

**VILLAGE OF MATTAWAN
REGULAR COUNCIL MEETING**

FEBRUARY 13, 2017

MINUTES

1. CALL TO ORDER @ 7:00
2. PLEDGE OF ALLEGIANCE
3. ATTENDANCE **Beck, Cole, DeRuyscher, Kirklin, Markle, Rossman, Smith**
4. WELCOME TO PUBLIC
5. ANNOUNCEMENT OF MEETING BEING RECORDED

6. HEARING ON CHARGE OF OFFICIAL MISCONDUCT
HEARING ON CHARGE OF OFFICIAL MISCONDUCT

Motion by Beck, supported by Rossman to open the hearing. All members voted in favor.

Attorney Graham explained that the Council would consider the charge of misconduct adopted at the prior Council meeting, and anyone present at the meeting where the incident occurred would be free to describe what they witnessed. He indicated that Mr. Smith would have the right to question anyone who spoke. Mr. Smith would then have the right to present any evidence he wished, and Council Members would have the right to pose questions. Only relevant questions would be appropriate.

Member Beck described what he observed: when the meeting came to a close Mr. Smith stood and expressed his outrage stating "I quit" and threw his Board packet across the room. The packet hit Council Member Brenda DeRuyscher in the face and then Mr. Smith left the room. Mr. Smith asked Council member Beck, "are you sure I said I quit?" Council member Beck replied "yes."

President Markle stated she heard Mr. Smith say "I'm done" not I quit, "I'm done".

Member Rossman stated she observed that, as soon as Mr. Smith threw the packet "he was out the door."

Attorney Graham asked Mr. Smith if he had any questions of any of the Council Members Mr. Smith said "no."

Member DeRuyscher stated she heard Mr. Smith say "I quit" and other verbage, but on his way out the door he said "I quit".

Attorney Graham asked Mr. Smith if he had any questions for Member DeRuyscher and Mr. Smith replied "no".

Attorney Graham stated that he want to make sure any Council Member wishing to describe what they saw should do so at that point because Mr. Smith would then be given the chance to testify or offer evidence. Council Members would have the chance to ask relevant questions.

Mr. Smith stated that he did stand up and he pushed papers into the air. It was not aimed at anyone else and did not mean for it to hit anybody else. He stated that he did not say "I quit". Mr. Smith stated: "I said I'm tired of this crap" and then walked out the door. He said "[t]hat's different from saying 'I quit' or 'I've had enough' or whatever else. I'm not disputing what I said but I never said 'I quit'". Mr. Smith stated he "got a letter in the mail from Lesley on Village letterhead stating "she wanted my resignation because I stated I quit. I never stated 'I quit'". He continued: [t]here has (sic) been many things said in this Council Chambers that could be construed as misconduct in office. I've been told to shut up (on tape), I don't see that as a problem but we can make it a problem. I wasn't mad at any one person it was a rough month and it wasn't during a meeting so what I do on my own tie is my business, no different if I go to a restaurant and say I don't like Don Cole. That's my problem and between him and I (sic) because it's on my time. For \$20.00 a month you guys sure want a lot out of somebody to be on call 24/7. If that's the case there is not one person in here that can pass this test." Mr. Smith indicated that he had completed his statement.

Attorney Graham explained that Council Members could ask Mr. Smith any relevant questions. DeRuyscher asked Mr. Smith why he was so upset when he stood and spoke and then threw his things in the air? Mr. Smith stated he mentioned it last time that he had 2 deaths in the family and it was a personal thing that happened. DeRuyscher stated that she remembers Mr. Smit making a motion which died on the floor for a lack of support.

Rossmann stated Mr. Smith made the remark and then walked out the door, he "ran just like that." Mr. Smith stated he hasn't ran (sic) in years.

Attorney Graham asked Mr. Smith if he wished to present anything and Mr. Smith replied "no". He explained that, if not, the Council could take up any discussion if it would like on the charge of official misconduct.

