

VILLAGE OF BOLIVAR COUNCIL MEETING February 5, 2018

The Bolivar Village Council met in regular session on **Monday, February 5, 2018**. Mayor Hubble called the meeting to order at 7:00 p.m. The Pledge of Allegiance was said. Lloyd opened the meeting with a moment of prayer. Gettan, Lang, Lapp, Lloyd and Vincent all answered roll call; Lebold was absent.

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

The Fiscal Officer read the bills for the month of January totaling \$65,178.35. 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: There were three students from Tuscarawas Valley High School that attended the meeting for class credit.

The next guest in attendance was Andrew Kimble with the Kimble Company. He discussed the contract for trash and recycling services the Village entered into approximately five (5) years ago. He went on to reference section 10 under the current contract; stating at the conclusion of the current term, the contract may be renewed under a mutual agreement for an additional one year term beginning June 1, 2018.

The Mayor responded by saying we (finance committee) have met previously and had some discussion in regards to whether or not this is something that can be done since we are already in a five year contract. She added that council has some questions for the solicitor.

Gardner stated she has looked into this issue and referenced the Ohio revised code section 3707.43. It discusses the removal of waste substance contracts. She went on to read pertinent parts of the section. Her concern with extending or renewing the contract is that it's already butting up against a five year contract. Gardner added there's no real attorney general opinion on this. There is one case that interprets it in conjunction with city bidding requirements which aren't the same as village bidding requirements. It suggests you may be able to use this to avoid the bidding process however, even in that case the five year limitation stands. Gardner also stated she didn't know if it would even apply to us because it's a city statute that was being interpreted in that case. It's literally the only authority out there on this issue.

Obviously the Village needs to consider the bidding requirements under ORC 731 which states if it exceeds \$50,000.00 we would have to send it out to bid with two weeks of advertising. Gardner stated the statute does state a time limit. She knows other villages and cities have contracted for longer but doesn't know if they were within the law.

Lang asked if we were chartered or non-chartered. Gardner said we are non-chartered. Lang referred to an article from the state auditors municipal village guide. He went on to read from the article, "A non-chartered village may award a multi-year professional service contract through direct negotiation or requests for proposals or qualifications in lieu of competitive bidding for the engineering, repair, sustainability, water quality management, and maintenance of a water storage tank". Gardner interjected, this is for professional services though. This does not qualify as professional services; that's why it doesn't apply to this case. Gardner stated there is a specific Ohio Revised Code section that directly discusses this.

Lang asked about the lowest, responsive or responsible bid standard; which is the lower standard than the regular standard? Gardner said it has to be bid out. She does not believe the contract can be "renewed"; it would have to be bid. Lang did not feel it needs to be bid out. Gardner noted when she talked to Kimble's attorney, he was not able to provide anything that convinced her otherwise. The only thing she could find was a 1980 something case that discusses it in the context of a city. It also didn't discuss renewing a contract again; that wasn't discussed at all.

Lang said based on the terms of our contract that says we can. He went on to say there's no real guidance and other villages are doing so. He added, if other villages are doing it and it's the best financial move for our residents... Gardner said she understands the desire but in her opinion we are on shaky ground. She added, "It's up to you guys whether you want to take the risk or not". Lang countered by saying if it's bid out, it may end up costing the residents to pay a higher trash rate. Gardner said she understands but there is a time limit. Lloyd said it's pretty plain; it's actually spelled right out... Gardner said the statute is pretty unambiguous. She told Lang she understands why he would want to do it; she agrees it's probably the best fiscal move but is it 100% in compliance; she doesn't think it is.

Lang questioned how many villages and cities have been doing ten (10) year contracts. Gardner stated they are taking the risk someone will challenge it.

