

## Village of Creston Minutes Tuesday, September 6, 2022

President Byro called the meeting to order at 7:00 pm. Trustees Kerns, Hibshman, Hopkins, Katzman, Ward, and Williams were present. Attorney Tess was present.

President Byro introduced the minutes and asked for additions or corrections. Trustee Ward made a motion to approve the minutes as read. Trustee Williams seconded the motion. All voted in favor. Minutes were approved.

**Visitors & Communication** – President Byro called for Visitors and Communications. President Byro read a letter from Lyle Headon regarding Wreaths Across America, a D.A.R.-sponsored event that will take place in December 2022. Woodlawn Cemetery has been chosen to participate. Wreaths can be ordered online or via a paper form. Wreaths can be purchased for specific veterans. Linda Corwin-Grabber is a contact for this event. President Byro said it is a worthwhile donation and he asked all present to consider it.

Reid Elliot spoke on behalf of the Dement Park District and he spoke about an ongoing issue to a park property on the southwest part of town. The ownership of the park near the stop sign needs to be established. Someone has put survey stakes on the property, and it needs to be determined who the owner is. President Byro stated he thought that the Village had donated the land to the Park District. Trustee Kerns agreed, and Trustee Ward stated he thought it was dedicated and there was a plaque installed when the plat was recorded. Attorney Tess asked if this part of the subdivision and President Byro stated it was. Mr. Elliot stated that there is a resident who is claiming that the park is abandoned because he mows it. Mr. Elliot stated that the park district mows it and the resident has it staked out as if he has had it surveyed. Mr. Elliot reiterated that ownership needed to be established so that this matter could be laid to rest. Trustee Hopkins stated that it is a matter of whether the Village received it from the developer and then the Village in turn donated it to the park district. Attorney Tess stated that was correct. Trustee Ward asked if the park needed to be deeded to the Park District. Attorney Tess stated that it went back to the same issues that have always been there: the Village never accepted the improvements and twenty years has passed. Attorney Tess stated it is a legal mess because it is an abandoned subdivision. The Village did a 20-year program regarding that, and they are claiming the Village accepted the improvements, which Attorney Tess stated is easy enough to refute. Attorney Tess said that the Village has not accepted the improvements because once they are accepted, the Village has a one-year guarantee on the improvements. Attorney Tess is certain that the resident does not own it. The resident can try to claim adverse possession, but Attorney Tess said he would not win that argument. The park either belongs to the Village or the developer. Attorney Tess said he would find out who the rightful owner is. Attorney Tess stated that years ago they met with the Park District and they set up a great program. The Park District wanted the big park mowed, leveled, and backfilled along all the curb areas, and that became a point of contention, and things stopped after that. At the time, the developer's partner had filed bankruptcy. He had a big pile of dirt he could have used as backfill, but the partner sold it off. He didn't have any backfill and things broke down after that. Mr. Elliot said it comes up every summer and it needs to be resolved.

Attorney Tess said he had nothing. President Byro asked if he wanted to talk about the gaming fees and he said no, he would address them later in the meeting.

Casper Manheim stated he had a few permits. The residents at 303 E Depot St finally got rid of all the turkeys, chickens and other fowl they had living on the property, and the camper they had converted to a coop was also gone. They got a permit for the work they are doing, so he has been working with them. He also spoke about 103 E South St. They are cleaning up the yard and have had dumpsters so they could clean out the house. The yard has been mowed several times. There is still work to do, including a huge pile of brush in the yard. President Byro asked if Casper had been inside the house. Casper said the house was locked when he went by there the other day. President Byro said that Casper needs to look inside the house. Trustee Katzman said he saw someone coming out of the house wearing a respirator the other day. Casper said he would check it out. President Byro stated that the roof is falling in and there are utility issues. President Byro asked if a letter had been sent, and Casper stated that he only sent a letter about the lawn and the high weeds, etc. President Byro stated that the trees on the Village property need to be taken out. President Byro said he would ask Jack Kerns if he could remove them. Trustee Katzman asked if it would be just the 2 on South Street and President Byro said that all of them need to go. Trustee Hopkins said that the trees won't get tall enough to give good line of sight at the intersection. President Byro stated that there is an ordinance that specifies what kinds of trees can go in the parkways and the trees that are there are not the right kind. President Byro asked about the cars on Cederholm St. Casper said he had spoken to Attorney Crull regarding that. The car on North Street has been removed, and the car that was in the ditch on Cederholm that looked like it had been in an accident was also gone, but there are still 3-4 cars in the driveway, and at least one is not licensed. President Byro also brought up 2 properties on North St. He said that the Village might need to buy the properties. Bobby Waddell passed about 12 years ago and that house has been empty since he passed. President Byro stated he was tired of driving around and looking at these properties, so it is time to clean them up. Attorney Tess asked if letters had been sent to the property owners and Casper said they had. He said letters

