

MINUTES
VILLAGE BOARD MEETING
June 19, 2018
7:30pm

The Village Board meeting was called to order at 7:30pm with everyone reciting the Pledge of Allegiance. Trustees Becker, Yoch, Smallwood, Becherer, Rogers, and Elbe answered roll call.

CLERK'S REPORT: The Board received a copy. A motion was made by Trustee Becker which was seconded by Trustee Yoch to accept the minutes from the last board meeting that was held on June 5, 2018. Roll call was taken: Trustee Becker, aye; Trustee Yoch, aye; Trustee Smallwood, aye; Trustee Elbe, aye; Trustee Becherer, aye; Trustee Rogers, aye. Motion was granted.

TREASURER'S REPORT: The board has a copy.

GOOD OF THE VILLAGE: Mayor Klein reminded the audience that anyone wishing to address the board would have a five-minute time limit.

Austin Luberda reminded the board that he was involved with the skate board park years ago and that he and his wife have moved into Smithton now. He thanked the board again for their help with the skate park. Mayor Klein and the board welcomed them to town.

MIKEY'S PUB OUTSIDE MUSIC PERMIT – Mayor Klein informed the board that the Pilla's have requested two additional outside music dates for Mikey's Pub. The board reminded the Pilla's that they will allow one extra hour for the band to do sound checks and warm up in addition to the four hours of playing music. The Pilla's agreed. Trustee Yoch made a motion which was seconded by Trustee Rogers to approve the permit for two additional outside band dates at Mikey's Pub on June 24, 2018, and July 1, 2018. Roll call was taken: Trustee Yoch, aye; Trustee Rogers, aye; Trustee Becker, aye; Trustee Smallwood, abstain; Trustee Becherer, aye; Trustee Elbe, aye. Motion was granted. Klein reminded the Pilla's that they will have to submit requests for two additional dates at a time. Shirley Pilla also asked Klein if the board will still be looking at the ordinance again to possibly make changes to it. Klein stated that they will do that in the future.

SPECIAL EVENT PERMIT – Mayor Klein informed the board that a Special Event request was received from Autumn Ridge Subdivision to hold a block party at 4520 Baederwood Court on August 25, 2018. There will be live music. Trustee Rogers made a motion which was seconded by Trustee Elbe to approve the Special Event request to hold a block party with live music ending at 10:00pm at 4520 Baederwood Court on August 25, 2018. Roll call was taken: Trustee Rogers, aye; Trustee Elbe, aye;

Trustee Becker, aye; Trustee Yoch, aye; Trustee Smallwood, aye; Trustee Becherer, aye. Motion was granted.

POLICE CHIEF'S REPORT: SIREN REPORT – Chief Vielweber stated that he and Trustee Elbe have been trying to get the right information to proceed with the siren repair. Vielweber is hoping that they finally have the information that they need to proceed. Trustee Yoch stated that everyone should have their names in the GroupCast system as a backup warning.

ENGINEER'S REPORT: CDBG – Engineer Saeger reported that the application for the N. High Street Grant has been forwarded to HUD for approval.

ST. CLAIR COUNTY PARKS GRANT – Engineer Saeger reported that the bid opening for the South Julia Street project was today. Trustee Becherer recommended not using the company that did the work on Knab Road. In his opinion they did not do a good job. After discussion of the bids, Trustee Becherer made a motion which was seconded by Trustee Yoch to hire Hank's Excavating and Landscaping for the S. Julia Street improvement project for \$118,210.35, and the alternate bid for \$1327.60. Roll call was taken: Trustee Becherer, aye; Trustee Yoch, aye; Trustee Becker, aye; Trustee Smallwood, aye; Trustee Rogers, aye; Trustee Elbe, aye. Motion was granted.

HEALTH OFFICER'S REPORT: No report.

SAFETY COMMITTEE: Mayor Klein reported that there will be a Safety Meeting scheduled for July 5, 2018 if needed.

