

**Bellaire Village Council
Meeting Minutes
July 1, 2015**

1. **Call to Order:** President Schulz called the meeting to order at 7:00 PM.

2. **Roll Call Attendance:**

Present: President David Schulz, Council Trustees Bryan Hardy, Dan Bennett, Helen Schuckel, David Ciganick & Eldon McPherson.

Absent: Trish Drollinger

Staff Present: Lori Lockett, Clerk, Cathy Odom, Treasurer & Brad Rowe, Chief of Police.

Also Present: None.

3. **Approval of Agenda:** The agenda was approved.

Motion by McPherson, seconded by Schuckel, to approve the agenda with the additions of old business item e, Blocked Alley, new business item g, Saw Grant-Annual Software Maintenance Agreement, item h, PA System and item i, Richardi Park-Yoga. Motion carried by voice vote.

4. **Conflict of Interest:** None presented.

5. **Consent Agenda:** The consent agenda was approved. President Schulz noted the communication items.

Motion by Schuckel, seconded by Bennett, to approve the consent agenda as presented. Motion carried by voice vote.

6. **Public Comment on Agenda Items:** None presented.

7. **Old Business:**

a) **Sidewalk Obstruction Ordinance:** This ordinance would address obstructions to the sidewalks in the downtown district. President Schulz noted that approving this ordinance would also affect the Village trash cans. Clerk Lockett said that Council can exclude public service items. She stated we need 5' of unobstructed walkway so anything out there that doesn't leave the 5' shouldn't be there. She stated this was an ADA regulation and also looked at by MDOT when an outside cafe permit is requested. Zoning currently allows items to be within 3' of the front of their building, but because the sidewalks are public walks, this should be dealt with under the Village code. Absence of something in the Village code and items placed in MDOT's right of way, could be enforced by MDOT. She also noted that if we don't address items on the public sidewalks and they are not in compliance, we could lose the opportunity for possible grants under the universal accessibility requirements. She also noted that the business owners have expressed a deep concern due to their limited opportunity for sales. Trustee Ciganick stated that we don't necessarily need a full 5', but if we used less, would we still be considered compliant? He also noted the community feels alive when these items are being used, but agrees that some type of ordinance needs to be enacted to maintain accessibility, especially for those in wheelchairs. President Schulz noted that some wheelchairs are 3 ½' wide. Sandwich board signs were discussed and President Schulz noted that you cannot even see them due to all the parked cars. Trustee Ciganick noted that displaying them above the ground may be an option. He also pointed out some of the problem areas in the construction of the sidewalks and he knows that the State is responsible for some of those areas. The legal counsel budget was reviewed.

Motion by Schulz, seconded by Bennett, to authorize the Village Clerk to send this draft to legal counsel for review. Motion carried by voice vote.

- b) **ZBA Appointment:** We have advertised for this vacancy and have not received any interested applicants. President Schulz asked Council members to check into possible candidates and if anyone is interested bring completed applications to the next council meeting.
- c) **Parks Grant Certification-Signature:** There are three previous grants we received for park improvements that require certification. The required signs have been installed, pictures and paperwork are complete and are now ready for signature.

Motion by Hardy, seconded by McPherson, to accept the self certification reports and authorize the Village President to sign the them. Motion carried by voice vote.

- d) **Banners:** There are 17 sponsor banners still available. Council discussed how to proceed for the remaining 17. President Schulz thought to call those that have already purchased one to see if they are interested in a second one. Trustee Hardy stated that we should place another ad for anyone who may have not known about them the first time around or to give the summer residents the opportunity to purchase one. Council agreed.
- e) **Blocked Alley:** Last month Council discussed a complaint filed by a resident about a blocked alley that runs from Aspen Ln. to Richardi St. They have a gate that is blocked by material from another resident and they cannot access their property through the gate. Chief Rowe updated Council on the status of the complaint. It is an unused alley and not maintained by the Village. He presented a drawing of the area which shows the alley coming within 5' of the current owner's front door and extends 40' to the south. This makes their entire driveway in the alley. They have stored things, placed a sandbox and stacked rocks along the Village's south line which has not allowed the neighbors to access their property. In 2006, a permit was issued for a shed and it sits in the alley on a cement slab. The residents who complained just want access to their property, which means moving the rocks and the sandbox. The rocks have been moved but not the sandbox so they still do not have access to their property. There are several things stored in the alley, which includes a deer blind, pallets, compost pile and decorating material. These items do not encroach the other property. This becomes a council issue as it is not a nuisance or zoning issue. President Schulz state this is a platted alley, and the shed permit shouldn't have been issued because it is located in the alley. Vacating the alley was discussed. The process for vacating a street is extensive and the property is then divided up among those that are affected by its boundaries. It may also cause higher assessment thus increasing taxes for the property owners. Chief Rowe said if a street vacation is done, then the shed would not be located on its owners property. Trustee Ciganick stated that ultimately, it's village property whether maintained any longer or not, and we should have the right to tell them to remove their things from the property. He said we don't have to challenge them on the shed, but the other things should be moved back onto their own property. If something is not done now, then this could create other problems with other village owned property.

