

## Village of Creston Minutes Tuesday, August 1, 2023

President Byro called the meeting to order at 7:00 pm. Trustees Elliot, Hibshman, Hopkins, Katzman, Kerns, and Ward were present. Attorney Tess was not present at the start of the meeting.

President Byro introduced the minutes and asked for additions or corrections. Trustee Hibshman made a motion to approve the minutes. Trustee Ward seconded the motion. Minutes were unanimously approved.

**Visitors & Communication** – President Byro asked if there were any visitors or communications. Treasurer Payton spoke on behalf of resident Ashley who lives at 209 S Fremont St, who is concerned about standing water along Fremont St, plus there is an erosion of some sort that needs to be taken care of. Ashley believes the water is coming across underneath the street from the retention ponds in the subdivision. Treasurer Payton and Ashley spoke about it, and they believe that it might have something to do with the fact that the hydrants are being flushed so often. On those days, the water is gathering and coming down Fremont St. Ashley is concerned because there is always standing water there and with as little rain as there had been, there should not have been any standing water. Ashley believes there may be some kind of problem that the Village needs to address. President Byro stated that the board discussed the line that goes between two houses on that street and goes out into the field. President Byro asked if that was the issue that was being discussed. Trustee Kerns said he had something to add. He looked at the water that day and said that the water was running. He said Ashley had approached him about it previously and the problem had been going on for about a year. Trustee Kerns didn't think the fire hydrants were the problem. Trustee Ward asked if all the drainage from the subdivision ended up going to the west. He stated that there were no drainpipes that ran from the subdivision over to the school. President Byro said he thought it did. Trustee Ward said it came from the field behind the school into the school's retention pond. Trustee Ward said the resident thinks that when Curtis flushes the hydrants, it goes into the storm drains in the subdivision, and that goes into the detention ponds in the subdivision that eventually outlets to the west. Trustee Kerns said the pond at the school was wet and President Byro said it hadn't been dry all summer. Trustee Kerns said that he looked at the spot that day and there was running water. Trustee Ward and Kevin Bunge said it sounded like a main leak. President Byro confirmed with Curtis Loyd that it had been about a week since he flushed the hydrants, so that wasn't the problem. Trustee Kerns reiterated that it had been going on for about a year and it is a mess. Kevin asked if the first sign of the water was in the school pond and Trustee Kerns said yes. Kevin asked if any water was seen south of there and Trustee Kerns said yes, probably all the way across the bottom of the pond. Trustee Elliot asked if there was old tile that went through that area. Trustee Kerns said most likely. Curtis Loyd mentioned that Trustee Kerns had put drainage or taper in that ditch a couple of years ago. Trustee Ward said that they graded it. Trustee Kerns asked if they graded the school side and Trustee Ward said no, it was the north side. He also said the pitch was pretty flat in that area. Trustee Kerns said there was running water there and Trustee Hibshman said that area floods quite a bit when it rains a lot. Curtis Loyd said that if the manhole cover by the pond is opened, there is clear water running in there constantly. Kevin asked where it was, and Curtis said it was in the ditch by the school. Trustee Ward said that they put tile in from Kaye Ln to the school. Kevin said that he remembered tile from the school pond that either dumped into it or it dumped into somewhere else. Trustee Hopkins said the tile done from Kaye Ln was done by Tom Huddleston and it was corrugated like field tile. Trustee Ward said it was done before the subdivision went in. Trustee Kerns said there should not be standing water by the road, and Trustee Hopkins agreed, especially with how dry it had been. Trustee Kerns said that there were other ponds that had trees that were 6" in diameter and he asked Kevin if that would cause a problem like that, and Kevin said no. Kevin thought it was a water main leak. Curtis said that all the water dried up after Trustee Kerns put more slope in that ditch down through there and graded it down into the tile behind Sanderson's. Curtis said that it had been wet there all summer. President Byro said that the matter needed to be investigated. He asked Kevin if he thought there was a line from the subdivision into that pond and he said no, he did not believe so. Kevin said he would check into it. Curtis said he would get some water samples and Trustee Kerns said he would go with him to check on it.

