

VILLAGE OF DUNCAN BOARD MEETING
February 8th, 2021
7:00 PM – Village Hall 906 8th Street, Duncan, NE. 68634

The monthly board meeting of the Village of Duncan Board of Trustees was called to order at 7:01 PM by Chairperson Jeff Oppliger. The Chairperson publicly stated to all in attendance that a current copy of the Nebraska Open Meetings Act was available for review and indicated the location of such copy in the room where the meeting was held in the Village Hall. Board members present were Nick Wagoner, Steve Langton, Jeff Oppliger, Josh Dahlberg and Joe Boruch. Also, in attendance were, Village Staff: Don Reves, Marianna Evans and Michelle Schindel. Visitors present were: Janice Hamilton (Cornerstone Insurance); Jon Mooberry (JEO); Todd Paczosa; Alisha Voight; Betty Kropatsch; Thaine/Peg Saunders; Richard Stachura; Terry Hamling; and Jennifer Osborne. The Pledge of Allegiance was recited by all in attendance. *A motion was made to approve the minutes from the January 11th, 2020 board meeting by Boruch, second—Dahlberg. Vote was as follows: voting aye—Wagoner, Langton, Oppliger, Dahlberg and Boruch. Voting nay—none.* The Chairman carried the motion. Oppliger asked the audience if there were any non-agenda items that needed presented to the board. No one presented any concerns. Oppliger then continued with the scheduled agenda.

Old Business:

Storage Unit Lights Complaint Oppliger began by asking all to be respectful of each other and allow one person to speak at a time. He asked for each speaker to present themselves at the microphone and report their name and address for recording purposes. Oppliger stated that the new storage unit lights complaint was brought up at the last meeting and therefore was added to this agenda for further discussion and decisions. He stated that while the LED lights are efficient and last a long time, they are unfortunately very bright. He went on to say that he sells LED headlights and the biggest complaint he hears is that they get ‘flashed’ a lot on the highway because oncoming vehicles think that their ‘brights’ are on. He stated that there had been a lux/lumen test completed on the brightness of the lights around the storage unit area. The testing was apparently completed through Todd Paczosa and his selected electrician. Reves was invited by Paczosa and present at the time the testing was completed. Oppliger asked if the person who did the testing was present at the meeting. That person did not attend and so won’t be able to speak on behalf of his readings results. Oppliger stated that the board had received a scan of the notebook paper with the written numbers listed on each side of the building that was completed by the electrician. Oppliger stated that none of the board members are certified electricians and would have no way of understanding what these numbers mean. He stated he did not think that the Village should hire a professional just to read the testing completed. He stated that he cannot decipher the drawing and readings on his own. Paczosa stated that he and Reves were there for the readings. Oppliger asked if Paczosa or Reves would like to present a summary of the results to the board and audience. Paczosa presented to the microphone and read from a paper that he obtained, that listed the average lumens/lux levels recommended for rooms in homes etc. He reported several normal lux readings from certain room lighting and then stated that the testing he had completed could not register a reading of light on the south street and were very low readings otherwise. He reported that the light