

VILLAGE OF DUNCAN ZOOM BOARD MEETING/PUBLIC HEARING

June 8th, 2020

7:00 PM – ZOOM MEETING #769-787-6167

The monthly board meeting of the Village of Duncan Board of Trustees was called to order at 7:00 PM by Chairperson Jeff Oppliger per videoconference on Zoom. 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 meetings are usually held in the Village Hall. Board members present were Paige Young, Jeff Oppliger, Josh Dahlberg and Joe Boruch and Kayla Humlicek. Also, in attendance, were Village Staff: Marianna Evans, Don Reves and Stephanie Laska. Visitors present were: Betty Kropatsch, Nick Larsen and Paul Reinhardt (US Cellular). Everyone was able to hear/see all members, employees and visitors present. The Pledge of Allegiance was recited with camera pointed at the Village Hall flag per Paige Young. *A motion was made to approve the minutes from the May 11th, 2020 board meeting by Dahlberg second—Young. Vote was as follows: voting aye—Young, Oppliger, Dahlberg and Boruch. Voting nay—none. Humlicek abstained due to her absence from that meeting.* The Chairman carried the motion. No visitor discussion or concerns were brought up. Boruch reported that he spoke with someone at BD Construction and was told that they would repay the Village for the cost of the crack sealants to the new area of street they replaced for us on the hill. No further discussion.

New Business:

Request for Unauthorized Use of Well Oppliger explained that Ron Stock had requested to be put on this agenda and Oppliger asked if there was a representative at the meeting for Stock. No representative was noted as Stock was not present. Oppliger stated that Stock has been on several of our agendas for this same subject and has not showed or sent a representative in his place or cancelled ahead of the meeting. Due to the multiple times he has been a no show, we will no longer add this subject to a future agenda. Kropatsch reported that you can readdress the subject after it has been 6 months, she believes. Oppliger noted her report and added that Stock would have to request to be on the agenda again as well.

Proposed Conditional Use Permit (US Cellular Tower Construction) 7:06pm—Oppliger declared the Public Hearing Open. Oppliger requested proof of the public posting. Reves reported that he had the affidavit in his hands and it was published properly. Oppliger asked Reves if the application for the conditional use permit was correct and fulfilled. Reves stated it was complete. Oppliger then asked who the presenter would be and Reves responded that he would represent for the P&Z Committee since the president was not present. Reves reported that the P&Z Committee approved a Conditional Use Permit on 5-4-20, for US Cellular to erect a cellular tower on the north side of town, just outside city limits but within the 1- mile ETJ of Duncan. The P&Z Committee is recommending to the Village Board to approve the Conditional Use Permit to US Cellular for the erection of a cellular tower as stated. Reves introduced Paul Reinhardt of US Cellular and asked the board if there were any questions for Reinhardt in regards to the permit for the tower construction. No discussion or questions were voiced. *A motion to approve the Conditional Use Permit for US Cellular to erect a cellular tower as recommended by P&Z was made by: Young, second—Humlicek. Vote was as follows: voting aye—Humlicek, Young, Oppliger, Dahlberg and Boruch. Voting nay—none. The Chairman carried the motion. A motion to close the public hearing at 7:10pm was made by: Young, second—Dahlberg. Vote was as follows: voting aye—Humlicek, Young, Oppliger, Dahlberg and Boruch. Voting nay—none. The Chairman carried the motion.*

