

MAY 21ST, 2020

EMPIRE VILLAGE COUNCIL SPECIAL MEETING

The meeting was called to order at 6:00 p.m. by President Aylsworth who led the Pledge of Allegiance. This special meeting was conducted virtually using Zoom due to health concerns surrounding COVID-19 under the Governor of Michigan's Executive Order 2020-75. In attendance were Trustees Skrocki, Bacon, Davis, Avis, Chase and Rademacher. Treasurer Ronkaitis, Clerk Smith and Attorney Figura were also present. * see attached notes

PUBLIC COMMENT ON AGENDA ITEMS

Sue Palmer commented on the process of calling a special meeting. Meg Walton commented on costs of beach remediation and a desire for more financial information. Terry Bacon commented on the ratification of Clerk appointment. Chris Frey commented on the process used in calling this special meeting. Grace Ronkaitis asked for a roll call of Council Officers present. All indicated their presence. Randy Nelson wondered why the meeting was called. Todd Avis read a letter from Frank Clements requesting the removal of Item A. Union Street Resolution.

A. UNION STREET RESOLUTION – Aylsworth stated that this project and grant application should be postponed till next year. *see attached notes Bacon called a point of order that was not acknowledged by Aylsworth. **MOTION BY BACON, SUPPORTED BY CHASE TO APPROVE THE RESOLUTION OF SUPPORT AND SUBMISSION OF THE GRANT TO MDOT FOR THE UNION STREET PROJECT.** Bacon thanked Mr. Clements, Mr. Frey and Mr. Nelson for their concerns. She read a communication received from MSU Extension regarding Planning Commission review of a road maintenance project vs new construction. They urged completing the grant application for this year as it may not be available next year. Skrocki repeated her questions regarding the trees in the road and her preference for doing entire streets seamlessly. She feels she has not received answers. Maggie reminded her that the tree removal has been deleted from the project. Her conversations with John Friend had revealed that feathering will always be a part of projects unless a road is completed in its entirety. Davis and Rademacher both spoke in favor of proceeding with the grant application for this road project as it has been on the CIP list for several years, it was discussed during the budget process and funds may not be available next year. Avis asked whether the estimates were higher than expected and felt the financials should be reviewed collectively before proceeding. Bacon explained that the motion was simply for the submission of the grant to meet the upcoming deadline. The decision to accept such and move forward with the project would be made sometime in the future. There was some discussion of the fixed costs and how these might be amended as the costs received were much higher than anticipated. Skrocki questioned whether the Village might be penalized if the Village rejected the grant. Bacon described her conversation with the grant contact who stated that if no funds are received there is “no harm, no foul.” Avis questioned whether the language of the resolution committed Village monies. Bacon offered to ask for a wording change if the President will be

calling a special meeting and he would allow this to be added to the agenda. Davis called the question.

ROLL CALL VOTE YIELDED AYES FROM RADEMACHER, CHASE, DAVIS, & BACON. NAYS FROM SKROCKI, AVIS AND AYLSWORTH. MOTION PASSED.

B. L-4029 TAX RATE REQUEST – *see attached notes MOTION BY DAVIS, SUPPORTED BY RADEMACHER TO APPROVE THE L-4029 AND AUTHORIZE THE SIGNATURES OF THE PRESIDENT AND CLERK. MOTION PASSED UNANIMOUSLY UPON A ROLL CALL VOTE.

C. ACCOUNTING CONSULTANT PAYMENT – *see attached notes MOTION BY BACON, SUPPORTED BY RADEMACHER TO APPROVE PAYMENT TO SHEREE NELSON FOR ACCOUNTING SERVICES AS INDICATED ON THE ATTACHED INVOICE. Bacon read the email from Smith detailing this situation. Ronkaitis stated she is unable to complete reconciliations in BS&A unless all information has been entered and she is uncomfortable using a shared computer. There was further discussion of the financial responsibilities. He would like to discuss at a future meeting having the Auditor sit down with the Clerk and Treasurer. Avis asked Figura if the President had the power to reject approval of an expense that has been approved by Council. Figura stated that approval by Council indicates a legitimate expense. Rademacher asked if Nelson's assistance will continue to be required. Ronkaitis felt that Sheree may be needed for a little while. Bacon called question. **ROLL CALL: AYES: DAVIS, CHASE, AVIS, BACON, RADEMACHER, SKROCKI AND AYLSWORTH. MOTION PASSED.**

