



MINUTES

Monday, April 24, 2017
7:00 P.M., Barber School
102 West Exchange Street
Spring Lake, Michigan

1. Call to Order

President **Hatton** called the meeting to order at 7:00 p.m.

2. Pledge of Allegiance

3. Roll Call

Present: Doss, Duer, Hatton, Miller, Powers, Tepastte, Van Strate.

Absent: None

4. Approval of the Agenda

The agenda was approved as presented.

5. Consent Agenda

- A. Approved the payment of the bills (checks numbered 58706-58790) in the amount of \$150,471.53.
- B. Approved the minutes for the March 13, 2017 Work Session and the March 20, 2017 regular Council meeting.
- C. Approved placing the proposed Cross Connection Ordinance change on the May 15, 2017 agenda for consideration.
- D. Approved a bid from Tiles Excavating to repair the sink hold on North Jackson Street for an amount not to exceed \$6,240.00.
- E. Approved an agreement to serve as an applicant-borrower for an SIB loan on behalf of Crockery Township.
- F. Approved an agreement to serve as the administrator for a TAP grant on behalf of Crockery Township.
- G. Approved Resolution 2017 – 06, a resolution regarding Asian Carp.

- H. Approved budget amendments for FY 2016/2017.
- I. Approved donating a used drinking fountain from Whistle Stop Playground to the Spring Lake Presbyterian Church for use at dinosaur park.

Motion by **Doss**, second from **TePastte**, to approve the Consent Agenda.

Yes: 7 No: 0

6. General Business

A. Recognition of Spring Lake Crossing Guards

Subject: The Village employed two adult crossing guards who helped children cross busy intersections. This was perhaps one of the most thankless jobs. The Village crossing guards Dawn DeCan and Beth Ernst (who are sisters, by the way) showed up to work - without fail - regardless of weather, illness or personal challenges, missing very few work days during the school year.

President **Hatton** presented Dawn Decan and Beth Ernst with certificates and pins to acknowledge their 13 years of service and their outstanding commitment to safeguarding the lives of children in the Village of Spring Lake.

B. Vacation of Property – Mike & Dawn Kamps

Subject: Mike and Dawn Kamps requested that the Village vacate streets in Westover's Addition to Mill Point. It was necessary for the Village to adopt a resolution for the process to move forward.

Burns explained that this was a housekeeping item to allow for the continuation of the process. **Burns** said that since they were close to a body of water they had to go through the court system.

Motion by **Duer**, second from **TePastte**, to approve Resolution 2017 – 09 to vacate streets in Westover's Addition to Mill Point as requested by Mike and Dawn Kamps.

Yes: 7 No: 0

C. Adoption of Ordinance 346

Subject: Last fall, the parking sub-committee made proposed changes to the parking ordinance and submitted them to Scholten Fant for review. These revisions were based on resident complaints regarding the 2013 ordinance.

Scholten Fant then put the proposed changes into draft ordinance language. The Village hosted a community engagement meeting to discuss proposed changes to the parking ordinance on March 16, 2017. Every household on a non-curbed street received a personal invitation to the meeting (248 invitations total). It was posted at Village Hall, placed on Facebook and advertised in the Grand Haven Tribune. Fifteen people attended the meeting to offer suggestions. Staff who attended were Sgt. Jason Kik, Planner Jennifer Howland, Zoning Administrator Lukas Hill and myself as well as Council Member Mark Miller and Village President Joyce Hatton.

