**VILLAGE OF DUNCAN BOARD MEETING/PUBLIC HEARING**

**August 13th, 2018**

**7:00 PM – VILLAGE HALL**

**906 Eighth Street – Duncan NE**

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The regular meeting of the Village of Duncan Board of Trustees was called to order at 7**:**00 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, Chris Staroscik, Paige Young, Josh Dahlberg and Joe Boruch. Also, in attendance, were Village Staff: Don Reves , Mari Evans and Stephanie Laska. Visitors included: Michelle/Jeff Oppliger, Deb Hollman, Dave and Kimberly Merrill, Betty Kropatsch and Gary Schlesinger*.* Schaefer publicly asked if there was anything that visitors/staff/board members wanted to talk about that is not on the agenda. Kropatsch presented to the guest microphone and stated her name. She wanted to relay information that she had learned from the P&Z Annual Conference that she attended last March. She reported that she had already relayed the information to the P&Z Committee at their last meeting. She explained about ‘Exparte’ and the Open Meetings Act. She reported that a board member or committee member (which both follow the Open Meetings Act) should not engage in discussion with members of the community about any specific agenda item that may be voted on or discussed at an open meeting. She stated that if that does happen, you are to abstain from voting and/or discussion of the subject at the meeting. She also stated that it was suggested that the abstaining member should go as far as leaving the room in order not to produce body language that may sway any one member. Kropatsch later stated that if a board/committee member does discuss something with anyone else, and it is on the agenda, that board/committee member would need to disclose the discussion at the meeting. So that everyone is aware of the discussion that had already taken place. Schaefer thanked Kropatsch for that information. Boruch spoke about a non-agenda item as well. He brought to the board’s attention that Kathy Slusarski is displeased with her driveway after the crushed asphalt was placed on it along with 5th street. Boruch stated that Slusarski was under the impression that the Village was going to dig a ditch for her on the west side. Schaefer explained that this will need to be an agenda item in order to discuss it any further or to vote on anything. Schaefer requested this item be added to next month’s meeting agenda. Evans responded that she would be sure to add that to next month’s agenda. Schaefer asked if there were any other non-agenda issues from the room. Schaefer received no other requests to speak so he continued on with the agenda.

**Unfinished Business:**

1. **Schaefer/Village Contract (803 6th Street Abatement Work—Amend Contract)** Schaefer publicly stated that he will formally abstain from any discussion or voting on this subject due to his conflict of interest. Schaefer left his seat at the table and proceeded to stand outside the building. Dahlberg explained that there is a couple trying to buy the property that Schaefer had done the clean up work on for our last abatement. The couple were asking the Village to excuse all or part of the lien that is held on the property. Dahlberg stated that he thinks we should pay Schaefer what is owed to him for his work. Dahlberg stated this has dragged on for 6 months already and he believed that Schaefer should be able to help represent the Village in the decision of whether or not to forgive the lien instead of abstaining from any discussion or voting due to his conflict of interest. Evans reported what the contract with Cherry Hill stated…that the Village would pay that invoice if and when the Village was paid for the lien. Young asked if it is legal to change the contract. Evans stated that she believed any contract can be amended and as long as the entire board voted to change it, then it should be fine. The board members discussed the matter shortly and unanimously decided to pay Cherry Hill their contracted amount prior to receiving the lien pay off. *A motion to amend the contract with Cherry Hill and pay the invoice now was made by Young, second—Staroscik.* *Vote was as follows: voting aye-Staroscik, Young, Dahlberg and Boruch. Voting nay--none. Dahlberg declared the motion carried.*
2. **803 6th Street (Request to Forgive Lien)** Schaefer reported that neither of the Humliceks are here tonight. The total owed on the lien to the Village is $4,917.11. Schaefer explained that the couple would like to buy the property, as it abuts their property. However, they would like the Village to forgive the whole lien or at least half the lien, in order for it to be worth their money. Evans reported that Humliceks were also waiting to hear back from other lien holders as well. Schaefer suggested putting this decision on hold until the Humliceks bring it up again and request to be on the agenda. Then, we can hear an update on their other lien holders. The board all agreed. The Village will wait until it hears from the Humliceks and then add to the following agenda.
3. **624 5th Street Abatement**  Evans read the most recent letter from the Village attorney (Stan Emerson). He advised the board to hold a special meeting in order to appoint a Board of Health for the Village. He reported that our ordinances state we are to appoint a Board of Health. He suggested that after doing that, we have a Board of Health meeting to declare the property a nuisance and provide as much proof as possible in the meeting. Then, resend the abatement notices to everyone on our list plus the attorney that was involved with the rent to own contract. Evans reported that the process will be drawn out longer now however, Emerson advised that this would be the most legal way and would avoid any problems with any appeals on the abatement. Young reminded the board that by Feb/Mar. if the taxes are not paid, that the property would be foreclosed on. Schaefer reported that in order to have the appointment, we have to hold a meeting with an agenda posted 24 hours prior. The board discussed and decided to hold a special meeting on Thursday, August 16th at 9:30am in the Village. Evans will post an agenda 24 hours prior.
4. **NDEQ (Nebraska Department of Environmental Quality)-Notice of Violation Update** Evans updated the board on the Lehr subdivision violation news from Emerson. Emerson had spoken to the attorney at NDEQ as well as the attorney general’s office which is handling the violation to Bill Lehr. He is waiting for a return call from the attorney general’s office to find out where the case is at with Mr. Lehr. He has offered to set up a meeting with NDEQ and/or attorney general and the Village in order to mitigate this violation. Emerson did let NDEQ know that the Village will cooperate in anyway we can to get this subdivision up to code however, the Village does not feel it is fair to have to foot the bill for the entire project since it is all on private property. The board discussed the issue briefly and Evans will stay in contact with Emerson and keep the board updated on any changes.