Gardner added, if Council is just going to sign one without bidding, she definitely would not do one for more than five years. She added, the one case which involves a city; they did advertise for options but didn't do the full bidding process. However, they used the code 3707.43 to just enter into a five year contract without the bidding process; they did not use it to enter into a longer term contract. Gardner also stated she hasn't found authority anywhere that would allow the Village to enter into a contract above five years. There is the one case that would maybe allow you to avoid the bidding process and enter into a five year contract now. Again, it's a city case. Lang told Gardner he understands it's her job to protect us. He said technically the Village acts as a pass through; that we aren't benefiting in any way; we are just the mediator for the residents to get the best deal. He thinks this is the best deal. Gardner agreed but said it's her job to advise council of the risks.

App added, if the Village went through the procedure, we could still end up with the same company and the best deal. Lang countered that it could end up being more.

Gettan said she didn't want to risk it. Lang said he would rather go now because he doesn't feel there is that much risk. He concluded if there's no support then... The Mayor said it could go to a motion and take it to a vote to see where the support lies. Lapp asked if it can be extended an initial one year term like the contract states. It was noted the Village has already extended to the fifth year. App asked if it could be tabled until next month versus voting on it right now.

Andrew added that there's a question if a renewal of 1-5 years is considered a new contract. Gardner stated yes it is. Lloyd stated, the bottom line is anything over \$50,000.00 is supposed to be bid out. Gardner agreed. Lang stated the Village is acting as a pass-through. App reminded Council the Village is still "receipting in and expending out". Gardner added some places try to get around that by having the residents billed directly and some think that's sufficient. Again there's no case law on that either.

Gardner said if council wants to table it until next month she can continue trying to find some kind of an authority. The only authority she has found so far, which she is happy to forward that case, really pertains specifically to cities and the Village doesn't have a city services manager so it's different. Gardner said the Village has time since the contract doesn't expire until May 31.

The Mayor suggested taking Gardner's advice and tabling it until next month until the solicitor could research it further.

Lloyd expressed he would like to move forward with advertising for bid. Lloyd motioned, seconded by Gettan to put the trash contract to bid. In a roll call vote, all members present voted yes.

Gardner added one announcement would be in the Times Reporter and the other could go on the Village's website which will cut down on the costs.

Council and the Mayor thanked Andrew Kimble for attending.

MAYOR HUBBLE – The first item the Mayor brought up was in regards to previous discussions for possibly metering the Village this year. When we had our water rate study, it was one thing that RCAP mandated that we do. It's very hard for the Village to measure water loss and have an accurately running water system. Only the downtown area is metered as well as a few households. We currently pay a flat rate of water which is a very inefficient method. The rate study stated that we really needed to be metered. With our history with the EPA; one of the things Debbie Prim, our regional EPA liaison, expressed is she strongly feels the Village should pursue this sooner vs. later.

The Mayor added that she did meet with RCAP this past week. Options were discussed as to what the Village could do. Unfortunately there aren't grant options out there for meters but we do have options. The Village can get loans for the length of item. With meters the Village could get a 20 year loan with OWDA. The first step is to get engineers and do a rating of the engineers.

The Mayor asked for a motion of council to get a request in the paper. Gardner stated it's a request for qualifications. The Village can either advertise in the paper or directly invite the firms but it would need approved.

Lang moved, seconded by Vincent to authorize the Mayor to make a request for qualifications. In a roll call vote, all members present voted yes.

The Mayor added, once this process is done, we will need an engineer to engineer out the pits for meters. This will need to be in place before we can ask for any loans.

Next, as everyone may already know, by October of this year we will have to have an asset management plan in place, as required by the EPA. She referenced a replica plan that she passed around in finance that would basically show everything that we would own; everything that we have done for our water system. So far the Village has their GIS mapping done; a rate study which is part of the requirement and other pertinent information. The Village also has a contingency plan; all of which will need to be put together into a folder and presented to the EPA along with other things.