President **Hatton** introduced this item and Manager **Burns** gave background on why this ordinance amendment was being looked at again and said that copies of the ordinances, as they had been adopted over the years, were available on the back table for the public to review. **Burns** said that the ordinance from 2004 strictly prohibited the public from parking in the right of way, while ordinance #336 from 2013, allowed parking in the right of way under certain circumstances and that the proposed ordinance #346 would further allow use of the right-of-way by individuals with a handicap parking permit from the State of Michigan or if they had unusual or topographical challenges related to their home site or if they live near a church or Tanglefoot Park. **Burns** said that the proposed ordinance relaxed previous ordinances to accommodate situations that were outside of the Village residents control. **Burns** said that much misinformation had been distributed and misconstrued regarding the proposed ordinance and what this proposed ordinance did not do was, regulate parking in your driveway and if parking in your driveway was not possible due to site constraints or health concerns there was an ability to obtain a waiver. **Burns** said that, as a point of clarification, the right-of-way does not belong to the contiguous property owners and that, by definition, a right-of-way was a right enjoyed by one person (either for himself or as a member of the public) to pass over another's land subject to such restrictions and conditions as were specified in the grant or sanctioned by custom, by virtue of which the right exists. Contiguous property owners were not taxed for the right-of-way as had been falsely stated by numerous people. The Village was not forcing residents to incur additional costs for parking pads and licenses. Use of the Village right-of-way for parking on a non-curbed street was a choice that residents can choose to make or not. There was no desire to expand the parking restrictions to curbed streets and there was no intent to add curbing to streets which were not currently curbed. On the surface adding curbs may seem like an easy and logical suggestion, however, curbs were not installed for decorative or parking purposes, they were intended to direct stormwater to catch basins which ultimately discharged into a body of water. In order to install curbs the Village would have to obtain permission from the DEQ to expand the stormwater system to allow for additional stormwater to discharge into the Grand River and Spring Lake and the likely hood of that was almost zero. The DEQ preferred the stormwater absorb into greenspace which naturally filtered the water prior to its making its way to the aquifer. A more significant factor was the cost to

engineer and construct a new stormwater system to include curbs in order to accommodate a small handful of people that wish to use the Village right-of-way as their own. Living in a densely populated area requires that we must adhere to rules in order to live harmoniously. **Burns** said she did not envy the position that Village Council was in as they weigh property rights of those that have parked in the right-of-ways, for perhaps years, against the rights of property owners who wish the practice to cease and that any decision that they make will be met with some unhappy residents. **Burns** reminded those in attendance the rules for public comment.

President **Hatton** opened Public Hearing at 7:14 p.m.

The following residents spoke during public comment.

- Bill Bissell, 214 N park
- Don Curtis, 522 E Savidge
- Joshua Behm, 520 Franklin
- Tim Zock, 321 Lakeview Court
- Amy Kleppe, 306 Visser
- Elizabeth Wheeler, 120 N Lake
- Gary Hanks, 116 S Jackson
- Tom Craig, 319 Mark

Burns read written submissions from residents, Lee Schuitema, 408 W Exchange, and Michelle Hanks, 116 S Jackson, who were not able to attend the meeting.

There being no more public comment, motion by **Van Strate**, second from **TePastte**, the public hearing was closed at 7:32 p.m.

Yes: 7 No: 0

Van Strate made a motion to deny the ordinance amendment because it was upsetting too many people. Attorney **Sullivan** explained that by not adopting this amendment, the current ordinance was more restrictive and prohibited residents to park in the right-of-way. Attorney **Pinjuv** explained that the 2004 ordinance on the books said that residents were not allowed to park in the right-of-way so, if it was enforced, anyone who parked there could get a ticket. **Pinjuv** said that and the current proposed ordinance allowed some exceptions to that for topography of the lot or if the resident had a handicap sticker. **Duer** asked if the ordinance would be enforced for football games where everyone parked on the street wherever they wanted to and that he understood the complaint from the residents that were not allowed to park on the street in front of their home. **Pinjuv** said that there was an exception for sports activities and religious services on Sunday morning. **Hatton** said that what she was referring to with her quote "Police State" and she was sorry what came up in the way it