had been sent last Spring, and Attorney Crull has been trying to find out who the actual owners are. Casper said that he would talk with Attorney Crull about the issue. President Byro circled around to 103 E South St and said that he had gotten letters from other residents regarding that property, so the Village needs to get that taken care of. Trustee Ward said that the the Village could probably get the Health Department involved with that property. President Byro said he would let Casper handle it. Attorney Tess asked if the only issues with the Waddell home were the shrubbery and the trees, or were there other issues. Trustee Kerns stated that the house has been abandoned for 10 years. Trustee Katzman stated it is full of junk. Attorney Tess said there is nothing illegal about having an abandoned house as long as there are no code issues. He stated that the trees and shrubs are code issues, and he was asking if there were any other code issues. Casper said he would try to get more information about the inside. He said short of getting an administrative warrant, he can't get into the house without owner consent. Trustee Kerns stated maybe the matter could be worked out peacefully. Trustee Ward stated that one of the daughters lives in Creston. Lori, Bobby's wife, lives in Arkansas. Casper asked if the Village would purchase the properties if necessary and President Byro said yes. Attorney Tess said that they could draw up some proposals and go from there.

Kevin Bunge said he had two things. One of the items was under Old Business, so he would wait to discuss it at that time. The other item was that he received the two-part quote regarding Well No. 3. One part is basically a guess at what work they might have to do, so it is a range of dollars there. The other part is whether or not the Village wants a temporary pump put into place while the other pump is being repaired/replaced. Kevin said he hadn't had a chance to go through it thoroughly, but he would do that and have more information for the next meeting. Both President Byro and Kevin expressed concerns about both a delay in parts, and problems with the other well.

### **Committee Reports**

Finance - Trustee Hopkins had nothing.

Streets & Alleys – Trustee Ward said he had nothing other than the drain repair at the corner of Main and Cederholm. President Byro said it was quite a project. There were 3 lines, 2 of which were 10" lines packed solid with dirt. Cement pipe was installed across the street to prevent future issues. A manhole was opened and there was a leak. That was repaired and everything seems to be working fine. Trustee Ward asked if there was a bill from Queens yet, and President Byro said not that he'd seen.

Water & Sewer – Trustee Kerns had nothing.

Health & Safety - Trustee Hibshman said all he had were the houses.

Zoning & Planning – Trustee Katzman said there would be a public hearing on Thursday, September 8. All correspondence went out in a timely manner, and an ad was put in the paper. He said he would remind the committee about the meeting. The meeting would be held at 7pm. The library is working on procuring bonds. They had a meeting scheduled with a banker, but the banker canceled. They are looking to start construction the middle of next year.

Subdivision - Trustee Williams said he didn't have much. He said he would like to see it get mowed before Booster Days. President Byro said he asked Attorney Crull to find out what was going on with lots possibly being for sale. President Byro said he hadn't heard back from Attorney Crull yet, so he wasn't sure what progress he'd made. Attorney Tess stated he would check on it. Trustee Williams said that he knew that the property had changed hands, and he wanted to know if our contract carried over with that transfer. Attorney Tess stated that the contract was null and void. Attorney Tess said if the current owners wanted to make any moves up there, he would have to come to the Village and the Zoning/Planning Commission

**Old Business** – President Byro brought up the fact that we did not get the DCEO grant we applied for. Kevin spoke about the ARPA Water Main project. Kevin said he had been talking to Attorney Crull and Curtis Loyd, and based on those conversations, Kevin is recommending that the Village abandon the project at Transit and Ridge and focus solely on Cederholm Street. He said with prices the way they are now, there is not enough ARPA money to do both anyway. The issue just south of the tracks, west of Transit, is the easement. The property owner's deed does not include the piece of property that was a Village right of way. Sidwell shows it as being vacated, and the GIS also shows that it is part of that lot. The deed says lots 1 and 2 and says nothing about the property to the north. Attorney Crull went back 100 years and all the deeds said lots 1 and 2. He went back further. 1896 deeds show lots 1 and 2. 1902 shows lots 1 and 2 and that northern piece of property. 1916 deeds show lots 1 and 2. Kevin is fairly convinced that at some point that land was vacated and attached to lot 1. When Sidwell did their research, they counted it as vacated and added to lot 1. The current deed says lots 1 and 2 only. The current recorder's office says that they property owners do not own it, however the assessor has been taxing them on it. Kevin suggested putting an ad in the paper asking for any heirs of the owner from 1902 to come forward and see if anyone comes forward or enter into an agreement with the landowner that we will record a document that clearly gives them that piece of land AFTER the village puts their easement on it. Both parties win, as the landowner gets definitive proof that they own the