Proposed Use of Ballfield During COVID-19 Oppliger reported that this has turned into a lot of extra work for the board and he publicly thanked Young for all the work she had done to prepare for this. Oppliger asked Larsen to explain his plan for his team this season to the board. Larsen stated that he appreciated Young's hard work as well and explained that due to the restrictions on the season due to COVID-19, they would not be doing league play this year. He stated that they would most likely practice once a week and on Saturdays, have some pick up games with the kids he has. He stated that if the restrictions lifted in July, they may go to other towns for games. He stated that they would be playing 'sandlot' baseball mostly so that the kids can at least play. Humlicek asked how many kids would be on the field at one time. Larsen answered that it would never be more than the governor's 25 limit and that he would only have around 20, most likely. Larsen reported that according to the governor's restrictions, that only immediate family would be able to watch the kids play in games but he would do whatever the Village wanted him to do for restrictions. Young explained that the restrictions keep people from sitting in the stands. They have to sit along the fence line and use 6-foot social distancing. She stated that there would be signs added to the field to cover all the rules for spectators to follow. Kropatsch asked if there would be waivers signed by the players and parents due to the COVID19. Young stated that yes, each child would have a waiver signed by a parent and anyone who will be there, including coaches, helpers, parents, would have to sign one as well. Larsen added that he would have an insurance liability waiver as well. Oppliger stated that he has documents prepared, should the board choose to move forward with use of the field. However, he wants the board to know that it would be putting the Village at risk for liability during this COVID-19 pandemic should they decide to allow use of the field. He stated that he would hate to deprive children of playing baseball this year though. We need to be sure we cover ourselves from liability and he reported that he thinks it has been covered. He stated we have some attorney fees right now with the preparation of these documents however, we have gained info that will help us in the future seasons as well. He stated that it has been very beneficial to the Village to involve our attorney. Young stated that she has a waiver from our attorney that covered this team using our field with the rules we wanted to incorporate as well. She stated that she had called several other neighboring towns (Silver Creek, Genoa, Shelby, Osceola) and they are all allowing youth teams and it sounded like Duncan is on board with what other towns are doing. Kropatsch verified that the team that will be using our field is not actually a 'Duncan team'. Young reported that there are Duncan kids on these teams. Kropatsch reiterated to

clarify that it is not a ‘Duncan’ team. She stated, ‘I’m just clarifying that it’s not a Duncan League.’. It is not a town ‘league’. Larsen then asked if there were any more Duncan kids that would want to play for his teams. Oppliger stated that if there are no concerns about the use of the field then they could move onto the next several agenda items. *A motion to approve the use of the ballfield during COVID-19 was made by: Young, second—Dahlberg. Vote was as follows: voting aye—Humlicek, Young, Oppliger, Dahlberg and Boruch. Voting nay—none. The Chairman carried the motion.*

Proposed Resolution R20-239—Use of Municipal Property and/or Facilities for Sports or Other Recreational Activities Young stated that this document was given to all board members prior to the meeting and that the Village attorney received it from the League of Municipalities and he only revised it to fit the Village of Duncan. She reported that she gave him a copy of our lease with the Church so that he was aware that we do not own the property. Kropatsch apologized for interjecting again and stated she was not against the kids playing however, she had researched past minutes and could not find anywhere that the board had previously discussed any resolution of this sort. Young reported that it wouldn’t be in the minutes as the Village just received these documents a few weeks ago. She stated the League provided the documents to use for this. Oppliger stated that there was a teleconference to discuss with the League of Municipalities on the forms. He stated we wouldn’t have had time to approve the documents and let the kids play if we hadn’t added it to this agenda. Kropatsch clarified that ‘someone, unilaterally, decided to do this resolution within the board but without public discussion?’. Oppliger stated that the discussion is now. Kropatsch stated that it hadn’t been discussed with the entire board prior to the meeting. She asked if Larsen had even seen the document. Oppliger stated that Larsen was on the teleconference call with the League. Larsen confirmed he was on a portion of the teleconference call. Kropatsch stated that you can’t vote on something if everyone involved has not seen the documents. Young stated that he hasn’t seen our document because she didn’t feel it was necessary to share a document that wasn’t approved by the board yet. She also stated that he could look at it before signing anything. She stated our attorney recommended passing it anyway due to the possibility of the yearly softball tournament.

