

# VILLAGE OF BOLIVAR

## COUNCIL MEETING

October 1, 2018

The Bolivar Village Council met in regular session on Monday, October 1, 2018. Mayor Hubble called the meeting to order at 7:00pm. The Pledge of Allegiance was said. Robert Lloyd opened the meeting with a prayer. Gettan, Lang, Lapp, Lebold, Lloyd, and Vincent all answered to roll call

Lapp moved, seconded by Lloyd to accept the previous meeting minutes. In a roll call vote, all members present voted yes.

The Fiscal Officer read the bills for the month of September totaling **\$49,806.65**. Lapp moved, seconded by Vincent to approve the bills. In a roll call vote, all members present voted yes.

There were no corrections or additions to the agenda.

**PUBLIC SPEAKS** – Gerry Swigert – Wanted an update on the drain situation. Dave Franks stated he is still waiting on the county for them to jet it out. She asked if they were clogged. Dave Franks replied that he thinks they are just clogged. Franks added, "Until I get it in the jetter I don't know for sure".

Jon Swigert- Just wanted to give a shout out to Dave Franks and his crew for all of the good things they do such as picking up the grass and things like that. He also wanted to give another shout out to Don Lapp since this is his last meeting. He wanted to give a shout out for the fine work he has done and to give him a blessing in his upcoming nuptials. He wanted to give a shout out to all of the fine people on council and at the meeting.

Mike Miller – He stated he has lived in Bolivar for seven years and this is the first time he has ever come to a council meeting. He said council is doing a good job and that is why they have never seen him. He has one concern and it is in regards to a property on West Street near Johnson Alley and Grand; the Stocker property. They have some old things sitting there. He wanted to know if there's an ordinance for things like that. He said he usually has an eye for rusty gold things but there's nothing rusty-gold there. He stated that what was sitting there wasn't worth the price in scrap, if you asked him. He just wanted to bring it to their attention to see if there's anything that can be done. He stated that he keeps a car trailer parked beside his garage but it gets usable. Mayor Hubble stated there is an ordinance and there will be a 3<sup>rd</sup> reading for a Codified Ordinance where there will be a ticket or fine for violations. Before there wasn't that type of procedure. It will take place in thirty days after it's passed. Mayor Hubble will send out Dave and the police to look at it and see what they can do. Mike Miller wanted to thank Dave as he has called him about some things and he has always been generous and nice. Mr. Miller apologized to Dave if he has ever held him up on the phone. Mr. Miller said they have done a good job and he doesn't usually have any complaints. Mayor Hubble said she will have Dave address the issue. Dave said he will send a certified letter to Stocker, it is already in the Zoning book. Dave said the certified letter will state everything that they are supposed to do. Mr. Lebold stated it was an eyesore and Mr. Miller agreed. Mr. Miller said he tries to take pride in how his place looks. He said it's not the

best place in town, but he tries to keep it nice. Mayor Hubble again stated that Dave will go look at it and send another certified letter. One letter has already been sent and now they will have something they can do.

Tom Graef- He just wanted to check in and say that the flyer will be posted this week. He is still trying to get sponsors. It will be posted in churches, the post office, and the office at Bolivar Village Hall for November 17. The Solicitor stated that we have a signed contract and are good to go. He stated that there are four more cats coming in and to clarify the situation any cats that come on to Michela's property will be fed for a couple weeks and she will try to establish if they are tame or known. She has traps and cages to loan if anyone needs them for this effect if there is a stray cat in their area that they want to trap and take care of with this effort.

**MAYOR HUBBLE** – The Mayor stated that the ODNR, Ohio Department of Natural Resources, has received a request from Robert Taylor. The Taylor's live on Canal Street. They have requested .2 tenths of an acre of land that is abandoned near the Ohio Erie Canal and the Village of Bolivar. It is used by the Taylor's as part of their back yard. They have used it for many years. It is located between 1-77 and Canal St. The canal properties to the north and south have been previously sold and have been used for various uses. The Ohio Erie Towpath Trail is located along the opposite side of Canal Street. Per ODNR policies and procedures, they are contacting the Village to ask for review or comment. The Mayor has to send a response by October 5. The Mayor wanted to make sure that council doesn't have any opposition with them taking care of that property. The Mayor doesn't think there will be any problem from the Village's standpoint. The Solicitor stated that we already have an easement for the Towpath so this wouldn't affect that at all. This is just the adjacent land. If the Village isn't going to object, council doesn't need to do anything. Lebold asked if we need an ordinance. He stated that he would recommend stating in the response that the land is of no use for the Ohio Towpath Trail, and that we have no need for it. The Mayor stated that Jane Clay from the Ohio Erie Towpath did a response. She hated to see that any canal lands be given away. The Mayor doesn't think she truly understood where our canal land was. The Solicitor said if the Village doesn't object, no response is needed. If the Village does object, then the Council will have to respond. The land does not belong to the Village but belongs to the Ohio Erie Canal. Council does not have any objection. Lapp motioned, Gettan seconded to not object. In a roll call vote, all members present voted yes.

