

**VILLAGE BOARD OF CLEVELAND, WISCONSIN
MONTHLY MEETING**

TUESDAY, MAY 17, 2022

MINUTES

- I. CALL TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL/AGENDA APPROVAL.** Village President Jake Holzwart called the meeting to order and led the Pledge of Allegiance at 6:02pm on Tuesday, May 17, 2022, at the Cleveland Village Hall, 1150 W. Washington Ave., Cleveland, Wisconsin.

Board Present: Jake Holzwart, Village President and Acting Police Chief
John Ader
Jason Berdyck
Debi Cevaal
Al Forner
Jon Hoffman
Barry Nelson

Board Absent: None

Staff Present: Stacy Grunwald, Director of Village Services
Julie Rusch, Deputy Clerk-Treasurer

Motion Nelson/Forner to approve the agenda; carried without negative vote.

- II. CITIZEN INPUT AND COMMUNICATIONS.** No citizens provided input. (1) Director Grunwald reported the Village received the \$10,000 Roots grant award check, and that the Village Board needed to plan a public kickoff event. *Referred to June 21, 2022, Village Board meeting.* (2) The Village received notice of the 2022 Recycling Grant award in the amount of \$3,062.97. (3) The League of Wisconsin Municipalities Mutual Insurance proxy paperwork was received and will be voted and returned by Director Grunwald. (4) Street signs were missing on North Ave at the Franklin Dr curve; staff will address the issue.

- III. CERTIFIED SURVEY MAP: Eusebio and Melissa Garcia, 875 Delta St.** Director Grunwald explained Eusebio and Melissa Garcia own a residence at the corner of Delta St. and Webster St. They recently purchased four adjacent lots to the east, and are requesting to merge the two closest lots to the residential lot, for the purpose of building a 1500 sq. ft. detached garage. She also noted that the lots are part of the Merit Acres subdivision, which was platted in 1977. The developer went bankrupt in the 1980s prior to the construction of Webster St., resulting in all lots east of the corner lots being platted but unimproved. There were several unsuccessful attempts over the years to obtain agreement among the property owners to pay for street installation. In 2020, the Village Board established a policy that construction will not be initiated by the Village and staff is not to work any on the project until an engineered street plan is submitted.

The Village Board by consensus adopted the findings of the Plan Commission, as follows:

- 1.) The Certified Survey Map (CSM) was consistent with the purposes of the Village's zoning ordinance in that it promotes the health, safety, prosperity, aesthetics, and general welfare of the Village of Cleveland for the following reason(s): the street is likely to remain undeveloped due to the lack of unity among current owners to fund construction and the greater regulatory burden to improve land located in wetlands. The CSM offers an opportunity for the limited development options available in the given environment.
- 2.) The CSM was consistent with the regulations of the zoning district in that the proposed lot meets the area and height regulations for the R-2 zoning district for the following reason(s): the proposed 0.96-acre lot exceeds the minimum size for the R-2 district; and the proposed construction of a detached garage can be located to meet the setback requirements from the undeveloped street while being accessed through the existing driveway on Delta St.
- 3.) The CSM was consistent with the purposes of the Village's subdivision ordinance for the following reason(s): the proposed lot provides increased property value where it is unlikely to occur; permits a use that is consistent with the neighborhood; and maintains open space while improving property values and aesthetics.
- 4.) The CSM was consistent with the Year 2020 Comprehensive Plan as it supports the objectives of the *Neighborhood Residential* classification for the following reason(s): the most recent analysis by the Village showed the costs for installation of the street and utilities exceeded the value of the lots. This, combined with the regulatory environment for wetlands, leaves the construction of Webster St. as uncertain if not unlikely. Without infrastructure to support future development, the Comprehensive Plan's goal for higher density development appeared unachievable. Merger of the lots provided an opportunity for reasonable use of the property in a manner consistent with the zoning and subdivision ordinances.
- 5.) The CSM conformed to the Official Map for the following reason(s): the merger did not affect the Webster St. right-of-way or impede its future construction for access to lots in other ownership.
- 6.) The CSM as submitted appeared consistent with Ch. 236, Wis. Stats. for the following reason(s): the required statutory information appeared to be present.

Motion Berdyck/Nelson to approve the Certified Survey Map filed by Eusebio and Melissa Garcia to merge the lots at 740 Webster St., 746 Webster St., and 875 Delta St., carried without negative vote.

