



**MINUTES - SHOREWOOD BOARD OF TRUSTEES
Committee of the Whole Meeting
September 3, 2019**

1. Call to Order
President Rozek called the Committee of the Whole meeting of the Village Board to order at 7:14 p.m. in the Committee Room.
2. Statement of Public Notice
Clerk Bruckman stated that the meeting had been posted and noticed according to law.
3. Roll Call
President Rozek called the roll. Present: Trustees Davida Amenta, Tammy Bockhorst, Jessica Carpenter, Ann McKaig, Michael Maher, and Wesley Warren.

Others Present: Village Manager Rebecca Ewald
4. Closed Session – the Village Board will adjourn into closed session pursuant to 19.85(1)(g) to confer with legal counsel on strategy regarding pending litigation on various legal matters involving Harris, Mark v. Village of Shorewood and Outlaw, Yasmine v. Village of Shorewood.

Tr. Carpenter moved, seconded by Tr. Bockhorst to adjourn into closed session pursuant to 19.85(1)(g) to confer with legal counsel on strategy regarding pending litigation on various legal matters involving Harris, Mark v. Village of Shorewood and Outlaw, Yasmine v. Village of Shorewood at 7:01 p.m. Motion carried by a roll call vote.

Tr. Carpenter moved, seconded by Tr. Maher to reconvene into open session at 7:34 p.m. Motion carried by a roll call vote.
5. Tr. Carpenter moved, seconded by Tr. Maher to adjourn the meeting at 7:34 p.m. Motion passed 7 - 0.



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**MINUTES - SHOREWOOD BOARD OF TRUSTEES
Village Board Meeting
September 3, 2019**

1. Call to Order
President Rozek called the meeting of the Village Board to order at 7:40 p.m. in the Court Room.
2. Roll Call
President Rozek called the roll. Present: Trustees Davida Amenta, Tammy Bockhorst, Jessica Carpenter, Ann McKaig, Michael Maher, and Wesley Warren.

Others Present: Village Manager Rebecca Ewald, Assistant Village Manager Tyler Burkart, Director of Public Works Leeann Butschlick, 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. Update on TMDL Stormwater Management plan progress. (7:41 p.m.)

Mustafa Emir, PhD, PE, Wisconsin Regional Director for Clark Dietz explained the Federal Government has issued standards for water quality in the Milwaukee River. The state now has to work these standards into the permitting process at a local level. Mr. Emir introduced Brandon Flunker, PE, CFM, Project Manager Clark Dietz.

Mr. Flunker presented the TMDL Stormwater Management plan progress included in the September 3, 2019 Village Board packet.

Ms. Butschlick clarified for the Village Board that there is a street sweeper and leaf vacuum. The leaf vacuum is not part of the TMDL Management analysis.

Donna Pollock, 4395 N Alpine Ave, Shorewood, 53211 questioned if the adopt a sewer program was factored in? Mr. Flunker replied he was unaware of the program but it could be considered to add into the model. Ms. Butschlick explained it would be a difficult factor to model. The adopt a sewer program removes the debris at the top of the catch basin; the model looks at removal of the suspended solids in the sub-portion of the catch basin.

Mr. Flunker explained the next steps will be a final communication of recommendations from the TMDL Stormwater Management analysis.

5. 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. – None (8:01 p.m.)

6. Consent Agenda Items (8:02 p.m.)

a. Accept presentation of Accounts – September 3, 2019

b. Consider Committee of the Whole and Village Board Minutes – August 5, 2019

c. Consider RFP for IT Services. (meeting #2)

d. Consider RFP for agenda management. (meeting #2)

e. Consider RFP for Village Attorney and Village Prosecutor Services. (meeting #2)

f. Consider agreement for final design of Phase 2B.

g. Consider Special Event Permit Application – Shorewood High School Homecoming Parade, Friday, September 27, 2019, 4 – 5:30 p.m.

h. Consider appointing Deba Briscoe to the Human Relations Commission.

Tr. Maher moved, seconded by Tr. Bockhorst to approve the consent agenda. Tr. Amenta requested removing items 6c, 6d, 6e and 6f, President Rozek requested removing items 6a and 6b. Motion carried 7 – 0 with items 6a, 6b, 6c, 6d, 6e, and 6f removed.

