

**Bellaire Village Council
Special Meeting Minutes
August 10, 2015**

1. **Call to Order:** President Schulz called the special meeting to order at 8:00 AM.
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.
 - Also Present:** Bryan Graham & Nicole Graham.
3. **Approval of Agenda:** The agenda was approved.

Motion by Schuckel, seconded by McPherson, to approve the agenda as presented. Motion carried by voice vote.
4. **Conflict of Interest:** None presented.
5. **Public Comment on Agenda Items:** None presented.
6. **Old Business:**
 - a) **Hickory Lane Proceedings:** We received a cover letter and an Order for Removal of Encroachment from Street from the attorney. President Schulz confirmed that if Mrs. Budas doesn't request a hearing the tables can be removed, but if she does, then we cannot legally remove them without going to court. Mr. Graham stated that this depends on which issue she raises at the hearing. He will reassess this at that point. President Schulz reviewed what was included with the Order, of which was a deed dated back to 1946 when the property was given to the Village with the express purpose that it be used as a street. Exhibit B is the actual lot layout of that piece of property. Exhibit C is the certified letter that was sent to Mrs. Budas pursuant to the USPS requirements, she did not elect to sign for the certified letter. Exhibit D is the proof of service stating when the letter was served to her in person by Chief Rowe. The meeting was directed to the attorney to discuss the process we will follow. He stated we are following the requirements of the statute dealing with encroachments for public highways & streets. He understands that the Village wants this done quickly, but we have to follow due process requirements. The picnic tables are personal property first and you never want the local government taking personal property without some kind of due process. Otherwise we are in violation of the constitution. The Order says we are going to remove them in 30 days, but are advising her that she has a right to ask for a hearing where she can show cause why they shouldn't be removed. We are giving her an opportunity for a hearing. This is what the elementary due process requirements are. If she doesn't ask for a hearing, then we have given her that opportunity, satisfied the constitutional due process requirements, we can then take the tables and store them in a safe place until she wants to pick them up. The role of the Council is to give the President and the Clerk the authority to sign the Order. Once done, another Proof of Service will be done and Chief Rowe will again serve her. Once she is served, the 30 day clock will begin. Discussion about parking motor vehicles in the street occurred, to which the attorney responded that this would be handled with amendments to our current ordinance. President Schulz asked about others placing tables in a public street, to which the attorney responded that if we had an ordinance that stated not to put anything on the public street, a ticket would then have to be given. The ticket would then have a right to a hearing to satisfy due process in the court.

Motion by Schulz, seconded by Bennett, that pursuant to Public Act 368 of the Public Acts of 1925, as amended, being MCL 247.171, et seq, the Order for Removal of Encroachments from Street that is attached to these minutes and incorporated herein by reference be issued by the Village of Bellaire and that the Village President and the Village Clerk be authorized to sign the Order of behalf of the Village. Motion carried by roll call vote. Ayes: Bennett, Ciganick, Hardy, McPherson, Schuckel & Schulz. Nays: None Absent: Drollinger

7. New Business: None presented.

8. Discussion Items:

- **Dan Bennett:** asked about the carpet and mattress by the Wesleyan Church. It was noted the Clerk and Chief will check into it and see if there is a violation.
- **Dave Schulz:** Someone brought to his attention that the handicap spots in the lot west of the Bellaire Bar aren't painted clearly because they cannot be seen very well. It was also noted that maybe a handicap sign could be placed by them. This person said that we are ticketing for it, but the tickets are being contested and because they are not clearly marked, they are winning in court. This will be brought to the DPW and police department attention.

9. Department/Committee Reports

- a) **Committee Reports:** None presented.
- b) **Clerk/Planner:** None presented.
- c) **Treasurer/Deputy Clerk:** None presented.
- d) **Department of Public Works:** None presented.
- e) **Police Department:** A written report was presented.

10. Closing Member/Public Comment: None presented.

11. Adjourn: Meeting adjourned at 8:14 A.M.

Compiled by Cathy Odom
Minutes are subject to approval.

Approved: _____

Date: _____