

VILLAGE OF DUNCAN BOARD MEETING/PUBLIC HEARING

January 14th, 2019

7:00 PM – VILLAGE HALL

906 Eighth Street – Duncan NE

The regular meeting of the Village of Duncan Board of Trustees was called to order at 7:01 PM by Chairperson Dustin Schaefer. 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 being held. Schaefer assured that everyone present could hear the proceedings. Board members present were Schaefer, Jeff Oppliger, Paige Young, Josh Dahlberg and Joe Boruch. Also, in attendance, were Village Staff: Don Reves, Mari Evans and Stephanie Laska. Visitors included: Benny Jareske. Schaefer publicly asked if there was anything that visitors/staff/board members wanted to talk about that is not on the agenda. Oppliger explained that when Obrist was out to fix the water main that was damaged during the abatement demolition, that they had damaged his camper that sits outside his house. He stated that they were unloading an excavator and hit his camper. Obrist has stated to Oppliger and Reves that they would reimburse Oppliger for the damage they caused to his camper. No other comments or questions were made. Schaefer proceeded with the meeting. *A motion to approve the December 10, 2018 Board Meeting Minutes was made by Dahlberg, second—Boruch. Vote was as follows: voting aye—Oppliger, Schaefer, Dahlberg and Boruch. (Young abstains due to absence last month). Voting nay--none. The Chairman declared the motion carried.*

Unfinished Business:

- A. NDEQ Violation Update** Schaefer stated he had spoken to Bill and Jeff Lehr about the issue with the sewer lines at their properties. Schaefer stated that Bill had stated that he will see us in court and that he felt like NDEQ and the Village are picking on him. He stated to Schaefer that he did have 6 inch pipes and claimed that the Village approved it, as well as two plumbers when he was constructing the properties. Schaefer tried to explain that we are trying to work with him on this so that NDEQ would be satisfied with both of us. Schaefer told him that NDEQ standards are 6 inch however, Duncan ordinances state they need to be 8 inches. Bill Lehr ended up hanging up on Schaefer. Schaefer then stated that after that conversation, he spoke with Reves about getting property stakes located at a cost of \$200-250, in order to be sure we do not disturb any of the Lehr's properties while our repair project gets under way. NDEQ wants to come out while we dig up for the manhole to see what size the line actually is coming into it. If it is not 6 inches, then they will take pics and have their proof that Lehr is in violation. Young asked if we put the manhole down, will we clear our name with NDEQ? Schaefer stated, no, they will not be satisfied until it is all up to standards. Schaefer stated that no one is sure that anyone on the board during the time of the Lehr property construction, that they were aware of the substandard lines going in. At that time, the Village did not have a full time Maintenance/Water employee nor any full time employee that would now be supervising these things. Schaefer wanted to be clear that it is unclear, according to minutes etc, that anyone at the Village knew that what Lehr was doing was incorrect by NDEQ standards. Lehr would have been required to get a permit from NDEQ prior to construction. It is unknown whether the board knew that he did or did not. Schaefer believes that no one allowed him to do it illegally because there is no permit that he needed from the Village to get to hook into our sewer system. Oppliger asked what the plan was to enforce this. Schaefer explained we will have to fix it and then try to recoup the amount from Lehr. The Village attorney is researching our best option in doing that. Ideas would be fines, assess to taxes, add payment to water bills. Schaefer stated he thinks we should just put in our manhole that NDEQ stated is the Village's big issue, and let them deal with Lehr getting the 6 inch standard sewer pipes put in. Evans stated that the attorney had told us prior that since we are continuing to supply water to those properties and billing them, that we are in a sense, okaying their violation. So, if we do not fix the lines at the time we do the manhole, NDEQ may decide to fine us and make us complete the more expensive option of the entire plan. Young stated that if we are digging down and actually will have proof that the lines are substandard, then why can't we shut off their water until they fix it? Oppliger stated that we would need to give prior notice before shutting off their water. Young agreed. Reves pointed out that it is the sewer lines, not the water lines, that are not the correct size. And, he stated, that our attorney and NDEQ had stated that if we shut their sewer off and they end up having damage due to backing up sewage in their homes, that the Village may be liable for the damage. Schaefer stated of the option to tack it onto their water bill, and they refuse to pay that, then we should be able to shut off their water. These are things that our attorney will need research and let us know our best option. *A motion to approve the survey of property lines was made by Oppliger, second---Young. Vote was as follows: voting aye—Oppliger, Young, Schaefer, Dahlberg and Boruch. Voting nay—none. The Chairman declared the motion carried.* Discussion on options for recovery of cost was continued briefly with Oppliger stating that he likes the idea of tacking it onto their water bill. Schaefer stated he would keep in contact with NDEQ about our progress. Reves stated he would call their contact at NDEQ tomorrow to update him and let him know we are not getting any cooperation from Lehrs. Schaefer will contact the attorney on options for enforcement of this with Lehr and how to recover costs.