does not even pass the fence around the storage unit building. He went on to explain about a red flashing light that he had noticed outside his bedroom window and that it flashes all night long. He stated he did not come here and complain because ‘life is progress’. He stated that his clinic in town has a very bright light in front of it but the apartment complex right next to it has not complained. He stated that his mom used to be bothered by the street light that was put up in Duncan several years ago and she got used to it and pulled her shade down on her window to keep that light out. He stated, ‘If you don’t want to see the street lights, you shut the shades’. Paczosa stated that directly under one of the storage unit lights, the reading was only 40 lux. Wagoner asked Paczosa what type of luxmeter was used to test. Paczosa did not know the exact brand. Wagoner stated that he had researched the difference between lumen and lux light testing and had found from several different websites, that it has been proven that LED lights are not accurately measurable. He stated they will not accurately read LED lights because LED’s have a high blue light wavelength. He stated that the research showed that the meters do not read LED lights accurately. Paczosa responded stating that the meter did pick up readings for them. Wagoner insisted that it may pick it up but it is not accurate. Paczosa stated that his property is zoned Industrial. Wagoner and Paczosa argued back and forth on the validity of the testing and legality of the complaint. Oppliger interrupted and reminded the room that we have a complaint from several neighbors and we can argue the science etc. but it really boils down to that we have got something that people feel is annoying and we need a solution. He asked Paczosa who suggested using those lights. Paczosa stated his contractor did and that they are common for commercial buildings. He stated they are designed to shine out and down and are half covered so they do not shine up. Oppliger stated that he has lights on his work building and they are looking to retrofit LED’s. He stated that fortunately his work is right along an interstate and there are no neighborhoods nearby. Oppliger explained that anytime you have residential property next to industrial and there is something new built, there are going to be issues with light, traffic, noise etc. Paczosa stated that the South lightbulbs are 400 Watts, and the North and East sides are 250 Watts. He stated there are 8 lights total. He stated the 400 Watt bulb was used to cover a bigger area. He stated Bierman are who built it and they have several buildings in Columbus with the same lights. Paczosa stated he needed the lights to be bright to secure the business so that it can be insured properly. Oppliger stated that he would like to dismiss the light study that was done due to no one being certified to report on it and he would like to stick to the facts and what we know in this situation. Paczosa asked how it was respectful toward him that it’s his problem to see a red blinking light that the board approved. Evans stated that ‘that’ is not the reason why we are here though. Oppliger stated he would like to keep to the facts and not to make this personal. He stated that he knows this was not done intentionally to upset anyone and asked Paczosa if his contractor had given him any other options. Paczosa stated that he told his contractor what he wanted and it was put on. Boruch stated that he read somewhere that the electrician recommended not using those lights. Paczosa stated that he