7. Items Removed from the Consent Agenda (8:02 p.m.)

6a, Accept presentation of Accounts – September 3, 2019.

Ms. Ewald clarified the \$9,400 spent on computers and printers was for 2019 Police, Public Works and Village Hall replacements. All replacements are budgeted through the Village Manager's budget.

Tr. Maher moved, seconded by Tr. Bockhorst to accept the presentation of Accounts – September 3, 2019. Motion carried 7-0.

6b, Consider Committee of the Whole and Village Board Minutes – August 5, 2019.

Village Board members requested the Clerk to review the recording on item 4e, Special Order of Business; Consider deed restriction to preserve the façade of the Shorewood Fire Station and Certified Survey Map (CSM) and associated easement for 3936 N. Murray Avenue, aka Shorewood fire station; noting removing the memo and including the discussion. In the friendly amendment to the motion, change due process to process outlined in the agreement. Item 4c, Review of Long Range Financial Plan, change memorialize that the process and procedure for interim patching is still being investigated to include in the Long Range Financial Plan the Village Board is looking at alternatives and interim solutions.

Tr. Warren moved, seconded by Tr. Maher to defer the Committee of the Whole and Village Board Minutes of August 5, 2019 until the September 16, 2019 Village Board meeting. Motion carried 7 – 0.

6c, Consider RFP for IT Services.

Judiciary, Personnel and Licensing Committee unanimously agreed on the RFP and noted Tr. Maher would be the Village Board liaison. Mr. Burkart will include that when there is a new IT Process that it is documented under project scope task 1.

Tr. Maher moved, seconded by Tr. Amenta to approve the RFP for IT Services. Motion carried 7 – 0.

6d, Consider RFP for agenda management

Judiciary, Personnel and Licensing Committee unanimously agreed on the RFP and noted Tr. Amenta would be the Village Board liaison.

Tr. Amenta moved, seconded by Tr. Maher to approve the RFP for agenda management. Motion carried 7 – 0.

6e, Consider RFP for Village Attorney and Village Prosecutor Services.

The Public Safety Committee unanimously agreed on the RFP and noted Tr. Warren will be the Village Board representative.

Tr. Amenta moved, seconded by Tr. Carpenter to approve the RFP for Village Attorney and Village Prosecutor Services. Motion carried 7 – 0.

6f, Consider agreement for final design of Phase 2B.

Village Board members requested a clearer scope of work or narrative for the work being done.

Tr. McKaig moved, seconded by Tr. Warren to approve the \$61,000 to complete the final design documents for Phase 2b for the attached contract and direct staff to convey additional request per Village Board discussion.

8. Public Hearing(s) (8:27 p.m.) – None

9. New Business

a. Consider application for “Class B” intoxicating liquor and beer for Toro Taco LLC d/b/a Taco Super, 4144 N. Oakland Ave., Shorewood, WI 53211. (meeting #2) (8:27 p.m.)

Tr. Carpenter updated the Village Board on the August 3, 2019 JP&L Committee Meeting, the Committee is recommending approval of the “Class B” license.

Tr. McKaig moved, seconded by Tr. Bockhorst to approve the “Class B” intoxicating liquor and beer for

Toro Taco LLC d/b/a Taco Super, 4144 N. Oakland Ave., Shorewood, WI 53211 and direct the Village Clerk to issue the license upon approval of occupancy.

Kristyn Eitel, 2923 N. Marietta Ave, Milwaukee, 53211, the d/b/a has changed to Hiya Taco.

Tr. McKaig moved to amend the motion, seconded by Tr. Bockhorst approval "Class B" intoxicating liquor and beer for Toro Taco LLC, 4144 N. Oakland Ave., Shorewood, WI 53211 and direct the Village Clerk to issue the license upon approval of occupancy. Motion carried 7 – 0.

- b. Consider process for engaging engineering services for design sewer improvements (8:35 p.m.)

Ms. Butschlick explained there was a preliminary conversation about engineering assistance throughout the MMSD design process during one of the Long Range Plan meetings and the benefits to the village utilizing a single engineering firm designing all the anticipated combined sewer district projects. Ms. Butschlick is requesting the Village Board to suspend the purchasing policy RFP requirement and consider a sole sourced contract with Strand Engineering for the Southeast Area Combined Sewer Improvements.