New Business:

- A. Proposed Goose Fence for Lagoon** Schaefer reminds the board that last month the goose fence was approved with no time/money coming from the Village. Ben Jareske is present to ask the board if we would send a guy or two to also help construct the fence. He stated that the Game and Parks contact stated he would send a guy or two but he would like the Village to help as well. Jareske stated that he has maintained the pivot the entire time on his own without Village help. The pivot maintenance is supposed to be done by the Village according to contract. Schaefer stated there are people who need community service hours. Young stated he could call Scotus for kids that may need hours. Reves stated that we would need to watch out for age etc. Schaefer stated that he thinks the Village, farmer, owner and Game & Parks should all work together on this. It is supposed to happen sometime soon according to Game & Parks comments to Jareske. Boruch

and Oppliger volunteered to help construct the fence with Jareske and Game & Parks. They will discuss at a later date as to when. Jareske thanked the board and discussed who to contact. No further discussion on this subject.

- B. 1 & 6 Year Road Plan Review** Evans stated that Scott Cowels (street superintendent) was unable to attend the meeting tonight as he usually does every year. He reported that he would be here next month when we have our public hearing to approve to plan by resolution. Evans handed Schaefer the 1&6 Year plan that was sent to the Village by Cowles. Schaefer goes over the plan with the rest of the board. The One year plan includes resurfacing streets at 9th street from the church rectory east, to North Blvd. As well as 8th street at 10th Ave to Main Ave. Also, North Blvd will start Main Ave to 280th street. The 6 year plan is for Main Ave at 9th street north on Main Ave up to the city limits north of town. Reves advises that the Village should start planning this at least one year ahead of time as it will take time to get Union Pacific Railroad approval to complete the Main Ave. section near the tracks. Schaefer then brought up about looking into getting a digital speed readout sign added to the west and east ends of Duncan on Highway 30. He stated there are many people who speed through our town. Young then brought up about trying to work with the Railroad about making Duncan a 'quiet zone'. Reves stated that he has previously checked into that due to a previous board asking about it. He stated that he found out it would cost the Village \$600k. Schaefer agreed that they had looked into that previously and that it was not something feasible for the Village. Young asked to check on it again because she doubted other smaller towns are paying that, due to her dad telling her they are popping up all over. Reves stated that it is mostly bigger towns that are doing it. Schaefer stated there may be farm equipment that may drag across the curb that would be needed. Young stated she was told that would not be a problem. Schaefer stated there is equipment that drags across it now. Schaefer stated it never hurts to look into it again though. Oppliger agrees with Young that everyone would want to have a quiet zone here. Schaefer redirected the board discussion back to the 1 & 6 year Road Plan and reminding them that the plan is just a plan and that it can be changed at any time. The board agreed on the plan. *A motion to approve the 1 & 6 Year Road Plan was made by Boruch, second—Dahlberg. Vote was as follows: voting aye—Oppliger, Young, Schaefer, Dahlberg and Boruch. Voting nay—none. The Chairman declared the motion carried.*
- C. Appoint Village Attorney** Young stated that it is silly to switch attorneys now with the legal matters we have him working on right now. The board agreed. *A motion to approve Stan Emerson as the Village attorney was made by Young, second—Oppliger. Vote was as follows: voting aye—Oppliger, Young, Schaefer, Dahlberg and Boruch. Voting nay—none. The Chairman declared the motion carried.*
