

# VILLAGE OF BOLIVAR

## COUNCIL MEETING

**JANUARY 6, 2020**

The Bolivar Village Council met in regular session on **Monday, January 6, 2020**. The meeting was called to order by the Mayor at 7:00 pm. The Pledge of Allegiance was said. Mayor Hubble opened the meeting with a prayer. Gettan, Lang, Lawver and Vincent all answered to roll call.

The first order of business was to swear in the elected officials. The Solicitor swore in Rebecca Hubble as Mayor for the term ending December 31, 2023, to which she was elected.

The Mayor asked both Bruce Lawver and Daniel Oberlin to stand to be sworn in for their elected terms, ending December 31, 2023.

The Mayor read the formal resignation letter submitted by Dick Lebold dated December 13. His reason for resigning was due to failing health. Dick Lebold has been a council member for several years and has been a big part of the Village of Bolivar and for much of Ohio. He has done a lot for our Village and our County. The Mayor extended her condolences to Dick's family as he passed away at the end of December. He will be greatly missed.

The Mayor proceeded to ask Council to formally accept his resignation. Lang moved, seconded by Lawver to accept the resignation. In a roll call vote, all members present voted yes.

As a result of Dick's resignation and passing, there were several very good applicants and letters of intent to fill the vacant Council seat. The Mayor stated she was very appreciative to have people in our community interested in being a part of Council. When the committee met, based upon the fact Robert Lloyd had recently been on Council, we felt based on his history and past experience he would be the best candidate at this time.

The Mayor proceeded to have Robert Lloyd stand to be sworn in for the term ending December 31, 2021.

Lang moved, seconded by Vincent, 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 **December which totaled \$76,906.60**. Gettan 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 –**

1). **George Workman** asked if the Village had spent all their money on the downtown project or if there is still money left to address the issues on Sassafras Alley; as well as the sidewalk across from him. The Mayor stated it's on the agenda to look at this year. She added that it was something the Village intended to take care of this past year but it was going to require a lot of

extensive work because the road wasn't designed for heavy trucks. She reiterated the Village is working on a solution and will try to address this year. Mr. Workman added he would also like to get the sidewalk fixed in front of the alley on the other side of his house. When they puts the drains in, it collapsed. The Mayor suggested he fill out a sidewalk contract.

2). **Adam Wilgus** announced he is running for Judge in the Tuscarawas County Probate Court since Judge Kate is retiring. He has been serving as a Magistrate in the Juvenile Court since 2016. He explained the differences in roles between a Magistrate and Judge. He has experience in both juvenile and probate court. He also served seven (7) years in the National Guard. Currently he serves a board in Tuscarawas County; Big Brothers and Big Sisters. Adam proceeded to distribute business cards and literature for the Council members. He continued to share some testimonials and success stories as to why he is seeking the seat of judge. He thanked the Mayor and Council for the opportunity to speak.

Other guests included the elected Mayor of Mineral City; her primary reason for attending was to see how other municipalities conduct business and to connect.

The next order of business is to conduct an appeal hearing in the public session as requested by Mr. Dave Franks.

The Solicitor reviewed how the hearing would be conducted beginning with swearing in the Mayor and any witnesses if applicable. Since it's the Mayor's actions being appealed, the Solicitor started by swearing in Mayor Rebecca Hubble.

The Solicitor began by asking the Mayor, "You have implemented disciplinary action against Mr. David Franks. Is that correct"? The Mayor answered, "Yes". The Solicitor asked, "What employee role or capacity was Mr. Franks did that issue come about"? The Mayor responded, "It was disciplinary action; a suspension from duty without pay for 1.5 days as a result of a failure to keep accurate daily logs". The Mayor added, the infractions occurred on several days which were listed. She stated on the discipline slip that other inadequacies did occur; not all were discussed but other issues were discussed with him. "It was a difficult decision but was warranted due to other progressive disciplinary measures".

The Solicitor distributed exhibit 1A and asked several questions of the Mayor:

"That's a multiple page document, is that correct"? The Mayor replied, "Yes".

