

Village of Creston Minutes Tuesday, August 6, 2024

President Byro called the meeting to order at 7:00 pm. Trustees Hopkins, Katzman, Kerns, and Ward were present. Trustees Elliot and Hibshman were not present. Attorney Tess was also present.

President Byro introduced the July 2, 2024 minutes and asked for additions or corrections. Trustee Ward made a motion to approve the minutes. Trustee Katzman seconded the motion. All present voted yea. Minutes were approved as presented.

Visitors & Communications – President Byro asked if there were any visitors or communications. Brian Terry was present, but the matter he was there to discuss was to be addressed later in the meeting.

Attorney Tess stated that that one of the last pieces of the landfill agreement that was entered into a couple of years ago was the return of the Village farmland to Creston. That should have been done some time ago, and the Village and the landfill have been in negotiations about it for the last year or so. President Byro and Attorney Tess have gone out to the area and walked the land, and it should have been provided to the Village, but it wasn't. The landfill agreed to give the farm rent for the new lease to the Village, even though the land is not in the Village's name as of yet. One of the things that was delaying the transfer was that the Village is looking for a stockpile agreement to along with the agreement to purchase. The Village wants to have the stockpiles as far off the farmland as possible. Some of the stockpiles will be removed when they finish the berm. Some of the stockpile is also for final cover, so they don't want to move it twice. Those matters are being worked out between the landfill's legal department and Attorney Tess' office. Atty Tess said they are waiting to hear about the final closing. Atty Tess said that he didn't see why the closing couldn't be finished while waiting on some of the matters to be resolved. The good news is that the Village is going to get 111.3 acres in the final transaction as opposed to the original acreage of 83.1. How much of that land will be tillable depends on the berm stockpile and how things get moved. One of the things that there is an agreement for is that the road that comes in from Locust St will be moved to Creston Rd. The road is about 200 feet down from Creston Rd and the agreement is to take that road out. This removal would make it possible to farm the land from north to south.

Atty Tess said he also had the ordinance on sale of Village property to be discussed later in the meeting.

Casper Manheim stated that the new owners of the house at 123 W North St have started siding it and it is looking much better. Curtis Loyd had mentioned to Casper about cars in people's yards and driveways that were not in good shape and were not properly licensed and operable. Casper said he does not have the authority to go on people's property, so he drives down alleys and looks at the cars in question. He said that the one that got removed was by the tracks on Woodlawn. The owner moved the car inside the building. He sent 6 letters and everyone he sent letters to cleaned up the areas around the cars and the cars are on gravel. Casper said he doesn't know which ones run and which ones don't, and he wanted to know if the Village will accept the fact that the people who received letters made an effort to clean up the areas around the cars. He wanted to know if he should pursue it further, which would mean getting the lawyers involved. Trustee Ward asked if Casper had gotten complaints from neighbors. Casper said he had not, but Mr. Loyd is the one that is around town more and hears more from residents. Trustee Ward said if the residents got the areas cleaned up and presentable and the neighbors aren't complaining, was it worth it to spend the money to pursue it legally. President Byro asked if the cars were smashed up and Casper said they were not. Casper said he did see one that didn't have a plate on it, but other than that the cars look fine. Trustee Kerns said that car had a New Mexico plate on it and it was a legal plate. Atty Tess stated that the minutes should not reflect any further discussion, and any concerns should be brought to Casper privately after the meeting. Casper said that the library has been contacted about the issue with the weeds at the construction site, and that had been addressed. Trustee Katzman said that they had sprayed, and they were supposed to mow by the end of that week.

Kevin Bunge said he had nothing that would not be covered later.

Committee Reports

Finance - Trustee Hopkins had nothing.