MOTION BY DAVIS, SUPPORTED BY RADEMACHER TO HAVE RONKAITIS AND SMITH GET TOGETHER AND WORK OUT PROVIDING BANK RECONCILIATIONS AND FUND BALANCES WITH THE ASSISTANCE OF SHEREE NELSON IF REQUIRED. Avis questioned if a 3rd parties assistance is required that it not exceed \$400. A dollar limit was discussed at length. Bacon felt the more important aspect was receiving the required reports. Ronkaitis is uncomfortable using shared equipment currently. Smith suggested that she and Ronkaitis get together and provide a suggested plan to the Council later. **ROLL CALL: AYES: DAVIS, SKROCKI, RADEMACHER, CHASE, BACON AND AYLSWORTH. NAYS: AVIS. MOTION PASSED.**

D. ZOOM MEETING ACCESS AND REMOTE COFFEE WITH COUNCIL – * see attached notes Aylsworth stated that he was uncomfortable with the way it has been conducted. He approved access to Zoom for the Deputy Clerk, Clerk and President or Village affairs only. Figura recommended that the posting requirements of the Open Meetings Act be followed. Smith noted that all these meetings have been posted in compliance and address his concerns. **MOTION BY BACON, SUPPORTED BY RADEMACHER THAT ALL COUNCIL MEMBERS BE GIVEN ACCESS TO USE THE VILLAGE ZOOM ACCOUNT TO ACCOMPLISH VILLAGE BUSINESS. ROLL CALL: AYES: CHASE, SKROCKI, DAVIS, BACON, AVIS, RADEMACHER AND AYLSWORTH. MOTION PASSED.**

MOTION BY BACON, SUPPORTED BY RADEMACHER THAT REMOTE COFFEE WITH COUNCIL BE DISCONTINUED. ROLL CALL: AYES: CHASE, SKROCKI, AVIS, BACON, DAVIS, RADEMACHER AND AYLSWORTH. MOTION PASSED.

E. RFP FOR SIDEWALK EDGING – * see attached notes Aylsworth feels that sidewalk edging is the responsibility of property owners and feels the edging to the beach should be completed. He stated that it is his job as President, he did not ask the Streets Committee to obtain a quote and he has instructed the DPW to complete this. **MOTION BY BACON, SUPPORTED BY SKROCKI TO ISSUE AN RFP FOR SIDEWALK EDGING.** Bacon explained that sidewalks are a responsibility of the Street Administrator and was unaware of the President’s interest. She feels issuing an RFP does not expend funds and will provide information to compare with the cost of having the Village DPW complete this before fall. There was continued discussion of the pros and cons. Davis stated that in his memory the DPW had always completed this. Rademacher felt it would be useful to compare the costs of a quote vs internal costs to complete this task. Avis agreed that it does not cost to obtain a comparison. Chase questioned whether this was a responsibility of the Village or property owners. Figura questioned whether the Village has a Sidewalk Ordinance. There was continued discussion regarding special assessments in the past. Bacon called the question. **ROLL CALL: AYES: BACON, CHASE, SKROCKI, AVIS, RADEMACHER, AYLSWORTH. NAYS: DAVIS. MOTION PASSED.**

MOTION BY BACON, SUPPORTED BY RADEMACHER TO AUTHORIZE THE CLERK AND PRESIDENT TO DISCUSS THE ORDINANCE WITH THE ATTORNEY SHOULD THAT BECOME NECESSARY. Smith read a portion of the existing Ordinance, which includes a penalty as a Civil Infraction. Figura would like to take a closer look at the ordinance **ROLL CALL: AYES: SKROCKI, BACON, AVIS, RADEMACHER, CHASE. NAYS: DAVIS, AYLSWORTH. MOTION PASSED.**