- D. Appoint Board Committees** Schaefer reminds the board what the current assignments are. The board discussed briefly and decided on the following: Dahlberg/Young—Parks & Rec; Boruch/Oppliger—Water/Sewer; Boruch/Oppliger—Street & Grade; Schaefer/Young—Finance. Solid Waste Coalition: Dahlberg with Boruch alternate. *A motion to approve the board committee appointments was made by Young, second—Oppliger. Vote was as follows: voting aye—Oppliger, Young, Schaefer, Dahlberg and Boruch. Voting nay—none. The Chairman declared the motion carried.*
- E. Appoint Solid Waste Coalition Delegate (R19-228)** Schaefer read the resolution aloud and a *motion to approve R19-228 was made by Young after reading the resolution, second—Oppliger. Vote was as follows: voting aye—Oppliger, Young, Schaefer, Dahlberg and Boruch. Voting nay—none. The Chairman declared the motion carried.*
- F. Appoint Board of Health** Schaefer stated that we just did this recently but will get in on schedule now. *A motion to appoint Schaefer, Young and Boruch was made by Dahlberg, second—Oppliger. Vote was as follows: voting aye—Oppliger, Young, Schaefer, Dahlberg and Boruch. Voting nay—none. The Chairman declared the motion carried.*
- G. EMC Renewal/Rate Review** Schaefer reported that he had met with Janice Hamilton (Countrymen Assoc) and discussed the policy in depth. Everything is insured for replacement cost. He found that the buildings were undervalued, the most being the post office building. The other change was the Village Hall value. The Water treatment building went up as well. Schaefer did note that we could save 95\$ off the premium if we exclude terrorism insurance. Evans stated that the board decided to take that off last year and that we should look into if we have been paying for it. Schaefer agreed that we did tell Janice last year to exclude the terrorism insurance. Schaefer will ask Janice about that. Last year's premium was \$13,454 and this year is will go up however it is unknow to exactly what. Schaefer stated that Janice will be here next month and we can ask her about it then as well as approve/vote on the approval. The policy is expired on February 15th and our meeting is on the 11th. The board agreed. Approval discussion will be continued at the next meeting.
- H. Acquirement of Abatement Property (624 5th St)** Schaefer stated that the abatement is complete and the buildings are gone from the property. The work was completed last week. Reves reported that he has had 6-8 people ask him why we didn't tear down the other property there. The board discussed the issue briefly stating that we had dealt with that nuisance in the past and the board approved the work the owner did. It was mentioned that someone is trying to get contact info for the owner's son in order to discuss the condition of the house and the owner's condition as well. Reves reported that the other day the owner came out of the house and he was covered with cat feces and that every time he goes in to get his mail the stench stays in the post office for a long time. Oppliger believes that the initiative will have to come from the Village. Evans reported that she had experience working in the Emergency Room with elderly being removed from their homes of such nature when their health is at risk. Boruch stated that someone should just talk with the son and tell him how things are with his father. The home has no running water and several cats living in and out of the home. Schaefer redirected the board conversation back to the agenda. Stated we have a lot of money invested into this (624 5th St) property. He stated that a water main was broken during the excavation and Obrist had to come out and repair the line. Reves explained what they had to do to fix it. Stated the water was shut off for a couple of hours. He stated that the excavator had gotten stuck because the water table was so low. Reves stated that he saw the whole ground shaking due to the level of water. Schaefer has issue with the Village being responsible for the bill since it was the contractor who caused the line to break. Reves stated that it was not his fault and was due to the type of line it was and the low water table. Schaefer

