

An unofficial transcription, transcribed and edited by Bill Thomas, of the official audio recording of that portion of the January 20, 2015 meeting of the Board of Trustees of the Village of Shorewood Hills, Wisconsin, addressing the Agenda item entitled “Consider approval of advisory referendum language regarding a new lease with the Blackhawk Country Club to be on the April 2015 ballot.” [Contact at thomawsr@gmail.com]

Introduction:

The Agenda item mentioned in the title, **“Consider approval of advisory referendum language regarding a new lease with the Blackhawk Country Club to be on the April 2015 ballot”**, was placed on the Board’s Agenda pursuant to the requirements of Section 1.09 of the Village Code of Ordinances, adopted in 2006 and reproduced below. It may be referred to in this document as the “Blackhawk Referendum Ordinance”.

Section 1.09 - Referendum for Blackhawk Country Club. [Blackhawk Referendum Ordinance]

(1) Any future lease, an amendment to the current lease or any disposition of the land currently occupied by the Blackhawk Country Club Corporation, shall be submitted to the electorate in an advisory referendum prior to the Board of Trustees taking an action to approve said future lease or amendment to the current lease or any disposition of the land currently occupied by the Blackhawk Country Club Corporation.

(2) The form of such advisory referendum question shall be reviewed and approved by the Village attorney.

The participants in the meeting were as follows:

President (& Trustee) Mark Sundquist

Trustee Dave Benforado

Trustee Felice Borisy-Rudin

Trustee Bob Hurley

Trustee John Imes

Trustee Mark Lederer

Trustee Tim Ridders

Counsel Matt Dregne (of Stafford Rosenbaum LLP, Village Attorneys)
Counsel Laura Callan (of Stafford Rosenbaum LLP, Village Attorneys)
Village Clerk Karla Endres

As the proceedings began, the participants were examining a document prepared by Village Administrator Karl Frantz, entitled “**Notes to the Agenda January 20, 2015.**” The relevant portion of that document reads as follows:

Consider approval of advisory referendum language regarding a new lease with the Blackhawk Country Club to be on the April 2015 ballot – There are three options for the referendum question that the Village legal counsel has prepared for Board consideration should you wish to place the question of the ballot. All these options comply with [the mandate of [Village Code Section 1.09 - Referendum for Blackhawk Country Club] to submit a lease amendment to the electorate, and vary primarily in the ability of the Board to make post-referendum changes to the lease (with [Referendum Question Option No. 1] being the most restrictive and [Referendum Question Option No. 3] the least restrictive). The other way to enable the Board to make post-referendum changes is, of course, to repeal or amend [the Blackhawk Referendum Ordinance]. An example of a change to the Ordinance would make only amendments that reduce rent, extend the term of the lease, or increase the cost of the Village’s performance under the lease subject to an advisory referendum. The Village Attorney can speak to each of these options and their ramifications as part of your deliberations:

Referendum Question Option No. 1: Should the Village of Shorewood Hills Board of Trustees approve an amendment to the current lease [i.e., a new lease] with Blackhawk Country Club, Inc. in the form available for inspection [as of March 14, 2015] at <http://www.shorewood-hills.org> or the Village Hall?

Referendum Question Option No. 2: Should the Village of Shorewood Hills Board of Trustees approve an amendment to the current lease [i.e., a new lease] with Blackhawk Country Club, Inc. upon terms as least as favorable to the Village as in the form available for inspection [as of March 14, 2015] at <http://www.shorewood-hills.org> or the Village Hall?

Referendum Question Option No. 3: Should the Village of Shorewood Hills Board of Trustees approve an amendment to the current lease [i.e., a new lease] with Blackhawk Country Club, Inc. to modify rent, extend the term and make such other changes as approved by the Board?

Transcribed Material Begins Here:

President Sundquist: Well, now, we've got 3 possible things. We should mention that, since we had the meeting last week [January 14th], Blackhawk [Country Club, Inc.] has agreed to remove their marina slips from this draft lease in view of the concerns expressed by [Village resident] John Voegeli, and I think there may be other adjustments, so I would like to keep a little bit of flexibility; not past the time when people have to actually get ballots and make a decision, but I'd like to be able to say that, if the terms are changed in the lease to the benefit of the Village in the next 2 weeks or month, or something, that we would still be allowed to do that, and I think we could say: "Do you approve the lease as of this day, or do you approve the lease --- well, I'll read it: **"Should the Board approve the amendment to the current lease with the BHCC in the form available for inspection at our website or the Village Hall"**", and my interpretation of that is, that's the draft [of the proposed lease] that we've been working on up to this point.