Attorney Graham explained that Council if free to have discussion or take up a motion if they chose. He also said that the Council was operating under Sections and 5.4 and 6.6 of the Charter.

Motion by Beck, supported by Rossmann, that Mr. Smith had committed Official Misconduct based on the charge. Roll call vote taken. 6 members voted in favor. Mr. Smith was not allowed to vote. Motion carried.

Attorney Graham explained that, based on the finding, the Council could either censure Mr. Smith or vote to remove him from the Council. Beck asked Attorney Graham how censure worked. Attorney Graham explained that something would be prepared in writing to indicate that official misconduct had occurred. Mr. Smith would continue on the Council.

Member Beck stated that he is concerned that if we censure that another incident could occur putting the Village at risk of liability or litigation and said he wondered what kind of message that would send.

Motion by Beck, supported by DeRuyscher to remove Mr. Smith from the Council effective immediately. Roll call vote taken. 5 members voted in favor, Rossman voted no. Motion carried.

Comments from the public followed. President Markle authorized Attorney Graham to address some procedural questions.

7. ADDITIONS TO AGENDA

***President Markle added Old Business A, Administrative Assistants Job Description
New Business I, Round-a-bout on Front
New Business J, Plumbing Inspector Invoice
New Business K, 3% COLA for Budget
New Business L, Farmers Market, Sara Cox
Closed Session***

8. APPROVAL OF THE AGENDA

Motion by Beck, supported by Rossman to approve the agenda as amended. All members voted in favor. Motion carried.

9. APPROVAL OF THE MINUTES OF JANUARY 23, 2017

Motion by Rossman, supported by DeRuyscher to approve the minutes of January 23rd as Presented. All members voted in favor. Motion carried.

10. BILLS TO BE APPROVED IN THE AMOUNT OF **\$48,872.86**

Motion by Kirklin, supported by Cole to pay the bills in the amount of \$48,872.8

6. Roll call

vote taken. All members voted in favor. Motion carried.

11. LIMITED PUBLIC COMMENT ON ANY AGENDA ITEM **NONE**

12. BOARD AND COMMITTEE REPORTS

A. DPW COMMITTEE-

B. POLICY & PERSONNEL-

13. STAFF REPORTS

- A. DEPARTMENT OF PUBLIC WORKS- *Superintendent Anthony reported that they continue to plow when needed. They are replacing signs and repairing hydrants that were struck and damaged. Pot hole patching continues. They are doing annual maintenance to the treatment plants. Tom is working on budgets. We have received the check for the items that went to auction.*
- B. ATTORNEY'S REPORT- *Attorney Graham stated that items he will discuss are agenda items.*
- C. ENGINEER'S REPORT- *Engineer Woodhams stated that he received complements from the KATS group on our downtown project. The project should be finalized in the Spring.*

14. OLD BUSINESS

A. ADMINISTRATIVE ASSISTANT JOB DESCRIPTION

Motion by Beck, supported by DeRuyscher to approve the job description for the Administrative Assistant as presented to Council at the previous meeting. Roll call vote taken. All members voted in favor. Motion carried.

15. NEW BUSINESS

A. PAY APPLICATION #3 FROM LOUNSBURY EXCAVATING INC IN THE AMOUNT OF \$6,239.05

Motion by Rossman, supported by DeRuyscher to approve pay application #3. Roll call vote taken. All members voted in favor. Motion carried.

B. NEW VARIABLE FREQUENCY DRIVE FOR WELL #3

Motion by Beck, supported by Kirklin to approve the Variable Frequency Drive from CT Electric for the amount of \$7,950.00. Roll call vote taken. All members voted in favor. Motion carried.

C. PURCHASE OF METERS, METER VALVES AND MXU'S.

Motion by Cole, supported by Markle to approve the purchase for the amount of \$12,512.40. Roll call vote taken. All members voted in favor. Motion carried.