"Going through the pages of that document, will you indicate what that is; what is page number one referencing"? The Mayor said, "This was regarding July 3, 2019; it's a written warning given to Dave Franks because of actions taken over a period of time starting February 2018 through June 2019 at the library. It was willful neglect to the care and the use of Village property and equipment". The Solicitor proceeded to ask the Mayor, "You and Mr. Franks; did you have a meeting or did you just hand him that document"? The Mayor stated, "We had a meeting". The Solicitor asked, "Did you both sign off on that document". The answer was yes.

Tara proceeded to the next page; and asked the Mayor "What is page two"? The Mayor said it was a disciplinary action given to Dave Franks. The actual occurrence was on December 9, 2019; but the signage of this written document took place on December 16.

The Solicitor asked what the second page was referencing. The Mayor stated there were infractions that occurred on 11/4/19, 11/5/19, 11/6/19, 11/13/19, 11/25/19 11/26/19 and 12/2/19.

It also included a statement about going to Menards; two people going together only if heavy items were purchased but was not necessary to have two people going after small items.

The Solicitor asked the Mayor if anyone else was present at the meeting with her and Mr. Franks on December 9th. The Mayor stated the Police Chief, also the Village Administrator at the time, was present.

The Solicitor proceeded to ask about the next two attached pages. The Mayor said on December 16 when she talked to Mr. Franks, he felt at the time he didn't have an opportunity for a rebuttal; that he wouldn't have an opportunity for a grievance. The Mayor clarified, according to our policy and procedures, if it were three (3) days or longer, he would not have been entitled to a grievance. However, since it was only for 1.5 days, therefore it allowed him to have an opportunity for a grievance. Circling back to the original question, the Mayor stated the attached pages were Mr. Franks' rebuttal of comments.

The Solicitor asked the Mayor what she is requesting from Council by the conclusion of the hearing today. The Mayor stated she is requesting Council to stand by her decision of the disciplinary action she submitted.

The Solicitor explained to Mr. Franks he is permitted to cross examine the Mayor if he wanted to. She proceeded to state she will have some questions for him to authenticate the documents but if he had questions for the Mayor he could speak. The Solicitor swore in Mr. David Franks.

The Solicitor began by asking the following questions of Mr. Franks regarding exhibits 1a-d.

"On the first page, this says the Mayor has testified, was a document dated July 3, 2019, and is that correct"? Franks replied, "Yes".

"Is this document familiar to you; did you have an opportunity to review it before today"? Franks stated, "Yes". "Do you acknowledge your signature on that document"? Franks said, "Yes".

"On the second page, dated December 9, 2019, is that document familiar to you before today"? Franks replied, "Yes". "Tara asked, "Do you acknowledge your signature on that document"? Again, Franks replied with a "yes".

Regarding the last two pages, "This is a document prepared by you and submitted to the Mayor"? Franks said, "Yes". The Solicitor proceeded to ask, "Did you send it to her December 17, 2019". Franks said, "Yes".

The Solicitor stated she had no further questions for Mr. Franks. "As far as the Village, there's no additional evidence". She advised Mr. Franks that he is welcome to put on any witnesses he may have or to testify himself. Franks stated he didn't bring any witnesses; that everything was spelled out in his letter. He stated, "This was my chance to rebut everything and my due process to do this. I didn't think it would have to be spelled out that I haul leaves from the Township building to a resident in the one ton truck. I just put it under vacuuming leaves. Now I know by talking to the Mayor things have to be spelled out I guess in definition. I did what the Mayor asked me to do without question. I just put everything down as (inaudible?). You guys have minds of your own. I did what I thought I should do. You guys have everything in front of you. That's all I have".

The Solicitor stated this would conclude the hearing. "It's up to Council how to proceed".

Lawver recommended calling for an executive session. Lang moved, seconded by Gettan to discuss personnel for employment, compensation, promotion and/or a demotion of a public employee; action may be taken. Lang called for all of council and the solicitor to stay. In a roll call vote, all members present voted yes. Council went into executive session at 7:24.