Upon talking to RCAP they are willing to take care of the Asset Management study for us. The cost of the project is \$20,000.00. They do have a loan or grant to apply for with a 10,000.00 forgiveness. The Mayor was seeking the permission of council to begin the process. Lang moved, seconded by Gettan authorizing the Mayor to begin the process to contract with RCAP to pursue an Asset Management plan. In a roll call vote, all members present voted yes.

FINANCE: - Vincent reported it was the first full meeting with the new committee members for 2018. Permanent appropriations need to be approved for 2018. Vincent moved, seconded by Lloyd to suspend the rules. In a roll call vote, all members present voted yes. Vincent moved, seconded by Lloyd to approve an **ORDINANCE, O-4-2018, TO MAKE ANNUAL APPROPRIATIONS FOR CURRENT AND OTHER EXPENDITURES OF THE VILLAGE OF BOLIVAR, STATE OF OHIO, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2018, as an emergency.** In a roll call vote, all members present voted yes.

Vincent stated, although the Income Tax splits have been discussed multiple times previously, it will require an Ordinance to approve them. The proposed split would be an 85/5/10 split; 85% general fund, 5% street fund and 10% capital fund. Vincent moved seconded by Lapp to suspend the rules. In a roll call vote, all members present voted yes. Vincent moved, seconded by Lloyd to approve **AN ORDINANCE, O-5-2018, AUTHORIZING A REALLOCATION OF FUNDS COLLECTED BY THE VILLAGE OF BOLIVAR AS A RESULT OF THE ENACTMENT OF THE BOLIVAR INCOME TAX; DECLARING AN EMERGENCY.** In a roll call vote, all members present voted yes.

Vincent read a request from a resident of the village who moved last fall. They are paid through December 2017. They are requesting a water exemption but not to turn it off to avoid freezing pipes. Vincent moved, seconded by Gettan to accept the water exemption. In a roll call vote, all members present voted yes.

Vincent announced finance had discussed equipment for the street department then deferred to Lapp for details. Lapp stated at their January street committee meeting Franks provided a list of equipment that he is requesting to get up to date and functioning. The list includes a chipper, gator, 4x4 mower, zero turn mower, two (2) weed trimmers, saw blade attachments for the trimmers and a gas powered hedge trimmer. With the trade in allowances, the total requested for purchases is \$20,253.90. Lapp moved, seconded by Lang to approve the equipment expenses. In a roll call vote, all members present voted yes.

In other business, Vincent reported that Franks got quotes for replacing the windows in the village offices and bringing them up to par. They are energy efficient, low e windows. Currently, the windows include a triple section. The new windows would only be two, side by side double hung. The quote for both offices is \$3,698.00. Vincent moved, seconded by Lloyd to accept the proposal and for Franks to schedule the work. In a roll call vote, all members present voted yes.

Vincent deferred the next topic of the 2014 cruiser and repairs to Gettan. Gettan reported a diagnostic test was done and it was discovered the cruiser needs a new motor. Dodge will be responsible for either replacing or rebuilding the motor. The Village only has to pay for the diagnosis of the labor. We are waiting on Dodge to see what we need to do.

Gettan also reported the Police would like to purchase a hand-held wand metal detector at a cost of \$150.00. Gettan moved, seconded by Lloyd to approve the purchase up to \$150.00. In a roll call vote, all members present voted yes.

Vincent reported the Ohio Municipal League is offering council training on Saturday, March 24 at a rate of \$65.00 per person. For those who plan to attend, please let the Mayor or Fiscal Officer know in the next couple of weeks to allow

time for registration. Vincent added, several council members in the past have attended and it's actually a good course. It's held in Independence Ohio.

The annual Ohio Auditor Local Government Conference is being held on March 22-23, 2018 in Columbus. The Clerk and/or the Mayor would like to attend. The cost is up to 400.00 for the registration (total); plus an additional 430.00 for the hotel, mileage, food and parking. App clarified the first 400.00 for registration is at a rate of 200.00 each. Lloyd asked if they can approve the entire amount in one vote. Vincent moved, seconded by Lloyd to approve the training expense up to \$850.00. In a roll call vote, all members present voted yes.