was used but, that was water over the dam. **Burns** said that the fee was \$5 and it was decided annually during the budget process. **Burns** also said that if Council felt this was an encumbrance, they could make the amount zero if they wanted. **Hatton** asked if this ordinance was enforced, did that mean that people would have to go out and pay money to have the correct parking space. **Pinjuv** said that if Council was to adopt the proposed ordinance and someone wanted a license to park in the right of way, they would have to make the improvements that were contained in the ordinance. **Hatton** asked what residents were to do if they had guests. **Sullivan** said that 2 ordinances ago prohibited parking in the right-of-way, but the prior ordinance provided some licensing and, at this time, additional exceptions would be added. **Sullivan** added that, as a Council, they regulate parking all the time through the Zoning Ordinance so this was not inconsistent with the powers that they had already exercised. **Hatton** asked why this had come up now. **Doss** explained that about a year ago a neighbor contacted her and said that she was sick and the parking ordinance was not working for her so Council invited her to a Work Session to discuss her problem. **Doss** said that Council decided to open this back up for discussion to allow exceptions for illness or odd parking in front of homes. **TePastte** also explained that the Sheriff's Department was very confused because they couldn't follow the law the way it was written so they needed to clarify the ordinance for them in such a way that benefited the most citizens of the Village as possible and felt that all communities/organizations needed parking ordinances. **TePastte** also said that he recommended waiving the fee, for a period of time at least. **Hatton** asked if he would still recommend that residents register for their parking. **TePastte** said that he would recommend that they apply for a permit to protect the homeowner and the homeowner's neighbors and, while they would not be able to please everyone, he felt this system did the best job. **Sullivan** said that Council still had the ability to waive the fee by amending their fee resolution. **Hatton** asked why anyone would bother to register if there was no fee. **Sullivan** said that if they did not apply for a license they would be in violation of the ordinance. **Duer** asked if there were stickers for vehicles. **Burns** said that the permit stayed with the land so it didn't matter what vehicle parked there. **Powers** said that having grown up in this town, he understood that people had been parking on the side of the road for quite some time, but he has seen four cars lined up on Division Street and it was becoming unsightly. **Powers** said that it seemed like people were parking more aggressively and that he wondered how many of our neighbors needed space for five of six vehicles and that the people who took this too far and started to turn the area into a parking lot would be the people who found this the most difficult. **Powers** said that the secondary issue on this was the comments made the other day. **Powers** said that he had business partners in town when that story came out and he assured them that this was not a community where such things were said often and not reflective of our community what-so-ever. **Powers** said that it was deeply regrettable that our Village President made those comments.

Motion by **Powers**, second from **Doss**, to Adopt Ordinance #346 as presented.

Yes: 6 No: 1 (Hatton)

D. Approval of Agreement with TAG

Subject: The flat roofs at both the DPW and Village Hall were in need of repair/replacement. Staff requested the assistance of our engineering firm (Moore & Bruggink) to write the RFP and solicit bids for the work. Ryan Arends recommended TAG to perform the work. Rather than have M&B serve as the middleman, they recommended working with TAG directly.

President **Hatton** introduced this item and Manager **Burns** explained that they had received a proposal from TAG for an amount not to exceed \$9,500 for architectural services related to roof repairs and replacement of the Village Hall and the DPW building. **Burns** said that we knew for certain that the roof at the DPW building needed to be replaced but there were still questions as to the condition or the roof at Village Hall so a gentleman from TAG would be taking core samples and have an inspection done before making a recommendation.

Motion by **TePastte**, second from **Duer**, to approve an agreement with TAG for an amount not to exceed \$9,500 for architectural services related to roof repairs and replacement at Village Hall and the DPW building.

Yes: 7 No: 0

E. Disincorporation Resolution 2017 - 10

Subject: The 30-day moratorium on the charter amendment language for disincorporation expired on April 22, 2017. Resolution 2017 – 10 and Exhibits A & B were attached for Council review. Attorney Johnny Pinjuv was present to answer any questions regarding the documents and/or the process.

President **Hatton** asked if she should recuse herself from this discussion because she had a personal interest. **Sullivan** said that she needed to ask for a motion from Council to recuse herself. There was a motion by **TePastte**, second from **Doss**, to recuse President **Hatton**. **Powers** asked if President Hatton wanted to be recused from voting on item E. President **Hatton** said not on voting, just the discussion. **Sullivan** said he thought she had meant voting and to recuse herself from these deliberations. **Sullivan** said he did not think that chairing the discussion would make a difference, that if there was a conflict of interest it would be in the voting. **Hatton** said she didn't have a conflict of interest, she had an opinion, so she would keep the chair. **Sullivan** reminded Hatton she had a motion on the table. **Hatton** said she was sorry but she thought it was for the discussion. **Doss** asked how they could make this right. **TePastte** asked if they could remove the motion. **Sullivan** said they could

withdraw the motion. **TePastte** withdrew his motion and **Doss** withdrew her second.