Attorney Tess said he had nothing other than the Raffle Ordinance, which was to be discussed later. He asked Atty Gecan if he had any updates on the lawsuits. Atty Gecan stated that there were 3 open still going. Most of them were up for entry of a default judgment. Someone showed up for one of them and there was one more court date before they set it up for trial. There were 8 total and 5 of them had already been concluded and had judgments against them. Atty Crull would know more about the cases, but Atty Gecan wanted to discuss them with him so that he could update all the files. Atty Tess said that the problem was that the Village would have default judgments, and the Village would have to work with Casper to find out how to proceed. If the Village chose to demolish buildings, who would pay for it? If the Village wanted to clean up properties, who would pay for it? The Village could demolish or clean up, and then put a lien on the property. President Byro stated that if the Village decided to sell the property, Atty Tess replied that it would take another 2-3 legal steps to sell it and foreclose the liens. Trustee Kerns stated the Village wanted to clean the properties up or demolish the buildings on them. President Byro agreed. Atty Tess said that all the defaults were entered on July 20, 2023. He said that the Village would need to work with Casper and come up with a plan as to how to move forward. President Byro asked who still owned the property. Atty Tess said that the owners still owned the properties, but the default judgment was entered because the owners did not

respond to the complaints. With the default, the Village could now go back into court and say that they wanted to have structures on the property demolished. That would be the Village's expense to take the structures down. Then the Village could go back to court another time to put a lien on the property. The Village had the right to do that since default judgment had been entered. The next step would be to make a plan with Casper as to how to deal with these properties now that default judgment had been entered. Trustee Elliot clarified that the Village would not take possession of the property, but the Village had to pay to clean it up, and then when the owners sell, that is when the lien would be taken care of. Atty Tess stated that once you lien the property, you could foreclose on the lien, but if there were prior liens such as a mortgage, those would be taken in order and it was possible the Village would not recoup anything. Trustee Hopkins clarified that all prior liens would be addressed in chronological order and Atty Tess said that was correct. Casper stated that the Village may not get the money they would spend on clean-up and demolition back. President Byro and Trustee Kerns both expressed that the Village needed to move forward and do what needed to be done. Trustee Ward stated it was a matter of weighing the public good versus the cost. Trustee Elliot asked if all prior liens would be a matter of public record and Atty Tess stated that they would be. Trustee Ward asked how it would work regarding delinquent taxes or taxes that were purchased, and Atty Tess said the taxes would be paid first. Atty Tess also stated that if someone bought the taxes, they would be liable for what the Village was doing. The default judgments were entered 7/20/23 so now the next step would be to make a plan about how to move forward.

Casper Manheim said that part of what he wanted to discuss was under new business so he would talk about it at that time. He said that a letter would be going out regarding a homeowner on Regulators St who has a dump truck parked in front of his home. There is an ordinance regarding home based businesses that regulates what one can and cannot do regarding running a home-based business and this resident is doing about  $\frac{3}{4}$  of what the ordinance states he cannot do. Atty Tess said that there are court dates coming up, so he advised that we keep them apprised of what was going on, so that they could get as many issues addressed as possible at one time to save the Village money. Casper stated that he had some other issues to discuss with Atty Tess, so he would let him know. President Byro asked if anyone had anything else for Casper and no one brought up any additional issues.