Vincent reported that the Fiscal Officer, while estimating the 2018 budget, included the cost of the public defenders contract. Approximately \$2,420.00 will be paid out; Council previously approved the expense in November 2017. No further action needed; just an FYI. The Fiscal Officer is also still awaiting an invoice from the New Philadelphia Municipal Court; App is estimating our cost to range between \$2,020 to 2,290.00.

The Mayor has already discussed the water rates and how that is proceeding as well as the Asset Management plan.

PLANNING – Lebold was absent. The Mayor presented on his behalf.

Zoning met for their regular February meeting. They had a guest attending; Kyle Tucker, attorney at law. He was representing Mr. Wenger with Massillon Materials. They filed a motion with zoning to have the land they purchased with us, which is currently zoned agricultural. As part of that agreement, they are requesting business commercial. As a result of that, there will be a public hearing on March 19th at 6:30p.m. at the Bolivar Fire Station. At the public hearing it will be discussed; followed by any public comment then the zoning board would make a recommendation to Council. Council would decide from there. The 19th is the regular committee night at the regular time of 5:30 at the town hall.

The Mayor added, this is part of the process. Not that Massillon Materials has any plans at this time but it's something they want done. Gardner added, it also has to do with the sewer system. A sewer system cannot be installed with an agricultural designation. Before any development at all can begin, there has to be a starting point. Vincent added, the key is, this is all part of the original agreement. Gardner said it would ultimately be a type of mixed use; residential and light commercial. We are at the very early stages; anything further would need approval later on.

In other news, the Mayor reported Zoning is still working on parking regulations in the Village.

A recap of the meeting times are as follows: The public hearing will be at the Bolivar Fire Department on March 19, 2018 at 6:30. The regular committee meetings will still be at 5:30 at the town hall.

SAFETY -

Gettan reported the police had 69 calls for the month of January. She reported there were two letters of resignation from Shawn Brady and David Strubel. Gettan moved, seconded by Lloyd to accept the resignations. In a roll call vote, all members present voted yes.

Safety discussed the purchase of a window decal listing the police phone number for the front door of the department. Stick-It Graphics provided a quote for \$75.00. Gettan moved, seconded by Lapp to approve the expense. In a roll call vote, all members present voted yes.

Gettan reported Chad Hudson applied for an auxiliary position. Lang moved, seconded by Lapp to suspend the rules. In a roll call vote, all members present voted yes. Gettan moved, seconded by Lapp to approve **AN ORDINANCE, O-06-2018, TO ADD CHAD HUDSON AS AN AUXILIARY POLICE OFFICER FOR THE**

VILLAGE OF BOLIVAR; ESTABLISHING AN EMERGENCY. In a roll call vote, all members present voted yes.

Gettan also stated they would like to move Connor Bailey up to part time. Gettan moved seconded Lapp to suspend the rules. In a roll call vote, all members present voted yes. Gettan moved, seconded by Lloyd to approve **AN ORDINANCE, O-07-2018, TO HIRE CONNOR BAILEY AS A PART TIME POLICE OFFICER FOR THE VILLAGE OF BOLIVAR; ESTABLISHING AN EMERGENCY.** In a roll call vote, all members present voted yes.

CHIEF – none

STREET & ALLEY - Lapp reported they met on January 15th at 5:30. He said the ingress and egress between the buildings by the Towpath Tavern is wide enough. Franks would like to do a gravel base before the mud gets too bad. Lapp said Lebold had a concern about the sidewalk and being able to get down through there with the trucks to put in the parking lot.

Lapp reported the feral cats issue has been tabled; but Lebold did bring it to committee that there was a person in Sandyville that is willing to come out to trap and neuter the animals and take them down to Coshocton at no charge. The Mayor added, the lady would also find them homes. Lapp stated the lady would post a notice at the post office with dates that she would be here so people would be informed.

