

## Village of Creston Minutes Tuesday, October 4, 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 asked for a correction regarding the park being dedicated when the plat was recorded. Requested correction made before minutes were published. Trustee Hibshman made a motion to approve the minutes. Trustee Hopkins seconded the motion. All voted in favor. Minutes were approved.

**Visitors & Communication** – President Byro said he had no communications and asked if there were any visitors who wished to speak. Adam Helgeson introduced himself and stated he had a couple of questions about the water. He said he was aware that changes had been made during COVID regarding the chlorine levels, but he has a very strong chlorine smell in his house. He said he had the water tested and the residual was about 2.7 parts per million, and he wasn't sure if there was a certain level that the Village was trying to maintain. Mr. Helgeson said he knows that the limit is 4.0 and he did some research, and the level is almost at the level of a public swimming pool. President Byro responded that the Village has been having issues with the chlorine levels all summer, and he asked Curtis Loyd to speak on that issue. President Byro asked if it was a dead end in that area and Mr. Loyd said it was. He stated that they are trying to maintain a 2.0 level and with the weather cooling off, they are dropping the chlorine in the pumps every other day. Mr. Loyd said the issue will continue as the weather cools because the chlorine doesn't disperse as well when it's cold. Mr. Helgeson said that he knows that there is no such thing as perfect levels and that it often varies. Mr. Loyd said they were going to flush hydrants on October 18 and 19, and that may help for a while. Mr. Loyd stated that they have to be careful not to let the chlorine levels drop too much too fast. President Byro asked Mr. Helgeson to keep an eye on it and keep him or anyone from the board informed if there are any more issues. Mr. Helgeson asked if all the water came from the tower and Trustee Ward said sort of. The water comes from the well to the tower, then goes out into the system, and the chlorine is injected at the tower. Trustee Ward spoke about the 2.0 levels that the Village needs to maintain and that it has to be maintained at that level through the entire system, so some residents may experience higher chlorine levels than other residents. Mr. Helgeson stated he has had some experience with this as he worked at Kishwaukee College and has his certification in this area, and he knows how difficult it can be to keep it balanced. Mrs. Helgeson stated that they have tested the water more than once, so it has been an ongoing problem and her concern is when she draws a bath for her little boys, the smell is really strong. She just wants to make sure that all options are explored regarding this issue and both Mr. & Mrs. Helgeson thanked the board for their time and attention to the matter. President Byro asked if there were any other visitors who wished to speak and no one else came forward.

Attorney Tess said he had quite a few items to discuss that were on the agenda, but he did speak about a letter that was sent to Mr. Garland explaining that the park property that Mr. Elliot spoke about at the previous meeting does belong to the Village. Mr. Tess said the Village might want to address that that property is still in the Village's name. The property was supposed to be transferred to the park district after the backfilling and other work was done, but the negotiations fell through, so the transfer was never made. Mr. Elliot asked about the big park, and Mr. Tess said that the big park still belonged to the subdivision, and the smaller park near where Trustee Kerns lives also belongs to the subdivision, and the park that Mr. Garland has been attempting to stake claim to belongs to the Village.

Casper Manheim said he met with Russ Crull the previous week to find out what is needed in regards to the abandoned properties and vehicle issues. Casper said he had taken pictures of the 4 homes in question as well as the two properties with the vehicles on them. Clerk Payton is going to get the photos developed and then he will write up the code violations and give them to Russ. President Byro said that he wants this process started by the end of the year.

Kevin Bunge said he had two issues, which were both on the agenda.

### **Committee Reports**

Finance - Trustee Hopkins had nothing.

Streets & Alleys – Trustee Ward said he had nothing. President Byro said the bills from Queens came for the street and water main repairs.

Water & Sewer – Trustee Kerns had nothing about water and sewer, but he did want to talk about the disposal company. It seems that they are not picking up anything that is not in cans. Clerk Payton said that she called Northern Illinois Disposal and she spoke with Emily and she asked Emily if the disposal company is supposed to pick up items left on the curb. She said yes, they are supposed to do that. The issue with the sectional that was left after Hensley's moved was if it is too big, too heavy, or if it is wet, or not broken down

enough, they won't pick it up. Clerk Payton asked Emily if the disposal company needs to be notified if there are items outside the cans to be picked up, and Emily said no, that should not be necessary. President Byro and Trustee Kerns said they would see what happened with the next pick up, but there have been other properties where they have no picked up items that were not in the garbage cans.