The Mayor stated that decisions need made regarding the water and she believes this is of such great nature that a water committee needs established. We want to make sure what is done is right for the Village and fair, but we need to abide by the EPA. The Mayor wants to establish a water committee to look at the water rates book and different things that need looked at and updated. The committee will meet the 3<sup>rd</sup> Monday of each month and it will follow the regular committee meetings that begin at 5:30 pm. She thinks the meeting would begin around 7:00 pm. Lebold, Lang, and Vincent will be on the committee as well as the Mayor. The public is invited to attend at any time as all committee meetings are open. The Mayor just wanted to announce that there is a new committee called the Water Committee.

The Mayor stated Halloween will be Wednesday, October 31. The time for Trick or Treat will be 5:30 pm-7:00 pm. If you want to participate you should have your light turned on, on your front porch. Immediately following Trick or Treat at 7:00 pm there will be a Halloween party that the Lions Club sponsors. It will take place at the Bolivar Intermediate School.

**FINANCE** – Vincent reported the finance committee met at 6:00 pm this evening. All members were present.

The first item brought forth was a request for a water exemption for Sept 25, 2018 - April 30, 2019 from a resident named Renner. Vincent made a motion to grant the water exemption, seconded by Lapp. In a roll call vote, all members present voted yes.

Vincent stated that a **Resolution, to set the amounts and rates as determined by the Budget Commission authorizing tax levies and certifying them to the auditor**, was needed. This is something that the Fiscal Officer needs to do. Vincent made the motion, seconded by Lloyd to approve **RESOLUTION R-11-2018**. In a roll call vote, all members present voted yes.

Vincent stated that they needed to approve a request to **amend appropriations for the Huth lawsuit**. We are transferring \$8,100.00 to the general fund, line item 1000-790-630. Gettan moved, seconded by Lloyd to **amend appropriations as RESOLUTION R-12-2018**. In a roll call vote, all members present voted yes.

Vincent stated that a **resolution was needed to amend appropriations to update for the actual year end projections**. There is a variety of transfers within this but basically \$10,000.00 being moved to the legal fund. The Fiscal Officer has the details and they are available for viewing in her office. Vincent moved, seconded by Lebold to **amend the appropriations as RESOLUTION R-13-2018**. In a roll call vote, all members present voted yes.

Vincent stated that the amount for the Public Defender's contract for 2019 is \$2,420.00. This amount is for the year. The amount has not changed. Vincent made a motion to suspend the rules, seconded by Lapp. In a roll call vote, all members present voted yes. Vincent made a motion, seconded by Lapp to approve an **ORDINANCE 0-19-2018 for the Public Defender's contract for 2019 in the amount of \$2,420.00 as an emergency**. In a roll call vote, all members present voted yes.

Vincent stated that ODOT is in charge of the work going to be done downtown. They will be doing an ordinance in two parts. The Solicitor explained that Bolivar received ODOT funding to do the downtown project. We need to execute this contract that outlines the terms of the use of that funding and the ways we need to cooperate with ODOT. It will need to be done as an ordinance because it is a contract. It will also need to be passed as an emergency so it will take effect by the end of the year. Vincent made a motion to suspend the rules, seconded by Lang. In a roll call vote, all members present voted yes.

Lloyd made a motion to **pass as an emergency an ORDINANCE 0-20-2018, to approve the project agreement with ODOT, authorizing the Mayor to sign the agreement on behalf of the Village**. Lapp seconded the motion. In a roll call vote, all members present voted yes.

Vincent stated since we are starting the last quarter of 2018, we will need to discuss what we will be looking at for raises for the beginning calendar year 2019. Simply because we want more time to look at this, we will do it as a three reading process. Initial discussion is that we will consider a flat rate of \$0.25 per hour. The Solicitor asked if that was across the board, and Vincent said yes. This was the **first reading by title only for pay raises for 2019**. It will be revisited next month.

Vincent stated the Mayor has already discussed Trick or Treat. She stated monies need approved to purchase Halloween candy for the Lions Club for the party and for Bolivar PD to hand out during Trick or

Trick. In past years \$200.00 was approved for the Lions Club and \$100.00 for the Bolivar PD to purchase candy to pass out. Vincent moved, seconded by Lloyd to authorize the same amounts to be approved to purchase candy again this year. In a roll call vote, all members present voted yes. Lebold asked the Mayor if she could contact the fire department to be sure they will be out to help out at the intersections during Trick or Treat.