Council came out of executive session at 7:44

Lang made a motion to modify the Mayor's decision to hold the day and a half in advance for the next six (6) months to be restored if there are no other incidents but to uphold everything else. The Solicitor added, there were two issues: 1) Mr. Franks was requesting the day and a half without pay be reduced and be paid for the day and a half. 2) That the written warning be removed from his personnel file. The Solicitor stated Council is upholding the Mayors decision to keep the written warning in his personnel file; that will not be removed. However, the day and a half; they are holding that issue in advance meaning temporarily for the period of six months to revisit that issue. Should Council make a decision at that time that Mr. Franks should be given that day and a half pay they will make a motion to do that; otherwise he will not.

Lang made the motion, seconded by Vincent. Lawver asked for discussion. He wanted to clarify, as long as the six months is expended without any valid disciplinary matter then it would be restored; or do we have to meet back again to say to restore the day and a half? The Solicitor was under the impression Council wanted to revisit it. There was some clarification expressed. Lang clarified it could automatically restore in the month of July. In a roll call vote, all members present voted yes.

## **MAYOR –**

Before proceeding with committee reports, the Mayor named the committees for 2020.

Finance: Bruce Lawver (chairman), Robert Lloyd and Dan Oberlin

Street & Alley: Tim Lang (chairman), Megan Gettan and Mary Vincent

Safety: Robert Lloyd (chairman) Bruce Lawver and Dan Oberlin

Parks & Recreation: Megan Gettan (chairman), Tim Lang and Mary Vincent

The Mayor passed out a flyer to each of the Council members that is especially helpful for new members. It consists of five paragraphs that provides some general information as to what Ordinances and Resolutions are as well as other basic information.

The Mayor proceeded to make appointments for 2020:

Village Administrator - Maria App

Street Superintendent, Zoning Inspector & Regional Planning Rep - Dave Franks

Income Tax Administrator - Heather Lecce

Zoning Chairman - Megan Gettan

The tax review committee still needs nominated. The Mayor still needs to speak with a couple of people to be on that committee. The Village hasn't had a case before the committee yet.

The floor was opened to nominate the Council president. Vincent nominated Gettan; Lawver nominated Lang. The nominations went to a vote. Dan, Lang and Lawver voted for Lang; Gettan, Lloyd and Vincent voted for Gettan. The Mayor was required to break the tie. After much contemplation, at this time the Mayor made the recommendation for Tim Lang as Council President Pro-tempore. She feels both Gettan and Lang would have done a fine job.

**FINANCE** – Gettan announced the Star Ohio interest for the month of December \$617.54; for the year, the interest earned was \$8,976.71 vs. the \$68.00 we would have made at the bank.

Gettan moved, seconded by Lang to amend appropriations in the amount of \$1,000.00 as **Resolution R-1-2020**. In a roll call vote, all members present voted yes.

Gettan moved, seconded by Lloyd to approve \$1,837.04 for the following expenses: Lexipol annual dues at \$1,548.00, OUPS dues at \$75.00, Regional Planning dues at \$159.04 and Ohio Municipal Clerks Association dues at \$55.00. In a roll call vote, all members present voted yes.

Gettan moved, seconded by Vincent to approve a rate of \$30.00 per hour for water line break call outs for our Water Operator Chuck Williams; for both future and retroactive for water related call outs. In a roll call vote, all members present voted yes.

Gettan moved, seconded by Lloyd for the destruction of an old HP Printer and six (6) old fluorescent shop lights. In a roll call vote, all members present voted yes.

Gettan moved, seconded by Vincent to allow the Fiscal Officer and Mayor to apply for a Village credit card. The following individuals would be authorized card users: Maria App, Rebecca Hubble, Randy Haugh and Dave Franks. In a roll call vote, all members present voted yes.

Gettan presented a bill from Central Allied in the amount of \$7,005.50. This is an additional amount to the project previously approved. Gettan moved, seconded by Lang to approve the expense. In a roll call vote, all members present voted yes.