land, and the Village gets the easement. Attorney Tess said that it would have to be a judicial deed, which means going to court. Kevin also stated that IF the right of way was vacated, it was done between 1896 and 1902. The question is, can the ordinance be found? The ordinances are in the basement, so it could be researched. Attorney Tess stated that it appears the 1916 deed did not pick up the vacated property, so the Village would need to go back to the 1902 deeds, and you would need a judicial deed to straighten it out. Kevin said the way the deeds are written, the party that had the land in 1902 retained the right of way when they sold the property to the buyer in 1902. The property owner are fine with the easement, but the easement can't be written because the deed does not show that the current owners have the property. Attorney Tess said it can be straightened out, but it won't be inexpensive. Kevin said that this can be tabled for now as the funds available will only cover the work that needs to be done on Cederholm. The Village will still want to deal with the easement as the 2" main needs to be replaced, but the pressure is off time-wise. President Byro confirmed that the owners are still paying property taxes on that land. Trustee Ward stated that the owners could go to the assessor's office and find out when the lots combined as it is being taxed as one piece of land. Attorney Tess stated that they could file an adverse possession on that property. Trustee Ward stated that the only reason we needed the easement was because the IEPA does not like dead-end mains. Both Trustee Ward and Kevin stated that there are other ways to deal with that that won't require the easement. Kevin said he would report back at the next board meeting about what other options can be explored.

**New Business** – Mark Hill spoke about drainage issues. He farms the Berg property in Creston. He wasn't sure how much the Village of Creston has drained through the tile line from the railroad tracks to the piece of property the library is going to build on. It crosses 38, goes to Woodlawn Rd and from there it empties into the Kilbuck. Mr. Hill stated the tile line has been a nuisance for him for many, many years. He said he has repaired blowouts year after year, and it gets expensive. Since 2019 when there was a lot of water, the tile line disintegrated in the bottom of the waterway. Mr. Hill provided photos that showed the waterways and the tile lines. The tile line is old enough that it is falling apart. He has repaired it, and he showed where the existing clay runs through the existing water way 2-3 times. The tile depth is too shallow, and it is old. Mr. Hill suggested to Eric Lawler at HB Farm services that they should take it outside the line. Mr. Lawler said that it was doable, but he would not do it as the other line will bust. Mr. Hill asked about the cost to put everything together. The cost would be about \$1500. Mr. Hill said there were other issues, and he didn't think he needed to go into them, and President Byro confirmed that he knew about the other issues. Mr. Hill would like to put in a new tile line, and he wondered if the Village would be willing to contribute. Kevin was unsure about the area that Mr. Hill was talking about. Kevin wanted to remind the board that C.E.S. did a preliminary design for a replacement of the tile years ago, but it was more of a mainline storm sewer that was a collector that was the beginning of a storm sewer system network that would drain the area south of the tracks. It was not a final design that was ready for construction. It was a look at what it would take to accomplish the project. Mr. Hill said that the biggest need was an outlet. With no outlet, the size of the tile doesn't matter. Mr. Hill said he has no idea what the outlet is like once you get to Woodlawn Rd. Trustee Kerns had the ditch cleaned for the township, and Trustee Kerns stated that the ditch goes somewhere. Water can go downhill at a certain speed in a certain volume, if it's flat you need a really big pipe. If you have a lot of flow, you can go with a smaller pipe. It is currently a 12" pipe and it needs to be larger. If you are going to do that, it will need to go all the way to the railroad tracks and beyond. Kevin said that the system they designed was also dependent on the retention pond on the property where the library will build. Trustee Williams said the retention pond by the school and the two at the subdivision feed down that same pipe, and Kevin said that there were more planned. The Village never pursued the property, but that pond would have taken a lot of pressure off the downstream system. President Byro said that project back then was \$2 million, which is why it wasn't done. The waterway has been saturated since 2019. The only time Mr. Hill could get it mowed was last year when we had a drought. President Byro stated he thinks the Village needs to take some responsibility for this, but how much he was not sure. Mr. Hill said that there are other people who would need to be involved. He talked about Shannon Lee, who owns the property where there is a catch basin, and Otto Heisner owns the 80 acres north of 38, which also drains into this current pipeline, and Mr. Hill is aware of 2 other tiles that he would be responsible for. He said he didn't know what the elevation fall from Beck Rd to Woodlawn was, but it is significant. Trustee Williams asked how big the culvert going across Woodlawn is. Trustee Kerns said he didn't know. Mr. Hill said it will generally handle a flood. Mr. Hill thanked the board for listening and he thought it would help the Village to have the water underground. Trustee Ward asked Mr. Hill how much he thought the Village should be responsible for. Mr. Hill said he wanted to be a good neighbor and he wasn't trying to make the Village pay for everything. He wanted to do what both parties thing is responsible. He asked Mr. Lawler and he didn't really give an answer. He just said he didn't know. Mr. Hill said doesn't know what is fair. More discussion was had regarding what would be the best course to take regarding the size of the tile and how deep it would go. President Byro asked Mr. Hill to come up with some more figures and bring them back to the board for further discussion. Trustee Hopkins said that 12" is the largest Mr. Lawler will go before requiring dual wall tile. Trustee Ward asked about Illinois Drainage Laws about increasing flow off your property. Kevin said that you cannot release greater without permission from everyone down the line. President Byro reiterated that Mr. Hill should get some figures together and bring them back to the board for further discussion.