- IV. REQUEST FOR JUNE 11-13, 2022, AFTER HOURS, MOTORIZED USE OF VETS PARK TRAIL.** Motion Berdyck/Fornier to open the floor; carried without negative vote. Cleveland resident Kelly Van Ess explained the request was twofold: film a Christian murder mystery movie, and train dogs for Great Lakes Search and Rescue K-9, Inc. The filming will take place over 2-3 days for approximately 10 hours a day as follows: a day filming with the search and rescue dogs, a day filming a car scene, and a day for make-up, if needed. While the filming will start at approximately 10am and extend to just past sunset, they will be in the park after hours for set up, tear down, etc. There will be no loud noises; just talking. The park will not be closed during filming. Motion Berdyck/Fornier to close the floor; carried without negative vote.

After discussion, motion Berdyck/Ader to grant the application of Dave Payton to use Veterans Park for the filming of a movie on June 11-13, 2022, in the areas shown on the provided aerial map, with said use deemed to not be in violation of Sec.7-10-1 (b) (3), (10), (15), (16) and (17), Village of Cleveland Code of Ordinances; carried without negative vote.

- V. W. JEFFERSON AVE. STREET PROJECT: Thomas Erdmann Property Loss.** Director Grunwald explained the Village Board previously heard from Thomas Erdmann that his property was home to possibly hundreds of Native American artifacts. Mr. Erdmann intended to seek a historical site designation but had not to date. The 2020 street project contractor stockpiled soil on his property within the marked project area, but then removed the soil below the pile, essentially removing artifacts. Mr. Erdmann had not expected excavation of more than the stockpile so had not discussed this with the contractor prior to its removal. Motion Fornier/Cevaal to open the floor to Mr. Erdmann; carried without negative vote.

Mr. Erdmann asked if the project was closed, and if final payment had been made. He indicated approximately 110 cubic yards of topsoil was taken without his knowledge or approval, and questioned the legality, since he did not have a chance to remove the artifacts. His understanding was the same type of soil would be put back in as was taken out. However, good organic soil was removed, and lesser-quality soil was returned. He requested unspecified monetary compensation for the artifacts and inferior soil.

After discussion, the Village Board decided to take no action at this time. They recommended Mr. Erdmann contact the contractor directly to discuss the topsoil difference and whether any artifacts had been preserved. If the soil was removed outside of the project area and the contractor trespassed on the property, it would be a civil issue between Mr. Erdmann and the contractor. If the matter remains unresolved, Mr. Erdmann should return to the Board after that discussion with a value difference between the two types of soil. Motion Ader/Berdyck to close the floor; carried without negative vote.

VI. 2022 STREET PROJECTS

- A. 2022 STREET AND UTILITY PROJECTS PROFESSIONAL SERVICES AGREEMENT AMENDMENT NO. 3 FOR CONSTRUCTION SERVICES: MSA Professional Services.** Motion Berdyck/Hoffman to approve Amendment No. 3 to the MSA Professional Services Agreement to perform construction-related services for the 2022 street and utility reconstruction projects; carried without negative vote.

B. STAFF UPDATE.

- 1. CONSTRUCTION TIMELINE.** The projected timeline is May 16, 2022, thru October 7, 2022.
- 2. DNR PERMITTING FOR BIRCH ST STORM OUTFALL.** In process.
- 3. WE ENERGIES TELEPHONE POLE RELOCATION FOR E. JEFFERSON AVE.** In discussion.
- 4. PROPERTY OWNER OUTREACH.** Property owners have been sent a flyer and a contact information form. There is also information on the Village website.

C. DETERMINATION OF SPECIAL BENEFIT

- 1. BLOCK LOTS, NORTH SIDE OF E. JEFFERSON AVE.** The Public Works Committee recommended a determination of special benefit.
- 2. DEEHR LOTS, SOUTH SIDE OF E. JEFFERSON AVE.** The Public Works Committee recommended a determination of no benefit. The two parcels will have no access driveways at the Village Engineer's recommendation to discourage the use of heavy vehicles and equipment on the street; the Deehrs already installed a new driveway on Birch St. to accommodate the Village's request to eliminate agricultural traffic. The parcels were outside the Village, not subdivided or zoned for development, and there were no plans by the owners to sell or develop the properties.
- 3. KULTGEN LOTS, WEST SIDE OF BIRCH ST.** The Public Works Committee recommended a determination of special benefit.
- 4. URBANEC LOT, 907 CHERRY HILL DR.** The Public Works Committee recommended a determination of special benefit.
- 5. KLAVES LOT, 920 CHERRY HILL DR.** The Public Work Committee recommended a determination of special benefit. Motion Holzwart/Berdyck to adopt the findings and recommendation of the Public Works and Utilities Committee and determine the Daniel Deehr parcels on the south side of E. Jefferson Ave. [Parcel Nos. 002-500-003-006.02 and 002-500-003-004.00] will receive no special benefit from the street project as recommended. Motion carried without negative vote.