asked his electrician about this and was told it was never said to anyone. Paczosa stated that he hates cowards and he wished people would have just come and talked to him instead of complaining to the Village. He continued about the benefits for the Village from the tax dollars received from his storage business and the progress of the town. Paczosa stated that if you want progress in a town, these are things you have to deal with. He asked the board if they '...want progress in town or if they want to just drive by and...'. Boruch stated that they appreciate the tax dollars however, we have a whole room full of people that have a problem with this issue and that is what we are here to talk about. Evans asked Paczosa if there were any kind of shield that could be made to fit, that would shield the light away from the neighbors. Paczosa stated those are down shining lights and in order to do anything more they would have to change the whole fixture. Paczosa stated that there is nothing else he can do and that they don't make anything like that. Evans stated that this is a problem and we are here to come up with a solution that is agreed by everyone involved in order to solve the issue. Paczosa stated that if he does anything to the brightness of the lights, he believes his insurance will go up as security will go down. Paczosa made his opinion known to the board that he believes that the people are not used to seeing light in that area and they don't like the change, but should just get used to it. He stated that people will be hit hard when the street lights start getting replaced with LED lights. He explained that he is upset that his electrician's testing doesn't matter to the board. He stated he wasted his time going out to do the measurements and that Reves can contest that if you go out and stand out there, the light stays within the boundaries. Oppliger stated that we could call 5 different electricians and get 5 different opinions. Oppliger stated we need to be practical and come up with a solution. Oppliger asked Paczosa if he would be willing to look into other options like trenching or a lower wattage light. Paczosa stated that he would not want to do that and asked who would be paying for it. He stated that those lights are over \$200 apiece. Paczosa spoke about his mom and how she didn't want neighbors so they bought property around theirs and he had done the same thing but he still now has that red flashing light to look at. But, he said, that is progress. Oppliger stated that everyone's concerns are important and no one's concerns are more important than another. He stated he wanted to be fair to everyone in this situation. Paczosa repeated that his clinic in Columbus has a much brighter light. Oppliger stated that he didn't think a lower wattage bulb would be the solution. Paczosa stated that it wouldn't and that people will still see 'something' there and it will still bother them because they are not used to something being there and it is not dark there anymore like it used to be. Oppliger thanked Paczosa for speaking and asked if there were anyone who wanted to speak for the residents in the room. Saunders presented to the microphone to speak on the issues. He stated that they know Paczosa didn't do this on purpose. Saunders stated that he just wants a solution and believes that something could be custom made with some R&D. Saunders stated that there should be a way to customize a shield/deflector to fit those lights that are the bothersome ones. He stated that we should be able to figure something out so that Paczosa gets all the light he needs for security purposes and that is not bothering the neighbors. Boruch asked if they only shielded the north side would it help. Saunders stated that the lights facing the houses which is on the north side. The south side would not need anything due to no homes being on that side of the storage units. Saunders stated he could probably come up with something and would like to help if Paczosa would allow. Peg Saunders then reminded the room that the church had installed a very bright light at one time. They had several complaints and they created a shield for their light and it helped shield the light away from homes. Oppliger stated that there just needs to be willingness from the property owner with this issue. He asked Paczosa if he was willing to help with this by finding someone to come up with a shield or shade for the north side lights. Paczosa responded by saying 'they don't make things like that...it's the whole idea that it is different for them to look at.'. Hamling also brought up about the new home that is going in right across the street from these lights. He stated that once someone gets moved into the home, they will surely be bothered by the lights. He also stated that he can see large shadows on his garage from that light. Paczosa stated that the 'kwik-shop' people should complain because those lights are bright. Paczosa gives examples of lights that possibly could bother people or himself and how he has never complained and that people just need to get used to the light in that area. Oppliger stated that residents have the right to report their concerns to the Village. And that if any resident has an issue, they have the right to bring it to the board. He stated that he is hoping for some human nature to understand both sides for a solution. However, both sides have got to be willing to help. Oppliger stated that it could be asked of the residents to just live with it but he is asking if there is some sort of simple solution that Paczosa would be willing to entertain with regards to the lights on the north side. Oppliger explained that if the answer is a 'no', then from a Village standpoint there is a lot of gray area. He briefly went over the nuisance ordinance and stated that it '...interferes with...life...or depreciates value of property.'. He stated that this is about how you want to treat your neighbor. Oppliger stated that he would like to get the commitment from Paczosa to at least look into and try a shield solution. Paczosa responded that he would call his contractor but that he can 'guarantee it will never be enough'. He stated that he is only willing to do that because of one neighbor that approached him because he does not like cowards and that the problem with human nature is that we have no communication skills. Boruch also brought up about possibly using motion lights instead of 'steady on' lights. Oppliger stated that we will revisit this subject next month to see where it is at. He stated that Paczosa is willing to speak with his contractor and he would hope that when presented with an issue, the contractor would come up with options for a solution. He stated that this can't be the first time that people have had a problem with lights. The board agreed that they would revisit the topic next month after Paczosa contacts his contractor with some solutions. Oppliger stated he will postpone this agenda item to next month if one month is enough time for Paczosa to work with his contractor. Paczosa stated he would contact them and see. Oppliger thanked Paczosa for his willingness to start the dialogue and find a solution. Saunders stated to Paczosa that he would be willing to help him figure something out. Oppliger stated that could be discussed after the meeting so we can continue with the board meeting. Saunders asked if all the complainants needed to come back again. Oppliger stated that the board understands their concerns and unless they have a new concern or a solution, they did not need to return if they did not want to. However, he explained that Paczosa and/or his contractor may be back to present a possible solution next month and the residents may

