

**VILLAGE OF THREE OAKS REGULAR COUNCIL MEETING – DATE: 03-08-23**

**Village Council President, Richard Smith, called the (in-person) Regular Village Council Meeting, to order at 7:01 PM. This meeting was held at Village Hall at 21 N. Elm Street.**

**Pledge of Allegiance: Yes**

**Roll Call: Present: Niemzyk, Kramer, Thomas, Hinman, Jones, Smith**

**Absent: Ream**

**A Motion was made to approve the agenda as presented by Village Manager, Dan Faulkner. Moved: Thomas Supported: Hinman Aye: 6 Nay: 0 Absent: 1 Abstain: 0 MOTION CARRIED.**

**PUBLIC COMMENT: Audience Member, Colleen Froehlich** would like to comment on the Café Seating Patios, and **Bob Prim** (Snowbusters Snowmobile Club) would like to speak on the issue of snowmobiles in the Village.

**CORRESPONDENCE:** There were (4) pieces of correspondence received per **Village Manager, Dan Faulkner**. **#1** – a request from **Hagar Township** for a letter of support from the Village on their behalf in applying for a MNRTF grant for Phase 2 in their proposed development of Riverside Kayak Park. **A Motion was made to authorize Village Manager, Dan Faulkner to submit a letter on behalf of the Village of Three Oaks showing their support of Hagar Township in their application for a MNRTF grant for Phase 2 in developing Riverside Kayak Park. Moved: Jones Supported: Kramer Aye: 6 Nay: 0 Absent: 1 Abstain: 0 MOTION CARRIED.** **#2** – a request from **Woodpecker Properties** regarding 5 West Ash Street – Water Acct #1875. They requested a reduction in their monthly R-T-S fees from (5) to (4) since there are currently only (4) tenants. **Building Inspector, Ed Carpenter** will go to this property to determine if reducing the fees is appropriate. He will report back to Dan with his recommendation. **#3** – a request from **Woodpecker Properties** regarding 9 W. Ash Street – Water Acct #1870. They state that the lot is vacant, that the residence on the lot was demolished in 2013 and there has been no water usage since then. They are requesting that the water service be terminated, the meter pulled, and to close the account so that no further R-T-S fees are billed. They said that they would be willing to pay a “tap-in” fee again in the future if and/or when they wanted water service re-established. **Dan** said that there are other vacant lots in the Village with water service available at each location resulting in R-T-S fees being billed. The Village cannot treat 9 W. Ash differently than other vacant lot locations. **#4** – a letter from a concerned resident about the condition of Timbertown. They expressed concerns saying the play area was dilapidated, many parts of the structures are broken with pieces of wood and nails sticking up, chains are missing, it needs painting. In general, it is unappealing and has many safety issues. **Dan** reported that this was discussed at the PSC committee meeting on Friday, and that Clay and Nate from the DPW department will evaluate and make repairs to the issues at Timbertown.

**PUBLIC COMMENT:** This was done “out of order” – should have been done at the end of the meeting since this topic was not on an agenda item. **Audience Member, Colleen Froehlich** (owner of Froehlich’s) submitted a “tentative” “rough estimate” (obtained from the contractor that she uses) of how much it would cost to repair the (3) Café Seating patios in order to make them viable for use this coming season. Her contractor said that they could be easily repaired, that they looked worse, (more damaged) than they actually were. She also asked if the DDA would perhaps consider contributing towards the cost of these repairs. Colleen & Ellie Mullins (co-owner of Patellie’s) are willing to contribute money towards the repairs to get the seating units ready for the spring/summer season. The tentative quote is approximately \$500 for materials (excluding paint/stain) and \$500 to \$800 in labor charges. **Village Manager, Faulkner** also

