

STREET LIGHTING

ON TOWNSHIP ROADS

Julie Donnan

How many people had strict instructions from their parents when they were kids to be home before the street lights came on?

The street that I grew up on only had one light, and everyone knew when it came on that it was time to run home. I know that my mom would have preferred it if our street had more lights, but I'm sure that some of our neighbors felt that one light was perfectly fine for our community. In a particular situation, the installation of a street light can help pedestrians to be more visible to cars on the road; allow a school child to wait for the bus on a dark morning; or identify an intersection or hidden turn. In other situations, the installation of a street light may serve no other purpose than unnecessary light pollution. These are only a couple of the things that may be considered in street light placement.

Townships have a couple of options for installing street lights, identified in Chapter 515 of Ohio Revised Code. Under this chapter, there are two different processes that can be followed for the erection of street lighting on a township road. One process is driven by the board of township trustees. As with any board action, there are any number of things that must be weighed before the board moves forward. Cost and need for the lights are obviously of paramount concern for the board to weigh when determining whether to move forward with installation. However, the statute also provides for a resident-driven process. As such, even if the installation of lighting a particular area of the township is not at the forefront of a board of trustee's "to-do" list, the resident-driven process provides the citizenry with

a mechanism to follow to get the issue of lighting in a particular area before the board of trustees.

Under the board-driven process, the board of township trustees is required to start by making a determination that "public safety or welfare" requires illumination in a particular area within the unincorporated area of the township. It may be worthwhile to note that while the focus of this article relates to lighting township streets and roads, the board-driven process also provides the board of trustees with the authority to provide lighting for public places, public buildings, and any unincorporated territory within the township, in addition to public roads and highways. The township may either install the lighting or contract with a person or entity to furnish the lighting. If the board decides to furnish the lights via contract, the contract may provide that the equipment may be owned by the township or the entity furnishing the lights. If the board decides to procure lighting via contract and the estimated cost of the contract exceeds \$50,000.00, the board must move forward with the competitive bidding process. If the board selects a contract, it cannot last for a period of more than twenty years.

The board-driven process does not require the consent of adjacent property owners for the lighting to be installed. That being said, as a part of determining whether the board wants to install lighting in a particular location, it may not be a bad idea to gauge the opinion of the neighboring property owners, at a minimum. We are aware of at least one township in Ohio that has made it a policy to not move forward with erecting a street light unless all four adjacent property owners

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consent to the installation. While this is not statutorily required, it is certainly one option that a board may take to ensure that property owners are aware of the possibility of installation and to give owners the opportunity to provide input.

The costs of installation and operation of the lighting system shall be paid from the township's general fund. Under the board-driven process, there is no authority to, in essence, directly pass the cost along to the property owners adjacent to the lighting system. The fact that the township would be required to pay for the entire cost of installation may not be financially feasible or desirable, from the board's perspective. However, there is still another option that can be explored for installation.

As mentioned, there is a resident-driven process for installing street lighting. This process begins with the signing of a petition by the owners of a majority of frontage of the properties abutting the street in the proposed district, and the petition's filing with the township fiscal officer. The petition must have the metes and bounds description of the district where the lights will be erected. The lighting district cannot include lands more than six hundred feet from the street to be lighted, and cannot include any land not abutting the street(s) within the proposed district.

The fiscal officer must then give a notice of the filing of the petition and a copy of the petition to the board of trustees. The fiscal officer must schedule a hearing, not more than thirty days from the date of providing notice to the board. The fiscal officer must provide notice to the petitioners and to any corporations "affected" by the proposed lighting improvements at least fifteen days prior to the hearing. The notice must include the substance and purpose of the petition

and the time, date and place of the hearing. Chapter 515 has specific requirements as to how notice may be provided to necessary parties, but, in general, the property owners and each corporation operating within the proposed lighting district must be notified. There is also a requirement that the individual "serving the notice" make a written statement, under oath, at some point on or before the hearing of the time and manner of service. The individual is required to file this sworn statement with the township fiscal officer.

Additionally, the township fiscal officer, or his/her designee, must submit the notice for a one-time publication, at least two weeks before the hearing, in a newspaper of general circulation in the county in which the lighting district will be situated. The notice must be verified by an affidavit of the printer or a "person knowing the fact" and shall be filed with the township fiscal officer on or before the day of the hearing.