Gettan moved, seconded by Lang to name and approve, through Hammersmith Insurance, PEP (Public Entities Pool) as the Village insurance premium carrier in the amount of \$12,323.00. In a roll call vote, all members present voted yes.

The Solicitor presented the following third readings:

**Third reading authorizing the Mayor to enter into an agreement between the Village of Bolivar and the Tuscarawas County Public Library; declaring an emergency.** This contract is reduced from 20 years to 5 years with the library contributing \$3,000 towards utilities. Lloyd moved seconded by Vincent to suspend the rules. In a roll call vote, all members present voted yes. Lloyd moved, seconded by Vincent to approve **ORDINANCE O-1-2020** as an emergency. In a roll call vote all members voted yes.

Council had a **Third reading** on an **Ordinance to authorize the Mayor and Fiscal Officer of the Village of Bolivar to execute the agreement between the Village of Bolivar and the Tuscarawas County Commissioners to provide Inmate Housing at the Tuscarawas County jail; declaring an emergency.** Vincent moved, seconded by Gettan to suspend the rules. In a roll call vote, Lang abstained, Gettan, Lawver, Lloyd, Oberlin and Vincent voted yes. Vincent moved, seconded by Lawver to approve **ORDINANCE O-2-2020 as an emergency**; in a roll call vote, Lang abstained, Gettan, Lawver, Lloyd, Oberlin and Vincent voted yes

Council had a **third reading** of an **Ordinance to establish a share percentage for health insurance coverage for the Village employees and to amend section 12.3 of the Village of Bolivar's policies and procedures manual; establishing an emergency.** At the last meeting, Council made a motion to pay 80% of the health insurance premiums for employees. The employees will pay 20% of their monthly health insurance premium. Lang moved, seconded by Lloyd to suspend the rules. In a roll call vote, all members present voted yes. Lang moved, seconded by Vincent to adopt **ORDINANCE O-3-2020, retroactive to January 1, 2020** as an emergency. In a roll call vote, all members present voted yes.

Council had a **third reading** on an **Ordinance authorizing the Mayor and Fiscal Officer of the Village of Bolivar to enter into an agreement with the Tuscarawas County Commissioners for the purpose of purchasing bulk water; as an emergency.** Lang moved, seconded by Lloyd to suspend the rules. In a roll call vote, all members present voted yes. Lang moved, seconded by Vincent to approve **ORDINANCE O-4-2020** as an emergency. In a roll call vote, all members present voted yes.

Gettan made a motion to change Stephanie Long from an Independent Contractor to a Village employee. It was noted Council needs to suspend the rules. Lang moved, seconded by Lloyd to suspend the rules. In a roll call vote, all members present voted yes. Gettan moved, seconded by Lang to approve Stephanie Long as an employee at the same rate of pay at \$14.00 per hour for up to 13 hours per week. **ORDINANCE O-5-2020** as an emergency. In a roll call vote, all members present voted yes.

Gettan moved seconded by Lang to approve the purchase of two cameras to be installed by Staley's Technologies. One would be placed in the garage and the other in the Mayor's office. The total expense is \$1,476.00. In a roll call vote, all members present voted yes.

Gettan moved, seconded by Lang to approve a training seminar for the police; the cost is 325.00 per officer x 2 totaling \$650.00 plus the cost of the hotel stay and food expense. The course is titled, "Managing property for evidence rooms". In a roll call vote, all members present voted yes.

**PLANNING-** Gettan stated there was a section of the zoning book that was omitted. It pertains to parking for apartments and buildings downtown. Zoning made a motion to put that back into the zoning book. The recommendation to Council would be to allow the omitted section be reinstated in the Zoning book. Gettan said this is something that should have been carried through in the Zoning book. It's always been part of our zoning in the Village. Gettan proceeded to read the section that should be in the book regarding off street parking.

The Mayor asked the Solicitor if language is added back into zoning if that would be done by an Ordinance. The Mayor added that she could get Council a copy of the old zoning book section and what it said; as well as what the new one omits. The Solicitor said this would be a first reading to amend the zoning policies and procedures in regards to the downtown parking.