Hatton asked Manager **Burns** to give a review on this item. **Burns** said that first she wanted to point out that she had a typographical error on item E where it said Resolution 2017- 08 should be 2017-10. **Burns** went on to explain that the 30-day moratorium on the Charter amendment had expired on Saturday, which was the reason this meeting had been moved back a week and that Attorney Pinjuv was in attendance to answer questions. **TePastte** asked what the changes were.

Attorney **Pinjuv** explained that the Attorney General's office would not approve any changes that were out of line with the General Law Village Act, which was the State Statute on the books, so they had to go back and revise the proposed amendment to the Village Charter to be in lockstep with the General Law Village Act. **Pinjuv** said that the voting requirements had been changed, that if there was a valid petition for disincorporation, then Council could choose to either allow disincorporation to go to a vote immediately or send it to a Disincorporation committee and if it went to a vote immediately, the first proposed amendment said there needed to be a 2/3 vote of the Village voters and a 2/3 vote of the Township voters outside of the Village in order for disincorporation to pass, so that has been changed back to what was in the General Law Village Act which stated that it had to be a 2/3 vote of all Village and Township voters counted together. Then on the other end, if it went to a Disincorporation Commission the vote in the first proposed amendment stated that there had to be a 2/3 vote of the Village electors and a 2/3 vote of the Township electors, not including the Village, and now it stated that it was a majority of the Village electors and a majority of the Township electors outside the Village electors. If Council chose to go forward with the Disincorporation Commission, the appointing of the Commission members was a little different than the current version. The current version allowed the President of the Village to appoint the members representing the Village in the Disincorporation Commission, where the previous amendment gave that to the Council as a whole. The current proposed amendment also stated that the Village Clerk/Treasurer would serve as the Disincorporation Commission Clerk if there was a Disincorporation Commission. **Pinjuv** said that those were the main changes from the previous proposal. **Pinjuv** also explained that if a valid petition for disincorporation was submitted, Council had the opportunity to appoint a Disincorporation Commission and that Commission would come up with a plan for disincorporation. That plan would then have to be approved by Council and by Spring Lake Township who would also be participating in that Commission. **Hatton** asked Pinjuv to explain what would happen if the Disincorporation plan failed. **Pinjuv** explained that if the Disincorporation Commission failed in making a plan or if the plan was not approved by Village Council or the Township Board that was participating, it would revert back to a simple 2/3 vote where it would go to the Village and the Township. **Powers**

asked if the timing was such that if they did not approve this tonight they would not make the August vote. **Pinjuv** said his best guess would be yes, because the deadline to get the language on the ballot was May 16th and any amendment to a Village Charter had to be approved by the Governor and that's why they had been working with them so that if it was adopted, as is, tonight then the Governor's office would likely approve it so they could get it on the ballot. **Powers** asked if the reason August was significant was because in November they would be voting on the Charter revision and voting on both would be problematic. **Council** discussed the costs of disincorporation with \$8,000 per election and approximately \$20,000 for education plus legal fees. **Duer** said they sat there last Monday night taking little pieces from here and little pieces from there to try to balance the budget. Where was all the yelling and screaming in support of all of this? All he heard was a little chatter. **Duer** said he didn't think they were dealing with an overwhelming majority, that they were just trying to appease a small out cry and it was way too much money. **Hatton** asked the attorney to explain what could be done because of the petition process. **Duer** said there was no petition. **Burns** said that the Disincorporation Group did not want to take a chance on the petition process because then Council would not have control; the person circulating the petition would be in control of the process. **Burns** said that the likelihood of petitions being circulated, signed and approved before May 15th was slim-to-none, which would mean that if a petition were circulated, it would likely end up on the November ballot, which they were trying to avoid because of the confusion between a Charter revision and a Charter amendment. **TePastte** said that once this amendment was approved, that put them in a position to accept the petition and once that was accepted they would be spending a lot of money on this issue and he felt it was frivolous money spent. **Powers** said he saw TePastte's point, that they were all but looking for loose change in their pockets at the last budget meeting and then looking at this, which has a potential six figure impact on the budget, the best that could be said was that they can burn this fever out so it would go away. **Powers** said that this movement didn't improve the lives of anybody in the Village and it had no value to anyone. Everything they had looked at, in terms of a sensible analysis, said that disincorporation would have an unfortunate financial and political outcome and he wished they didn't have to deal with it at all. **TePastte** said that not only would it cost an exponentially larger amount of money for a yes vote tonight, Council had already agreed to spend the money to get the information out to the people, but this vote tonight wasted that money. **TePastte** said he would rather get the information out first and have this resolution as part of the information package. **Hatton** said that all this resolution did was allow an amendment to the Charter and then they still must get signatures from 15% of the voters and they only have one month to do it in if they want it on the November ballot. **Burns** said that it was not realistic to think that, assuming there was a yes vote in August, there would be enough time to get anything on the November ballot regarding disincorporation. **Burns** explained that the vote tonight was to send the Charter amendment to the Governor and to the AG's