Health & Safety - Trustee Hibshman said he didn't have much. He said that there are a couple of residents that drive like crazy in town, but he isn't sure what can be done about it. He also brought up the fact that Headon's is hosting a chili cook-off and they plan to close off North St for that event. Clerk Payton asked if Trustee Hibshman had flyers, and he said yes. She said if he could get her one, she could upload it to the newly revamped Village of Creston website. President Byro spoke about the changes to the website, and Trustee Katzman stated that he liked the photo on the home page. Trustee Ward circled back to the speeding issue and suggested that President Byro have a sit-down with the Ogle County Sheriff regarding the issue. President Byro said he talked to him about a month ago, and nothing really happened. President Byro said he would talk to him again. Trustee Ward suggested asking him to come to a board meeting. There are no county deputies living in town anymore, so that deterrence is not there anymore. Angie Ward brought up a couple of kids on dirt bikes that run up and down the street.

Zoning & Planning – Trustee Katzman said he had nothing other than the Variance, which is on the agenda under New Business.

Subdivision - Trustee Williams said he did not have anything other than they need to mow. He hoped they would get it done before Booster Days, but they did not. He said it would be nice if it got done before winter. Atty Tess stated that he did contact their lawyer after the last meeting. It has not changed hands, and he also talked with the lawyer about mowing. The owner's lawyer told him that he would talk to the owner and get back to Atty Tess before the board meeting, and Atty Tess did not hear from him. Atty Tess said that he wants to get all the liens together in relation to that property and all the repairs and mowing the village has done. Atty Tess said that if he can't make any progress, the Village can take them to court, but that would be expensive and perhaps not very effective. He suggested mowing it ourselves, or hire someone to mow it and lien it, but the liens have be foreclosed on to get paid. Trustee Williams said it looks like a jungle, and Atty Tess agreed it looks terrible.

**New Business** – Kris Scherer from the library handed out the proposed route for the Christmas Parade this year. She said if the route looks okay to the board, she will start making the pickets so that they can be ready ahead of time. The new proposed route will cover more area and end up on Main St. President Byro asked for the date and Kris said Friday night, 12/2/22, and there will be vendors and other activities the next day, Saturday 12/3. Kris also talked about a tree lighting ceremony. She has been looking for a tree to plant as she would rather not waste money buying trees every year. She found a place that has an 8 ft Norway Spruce that costs \$825 plus an additional \$250 to plant it, and a one-year guarantee. The company is out of Morris and there is no delivery charge. President Byro asked where they were planning to plant it and Kris said on the other side of the gazebo. She thought that would be a good location, and we could have different people turn the lights on each year. She said if the gazebo location would not work, they could plant it on the empty lot across the street from the library. President Byro is just afraid that the area near the gazebo is not big enough. Kris said that the tree is 8 feet but can grow to 25 feet. Consensus is that it should go on the empty lot as it is more visible and a better location. Kris said she was hoping some woodworker in town could build a gingerbread house so that Santa could have visits. President Byro agreed that the lot would be a better location for it. Trustee Hibshman said he thinks we should have a tree in town, as other communities have Christmas trees. \$1075 is the total amount it would cost. President Byro asked how much they were asking the Village to pay and Kris said all of it. Treasurer Payton brought up that the Village still has money that was left by Fred Cederholm for civic projects and she felt that Fred would plant the tree himself if he were still with us. President Byro asked the board what they wanted to do. Reid Elliot asked Kris if she wanted to bring the matter up at the park district board meeting and she said that they were short of money for gifts for the kids, so she was going to talk about that with the park board. Treasurer Payton also said that Dement Township could help with that as well. Trustee Kerns asked if there was enough money from Mr. Cederholm to cover it, and President Byro said yes. Trustee Kerns asked what the money is earmarked for, and Treasurer Payton said citizenship and the town center. Trustee Kerns made a motion to use the money left by Mr. Cederholm to pay for the tree for the library. Trustee Katzman seconded it. Trustee Hopkins stressed to plant the tree far enough back on the lot to allow it to grow. Trustee Ward suggested making a call to St. Albans to see what they have to offer, and President Byro also mentioned Charles Quitno and his selection of trees. Roll call vote was taken. All voted yes.

RMU did not attend. They were planning to attend the November meeting.