Counsel Laura Callan: Actually, Mark, I believe [that would be referring to the language of the proposed lease at the time the absentee ballots are sent out].

President Sundquist: So you would interpret this as still having some flexibility, is that right?

Counsel Callan: [Up to the date when the Referendum ballots are first available to the public].

President Sundquist: OK, Matt, is that your interpretation as well?

Counsel Matt Dregne: Yeah, we've had conversations with [Village Administrator] Karl Frantz about when the absentee ballots have to be available.

Counsel Callan: The thought was that the Board would have until a day or so before that date to negotiate additional [changes in the proposed lease].

President Sundquist: We were given two more flexible options by our counsel [reads Referendum Question Option No. 2]: **"Should the Village of Shorewood Hills Board of Trustees approve an amendment to the current lease [i.e., a new lease] with Blackhawk Country Club, Inc. upon terms as least as favorable to the Village as in the form available for inspection at <http://www.shorewood-hills.org> or the Village Hall?"** So, that would seem that it would give us a little more flexibility for a longer period, but I . . .

Trustee Ridders: That means that, [after the Referendum], [the Board] could change dollar amount, access, terms, whatever. I think that's not going to work.

President Sundquist: So are we then finding that we go with [Referendum Question Option No. 1]?

Trustee Mark Lederer: I think we're getting a little ahead of ourselves, in that, here we are talking about exactly what the wording of this referendum will be, and we haven't even discussed the advantages and disadvantages of holding a referendum in the first place, and secondly, what the referendum is to accomplish. So, how can we sit here and craft language if we don't know what it is we are trying to achieve? And I think that gets to Felice's [i.e., Trustee Felice Borisy-Rudin's] comment, about what [proposed lease] document is it that we are asking the Village to vote on? And, beyond that, what is the Board's intent, between the time today, and whatever time the document, whatever it is, becomes final, and what happens thereafter, and so I just feel we can talk about language, but I don't know that all the Board is in agreement to going forward with the Referendum, or even what the purpose of the Referendum is, and so it's a little premature. That's my view.

Trustee Ridders: That's sort of a new concept, insofar as we agreed, unanimously, on a lease draft, at one point . . .

Trustee Lederer: We agreed to put a lease draft before the public, that's correct . . .

Trustee Ridders: OK.

Trustee Lederer: We didn't agree to endorse that lease, as individual voters or individual Board members; in other words it wasn't, to my mind, it wasn't a vote approving the lease, it was a vote approving putting that draft of the lease forward for public comment, which we did.

Trustee Ridders: I'm not saying you're wrong, but it would be a little unusual in a negotiation to agree upon a document with another party, and come to terms, and go "Oh, by the way, we're going to set up a new negotiation." I'm not certain that's what we did. I think what we did is we agreed upon a [proposed lease] document and we said this is the document. Because if that was the case, if what you're suggesting is the case, then every time you said "Oh, that's fine, we'll take it to the Board as well and our members, and we'll agree to re-negotiate as well", I'm not sure that's what we did.

Trustee Lederer: Let's look at it from the other way, which is, what was the point of taking [the proposed lease] to the public, if not to get comment; if not to hear what they had to say, and take it into consideration? I mean surely, I mean, that's the way I understood it, and I can't even believe that Blackhawk would have been so naïve to think that we could take the document to the public, get a lot of public reaction, and, basically, push that reaction aside, and ignore it all, and just move blindly forward. I mean, it would make a sham out of the whole process.

Trustee Borisy-Rudin: I actually agree with Mark's [Trustee Lederer's] interpretation, rather than Tim [Trustee Ridders'], for two reasons: one reason is, the very fact that we have the Referendum means we on the Board cannot [commit the Village to a new lease] without

[holding a referendum], and, secondly, we agreed on a process, and that was, we were going to have a public hearing on the [proposed lease] document with the Village, and then respond to that. That meant that we were open to make changes to the document after that public hearing; therefore the document we presented at the public hearing was never intended to be the final document, and it would be foolish of us, as the Board, not to take into consideration some of the very well thought out comments that were made at the public hearing.