Gardner asked if the lady is associated with a non-profit down there. Lapp said he didn't know; Lebold brought it up at committee. The Mayor added this lady does this for other communities. Vincent said she will not transport any "pets" or ear tipped animals. Gardner added, a license is not required to trap. Vincent asked how to proceed. Gardner suggests the lady come to a street and alley meeting so the committee can get more information. Vincent recapped the street and alley meeting will be on Monday, March 19 at 5:30.

Lapp reported he has an email from Sergeant Hilty that there has been a parking problem on Sassafra Alley. Lapp said it has been hard for traffic to get through there with vehicles parked on the alley. The committee recommends that there be no parking on the alley between Poplar and Water Street. Vincent asked if it were for both sides or just one side. Franks suggested no parking on either side; but to designate for loading and unloading only for the businesses.

Lapp moved, seconded by Lang to suspend the rules. In a roll call vote all members present voted yes. Before proceeding to the vote, there was a question as to having the ability to pass with Lebold absent and Lloyd abstaining. Gardner said this would need to be a 1st reading only. It was further explained Lloyd abstained because he resides there.

Lapp also brought up the committee recommends getting more one way signs at the school. Franks said he has already talked to the Mayor about that; once his part time guys start back he will get another sign installed.

Lapp said he received a call from a resident by his house regarding the speed bump in the alley. Franks said if council wants it removed then he will take it out. Lapp said he will speak with his neighbor first and report back.

Lastly, Lapp brought up that the Copen's would like to close the alley by their property. This will have to be further discussed at street and alley.

STREET SUPERINTENDANT / ADMINISTRATOR - Franks asked if Barb could get something in the paper about sidewalk contracts. It's a pretty good program; if anyone is thinking about doing their sidewalk to see him and get a contract.

Franks added to what Lapp said earlier about the ingress/egress. There's a fence there. He got a hold of Jon and Tom Graef. They are more than willing to let him take that fence out of there; it's junk. Franks also addressed the sidewalk in that area. He said they will have to adjust it down so they won't have that crown on there. As for the lighting for the parking lot behind the businesses; we are going to put up five lights on three poles. He said it won't cost anything to put up poles; it will just be the formality of getting it and on time.

The Mayor added she and Dave met with the downtown businesses the week prior. She felt it was a productive meeting. Almost all but one or two businesses was represented. A big part of the discussion was parking; as well as the lighting. The Mayor was able to explain when the downtown project does begin, only one side at a time will be torn up. In addition, the water line will be installed down the middle of the road. Additional areas for parking were also discussed.

SHADE TREE – none

RECREATION - none

FISCAL OFFICER – none

LAW DIRECTOR – Gardner reported she has been in communication with the Mayor and Fiscal Officer in regards to job descriptions in section 3 of the Policies and Procedures manual. A couple additional positions have been added over time. There wasn't a description for the sergeant or assistant clerk. Some of the other descriptions were pretty bare bones as well. Gardner had a first reading of a proposed ordinance to edit article 3 and submit it to council to continue to look at over the next couple of months.

Lang didn't want to do a first reading until he reads it first.

Before adjourning, Lapp had a question for the solicitor in regards to an email he received from the state stating that the businesses are now able to go centralized on their website to do their income tax. Gardner acknowledged it's the Ohio Business Gateway; they have been able to do that for quite some time. Lapp wanted to make sure it didn't have anything to do with the state tax case. Gardner said she believes the tax hearing is set for February 23rd. We will know more after that; by the March meeting.

There being no further business, Lloyd moved, seconded by Vincent to adjourn until the next regular Council meeting on **Monday, March 5, 2018**. In a roll call vote, all members present voted yes.

Mayor Rebecca S. Hubble

ATTEST:

Maria A. App, Fiscal Officer

Approved: March 5, 2018