Village Board members questioned how does the Village ensure the contract would be for a fair amount for the number of hours? Ms. Butschlick explained there are engineering contract value standards, the typical engineering cost will range from 6% to 10% of the total construction cost value. Ms. Butschlick explained a scope of services would be developed with what the anticipated project would be and request engineers at MMSD to review the drafted scope. Ms. Butschlick would reflect the last three sewer project scopes since 2012.

Some Village Board members voiced concern about approving a contract for an estimated amount of \$1.2 million without proceeding with the RFP process. Ms. Butschlick explained there is no other engineering firm that understands the Village's sewer system the way Strand does, however, she completely understands if the Village Board chooses to proceed with the RFP process. Other engineering firms can learn and understand the Village's sewer system but the time to learn will be additional costs to the project.

A Village Board member inquired if any other engineering firms besides Clark Dietz and Strand have done studies of the Village's sewer system. Ms. Butschlick explained Baxter Woodman Engineering has.

Some Village Board members conveyed they support suspending the purchasing policy and to sole source contract with Strand for the Southeast Area Combined Sewer Improvements.

Village Board members inquired if Ms. Butschlick thought Strand has the biggest competitive advantage. Ms. Butschlick explained yes because of the amount of time Strand has spent on MMSD's project and understanding the Village's concept of sewer improvements and the ability to integrate what the sewer district is working on. Ms. Butschlick explained her concern wasn't that a new engineer couldn't learn and understand the Village's sewer system, but by that time the MMSD design process may be completed.

Some Village Board members inquired how long the RFP would take to be drafted. Ms. Ewald explained the following timeline is anticipated for selection of a sewer design engineer through a typical RFP process: Sept – Oct 2019 Draft RFP document with significant technical assistance from Village Engineer, 11/4/2019 Public Works Committee reviews/recommends RFP document, 11/19/2019 Village Board reviews/approves RFP document, 11/20/2019 RFP issued, January 2020 RFP due and Firm interviews, February 2020 Firm recommended/approved Professional services agreement approved.

Ms. Ewald did explain it would be helpful and speed up the process if the Public Works

Committee could review and the Village Board vote on the same night.

Many of the Village Board members were very torn as going to RFP would result in extra time and resources of staff. The Village may award the contract to Strand, but the RFP would provide security to the Village that \$1.2 million is a justified number. Other Village Board members reiterated the importance of the RFP process and the Village's purchasing policy.

Tr. Amenta moved to call to question, Tr. Maher seconded. Call to question carried 7 – 0.

Tr. McKaig moved, seconded by Tr. Bockhorst to direct staff to proceed with the development of a Southeast Area Combined Sewer Improvements (SEACSI) project scope of services and engineering design and construction inspection services professional services agreement with Strand Associates as a sole source contract for future Village Board consideration. Motion failed 2 – 5 with Tr. Bockhorst and McKaig voting yes.

President Rozek moved, seconded by Tr. Carpenter to direct staff to proceed with an RFP for consideration at the Public Works Standing Committee and Village Board meetings to approve the same evening if needed. Motion carried 7 – 0.

c. Consider Policy #37 – Holiday Decoration (9:04 p.m.)

Mr. Burkart, staff liaison for the Human Relations Commission, explained this is one of the first policies the Human Relations Commission has developed and introduced the two members of HRC Policy subcommittee that worked on it. Mr. Burkart explained Attorney Bayer has reviewed the policy and has some suggested changes (included at the end of the minutes).

McKenzie Edmonds, 2805 E. Menlo Blvd., Shorewood, 53211
Deba Brisco, 2516 N. Bartlett Ave., Shorewood, 53211

Ms. Edmonds explained the policy before the Village Board tonight is not the policy the HRC or Policy Subcommittee voted on. Ms. Edmonds explained the Human Relations Commission should have an opportunity to discuss the proposed language by Attorney Bayer and bring it back to the Village Board for future consideration.

The Village Board questioned why the policy the Human Relations Commission developed is not the policy before the Village Board. Ms. Ewald explained after the Human Relations Commissions developed the policy, the Village Attorney had an opportunity to review the recommended policy and had some revisions while still preserving the recommended language by the HRC. Both the Human Relations Commission and the Village Attorney would like an opportunity to review the language together and bring a recommended policy back to the Village Board at a later date.

