

## Village of Arden, Governance Task Force

### Meeting Minutes: September 22, 2022

**Attendance:** Ray Seigfried (Chair), John Scheflen, Barbara Macklem, Lynda Kolski, Beverly Clendening, Steve Benigni, Kate Threefoot

**Guests:** Carol Larson, Elizabeth Varley, Carl Falco (via Zoom)

Meeting called to order at 7:35

Minutes from 6/23/2022 approved without amendment.

Trustees were invited to this meeting to answer questions and for a general discussion. Ray sent the following six questions to members of the Task Force and to the Trustees.

#### Questions for the Trustees

1. *Could you describe the working relationship between the Trustees and the Arden Government?*
2. *Arden created its local government by way of our state Charter. Since that time, what role do the Trustees have in Arden? What authority do the Trustees have in Arden?*
3. *Can you explain the role that the Trustees have over leaseholds? For example, what role do you have to enforce ordinances approved by the Arden Government that affect leaseholds like ordinance 11 Encroachment on the right of way or ordinance 14 ADUs?*
4. *What role do you have in collecting and paying taxes?*
5. *Are the lease terms in Arden controlled by the Trustees, Arden government, or both?*

Addressing Question #1, Elizabeth Varley summarized the relationship between the Village government and the Arden Trustees, which has changed over the years. In the beginning the trustees were the power in the Village. After the Act to Incorporate, the Trustees paid all the bills. This responsibility was later passed to a Village Treasurer. There are now fewer ties between the Trustees and the Village. At this point Trustees come to Town Meeting to update Village on Trustees financial status and handle leasehold transfers. Trustees collect land rents; they deposit it into their account, pay the county taxes and fees and then per town budget they transfer funds to the Town. The rest goes into the reserve (approximately \$45,000). The responsibilities of the Trustees are laid out in *Arden Book* written by the Community Planning Committee. Several members of the GTF do not have a copy of the *Arden Book*. Barbara Macklem will bring updated copies to next meeting.

Ray raised a question about the timing of the fiscal year. Arden's fiscal year begins in March. County and State fiscal year is July-June. The difference in timing can lead to problems if there is an increase in taxes. The GTF is considering a change in the fiscal year to match the county and state. The leases state that the land rent must be paid by March 25. The question of whether a change in fiscal year require a change in all leases was raised (Question #5). Trustees do not think a change in lease agreement would be necessary.

Regarding Question #3, Trustees control the leaseholds. Regarding lease agreements, the lease does not change unless there is some compelling reason to do so. There has not been any substantive change in the lease agreement for many years. A question about the relationship of leaseholds to right-of-way. The trustees agree that leaseholds do not overlap rights-of-way or common lands. There appear to be a few exceptions to this, including the leasehold at the intersection of Sherwood and Marsh Roads. Questions about Ordinance #11 were raised. In 1967 the Trustees deeded the rights-of-way to the Village in 1967; the Common lands (greens and forests) were transferred to the Village in 1973. In the

1967 Deed of Transfer, the widths of the rights-of-way were defined and were based on the roads at the time of the transfer. It was thought that some of the roads had changed, causing a change in the relationship of the defined right-of-way and some surveyed leaseholds. Elizabeth does not think that there are any substantive changes in the roads in the last 60 years. When dirt roads were paved, some roads may have changed width, but this would not change the width of the right-of-way. If the direction of a dirt road was changed when it was paved the relationship of the defined right-of-way to the leasehold boundaries may have changed. The question about survey points was raised. Some stakes that are supposed to mark the boundaries of leaseholds are difficult or impossible to locate. What serves as a basis for a leasehold survey in these cases? The July 9, 1962 Survey of Land Plots which is referenced in the 1967 Deed of Transfer had geographical coordinates for leasehold plots. Presumably these are used as a basis for leasehold surveys.

There has been some discussion in GFT meeting that the width of the rights-of-way are greater than what is needed to address the safety issues which are now the sole stated purpose of Ordinance #11. However, the widths of the rights-of-way cannot be changed unless there is a new Deed of Transfer. The question about who maintains the rights of way was also raised. The GTF may recommend that Ordinance #11 be more specific about this. Other communities specify that homeowners are responsible for maintaining the rights of way. At present, the Civic committee operationally maintains the rights of way. The revocable license was brought up. This deals with encroachments on the rights-of-way that are not a safety issue. The revocable license is not codified in Ordinance #11. Issuance of revocable licenses appears to be policy of the Civic Committee in the early 2000's when Sue Rothrock was Chair of Civic Committee. There are presently four revocable licenses (one recently resolved by the remove of the encroaching structure). The present Civic Committee does not issue new revocable licenses. There is no official revocable license policy. Encroachments are discovered when a leasehold transfer. The encroachment is dealt with then. Lease transfer triggers an action. Trustees send a notice to Civic, Community Planning, Forest, and Safety committees. The GTF may recommend that this action at lease transfer be codified. Revocable license will also be considered for codification.

Town passed an Ordinance regarding ADUs. If the GTF recommends a change in this ordinance, what is the role of the trustees? Role of trustees is to serve the village; they administer the trust. Trustees will, in general, do what the Village thinks works best of the Village, if changes are consistent with the principles of the Village. It was pointed out that ADUs are also a county issue, and that Arden got an exception to county rules.

Regarding Question #4, Trustees authority comes from the deed of trust. On a day-to-day basis, trustees deal with lease transfers, pay taxes, including property and school taxes, collect fines, such as vacant housing fines, and deal with mortgage companies regarding the collection of property taxes. The Trustees pay fines for vacant housing if leaseholder does not pay. Fines will always be re-paid to Arden when the lease eventually transfers.

Question was raised about potential conflict of interest with Trustees and Village using the same attorney. This has not caused problems in the past.

Arden Trustees' relationship with the Village of Arden is different from those of Ardentown and Ardencroft. Trustees have more power in the other Ardens.

A question was also raised about Changes in the Deed of Trust. The mechanism for doing this is embedded in the Deed of Trust (third paragraph “and in further trust if at any time in the judgement of a majority of the residents agreeing with a majority of the trustees the community shall not warrant its continuance to declare the dissolution thereof...).

Warren Rosencrantz’ question about including trustees in town governance was brought up. The Town has no authority in terms of the business of Trustees. Lynda Kolski has spoken to Warren about this issue, and will she tell him that his request are outside of the scope of authority of the Task Force.

Future Meeting dates: Ordinance Sub-Task Force – 10/13, 11/17, 12/15 and 1/19

Charter Sub Task Force - 10/24, 11/17, 12/15 and 1/19

Full GTF 10/27 and 11/22, no December meeting, 1/26

Public meeting 1/17

Meeting was adjourned at 8:54