**New Business:**

1. **NCG (Nebraska Cooperative Government)** **Delegate Approval** Schaefer stated that Harry Prososki is the usual delegate that is appointed every year for this position. He had called Evans at the Village and requested to be named the delegate for the Village of Duncan this year. *A motion to appoint Harry Prososki as the Village of Duncan NCG delegate was made by Dahlberg, second—Young. Vote was as follows: voting aye-Staroscik, Young, Schaefer, Dahlberg and Boruch. Voting nay--none. The Chairperson declared the motion carried.*
2. **P&Z Ordinance (Define/clarify where to measure for setbacks)** Schaefer reported that he was approached by a neighbor wanting to build a lien-to off their house. Schaefer stated he was unsure where to measure from for the setbacks. He stated that the ordinance stated to measure from the street however, Reves reported that it means from the property line. This was verified with the Village engineer as well. Reves stated that there is a right of way from the street to the property line. Schaefer stated that if that is the case, it would serve us well to actually state in the book from the ‘property line’ and not from the ‘street’. Kropatsch advised Schaefer that this is a P&Z issue and not a Board issue and wondered why it was being discussed at the board meeting. Schaefer responded that he wanted to discuss it as he felt that it needed to be changed in the book so that it is clear where the setbacks are to be measured from. He stated that he would come to a P&Z meeting a request that change. He stated he would like to be on the same page with everyone. He doesn’t agree with the fact that there are so many things in the P&Z book that are left to interpretation.  *A motion was made to request to be on the P&Z agenda to change the book to say ‘property line’ instead of ‘street’ for measuring setbacks made by Young, second—Boruch. Vote was as follows: voting aye-Staroscik, Young, Schaefer, Dahlberg and Boruch. Voting nay--none. The Chairperson declared the motion carried.*
3. **Ball Diamond Usage Request** Reves explained that Nick Larsen has a 12U and 8U recreational baseball teams from Columbus. He asked Reves if his team would be able to use our ball diamond for practices and/or games if needed. Reves suggested letting them use the field in exchange for keeping the ball diamond up, including the fence and bleachers and weeds etc. The board discussed for a short time and all agreed that it would be a good idea to allow use of the ball diamond. However, the Village needs to get in touch with the Church Council to get a contract in writing that we can have on file for usage of that property, since it is owned by the church. No contract can be found in the Village files. The contract would clean up the agreement between the Village and the Church Council and clarify responsibility. Boruch stated that he would go to the next council meeting. Reves suggested getting something done by the first of the year as baseball practices will start shortly after winter.

Schlesinger presented to the microphone and wanted to discuss the ball tourney that was recently held at the ball diamond. He stated that the Village should be getting some kind of fee from those people since they are using the lights etc, that cost the Village money. He stated that they also leave some garbage around that he had picked up. He suggested the Village pay Big Red Sanitation to pick up the garbage there afterwards and collect from the organization afterwards. He stated that the ball tournament had nothing to do with the community. Reves stated that there isn’t even anyone from Duncan that plays in it. Young stated that AJ’s and My Place do not receive much for service during that weekend either. Everyone brings their own beer and only bought ice from AJ’s. Schaefer stated that we could revisit this next year and possibly charge a fee for the tournament to take place on our ball field.