Gettan went on to report there were thirteen (13) permits issued in 2019. Zoning did not meet in January but the next meeting is scheduled for Thursday, February 6, 2020.

**SAFETY-** Lawver said the Chief did a great job with the updating the Policies and Procedures in Lexipol.

**ADMINISTRATOR/CHIEF-** "We are moving forward in a positive way and knocking out the evidence room".

**STREET & ALLEY –** none

**STREET SUPERINTENDENT-** Franks reported they have 37 loads of leaves this year and 46 1/2 loads of composting. He noted, "The program is good and hopefully we can keep the funding up for them programs". He is requesting to read a letter after the law director.

**SHADE TREE –** none

**RECREATION –** none

**FISCAL OFFICER –** none

**LAW DIRECTOR –**

The Solicitor presented a second reading by title only for an **Ordinance amending the Village of Bolivar's Municipal Income Tax Code**. As stated previously, the General Assembly just modified language further identifying the definition for pension and retirement benefit plan. We need to modify and add that language into the Villages tax code.

The Solicitor asked Council if they have decided on the employee pay for the year; whether it will be 0.25 or 0.50 increases for the year. Lang asked if it could be held back until the next finance meeting.

The Solicitor stated Maria is being appointed as the Village Administrator. She is a salaried position and the Administrator position has been an hourly rate. There would need to be an Ordinance to translate the \$2.00 Administrator rate into a salaried rate of \$4,160.00 per year. There would need to be an Ordinance for that specific pay. Lang moved, seconded by Lloyd to suspend the rules. In a roll call vote, all members present voted yes. Lang made a motion to amend Maria's pay as a salary to include the increase that should go to her as the Village Administrator totaling \$4,160.00. Lawver seconded the motion to approve **ORDINANCE O-6-2020 AS AN EMERGENCY**. In a roll call vote, all members present voted yes.

Before concluding, Dave Franks read a letter to council. He stated, "I have been here 26 years; we have had a few bumps here and there. We always found a way to get through". He went on to request not to get interrupted while reading this letter. "All I have heard for the last few months is that you make a good wage for no education. On that note, there have been numerous duties and responsibilities added and I did them without any complaints and successfully maintained those duties. Number two; you frighten people and I don't want to fire you. Everyone has the ability to induce fear. For example, by being told, no education, you frighten people, etc., is a form of fear to me. Is I don't want to fire you a scare tactic? It's not giving me actual tangible proof so I can go into the right direction and succeed. If it is a scare tactic, I know I have fear and why is that ok. In closing, in my opinion, all employees should be treated the same no matter what department. I just want to serve the residents, in the village I was born and raised in, the next few years to the best of my ability. All I ask is that we all get treated fairly and the same. This might hurt me; it might help me. I don't know. I want to go through; I want to finish my last few years here because I was born and raised here; I have family here and I have friends here. If you can look in the mirror and tell yourself you are perfect, you are lying to yourself and everybody else. I'm not perfect by any means and never claimed to be perfect. I love the Village of Bolivar; that's why I'm here and that's why I'm working for the

Village of Bolivar. I've made mistakes, just as everyone else sitting in this room. I'm going to continue to do my job at 100%. I cannot do my job with nobody coming to ask what is going on. OK. If you guys are afraid of me, I will step down. If you guys don't want me here, I will gladly step down. I love this town; I was born and raised in this town. I want to serve these residents for the next four (4) years; that's it. Four years; that's all I got. And I will have a decision for the Zoning meeting in February. That's all I have; thank you."

The Mayor noted there will be a special work session of Finance on Monday, January 20, 2020 immediately following the regular committee meetings that begin at 5:30.

Gettan moved, seconded by Lang to adjourn until the next regularly scheduled council meeting on February 3, 2020. In a roll call vote, all member present voted yes.

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Mayor Rebecca S. Hubble

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ATTEST: Maria A. App, Fiscal Officer

**Approved:** February 3, 2020