Motion by Schulz, seconded by Bennett, to send a letter to Mr. & Mrs. Becmer referencing an attached land use zoning permit application that is completed and approved citing proposed use, the only item mentioned is an out building storage, everything else not compliant with the permit application needs to be removed within 30 days. Motion carried by voice vote.

Chief Rowe said he will check with the prosecutor about possible legal liability if we have to move the property.

8. New Business:

- a. **Sewer Repair Invoice-609 W. Pine:** This resident had frozen lines that needed repair. The DPW tried to help out by locating the line. Excavation was done on the road only to find that

the line was not located in that area. The resident was billed for the excavation and due to the line not being there, didn't want to pay for it. The invoice was fixed and we were billed for our share of the excavation. The resident came back in, said the insurance company issued a check for the repairs, minus the deductible, and found on the invoice that she was charged for removal of black top for excavation done in the incorrect location. She would like to be reimbursed for that \$120. Staff is looking for Council direction on whether to pay her back or not, and if so, do we pay her or the insurance company? Trustee Ciganick asked if it is our concern whether someone has insurance or not and if we decide to pay the \$120, shouldn't we pay her and let her work it out with her insurance company. President Schulz suggested that a release or waiver of liability be drawn up for future situations like this. It was noted that although we normally do not help in these situations, we could offer our help, but the waiver would have to be signed first. It was also noted that our insurance company may tell us we are not liable for things like this. Chief Rowe stated that he could use one for opening locked vehicles.

Motion by Bennett, seconded by Schulz, upon proof of a payment for \$120 to Marshall Construction, Randy Morris shall be reimbursed \$120. Motion carried by voice vote.

Motion by Schulz, seconded by Bennett, to have the Village Clerk contact legal counsel to generate a general waiver of liability for use by our DPW & Public Safety departments. Motion carried by voice vote.

- b. **Resolution #13 of 2015, Plow Truck:** President Schulz questioned the amount in the resolution citing that the cost of the truck should be more than the \$80,105.00 that is listed. Treasurer Odom informed the Council that due to the chassis being built by a different company than the one installing all of the equipment that is going on the truck, two separate Act 99 resolutions will have to be done. One for the chassis and one for the equipment. This resolution is only for the chassis.

Motion by McPherson, seconded by Schulz, to approve Resolution #13 of 2015, for the purchase of the new plow vehicle. Motion carried by roll call vote. Ayes: McPherson, Bennett, Ciganick, Hardy, Schuckel & Schulz. Nays: None Absent: Drollinger.

- c. **Hickory Lane Survey:** At the last meeting there was discussion of the part of Hickory Lane between the Wesleyan Church and the L & R True Value building. Clerk Lockett was asked to check into a possible survey that may be available. There was none available. Pursuant to the discussion that council had, President Schulz asked the Clerk to contact a survey company and the Village had one conducted. The Village has on file, dated 1946, a transfer of ownership of that lot from a private individual to the Village with the express purpose identified in that transfer that it become part of the alleyway. The survey was completed and the stakes are about 18" from the L & R building, making the picnic tables that are in that location on Village property. There historically has been motorcycle parking in that location that could still be permitted if it is within the 18". McPherson stated that it would seem like the property owner would be concerned with liability. Trustee Ciganick suggested that a letter be sent to the property owners to have the picnic tables removed due to the liability they create for the Village and because it is Village property. Trustee Bennett stated that our responsibility is clear, if we are aware of this and do nothing and something happens, we will be held liable.

Motion by Schulz, seconded by Bennett, to have the Village Clerk draft a letter to be signed by the Village President, stating the fact that the Village has conducted a survey, Council has the results of the survey, as it presents a direct present liability to the Village, we request the picnic tables be immediately removed upon receipt of this letter and that the letter be sent certified. Motion carried by voice vote.