F. PERSONNEL COMMITTEE RECOMMENDATION: CLERK – *see attached notes Aylsworth stated that the Personnel Committee never gave him a recommendation for appointment and asked Mr. Figura to explain his letter. Figura explained that the term office is defined by the General Law Village Act and the Empire Village Ordinance(s) rather than the Personal Service Agreement, which he had no part in drafting or reviewing. He reviewed the associated Statutes and Village Ordinances and concluded that the term of this office ended on March 30, 2020 and the Village President has made no appointment as required. He feels the current Clerk is a holdover officer until a successor is appointed. He feels there is a political log jam that the Council needs to address. **MOTION BY DAVIS, SUPPORTED BY BACON THAT THE COUNCIL RECOMMEND THAT THE PRESIDENT NOMINATE DERITH SMITH TO AN ADDITIONAL 2 YEAR TERM AS VILLAGE CLERK.** Aylsworth stated he did not understand how this is related to a Personnel Committee recommendation. Davis explained he was moving forward a recommendation made at a Personnel Committee meeting. Aylsworth asked Avis if this was made at a committee meeting. Davis and Chase confirmed it was. Avis felt the agenda item at committee was only about the PSA and quickly turned to action. He feels motions at meetings at committee meeting are moot as there is no authority for action, but there was a straw vote that was 2 to 1. Bacon asked if there was a recommendation made at the committee for the President to nominate as this process has been used in the past. Skrocki would like to know more about the content of the conversation that took place. Davis expressed his concern that the term of office was ending, and no nomination had been made. Chase asked Aylsworth why he has not reappointed Derith, what

are the reasons why and has there been any response to the advertisement for this position. Aylsworth stated he does not want to discuss it. Avis reviewed the items he had included on the committee agenda as assignments from the Council. He felt he had uncovered 8 or 9 discrepancies with the job description and PSA. Chase felt there was a focus on a formal evaluation that may not be needed for a village of this size. She and Davis felt that an evaluation happened monthly with the receipt of financial reports. Figura spoke to the availability of mediation services in this area that have been used to address such issues. Skrocki and Rademacher agreed with Figura suggestion. Davis called the question. **ROLL CALL: AYES: RADEMACHER, DAVIS, CHASE AND BACON. NAYS: SKROCKI, AVIS AND AYLSWORTH. MOTION PASSED.**

MOTION BY AVIS, SUPPORTED BY RADEMACHER TO HAVE THE PRESIDENT AND CLERK ADVISE THE COUNCIL BY THE MAY 26TH MEETING OF THEIR WILLINGNESS TO WORK WITH AN OUTSIDE TRAINED MEDIATOR. Figura expanded on his description of how a discussion with a mediator might happen. Avis asked about the end goal of this motion. Bacon hoped the result would provide a comfort level for both to provide a nomination and continued service as Clerk. Skrocki expressed concern that this discussion had not taken place earlier. Aylsworth asked what other President has ever been asked to go to mediation. Davis stated he has had no problem with Smith and was curious about other members concerns. Chase felt Smith had been helpful to her and wondered why there was so little communication from the President other than the letters to residents. Aylsworth said he was always available for questions. Avis called the question. **ROLL CALL: AYES: AVIS, SKROCKI, BACON, CHASE, DAVIS, RADEMACHER AND AYLSWORTH. MOTION PASSED.**

G. GRANT WRITER CONTRACT- Bacon asked about the last agenda item. Aylsworth stated he had struck this at the beginning of the meeting. Bacon did not feel that had been approved. Bacon asked Figura if this could be done without a motion of the Council. Figura replied that as he has recommended previously, all agendas, with or without deletions, should be approved by Council. Aylsworth stated as President, he was not prepared to discuss this. Avis felt it was not secret that Aylsworth had been working to advance this issue. **MOTION BY RADEMACHER, SUPPORTED BY AVIS TO REMOVE THIS ITEM FROM THE AGENDA. ROLL CALL: AYES: RADEMACHER, CHASE, SKROCKI, AVIS, BACON AND AYLSWORTH. NAYS: DAVIS. MOTION PASSED.**

QUESTIONS/COMMENTS FROM AUDIENCE – Mary Sharry wondered if the mediation would be a public forum. Figura stated it would be private and not used outside the mediation meeting. Terry Bacon commented on a letter he sent to the entire council encouraging all Village Officers, appointees and staff to share mutual respect. He repeated a question asked earlier by Chase as to whether there had been any other applicants for the Clerk position.

Pete LaValley commented that while in person meetings may be held in the future, he would suggest that the public may find it helpful if Zoom meetings are continued as well. Chris Frey

expressed concerns about Trustees calling this meeting. Meg Walton commented on the bid for the Union Street grant and wonders if the money is available.

BOARD COMMENTS – Aylsworth thanked Alacia for her time and hoped they could discuss reimbursing her later.