stated that at this point, it is Village responsibility. Schaefer stated that the garage on the property was given away by the contractor as well. Schaefer stated his opinion about that since it caused less garbage for the contractor having to dump and less work on the demolition, after the Village awarded him a bid based on the work he stated he would do. Reves stated that once you award a bid, what the contractor does with the everything in it or on the property, is up to contractor. Boruch stated that once you award a bid, that is what you pay, no matter what may change. Schaefer and Young are frustrated with the fact that he bid on what he would do with everything which was take to the dump and he didn't do that. Young stated that she believes the Village could possibly be liable for that property he gave away since it was supposed to be taken to the dump due to being deemed unlivable. Evans stated her opinion that the Village may not be liable since they awarded a bid to the contractor who stated in the bid he would clean up the property by getting rid of everything. Once he won the bid, he is responsible for the objects he removes. If he chooses to give anything away, that is his responsibility, not the Village's. Schaefer stated that we are getting a lot of money invested into this. It has been brought up about possibly acquiring the property. Evans read the letter that the attorney sent to the village after she questioned him on our options to acquire the property or recover the costs. Emerson stated that we could do a lien or a civil suit. Evans reported that according to our ordinance, we cannot put the lien on until they have been billed and have 2 months to pay. Emerson also reminded that the property has back taxes that need paid that would be paid prior to the Village. He stated if we bought the property, we would have to pay off the taxes before getting a clear title. Young stated that Renovation Innovation is going to foreclose on it in February and it will go up for sale in March. Schaefer stated that if we wait two months for the bill to be paid and the house gets foreclosed and sold, the lien would not be on there yet. Can we assess after the fact? That will be something to ask Emerson. Young stated that we could buy it when it goes up for sale. Evans stated that the idea Reves was talking about was the if we could get Grafton/Fernau to sell it to us for \$1 (quick claim deed), then we would only have to pay the taxes off and then we could sell it to recover some of our costs. Schaefer agreed. He stated that we may be into this for \$15-20k. Young stated we could sell it for \$10k. Reves stated that he spoke to the ex-chairman of Genoa who stated he had a property like this once where he acquired it and donated the land to a developer to build a house within 18 months so that it would start accruing property taxes with which the Village would benefit. Schaefer stated that anything we can do to speed the process up and get a house built, will benefit the Village. Evans had messaged Fernau and advised her to have Charles or herself call Reves to discuss the property. Grafton changed his phone number since last contacted. Reves reported that they did not call. Evans stated that the deed is in Grafton/Fernau name and that our attorney did a title search and it is legally the couple who own the property. There was never anyone from Schrant family who had come back to change the deed after they (Grafton/Fernau) skipped on the rent to own contract. Evans reported that she has not had anyone from the Schrant estate or anyone for that matter, put any claim on the property. Evans stated that Michael Schrant is the one making decisions on the estate and he has received every notice and has not responded in anyway. Schaefer stated that he thinks if we talk with Grafton/Fernau and get them to sign the deed to us and we discuss the back taxes with Renovation Innovation, then we could acquire it. Young stated that you cannot pay the taxes due to Renovation Innovation owning it. Schaefer stated that Young should call them to see if they are willing to let us buy the taxes from them without the penalties/interest. Young stated the tax sale is March 7th. They have not paid the last half taxes of 2017 or any of 2018 yet. Young stated they have to file with the court to foreclose and wait 60 days for someone to pay the taxes and interest. If they are not paid, it will go to a sheriff sale. Evans wondered if the foreclosure and sale will even happen if the company did not even pay the 2017 or 2018 taxes. Young stated she will call them and see if they will work with us if we acquire the property, on the taxes and interest owed to them. Schaefer will attempt to contact Grafton/Fernau as well. Schaefer stated he will call Emerson to discuss doing the quick claim deed with Grafton/Fernau and be sure that it will be legal and make the Village the owner. Oppliger asked since the attorney letter stated something about notifying the owners, do we need to send them notice that we are talking about claiming the property? Evans stated that the letter was talking about prior to the abatement and demolition of the property and that was for 'due process' and to give any legal owner the right to be heard about their views/concerns on tearing the property down. She stated that the notices are no longer needed to them on what we are only discussing and not actively planning or doing for sure. And, that we no longer need to notify them of how we attempt to recover the Village's costs in the matter. Young and Schaefer stated their opinion was to notify all again of what the Village is thinking about or talking about doing in the matter to avoid law suits. Evans stated that all the notices were for their due process to prevent us from tearing the property down and nothing else. Evans and Oppliger stated to ask this question to the Village attorney and find out whether or not all possible claimants need to be notified on what the Village is discussing with regards to the property. All agreed. No further discussion on this matter.