reported that there was a request from Oaks Eatery to have a patio unit in front of their business. This would require that a new unit be built specifically for them if Council approved the placement of a 4<sup>th</sup> unit. **Council Member, Thomas** asked for a formal quote on the repairs of the (3) units. **She** and **Council Member, Jones** suggested that if a unit was built for Oaks Eatery, they could be billed by the Village over several years' time in order to re-coup the cost. It was suggested that the Village approve funds towards the repairs, and ask the DDA to hold a special meeting to consider contributing towards the repairs and costs of building a new 4<sup>th</sup> unit. There will also be additional cost to freshly paint / or stain the units. **A Motion was made to approve allocating \$1,000.00 toward the cost of repairing/painting the (3) three Café Seating Space Patio units. Moved: Jones Supported: Hinman Aye: Niemzyk, Kramer, Thomas, Hinman, Jones, Smith Nay: None Absent: Ream Abstain: None MOTION CARRIED.** **Audience Member, Tom Pauly** asked that guidelines be established (in writing) via a contract – for securing a patio unit. He also would like to require that garbage cans be attached to the patios and that flowers/plants are required to be placed on the patios. This would make them attractive spaces. He also suggested installing bistro lights.

**APPROVAL of the CONSENT AGENDA to INCLUDE:** Approval of the Minutes of the Regular Council Meeting held on 02-08-23. Approval of the Police Dept's report and the Building Inspector's report for February, 2023. Approval of Invoices to be paid in March (\$76,144.13). Approval of Disbursements made in February, 2023 (\$93,007.71) and Approval of Payroll as paid for February, 2023 (\$56,871.60). **Council Member, Niemzyk** asked about the \$9,000.00 charge for bank reconciliation assistance. Why was this necessary – didn't the Village do their own bank reconciliations "in-house"? **Village Manager, Faulkner** replied that there were ongoing issues with the reconciliations dating back over a year prior to the new Treasurer starting and assistance was needed to help straighten things out prior to the approaching audit. **Niemzyk** also noted that the Village is buying Flags from an outside vendor and that they could be purchased from the American Legion (locally) for much less money. He requested that going forward any Flags be purchased from the American Legion. **Council Member, Jones** asked about the bill from "Kotz Sanger" for legal services regarding the sewer hook-up agreement with Farnan Farms. She asked if the agreement was signed and already in place since the Council has not yet seen it. **Dan** replied that the agreement had not yet been finalized – that this bill was for work thus far on it. **A Motion was made to approve the Consent Agenda as presented by Village Manager, Faulkner. Moved: Niemzyk Supported: Kramer Aye: 6 Nay: 0 Absent: 1 Abstain: 0 MOTION CARRIED.**

- **UPDATE on ACQUISITION of 21 N. ELM STREET:** **Village Manager, Faulkner** reported that the County was in "Phase 1", an on-line search to search records to determine if there is contamination from adjoining properties before proceeding with the closing on the property.
- **ORDINANCE #228 – an AMENDMENT to the SHORT-TERM RENTAL ORDINANCE TO LIMIT THE # of RENTALS ALLOWED in the RESIDENTIAL AREAS:** **A Motion was made to adopt Ordinance #228, an amendment to Short-term Rental Ordinance #210 which will limit rentals allowed in the residential areas to a maximum of 10% of all residential properties. Moved: Jones Supported: Thomas Aye: Niemzyk, Kramer, Thomas, Hinman, Jones, Smith Nay: None Absent: Ream Abstain: None**
- **DDA – UPDATE on the SOCIAL DISTRICT:** **Council Member, DDA liaison, Hinman** said that they will be reaching out to Juan Ganum, Bridgman City Manager to get further information of how the Social District was created in their downtown area and how it is working for them.