want to hear about it. Oppliger stated that he would like to only embrace solutions instead of problems, going forward, with this issue.

Lagoon Land For Sale Oppliger reminded the board that at the last meeting they discussed inquiring about purchasing one of the corners of the land to move our tree/grass pile. However, Reves stated that the pivot can reach all corners of the field but the current farmer does not set it to hit the corners. If a new owner wanted to, they could set the pivot to hit the corners and so may not be a good place to move our tree/grass pile. Evans explained that she did not contact the Village attorney in regards to purchasing the corners for that reason, and due to other possibilities for moving the tree/grass pile that are being explored. She explained to the board that the current situation for the land sale is that if there is an offer, or an auction offer, the estate attorney would have to bring that offer to the board and allow them to decide whether or not to offer the same. Reves reported that the other pieces of land have been sold and there may not be many offers on the lagoon land due to the Village's first right of refusal. Evans reported that she has not heard anything from the estate attorney or anyone on this subject since the initial introduction meeting with the estate attorney. The board discussed briefly and decided they would like to think about it further before giving up the first right of refusal. Oppliger stated that it would be a topic at our next board meeting.

New Business:

Proposed Street Project Design Mooberry (JEO) presented to the microphone and assured that board members had received the copies of the project design. He publicly apologized for the misunderstanding he had with the project limits and was happy it was all taken care of. All board members had copies to look at. He reported that the plans are already put out for bidding. He went over the listed plan opinion of cost and design. He stated the estimated total projected cost is \$462k and \$77k for professional services and 9k overhead. Boruch asked about the 5% contingency cost listed. Mooberry stated that it is industry standard and that their projected costs are intended to be within 5% of the actual cost but that there are changes in projects like this that may adjust the total cost during the project. He stated that it doesn't happen a lot but they put the contingency cost in each group of subtotals in order to cover any potential minor changes. Boruch asked about a few sidewalk ramps on 8th street and on 11th street. He reported that there were no receiving ramps and wondered if it were necessary to make a ramp in those directions. Mooberry stated that was up to the board's discretion. He stated the estimated cost for each ramp would typically be \$1200-\$2000 each. It was asked if it were a possibility if there would ever be receiving ramps or sidewalks in those areas. The board agreed that there would most likely not be. The board decided to remove the 2 ramps to save on unnecessary costs. Mooberry stated that the bidding process will be due by March 2, 2021 and at the March 8, 2021 meeting, the board will accept the approved bid. They have listed in the bid, a substantial completion date of August 15th and the final completion of Sept. 15, 2021. This was to avoid any conflict with the 150th celebration. He stated the Platte County interlocal agreement states a completion date of Oct. 31, 2021. Boruch stated that when he went to the county meeting, they had agreed to work with us to avoid any conflict with the 150th celebration. Mooberry warned that if they keep the Aug. 15th date, they may not get the same contractor as the county. The board agreed to give some flexibility to that date and list as either completed by Aug. 15 or started after Sept. 1st, 2021. Oppliger reiterated the changes of not doing the few ramps discussed as well as the flexible completion date. *A motion to approve the 2021 Street Project Design with the revisions agreed upon as discussed was made by Dahlberg, second—Boruch. Vote was as follows: voting aye—Wagoner, Langton, Oppliger, Dahlberg and Boruch. Voting nay—none.* The Chairman carried the motion. Boruch stated that, at the county meeting he attended, they reported they would overlay up to right of way of the railroad tracks. However, they stated that once they start, they will approach Union Pacific at that time about how far they can go.

Village Insurance Renewals Janice Hamilton (Cornerstone Insurance) presented to the microphone and handed each board member a copy of the insurance renewal rates. She reported that the cost is a little more than last year due to adding on the new park and the subrogation clause with the church for their liability on the ballfield. That was needed per the church's contract for leasing the ballfield. She reported that she will need street addresses for each of the pump houses. Hamilton discussed the terrorism clause that is usually waived by the board. She stated that in order for the Village to benefit from that policy, there would have to be a declaration of a terroristic act by the federal government first. Then, the damage would have to be at least \$100 billion for the insurance to pay out. The board discussed and agreed that it should be waived again. Hamilton reported that for the last 3 years, the Village has benefited from the work comp dividends. She stated that due to having no claims on work comp, the Village gets a percentage of the premium back. The board looked over the entire insurance policy and prices and *a motion was made to approve the insurance renewal as presented by Hamilton, by Dahlberg, second—Wagoner. Vote was as follows: voting aye—Wagoner, Langton, Oppliger, Dahlberg and Boruch. Voting nay—none.* The Chairman carried the motion.

Village Blight Study Findings Kropatsch stated that the P&Z committee briefly went over the study findings. She stated that they understood that it was completed to help with fixing up the downtown area before the 150th celebration. She reported that 40% blight is a large percentage of the town. Evans explained that she had spoken to Jeff Ray (JEO-blight study engineer). She reported that he explained grant funding would not be received before our 150th celebration this year. She stated that Ray reported that in order for the Village to qualify and receive any grant funding in the future for development of the town, they would have to go through the process of declaring the town blighted by going through the P&Z committee first. Then, the P&Z committee would have a public hearing to declare and recommend to the board to declare. Then, the board would have to hold a public hearing to declare the town blighted. She stated that Ray also said there are further costs in using the Village attorney for all of these processes as well as hiring a development architectural engineer to make a plan for the development of the town. After all of that, the Village could then apply for and receive grant funding for future development projects. Kropatsch reported that the P&Z committee has agreed they would like to move forward with this process. Oppliger and Kropatsch discuss when to schedule the public hearings. Evans was asked to call

Ray for his advice and to keep in contact with Kropatsch with Ray's directions. The board agreed to move forward with this process.

