the Focus on Energy RECIP Grant Incentive Agreement in the amount of \$82,809.21.

3. Discussion/action on Focus on Energy Formal Statement Committing to RECIP Incentive Reduction for Failure to Meet Project Completion Date for the Public Works Facility Passive Solar Array Project.

It was moved by Trustee Serebin, seconded by Trustee Buckley, and unanimously carried by the Village Board to approve the Focus on Energy Formal Statement Committing to RECIP Grant Incentive Reduction for Failure to Meet Project Completion Date of August 31, 2019.

4. The Board may convene into Closed Session pursuant to Wisconsin State Statute §19.85(1)(e) deliberating or negotiating the purchase of public property, investing of public funds, conducting other specified business whenever competitive and/or bargaining reasons require a closed session – specifically regarding a Declaration of Deed Restrictions; and pursuant to Wisconsin State Statute §19.85(1)(g) to confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved – specifically regarding a request for a Certificate of Appropriateness. The Village Board will reconvene into open session after the closed session.

It was moved by Trustee Serebin, seconded by Trustee Fuda, and unanimously carried by the Village Board to convene into Closed Session pursuant to Wisconsin State Statute §19.85(1)(e) deliberating or negotiating the purchase of public property, investing of public funds, conducting other specified business whenever competitive and/or bargaining reasons require a closed session – specifically regarding a Declaration of Deed Restrictions; and pursuant to Wisconsin State Statute §19.85(1)(g) to confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved – specifically regarding a request for a Certificate of Appropriateness.

5. Discussion/action on appeal of ARC decision regarding the denial of a Certificate of Appropriateness for demolition of the house at 4640 N. Lake Dr.

It was moved by Trustee Serebin, seconded by Trustee Saunders, and unanimously carried by the Village Board to reconvene into open session at 7:17pm. Motion carried 7-0.

INTRODUCTION:

President Siegel laid out the sequence of the Village Board appeal proceedings. The Village Attorney briefed the Board and the audience on the nature of the appeal, the standard of review, the Village Code and the applicable law.

APPELLANT PRESENTATION:

Attorney Michael Riopel of Husch Blackwell made a presentation representing the applicants, Rob Ruvin and John Brodersen and 4640 North Lake Drive LLC.

PUBLIC COMMENT:

Dennis Miller, 5418 N. Lake Dr.; Stated a lot of residents are aware and talking about this case because residents move here for the historic nature of the community. Mr. Miller noted he spoke with Mr. Richard Ruvin of Keller Williams pertaining to this case, and Mr. Ruvin made it clear to Mr. Miller he had minimal involvement, and in Mr. Miller's opinion, there is deception taking place. Stated the 4 houses on the historic registry should and need to be protected.

Jason Stuewe, 1000 E. Henry Clay St.; Has been a member of ARC serving his 4th term Mr. Stuewe made reference to Lauren Triebenbach's (Chairperson of ARC) emailed letter, in regards that the owner of 4640 N.

Lake Drive could have pursued further efforts to market the structure for sale. Stated the available resources that the owner could have explored or pursued in an effort to sell the property could have exceeded far beyond the discussion of one or two individuals and that marketing efforts could have been made to satisfy the requirement of making a reasonable effort to find a buyer to remove or reuse it in any nature.

Heather Goetsch, 149 E Fairmount Ave.; Is a member of ARC and serving 2nd term. Ms. Goetsch supports Mr. Stuewe's comments that more efforts could have been made to further market the structure for sale, such as placing a sign in the front yard or placing an ad on craigslist. Also stated getting a bid from the applicant's own company was not sufficient for cost of renovation or moving for the home, should have received other input. Ms. Goetsch stated the owner should have known the property was historic upon purchase as it was noted in the deed, as well as the sign in front of the property.

Jefferson Aikin, Historic Preservation Commission; Clarified the definition of "historic site". In Mr. Aikin's opinion, the cost of renovation is exaggerated and illuminating because it reflects damage done to the house by the owners who purchased only 2 years ago who are now falsely claiming it as a "dump beyond repair".

Tom Fehring, Historic Preservation Commission; An original member of the commission and noted he researched the history of said property and put together the application before placing it on the Whitefish Bay register. Stated owner fully knew it was designated as historic. Also noted there is a clear problem within the ordinance in regards to receiving influenced input from residents during public comment periods.

Susie Van Cleave, 5353 N. Berkeley Blvd; Stated if good faith effort was trying to be made for a house looking to be rehabilitated, an architect or structural engineer would have been hired which never occurred. That should have been the first step, thus not making a good faith effort.

BOARD DISCUSSION:

The Village President closed the public comment period and opened the floor to the Board for discussion. Trustee Serebin clarified with Attorney Jaekels that a house and site are separated in the ordinance. Trustee Davis asked Attorney Riopel whether or not the applicant placed a for sale sign on Lake Drive in front of the property. Attorney Riopel was not certain. Trustee Serebin referred to ARC's minutes and inquired about specific good faith efforts and if any new material was being presented at today's meeting. Attorney Riopel stated the applicant's good faith efforts have been met. Attorney Riopel provided the listing prices for the property from 2012 to 2016.

The Village President advised the Board is in recess at 8:12pm. The Board reconvened from recess at 8:17pm.

The Village Attorney repeatedly reminded the Board throughout the proceedings to consider only the record and the Applicant's presentation in rendering its decision. After reviewing the record from the Architectural Review Commission and the evidence presented by the Applicant with regard to the Applicant's satisfaction of Section 16.25(5)(b)3 of the Municipal Code, Board members indicated that the Applicant had not shown good faith efforts for a period of at least sixty (60) days to secure a buyer who would agree to or otherwise secure a means to preserve, relocate, reuse or otherwise rehabilitate the structure using a reasonable level of resources available to the owner or buyer. On that basis, the motion was made to deny the Appeal. Each of the Board members who voted in favor of the denial had expressed their individual findings that the Applicants had failed to show that they had satisfied Section 16.25(5)(b)3.

It was moved by Trustee Demet, seconded by Trustee Davis, and carried by the Village Board by a roll call vote to deny the Certificate of Appropriateness for demolition of the house at 4640 N. Lake Dr. Motion carried 5-2 (President Siegel and Trustee Fuda voted nay).

VI. Adjourn

There being no further business, it was moved by Trustee Fuda, seconded by Trustee Buckley, and unanimously carried by the Village Board to adjourn the meeting at 8:22pm.

Caren Brustmann
Deputy Clerk