Kevin Bunge stated that last month the Village authorized him to move forward with Layne Western regarding the Well No. 3 project. Kevin noticed that the bid, which was received in November of last year, was only good for 30 days. He asked them for a new bid, and they got it to him the day of the meeting. He stated that Layne Western would be ready to go in 2-4 weeks. Kevin stated that the issues with the library project came up at the last meeting. He met with their engineer, and the engineer said there were too many projects at one time and the bids came in too high. The bids were out of the library's price range. Kevin stated that we are at the point with the Quiet Zone where all the preliminary work has been done. A diagnostic meeting was recommended and there is one engineer in the country for UPRR that does these meetings, and he goes to wherever the meeting is held and he gets to set his rates. IF the Village decided to have this diagnostic meeting, that would be \$13,000 to that engineer. He said that the Village does not have to have the diagnostic meeting, but it is recommended. This engineer estimated he will be about \$15,000 into it by the time he did his reviews for UPRR. The Quiet Zone is something the Village has wanted to proceed with for quite some time and we are at the point where we need to move forward if that is what the board wants to do. Kevin stated that the Village could skip the diagnostic meeting and go ahead and meet with the other agencies involved and see if put the Village at odds with this engineer. Kevin said he didn't want to set up the meeting if the Board did not want to move forward. President Byro stated that was part of the problem. The Board needs to find out if the residents really want a Quiet Zone or not, and what the Village needs to do to get one. What are the options? What kinds of crossing modifications are needed? Do all 3 crossings need to be modified? President Byro stated he would like to know where we need to be with all of these pieces. Trustee Ward suggested that he and Kevin meet with President Byro and bring him up to speed with where they are and get a game plan together for a public meeting. Kevin said that the answers were out there, and they have a plan already, but if President Byro doesn't know the plan, then other people don't, either. Trustee Ward reiterated the need for a public meeting and President Byro stressed that a public meeting needs to happen. Trustee Elliot asked what the total cost of the entire project would be, and Kevin said he could not remember, and he asked Trustee Ward if he knew. Trustee Ward said he could not remember, either. Trustee Elliot asked if it would be \$250,000 or \$500,000. Trustee Ward said it would not be \$500,000. Trustee Elliot stated that if a figure is made public that could change some people's perceptions of the necessity of the project. Kevin said he would provide the total cost of the project. Trustee Ward stated that that the project would require a 1200' curb at the most, and some instances it could be less than 100'. It was asked if something would have to be installed in the middle of the road. Trustee Ward stated yes. It was also asked if the Village would lose parking downtown. Trustee Ward stated that he had heard so many rumors about what was going to happen. He said that not one person has sat down and talked to him or Kevin about what is being planned. He stated that the public hearing needs to be held so that facts can be presented, and the rumors can be quashed. President Byro stated that he drove through Cortland, and they reconfigured their crossings, but they have a big downtown. Creston does not. He said that he's been through Elburn, and they have huge gates that come down and block the entire crossing. President Byro said that he would prefer that option if possible. Trustee Katzman stated he saw the same thing in Bloomington when he was down there. Trustee Ward said that the Village cannot afford those gates because not only do you have to pay the UP to design and install them, but you must pay a year maintenance fee, which is not cheap either. Kevin stated that he agreed with Trustee Ward and some institutional knowledge may have been lost along the way. The reason the plan looks the way it does and is being done the way it is has been discussed is due to cost. He did state that the public hearing needs to be held. Trustee Hibshman asked if the median would be installed down the middle of

Main Street and Trustee Ward stated that right now, that is the design. Trustee Ward said the minimum length required per Federal regulations is 60'. If you opt for less than 60', then the engineer has to certify that it will still be effective and then if anything happens the liability falls on the Village. Trustee Hibshman stated that between the curb and the sidewalk there will be cars parked there and the concern is that trucks won't be able to get through. Trustee Ward said he has instructed Kevin to do turning templates, and there would be back-to-back curbs of 2'. President Byro said the project needs to be presented to the public and the Board needs to find out what they want. Kevin asked if he and Trustee Ward could meet with President Byro and President Byro said yes. President Byro asked Kevin if the Village should go ahead and pay Queens. Kevin said he just got the pay request that day. He said that his firm would go through it and see if they agree with what is being billed. President Byro wants to make sure they get paid, but he also wants to make sure that they did what the village asked them to do. Kevin said nothing would get paid until they sign off on it.