ADJOURNMENT at 9:13 p.m.

Derith Smith, Empire Village Clerk

These minutes were approved at the June 11, 2020 Work Session.

*Attached notes from President Aylsworth were read at the start of each Agenda Item as indicated with the exception of the final paragraph.

A. Pledge of Allegiance

- This meeting was called by Tom Rademacher, Lynda Chase, and Maggie Bacon.
- This is not considered an emergency meeting. I was never contacted for a change in date from the regular session meeting that is scheduled for next Tuesday, only two business days away.
- When a special meeting is called, it is because the Village must do something that is important for the Village. I don't see any items on this agenda that couldn't wait two business days.
- The meeting next Tuesday has been cancelled with out my knowledge or my acceptance.
- Next Tuesday was scheduled to have the Drain Commissioner present to answer the questions that were provided to him and for the Council to vote on the Outlet. I now will call another special meeting to take place on Tuesday at 6pm. The Drain Commissioner will be present to speak with the council and the council will vote on the matter of having the Drain Commissioner start the process for the Outlet.

1. I request that the Grant Writer Contract be deleted from this agenda.

Public Comments on Agenda Items

A. Union Street Resolution

As per my understanding of the Union Street Project, the Village does not have sufficient funds to do the entire Union Street Project. It has been brought to my attention that the Union Street and Front Street section has been considered. My major draw back on doing so is the cookie cutter way that Niagara St and Lake St have been done. Also, the mobilization costs. This will cost the Village around \$20,000 + alone. I feel that the Village would be better off putting this project on hold for a single year. This would allow the Village to save more funds and be able to look for more grant funding to help the Villages total fund balance.

B. L-4029 Tax Rate Request

I was under the impression that this was already voted on when the Council approved the budget? Why is this on a special meeting agenda?

C. Accounting Consultant Payment

I have been asked to sign several checks for this Consultant. I signed one check for \$400 and asked that this be put on the next agenda. Well then Covid hit. Since then I have seen 2 other checks that I did not sign. On the checks it stated Reconciliation. It is my understanding that Grace, the Villages Treasurer takes care of all reconciliations. I have seen recently that the Villages accounts are out of balance per emails from Grace to the Clerk. In the past, the Village Clerk has not had a Consultant to work with. I was not contacted for this professional service and the Village Council did not pass a motion to pay anyone for this service. Please help me understand what gives the Clerk the write to contact a professional service without the Councils or my agreeance? **Rules of Procedure #11**

D. Zoom Meeting Access and Remote Coffee with Council

As per the Zoom Meeting Access, the Village has never taken a stance on who can access such account. As Village President, I gave the Clerk, Deputy Clerk, and myself access to utilize this account for Village affairs only. This was done to keep the Village Safe.

Now, in regard to Coffee with Council, I am not comfortable with what has happened in the past. This is a public forum with council members that have been updating the residence with the Village matters that they feel so inclined to present. I was of the understanding that this public forum. This was a time to have the residence ask questions and to have the council members present answer those questions

without putting in their personal feelings otherwise known as fact driven answers. This is not what I voted for. I don't feel the Village is being treated fairly with the Coffee with Council. I feel that it is a political stance, if I can be reassured that the Coffee with Council is not dealing with political or Council driven agendas, I'm more than happy to let it continue.

E. RFP for Sidewalk Edging

I personally feel it is the residence responsibility to take care of the sidewalk that is on there property. I asked that the DPW edge the sidewalk to the Beach. That is my job as the Village President. I did not ask for the Streets Committee to look into getting a quote for the entire Village. It is absolutely fine that this action has taken place, but why this subject is being brought up in a Special Meeting is beyond me. This matter should be in a work session not in a special meeting.

F. Personnel Committee Recommendation: Clerk

The Personnel Committee never gave a recommendation to me for appointment. From my understanding this wasn't even on the Committee's agenda. I would like to ask Mr. Figura, to explain his letter for an understanding by the council and the residence. This position has been vacant since March 31st, 2020.

I would like to take this opportunity to appoint Alacia Acton as the Village Clerk. This would entail that Alacia take over all the Clerk Assignments along with the Deputy Clerk assignments for the time being. I would like the Personnel Committee to meet as soon as possible to give recommendations on a pay raise and to come up with a plan to have a Part Time Deputy Clerk to help Alacia out with other Village tasks. Can I please have a motion?