ZONING BOARD REPORT: Zoning Administrator Scott Saeger reported that there was a Zoning Board hearing June 14, 2018 for a fence variance at 5769 Pebble Court. The variance was approved. There were two hearings on June 18, 2018 which included a sign height variance for Mueth's tavern, and a variance for wall height and roof peak height on a shed with a temporary use permit for the shed to be built before the home at 5513 Autumn Ash. The Zoning Board tabled the variance request for Mueth's Tavern until Rick Mueth could provide them with more information from the sign installer on the sign construction and electric hook up. The Board did grant the variance for the shed roof peak height and wall height on a shed at 5513 Autumn Ash. The Zoning Board recommended granting the Temporary Use permit which would allow the shed to be built before the home is built at 5513 Autumn Ash. Trustee Smallwood made a motion which was seconded by Trustee Elbe to accept the Zoning Board's recommendation and approve the Temporary Use permit for 5513 Autumn Ash. Roll call was taken: Trustee Smallwood, aye; Trustee Elbe, aye; Trustee Becker, aye; Trustee Yoch, aye; Trustee Becherer, aye; Trustee Rogers, aye. Motion was granted. Saeger informed the board that the Zoning Hearing to decide on the tabled variance request for Mueth's Tavern will be on July 16, 2018.

SUPERVISORS REPORT: Supervisor Fults reported that the street crew have completed upgrading the electrical outlets at the Park pavilions. Two lights need to be replaced in the concession stand. The crew has been keeping up with the mowing. The new mowers are working well.

ATTORNEY'S REPORT: No report.

Trustee Yoch made a motion which was seconded by Trustee Smallwood to accept the officer's reports as given. The board was in favor. Motion was granted.

COMMITTEE AS A WHOLE: Mayor Klein reported that there was a Committee As a Whole Meeting on June 12, 2018. Some of the items will be discussed under the individual committee reports.

SCHOOL SIDEWALK ON SOUTH STREET – Mayor Klein reported that a request for a sidewalk on South Street by the Public School was discussed at the Committee As a Whole meeting. The school and Village would split the cost. Engineer Saeger stated that the request would comply with the ADA guidelines. Saeger would like to check with the street crew as to the best way to construct the sidewalk before he can give a cost estimate. Trustee Yoch made a motion which was seconded by Trustee Rogers to allow a sidewalk on South Street at the Public School with the school and the Village splitting the cost 50/50. Roll call was taken: Trustee Yoch, aye; Trustee Rogers, aye; Trustee Becker, aye; Trustee Smallwood, aye; Trustee Becherer, aye; Trustee Elbe, aye. Motion was granted.

SURPLUS PATROL CAR – Mayor Klein reported that it was decided at the Committee As a Whole meeting to advertise the car in the Freeburg Tribune. The car still has equipment and things that need to be removed before it can be advertised.

Mayor Klein would like to schedule a Committee As a Whole meeting for June 19, 2018. FOP, Codebook Updates and Siren Repair will be on the agenda.

FINANCE & INSURANCE COMMITTEE: No report.

STREET & UTILITY COMMITTEE: No report.

POLICE COMMITTEE: FOP – Trustee Elbe reported that the FOP are still preparing their contract for the Police Committee to review before presenting it to the board.

PARK & CEMETERY COMMITTEE: GRAVE STONE REPAIRS – No report.

PARK TREES – Trustee Becker reported that the selected trees at the park will need to be cut down before the new trees are put in. Mayor Klein will check with Supervisor Fults to see if the street crew can cut down the trees or if it needs to be contracted out.

ORDINANCE COMMITTEE: Trustee Yoch reported that an ordinance needs to be passed that will pertain to annual appropriations. Yoch made a motion which was seconded by Trustee Becherer for the Village Clerk to read Ordinance 916 by title only. Roll call was taken: Trustee Yoch, aye; Trustee Becherer, aye; Trustee Becker, aye; Trustee Smallwood, aye; Trustee Rogers, aye; Trustee Elbe, aye. Motion was granted. Ordinance 916 was read by title only. Yoch made a motion which was seconded by Trustee Becherer to adopt Ordinance 916. Roll call was taken: Trustee Yoch, aye; Trustee Becherer, aye; Trustee Becker, aye; Trustee Smallwood, aye; Trustee Rogers, aye; Trustee Elbe, aye. Motion was granted.

CODIFICATION UPDATE – Trustee Yoch reported that a start was made by the board to review the code book. He would like this item on the agenda for the next Committee As a Whole meeting.