Trustee Lederer: I think that's not to say that there were not things in the [proposed lease] that we were supportive of, and I thought it was a good enough draft to take to the public; and we can't, forever, negotiate amongst ourselves, and with Blackhawk, without, at some point, stopping, knowing that we have to hold a referendum, and getting public input, which is what we did, so some of the things you said make me concerned that maybe that, well, maybe you think we weren't negotiating in good faith, and I believe we were negotiating in good faith, and we got as far as we could, in the time that we had, but we know we had the deadline for the referendum; we know we need some public input prior to the referendum; and, to me, that's why the process and the timetable played out the way it did.

Trustee Ridders: I wasn't suggesting that the negotiations weren't in good faith, but I was trying to make the observation that that process is a little atypical, because I believe that, during the discussions with Blackhawk, we arrived at a [proposed lease] document that I think most parties thought was, like, final; which would be then given the public hearing, which would be educational, not a negotiating process, and [indistinct words] referendum. But, by the same token, or maybe that's the wrong preamble, [indistinct words] came back and said "You didn't think about this", and we said "You're right! We forgot. We didn't think about the impact of the macro level affecting the micro level", we said "OK, let's address it", so, I get the fact, that this is open to negotiation; everything is open, right? But I do believe that, as a Board, we need to be able to say, "This is our position." If we continue to, every time we get to a decision point, re-negotiate any discussion, that creates an environment that is not productive.

Trustee Lederer: I understand.

Trustee Ridders: I know that I'm under the umbrella of conflict [of interest], but we owe it to ourselves to make a decision, and take ownership of that decision, as the elected Board. We owe it to the tenant to make a decision, and so when that occurs, I don't really care, but we should probably understand, ourselves, what that point is, so that we can all make good business decisions, that's my position.

Trustee Lederer: I understand. So I think that gets us back to: Where do we go from here? What is the [proposed lease] document? Are we going to submit a document for referendum, and if so, what is the document? Is it the document -- is it the draft as it stands today, or, if

there are continuous negotiations, is it the product of those negotiations, up until the time that the absentee ballots have to go out, and the public has to know exactly what they are voting on? So, I guess, in discussing the Referendum, I would like to know if it is the consensus of the Board that the negotiations are going to continue, between today and the time that the absentee ballots go out, and is the product of the negotiations going to be the document upon which the public is going to opine?

Trustee Bob Hurley: I would say “Yes”, if I had to cast my vote. The Referendum is this coming April; we have to come to a position on this Board and the [Blackhawk] negotiating committee. We have a [proposed lease] document, we’ve heard from the public on many issues. Felice [Borisy-Rudin], to your point: Is this fully based, is this the document that we’re submitting? We should respond to the Villagers’ comments. [The people from Blackhawk] were here [at the public hearings]; they heard [the Villagers’ comments]. [The people from Blackhawk] want this Referendum to pass. Are they going to sit on their hands and say “Gee, I hope so?” I don’t know. John Voegeli, that [Trustee Ridders] was referring to: what about the Marina slip, non-resident rate, resident rate, that’s going to affect us, we want our [indistinct words]? That has been addressed; it’s out of the [proposed lease]. So that, in and of itself, shows that this [proposed lease document] has already changed since we had our last meeting. And I think it will continue to change, and I think it is going to be a document that is not fully formed until the day that the absentee ballots go out. But once that happens, that’s it; that’s the document; and what happens between now and then, I don’t know, I can’t tell you, but again, Blackhawk is aware of what the Villagers said; we [the Trustees] heard [the Villagers] loud and clear. So that’s why we’re discussing this [Referendum] language; as Felice said: “available for inspection”, “the [proposed lease]”; that is when someone [knocks 3 times] goes on the Village website, or goes to the Village Hall, there’s your [proposed lease]. They may go two days later, and it’s something different, that’s the [proposed lease], because something has changed.

Trustee Borisy-Rudin: Well, that’s one of the issues: when to stop changing the language [of the proposed lease]? But I’d like to just respond, in two ways: one is, that the Referendum -- and I want to make clear for everyone who’s here in case anyone is not clear as to what the Referendum is -- the Referendum is an advisory referendum; that means that the Villagers are going to vote, and they’re going to give us an opinion. Well, what does the Board do when we get a result of the voting and 50% of the voters are in favor of the [proposed lease], and 50% are opposed?

Trustee Benforado: Use the NFL method; flip a coin.