Vincent stated that the Fiscal Officer has been in deep discussion with the State in regards to our water fund. Vincent stated that **the resolution that was passed in September needs rescinded because the methodology was dramatically changed**. The Solicitor stated that we were told to do the Resolution and now the State is saying that we shouldn't do it. Vincent moved, seconded by Lang to **rescind Resolution, R-9-2018**. In a roll call, all members present voted yes.

**PLANNING**- Gettan reported the committee met last month. They had a lot of discussion about the codified ordinances. The main thing that they need to bring to council was a recommendation. Under Zoning Code Section XXV(F), the Planning Commission held a public hearing on the application for rezoning submitted by Massillon Materials for the parcels known as Tuscarawas County parcel Numbers 37-00726-000 and 37-00728-000, and being 2.485 acres and 65.209 acres respectively, from agricultural to business/commercial. Notice was published at least 10 days in advance of this hearing and also provided directly to adjoining property owners at least 10 days in advance per the Village Zoning Code. As per Section XXV(F)(4)(e) Planning is required to submit a recommendation to Council within 30 days and they have voted to recommend the petition be granted so Council has now received the recommendation to grant the petition. A date will need to be set for a Public Hearing. Under Ohio Revised Code, we must provide at least 30 days notice.

The Mayor stated the date will need set for the hearing. Council discussed the best date and time. The date for the Public Hearing was established for Monday, November 12, 2018 at 6:00 pm. The meeting will take place at the Fire Station if the room is available for that date. Franks will contact the Fire Chief to confirm the room is available prior to advertising. The Solicitor will prepare the formal advertisement for the newspaper upon confirmation of the location. Lebold asked if a stenographer needs to be hired or if Maria would take the minutes. The Solicitor stated that a stenographer was not needed as we will have a recording.

Lastly, Zoning will have their regular meeting on Thursday, October 4th at 5:30.

**SAFETY**- Gettan reported the department had 121 calls for the month of September.

Gettan would like to pass a Mutual Aid agreement for Law Enforcement assistance with Active Shooters in Tuscarawas County. This is basically stating that we will work with other law enforcement officials in the county. Gettan made a motion to suspend the rules; seconded by Lang. In a roll call vote, all members present voted yes. Lebold would like to ask Randy if he's seen it. Randy said it has been talked about for years at the Chief's meetings. He stated this has been needed for a long time. If there is an active shooter, they need help. Lang interjected the Prosecutor's office is the one who drafted this. Lang added, if there is an active shooter, the Chief can put a call out to 911 and any other municipalities that are signed up will be called out to help. The host agency covers their personnel and their property. Gettan made a motion to pass an **ORDINANCE 0-21-2018 for Mutual Aid for Active Shooters for Law Enforcement as an emergency**. Lang seconded the motion. In a roll call vote, all members present voted yes.

Gettan stated they discussed the Policies and Procedures in regards to FMLA. They discussed the possibility of sick leave being used concurrently with FMLA so employees can still be paid. She has a question if this is something that would have to alter the policy and procedure manual. The Solicitor stated yes as there isn't anything in there now in regards to it. She said the section would need revised that they could be used concurrently with FMLA.

Lang stated "It's my understanding though that State FMLA requires that it has to be because State guidelines say they have to basically go through all sick leave, all vacation time, personal time or comp time before going on FMLA status and that's per State law". The Solicitor stated that is not what she saw; that part of this is because there is civil service and not civil service with some different regulations. The Solicitor went on to state she personally thinks the Village should do it. She reiterated that she recommends that we do it. She thinks it's better for the employees to allow them to be paid while they are doing this. It also helps to take some guess work out of it for us in terms of whether this proper use of sick leave or is it not because there are some gray areas in our policies about that. The Solicitor recommends that **the Policies and Procedures be amended so that it can be taken concurrently. "We can mandate it or allow it to be a choice".** Gettan asked if it could be for the duration of the FMLA in its entirety. **The Solicitor stated it depends on the amount of sick leave they have. They can use the sick leave up to the amount that they accrued.** Discussion followed in regards to the readings and when to pass it. Lang wants to help our employees but at the same time craft this in a way that it isn't being abused. Lang feels it's good for both parents to have time with their child but doesn't want to rush through this. There was a **first reading by title only** and it will be revisited next month.

**CHIEF-** Chief Haugh stated that our training is tentatively dropped to the 13<sup>th</sup>. All of the new radios have been installed in the cruisers and the base cradles in the office. There are no charges for this as there is a grant from the county that is paying for it.

**STREET & ALLEY** – Lapp reported that the committee met on Monday, September 17, 2018 at 5:30pm. The majority of the time was spent discussing the different codified ordinances in the Civil Citation System. One other thing that was not in the Civil Citation System was the non-mowing of grass. The repercussions of not mowing were discussed. The Solicitor stated that there is already an ordinance on those issues.

Six signs for the entrance to the Village need purchased for a total cost of \$367.98. It was stated that they are already included in the appropriations under operating supplies and materials.