Evans pointed out that Kropatsch’s point is that this was approved prior to the meeting and prior to Larsen’s approval. If he decided not to sign it, then it could be a total waste of money getting the documents ready through our attorney. Kropatsch stated that she believes that any interested party should have seen the documentation prior to approval. Young stated that Larsen will have a different document that will be specific to him. Oppliger interjected and asked everyone to pause for a moment. He stated we have a prepared copy of resolution R20-239. He asked if Larsen had read it. Larsen answered ‘No, I had not been given any document to look at.’. Oppliger explained that if we adopt it, we will take on the responsibility for the state regulations and requiring all to abide by this resolution. Oppliger requested that Evans read the resolution aloud. Evans read resolution R20-239 in its entirety aloud to the board. Kropatsch stated that she feels like it is an expensive cost for only using for one year. She asked that once COVID is over, will it be used year after year? Oppliger stated that he assumed that this would only pertain to this season only or as state restrictions are applied per the state governor. Kropatsch asked if a new one would be drawn up next year. Oppliger stated he did not believe we would need one for every year and that the yearly contract we will have agreed on with teams, would cover any yearly specifics. He stated that this resolution is something that is required this year in order for kids to play this season. Dahlberg directed Kropatsch to, ‘...go tell the kids they can’t play baseball this year then...’. Evans stated that Kropatsch is just pointing out that all of the attorney fees and this work has been approved outside of a public board meeting. Kropatsch stated that she believed it could have been a lot simpler. Young stated that \$350 in attorney fees was nothing compared to what we could have been liable for. She stated that she feels comfortable with using our attorney and that is why he is on retainer. She stated that she had also contacted 4 other towns that are doing the exact same thing. Oppliger interjected and asked everyone to stop conversation on this subject now and that he would like personal opinions to stay out of it. Oppliger asked for a motion and *A motion was made to approve Resolution R20-239 Use of Municipal Property and/or Facilities for Sports or Other Recreational Activities was made by Young, second—Dahlberg. Vote was as follows: voting aye—Humlicek, Young, Oppliger, Dahlberg and Boruch. Voting nay—none. The Chairman carried the motion. A motion was made to waive the 2nd and 3rd readings of R20-239 was made by Dahlberg, second—Boruch. Vote was as follows: voting aye—Humlicek, Young, Oppliger, Dahlberg and Boruch. Voting nay—none. The Chairman carried the motion.*

Proposed COVID-19 License and Management Agreement for Use of Municipal Property for Sports or Other Recreational Activities Young reported that this document was also created by the League of Municipalities and that she had the Village attorney revise it to our specific situation with the property being leased by the Village from the church. She stated that she also sent the attorney a copy of her ‘ballpark rules’ that were previously approved by the board and he incorporated those into the agreement as well. She stated that Larsen has not seen this agreement prior to this meeting but she has spoken to him about it. Young stated that she had also received a receipt and copy of Larsen’s insurance liability document as well. She reported that she would suggest using our attorney every year for these agreements. She stated that Larsen could read the agreement tomorrow, if approved and then make his decision on signing it then. Young stated the board will need to decide on a term limit of the agreement. She suggested 3 months and asked Larsen if that would cover his season. He stated that it would cover the season, however, he and others are at the field doing maintenance throughout the year as agreed on previously. He suggested 12 months and stated that he has fertilized the grass and other maintenance throughout the year. Evans brought up about the softball team that likes to hold their yearly tourney at the ballpark and that it is usually in August or September. Young stated that this agreement would be just for Larsen’s teams. Evans clarified that every team will have their own agreement to sign. Young replied ‘yes’. Larsen suggested making the term limit 12 months and then just redo the agreement every year. Larsen asked if there are going to be other teams playing up there, will they also be responsible for maintenance. Oppliger stated that if the Village is approached by another team, they will have to share in the responsibilities and participate in