Trustee Borisy-Rudin: In the end, there’s just ambivalence there, and it would be the Board that makes the decision. But because it is purely advisory, if 70% of the Villagers vote one way, and 30% vote the other way, the Board has no obligation to follow the 70%. I personally would

follow the 70%. But I want you to realize there is very little power, very little power in this Referendum. So that's why it's really, really important that before we go to referendum, 'cause this is the only chance that the Villager's have to really have a say, to make sure we know what we're doing and where we're going up front; and if we want buy-in from the Villagers, we want that referendum to come back in support of the lease that we have worked out. We need to make sure that we work it out before it goes to referendum, because if we have a lease that people feel that we have left things hanging, that we have left a lot of questions unanswered, and they won't trust us, we're not going to get a useful referendum. And that's why I feel that the most important piece of advice I heard from the Villagers in the hearing was "Why haven't we had someone do a fiscal analysis of this for us?" I think we really need to look at the money. This Board has not been willing to hire someone to give us a fiscal analysis. And, you know, if it is a matter of waiting a few more months because we have to have those numbers run for us, and they can't be run fast enough, I'd want to [wait a few more months]. But perhaps someone can run the numbers for us in the next month, so we can still have [the proposed lease] up for inspection on the Village website, and at Village Hall, by March 16th.

Trustee Lederer: That maybe is something we should talk about, but I think the question right now is, we're faced with this deadline of January 27th to decide on the Referendum.

President Sundquist: Look, I think we have until early March to get additional information and fine tune [the proposed lease document].

Trustee Lederer: To shape [the proposed lease document], but not pull the trigger on the Referendum.

President Sundquist: We would pull the trigger on the Referendum by January 27th, and say that there will be a referendum on the [proposed lease], and then we could continue to work on [the proposed lease] in the meantime, with Blackhawk.

Trustee Benforado: I apologize; I was not here at [the public hearing of January 14, 2015], but want everyone to know that I listened to the tape: the tape recording picked up every spoken word. We've had a good level of participation comments back: written comments, spoken comments; a very good level of that which I think has been very useful, and appreciated. I guess, from my perspective, the Board has not voted on [the proposed lease], and that was one of my major concerns, that we not take a vote until the public participation had been had, so now we're at the point of trying to determine . . . Mark [Sundquist], you've been challenging us well, trying to keep us on track of where the 8-ball is on the table, and I think: "Is it time to pose the question of renewing the Blackhawk lease to the voters?" All things considered, "Yes." The Board has made our best efforts over the last year to respond to Blackhawk's request for a new lease: negotiating a new lease that was responsive to Blackhawk's situation

while preserving our significant revenue stream to the Village General Fund, and providing more access to the [Blackhawk Country] Club for Village residents. Is the proposed draft lease perfect? No. Is it a silver bullet; that is, will it be a one-time fix to Blackhawk's financial woes? No. But yes, it is time to pose the question to Village residents.

President Sundquist: So, I would say that we're going to continue to fine-tune this [proposed lease]. We have about two months, and we could decide at the Board level what we want to do, and continue discussions with Blackhawk, and as [Trustee Ridders] has pointed out, changes have already been made, and we assume that further tweaks will happen.

Trustee Ridders: Let me just add something. As I mentioned at the meeting last week: this has been a process, we set some time lines, and how this was going to go. The meeting back on December 15th, when there were 80 people at the meeting, was very productive for the Board, and was educational for us in understanding where the Villagers were. We had about 30 folks at the meeting last week (January 14th), and we've got some out here tonight. That feedback is terribly important for Trustees. In addition, I think we've done a pretty good job of posting all the information on [the Village website]. So, Karl Frantz's presentation from December 15, the kind of notes from the Task Force, the minutes, all the comments from the residents, both orally and written, it's incredibly helpful to us as decision-makers. That being said, the Referendum is a big part of this process; I'm very interested to see how people are going to vote on it. And, really, we've talked, as a Board, how important it was that we were to educate all the voters on what's being proposed: what the trade-offs – what are the positives, what are the trade-offs, and then let people decide; and, in representative government, that's what we're interested in understanding; so after that [April 7 Referendum and Trustee election] vote, we'll have a better handle on where the Village residents are. We'll also have a better handle on who's on the Board [of Trustees]. The Board could be quite different from what it is right now. And as Felice [Trustee Borisy-Rudin] has pointed out, the Referendum is [only] advisory, but for me personally, it is an incredibly important part of the process, and I'd like us to move forward with that process, so we can get more information, and I would agree also that we've got a little bit of time here for some tweaking [of the proposed lease] if we need to do it. So I was happy with Blackhawk's response on the Marina issue. That was raised on Wednesday, and it was addressed by Monday. There was also a concern addressed about Village participation on Blackhawk committees, liaisons, [indistinct words] going forward, and we're already putting those steps in place, so part of the goal for me was, let's try to find a "win-win" here, but let's also find a way to bridge perspectives, and reduce some of the angst, and improve the relationship. And I think for the most part this process has been good, despite a few hiccups, but -- I'm sorry to make it long -- but I'd like us to move forward with the Referendum.

