

VILLAGE OF THREE OAKS REGULAR COUNCIL MEETING – DATE: 01-10-24

Village Council President, Richard Smith, called the (in-person) Regular Village Council Meeting, to order at 7:02 PM. This meeting was held at Village Hall at 21 N. Elm Street.

Pledge of Allegiance: Yes

Roll Call: Niemzyk, Thomas, Hinman, Jones, Smith Present: 5 Absent: 1

ADDITIONS: NONE

A Motion was made to approve the agenda as presented by Village Manager, Dan Faulkner. Moved: Jones Supported: Hinman Aye: 5 Nay: 0 Absent: 1 Abstain: 0

MOTION CARRIED.

PUBLIC COMMENT: Audience Member, Mike Holfels would like to comment on #9 Sidewalks. Audience Member, Gene Svebakken would like to comment on #9 Sidewalks. Audience Member, Larry Shawver would like to comment on #9 Sidewalks. Audience Member, Tom Pauly would like to comment on #11a Murals. Audience Member, Patience Petro would like to comment on #11a Murals.

CORRESPONDENCE: Village Manager, Dan Faulkner said River Valley Schools Superintendent, Dave Campbell was here to present. Audience Member, Dave Campbell stated that there are two Millages on the February 27, 2024 ballot. The first is the School Operating Millage, known as the non-Homestead Millage (18 Mills). It was last renewed in 2018, and would be renewed for 8 years. This would be to support wages, transportation, and day to day operations at the school. It is used as the primary funding. The second Millage on the ballot is the Sinking Fund, at a .7335 Millage. This is used to maintain facilities and would be renewed for 6 years. For more FAQ's, please visit the River Valley School website at www.rivervalleyschools.org.

PRESIDENT – OPEN COUNCIL SEAT APPOINTMENT: Village President, Richard Smith said that he received two applications to fulfill Tyler Reams open council seat. Tom Pauly, and Dennis Wojtczak had both applied. After speaking with both candidates, he recommended a motion to appoint Dennis Wojtczak to fulfill Tyler Reams Council Seat.

A motion was made to appoint Dennis Wojtczak to fulfill Tyler Reams Council Seat. Moved: Thomas Supported: Jones Aye: 5 Nay: 0 Absent: 1 Abstain: 0 MOTION CARRIED.

APPROVAL of the CONSENT AGENDA to INCLUDE: Approval of the Minutes of the Regular Council Meeting held on 12/13/23. Approval of Invoices paid in December 2023 (\$97,734.34), and Approval of Payroll as paid for December, 2023. Approval of Invoices to be paid for January, 2024 (\$49,016.84). Approval of the Police Department and Building Inspector's Reports. Council Member, Jones commented that the Lakeshore Recycling bill is usually \$8,944.25, and on the Invoice register it is \$9,236.75. What is the difference? Village Clerk/Treasurer, Theresa Schmaltz said that it is 1.5%, when we receive the bill. She contacted Lakeshore Recycling this morning to request the bill be emailed to be able to take advantage of the 1.5%. Village Manager, Dan Faulkner commented that there was a minor change in the minutes from the Friday Council packet, to change Absent to 1. A Motion was made to approve the Consent Agenda as presented by Village Manager, Faulkner. Moved: Thomas Supported: Hinman Aye: 5 Nay: 0 Absent: 1 Abstain: 0 MOTION CARRIED.

- 1. ATTORNEY DERBY – MARIHUANA ZONING ORDINANCE AMENDMENT: Village President, Smith stated that it is a draft that is proposed. Council Member, Jones asked if Zoning amendments have to go through planning. Smith said yes, and is seeking a motion to have the amendment go back to Planning Commission. A motion was made to have the Marihuana Zoning Ordinance Amendment go back to**

Planning Commission for the proper channels. Motion: Jones, Support: Niemzyk Aye: 5 Nay: 0 Absent: 1 Abstain: 0 MOTION CARRIED.