Mark Hill has some concerns about drainage across the highway. He wants to sit down and talk with the Board and let everyone know what the issues are. Trustee Ward asked if it was on the north side of route 38. Trustee Kerns asked what they did last time, and President Byro stated that they didn't do much other than putting bigger tile in there. Trustee Williams stated that area is where the Village pumps their ground water. President Byro expressed concerns about what will happen with the library, and their retention pond.

President Byro stated that Mr. Hill had drawings regarding the issue. Trustee Hopkins asked if Mr. Hill has a good idea what exists up there and if they plan to upgrade, is he trying to get the Village on board. President Byro stated that he thought so. There have always been issues with the water in that area, so we will have to talk to Mr. Hill and see how best to proceed.

President Byro spoke about the William Heal Memorial. It was going to be a 15-minute program held on August 20 during the Outdoor Market. President Byro asked anyone who could be there to be there, and he also suggested inviting people to attend.

Abandoned vehicles were discussed earlier in the meetings. Casper is working on that issue, and President Byro asked if there were any more. Trustees Ward, Kerns and Katzman all said there are a lot of abandoned vehicles around town. Trustee Kerns felt that if we are giving one resident letters, we should give everyone letters. Casper asked him to get addresses of any properties that have abandoned vehicles on them and he will look into them. Trustee Ward asked about where we were with problem properties. Atty Crull stated he was going to touch base with Casper on that after the meeting. Trustee Kerns stated that the back of Maxwell Lawrence's old house is bad. He stated that you don't want to walk back there. Someone else said it was Tommy Pillion's old house, and Mr. Loyd said he thought Tommy Pillion still owned it. President Byro said to get Casper addresses and Atty Crull said he would work with Casper on those.

President Byro brought up the IML Conference. President Byro stated that if anyone wants to go, they need to get signed up, and the Village will pay for it if someone wants to go. President Byro said he went last year but is not going this year. Atty Crull said that they deal with a lot of current issues that the Board deals with, so it is worth it to go.

**Treasurer's Report** – Trustee Katzman asked if the contractor who dealt with the trees in his alley billed for the service, as he did not finish. Jack Kerns ended up finishing the job. Mr. Loyd stated that he also did not finish with the trees at Woodlawn and Depot. Trustee Ward stated that we need to remind Northern Illinois Disposal that they must pick up loose items. In Rochelle, everything must be in the can. Here everything must be in the can if possible. NI Disposal only wanted to take 1 big item per week, but the Village said no. Trustee Ward felt that we needed to remind them that they need to pick up everything that is left that they can legally take. Trustee Williams made a motion to pay the bills. Trustee Ward seconded the motion. Roll call vote was taken. Trustees Kerns, Katzman, Williams, Ward, and Hopkins all voted yes. Trustee Hibshman was not present.

President Byro said he had nothing else. Trustee Hopkins made a motion to adjourn. Trustee Ward seconded the motion. All voted in favor. President Byro adjourned the meeting at 7:29:49 pm.