Trustee Borisy-Rudin: May I ask a question? What I'm not clear on is: what is the timeline for a vote [on the proposed lease] by the Board [of Trustees] after the Referendum?

President Sundquist: I don't know if there is one.

Trustee Lederer: There isn't one. The new Board will have to figure that out.

Trustee Borisy-Rudin: Do we [the Board of Trustees] have any legal obligation, after the Referendum, to vote on [the proposed new lease]? At all?

Several voices: No.

President Sundquist: We certainly don't have a legal obligation to *approve* it.

Counsel Dregne: The [Blackhawk Referendum Ordinance] requires only that, before the Board does approve any new lease or amendment, you must go through the Referendum process.

Trustee Borisy-Rudin: If I understand that Ordinance correctly, then, that would mean -- if we phrase the question so that [the proposed lease] is available for inspection on March 16, 2015 - - that the Board can vote on that lease, but if they want to make any changes to that lease after the Referendum, then a new Referendum would have to take place.

Counsel Dregne: That's right. Or you could change the Blackhawk Referendum Ordinance. That was one of the distinctions between some of the alternative referendum questions that we presented [i.e., Option Nos. 1, 2, and 3]. If the Board wants to freeze the particular [proposed lease document] in place, and have a vote on that, then that's it; that's the one the Board would have to vote on after the Referendum, without having to go back to the voters again. One of the Referendum question options we designed [i.e., Referendum Question Option No. 3] was to give the Board the ability to make changes [to the proposed lease document] even after the Referendum.

President Sundquist: Right.

Trustee Lederer: Let me make sure I understand that, because I've been proceeding on the basis that whatever lease we put before the voters when we put it before the voters, and however they vote, the Board is not obligated to take any action thereafter: approving the lease, modifying that lease, accepting the lease; all the options are still on the table for the Board, after the [Referendum] vote, as before the vote. Before the vote, we can't amend the lease, but after that box is ticked, the Board can then proceed to do whatever the Board perceives to be in the best interest of the Village.

Counsel Dregne: I'm not sure. If the Referendum is conducted, and the Referendum is tied to the specific [proposed lease] that is posted prior to the holding of the Referendum [as is the

case with Referendum Question Option No. 1], I think the Board, following the Referendum, could either (1) take no action, or (2) approve that [proposed lease] just as it was posted prior to the holding of the Referendum. Unless you crafted the Referendum question differently, I don't think the Blackhawk Referendum Ordinance would allow the Board to have a referendum on a specific lease, and then, after the referendum, negotiate a different lease and approve that lease, without again conducting an advisory referendum.

Trustee Lederer: Okay, but if the wording of the Referendum question was more general, then it might provide the Board, you are saying --- if there is a very specific [proposed lease] document, and the referendum question language is very specific to that document, then the Board would not be able to make changes in that document after the Referendum, without going through the Referendum process again. But if the language in the Referendum was more general, then the Board would hear whatever the public has to say about that document, but then could go on to make additional changes if needed?

Counsel Dregne: Yes, but we wanted to make it clear, that if the Board wanted that kind of flexibility, then we think the Referendum question should very clearly authorize, or speak to, that issue, and so we drafted the 3rd alternative [i.e., Referendum Question Option No. 3] to say "Should the Village of Shorewood Hills approve an amendment to the current lease with Blackhawk Country Club, Inc., to modify rent, extend the term and make such other changes as approved by the Board?"

Our sense is, our feeling is, our conclusion is, if that is the question that is presented to the voter, the Board would then have the ability, after that Referendum, to make changes.

Trustee Benforado: That would seem to support [Referendum Question Option No. 2], because of the wording.

Trustee Borisy-Rudin: I have one more question. The way every [Referendum Question Option] is worded is as an "amendment" to the current lease, as opposed to an "extension", or "renewal". Is the idea, then, that you're amending the existing lease?