2. **ATTORNEY DERBY – MARIHUANA ORDINANCE LIMITED OR UNLIMITED: Village President, Smith** stated that there are two draft proposals for Ordinance 219, and 219 and 221. Council needs to make a decision if they are going to remain at two retailers, and go through a selection process again for the second retail license, or if they are going to amend the ordinance to remove the limit and allow unlimited retailers. **Council Member, Hinman** said it could put us in a bidding scenario. He is in favor of unlimited retail businesses. **Council Member, Jones** said she also is in favor of unlimited retail and micro-businesses, and everything else staying the same. **Smith** said he is on the fence. He sees the tax benefits, but it depends on what the public says to Planning Commission. We are seeking Council direction for Attorney Hilmer and the Village Manager Dan Faulkner to draft an ordinance for unlimited. **Council Member, Thomas** stated that there are not that many spaces.
3. **SEWER TAP FEE – RESOLUTION # POSTPONED: Village President, Smith** said the resolution is presented by Council Member Jones. He is asking that this item be tabled until next month. We are working with Michigan water on rate fees. Village Manager, Faulkner said with the new Sewer Ordinance there are questions about the proposed resolution. Michigan Rural Water will attend our next meeting with a report which will help us with the loan and budget. Attorney Hilmer and Dan will work on the Ordinance Amendment.
4. **COUNCIL – DRAFT ORDINANCE – GOLF CART: Police Chief, Krause** said he looked at it briefly but believes that side by sides should be looked at, fork lifts etc. **Council Member, Niemzyk** said that there is a definition of golf cart. **Krause**, said that if we start looking at one, we should address others side by sides etc. **Village Manager, Faulkner** said in the draft ordinance it doesn't charge a fee. Are we going to charge a registration fee? **Council Member, Thomas** asked why we wouldn't charge a fee. There should be a minimum fee for decals, administration etc. **Council Member, Jones** asked how long it would be good for. One year, three years, etc. **Council Member, Niemzyk** said watercraft is two years, we could do \$25 for two years. **Council Member, Jones** said we should omit dates. We should add shouldn't be operated in inclement weather, when visibility is impaired, or when the roads are snow or ice covered. Golf carts should not be operated on a public sidewalk or other structure constructed by use of pedestrians. Village Manager Faulkner will work with Attorney Hilmer on edits to draft for next Council Meeting.
5. **SIDEWALKS – DIRECTION TO PURSUE A SIDEWALK MILLAGE REQUEST/REPORT FROM LOIS JONES: Village President, Smith** said that in the packet there is a synopsis, resolution, and proposal presented by Council Member Jones. **Council Member, Jones** pointed out that this is not just her proposal. Tyler Ream and Council Member, John Kramer were also involved in the report. **Council Member, Thomas** asked how many years the plan is for. **Jones**, said she just wants the Village done. We do not have any street projects for 2023, or 2024. She is not asking for money, as General Fund has 2.1 million. **Village Manager, Faulkner** said that there is reserve money in the General Fund. In years past, Council has taken pride in saving money for DPW and Police vehicles, reserve money for those items. **Jones**, said 2.1 million is enough to spare \$500,000, to do something the Village has asked us to do for many years. **Faulkner**, said that we have the Lagoon Project needs to be addressed, as well as N. Elm, S. Elm, and the Bridge Project which is 1.6 million. **Thomas**, commented that we were supposed to get a report with all our