- **REVISION of PURCHASING POLICY:** There has not been a complete revision submitted yet for proposed changes to the Purchasing Policy, so it will be tabled for a future meeting.
- **REQUEST FROM THE AMERICAN LEGION to HOLD FIREWORKS on MEMORIAL DAY WEEKEND:** Council Member, Niemzyk reported that the American Legion was approached by the fireworks company that handles the Flag Day fireworks in Three Oaks to hold an additional firework show on Saturday, May 27, 2023 (Memorial Day weekend). They have additional fireworks to use up, and there would be no cost to the Village for this show. It would be called a “Summer Kick-off” event. The Fire Chief has already given his approval. **A Motion was made to allow the “Summer Kick-off” fireworks show at the American Legion on Saturday, May 27, 2023 (Memorial Day weekend) with the pre-approval of Fire Chief David Flick. Moved: Jones Supported: Thomas Aye: 6 Nay: 0 Absent: 1 Abstain: 0 MOTION CARRIED.**
- **REQUEST from CHIEF KRAUSE, POLICE DEPARTMENT for VERIZON CELL PHONES:** Police Chief, Krause reported that the Police Officers have been using their personal cell phones to conduct business for the Police department. They have been receiving a quarterly stipend to offset their cost but he does not feel that it is appropriate to use their own phones in this manner. This puts their personal information out there to residents when it really is police business. He asked that the Village purchase Verizon cell phones specifically for Police department use. This change would be a minimal increase in cost to the Village as the stipends would no longer be paid out. **A Motion was made to allow Police Chief, Krause to purchase new cell phones and phone service from Verizon for use by the police officers. Moved: Hinman Supported: Jones Aye: 6 Nay: 0 Absent: 1 Abstain: 0 MOTION CARRIED.**
- **RESOLUTION #03-2023-01 – a RESOLUTION to ADOPT THE 2022 BERRIEN COUNTY MULTI-HAZARD MITIGATION PLAN as a MULTI-JURISDICTIONAL PLAN:** A Motion was made to adopt Resolution #03-2023-01, a Resolution to adopt the 2022 Berrien County Multi-Hazard Mitigation Plan as a Multi-Jurisdictional Plan. Moved: Kramer Supported: Thomas Aye: Niemzyk, Kramer, Thomas, Hinman, Jones, Smith Nay: None Absent: Ream Abstain: None **MOTION CARRIED.**
- **APPROVE AUTHORIZATION for VILLAGE PRESIDENT, RICHARD SMITH to SIGN OFF ON THE ADMINISTRATIVE CONSENT ORDER (ACO) FROM EGLE:** The ACO (submitted to the Village by EGLE, State of MI) outlines the specifics and timelines of what must be done to bring the Sewer lagoons and systems up into compliance with their requirements. It also stipulates the fines and costs that are due and when they must be paid. **A Motion was made to authorize Village President, Richard Smith the authority to sign the ACO from EGLE agreeing to all terms, requests and timelines that were listed in the ACO from EGLE to the Village of Three Oaks. Moved: Jones Supported: Kramer Aye: 6 Nay: 0 Absent: 1 Abstain: 0 MOTION CARRIED.**
- **SET BUDGET AMENDMENT MEETING DATE:** A number of budget amendments need to be addressed mid-way through the current fiscal year. It was agreed that a special budget amendment workshop would be held at 8:00 am on Saturday, April 1, 2023.
- **APPOINT NEW MEMBER to the ZONING BOARD of APPEALS (ZBA):** A vacancy was created on the Zoning Board of Appeals (ZBA) due to the resignation several months ago of Chris Ranzenberger. Village President, Smith recommended the appointment of Mike Holfels to the Zoning Board thru November, 2025. **A Motion was made to appoint Mike Holfels to the ZBA Board. Aye: 6 Nay: 0 Absent: 1 Abstain: 0 MOTION CARRIED.**
- **RESIGNATION of VILLAGE CLERK, CYNTHIA MOYNIHAN:** Village Clerk, Cynthia Moynihan submitted her resignation to Village Manager, Faulkner on 02-16-23. She has

accepted a full-time position with her currently held (other part-time job) at South Shore Health & Racquet Club in St. Joseph, MI. She has been with the Village a little over 14 years and she expressed her difficulty in leaving her position in Three Oaks. She will be able to stay (if needed) until the end of June which will allow a long time-frame for making a smooth transition for the new Clerk. **A Motion was made (with great regret) to accept Village Clerk, Cynthia Moynihan's resignation as the Three Oaks Village Clerk. Moved: Jones Supported: Kramer Aye: 6 Nay: 0 Absent: 1 Abstain: 0 MOTION CARRIED.**