Counsel Callan: That's how I see it.

Trustee Borisy-Rudin: OK.

Trustee Ridders: My understanding was, that we were going to submit a specific [proposed lease document] to the voters, and that is the document we would approve [after the Referendum]. If we could take unilateral power to change [the proposed lease document] later, then the Referendum is not about the [proposed lease document], it's about whether we

should get input from the public, right? [If that is the case] there is no point in having [public] input in the first place.

President Sundquist: Well, I think [Referendum Question Option No. 3] is a more difficult referendum question to approve, because it says “Oh, approve this lease, and let the Board do anything it wants with it.” That could go either way. I don’t think there’s a lot of trust for that.

Trustee Ridders: I guess I’ve always approached it, that we came up with the best lease we could come up with. Give it to the voters and say, “You either agree with it or you don’t; what do you want to do?” But asking for unilateral power to go back [after the Referendum] and negotiate whatever lease the Board wants doesn’t make any sense, unless the question is: “Blackhawk: Yes or No?” But that’s not the question.

Trustee Benforado: I’m comfortable with [Referendum Question Option No. 2]: “Should the Village of Shorewood Hills Board of Trustees approve an amendment to the current lease with Blackhawk Country Club, Inc., upon terms at least as favorable to the Village as in the form available for inspection at <http://www.shorewood-hill-hills.org> or the Village Hall?” I think that is the choice we should go with.

Trustee Ridders: The only problem I see with [Referendum Question Option No. 2] is the phrase “at least as favorable to the Village”: it just seems subjective to me. Can you take that out and replace it with something? Either take it out completely, or replace it with something?

Trustee Benforado: That would be [Referendum Question Option No. 1]. [That is, taking out the phrase “at least as favorable to the Village” would leave Referendum Question Option No. 2 with the same meaning as Referendum Question Option No. 1].

Trustee Ridders: So why would you want the latitude later? Because then the question is, “Which is favorable?” We’re still allowing for some level of ambiguity and decision here: “Well, we want another dollar in rent, but we will take less access, so we’ll take another round of golf, but then we won’t get this.” So, I guess I’m looking for a binary solution: “Yes” or “No”.

Trustee Borisy-Rudin: How about two binary questions? The first question would be [Referendum Question Option No. 1], that is: “Should the Village of Shorewood Hills Board of Trustees approve an amendment to the current lease with Blackhawk Country Club, Inc., in the form available for inspection at (etc.)?” The second question would be: “Should the Village of Shorewood Hills Board of Trustees have the ability to modify the rent, extend the term, and make such other changes as approved by the Board?” Two separate questions. The Villagers can vote on that.

Trustee Lederer: Actually, I sort of like that, but your second question? That could just be whether the existing ordinance that requires a referendum [i.e., Blackhawk Referendum Ordinance], that's triggering all this, whether that should go away, or whether that should stay.

Unidentified voice: In other words, a referendum on [the Blackhawk Referendum Ordinance].

Trustee Lederer: Because I think all of us have different feelings about whether the Referendum process is useful, and to what extent it's useful; and the extent to which, in a normal commercial relationship, there's a need from time to time to amend a document, such as a lease, and it's impractical to go to a referendum every time an issue arises.

Trustee Borisy-Rudin: We have a process in place for amending ordinances, and that's a process that requires 3 readings, and the public is invited to the hearing, so we have a process by which we could act to get rid of [the Blackhawk Referendum Ordinance]. But we don't usually put our ordinances up to a referendum, so I feel uncomfortable with that. I was thinking, more, if we wanted to have the ability to amend, that perhaps that should be a separate referendum question, specific to this particular lease negotiation.

Trustee Ridders: There's a term we use in project management called "scope creep", and we are beginning to expand what we are trying to accomplish here, not just a little bit, but dramatically. We have an issue, and we have a fairly clear path towards resolution of that issue. We either don't address it, or we address it pretty clearly; and while I think [Section 1.09 - Referendum for Blackhawk Country Club] is troublesome, I'm not sure that is the purview of this discussion.

Trustee Lederer: I have no problem putting that problem off to another day, and another Board.

Trustee Ridders: So, [Trustee Benforado's] suggestion, to use [Referendum Question Option No. 2], I can support, and I'm really happy to; my only question is, whether we should get rid of the term "at least as favorable", or should we just give it a binary reading?

