

VILLAGE OF CLEARWATER, NEBRASKA MINUTES OF REGULAR MEETING JUNE 10, 2024

The Board of Trustees of the Village of Clearwater met for a regular meeting Monday, June 10, 2024 at 7 p.m., in the fire hall meeting room. Meeting opened at 7 p.m. Notice of meeting was given in advance by publication in *Summerland Advocate-Messenger*, was posted at US Post Office in Clearwater, Clearwater Market, and Cornerstone Bank-Clearwater and was given to board members prior to meeting. Public was informed of location of Open Meeting Act poster.

Present: Kelly Kerkman, Marsha Hart, Cody Kester, Brian King, Jeff Schlecht. Others present: clerk Angie Hupp, maintenance operator Troy Behnke, attorney Kyle Petersen, reporter LuAnn Schindler, Joy Knapp, Bryan Funk.

Motion by Kester, seconded by Schlecht, to approve minutes of the regular May 13, 2024 meeting. Voting aye: Kester, Schlecht, Kerkman, King. Voting nay: none. Abstain: Hart.

Motion by Schlecht, seconded by Hart, to approve amending the December 13, 2023 minutes to fix a mistake that was pointed out to clerk Angie Hupp. The minutes originally stated that the board approved appointing John Zwingman as street superintendent twice instead of the second motion appointing Zwingman as village engineer. The amended minutes now state, "Motion by Kerkman, seconded by Schlecht, to approve appointing John Zwingman, license #E-9608, of Advanced Consulting Engineering Services as ~~street superintendent~~ village engineer for 2024. Voting aye: Kerkman, Schlecht, King, Kester, Hart. Voting nay: none." Voting aye: Schlecht, Hart, Kerkman, Kester, King. Voting nay: none.

Motion by Hart, seconded by Kester, to approve the treasurer's report and place on file as presented. Voting aye: Hart, Kester, King, Schlecht, Kerkman. Voting nay: none.

Quarterly treasurer's report presented. Two categories have gone over and need to be addressed at the budget workshop. Hupp told the board that as long as they do a wage ordinance every year, it doesn't matter when it is completed, so it would make more sense to do employee evaluations in July, then set the wages to coincide with the fiscal year of Oct.1-Sept. 30 instead of doing it in December. The board agreed.

Discussion held regarding Bryan Funk building permit application to add more storage units to the west on the existing building at 203 Hwy. 275. The lot is narrow and was not surveyed when purchased by Bryan and Joe Funk in the late 90s/early 2000s. Joy Knapp, who owns the hay field property adjacent to the north, is concerned the units are encroaching on her property and new units will only make it worse. Funk stated since he wasn't the one with the issue, he didn't think it was fair to make him foot the bill for a \$2,000-4,000 survey. Funk presented copies of the assessor's online map, to be used for explanatory reasons. Funk asked King to recuse himself from the discussion or voting since Knapp is King's aunt and King helps with the property. The board asked attorney Kyle Petersen what should be done and he asked them to table the discussion until later in the meeting to give him time to search through zoning and ordinance regulations.

Motion by Kester, seconded by Hart, to approve building permit to Clearwater Chamber at 200 Iowa St. to extend a concession stand using a shipping container secured to the ground. Voting aye: Kester, Hart, Kerkman, Schlecht, King. Voting nay: none.

Motion by Kerkman, seconded by Schlecht, to approve building permit to Brenda Rittscher at 804 Mitchell's Ave. for a home addition. Voting aye: Kerkman, Schlecht, King, Kester, Hart. Voting nay: none.

Motion by Kester, seconded by Hart, to approve building permit for Travis and Maria Swanson at 504 Mitchell's Ave. to expand a shed. Voting aye: Kester, Hart, Kerkman, Schlecht, King. Voting nay: none.

Discussion regarding Don Zegers' request to dig a ditch to the east between his apartments and property owners to the south to get water to run to the existing ditch. Troy Behnke stated there are a lot of fiber lines there and Kerkman said Zegers should get permission from the affected property owners before board discussion.

Agenda item 7 regarding delinquent tenant utility bill was tabled until it could be discussed with Petersen.

The second reading of Ordinance 2024-2 was completed to submit to the registered voters of Village the question of whether to establish a lottery at the 2024 general election; to provide when the ordinance shall be in full force and effect; and to provide for the publication of ordinance in pamphlet form. No discussion was held.

Motion by Kester, seconded by Schlecht, to waive three readings of Ordinance 2024-4 establishing liquor sale regulations. Hupp explained that a question had arisen on whether liquor sales were allowed in Clearwater on Sundays. State law allows no Sunday sales unless an ordinance has been passed locally and even though there should be an ordinance on file, Hupp couldn't locate it, so it was decided to pass a new ordinance. Voting aye: Kester, Schlecht, King, Hart, Kerkman. Voting nay: none.