## **Committee Reports**

Finance - Trustee Hopkins had nothing.

Streets & Alleys – Trustee Ward stated that sealcoating was done.

Water & Sewer – Trustee Kerns said the only thing he had was the issue Treasurer Payton brought up at the beginning of the meeting. Trustee Ward brought up the fact that he thinks that the Village should continue to replace valves. He said that Curtis has a list of valves that are inoperable, and he feels that the Village should budget yearly for valve replacement. President Byro said he agreed.

Health & Safety - Trustee Hibshman stated he had nothing.

Zoning & Planning – Trustee Katzman said the only thing he had was the library and Kevin already talked about that.

Subdivision - Trustee Elliot stated there was a farm on Il Route 38 between Creston and Rochelle that had a development sign up, and they wanted to meet with Trustee Elliot and President Byro the following Wednesday. Trustee Elliot said they would hear what they had to say and report back. President Byro said there was something going on with that property. President Byro said he noticed they were mowing in the subdivision. Trustee Elliot said he would like to take a drive through there with someone and have some things explained to him about what was going on. Atty Tess said he received a couple of phone calls regarding the subdivision, but everything was very preliminary, and he would have more to report next month. President Byro stated that two lots had been sold.

**New Business** – Casper spoke about the Building Code. Right now, the Village has the 2003 ICC codes that were adopted, and he doesn't think there is a complete set of them. In September, the 2024 ICC codes will come out. Casper said that he is required to use the most recent code. Casper said he had a handout for everyone, and he said he would have to sit down with Atty Tess as an ordinance would need to be written. He said the only thing he wanted to take out of the new code was that sprinklers would not be required for new homes or duplexes zoned R1 or R2. He said there are exceptions, such as adding onto a current home. He got a set of books and there are 8-10 books total, He said a new set of books runs about \$1000. He said he was talking to Treasurer Payton about it, and he said that he wasn't sure if the Village was a member of ICC. He said if the Village was not, the ICC might give a discount. Trustee Ward asked if they still published printed books or if they were all on discs. Casper said that they were available as both hard copies and discs. Trustee Kerns asked about the changes Casper wanted to make. Trustee Kerns asked if the firewall still had to be there if a sprinkler system was installed. He said he didn't want to make it so people couldn't afford to build. Casper addressed the fact that a townhouse is like a glorified duplex from the basement to the roof, and there is a complete 2-hour fire separation and if you have that, you don't need a sprinkler system. Trustee Kerns said it is just more money and he asked if the Village water system would support a sprinkler system. Trustee Ward stated that it would because only a couple of heads would be operating at a time. Trustee Kerns stated it would be multi-family. Trustee Ward said even so, there would not be 50 heads going at once. He said that only a couple of heads would be working at a time, and it would use no more water than taking a shower. Casper said he brought this up because he has other communities that are still operating with the 2003 code, and he is trying to get them all updated. Trustee Elliot asked if ICC was Illinois Commerce Commission. Casper said no, it is Illinois Code Council. Casper said these are international codes. Trustee Elliot asked how much it costs to join and Casper said it used to be \$125. Trustee Ward stated that when the insurance people that give the Village their rating come through, they want to see how old your code is and that could negatively impact your rating. President Byro asked if anything needed to be adopted at the meeting and Casper said he was asking for the go-ahead to get the process going. President Byro stated that the Village needs to keep up with Code, so as far as he was concerned, Casper should move ahead. He said other communities were also moving forward with updating their codes. Casper would like to get everything updated by the end of the year. Trustee Ward asked if the Codes could be posted on the Village website and Casper said he didn't think so.