Proposed Resolution R21-248 Snow Removal & Maintenance Oppliger stated that there has been issues with residents not moving vehicles off the streets when it snows. Making Reves' snowplowing more difficult. It is with this, that this resolution was created. Evans explained that as of now, there is nothing in the ordinances about snowplowing and vehicles on the streets. Evans stated that she had gotten advice from other clerks and created this resolution from that. She stated that the resolution would be a temporary solution however, she was advised to have an ordinance drawn up by our attorney in order to solidify the law. This resolution is simple and just states that everyone must move any vehicle/trailer off the street within 24 hours of the end of a snowfall of 3 inches or more. If they refuse, they will be open to being fined per ordinance 10.99. *Dahlberg read the entire resolution aloud and made a motion to approve R21-248, second—Wagoner. Vote was as follows: voting aye—Wagoner, Langton, Oppliger, Dahlberg and Boruch. Voting nay—none.* The Chairman carried the motion.

NRWA (Nebraska Rural Water Association) Proposed Donation Oppliger reported the last few years of donation amounts from the village. Reves reported on the benefits of being a member of the NRWA. They are there to help small municipalities (less than 10,000 population) with education, surveys, projects, emergencies etc. They will TV sewer lines on residential properties for free if we request. They are very reliable and easy to get ahold of. The NRWA are who holds the water conference every year that Reves attends and receives his continuing education hours. Reves reported they are trying to start checking sewer infiltration by using smoke. That will tell if there are any problems in the sewer lines anywhere. They performed our water rate study a few years ago and are prepared to do another one soon to assess that we are charging the correct amount to customers for water and sewer services. So that the Village is not losing money and yet not overcharging customers for their services. Reves reported that in his first few years on this job, he used them a lot. They were always there for his questions and concerns and to help him with any problems. They can provide equipment that most villages do not have, if and when it may ever be needed. Reves stated that if there is a DHHS delinquency on the yearly report, the NRWA will be there to help get us back into compliance. Oppliger stated he would like to continue giving donations to the NRWA. Evans reported that they only charge \$125/yr for their membership fees. Reves reported that they save us up to thousands of dollars in return. He stated that a typical line TV would cost approximately \$500 to perform if hired out, and they do it for free. Kropatsch stated that when she was in office, the NRWA were her salvation with the lagoon issues the Village had at that time. The board discussed and a *motion to approve a \$500 donation to the NRWA this year was made by Dahlberg, second—Boruch. Vote was as follows: voting aye—Wagoner, Langton, Oppliger, Dahlberg and Boruch. Voting nay—none.* The Chairman carried the motion.

Proposed New Duncan Rural Fireman Applicant Dahlberg handed Oppliger the Duncan Rural Fire Dept. fireman application form. Oppliger read the name as Leo Oliva for the applicant. Dahlberg stated that Oliva lives in town and would like to be on the fire dept. team. Dahlberg stated that the Dept. has 4-5 openings for fireman and has it posted on their Facebook page. *A motion to approve Leo Oliva to become a volunteer fireman on the Duncan Rural Fire Dept. was made by Boruch, second—Dahlberg. Vote was as follows: voting aye—Wagoner, Langton, Oppliger, Dahlberg and Boruch. Voting nay—none.* The Chairman carried the motion.

Proposed Snow Blower Bids Oppliger reported that Wagoner's connection is out of snow blowers right now. Wagoner reported that Lakeview Small Engine had a few in the price range of \$1199-1350. Reves reported that he checked ACE Hardware and found some for \$799-1199 with Toro brand. Reves reported that the current snow blower is a 'single stage' however, it does not do well with blowing heavy snow. Wagoner reported that the \$1199 Toro at Lakeview Small Engine had told him that they could get it in by Wednesday of this week, if ordered. The board discussed and a *motion to approve the snow blower amount at \$1200 was made by Boruch, second—Dahlberg. Vote was as follows: voting aye—Wagoner, Langton, Oppliger, Dahlberg and Boruch. Voting nay—none.* The Chairman carried the motion.