maintenance. Larsen stated that he has a lot of his personal equipment there such as 4-wheeler etc. that he would not want others to use. He stated that they have put a lot of time and money into the ball park such as approximately 100 yards of dirt and that he is putting a new roof on the concession stand. Oppliger reminded the board that we do not own the property and that it is leased through the church. He stated that all changes are to be approved by the church as well. Humlicek asked if the agreement was only in place until the DHM's are all expired. Young responded 'yes'. Humlicek was concerned the agreement would be 'too restrictive' if DHM's are lifted and 'grandmas still can't come to games'. Young stated that the agreement follows the current governor's DHM's and will continue to follow the current DHM's. If the DHM's change, the agreement follows that. Evans suggested making the term 12 months as Larsen suggested. She stated that if you are going to redo the agreement every year, then just make it for 12 month period. She reminded the board that Larsen and helpers will be on the field more than just for the ball season. So, in order to cover all liability of that, the term should be 12 months. She stated that if they are on the field doing work and get hurt, the Village could potentially be liable if the agreement is not in effect anymore. Young stated that she would put the term from April 1, 2020 to April 1, 2021. Larsen and the board agreed. Evans pointed out the second area in the agreement that needed a decision made. There is a blank for the amount of fee the Village will charge for use of the field. Oppliger stated that we had gotten the fee based on talking to other ball teams and what they are charged. Young reported that she recently called around to other similar size towns and asked what they charge. She stated that they all said they did not charge a fee for use of their fields. She reminded the board that we do make a donation to the church and that the league using the field has donated time and money into the field as well. Boruch stated that the Parish Council was more concerned with the small donation they received the first year and if we do not have concessions this year, the donation may be small again. Young reiterated that she called 4 other towns and none of them charge a fee for youth ball. The only town that she found charged anything was Silver Creek. They said they charge a \$500 fee for adult softball tournaments. Humlicek suggested forgoing the fee this year and discussing it again next year. Oppliger agreed. Dahlberg stated to waive a fee this year because it is not even an organized league this year. *A motion to approve the Proposed COVID-19 License and Management Agreement for Use of Municipal Property for Sports or Other Recreational Activities was made by Dahlberg, second—Humlicek. Vote was as follows: voting aye—Humlicek, Young, Oppliger, Dahlberg and Boruch. Voting nay—none. The Chairman carried the motion.*

Proposed COVID-19 Participants Agreement/Waiver for Sports or Other Recreational Activities Young had the Village attorney approve the document that was provided by the League of Municipalities for each participant and any other person helping on the fields to sign as waiving liability of the Village. She stated that we will have a file for all waivers in the Clerk's office. Evans questioned Young on who would be responsible for these waivers and making sure that everyone involved has signed one. As well as when she could expect them in her office. Young stated that she will personally make sure that they are all signed and get them all to the office by Monday. Evans reported that when she listened on the League's teleconference, they suggested clerks send other leagues that they will play, the waivers so that the other league will not have to search out our players and parents and have them sign new waivers. Evans asked Larsen to let her know if they end up playing another town and she could email the signed waivers to them prior to the game. He stated that would be great. Larsen stated he was fine with the waivers and would get them signed and planned to have practice on Wednesday. *A motion to approve the Proposed COVID-19 Participatns Agreement/Waiver for Sports or Other Recreational Activities was made by Young, second—Dahlberg. Vote was as follows: voting aye—Humlicek, Young, Oppliger, Dahlberg and Boruch. Voting nay—none. The Chairman carried the motion.* Young added that she would have the signs suggested by the League printed and laminated and will post them up at the field tomorrow. She will post on concessions, bathrooms etc. She stated that it was suggested, by the attorney, to post at our other parks as well. She stated she would post only the COVID Warning signs at the other parks since people are assuming risk. Oppliger took a moment to recognize and thank Young again for all of her hard work with this issue. Larsen stated his appreciation for the Village working with him and he offered to share our legal fees from COVID documents or a donation to the church. Young suggested that a donation to the church would be best. Oppliger stated that we could discuss that matter later. He recognized that Larsen had donated a lot of his time and money to our ball field and he is happy that the field is being used and taken care of.