upcoming projects and cost for the next few years. She will not commit to anything without seeing the report. **Jones**, said that Dan has put it in prior packets. **Council Member, Hinman** said that he is in favor of us paying to replace sidewalks, he cannot support the homeowner paying for sidewalks. **Council Member, Niemzyk**, said he is in favor of good faith by the Village. We start somewhere, and maybe with \$100,000 per year. We have not heard anything on lead testing yet. **Thomas**, said she is not against it but pushing that amount in one year is not the way to go. That we need to start somewhere. **Audience Member, Mike Holfels** said that sidewalks have been going on for several years and pushed back each month. He would like to see part of it started. The longer we wait, prices increase. **Audience Member, Gene Svebakken (speaking in roll of Planning Commission Chair)**, stated that in January 2013 they started reviewing sidewalks and put together a committee. He would like to encourage Council to move forward. He trusts the staff and Council to prioritize. **Audience Member, Larry Shawver** said in 2013 they recommended basically what Council Member, Jones has proposed – to get started and maybe present a millage. He is disappointed in the leadership for the project and that the community wants it done. **Faulkner**, said in the report the first item was to amend the ordinance. **Village President, Smith** said the ordinance from 2005 currently has the cost of the sidewalks on the homeowners. The ordinance would need to be amended. He agrees that \$500,000 is a lot, and we should put forth something. We are not saying we will not fix them, DPW has done some repairs. **Faulkner**, said we discussed a millage in previous meetings. **Smith**, said he would be in favor of the millage. **Jones**, said she does not support a millage. **Niemzyk**, said if we did it in a 3-4 year increment, we could do it on our own. **Hinman**, said that he agrees that it is frustrating. Part of the millage is putting it in the hands of the public. **Thomas**, said we have already been paying taxes toward this, and is not in favor of the millage – just get it started. **Audience Member, Andrew Rudd** said he is a planner and that he would want to know all the upcoming costs. **Niemzyk**, asked if we could break the cost into a couple years. **Smith**, asked if Jones would be willing to redo the proposal with a 5 year plan and bring it to back for discussion next month. **Jones**, said “yep”. **Audience Member, Tom Pauly** asked if we could use Marihuana money. Smith, said with court costs that we have had, we would like to hold the money for that. He would recommend to Council that the Marihuana funds be retained for legal costs. **Audience Member, Shawver** said in back in September, the same conversation was had. Lois was supposed to draft an idea, and now months later we are asking Lois to do the same thing, and bring back to the next meeting. He would like to see a decision. **Thomas**, asked to see numbers side by side. **A motion was made from Council Member, Niemzyk requesting a 3-5 year plan for Sidewalks. Moved: Niemzyk Supported: Jones Aye: 6 Nay: 0 Absent: 1 Abstain: 0 MOTION CARRIED.**

6. **JODIE HAUGHEY - \$1,800 REFUND FOR SANITARY SEWER CONNECTION (ALLEY):** **Audience Member, Jodie Haughey** stated that she started a project at 9 and 11 S. Elm. She is not requesting the \$1,800 refund; it is a request for the total amount. She intended to put cement in the back of the building, but ran into storm sewer issues. Dan and water/sewer department came out and accessed, but she needed to pour the cement before the weather got bad. She discovered that there was sewage coming in, and a septic tank in the back that was full of sewage. She contacted the Village and they came out and said that the septic had been bypassed and filled in. Dan said we could do a dye test. Matt completed a dye test and you could see the dye in the tank and clean outs, but it did not go to where the Village said it was connected. They decided to have someone camera the lateral in the back. The cameras did not work in the back so they

tried the front. She asked for proof that she was connected at the front. Nothing in the pictures shows it connected. Dan said that she had to pay the \$1,800 sewer connection fee, and have it inspected by the State. The lateral was not pitched correctly so Matt and Joe had to fix it. The State inspector requested a permit number and one was not given. She had to rent equipment which added more costs. The State inspector said that the \$1,800 fee should have included the permit fee. Dan advised to come to the PSC meeting, which was cancelled, then requested in writing a request to be on the Council agenda. Nate and Clay said she shouldn't have had to pay the \$1,800 connection fee, but she was told that John Kramer and Lois Jones said that she needed to pay it. Her request is to be reimbursed the full amount of \$38,101.54 which includes cost of the project plus RTS fees. **Council Member, Jones** said she didn't know anything about it until it was in her packet. **Village President, Smith** said that given the new information presented right before the Council Meeting, they need to digest the information and would like to table the request until next month. **Haughey**, asked if there was anything additional needed for the next meeting. **Smith**, said if additional information is required, he will work with Attorney Hilmer and the Village Manager and personally get in touch.