Streets & Alleys – Trustee Ward announced that the Village received Rebuild Illinois Bond Funds in 4 installments in the amount of \$42,000. The Village has not spent any of it and it must be spent by 6/1/2025. Trustee Ward spoke to the County Engineer, who was the one that alerted him to the fact that the Village had the funds. Trustee Ward said that the Village had not submitted a final expenditure report for next year's sealcoat project. The Rebuild Illinois bond Fund money is just like MFT, so the Village can state on the expenditure report that we are using our RBI money in addition to the MFT funds to complete that project. Trustee Ward said he would get a hold of Treasurer Payton about it. Atty Tess asked if a motion needed to be made to change that or if that was already in

the budget. He said that a motion may need to be made to move that money. Trustee Ward said that he would talk with Treasurer Payton about it. Trustee Ward also said he was also still working on Dick Young's sidewalk project.

Water & Sewer – Trustee Kerns said he had nothing. President Byro said that the Village was set to make the repairs at the corner of S Grove St and E Depot St, but the construction firm had to repair a truck, which delayed the project. President Byro said that they would try again in a couple of weeks or so. The parts have been received and some work was done before the truck issues happened, so once the truck repairs were done, the project would resume.

Health & Safety - Trustee Hibshman was not present.

Zoning & Planning – Trustee Katzman said he would discuss his topic later under New Business. Trustee Ward stated that Dan and Linda Graber have sold their house and moved out of the community. Mr. Graber was on the planning commission for many years and he and Mrs. Graber have done a lot for the Village, so he felt the Village should do something for them in recognition of all they have done for Creston. President Byro agreed that was a good idea and they would discuss ideas about what to do.

Subdivision - Trustee Elliot was not present. President Byro said the striping has been done in the subdivision and it is better than it was, but there are a few spots that need to be fixed. President Byro said he has spoken to Mr. Hayden about a couple of things. He said that Mr. Hayden had tried to have the area around the detention pond mowed and it's like a swamp in that area. It cannot be mowed. President Byro said they will have to figure out what to do with it. Trustee Kerns said it cannot be mowed with a lawnmower. President Byro suggested a sickle bar and Trustee Kerns suggested a backhoe.

New Business – President Byro introduced Booster Days fireworks. Trustee Katzman said that he was waiting to get the contract from Trustee Hibshman and Trustee Hibshman hadn't gotten it yet. Trustee Katzman said it probably didn't matter, but he thought it would be nice if everyone knew the total price. President Byro asked if he remembered what the Village allocated the previous year. Trustee Katzman said he thought it was \$2400-\$2500. He said he thought the board had rounded it up to \$2500. President Byro asked if the board would like to donate the same amount for this year. Trustee Hopkins asked how much fireworks run, and Trustee Katzman said he thought it was estimated at about \$6000 total. Trustee Kerns asked if it had to be decided on at that meeting and Trustee Katzman said it could wait until the September meeting. Trustee Ward asked if there was a pre-pay option to get a discount. Trustee Katzman said that he didn't know as he wasn't involved in that in the past. Trustee Ward suggested donating \$2500 now and if more is needed then the board could vote to allocate more money at next month's meeting. Trustee Ward made a motion to donate \$2500 to the Booster Club for fireworks for Booster Days 2024. Trustee Hopkins seconded the motion. Roll call vote was taken. Trustees Katzman, Ward, Kerns and Hopkins voted yes. Trustees Elliot and Hibshman were not present. Motion passed.