Budget Needs List/Board Goals Oppliger stated that Evans reminded the board last month that the goals were coming up for this meeting. Evans stated that each member should have at least 3 goals to announce and they would discuss them and come up with a top 5 to reach before June of next year. Boruch stated he didn't really have anything and that he wanted the park to get finished and the roads repaved. Young stated that she didn't have anything either. She stated she has done so much work already on the park. So, her top goal is to finish the park. And to start on the second phase of the park improvements discussed at an earlier meeting. She stated that she drove through a town one day and saw a yard sign of 'yard of the month'. She thought that would be a good idea for Duncan that might encourage residents to improve their lawns. She stated that we could have a \$25 gift card to Wilke's or 5th Seasons for the winner. Oppliger agreed that was a good idea and suggested we try to get Wilke's or 5th Season to possibly donate to the award. Oppliger stated that his main goal is to be prepared for the 150th Celebration next year. He also would like to improve the appearance of the downtown area. He would like the park to be completed by the celebration. He stated he would like to attract tourism to Duncan by highlighting Lincoln Highway. He stated Reves has a tree project already for that. Oppliger stated he had sent a letter to Washington DC to help make Lincoln Highway a National Scenic Byway. He would like there to be some downtown renovations and reported that there are grants for this. He would also like to contract a grant writer for Duncan that will apply for lots of different grants for us. He suggested paying them on a commission basis on the grant amount. Reves stated that he is currently getting bids on the cost of repainting the Village and Post Office and adding new stucco to the side of our building. Young stated that it would be nice to have a 'Welcome

to Duncan' sign upon entering our town. Dahlberg stated his goals are to be ready for the 150th Celebration. He stated that Oppliger and he are on the committee and he would like to see the other board members sit in on meetings and help make decisions. Young and Evans pointed out that it would be a violation of the Open Meetings Act. Dahlberg disagreed stating that it is for a party. Evans stated that she had just read that any committees made from the Village have to follow the Open Meetings Act and you cannot have 3 or more board members making decisions outside of a public meeting. Boruch asked if JEO could do our grants. Evans stated they only help with really big grants apparently. Oppliger reported that Ron Stock's wife was a grant writer for St. Edward. Laska reminded the board that we are members of the Northeast Nebraska Economic Development which offer grants and we do not utilize them enough. Evans reminded the board that she had just talked about that at the last meeting. Reves reported that he knows of a grant writer that offered his time to help Duncan and, at that time, Duncan denied his help. Humlicek stated her goals were to finish the park and renovate the downtown area. Evans read back the different goals to the board: Complete Park(s); Repave Streets; Yard of the Month; Downtown Renovation; Tourism (Lincoln Highway); Adopt Grant Writer; Complete 150th Celebrations. She stated that since there were so few goals and a few are pretty easy that we could try to commit to all of them. The board agreed. Evans stated she would add the grant writer and yard of the month to the next meeting agenda for approval. Dahlberg asked the board to brainstorm for ideas on the 150th and let him know their ideas.

Departmental Reports:

- A. Utilities** Reves reported that BD Construction will repay the Village for the cost of the sealant of cracks on the street repair they did earlier this year. He stated the cost was \$902 total by S&S Construction. Reves stated that he also got a bid from Obrist to run a new water line for the park through the alley. He stated the current water line is going to be underneath the new park and he does not want to ever have to dig up the park to get to a leak. He stated that he would run a 4-inch line from the alley to the Post Office and straight west to tie into the 2 inch line at the corner. He stated he would put a curbstop and misters in for the grass. He stated the install total was \$10,350. He reported that this is not on our current budget however, he spoke with Laska and moved some numbers to make it work. He stated that since the radio read finish is way under budget, we could move that amount to this project. And, since the water table is so high, the 5k on the budget for the school project could be moved to this one as well. The school project won't be able to be completed until the water table is low enough and he does not think it will be low enough this budget year. Oppliger suggested getting the new water line installed before the grading of the landscape is started for the park. Oppliger agreed he did not want to ever have to dig up the park to get to a water line. Reves reiterated that the line would run down the alley and not be under the park at all. Oppliger asked the board if they had any questions or concerns with this. The board was in agreement to go ahead with this. All members agreed to get it done as soon as we can.
- B. Parks & Rec** Young stated that Justin Anderson (tree trimmer) in Columbus came out and looked at the trees in the park. He quoted \$600 total to trim all 3 trees. She stated that Andrew told her this was a great price. Reves agreed. She reported this was on the park budget but wanted to let the board know. Young also stated that she asked Andrew about adding insurance for the new playground equipment etc. She then talked to Hamilton (Cornerstone Insurance) and was told it will be an extra \$250 annually to add the new park on to our policy. Young stated that she also found out from Hamilton that the Village does not have any insurance on the ball park. Hamilton is sending the documents to her and she asked Oppliger to sign them to put them into effect as soon as possible. Young asked Evans if she would email them back to Hamilton once signed. Evans responded 'yes'. Reves stated that Hamilton dropped the ball on that because 3-4 years ago she said we were covered when the board talked about the softball tournament that is held here annually. Young stated that she also spoke with No Sweat Fencing and was told that it would be better to use steel fencing rather than aluminum and it is also cheaper. This fencing would be installed on the property line between the ballfield and the homes that are there. This fence was previously approved by the board at a prior meeting. She stated that installed, the total quote was \$2800 and they stated they would work with us if needed. Reves stated that was a good deal that includes install. All board members were in agreement to have the professional install the fencing. Young stated that demolition day for the park is scheduled for June 20th. BD's is donating their equipment and Dustin Young is donating his time. She stated that the old equipment will be stored at the water treatment facility until it is ready to be placed at the ball field. She stated that they have a lot of volunteers to help with demo and there will be food and drinks provided. Dahlberg will be putting an orange construction fence up around the park for safety. Young reported that the new park community build is set to take place on July 25th. She stated the new equipment will be delivered prior to that date and will be stored behind the Frontier building, within their fenced area. She stated she would add the new park info on the Village Facebook page. Dahlberg stated he would purchase 'Keep Out' signs and post them until the new park is installed. Oppliger suggested putting a bulletin board of some kind to post notices about the park. He would like the public to know what's going on. Young stated that Andrew had mentioned having a 'coming soon' sign. She stated that Andrew is getting her a list of everything we need. She reported she felt comfortable with everything at this time. Reves asked Young if she could get the posters laminated. She reported she could and that Andrew is getting her bigger prints and then she will use the UPS Store to laminate. She reported that she will have BD Construction recognized with a sign of some sort for their time, effort and equipment.
- C. Planning & Zoning** No report.

- D. Clerk Report** Evans reported that she should have radio read ready to go within the next few months. She had the equipment ordered but hasn't received confirmation on the order yet. She reported the new quote is well below the budgeted amount. The new quote is approximately \$7800. She stated we will have to buy a notebook or iPad as well.
- E. Treasurer Report & Updates—Approval of Bills** Laska reported on the monthly bills. She did not report any abnormal bills this month. Boruch asked for balances on our loans. Laska stated that she would get that information and have it ready at the next meeting. *A motion to approve the bills was made by Young, second—Boruch. Vote was as follows: voting aye—Humlicek, Young, Oppliger, Dahlberg and Boruch. Voting nay—none. The Chairman carried the motion.* Laska also reminded the board that the budget is approaching and she asked the board if they would like Jill (Countryman-accountant) to come to a meeting to go over the budget or if her and one other board member should meet privately with Jill and report back to the board at the next meeting. The board decided it was ok for Laska and a board member to meet with her privately and report to the rest of the board at the meeting. She stated that she needs the budget needs list. 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, July 10^h, 2020 at 7:00 PM.** Being no other business, adjournment was made by Oppliger at 8:47 p.m.

Minutes recorded and submitted by: Marianna Evans (Clerk)