Trustee Benforado: Well, there you are at [Referendum Question Option No. 1] again! Let me talk – are you done?

Trustee Ridders: I'm really done.

Trustee Benforado: Really? The reason I think [Referendum Question Option 2] is the best language that we should use, is: "upon terms at least as favorable to the Village"; in my mind that is fairly self-explanatory. I don't think we need to go into what [lease] terms would be "favorable" or "not favorable". I say that because I don't think we need to shut the door on ways to improve the proposed lease that both parties agree to; in fact, we might not even

realize tonight but that we might, in the time between now and March 16th. I don't think we, as one party to this negotiation [with Blackhawk] need to close that door.

Unidentified speaker: How does one propose that?

President Sundquist: [Referendum Question Option No. 1].

Trustee Benforado: Did we amend [Referendum Question Option No. 1]? I was listening to feedback from our attorney on [Referendum Question Option No. 1].

Trustee Ridders: So [Referendum Question Option No. 1] is interpreted to mean that you still have the ability to change [the proposed lease] until March 16?

Trustee Lederer: The difference, I think, is, that under [Referendum Question Option No. 1], you can't make any changes after March 16, when [absentee ballots] go to the voters, while under [Referendum Question Option No. 2], you could make changes so long as the Board determined that they were "favorable to the Village."

Counsel Dregne: Exactly.

Trustee Hurley: That defeats the whole purpose of the Referendum, because you're turning control back to the Board anyway! Matt, could you restate what you just stated: the difference between [Referendum Question Option No. 1] and [Referendum Question Option No. 2]?

Counsel Dregne: I think someone just said it: under [Referendum Question Option No. 1], you have the ability to negotiate, and make changes to, the proposed lease until the March 16 deadline, but not after that. Under [Referendum Question Option No. 2], you have some ability to make changes after that, even after [the Referendum], if the Board determines that these changes are "more favorable to the Village" than the proposed lease as it was posted as of March 16.

Trustee Benforado: Okay, let me address that.

Trustee Boris-Rudin: [Referendum Question Option No. 2] incorporates the same flexibility you have under [Referendum Question Option No. 1], and then some, as long as the terms are "more favorable."

Trustee Benforado: OK. I'll just reply again why I think [Referendum Question Option No. 2] is the better route. I've had conversations with, and heard from, a lot of Village residents. I've heard from fellow Trustees. I've had conversations with fellow residents outside of this meeting, and one conversation that I had, kind of blew my socks off. And it was from – I would call a senior citizen in the Village who has been here for many decades, and we had a discussion

about it, and he looked at me, and said “Dave, whatever [proposed lease] language the Board comes up with, it will be rejected [in the Referendum].”

[Several seconds of silence]

Trustee Benforado: I’m continuing. I’m continuing. That was my response. That pregnant pause? That was my response. Eventually my response was “Well, that puts us Trustees in a very awkward position, doesn’t it?” And he said “Yes.” So I would like to see the Referendum go ahead; I would like to see the language in [Referendum Question Option No. 2] be the language in the Referendum question. I would hope that the citizens of the Village of Shorewood Hills have enough trust and respect in their elected Trustees that they will do the right thing. I don’t believe in the California model of public policy by referendum, so that’s why I’m trying to push for [Referendum Question Option No. 2].

Trustee Boris-Rudin: I have a question about [Referendum Question Option No. 2], which is, there is no time limit on it, so if [Referendum Question Option No. 2] is voted [i.e., is favored by a majority of voters in the Referendum], how often can you approve an amendment “upon terms that are at least as favorable to the Village?”

Trustee Lederer: Why wouldn’t the Village want us to do that as much as possible?

Counsel Dregne: The [Blackhawk Referendum Ordinance] is not perfectly clear on that question. The way I would answer the question is, that you would have just one opportunity, after the Referendum, to negotiate, and approve, whatever changes you wanted to make that you felt were “more favorable to the Village” than [the proposed lease that appears on the Village website or the Village Hall on March 14]. But once that new lease is approved, I don’t believe you could make another change in the lease without going through the Referendum process again. So I think you’d have one shot at it, unless you change [the Blackhawk Referendum Ordinance].

Trustee Boris-Rudin: And is there a time limit as to when that “one shot” has to take place?

Counsel Dregne: No.