President Byro asked for a motion. Atty Tess asked if the Village was adopting the entire 2024 Code with the exception of the sprinklers for new residential homes or additions and Casper stated that was his plan. Atty Tess asked for confirmation that the

sprinkler exception was the only exception Casper was requesting and he said yes. Trustee Ward said in his opinion, give Casper approval to get the books, join the ICC and then Atty Tess would need to write an ordinance regarding the Codes that the Village is adopting. Trustee Elliot asked how often the Code is updated. Casper said they update them every 3 years. Trustee Kerns said he was interested in what is in the Code, but he didn't want to adopt the code at that time. He was willing to buy the books only. He said he didn't want to put anyone out of the market until the market catches up. Casper said he wanted to buy the books and adopt the codes. Trustee Kerns made a motion to buy the books and join the ICC. Trustee Hibshman seconded the motion. Trustee Elliot stated that he was on board with buying the books, but he didn't feel they could adopt the Codes until they read them. Roll Call vote taken, and all voted yes.

Raffle Ordinance: President Byro asked Atty Tess to present the ordinance. Atty Tess stated he was approached by someone from the Rochelle Township High School Foundation and some people from the Moose Knuckle and was asked to present an ordinance to the Board so that charitable raffles could be held. As written, the Village ordinance does not allow raffles to take place. They allow for gaming through the liquor license. He looked at all the ordinances and to move forward, the Village would have to modify Chapter 6, which is Amusements, and add a new article, and modify Chapter 14, Alcohol, to allow a raffle to happen at a liquor establishment. He said he was not telling the Board to do it or not to do it. He was approached about it, and he drew up an ordinance for the Village Board to consider. Atty Tess went through the modifications; it adds Article III to coin-operated devices which allows for charitable raffles only. Charitable organizations are identified as those that qualify as a 501-c corporation. It identifies what a raffle is, and outlaws any raffles that are not in compliance with the ordinance. Application is to be made through the Village Clerk, and the ordinance lays out what the application needs to include. It also qualifies that the activity must take place within the Village limits or benefit the citizens of the Village. All proceeds must go to the charity that is hosting the raffle. There is a \$50 application fee and multiple raffles can be held, but the aggregate cannot exceed \$50,000 unless they come to the Board and inform them that a higher aggregate is expected. The license would need to be modified. A single raffle is capped at \$25,000. Atty Tess said he would increase those amounts if the Board wanted him to. Penalties up to \$2500 are provided if the license is not procured prior to the raffle being held. The liquor commissioner can hold a hearing if it is a liquor establishment and can fine the liquor license holder up to \$2500. The only people that can run the raffle are members of the 501-c corporation's board. The establishment hosts it but cannot run the raffle. The Moose Knuckle and their gaming rep decided to approach the Village as it is a smaller body of government, and he is a business within the community. It would be easier to lay out a footprint for him to help a non-profit within his community. Queen of Hearts raffles can go anywhere from \$20,000 to \$380,000. It can create chaos and traffic and that needs to be controlled. Atty Tess said that Ogle County has a raffle ordinance. He said that he called the Attorney General and asked if their non-profit needed a license to hold a raffle and he said no, just do it. He said that in this instance we are talking about a Queen of Hearts raffle at a liquor establishment, and if the Board decides to allow it, it needs to be done right, which requires an ordinance. The ordinance also protects the gaming license. If Headdon's wants to have a meat raffle, they would have to host it and a 501-c has to run it. Atty Tess stated that the Creston PTO would need to become a 501-c. Trustee Elliot reiterated that the ordinance is just to ensure that everything is done right. The liquor establishment is the host. The liquor establishment does not run the raffle. The 501-c runs the raffle.

President Byro asked if the Board wanted to pass the ordinance that night or think it over. They agreed it should be passed. Trustee Hopkins made a motion to pass Ordinance 080123 to allow issuance of license to host charitable raffles. Trustee Katzman seconded it. President Byro asked for questions. None were asked. Roll call vote taken. All voted yea.