ORDINANCE VIOLATIONS/BRUCE ANDERSON – Chief Vielweber reported that some progress has been made on the property. Attorney Durso stated that he spoke to Anderson’s attorney and told him that the village is serious about taking further action at the end of July. Anderson has paid the legal fines that were charged during the court case. Durso thinks that Anderson may have the money now to pay someone to clean up the property. Information was passed on to Anderson’s attorney about a resident interested in purchasing the property.

ORDINANCE VIOLATIONS/BECKER & BERTELSMAN – Chief Vielweber stated that there has been some progress made at the properties.

SMITHTON LUMBER COMPANY SIGN – No report.

Trustee Yoch stated that an ordinance needs to be adopted that will pertain to Small Wireless Facilities. Attorney Durso stated that he has gathered information and spoken to IML and Harry Norton. The ordinance will need to be passed before the end of August.

ANNEXATION AND BUILDING COMMITTEE: Mayor Klein reported that the board discussed adding the board room door to the list of windows and doors that will have safety film applied. Trustee Rogers made a motion which was seconded by Trustee Smallwood to add the board room door to the list of windows and doors that will have safety film applied, with the added cost not to exceed \$400.00. Roll call was taken: Trustee Rogers, aye; Trustee Smallwood, aye; Trustee Becker, aye; Trustee Yoch, aye; Trustee Becherer, aye; Trustee Elbe, aye. Motion was granted.

BILLS AND PAYROLL: Trustee Smallwood made a motion which was seconded by Trustee Rogers to pay the bills from May and payrolls from June 2, 2018 to June 15, 2018. Roll call was taken: Trustee Smallwood, aye; Trustee Rogers, aye; Trustee Becker, aye; Trustee Yoch, aye; Trustee Becherer, aye; Trustee Elbe, aye. Motion was granted.

COMMUNICATIONS: Village Clerk Boeving shared a thank you note from the family of JoAnn Pruett for the funeral flowers that were sent from the Village.

UNFINISHED BUSINESS: None.

NEW BUSINESS: None.

GOOD OF THE VILLAGE: Doug Gerold complained about the board agreeing to let the bands at Mikey’s Pub use an extra hour to warm up at anytime prior to the scheduled band hours. The board told Gerold that they want to try it this way. Trustee Smallwood told Gerold he should have spoken up earlier when the subject was being discussed instead of waiting until the Pilla’s had left. Gerold then asked why he didn’t have a say in dropping the charges against Schmitty’s. Attorney Durso stated that the village is the prosecutor and it was decided that it was not worth pursuing the charges since Schmitty was leaving town. Gerold then asked why the board wants to review the

ordinance. Klein responded that it may need to be updated. Durso informed Gerold that if he has complaints in the future about the music he has to call the police and fill out a complaint. Gerold asked if all of the Pilla's future requests for additional band dates will be rubber stamped and approved. Klein stated that the board doesn't rubber stamp anything and he doesn't like that implication. Durso informed Gerold that his allotted time was over.