Reid Elliot took the floor and spoke about the planning commission meeting that took place regarding the variances that Curt & Angie Ward are requesting to build a pole barn on their property. They are looking for 3 variances. The proposed building size is 1792 square feet with maximum of 2040 square feet. The proposed height is 20 ft plus, not to exceed the existing structures on said property. The 3<sup>rd</sup> variance deals with the separation between the new building and an existing building. They are requesting that 10-foot space be reduced to 6-foot space via the use of fiber cement siding on the existing building. The planning commission met and discussed it and motion was made to grant the variances. Roll call vote was taken, and all present at the commission meeting voted yes. The planning

commission is now passing the matter onto the board. President Byro stated that the board needed to vote on whether to move forward with the findings of the planning commission, and then vote whether the board is going to accept said findings.

Trustee Hopkins made a motion to move forward with the findings and recommendations made by the planning commission regarding the variances Curt & Angie Ward are seeking for their new building. Trustee Kerns seconded the motion. President Byro asked if anyone had any questions. No questions were raised. Roll call vote was taken. All voted yes except Trustee Ward, who abstained. President Byro called for a motion to accept the findings and recommendations made by the planning commission regarding the variances Curt & Angie Ward are seeking for their new building. Trustee Hibshman made a motion to accept the findings and recommendations of the planning commission. Trustee Katzman seconded the motion. President Byro asked if there were any questions. Trustee Williams asked Mr. Ward what the existing structure is that was referred to in the variance. Mr. Ward stated that the new building would be 6 feet from the garage. The garage currently has steel siding, and they are changing it to fiber cement siding to match the house. Both materials are class 1A fire resistant, so neither material will burn. They are changing the one window on the back of the garage to a solid door with no window, and there will be no windows so there is no chance that fire can spread from building to building. Trustee Williams asked if the new building was being built onto an existing building, and Mr. Ward said no, it would be 6 feet away from the existing building. Under the code, it calls for 10 feet for fire separation, but they are reducing the risk by using class 1A fire resistant materials. Roll call vote taken. All voted yes except Trustee Ward, who abstained.

President Byro spoke about the maintenance vehicle. President Byro had spoken to Trustees Katzman and Williams about getting a new truck, as the current truck needs to be replaced. Trustees Katzman and Williams found a truck at Brad Manning Ford in DeKalb. It is a 2022 Ford F-250 XL 4WD, 6.2L V-8, 6-speed auto transmission, power windows and locks, snowplow prep package, Michelin tires, & Monroe 98" steel service body. The base price is \$57,645, plus the box is \$10,699. With title, license and transfer, and a \$4000 trade in on the red truck, \$65469.24. President Byro stated he has someone who is interested in paying more than \$4000 for the red truck. Without the trade-in, it would be just under \$69,000. Trustee Kerns asked about the plow and Trustee Williams said the plow would be another \$12,000. Trustee Kerns then asked about availability. Trustee Katzman said the plow is available. He has a quote, but he hasn't moved on it yet because he needed to find out what size plow the truck would handle. Trustee Kerns asked if that included the lights, and Trustee Katzman said the lights would be separate. Trustee Kerns was concerned they couldn't get it done before winter. Trustee Katzman said that he was told that everything was in stock. Trustee Ward thought \$4000 was too low for a truck that runs and plows. Trustee Williams said that the lights and the plow would run about \$16,000. Trustee Katzman stated that the total for the lights and plow would run \$12,000. Trustee Hopkins expressed concern about the steel box in relation to winter driving and salt and the possibility of rust. The utility box is already on the truck and the idea is for Mr. Loyd to be able to put all his tools on the truck and not have to run back and forth to get the equipment he needs. Trustee Ward asked if a motion needed to be made to waive competitive bidding. He felt that a case could be made due to the current market situation. Atty Tess said that that would likely be the only reason you could do it. Trustee Ward asked Treasurer Payton if the funds were available, and she said yes. Trustee Hibshman asked for confirmation that the red truck would not be traded in and President Byro confirmed that it would not. A truck could be ordered, but it would take 10-12 months to arrive. Trustee Hibshman made a motion to waive competitive bidding due to the current market availability of comparable vehicles. Trustee Ward seconded the motion. President Byro called for more discussion. There was none. Roll call vote taken. All voted yes.

Atty Tess suggested making a motion including a maximum cost for the truck. Trustee Ward made a motion to approve the purchase of the truck mentioned in the information provided by Trustee Katzman, with a maximum cost of \$70,000. Trustee Hopkins seconded the motion. President Byro asked for further questions. There were none. Roll call vote taken. All voted yea.