President Byro introduced Brian Terry and his plans to build a garage. Trustee Katzman stated that Mr. Terry came to him three weeks ago and that he wanted to tear down an old garage and build a new garage. Trustees Katzman and Elliot met with him, and he showed them his layout where he had the survey done and where the lot line was. The main issue is that it should sit further back from where he wants to build it. The current garage sits about 15 feet from the road, and he wants to set it back further than it is, but not as far back as the Village asked. The Planning Commission met two weeks prior and Trustee Katzman showed them all of Mr. Terry's drawings and plans and they all agreed that it would not be an issue. Trustee Katzman asked Casper to explain the technicality that is causing the issue. The address happens to be off Woodlawn Rd instead of East Depot St. President Byro asked if the black garage is the garage in question and Trustee Ward confirmed that it was. Casper stated that the fact that his address is off Woodlawn means there needs to be a 25' setback and he only wants to go back 10'. By going back 25', he would have no back yard, and he would have to downsize the building. If his address was off East Depot St, there would not be an issue. There is no traffic view issue, and he is far enough from the intersection that there are no issues. He is asking for a variance. He would still be out in the front driveway and Trustee Katzman said it is far enough from the corner that there shouldn't be an issue. Attorney Tess asked what the Zoning/Planning Commission did with it. Trustee Katzman said they discussed it based on Casper's recommendation. Atty Tess asked if the commission made findings of fact and Trustee Katzman said yes. He said he had hoped that Trustee Elliot would be present because he heads the committee and took all the notes from that meeting. Trustee Katzman showed Atty Tess photos of the garage and he also stated that Mr. Terry's truck would be in the new garage instead of sitting out. Trustee Ward asked if there was a public meeting scheduled in conjunction with the variance. Trustee Katzman stated that they were trying to do it without a variance to save time and money. He said the variance would add another \$500-\$700 to the cost and it would delay the construction by about 2 months. Trustee Katzman said that President Byro was in agreement and President Byro said he was. Attorney Tess said that the board cannot issue a variance unless it goes through the Planning Commission and they issue findings of fact and then take it to the board, who would approve the variance. Attorney Tess said he was not familiar with a shortcut. Trustee Katzman stated that they didn't consider a variance because it has to do with an address technicality. Attorney Tess said he didn't think that it could be done without issuing a variance. Atty Tess said that it is a slippery slope because if an exception is made this time, then someone is going to come in next time and say they want a variance without getting a variance. Trustee Ward said he thinks it is a state statute. President Byro stated

that they went through the Planning Commission. Attorney Tess asked if there were findings of fact and a recommendation from the Planning Commission that should be at the board meeting. Trustee Katzman stated that there were. President Byro asked if it was in writing and Trustee Katzman said he didn't have a copy. Attorney Tess said he appreciated what everyone was trying to do to help Mr. Terry out, but he is being asked to give a legal opinion about whether it's right or wrong and it's wrong. Trustee Katzman said they went on the premise that it was going to be a major improvement by getting rid of a building that is going to fall down and build something nicer that is farther back than the current building. Attorney Tess said he saw where everyone was coming from, but it could not be done this way. He stated that a building permit cannot be issued without a variance. President Byro told Mr. Terry that he was sorry, but they were going to have to wait another month. Trustee Katzman said that a public hearing must be scheduled and that process takes time. He said that it must be published in the paper and notices need to be sent to everyone within 250 feet, and then he had to wait so many days. Trustee Katzman said it was almost \$600 when he got his variance and it's probably more like \$700-\$800 now. Trustee Ward said it was about \$600 when he got his variance. Mr. Terry said that the property is 160 years old. He isn't asking like a new builder, and it would be an improvement for the town. He said he thought it was a long shot. Trustee Kerns said it is doable and Trustee Hopkins said that the board needs to make sure it is being done legally due to state statute and the Village must avoid setting bad precedent. Attorney Tess said that the public hearing could be held next month at 6:45 before the board meeting, and then the matter could be brought to the board at the meeting at 7pm. Mr. Terry said he didn't think what he wanted to do was illegal, and Attorney Tess said that Casper cannot issue a building permit that violates code. Trustee Ward asked if the narrow side of the lot faced Depot. Trustee Kerns said it did. Trustee Ward asked if the front of the house originally faced Depot and Mr. Terry said it did. He asked what the side yard setback was on that, and Casper said it was 5' and Mr. Terry was going in 10'. Trustee Ward stated that the home should have been addressed off Depot St. If it's just an addressing issue and it can be determined that the front of the house faces Depot, even though it's addressed off Woodlawn, it should be fine. Attorney Tess asked if Mr. Terry had talked to the postmaster. He said he likes having a mailbox on Woodlawn and he has a Rochelle address so he can have a mailbox. Denise Stanbery said it doesn't really matter because on Transit St there is a North St address. President Byro said that the board can take up the matter next month. Trustee Kerns said that there may be language that would allow Casper to issue the permit without the variance, but Attorney Tess needs to look at it to make sure it is being done legally. Attorney Tess took the opportunity to introduce the newest partner at Tess, Crull & Arquist, Andrew Wilkes. Attorney Tess said that Attorney Wilkes would be working on the matter the following morning. Trustee Ward asked if there was a Village ordinance that next house must face the narrow side of the lot. When homes were built on the Creamery lots, they would have walked out their back door right into the side of Sarver's garage. He thought that because of that the Village drew up an ordinance that said the front of the house had to face the narrow side of the lot. Kevin said that the Village might have that, but it also defines the narrow part of the lot as the front.