- **PLANNING COMMISSION UPDATES:** Council Member, Jones, liaison to the Planning Commission stated that they discussed options for what they would like to accomplish this year and have begun creating a plan of action for 2023.
- **PARKS & RECREATION BOARD:** Council Member, Ream was absent tonight, so no report for Parks and Recreation was available.
- **DDA BOARD:** Council Member, Hinman reported that the DDA will hire someone for watering the plants downtown and also are looking into purchasing new planters and extra garbage cans for the downtown area.
- **PUBLIC SERVICE COMMITTEE:** Village Manager, Faulkner reported that the PSC committee met on Friday, March 3, 2023. Discussions included talk about the storm drains and complaints from several areas about back-ups after the heavy rains. He reported that MDOT intends to resurface U.S. 12 next year (2024) and would like to remove the east-west sidewalk at the corner of Hickory and U.S. 12. PSC said that if they are removed, we would have to pay to have them re-installed – said that MODT should have to restore them after U.S. 12 is resurfaced. They talked about the repairs that are needed at Timbertown, the results of the audit of the DPW department that was done by MML, the Village's insurance company. Chief Krause discussed new cell phones for the department and the position that is still open in his department. There was a forced main leak at the sewer lagoons – it was reported to EGLE and a notice was published in the newspaper.
- **ZONING BOARD of APPEALS (ZBA):** Council Member, Kramer – No report – no meeting was held.
- **VILLAGE MANAGER'S REPORT:** Village Manager, Faulkner updated Council on the status of the Cintas uniform shirt bill. A former employee returned several shirts that he had in his possession – Dan will reach out to get the bill modified. He reported that the copier lease is for a year, so perhaps changes can be made to it after that time; his contract expires in April, a draft agreement is complete and will be presented at the April Council meeting. The Village received their 1<sup>st</sup> check of \$51,841.21 from the State for the (1) marijuana retail location that is open, but there has been no word from Green Koi on what their plans are. It was asked if their special land use permit had not already expired. Even though they renewed their license, the Special Land Use Permit does not automatically extend. Dan will look into it. He said that Sewer Pond #3 is isolated and that sampling will begin soon for a spring discharge. He said that Matt Lindsey started with the Water/Sewer department several weeks ago and is quickly grasping how to do rounds, backwashing, meter reading and is working well with the office staff.
- **VILLAGE PRESIDENT'S REPORT:** Village President, Smith congratulated the River Valley Girl's basketball team - they brought home the first District championship in many years for the school.
- **COUNCIL REMARKS:** Council Member, Jones asked why the Village is paying out a claim through our insurance company for an incident where the Village's snowplow hit a parked car during the Christmas week-end snow storm. The car was parked in the middle of

the road and the Village had not been alerted to the fact that it could not be removed according to the “no parking” restrictions in place from November 15<sup>th</sup> through April 1<sup>st</sup> each year.

- **AUDIENCE REMARKS: Audience Member, J. Prim of the Snowbusters Snowmobile Club** offered to help **Police Chief Krause** and **Council Member Hinman** work on an Ordinance to clarify where snowmobiles can operate within the Village. They will not be allowed to operate on the sidewalks or to go through any of the Parks. **Audience Member, Charlie Worthington** spoke on the storm drain issues. He was upset because the same thing has happened for the past (3) years in a row. He does not understand why the Village is not being pro-active in preventing this to happen. The storm drains continue to become clogged and then they back up creating flooding problems.
- **MEETING ADJOURNED AT: 8:12 pm**

Submitted by:

Cynthia E. Moynihan  
Three Oaks Village Clerk  
Minutes for the 03-08-23 Council Meeting  
Were **APPROVED** at the 04-12-23 Council Meeting