Trustee Hibshman made a motion to buy the plow and the lights, cost not to exceed \$13,000. Trustee Katzman seconded the motion. President Byro asked for questions or comments. There were none. Roll call vote taken. All voted yes. Waiving of competitive bidding not needed due to cost in question.

Halloween hours will be Saturday October 29, 2022 from 5pm – 8pm.

Clerk Payton spoke about elections. There are 3 trustee positions that will be voted on in the upcoming election in April. Trustees Kerns, Hibshman and Williams' seats are up for election. The candidate paperwork is all due in December. Clerk Payton said she would get all of the paperwork and a timeline to them so they will have everything.

**Old Business** – President Byro spoke about the Hill drainage situation. He said he had talked to a few people, and he feels that the Village needs to stay out of it. He feels that the Village is not obligated to do anything across the highway, and he feels it will set a bad precedent. If the Village do it for one, then others will want it done for them, too. President Byro talked to Atty Tess about it, and he feels that when someone is farming a piece of property, the maintenance of that property is that person's responsibility. If he doesn't own the property, he needs to take it up with the landowner. President Byro said he would like to help Mr. Hill out, but he feels it is not the right move to make. Atty Tess said that the law is very clear, and a neighboring landowner must accept the water that is naturally put on his property as long as the circumstances are not exaggerated. The Village has done nothing to exaggerate that problem, so there is no obligation. Trustee Williams echoed that we don't want to set any bad precedents. Trustee Katzman said that hopefully the library project would solve part of the problem and Kevin Bunge stated that it won't because it's too small.

President Byro brought up the gaming licenses for the Moose Knuckle. The Village of Creston does not have to raise gaming fees in conjunction with Rochelle. Trustee Kerns asked if the fees go to the owners. The fees are paid to the Village by the owner. Trustee

Ward asked about parity with Rochelle per the boundary agreement. Atty Tess said there is no parity required on this issue. President Byro reiterated that the fees will stay at \$25.

President Byro moved onto the farm lease. Erik Petry spoke at the last meeting about paying \$20 more per acre and extending the lease another year. President Byro asked if the board wants to stay with Mr. Petry or if they want to put it out for bids. Trustee Hibshman asked if the lease states we have to honor the 3<sup>rd</sup> year of the contract, or if it is an option. Atty Tess stated that the lease is from 3/1/2022 to 2/28/2023, and that any extensions must be agreed upon by both parties in writing, and parties agree that the failure to execute an extension at least 2 months before the end of the current term is constructive notice of intent to allow the farm lease to expire. That language is in there to get around the statutory requirement to give notice on or before November 1, or 4 months before March 1. Atty Tess that if the Village decides they don't want to extend the lease, they will give Mr. Petry a notice of quit to avoid any issues. President Byro thinks that the Village needs to get the best deal possible for the Village. Trustee Katzman asked about what other landlords are getting for their farm leases. President Byro said there are some big numbers floating around, but you have to know who you would be dealing with. Trustee Hopkins said that he hadn't heard many numbers, and he isn't sure who, but the numbers he heard were substantially higher than \$330 per acre. He cited someone who comes up from Streator and he would rather go with someone who is invested in the community. He feels that people from that far away are not invested in our community. President Byro asked what the board wants to do. Atty Tess said that the Village can give Mr. Petry a notice of quit and continue negotiating with him. Trustee Hibshman asked how many acres it was, and President Byro said about 144. Trustee Katzman expressed the desire to stay with someone local. He stated that going out for bids would cost the Village money. Atty Tess said it would cost less than \$1000 to go out for bids. Trustee Hopkins stated that if going out for bid gets you \$50-70 per acre more, it's worth it. Trustee Hopkins said that you could be looking at a difference of \$15,000, but he said he would like to see it stay with someone local like Mr. Petry. Trustee Hopkins said that putting it out for bids is the only way to know what you can get, and that Mr. Petry would have the right of first refusal. President Byro said that if Mr. Petry can match the highest bid, then it is his. Trustee Hibshman and Trustee Hopkins both said that the Village could continue to negotiate with Mr. Petry. President Byro thinks it needs to go out for bid, to get the most money possible for the Village. President Byro also stated that we can refuse any bids, and Trustee Ward brought up paperwork that would have to be submitted by whoever wins the bid that would state they are responsible to keep up the property for the Village. Trustee Hibshman suggested going back to Mr. Petry and asking him about the maximum amount he is willing to play. Atty Tess said that a notice of quit terminates the contract, but not the ability to negotiate with Mr. Petry, but time is of the essence as people are planning for next year. Trustee Hibshman asked if the bid process was 2 months, and Atty Tess said no. Trustee Ward said that bids could be open by the next board meeting. Trustee Katzman asked if President Byro talks to Mr. Petry and asks him if he can go up another \$10 or \$20 per acre, would that be enough. President Byro said he is trying to get the best deal for the Village. Trustee Hopkins suggested talking to Mr. Petry and see what he says. Atty Tess asked if the Village wants to send a notice of quit. Trustee Ward said he felt that the Village had to. Trustee Hibshman agreed with sending the notice, and then talking to Mr. Petry about increasing what he is willing to pay. President Byro said he needs a motion. Trustee Hibshman made the motion to give Erik Petry a notice to quit for the 2021 and 2022 farm lease. Trustee Katzman seconded the motion. President Byro asked for question or discussion. There were none. Roll call vote taken. All voted yes except Trustee Williams, who voted present.