President Byro brought up the Hill drainage. He stated that Mark Hill spoke about the tile replacement at last month's meeting and President Byro wanted to know what the Board's thoughts were about paying the \$2700 that Mr. Hill requested. Trustee Hibshman stated that he didn't know anything about drainage, but he knows that Mr. Hill does a lot for this community and according to what Mr. Hill talked about previously, it will help the Village with drainage. Trustee Ward stated that he thought it over and that when Mr. Hill replaced the tile, he upsized it. All he is asking for is the upsizing fee. Trustee Elliot said he was originally going to install 10" tile and opted to install 12", which accounts for the additional 15% for drainage. Trustee Kerns made a motion to pay Mr. Hill the \$2700. Trustee Hibshman seconded it. Roll Call vote taken. All voted yea.

**Old Business** - President Byro brought up the Solar Ordinance. He said he keeps putting it on the agenda because he would like to see the Board get it adopted. He stated that if any changes need to be made, they can be made, but he said that the ordinance has been on the agenda for the last 3 months and he would like to get it done. Trustee Elliot suggested reviewing the ordinance that Casper brought from Mount Morris and taking a vote on it next month. Trustee Ward addressed the fact that the proposed ordinance stated that the panels must face one direction and he would like to see that addressed because not everyone has a south-facing roof. President Byro said that we need to get that information to Atty Tess so that the ordinance can be amended. Atty Tess said that Atty Crull has an ordinance roughed out and ready to go, but he didn't know the details. President Byro asked Atty Tess if Atty Crull can send a copy of what he has to the Board so they can review it and suggest any changes that need to be made, and the Board can vote on it next month.

Atty Tess wanted to mention that the ordinance book is from 1990 and he suggested updating the ordinances. It has been 25 years, and the book and online code needs to be updated. The Village already pays Civic Plus a yearly fee for codification, so Clerk Payton will work with them to get everything updated. Atty Tess stated that something is going to happen with the subdivision. The development agreement that was entered into with the prior developer has expired and any new developer will have to come before the board to negotiate a new agreement. Updating code will save a lot of problems when that happens. Clerk Payton said that she got no guidance on how to update with Civic Plus, so she wasn't sure where to start or how to do it. She intends to reach out to Civic Plus to find out how to proceed. Atty Tess said their office would work with her as well to get it done.

**Treasurer's Report** – Treasurer Payton asked about 2 invoices the Village got from Curran and Martin & Co for asphalt, and she didn't know if they were for the patching Queens did after tearing up the streets for the water main project, or if they were part of the sealcoat project. Trustee Ward stated that either way, the county did the patching, so the county should sign off on them. Trustee Ward said that was for the patching done by the Village of Creston. Treasurer Payton said that the bills aren't sent to Queens anymore. Now they send the bill directly to the Village or the Township. Treasurer Payton stated that the patching was done on July 17-18. Trustee Ward suggested calling Dave with Ogle County Highway Department to verify if they were for sealcoating or not. Treasurer Payton said she wasn't sure which fund to take the money out of. Curran didn't send any tickets with their invoice, but Martin did. Curtis Loyd stated that the County also put 6 tons of blacktop patch up at the school for the drive and the parking lot. Treasurer Payton stated that the bill she had was for 24 tons. Trustee Ward asked how much per ton they were billing us. Treasurer Payton stated it was \$67 per ton for Martin and Curran charged \$77. Trustee Ward suggested verifying with the County about the dates they did the patching. Kevin stated that the bill should have gone to Queens and not to the Village. Treasurer Payton also asked that if C.E.S. signed off on all the bills for Queens, could the board approve payment at the current meeting so that payment didn't have to wait until September. President Byro stated yes. Trustee Hopkins made a motion to pay the bills and added that payment should be made to Queens pending engineer approval, and payment made to Curran and Martin for asphalt upon verification with the County. Trustee Katzman seconded the motion. Roll Call vote taken. All voted yea.

President Byro said he had nothing else. Trustee Elliot made a motion to adjourn. Trustee Hopkins seconded the motion. All voted in favor. President Byro adjourned the meeting at 8:24:48 pm.