- D. ASSESSMENT OF PARCELS IN TOWN OF CENTERVILLE.** Five lots in the project area are in the Town of Centerville; two are the Deehr lots, which were exempted from assessment under Item VI. C., and three have been deemed to benefit from the project. The parcels can only be assessed with the approval of the Town Board and collection of the assessments by the Town on its tax roll. After discussion, it was decided President Holzwart would discuss assessment of the parcels with the Town Chair and/or Town Board. Motion Berdyck/Ader to submit a resolution to the Town Board of Centerville to levy a special assessment on all Town properties subject to such assessment; carried without negative vote.

- VII. APRIL 12, 2022, AND APRIL 19, 2022, MINUTES.** Motion Hoffman/Cevaal to approve the minutes of the April 12, 2022, organizational and special meeting, and the April 19, 2022, regular meeting; carried without negative vote, one abstention (Ader).

VIII. FINANCIALS

- A. **MONTHLY VOUCHER REPORT.** Motion Ader/Hoffman to approve the April 2022 monthly voucher report; carried without negative vote.
- B. **FINAL RESOLUTION AUTHORIZING PUBLIC IMPROVEMENT AND LEVYING SPECIAL ASSESSMENTS AGAINST BENEFITTED PROPERTY IN CLEVELAND, WI: W. Jefferson Ave. and Park Ct.** Motion Nelson/Ader to approve the final resolution authorizing public improvement and levying special assessments against benefitted property for the 2020 W. Jefferson Ave. and Park Ct. street and utility reconstruction and rehabilitation projects; carried without negative vote. [Resolution No. 2022-R-03]
- C. **INFILTRATION AND INFLOW STUDY: Donohue and Associates.** Motion Cevaal/Nelson to approve the Donohue and Associates Engineering Services Agreement for Initial Inflow and Infiltration Evaluation; carried without negative vote.
- D. **VILLAGE HALL TELEPHONE SERVICE PROPOSALS: Spectrum and TDS.** Motion Nelson/Ader to approve the Spectrum Enterprise proposal for Village Hall telephone and Internet services; carried without negative vote.
- E. **ASSESSMENT SERVICES CONTRACT: Accurate Appraisal LLC.** Motion Ader/Cevaal to approve the three-year maintenance services proposal from Accurate Appraisal for assessment services; carried without negative vote.
- F. **REQUEST FOR WAIVER OF RIGHT-OF-WAY PERMIT FEE: TDS Telecom.** Motion Hoffman/Berdyck to approve the TDS request for waiver of the Right-of-Way permit fee for work to be done on Lincoln Ave. and E. Jefferson Ave. as part of the 2022 street projects; carried without negative vote.
- G. **PROCUREMENT POLICY FOR EXPENDITURE OF FEDERAL FUNDS.** Motion Ader/Nelson to approve the Procurement Policy for Expenditure of Federal Funds; carried without negative vote.
- H. **SALVATION ARMY REQUEST TO USE VILLAGE HALL AS A REST STOP.** Motion Nelson/Fornier to approve The Salvation Army's request to use Village Hall as a rest stop for The Salvation Ride on July 9, 2022, with payment of a refundable \$100 security deposit; carried without negative vote.