Kevin Bunge talked about the well maintenance. He got a quote from Layne-Western, and some advice from Mike Megurdichian. The numbers in the well are two components. The first is what he thinks he needs to do, and base price is \$18,500. There are a lot of unknowns and those could run up to \$27,000. They won't know until they pull the well and look at it. It's a part list in effect, with some labor costs included. The second part is for a temporary pump. Kevin recommends doing it. If well 3 is pulled and it is out of the ground for a long time, and issues arrive with the one well the Village has left, then there would be a real issue. The cost of the temporary pump is \$13,500. Kevin suggested getting everyone together at the well and getting everyone on the same page before everything is signed. Trustee Kerns asked what a new pump costs. The pump is \$5200 and the motor is \$6200. Trustee Kerns asked if the Village was spending \$57,000 to fix it, and Kevin said he knows where Trustee Kerns was going with his line of thought, but the Village can't go that route because they don't know what to get. They can't order it because they don't know what is down there. There are pumps available, but the problem is that you can't know which one to buy until you pull it. Trustee Hopkins asked if the temporary pump was available for as long as needed, and Kevin said yes. Trustee Hopkins said he agreed with Trustee Kerns about buying a new pump rather than spending the money to fix the old one. Kevin stated that the \$18,500 is just to pull and inspect the pump. The \$0-\$28,000 would include a new pump, new motor, galvanized pipe for \$9400, and wiring for another \$3400 if needed. That is just range of additional costs because the pump has to be pulled and inspected before other costs can be determined. Trustee Ward asked if Kevin needed anything from the board at the current meeting, and Kevin said no. He just wanted to get the numbers in front of the board so that they know what the total cost could be. He also wanted to move forward with the meeting Mike M. suggested.

The ARPA Water Project is just waiting for the IEPA to come back with permits, and they plan to pursue the Cederholm project only for now based on cost alone. There is a new wrinkle on the easement issue: because the residents have been paying taxes on that lot, they probably own it. Trustee Ward said no, but it does shorten the time of adverse possession. Atty Tess said that the problem is that the land is owned by the Village. There is no adverse possession for a municipality. Russ did title search back into the 1800s, past the 1896 date, and found no evidence that that land was ever vacated. He said there is a deed where someone did some transferring, but they can't transfer property they don't own. Kevin said that at some point that land did get included in a deed for about 15 years. Sidwell in the 80s showed that property as vacated, and while they do make errors, they had to get some information from somewhere.

Atty Tess said it is possible that the Village vacated the property back in the 1910s and it was never recorded. Clerk Payton said that she has started looking through the books in the basement and has been taking pictures of anything that mentions vacating anything. Kevin said he knows that Sidwell isn't proof, but he knows how thorough they were, and they had to get that information from somewhere. Kevin said if we can't find anything, he feels the right thing to do is vacate the property to the owner. Atty Tess suggested waiting to vacate it until after they do the improvements they need to do.

**Treasurer's Report** – Trustee Hopkins made a motion to pay the bills. Trustee Hibshman seconded the motion. President Byro asked if there were any questions about the bills. He said the Queens bills were included. Roll call vote taken. All voted yes.

President Byro said he had nothing else. Trustee Ward made a motion to adjourn. Trustee Hopkins seconded the motion. All voted in favor. President Byro adjourned the meeting at 8:29:56 pm.