Ms. Edmonds explained the spirit of the Human Relations Commission proposed language is included but without having an opportunity for the HRC to discuss the specifics of the proposed changes, they would like the Human Relations Commission to vote on the newly proposed policy.

Ms. Edmonds questioned the Village Attorney if the new language of the policy would affect the construction of an Eruv. Tr. Amenta explained an Eruv is an actual wire constructed in a certain area to allow Jewish individuals who keep the Sabbath to be able to do certain things within the context of the eruv.

Ms. Edmonds explained the Human Relations Commission thought the policy brought forth was the best way to be fair and consist.

Some Village Board members inquired if it was to be referred back to HRC when would it be agendaized for the Village Board?

Ms. Ewald explained the Human Relations Commission meets on September 11, Mr. Burkart would allocate some time to get direction on the proposed changes and bring it back to the Village Board.

Some Village Board members questioned why the topic of the eruv is being considered as part of the policy? Ms. Ewald explained the Village has in the past approved being a part of eruv's that have been constructed to span multiple municipalities. The Village has been recently approached to approve the construction of one.

Attorney Bayer congratulated the Human Relations Commission on the thoughtful work they have done on the policy. Attorney Bayer explained he has no issues with the general concept, the general purpose is to be fair and be uniform and not bring the Village into a problem with the United States Constitution that has established a clause of equal protection, equal access. Attorney Bayer explained the issue was it narrowly defined a certain type of holiday decorations that were banned in public buildings and spaces without addressing what is allowed to be displayed. Attorney Bayer's recommendation is to be more comprehensive about the details of what is allowed and not allowed. Attorney Bayer explained there are two options as a municipality, say no to any group displaying in a public property or if you want a policy to utilize the suggested language. The Village has practiced not allowing any display on public property unless advertisement for a municipal event.

Attorney Bayer explained the construction of the eruv with the use of fishing line does not have any special religious significance in creating equal protection or access problems.

One Village Board member raised concern about the Attorney's language whether anyone affiliated with the Village could put up decoration and the question still wasn't answered if it is secular or religious or what it is.

Ms. Brisco explained the subcommittee had three options, one; to allow no decorations at all; second, to allow just secular; third, to allow all. The HRC subcommittee chose to allow no decorations to be fair and inclusive to all. The HRC does not want to offend anyone. Ms. Brisco explained the group debated for several months that what is considered secular by many may still be a considered a religious icon by others.

Some Village Board members inquired if Attorney Bayer's suggested language allows for the Village to display a Christmas tree? Attorney Bayer explained the Village can choose to display a Christmas tree as it is defined as secular. One Village Board member asked for clarification if the HRC policy was adopted, would the Village still be allowed to display a Christmas tree. Attorney Bayer clarified that is a policy decision by the Village Board, the Village has the ability to regulate itself. Ms. Ewald echoed she would like the Village Board to have agreement on that policy.

Some Village Board members questioned what constitutes as a seasonal decoration and maybe the Human Relations Commission needs more time to develop a more encompassing policy. Some Village Board members shared there needs to be judgement on what is seasonal and what could be considered a "holiday or religious" decoration. Ms. Brisco explained the intent is not to allow items considered a holiday decoration, there will need to be self-regulating on items that are considered seasonal, example frosty the snowman.

Some Village Board members raised concern how this policy would affect events in public parks, like a religious ceremony for a wedding. Attorney Bayer clarified as long as the municipality is not discriminating and allowing access to public spaces and granting permits and allowing for equal access, something as a religious wedding ceremony would not be an

issue. One Village Board member clarified, a ceremony is not a decoration.

One Village Board member shared the policy's intent is not to acknowledge that the holiday exists but to keep the separation of church and state and to keep religious displays off public property. One Village Board member commended the HRC on trying not to be offensive to any group, but that is a very difficult to accomplish.

Some Village Board members questioned if the HRC had reviewed the School District's policy. Ms. Brisco explained they had, but to the HRC's understanding the Village's policy would not have an impact on their policy and vis versa.

One Village Board member shared the BID displays the tree on private property, it is not public property. The BID organizes that event and it is acceptable for them to display a Christmas Tree or a Menorah or anything else they would like to display.