IX. PERSONNEL

- A. **CLEVELAND MUNICIPAL COURT LOCATION AND HOURS.** President Holzwart reported he is working with Judge Kohl on where and what time to hold Municipal Court, and he is also doing some research on his own. The Board discussed the Court's caseload and costs. *Discussion on court location, hours, and dissolution referred to the Human Resources and Public Safety Committee.*
- B. **SEC. 110 OUTSIDE OR OFF-DUTY EMPLOYMENT, EMPLOYEE HANDBOOK.** Director Grunwald noted two sections of the Human Resources and Public Safety's proposed policy were flagged by the Village Attorney for further discussion. The Board struck the two questionable sections rather than return the policy to Committee. Motion Holzwart/Nelson to approve the Outside or Off-Duty Employment Policy without Sections 11 and 12; carried without negative vote.
- C. **POLICE CHIEF CANDIDATE RECRUITMENT PROPOSAL: GovHR.** Motion Nelson/Berdyck to approve the GovHR USA proposal with Full Scope Recruitment in the amount of \$23,500, with no optional services; carried without negative vote.
- D. **PUBLIC WORKS/UTILITIES OPERATOR JOB DESCRIPTION.** Motion Nelson/Ader to approve the Public Works/Utilities Operator job description; carried without negative vote.

X. STAFF AND COMMITTEE REPORTS.

- A. **POLICE DEPARTMENT.** Acting Police Chief Holzwart reported Police Clerk Deehr applied for a bullet proof vest grant; Officer Schweigl was working on a NARCAN grant; the department was looking at casual part-time staffing needs; Cleveland hosted the Chiefs' meeting a couple weeks ago; and the Department was fielding junk storage complaints.
- B. **ADMINISTRATION.** Regarding the 2022 street projects, Director Grunwald reported the Village, contractor, and engineer had the pre-construction meeting; tree removal has started; the intention is to hold bi-weekly construction meetings; and they hope to have the water main permit from the DNR by June 6. She was working with the accountants on the 2021 financials and the PSC report. The Form C has been filed. She also reported the Village will be required to utilize a new tax collection program in the Fall, and Manitowoc County would be hosting training beginning in June.
- C. **PUBLIC WORKS AND UTILITIES COMMITTEE.** Chair Berdyck reported they did an inspection of two 2020 street project driveways, and agreed they were defective. The engineer will look at them for suggestions as to what can be done. The Committee also discussed the 2023 street projects and needed utility work, and whether or not the Village can fund it. Finally, the Village was moving forward with the PFAS sampling in August and an outreach plan if the results are positive.
- D. **PLAN COMMISSION.** All items on the agenda.
- E. **FINANCE AND BUDGET COMMITTEE.** Chair Ader reported they discussed vehicle fuel purchase options, including BP and WEX gas cards. He also reported the purchase of the former cooperative property to house a new Public Works garage was still in discussion despite the contamination.
- F. **HUMAN RESOURCES AND PUBLIC SAFETY COMMITTEE.** All items on the agenda.

XI. ANNOUNCEMENTS AND EVENT REPORTS.

- A. **WED APR 20** MANITOWOC CO VILLAGE ASSN, MISHICOT. The topics were the recycling and rehab centers.
- B. **MON MAY 24** PUBLIC WORKS AND UTILITIES COMMITTEE, 6PM
- C. **MON MAY 30**..... STAFF HOLIDAY
- D. **WED JUN 1** PLAN COMMISSION, 6PM
- E. **THU JUN 2**..... HUMAN RESOURCES AND PUBLIC SAFETY COMMITTEE, 6PM
- F. **TUE JUN 7** MUNICIPAL COURT, 4:30PM
- G. **TUE JUN 7** BOARD OF REVIEW TRAINING, 5PM. May be held at LTC.

- H. MON JUN 13..... FINANCE AND BUDGET COMMITTEE, 6PM**
- I. TUE JUN 21..... VILLAGE BOARD, 6PM**
- J. ANY OTHER ANNOUNCEMENTS/EVENTS**

XII. CLOSED SESSION. Motion Holzwart/Fornier to convene in closed session pursuant to Sec. 19.85 (1) (e), Wis. Stats., to consider the terms of a public services agreement where competitive or bargaining reasons required a closed session. Roll call: all ayes. Motion carried. Staff was excused from the meeting; President Holzwart assumed responsibility for the meeting minutes.

[Staff and the public left the meeting.]

The Board reviewed a potential police services agreement. President Holzwart and Human Resources and Public Safety Committee Chair Nelson will meet with representatives from the requesting entity.

XIII. ADJOURNMENT. Motion Berdyck/Hoffman to adjourn; carried without negative vote. The meeting adjourned at 11:05pm.

Respectfully submitted,

/s/ Julie Rusch

Julie Rusch
Deputy Clerk-Treasurer

Approved on 6-21-2022

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