Resident David Brennan read a letter that he brought to the board. He missed the Zoning Board hearing that was held regarding the sign for Mueth's Tavern. Mayor Klein told him that he could attend the next Zoning Board meeting to address that issue but Brennan stated that he wants it to be heard under Good of the Village along with the rest of his comments. He asked that no one interrupt him until he was finished reading the letter. He asked what "grandfathered" meant. As he understood it meant that as far as the village ordinance there are no true guidelines, minimum requirements, rules or regulations that need to be met in order to obtain this status. As it was explained to him it pretty much comes down to the discretion or vote of whichever committee presides over the decisions. It seems to be a loosely applied term and consequently seems to benefit only very few selected individuals while the entire community suffers the outcomes of these decisions, if there are any. Why isn't there a defined set of criteria that needs to be met stringently in order to be in the plethora of short cuts, cost cuts, disregard for very obvious courtesies and rules that all business owners should have and want to abide by. It was also explained to him that this status means that new grandfathered structures built in place of where the existing structures sat only have to follow common construction codes, regulations, setbacks, etc. if they are deemed new construction. Otherwise, the owner is not subject to these rules and obviously pertinent construction requirements, and they are allowed to forego such restrictions because they are grandfathered in. Please answer him as to Mueth's. What was not new construction with Mueth's? Other than OSB cover in the winter pavilion in the rear of the structure nothing about the lot structure is similar what-so-ever to what used to be there. Not the foundation, material, architecture, design, layout, clientele or atmosphere that it creates for every citizen of this community. Nothing of that is even close to resembling the old structure representing the history of this community, a history that he was drilled on when he wanted to tear down a decrepit, old, and dangerous to his child smokehouse in his backyard. Although he believes the project was previously grandfathered in by the very convenient and seemingly friendly decisions made from no real hard criteria other than the subjective opinion. It sat as a vacant lot for months while the mandated building setbacks, he believes, held up construction along with the other pertinent rules of B1 until miraculously the new B2 zoning requirements were enacted under the guise of benefitting all of the B1 lot owners in this town. If his memory serves him correctly, there were 10 plus or minus B1 vacant lots before the fire-8 of which he owned. He's not sure about the other 2 lots, but he didn't feel any benefits or otherwise ease with these new B2 restrictions which were meant to help everyone. As he sees it, the only one who benefitted from the new requirements was the eleventh big lot owner which happened to be Rick Mueth. The enactment of these new zoning laws which only one business thus far planned or needed to take advantage of in order to rebuild a brand new grandfathered structure was Mueth's. In doing so to the fullest extent he was allowed, pushing all of the already limited restrictions that he was granted with being grandfathered, literally and figuratively. Having zero responsibility for the irresponsible and completely uncourteous actions of littering that occurs on a nightly basis, the noise and the overall general chaos created by these B2 laws. There is literally no room left for him or the other two B2

lot owners to benefit from the small street parking amount allowed. Being a business owner he should care about the community and the detrimental circumstances surrounding his business and the dangers and the unrest it can cause for every citizen. Churches, schools, daycares, longtime established local businesses, community gathering and picnic locations are all negatively affected by the poor decisions which were made-ironically trying to benefit the greater good. He has picked up bottles, cans, cigarette butts, etc., since October and has them in a 30gallon trash can if anyone wants to see it from all of the businesses just mentioned. He picked up a bloody hypodermic needle on the sidewalk next to the Lumber Company. He has video of constant illegal and downright ignorant, uncourteous to other pedestrians and drivers, and absolutely dangerous parking which has caused at least 4-5 traffic accidents that he knows of. Now there is contemplation of allowing a bright, flashing, constantly changing, and overwhelming distracting sign at an already horribly congested and dangerous intersection. It is his unfortunate belief that in the already chaotic and dangerous intersection created with this B2, someone is eventually going to get seriously hurt in an accident, or worse yet, a child or pedestrian is going to get hit by a car. He hates to say it but it's true. Probability says so. One night a greyhound bus full of drunk and disorderly people sat idling very loudly for over an hour with its front end literally on the highway right outside of Mueth's while the passengers got out of the bus and stopped two 11-12year old boys riding bikes. Some obviously hammered, drunk, loud, rude adult men proceeded to stand in the middle of the highway with beers in one hand and the other hands raised to stop North and Southbound traffic while encouraging the boys to do tricks in the middle of the highway. This happened for several minutes. Drivers who tried to go around or tap their horns were yelled at, flipped off and cussed at by the adults. The children were riding in the middle of the dark, busy and dangerous intersection of the highway. Another bus decided that it was common sense to park on the left side of 159 for 15 minutes while completely blocking Stoerger Street, including any ambulances which frequently use that route to get to the Nursing Home. If that wasn't enough, a bus parked in the same spot just outside his window at 4:00am unloading yelling and screaming hammered passengers who yelled and screamed for over half an hour. One of the passengers sat in his truck for an hour while it was parked under Brennan's child's room. He has video of two girls illegally parked by the Lumber Company without any qualms of anyone seeing them. He has a video of a 40year old woman squatting and peeing in the middle of the highway while yelling back to her significant other at Mueth's while he stumbled his way over to her through the traffic. He has a video of a mob of people yelling and cussing as two guys continued a fight coming out of Mueth's over to the Lumber Company. This woke up him and his daughter. On Father's Day for forty-five minutes there were four women sitting outside at Mueth's yelling and making noise. He walked over and asked them to quiet down a little. They did not respond and started making noise again before he could walk back to his house. He called the police. He has called them twice now to complain about the noise and issues as village employees have told him to do. He could call the police almost everynight since this grandfathered yet 100% brand new construction business reopened. There is vibrating in his house when there have been dueling bands playing at both Schmitty's and Mueth's. There has been one understanding police officer who seemed to understand the complete chaos that is happening at his house and the entire community since the new rules were put in effect to help everyone and not just Mueth's. The responses that he would like from his letter are to know just what the actual laws are regarding noise. He thought that there was a decibel ordinance on the books but that it was voted down and that certain members threatened to vote it down again if it was ever brought up. Those same powers that be had the police come to his house on New Year's Day and tell him