7. Zoning Ordinance Amendment

- a. **Planning – An Amendment of Chapter 5.1 of the Village Zoning Ordinance so as to amend Section 5.102 – Definitions to modify the definitions of a ‘mural’ and ‘sign’.**
- b. **Planning – An Amendment of Chapter 6.1 of the Village of Three Oaks Zoning Ordinance so as to amend Section 6.104 – Zoning Board of Appeals (ZBA) to modify Subsection C.4. to clarify its application to nonuse variances and add subsection C.5 to prohibit the consideration of use variances.**
- c. **Planning – An Amendment of Chapter 6.5 of the Village of Three Oaks Zoning Ordinance so as to add Section 6.502 – Application Process and Subsection 6.504 – Rehearing of a Zoning Board of Appeals Action and Amend Section 6.503 – Abandonment of a Board of Appeals to Clarify the terms of abandonment and its application to variances granted.**

Audience Member, Patience Petro (Library President) shared her concern with the definition because of the mural planned for the library. Even though they are technically not a business or advertising anything, activities such as reading would not be able to be on their mural. She asked if there is a difference between a business vs. community mural. **Audience Member, Tom Pauly** agreed with Patience. In the vision part, they wanted children painted with books. He stated according to the mural ordinance, a mural is something that is attached to the exterior surface of the structure that does not advertise or identify product, service, or activity. All of that is done with books. **Council Member, Jones** asked what would be wrong if they just put that up? **Audience Member, Pauly** said a sign is only 75%. **Jones**, said there is more, she did the research. **Village President, Smith** asked if we could table Mural vs. Sign (11.a) until more information is brought. 11.b – **Council Member, Jones** said the ZBA automatically granted use variances capabilities. At Planning, it was decided that Council should be the final voice where ZBA can hear appeals on dimension, setback, size, and anything other than use. **Audience Member, Gene Svebakken** said in addition to what Council Member Jones said, their Planning Consultant has indicated that having the ZBA deal with use variances is contrary to good practice. **A motion was made to approve the Planning Amendment of Chapter 6.1 of the Village of Three Oaks Zoning Ordinance so as to amend Section 6.104 – Zoning Board of Appeals (ZBA) to modify Subsection C.4. to clarify its application to nonuse variances and add subsection C.5 to prohibit**

the consideration of use variances. Moved: Thomas Support: Hinman Aye: 6 Nay: 0 Absent: 1 Abstain: 0 MOTION CARRIED. 11.c – Council Member, Jones said that even if it was denied one month, they could keep applying with the period of one year only if new information was found that would change the initial decision. A motion was made to approve Planning – An amendment of Chapter 6.5 of the Village of Three Oaks Zoning Ordinance so as to add Section 6.502 – Application Process and Subsection 6.504 – Rehearing of a Zoning Board of Appeals Action and Amend Section 6.503 – Abandonment of a Board of Appeals to Clarify the terms of abandonment and its application to variances granted. Moved: Hinman Supported: Thomas Aye: 6 Nay: 0 Absent: 1 Abstain: 0 MOTION CARRIED.

8. **NORTHEAST ALLEY PROJECT - \$231,915:** Village Manager, Dan Faulkner said behind Nelson's and D&J Hardware, water collects and goes into the storm drain. There are concerns by merchants that we need to address the flow of water. Audience Member, Andrew Rudd said that he walked the alleys and they tried to identify how storm water flows. They were unable to determine the cause. In order to address the issue on the CIP, they put an estimate together for storm sewer replacement. Faulkner, said they have the same situation in the South alley. Faulkner, took the estimate to DDA, and they did not want to support any funds towards the project. Tabled until next month.