- I. **Trail Cam for Burn Pile** Schaefer reported that it has been brought up in the past to put a camera out by the burn pile due to items being dumped that are not allowed. Evans reported that we have gotten warned by NDEQ, who made an unannounced visit, to get rid of stuff that is being dumped illegally. She stated that people are dumping stuff that will get the Village fined from NDEQ. Evans thought a trail cam would be a cheap concept to help deter this. Oppliger thought a sign would help (security camera sign). Dahlberg stated that you can buy a cheap, security camera look-alike with a light on it that would be a deterrent. Evans reported there are signs that tells residents what is not to be dumped there. She reported that Reves cannot be over there 24/7 to monitor and he is finding nails, treated lumber and appliances etc. The Village is liable for anything that is dumped there. If we can find out who is doing it, we can talk to them, fine them or whatever we need in order to prevent it. Schaefer stated that it may be hard to clarify a face or license plate number from the trail cam as they are not very clear. The board discussed briefly and decided to get the fake camera and put a sign up stating that it is monitored by security camera. Hopefully that will be enough of a deterrent.
- J. **LONM (League of Nebraska Municipalities) Mid Winter Conference Attendance** Evans handed out the agenda and applications for the conference. She stated that every year at her clerk conference, it is referred

that any new board member and anyone who can, should attend this conference. It is very informative and deals with a lot of legalities within municipalities. No one from the board is willing/able to go this year. Evans stated to keep it in mind for next year. She again stated that the attorneys at her conference every year, state that any new board member should go to this. And, that some towns require their new board members to attend this conference. She explained that you can go to only one day as well. Schaefer stated for everyone to review it and approve any board member or employee to go. *A motion to approve any Village employee or board member to attend this conference was made by Young, second—Oppliger. Vote was as follows: voting aye—Oppliger, Young, Schaefer, Dahlberg and Boruch. Voting nay—none. The Chairman declared the motion carried.*

- K. Review Lagoon Contract** Schaefer reviewed the contract briefly and reported that the contract end is Dec. 31 of 2029. It is transferable so if the land is sold, it will be transferred for us to be able to continue to use. The pivot was purchased and is supposed to be maintained by the Village at no cost to the land owner. He reviewed the discharge process. It stated it can be renewed one time at the end of the contract. Evans reported that the contract showed it is an easement. Schaefer stated that it is an expiring easement. Schaefer stated to keep this in mind because if we lose the opportunity to discharge there we could be in a tough spot. Reves stated we could pump into the ditch again but would have to go through permitting process. Schaefer just wanted to make the board aware of the contract and its expiration. No further discussion from the board on this subject.

Departmental Reports:

- A. Utilities/Maintenance/Streets** Reves reported that he has now gotten all the new meter attachments installed which puts us one step closer to the radio read. It is on schedule to start next fiscal year. No questions or concerns.
- B. Parks & Rec** No report
- C. Planning & Zoning** No report.
- D. Clerk Report** Evans reported the Holiday Lighting Contest winners as: 1st Place Deb Olson, 2nd Place Theresa Wenske, 3rd place Rich Stachura. No further report.
- E. Treasurer Report** Laska handed out a monthly recap to each board member. She briefly went over the larger bills. None of which were unexpected. After the board reviewed all the bills, *A motion to approve the bills was made by Young, second—Oppliger. Vote was as follows: voting aye-Oppliger, Young, Schaefer, Dahlberg and Boruch. Voting nay--none. The Chairman declared the motion carried.*

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 regular scheduled meeting will be held on **Monday, February, 11, 2019 at 7:00 PM.** Being no other business, adjournment was made by Schaefer at 9:15p.m.

Minutes recorded and submitted by: Mari Evans (Clerk)