President Byro introduced the Golf Cart Ordinance. He said he spoke to Trustee Hibshman, who is in favor of getting rid of the ordinance. Trustee Ward said that if the Village gets rid of the ordinance altogether, then every golf cart in the Village will be illegal based on the Illinois Vehicle code. Trustee Katzman said that they need to include turn signals, a horn, a slow-moving vehicle sign, headlights and a steering wheel. Trustee Ward said that the Village could keep the ordinance but waive the fees. If the ordinance stays in place, then the vehicles that aren't compliant will be violating code. A lot of people aren't paying the fees and there is no mechanism to enforce against people who don't pay the fees, which ends up being unfair to those who pay the fees. President Byro stated that the Village would keep the ordinance but waive the fee. The fees that have already been paid will not be refunded and the fees will end next year when it is time to renew. President Byro asked if the ordinance needed to be reworked and Trustee Kerns stated that the wording is there. All that needs to be removed is the references to the fees. Trustee Ward said his biggest concern is that if no one is registering them, then how do we know that the drivers are insured. Attorney Tess stated that if the golf carts aren't specifically mentioned on the insurance, then they are not covered.

Old Business – President Byro gave the floor to Kevin Bunge to talk about the Storm Sewer project. He stated that the previous month the board had asked him to begin working on the easements. He posted a plan that contains all the legal descriptions for all the easements. He has what he needs to start knocking on doors and that is what they are ready to do if the board is ready to move forward. He said that they would have their plan for the Storm Sewer with them so that the residents can understand what they are doing, and they will have the map and the legal. He said he sent the sample to Attorney Tess and he said he had it. The Easement document is 2-4 pages long and it lays out what the Village wants, what we are expecting of the residents and a place for them to sign. He said he just needs the Village attorney's okay, and Attorney Tess said he would look it over. There will be a packet for each resident, and they will also make sure that they have access to the board members and the Village President as they won't know Kevin and his people. President Byro asked if they were going out for bids in the Spring, and Kevin said that the project could be done this year. He said that it was fine work late into the year as long as there is not a foot of frost in the ground. Trustee Ward said that the Village would probably pay a premium and Kevin said he wasn't sure as it depends on how busy the contractors are. Kevin said he would see how fast they can secure the easements and go from there. He said he wouldn't want to do the project in May, but early spring would be okay. Trustee Kerns said that if the project can be done this year, it should be done this year. Trustee Ward also suggested that the project could start this year and could be suspended if need be and resumed the following year. President Byro asked about difficulty going under the tracks and Kevin said that the project is picking up on the north side. The next phase would

potentially deal with that, and he asked about the property south of the tracks. Kevin said that what is under the tracks now is working, but phase two would be a newer, better pipe going under the tracks and continuing south. President Byro said he would like to see it going down Fremont from South Street to the tracks because when the Village got all that rain, the pond was overflowing over the road. Trustee Ward said that we need to understand that we are upsizing the sewer and putting bigger pipes in, but that a storm that produces a lot of rainfall will still have overflow. Kevin said most systems like this are designed to handle a 15-20 year storm, but they are coming more frequently now. Trustee Hopkins asked about the length of time it would take to get permission to go under the tracks. Kevin said he wasn't sure. He said he would have to look into it. Trustee Hopkins wanted to know if it's a one-year project or longer. Kevin felt confident it could be done within a year.