Lapp stated that tires for the truck are needed at a cost of \$1,980.00. He stated that Dave Franks said that the original tires are on the truck and date back to 2001. They are in pretty bad shape. Lapp moved that the payment is approved; seconded by Gettan. At roll call, all members present voted yes.

If solicitors solicit and don't have a permit, they can be fined \$50 per person, up to \$500. Lapp stated he wanted to make sure that it was still in the ordinance. Dave Franks stated he put the ordinance number and the fine amount on the signs. The Solicitor stated that if they are soliciting that they should have a permit on them. If they don't apply for the permit, we can't do the background check. If someone comes to your door and doesn't have the Village of Bolivar permit, report them. They need to produce a permit. Charity causes, non-profit and political canvassing do not need a permit. Commercial goods and services all need a permit.

Lapp concluded that he would like to see a form with an official look for citations within the civil citation system. The solicitor stated she could draft up a form.

**STREET SUPERINTENDANT/ADMINISTRATOR** – Hydrant flushing is this Friday, October 5, 2018. They are starting at 6:00 am. They want to get a good flush. They had an electrical problem at the pump house followed by a water line break. He stated they are going to start pretty early to get the lines flushed out.

**SHADE TREE** – Franks stated Dave Cipar has already started the work in the Village.

**RECREATION** – Lebold stated they had a brief meeting. The fence was discussed. Lebold thanked Dave Franks for putting the white tubing around the trees. Lebold stated there were a couple of trees on the Trail that might not make it. Dave Franks stated they were doctoring them and that is why they put the tubing around them. Lebold stated the deer are stripping the bark with their antlers.

**FISCAL OFFICER** – none.

**LAW DIRECTOR** – She has the **third and final reading to edit section 12.4 of the Policies and Procedures Manual to change the uniform allowance.** A motion was made by Gettan to approve **ORDINANCE O-22-2018.** It was seconded by Lang. In a roll call vote, all members present voted yes.

There was a **second reading by title only of the ordinance to edit sections 10.2 and 10.3 of the Policies and Procedures Manual. These are the sections dealing with the holiday pay and nontraditional employees.** There was no discussion so it will be revisited next month.

There was a **third and final reading to repeal and replace the Police Policies and Procedures Manual for the Police Department.** The motion to do so and pass **ORDINANCE O-23-2018** was made by Gettan, seconded by Vincent. In a roll call vote, all members present voted yes.

There was a **third and final reading to establish a Civil Citation System for the Village of Bolivar.** This is something that has been discussed. The Civil Citation System allows us to issue fines for some of these minor ordinances which are not a criminal violation which is good for both parties. The Village will get the fine money and it's not something that will go on a criminal record. Some of the things that it includes are the Zoning Code violations, sign violations, building a home without a permit, erecting a storage building, fence, or deck without a permit, junk vehicles without license plates, trash cans being left out over 24 hours, littering in Village roadways, water sprinkling during non-designated times, and vehicles parked on sidewalks. The actions of cutting, trimming, and abusing Village trees, and performing tree services without a license currently do not have an ordinance against them. An ordinance can be drawn up for them. The Solicitor and the Fiscal Officer looked through our current ordinances and it is not prohibited under the current tree ordinances. The Civil Citation System is being created now. If there is an ordinance in the future that council feels should be in the System, it can be notated in the ordinance. A motion was made by Lang to pass an **ORDINANCE O-24-2018, creating a Civil Citation System.** It was seconded by Lebold. In a roll call vote, all members present voted yes.

Mayor Hubble thanked Don Lapp for serving us faithfully. She added he has done a great job and appreciates all that he has done. She wished him the best in his upcoming marriage and move. All of Council applauded Don Lapp.

Mayor Hubble stated that there were two residents who came forward and expressed interest in the vacant council position. Tim Lang announced that the committee discussed the candidates and that they recommend Bruce Lawver to become the new council member to fill the position vacated by Mr. Lapp. Mayor Hubble presented the Oath of Office to him and swore Mr. Lawver in as a Bolivar Council member with a term ending in December 2019.

A motion to go into executive session for the purpose of considering the appointment or employment of a Village officer or employee was made by Lloyd; seconded by Gettan. Lapp was asked to stay. Randy and Dave were not asked to stay, but told not to leave until after the meeting. No action will be taken. In a roll call vote, all members present voted yes. Council went into executive session at 8:00 pm.

Council returned into regular session at 8:12 pm. No action was taken.

There being no further business, Gettan moved, seconded by Vincent to adjourn until the next regularly scheduled council meeting on Monday, November 5, 2018. In a roll call vote, all members present voted yes. Council adjourned at 8:13 pm.

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Mayor Rebecca S. Hubble

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ATTEST: Maria A. App, Fiscal Officer

Approved: November 5, 2018