D. PURCHASE OF A COMPUTER FOR THE SCADA SYSTEM

Motion by Beck, supported by Kirklin to purchase the computer for an amount not to exceed \$4,670.00. Roll call vote taken. All members voted in favor. Motion carried

E. PROPOSAL FROM FLEIS & VANDENBRINK FOR ONGOING GIS SERVICES TO THE VILLAGE

Motion by DeRuyscher, supported by Rossman to approve the proposal from Fleis & Vandenbrink. Roll call vote taken. All members voted in favor. Motion carried.

F. REQUEST FOR RELIEF ON WATER BILL

Motion by Beck, supported by Rossman to send the request to the DPW Committee. All members voted in favor. Motion carried.

G. THE VILLAGE HAS RECEIVED COMMUNICATION REGARDING THE PRESENCE OF A LIFT STATION AND SEWER LINE OVER A PARCEL OF PROPERTY IN THE AREA THAT WAS DETACHED FROM THE VILLAGE. (ATTORNEY GRAHAM AND SUPERINTENDENT ANTHONY WILL PROVIDE INFORMATION AND DISCUSS THE MATTER

Attorney Graham explained that there was property that was detached from the Village, and a lift station was there prior to being detached. The property is now being divided and there is a claim that the lift station does not sit completely in the Villages Right-of-way. Attorney Graham would like permission to write a response to the letter we received.

Motion by Beck, supported by Kirklin to allow Attorney Graham to do any research and respond to the letter. Roll call vote taken. All members voted in favor. Motion carried.

H. SET PUBLIC HEARING FOR POLICE SPECIAL ASSESSMENT FOR FEBRUARY 27, 2017

Motion by Beck, supported by Rossman set the Public Hearing for February 27, 2017. Roll call vote taken. All members voted in favor. Motion carried.

I. FRONT AVENUE ROUND-A-BOUT- Due to the cost of the project the DPW Committee and Superintendent Anthony is recommending that we not proceed with the project.

Motion by Beck, supported by DeRuyscher to not proceed with the project. Roll call vote taken. All members voted in favor. Motion carried.

J. PLUMBING INSPECTORS INVOICE FOR JANUARY

Motion by DeRuyscher, supported by Kirklin to approve the invoice for the amount of \$950.40 Roll call vote taken. All members voted in favor. Motion carried

K. 3% COLA FOR BUDGET- Beck stated he would like to see the Council to make the decision on what should be considered for raises for the upcoming budget.

Motion by Beck, supported by Markle to approve the 3% COLA for the upcoming budget that is consistent with the Federal Government Guidelines. Roll call vote taken. 5 members voted in favor, DeRuyscher voted no. Motion carried.

L. MATTAWAN FARMERS MARKET- Sara Cox is asking for permission to bring the Farmers Market to the Downtown are now that the construction projects are wrapping up.

Motion by Beck, supported by DeRuyscher to send to Parks & Recreation. Roll call vote taken. All members voted in favor. Motion carried.

16. COMMUNICATIONS NONE

Motion by Beck supported by Markle to advertise the Council Vacancy and allow the Policy & Personnel Committee to interview the candidates and make recommendation to Council. All members voted in favor. Motion carried

17. COMMENTS FROM VISITORS

Chris Ballingall inquired about the art that is going to be placed on the pedestal and suggested an old time clock. She also asked about the concrete slab at the handicapped table that was supposed to be poured with the downtown project. She has concerns about the new trees that were planted along Front downtown that they may interfere with the new lights.

Margot Beemer suggested training classes for any new Council Members. She found it helpful when she was on the Council.

8:25 PM Motion by Beck, supported by Rossman to move to Closed Session. All members voted in favor. Motion carried.

8:45 PM Motion by Beck, supported by Cole to move to Open Session. All members voted in favor. Motion carried.

18. COMMENTS FROM COUNCIL NONE

19. ADJOURNMENT @ 8:50