Trustee Ridders: You know, I was impressed with the statement that this was not a precedent-setting event, and I defer to Mr. Benforado’s suggestion, and make a motion to adopt [Referendum Question Option No. 2]. I do respect your [Trustee Benforado’s] long-range thinking, and I think you’ve got a greater sensitivity towards the public voice than a lot, quite frankly, so while I’m concerned that we’re asking for more latitude than I think we asked for, I also agree with you that policy referendum is not a great idea, so I would make a motion that we adopt [Referendum Question Option No. 2].

Trustee Borisy-Rudin: Is that with March 16th [as the date for posting the text of the proposed lease on the Village website and at the Village Hall]?

Trustee Ridders: With the “drop dead” date of March 16th. With the understanding that, as we processed this [proposed lease document] in the last 4 or 5 days, we’ve reacted to public comment, and made some tweaks, and first of all I would say that we were thoughtful and respectful of the process that’s occurred thus far, and we’re sensitive to the dynamics that have been created thus far, but if there are reasonable and meaningful and poignant changes, we’ll look at them properly, but that ultimately the Referendum revolves around [Referendum Question Option No. 2], as stated in this document.

Counsel Dregne: Before there is a second to that, one of the purposes of this meeting today was to clearly identify the precise language that the clerk will be directed to place on the ballot, so, before there is a vote taken, I would prefer to first have it on paper, have read it for all of you, so you know what you’re voting on, so, could you have [Counsel Callan] Laura read

Counsel Callan: Well, the question is where we add the modifier “as of March 16”? Is that after the word “inspection” or . . .? [There follows a several-minute-long discussion, leading to the decision to choose March 14, 2015, rather than March 16, 2015, as the date that will appear in Referendum Question Option No. 2 as the date that the proposed lease will have been “made available for inspection” at Village Hall and on the Village website .]

Trustee Benforado: I would second Tim’s [Trustee Ridders’] motion [to approve Referendum Question Option No. 2 as the Referendum question].

President Sundquist: Right. Well, I think that’s pretty reasonable.

Trustee Hurley: I have one, two things I want to say, Dave [Benforado]. First of all, if the “Sage of Shorewood Hills” is saying the Referendum is going to fail, no matter [which Referendum Question Option we choose], I mean, we’ve wasted the last year of our lives, honestly.

Trustee Benforado: Well, that’s why I want this language [i.e., Referendum Option No. 2].

Trustee Hurley: I, I don’t believe all sages are correct. I understand that, you know. In any event, so, this idea “Well, he says that no matter what you put, it’s going to fail”, I don’t subscribe to that. Secondly, I still think it is too subjective, “at least as favorable”, well, OK, here is one more day of access for Village residents to play golf (let’s just [be] hypothetical), but less dining access during the summer: that’s got to be sustainable, because we’re losing this and gaining that; there may be more people who put more weight to the golf; there may be more people who put more weight to access to the dining facility, so “at least as favorable” is a very subjective barometer, and I [indistinct words], so [indistinct words].

Trustee Imes: I understand what Bob [Trustee Hurley] is saying, but I really view [Referendum Question Option No. 2] as kind of a floor, and the best opportunity for residents to kind of see what's there, and then to give us their vote, and we're also not completely tying the hands of the Board [which is] going to make the decision, ultimately, and I like that. I have a lot of respect for the work that's been done. Is it a perfect document? Absolutely not. Is it a compromise? Absolutely. But does it achieve some of the kind of "win-win" objectives that we kind of set out? I think it does. But, again, I want to hear what the voters have to say, and I think this Board will be in a good position to vote up or down, and if we decide to make a few tweaks, then that's what we'll do.

President Sundquist: Any comments on the motion? Any other comments, on the motion that we approve the referendum language, as modified, in [Referendum Question Option No. 2], and you could read it one last time.

Clerk Endres: I really don't have a very good notion. I've got that here, but

Counsel Dregne: If Karla's got it, maybe she should read it.

Clerk Endres: Should the Village of Shorewood Hills Board of Trustees approve an amendment to the current lease with Blackhawk Country Club, Inc., upon terms at least as favorable to the Village as in the form available for inspection as of March 14, 2015, at <http://www.shorewood-hills.org>?

Unidentified voice: That's the motion.

President Sundquist: So that's the motion. All in favor say "Aye"

Chorus: Aye.

President Sundquist: Opposed? [silence].

President Sundquist: Abstentions? [silence].

President Sundquist: So it carries unanimously. Okay. Very good.

[END]