1. **Proposed Ordinance 18-198 (Request to Amend P&Z Ordinance Article 3, Section 3.10 6c, 6e** Schaefer produced the Proof of Public Hearing Notice Affidavit from the Columbus Telegram. Reves stated that all permits are good. He stated that P&Z Committee recommends to amend with a 4-1 vote. Schaefer reported that the Village Board has the authority to act on this issue. He reported that the Merrill’s are here. Schaefer opened the public hearing at 7:58pm. Schaefer read the title of Ordinance 18-197 and Article 3 Section 3.10 6c. changing the maximum height of an accessory building from 10 feet to 16 feet. The board discussed the matter and decided that 14 feet maximum would be tall enough to do what is intended for the building purpose. It was discussed that this amendment would not only allow the Merrill’s to build their pole barn, but also anyone else in town with exception of those without enough room on their property. The Merrill’s spoke to say that they want to be able to house their jeep, boat and camper. They stated that this would look better than having them all sitting out on the driveway or road. Kropatsch stated that if there is going to be a change to the recommendation, it will need to come back to the P&Z Committee and start over with a public hearing again and then go back to the board to change. No motion was made and the matter for the height restriction will be taken back to P&Z. *A motion to close the public hearing at 8:25pm was made by Boruch, second—Dahlberg.* *Vote was as follows: voting aye-Staroscik, Young, Schaefer, Dahlberg and Boruch. Voting nay--none. The Chairperson declared the motion carried.*

Schaefer opened the next public hearing at 8:26pm. He read the Article 3 section 3.10 6e. The recommendation from P&Z Committee was to change the width of an accessory building from 36 feet to 58 feet. The board and public discussed. It was made known that this change will allow anyone in town with enough size on their lot, to build these large buildings. Reves advised the board that when looking at change ordinances, the future of the town should be kept in mind and what we want the town to become. Schaefer stated that we don’t want a town full of massive buildings. After the board discussed it further, they decided that the width restriction change to 58 feet was ok. *A motion to close the public hearing at 8:45pm was made by Dahlberg, second—Staroscik. Vote was as follows: voting aye-Staroscik, Young, Schaefer, Dahlberg and Boruch. Voting nay--none. The Chairperson declared the motion carried*. Schaefer read Ord. 18-198 aloud. *A motion to waive the first and second reading was made by Dahlberg, second—Staroscik*. *A motion to amend Article 3 Section 3.10 6e from 36 feet to 58 feet was made by Dahlberg, second—Young*. *Vote was as follows: voting aye-Staroscik, Young, Schaefer, Dahlberg and Boruch. Voting nay--none. The Chairperson declared the motion carried.* Schaefer read Ord. 18-198 again. *A motion to adopt Ord. 18-198 was made by Dahlberg, second—Staroscik*.

**Departmental Reports:**

1. **Utilities/Maintenance/Streets**  Reves reported that the sanitary survey went well this year. He stated that this is his first year that there were no deficiencies noted on the results since 2004. He stated that they approved of our indoor and outdoor record keeping as well. Reves also reported that the manhole at the Young property in the Dahlberg addition that needed lowered to the current street, was replaced by Dustin Young on his own time and by his own equipment and supplies. Dustin Young provided the new inverted manhole cover as well. Reves is suggesting to the board to possible reward Dustin Young with a giftcard or something to repay him for his generosity. Reves also reported that we still have the old manhole cover which we can use by the school when it is needed. He stated that will save the Village $500-600. It would have cost the Village $1000-1500 to do this job ourselves. The board discussed and agreed to getting Dustin Young a giftcard.
2. **Parks & Recreation** no report
3. **Planning & Zoning**  Schlesinger presents to the microphone again to discuss further the matter of ‘exparte’. Kropatsch explains the meaning again and gives examples. Evans stated that it is all about being transparent and not ‘taking sides’ prior to the meeting and voting on the subject. And that it is meant to protect the members of boards and committees as well as the Village in general.
4. **Clerk** Evans has no report
5. **Treasurer Report** Laska stated that the budget is due next month and asked if any of the board member would like to do a budget workshop again this year. The board denied the workshop for this year. Laska and Schaefer will meet with the accountant. Laska reported that she did not receive the initial audit bill from Countryman and there is now late charges on the bill. However, she spoke to Jill (Countryman) and the late charges will be waived as she will pay it now. Laska also stated that we will now be sending Paver’s their first payment of $190k. Laska reported the other bills and handed out her report to the board members. After the board reviewed all the bills, *a motion to approve the bills to be paid after checking on the $1000 owed to Ameritas, made by Young, second—Dahlberg.* *Vote was as follows: voting aye-Staroscik, Young, Schaefer Dahlberg and Boruch. Voting nay--none. The Chairperson 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 meeting of the Village Board of Trustees will be on **Thursday, August 16, 2018 at 9:30 AM.**  The next regular scheduled meeting will be held on **Monday**, **September 10, 2018 at 7:00 PM.** Being no other business, adjournment was made by Schaefer at 9:20p.m.

Minutes recorded and submitted by: Mari Evans (Clerk)