Motion by Kerkman, seconded by Hart, to approve Ordinance 2024-4 relating to liquor regulations including hours of sale; to repeal ordinances or parts of ordinances in conflict herewith; to provide when the ordinance shall be in full force and effect; and to provide for the publication of the ordinance in pamphlet form. Voting aye: Kerkman, Hart, Kester, King, Schlecht. Voting nay: none.

Resolution 2024-3 selling a portion of 702 Montana St. to Jay and Tina Snider was postponed until the July meeting as more information needed to be added.

Hupp presented three quotes from two companies willing to recodify (update) the municipal code books. Some of the required information was missing from the board's copies and there was a lot of information, so Hupp is going to reprint the quotes and board will look over them to discuss whether to place in next year's budget. Hupp explained that McNally Law Office turned down an opportunity to bid as they are too busy. The other companies, CivicPlus and American Legal Publishing, require annual subscriptions to allow for online search engines and continuous updating.

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Public hearing for the Citizens Advisory Review Committee report was opened at 7:39 p.m. In absence of any CARC members and economic development director Lauren Sheridan-Simonsen, Hupp presented the report. Between Oct. 1, 2023 and Apr. 30, 2024, Clearwater LB840 received \$18,260.88 in sales tax revenue. Grants and loans approved during the reporting period totaled \$53,500. After committee members reviewed and discussed the LB840 account, they found the LB840 account is being spent in a manner appropriate with state statutes. No discussion was heard.

Motion by Schlecht, seconded by Hart, to close the CARC hearing at 7:41 p.m. Voting aye: Schlecht, Hart, Kerkman, Kester, King. Voting nay: none.

Economic development report presented by Hupp.

Maintenance report presented. Behnke told the board he spoke with Spud Trucking and was informed that they sold their street grinder but are looking for enough work to rent equipment later this summer and are willing to do a couple of blocks for the Village. Spud will also be blading gravel streets and some alleys before the rodeo. Aaron Kruger has asked about fixing the angle of his ditch to make it easier to mow. Riley Snider also asked about having ditch on north side of his property cleaned out. Behnke will talk to both residents to see what can be done. Schlecht stated he looked at the lagoon creek area and wondered if rye or something can be planted to prevent so much erosion. A letter from Miaha Scott requesting no mosquito or weed spraying be done on her property was presented. Behnke stated he is spraying for mosquitoes twice a week and shuts off the valve when passing Scott's house. The lagoon pivot is running for the first time. It was apparently struck by lightning last fall and needed components replaced but Two Rivers Irrigation was going to try to get them warrantied, and if not, it will be covered by an insurance claim.

Library report was presented. LuAnn Schindler stated they are advertising for a new library director and have a couple of possibilities. Motion by Hart, seconded by King, to approve, with regrets, the resignation of library director Kathy Feusse, who will be moving at the end of July. Voting aye: Hart, King, Schlecht, Kerkman, Kester. Voting nay: none.

Park report presented. Kerkman said he was asked by Carla Jacob if she could plant a tree in the park near the basketball court. Kerkman stated he will tell her she needs to talk to Terracon since they own the trailer that sits there.

No grant report presented.

Clerk report presented. Eight residents received late fee invoices with two receiving disconnect notices. Twelve residents were sent letters stating they were late on dog tag fees and would be sent an invoice for the \$50 late fee if not registered by June 1. Seven residents paid their fees, three notified that dog was gone or owner moved out of town, and two were sent invoices after the deadline. Dennis Sanne would like to be removed from CORE so another member will need to be found. Five large dumpsters and two or three scrap iron trailers were filled during the two-week spring clean-up. Hupp received a text from Zegers during the meeting saying that Jesse McKillip, the property owner most affected by the proposed ditch, doesn't care as long as it doesn't cost him anything and that he will drop a note to that effect at the village office.

Board returned to Funk building permit application. Petersen asked for some clarification on space and what Knapp's complaint was regarding the building. Knapp stated she doesn't want the building on her land and isn't sure if the current structure already encroaches.

Motion by Kester, seconded by King, to enter executive session to receive legal advice, at 8:02 p.m. Voting aye: Kester, King, Schlecht, Kerkman, Hart. Voting nay: none.

Motion by Schlecht, seconded by Hart, to exit executive session at 8:16 p.m. Voting aye: Schlecht, Hart, Kerkman, Kester, King. Voting nay: none.