Denise Stanbery said that she was concerned as she owns the lot on Center St that floods. She is trying to sell it and she had someone back out because of the flooding issue. She said that 28 years ago this issue was to be addressed and her attorney was involved. She decided not to use that land at this time, and it got dropped. She said she doesn't want to continually pay taxes on a lot if it is just going to be used for water backup. She suggested that the Village might want to buy it. Kevin asked which lot she was referencing. Trustee Ward stated she was the south of the 2 lots. Kevin asked if she was one of the easements and he told her they would be talking to her about an easement to put a bigger pipe that would drain her property faster. He said that they are not looking to store any water on her land. They are looking at property south of the tracks for that purpose. The new pipe would replace the drain tile with newer, better pipe that would drain the water faster. Kevin said that with the plan, they will be getting more water underground than is currently happening. Kevin said that there is nothing negative about what they are wanting to do with the project.

President Byro introduced Atty Tess to talk about Ordinance 080624 for the sale of property within the Village. If the ordinance is passed, it will be published and at that point the Village will be allowed to accept bids. Upon receipt of the bids, if $\frac{3}{4}$ of the board votes in favor, then the Village President is authorized to enter into a contract for the sale of the property for the accepted bid. It does not have to be the lowest bid. It must be the accepted bid. President Byro wants to get this ordinance passed because he has someone who is interested in the property, and he doesn't want the person to lose interest. Atty Tess said that they would have the bids returnable next month. He said he thought that it had to appear 3 times, and they would get it in the paper right away. The return bids would come in for next month's meeting. Trustee Ward asked if the bids were sealed and Atty Tess said that they were. Trustee Ward said there would need to be an opening date prior to the next meeting. Trustee Hopkins made a motion to accept Ordinance 080624 pertaining to the sale of Village property. Trustee Kerns seconded it. Atty Tess asked Atty Wilkes what publication time is. Atty Wilkes said it must be published for 3 consecutive weeks and the first publication has to be more than 30 days before you are going to be opening and accepting bids. He said he didn't know when the next meeting was planned, and President Byro said the first Tuesday in September. He said that he thinks that the bids would have to be pushed to October. Roll call vote taken on ordinance. Trustees Katzman, Kerns, Hopkins and Ward all voted Yes. Trustees Elliot and Hibshman were not present. Ordinance passed.

President Byro announced a website update. Clerk Payton stated that she wanted to let the board know that Town Web was well underway on designing the new website and once they have it completed, we will need to review it. Once we decide what if any changes need to be made, we will let them know and then they will make the changes and hope to have it up by Booster Days. Trustee Katzman asked when they would want the links to the other websites because their website is almost done. Clerk Payton let him know that they made a page for the Booster Club, but we can just link their website on that page and not include more content.

Treasurer's Report – President Byro introduced the bills. He said that the tree guy has been busy in town, and he didn't see his bill yet. They took the tree down in front of Wayne Williams' rental house and he also removed the tree that fell right in front of the lift station. Trustee Hopkins made a motion to pay the bills. Trustee Katzman seconded the motion. Roll call vote taken. Trustees Kerns, Hopkins, Ward and Katzman all voted yes. Trustees Elliot and Hibshman were not present. Motion passed and bills were paid.

President Byro said he had nothing else. Trustee Ward made a motion to adjourn. Trustee Hopkins seconded the motion. All voted in favor. The meeting adjourned at 8:00:03 pm.