that he was required to move his flat trailer, which sits no more than two-feet off of the ground, from the highway in front of his house. The trailer is low profile and 95% less of a line-of-site obstruction than any of the vehicles that normally park there. The officer told him that it had been parked there too long. He asked the officer who he could speak to about all of the other vehicles who normally park there, and the response was that the officer walked away and said over his shoulder that he could call the mayor and bitch about it. He has never seen a police officer request that the black truck which parks in the same spot for hours or days at a time be moved. The only reason he parked his trailer there on New Year's Eve was to prevent vehicles from parking ten-feet from where he sleeps and most likely yelling and honking with bottles, cans and trash being thrown in his yard. He thinks they have given Mueth's enough leniency. There have been so many rules bent for the greater good, and the rules for the greater good have been disregarded long enough. The only business that has benefitted from them is Mueth's. He proposes that in the best interest of the community that the sign variance not be granted. Not only have the rules been bent for the business, but they are trying to add a horribly distracting and constantly changing sign which will pull drivers attention away from the road to an intersection that is across from our schools, churches, and daycares and he doesn't think that it is a good idea.

Mayor Klein asked for a copy of Brennan's letter so that he could address the issues. Brennan asked if he had to legally provide a copy of the letter. Klein stated that he couldn't be expected to respond to every issue by only hearing it once. Brennan stated that Klein put up a No-Parking sign on his street because someone from his church ask him to. The sign is now causing more confusion where it has been placed. Klein stated that Brennan had requested the sign so the board approved it to try to help him. Brennan said that it wasn't for him personally. Klein stated that a lot of the B2 does pertain to his property. If his house burned down he couldn't rebuilt it under the old ordinance. Brennan replied that if that happened he couldn't rebuild anyway because with the Tavern across the street, he can't raise his family there. Klein stated that there has been a Tavern there since the 1890's. Brennan stated that it was different then and he knows that businesses have to change. He stated that he is not upset with someone trying to do business, he is upset that the rules were changed. He understands that he could have been at those meetings. He stated that he's spent a full month to try to satisfy IDOT and had to give up a lot to try to start his own business. He has faced one road block after another for years and gone through hell. He's gone through hoops to try to start a business for families and do something for the community. He says it blows his mind that they are ready to change the rules for yet another gambling and drinking establishment. He understands that there are rules but everyone has to live with this new downtown. Klein stated that all he is asking for is a copy of the letter so that he can address it. Brennan stated that he will sit down with Klein and let him read the original letter but did not offer a copy. Brennan stated that the board makes the rules on parking on 159. Klein asked him if he wants No-Parking on 159 even when he opens his business. Brennan replied that he did think about that but his plans would not allow parking on his side anyway but he thinks that Rick Mueth would complain because that would be taking away his parking lot. The new rule would not benefit everyone since all the parking is taken up day and night by Mueth's. Brennan has to give up property to try to detain water, but water pours out of Mueth's downspout onto the highway. Klein stated that the village has installed inlets to help disperse the water. Klein stated again that he would sit down and discuss the issues with Brennan. Brennan stated that he doesn't want to be in discussion with one person, he wants the voice of many. He thinks that the problem has been the

voice of one or two people making decisions. Klein stated that the board has Committee As a Whole meetings but have a lot of things to discuss. He is not trying to get anything changed at this meeting. He will try to follow the guidelines to get his plans approved. He welcomes anyone to bring their families to his house on a Friday or Saturday night and see what he has been dealing with from Mueth's. Klein again told him that he and the board members would be happy to meet with him.

EXECUTIVE SESSION: None

A motion was made by Trustee Yoch and seconded by Trustee Becherer to adjourn. All Board members were in favor. Motion was granted. Meeting adjourned at 8:50pm.