9. **SOUTHEAST ALLEY PROJECT - \$44,000:** Tabled until next month.

10. **MILLAGE REQUEST – POLICE SERVICES:** Council Member, Niemzyk said that fire was taken off the table, they are doing their own thing. They have put an FRP out. Village Manager, Faulkner said that we would ask for a Police Millage, and the deadline for that would be May 14, 2024 by 4PM. Council Member, Jones asked if the Township is not willing to pay anything for the Police Services. Village President, Smith said that the Township is, but we don't know how long they will support. We are still currently receiving money from the Township, but he would like to see the Village prepared. Jones, asked if we could renew the contract at a negotiated rate. Faulkner, said the Township is seeking to combine, and the funds would go to combining departments. Smith, said the hold up in combining are benefits. In order for the Village to compete, we will need to join MERS. Niemzyk, said if we combined, we would have more coverage. Smith, stated that with the increase cost of MERS, the millage for help. Chief Krause, said that there are pros and cons to millages, when applicants ask about retirement, wages, etc. we need to remain competitive. Motion was made to approve a millage request for Police services. Moved: Niemzyk Support: Hinman Aye: 6 Nay: 0 Absent: 1 Abstain: 0 MOTION CARRIED.

11. **PARKS AND RECREATION – REAPPOINT EDWARD WHITE:** Village President, Smith said Ed White's term is up and he wishes to remain on the board. A motion was made to reappoint Edward White on the Parks and Rec. board. Moved: Jones Supported: Thomas Aye: 6 Nay: 0 Absent: 1 Abstain: 0 MOTION CARRIED.

PLANNING COMMISSION UPDATES: Council Member, Jones said that she covered everything they discussed.

PARKS & RECREATION BOARD: No report

DDA BOARD: Council Member, Hinman reported no meeting, no report.

PUBLIC SERVICE COMMITTEE: Village Manager, Faulkner said no meeting, no report.

ZONING BOARD of APPEALS (ZBA): No meeting, no report.

VILLAGE MANAGER'S REPORT: Village Manager, Faulkner said they discussed 6 Linden with being reimbursed. He reached out to SEMCO Gas company because they ran their gas line through our sanitary line. He is waiting on a return call. Dillard Park Tree

– Parks and Rec. voted to remove the Catalpa tree in Dillard Park with a cost of \$1,800. DWAM Grant/EGLE – the deadline to report 20% of Lead Service Lines has been moved up. **Audience Member, Andrew Rudd** said that the internal inspection comes first in the next 2-3 weeks, then more letters would be sent along with phone calls and door hangers. School of American Music – We started services with Comcast to fulfill the internet services per the lease agreement. Sanitary Sewer – Wightman started the topical survey work and anticipated completion by the end of the week. Watkins Park Community Buildings- requesting thoughts for the buildings.

VILLAGE PRESIDENT’S REPORT: **Village President, Smith** welcomed Dennis Wojtczak to the Village’s team.

COUNCIL REMARKS: None

AUDIENCE REMARKS: **Audience Member, Angela Rykert** discussed her concerns about items in existing ordinances regarding the wording 500 feet from a school (which there is no longer a school). She believes the foot measurement was not calculated correctly. 500 feet between businesses – has put property owners at a disadvantage. 400 feet from Watkins Park eliminates property’s along Nels Drive. Audience Member, Tom Cummings said that he owns the laundromat/radio and car wash. The ordinance restricting 500 feet is causing him a financial burden. He was not able to go through selling his properties due to the ordinance. He feels that the ordinance is discriminating towards him.

MEETING ADJOURNED AT: 8:39 pm Moved: Thomas Supported: Jones

Submitted by:

Theresa Schmaltz

Three Oaks Village Clerk/Treasurer

Minutes for the 12-13-23 Council Meeting Were **APPROVED** at the 01-10-24 Council Meeting