Tr. Warren moved, seconded by Tr. Amenta to refer Policy #37 – Holiday Decorations back to the Human Relations Commission with assistance from the Village Attorney to finalize a draft policy for a future Village Board meeting on September 16. No vote taken.

One Village Board member remarked if the suggested language is incorporated into the policy, the title of the policy should be updated to reflect the language.

One Village Board member requested clarification on the motion if Attorney Bayer is typically at the Human Relations Commission meeting? Attorney Bayer replied he is not unless he is requested. Ms. Ewald explained it would be beneficial if he did attend the next one.

One Village Board member requested two things that need to be considered as the policy is reviewed, 1) what can and cannot be approved and 2) how is it going to be enforced?

One Village Board member shared they were not comfortable with including the word secular in the policy.

Some Village Board members inquired if the policy included employees and personal work spaces. Agreed this should be addressed as well. Attorney Bayer clarified employees and personal work space would be a separate policy in the HR manual.

Ms. Brisco explained there is not a way to list everything that would be allowed to be displayed. The spirit of what the HRC is trying to accomplish is to not offend, the Village wants to be inclusive, to be inclusive means to accept others without having to be offended by what an individual believes but to have respect for their beliefs. Ms. Brisco explained the language needs to be clear, concise and specific without including everything the Village would like.

Richard Reinbold, 3910 Ridgefield Circle, Shorewood, 53211; explained the Village needs to stop worrying about offending people and learn to be tolerant and accept people's differences. The lack of tolerance is a detriment to society.

Alysson Lippman, 1616 E. Olive St., Shorewood, 53211; explained she was at first confused by the title of the policy "holiday decorations". Agrees the most inclusive choice, and understands this is a hard choice, is to exclude religious secular symbols. The Jewish community is not of one mind, but is widely supportive of separation between church and state.

Rabbi Yisroel Lein, 3133 N. Hackett Ave, Milwaukee, 53211; explained his organization supplied the Menorah that was displayed at the BID tree lighting last year in Wood Square. Mr. Lein explained there is a difference between a sign and a ceremony, a sign is displayed for

everyone to see and attending a ceremony is an action an individual is taking. A sign is something to be seen and interpreted. Mr. Lein explained an eruv can be constructed without any additional structure being put up, wire is used when there is not a natural boundary that can define the area. An eruv is not a religious display because no one can see it. Mr. Lein shared his personal view of limiting expression is not showing inclusivity. People should feel comfortable with expressing their faith in public. Mr. Lein suggested maybe religious leaders need to be involved in reviewing the policy.

Tr. Carpenter moved to call to question, seconded by Tr. Amenta. Call to question carried 6 – 1 with President Rozek voting nay.

Vote was taken on the original motion: to refer Policy #37 – Holiday Decorations back to the Human Relations Commission who, with assistance from the Village Attorney, will finalize a draft policy for a future Village Board meeting on September 16. Motion carried 6 – 1 with President Rozek voting nay.

- d. Consider Ordinance #3005: Repealing and Replacing Chapter 26 “Human Relations Commission” to provide student members voting rights.

Mr. Tyler Burkart, staff liaison to the Human Relations Commission (HRC), stated that the HRC is recommending that student members have voting rights. He referenced the Conservation Committee, which is the other Village committee with student members who have voting rights. So this would be a consistent practice. Currently, the student members of the HRC have ex-officio voting rights which means they are invited to and attend meetings, participate in subcommittees but they don’t have the ability to vote.

One Village Board member noted that the memo referenced the difficulty in getting student members to attend meetings. What problems, if any, has this caused? With 2 of the 9 members being students they may both need to participate in school events and can’t attend, which means you are down to seven (7) and if others can’t attend you may not get a quorum. This has not been a problem with the current student members. No concerns at this time.

One Village Board member noted that the criteria that was approved by the Village Board with regard to Volunteer Committee members and their attendance would apply to the student members also. So that if attendance becomes an issue, that student member would be deemed inactive and another student member would be identified from the list.