- d. **DDA Appointments:** We have a verbal resignation from Mr. Kovacs. President Schulz asked the Clerk to contact him to put something in writing. President Schulz noted that he received

a message from Mrs. Budas that he copied and sent to the Village, stating her resignation from the DDA. President Schulz suggested that an ad be placed in the Antrim Review seeking candidates that may be interested in serving on the DDA. He also asked the Council members to see if they know of anyone who might be interested. He said he hopes to have potential candidates before the next DDA meeting.

- e. **Food Truck Regulation:** There currently is no regulations for this type of thing. Last week Short's was transitioning from their old kitchen to their new one and asked for the use of a couple parking spots during the transition. They ended up having a vehicle and a tent, and had we known, the tent would not have been allowed. Clerk Luckett said due to this, our attorney suggested we develop a peddler's or transient food truck ordinance. She noted that MDOT had also given him permission to use a couple of parking spaces during his reconstruction project. It was also noted that we have previously been asked about the allowance of these type of trucks.

Motion by Schulz, seconded by Bennett, to authorize and request the Village Clerk to contact neighboring communities for the purpose of identifying village/city codes regarding mobile peddler vendors. Motion carried by voice vote.

- f. **Webcam:** The webcam has expired and it would be too expensive to have it repaired. There are more up to date cameras available. President Schulz noted that we have received several emails or calls asking when it will be fixed. Council suggested obtaining a couple of quotes to put up an all weather camera. Trustee McPherson asked about putting a rotating camera in place, much like the eagle cams that can be seen online. He said the observer has the ability to move it to view different angles. Treasurer Odom said she would have to find out if that is something that is available.
- g. **Saw Grant-Annual Software Maintenance Agreement:** The SAW grant involves review of our storm water and sanitary sewer system. Part of the project is technologically advanced as far as mapping. This will give the DPW the ability to take an IPAD in the field and within about 6" allow them to identify our lines and it will also pull up the condition of what we looking at. The grant covers the purchase of the software, but the annual software maintenance agreement is \$1,500 a year. It will supply updates as available and allow us to call for support if there are any problems with the software. Treasurer Odom believes the first year of support is covered with the original purchase of the software, but will look into it. President Schulz asked to have the actual numbers for the next meeting. He would also like to see if Fleis & Vandenbrink could attend the next meeting and provide a short presentation for the entire council. Odom will call and ask.
- h. **PA System:** Trustee Ciganick would like to look into improving our PA system. President Schulz noted that the DDA is just beginning their process of setting goals and the PA system is located in the DDA district. We may want to have a discussion with them about this. Staff is currently looking at replacing the microphone. Council suggested looking at the entire system not just the microphone. No further action was taken.
- i. **Richardi Park-Yoga:** Don Hoyt from Inspire Health informed the Council they are setting up some yoga classes and their sign up numbers are higher than expected and they cannot accommodate the volume in house. They would like permission to use Richardi Park for their classes. They would hold classes between the river and the pavilion and if it rains, it would be nice to use the pavilion. He listed other communities that allow yoga in their parks. President Schulz explained that the current Village practice is that if an event is for profit, it is not allowed in the public park. He noted that they are taxpayers, the County allows craft show vendors on their property and Council should consider reviewing this again. Treasurer Odom asked if we would have to have those that participate sign waivers and reminded Council that the pavilion is rented. President Schulz said those things would still apply. Chief Rowe suggested this could be allowed on a case by case basis. No further action was taken.

10. Discussion Items: None presented.

10. Department/Committee Reports

- a) **Committee Reports:** None presented.
- b) **Clerk/Planner:** A written report was presented.
- c) **Treasurer/Deputy Clerk:** A budget report was presented. Tax bills have been sent out and the bond payment has been paid off, saving the Village approximately \$41,000 by paying it off early.
- d) **Department of Public Works:** A written report was presented.
- e) **Police Department:** A written report was presented.

11. Closing Member/Public Comment:

- **Dan Bennett:** Trustee Bennett asked how new legislation that doesn't allow us to set minimum wage and sick days affects us. President Schulz noted that it is called the Death Star bill and it really ties the hands of local governments in terms of things that would be negotiated between employer and employees. He said Council should look into it.

12. Adjourn: Meeting adjourned at 8:26 P.M.

Compiled by Cathy Odom
Minutes are subject to approval.

Approved: _____

Date: _____