At the hearing, the public may present the board of trustees with testimony and evidence in relation to the proposed lighting improvements. The statute also requires that the board take a "field trip" of sorts to the proposed lighting district, view the area(s) to be included within the district, and determine the necessity of said lighting improvements and whether they will result in a general or specific benefit to the community. If the board decides in favor of installing lights within the proposed area, the board must:

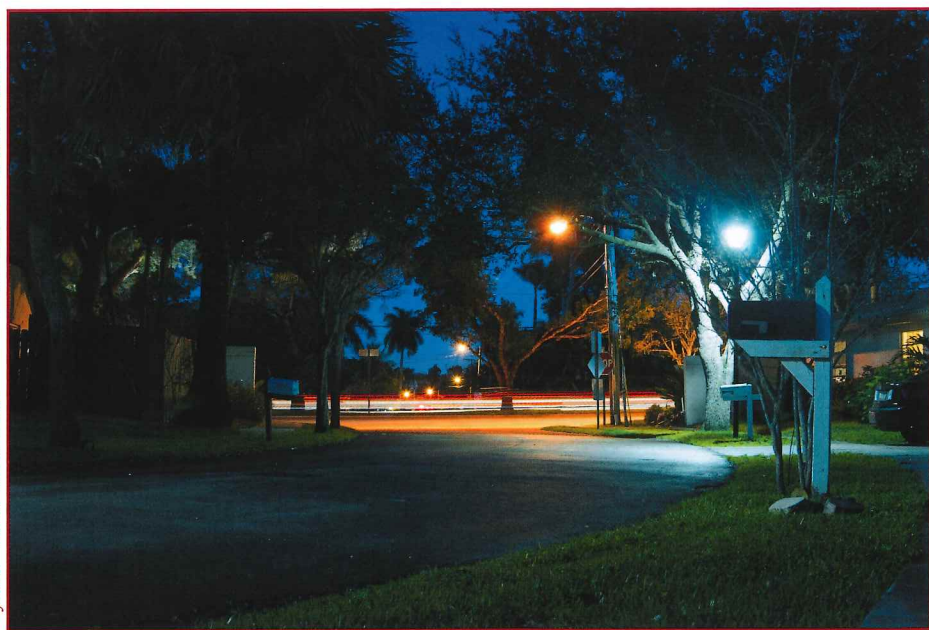
1. Specify the number of lights it deems necessary to properly light the area;
2. Determine the candle power for said lights;
3. Determine where the lights will be located; and
4. Determine what kinds of supports the lights will need.

In the event that the anticipated total cost exceeds \$50,000, the board must move forward with the competitive bidding process.

In general, the costs and expenses associated with the lighting district will be paid by the levying of a special assessment against the lots in the district that are benefitted by the lighting. However, the board has some discretion to pay for some or all of the cost. In the event that the board determines there will be general benefits to the township from the installation of the lighting improvements, the township may pay, from the township general fund, the portion of costs and/or expenses within the district found to represent the value of the general benefit(s) to the township.

Special assessments will be paid by the property owners in equal, semiannual installments, and paid and collected in the same manner as other taxes. There are a

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couple of different ways that the special assessments may be allocated and levied. Specifically, by (1) a percentage of the tax value of the property assessed, (2) in proportion to the benefits which may result from the lighting, (3) by the foot frontage of the property bounding and abutting the street lighted, or (4) in equal amount against all other lots benefited. The board may pass a resolution providing for the payment of interest on unpaid assessments, which will be treated as a part of the cost of furnishing and maintaining the lights. The interest must be based on the current prime rate.

The board must certify the boundaries of the district to the county auditor, and request that the auditor apportion the valuation for the taxation on any lot within the district. The board shall, via resolution, assess the benefitted lots for the cost of the lighting district to the benefitted lots. After certifying the costs to the auditor, the auditor will annually place upon the tax duplicate the two installments for that year.

The board has the authority to, not more than once each year, increase the number of lights to be maintained under the contract "at not more than the same price per light" as outlined under the contract. If the number of lights is increased, the board shall make such additional assessments as are necessary to pay for the cost of furnishing and maintaining the additional lights. The additional assessments shall be made, certified, and collected in the same manner as an original assessment, but only for the unexpired portion of the contract. Upon collection, the additional assessments shall go into the township treasury and shall be used only for the purpose for which they were levied.

The installation of lighting, as with any change made within a township, can cause a stir. Under the board-driven process, the board has the authority to unilaterally install street lighting within an area of the township. While the adjacent property owners will not incur a direct cost with the installation, the property owners ultimately do not have the right to have a say in whether the lights will be installed. That being said, if residents are interested in pursuing the installation of street lighting, the resident-driven process provides property owners with a mechanism to get the ball rolling in front of the board. ■

about the authors



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