office just to get it on the August ballot for a Charter amendment, then the education component would take place over the summer prior to the August election and if it's a "No" vote in August, it's dead and we were never discussing it again. If it's a "Yes" vote, then petitions would have to be circulated, but the likelihood of meeting the November deadline was very slim. **TePastte** said that was part of his point, that the information needed to get out there. **Burns** said they were working on that and it was mostly done. **Burns** said that the Community Engagements are already scheduled for June 19th and 20th and they were probably 75% of the way there with information preparation. **Hatton** said anything that would be done, petition wise, was not a commitment on the part of the Council to spend money. **Duer** stated, and **TePastte** agreed, that Council was the only one spending money so far. **Hatton** said that perhaps there has been other people spending money. **Duer** said that, yes, in the past Hatton had spent money, but where was this big out cry of people ready to throw their money at this to make this happen. **Hatton** said that she can't have a valid disincorporation campaign and raise money until she has something that has been approved to go on the ballot so therefore she couldn't raise the money yet. **Hatton** asked Burns to give a total of money spent so far. **Burns** said that, to date, they had spent about \$30,000. At the last Council meeting, money was appropriated for Trapani Communications and for Eric Luper from the Citizens Research Council and then about \$8,000 for the election and any costs associated with the distribution of the education materials, whether it's staff time and/or postage. **Burns** said that someone mentioned six figures and by August we would be pretty close to that estimate. **Hatton** said that she had offered to conserve money by cutting back on the education but she understood that the other Council members did not think that was a good idea. **Doss** said that she totally disagreed with spending all this money and that there were so many parks that need to be taken care of and things that need to be fixed. **Doss** said that she was angry, but they had to move forward and because this was the recommendation from the Disincorporation Group she was going to listen to them and would abide by that. **Miller** said he agreed that this was a terrible waste of money.

Motion by **Doss**, second from **TePastte**, to adopt Resolution 2017 – 10 to amend the Village Charter language to allow disincorporation.

Yes: 6

No: 1 (Van Strate)

7. Department Reports

A. Village Manager – Manager **Burns** apologized to Council, members of the public in attendance and those that were not there, for her unwise choice of words reported in the Tribune. **Burns** said she regretted her use of a term that was interpreted to be derogatory, that was not her intent, and that she would do better next time. President **Hatton** said she felt the same way and she was sorry that her words she used came out in the headlines. **Hatton** said that she thought it was an interesting story but obviously not

very appropriate for how it was and thanked everyone for their comments.

- B. Clerk/Treasurer/Finance Director**
- C. OCSO**
- D. Fire**
- E. 911**
- F. DPW**
- G. Building**
- H. Water**
- I. Sewer**
- J. Minutes – Historic Conservation Committee**

8. Old Business and Reports by the Village Council – There was no old business to discuss.

9. New Business and Reports by Village Council – Van Strate asked out the junk pickup.

10. Status Report: Village Attorney – Sullivan had nothing more to add.

11. Statement of Citizens – The following people spoke;

- Gary Hanks, 116 S Jackson
- Tom Craig, 319 Mark
- Bill Bissell
- Elizabeth Wheeler
- Don Curtis

12. Adjournment

Motion by **Powers**, second from **Van Strate**, Village Council adjourned the meeting at 8:43 p.m.

Yes: 7 No: 0

Joyce Verplank Hatton, Village President

Maryann Fonkert, Deputy Clerk