Several Village Board members had comments: It was also noted that the **ordinance** states the students must be from Shorewood High School (SHS). So since our boards, committees and commissions require residency, shouldn’t the students have to live in Shorewood but not necessarily have to attend SHS? Another Village Board member asked can the student attend another high school? Mr. Tyler remarked that one of the ex-officio student members of the HRC is not a Shorewood resident, but they attend SHS. The HRC had reached out to Mr. Tim Kenney, SHS Principal, to help select the two (2) students. The residency requirement might present a problem for that student member. Allow both—Shorewood HS student or Shorewood student—either way brings value to the commission. Questioned does it have to be a high school student; could it be a middle school student. Others felt it could be a Shorewood HS student and not necessarily have to live in Shorewood. It was noted that the issue is that there were people eliminated from serving on other committees because they were not a Shorewood resident. So as not to open a can a worms, would want to be consistent. Noted that since we are opening up a Village ordinance for discussion and this is not a statutory requirement, the change could be made to not require residency for the Human Relations Commission. Noted that it needed to be clarified that a SHS student could be a member of this commission, because we should not want to deem ineligible a certain segment of SHS students for the honor of serving on the HRC.

Other things of note since we are opening up the ordinance. 1) Ex-officio members don't only include high school students, they also include school board, village board representatives and it doesn't say whether the others can vote. If we specify ex-officio student members can vote, then if the others can't vote, we should say so. Mr. Burkart noted that his definition of ex-officio means non-voting member. A Village Board member stated that the League's publication says otherwise. It recommends that when you use the word ex-officio, you also specify whether they are voting or non-voting members. Mr. Burkart noted that his use of ex-officio referenced non-voting members which was the original meaning of the word. Suggested change to the ordinance "ex-officio members school board, village board representatives, police representative." And cross out Human Relations Commission. 2) How long terms of ex-officio members are they all the same? It is whatever the organization that assigns the person determines. Need to clarify this answer. Requested deferring this item until this question is answered. Give an opportunity to update the rewrites of the ordinance based on tonight's discussion. It was noted that some processes would change based on the language changes, i.e. Shorewood High School student to Shorewood student (no matter where they attend school). The high school principal recommended the first students; now that opportunity would need to be open to all students via the application process.

One Village Board member noted that having the students vote as they are ex-officio members. They don't have to be of the minority class for the membership quota for the HRC. So if they vote and they were not part of the quota that made up the ratio of minority members, it could throw off the required mix. So if they are voting members we need to make sure the ratio is preserved. Ratio is currently four of 7; consider five of 9 if students are given voting rights. How do we go about recruiting students? Have the high school identify or have them apply through our volunteer application process. Anyone should be able to recommend a student; it doesn't mean they will be chosen. Mr. Burkart/President Rozek will coordinate a meeting with President Rozek and any other Village Board member who would like to discuss this matter further before bringing it back to the Village Board.

Tr. Amenta moved, seconded by Tr. Warren to defer Ordinance #3005: Repealing and Replacing Chapter 26 "Human Relations Commission" to provide student members voting rights. Motion carried 7 – 0 by a roll call vote.

10. Reports of Village Officials

a. Village President

- i. Update on attendance at Chief Executives 2019 workshop (included at the end of the minutes)
- ii. Attended the Employee Recognition Lunch with Tr. Maher, 20 awards.

b. Village Trustees

i. Tr. Amenta attended NSFD promotion ceremony.

ii. Tr. Amenta attended school board annual meeting. Final budget in October. Looking at a \$900,000 levy increase ~4.3%.

iii. Tr. Bockhorst – attended the league strategy meeting. Great articles in the Municipality, i.e. civility and Code of Ethics workshop was very interesting. The Leagues annual conference October 23-25 in Green Bay. Contact Ms. Ewald if you wish to attend; she will sign you up. President Rozek and Trustee Bockhorst will be attending. Trustee Warren would like to attend.

iv. Tr. Maher – the August 29 Transportation meeting had about 20-25 people. The consultant is pulling the information together.

v.Tr. Maher – Jane Foley, Police Commission member, is moving out of the Village.

c. Village Manager

i. Update on 2020 work plans and standing committee assignments

11. Items for future consideration - None

12. Adjournment.

Tr. Bockhorst moved, seconded by Tr. Maher to adjourn at 10:50 p.m. Motion carried 7 - 0.

Respectfully submitted,

Sara Bruckman, CMC/WCMC
Village Clerk