Kerkman explained the map provided by Funk isn't legal representation so they can't go by the borders shown. Motion by Kester, to approve building permit. No second, motion failed. Motion by Kerkman for Funk and Knapp to split cost of survey. Funk said he was willing, Knapp said she'd rather not. Petersen stated the board can't legally require a survey as part of approving the permit. Funk replied that if the board wants discretion to ask for a survey, an ordinance needs to be passed stating such but he believes his building is within the required setbacks at the time of initial build. Funk said that the permit approved and issued by the board at the May 13, 2023 meeting expired due to material acquisition issues but the current application was identical. No second, motion failed. Kerkman asked Knapp if she was willing to pay for half a survey and Knapp stated she was not, that she did not believe she should have to and that she didn't have the funds for it.

Motion by Kester, seconded by Hart, to approve building permit for Bryan and Joe Funk at 203 Hwy. 275 for storage unit expansion. Voting aye: Kester, Hart, Kerkman, Schlecht. Voting nay: none. Abstain: King.

Sheriff report presented. Sheriff Moore contacted Hupp earlier in the day to let the board know he plans to have the property at 307 Montana St. cleaned up according to the agreement before the rodeo.

Discussion held with Petersen regarding delinquent utility bill left by a tenant at 613 Colorado St. Tenant fell behind but made regular payments until the month they were told by the landlord to move. A final bill was sent to the tenant and no response was received. Kerkman asked Petersen about sending a letter to the tenant first and trying to get them to pay. Petersen stated that ultimately utilities are the responsibility of the landlord and if it's not paid a lien is placed on the property so a letter should be sent to the landlord instead. Board asked Petersen to send the letter.

No unfinished business was discussed as no new information has been received regarding a possible subdivision at the south end of the park.

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New business discussed. Hupp told board next meeting is scheduled for July 8 and with a holiday a few days before, all the bills might not be received so board moved meeting to July 15 at 7 p.m.

Motion by Hart, seconded by Kester, to approve claims and payroll. Claims: \$124,131.94; wages: \$9,272.49. Voting aye: Hart, Kester, King, Schlecht, Kerkman. Voting nay: none.

General Checking

Sanne Service, LLC, sup, 160.32; Bomgaars, sup, 99.63; CORE Development, dues, 320.00; Miller & Associates, srv, 487.50; Professional Tax Services, srv, 60.00; Carhart Lumber, sup, 3,313.25; Intuit QuickBooks, sub, 694.43; Fry Brothers Fertilizer & Chemical, sup, 241.48; Eakes Office Solutions, sup, 128.16; Farmers Pride, sup, 50.00; ERPPD, util, 1,307.36; Precision IT, srv, 702.00; Neligh Auto & Machine, sup, 116.13; NNTC, util, 162.98; Clearwater Market, sup, 6.39; Western Oil II, LLC, fuel, 745.80; ColdType Publishing, adv, 247.90; Black Hills Energy, util, 122.71; Jarecki Sharp Petersen, lgl, 322.50; Antelope Co. Sheriff, srv, 1,302.25; General Savings, tnfr, 2,556.47; Economic Savings, tnfr, 2,556.47; Neb. Dept. of Revenue, tx, 1,654.94; Capital One, sup, 96.46; EMC Insurance, ins, 5,030.51; Payroll, pay, 7,867.98.

Water/Sewer Checking

Neb. Public Health Enviro Lab, srv, 531.00; NDEE, loan, 11,823.06; Sargent Drilling, sup, 274.94; One Call Concepts, srv, 7.54; ERPPD, util, 984.20; Bud's Sanitary Service, srv, 3,437.00; US Post Office, sup, 136.00; J&J Sanitation, srv, 2,029.80; USDA, loan, 77,353.00; Neb. Dept. of Revenue, tx, 574.27; Capital One, srv, 30.45; Water/Sewer Savings, tnfr, 3,000.00.

Economic Checking

Clearwater Chamber, adv, 100.00; Bomgaars, sup, 134.95; Shamrock Nursery, sup, 542.00; Neligh Flower Shop, gift, 40.00; Lauren Sheridan-Simonsen, reimb, 50.00.

Fire Checking

Northeast Community College, sch, 90.00; Quick Med Claims, srv, 156.47.

Library Checking

Clearwater Market, sup, 11.75; Capital One, sup, 339.87; Payroll, pay, 1,404.51.

Credit Card

US Post Office, srv, 30.45; Amazon, sup, 386.38; CutePDF, sub, 49.95.

No attorney report presented.

Motion by Hart, seconded by Schlecht, to approve adjourning meeting. Voting aye: Hart, Schlecht, Kerkman, Kester, King. Voting nay: none. Meeting adjourned at 8:36 p.m.

Chairperson Kelly Kerkman

Clerk Angie Hupp