Annual Salary Review Oppliger reported the current salaries of all employees. Reves: \$21.21/hr.; Evans: \$14.42/hr.; Schindel: \$15.00/hr.; Saunders: \$100/mo. + 15.96/hr. Kropatsch asked to address the board. She presented to the microphone and stated that Reves's P&Z Administrator position only pays \$20/month. She requested that the board take a look at that, as she believes it is not near enough for what he does as the P&Z Administrator. Evans stated that she actually has that as an agenda item for the next monthly meeting to report her research findings on that salary. Kropatsch urged the board again to look at that issue. Oppliger reported that the COLA approved this year was set at 1.3%. He suggested to stay with the COLA for employees plus issue performance raises with evaluations as they are completed. Boruch stated that he did not think the 1.3% was enough for the employees. He stated that the board do not know what it would be like to try and replace any one of them. He stated that they are worth a lot to the Village. After some brief discussion, a *motion was made to approve a 3% raise for all employees to start April 23, 2021 as per past years, by Wagoner, second—Boruch. Vote was as follows: voting aye—Wagoner, Langton, Oppliger, Dahlberg and Boruch. Voting nay—none.* The Chairman carried the motion.

Proposed Treasurer Raise Evans reminded the board that Schindel was to have a 90-day evaluation with increase in pay. She is now approaching 120 days and has not had her evaluation or raise yet. Evans suggested that when her evaluation and raise are completed, that the board approve her raise to be retroactive from her 90-day date. Oppliger stated that the treasurer raise will be the same as the current approved 3% and that she will also receive a performance raise upon her evaluation.

Departmental Reports:

Utilities Reves reported that the land around Uncle Shaky's has been sold recently. There is talk of the owner possibly developing it. Reves stated that the other 77-acre piece of land was sold and there is also talk of development with possibly 30-40 houses. Reves stated that if these areas are developed, the blight study and process may help us with grant funding to provide water and sewer lines to the developments. He also reminded the board again about the plan for looping the water lines on the north and south sides

of town. He reported that our water tower is only holding about 2/3 a day worth of water for emergency use. He reminded the board that getting a new water tower should also be something to be thinking about. He stated these are sizeable investments that will need completed at some point. Evans stated that Ray did tell her that the development grant funding could possibly help us to bring water/sewer lines and streets to new housing developments. Reves also stated that if these developments happen, the Village would need to think about annexing those areas.

Parks & Rec. Dahlberg stated that the religious education group are wanting to do a 'neighborhood library' project and need a place to put the box. Evans had previously emailed a picture to board members of what it looked like. Dahlberg described it as looking similar to a mailbox. It would be a place where kids could exchange books with the rest of the community. He suggested the new park would be a great place to install it. He reported that the Village wouldn't need to buy anything or do anything due to the religious education group providing and completing the project. He stated he thought it would be a good place for the community and would be visible on the security camera. This will be added as an agenda item for next month's meeting or the board to decide.

150 Committee Oppliger stated that the committee continues to meet and discuss grant funding and events for the celebration. He stated he would like 10k people to attend. He reported there will be bands and a carnival. He stated that they are working on getting grants for advertising on billboards, magazines and radio. He stated they have received some sponsorship donations and will be sending out a sponsorship form to all residents of Duncan. He reported that they will be meeting again on February 15 at 7:30 in the Duncan Fire Hall. Agenda will be posted.

Planning & Zoning no further report than aforementioned Blight Study discussion.

Clerk Report Evans reported that her Clerk Conference this year was recently changed to being virtual. She stated that she was disappointed that she would not get to go to the conference again this year, but would be attending the virtual conference as modified.

Treasurer Report & Updates—Approval of Bills Schindel handed each board member a monthly recap of the bills. The \$100 bill to the Platte County Election Commissioner was questioned. Evans reported that she wondered about it as well when she received it. Schindel stated that she looked at our history of payments and it was something we have paid in the past. *A motion to approve the bills as recorded for January was made by: Boruch, second—Wagoner. Vote was as follows: voting aye—Wagoner, Langton, Oppliger, Dahlberg and Boruch. Voting nay—none.* The Chairman carried the motion.

All meetings are open to the public and a current agenda for said meetings will be posted and available for public inspection at the office of the Village Clerk, Post Office, AJ's C-Store and the Village website on the Thursday prior to the meeting. The next monthly meeting will be on **Monday, March 8, 2021 at 7:00 PM.** Being no other business, adjournment was made by Oppliger at 9:23 p.m.

Minutes recorded and submitted by: Marianna Evans (Clerk)