

RUSHVILLE VILLAGE BOARD MEETING
March 11, 2013

PUBLIC HEARING: Tax Levy Override Law Hearing: 6:45pm. There were no comments or complaints

TIME: 7:00 PM

PLACE: Rushville Village Hall

PRESENT: Mayor Jon Bagley,

Trustees David Field, Timothy Jabaut, Chuck Elwell and John Sawers

ABSENT: None

ATTENDANCE: Art Rilands, Dodie Baker, Mike Pierre, Tom Bay, Joel Bay,

RE: Calling the Meeting to Order

Mayor Bagley called the regular monthly meeting to order at 7:00pm.

RE: Minutes

A motion was made by Trustee Sawers and seconded by Trustee Elwell to adopt the minutes from the regular monthly meeting held on February 11, 2012 as printed. Unanimously carried.

RE: Tom Bay – Water Easements

Joel brought copies of letter sent to Bays informing them of the new water policy which would require them to pay for water not being used for livestock. Joel asked if board had read letter and if information in letter acknowledging allowance for free water for livestock purposes was correct. He asked if all board members had read easement and if the Village had copies of easement. Jon told him we have copies of all the easements and that the board approves an action by the village but that the board does not personally read every communication that is required to execute that action. Joel brought copies of easements and read Liber 357 of deeds, page 206 aloud where it states “we, our heirs and assigns, and the owners of said farm in the future are to have the right to tap said water line or pipe at any place we may desire for the purpose of taking water from said pipe line to be used for watering livestock upon said farm, and that the same is to be furnished for us and the owners of said farm in the future, free of charge to us and to them, and that we shall have water from said pipe line at any and all times when there is water in said pipe line.” Joel and Tom both expressed the opinion that lawyer’s interpretation should not be the deciding factor in easement details, only what board members decided and that all of the board members should be intelligent enough to know what an easement means without needing a lawyer.

Mayor Bagley disagreed, saying that legal documents are not always understandable and that the purpose of lawyers is to clarify exactly what the meaning of a legal document is for those who do not understand legal wording. Joel brought copies of deeds composing the chain of title for the property as he says it was purchased from Layton, sold to Baier and then finally sold to Bays. He referenced Liber 412, page 298 and Liber 357, page 206. According to Joel, both libers are mentioned in Bay’s current deed.

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Mayor Bagley said that all easements are saying the same thing in regards to the free water supply, that it is intended to be for livestock only. Joel said that different easements were being discussed quoting again, "and that the same is to be furnished for us and the owners of said farms in the future." Mayor Bagley repeated that this means for livestock only. Joel said Gorton's easement is the only one that specifies "for livestock only" and that the Bays have consulted two attorney's who agree with them (The Bays) on the issue. Joel and Tom again expressed the lack of need for an attorney saying that the Village Board should be smart enough to figure it out without an attorney. Mayor Bagley said the opinion of a village attorney is important.

Tom again stressed that all board members should have read letter that was sent to Bays and Mayor Bagley repeated that it is not procedural for board members to review every letter sent out. Joel reread easement from liber 357 again saying that furnished "for us" cannot possibly mean anything else. Mayor Bagley restated that according to Bill Kenyon, the village attorney, it means that the owners of the farm, now and in the future, can use the water for livestock. Joel again said lawyers were not needed to understand easement, challenged Mayor Bagley to give his personal opinion. Mayor Bagley asked if Joel was asking the board to override the village attorney's legal advice in order to provide free water to one of the largest users of water in Rushville.

Joel said that a mutual agreement has historically always existed with the owners of that property to allow everyone in Rushville water by running the water main across the property. Joel said Gorton, Twitchell and Johnson were repaid with individual agreements and Harkness was supposed to receive \$100/year from Village for property crossings.

Joel said he looked the libers up at the courthouse and a woman employed by the courthouse who does not have legal certification but looks at libers every day agreed with his opinion that the easement entitles the Bays and future owners unlimited free water indefinitely. Joel complained about letter again saying it was threatening and asked if the Village Board has the right to override legal advice. Mayor Bagley said the Village Board can decide to act in opposition to legal advice. Tom and Joel appealed to the board to override the village attorney's recommendation on the basis that this is the way it has been for years and years and that the easement has been interpreted locally to mean free water for all uses to the owners of the Bay property for years as well. Mayor Bagley said that from what he has heard from local individuals, this has not been the case, the popular opinion being that the easement is intended to mean for livestock use only.

Joel Bay asked about next step in process, Mayor Bagley said we are waiting to hear from lawyers. Tom Bay again said that lawyers are not necessary. Joel asked again if we have the easements and said we could not possibly have read them. Mayor Bagley said we have copies of all the easements and that we have read them. The Bays were shocked. Tom Bay could not believe that we have actually read them personally. Tom again complained that board had not read letter and said the wording in the letter included only and the word only was never used in the

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easements in regard to type of water use and that if we had the easements, we should know that the Bays are right and the easements are not restricted to livestock use.

Trustee Elwell said that this issue would not be resolved at this time because any further action would require the attorney's to discuss this between themselves and that the board would like to talk to the village attorney and revisit the issue later. It was agreed that Joel will put a packet together for attorney. Joel and Tom kept repeating liber 357, page 206 and saying it cannot possibly mean only for livestock. Mayor Bagley again said that according to the village lawyer, the wording of the easement refers to the use of water for livestock. Joel said the stand-up thing for the board to do would be to override legal council based on the board's own interpretation of the easement. Joel and Tom said they didn't want to pay for an attorney and that the board should be able to make a decision without one. Joel Bay: "To hell with attorneys, make up your own minds." Trustee Elwell repeated that the village would still need to talk to an attorney before making a decision. Joel Bay said the farm was purchased in 1959 on account of the easement and that this easement increases the value of the property considerably. Tom Bay said the letter he got was terrible and he did not think anyone at the meeting besides the Bays had read the easements. Some of the board members were not familiar with them and the Bays said the board should be more involved and that all of them should have read the easements by now.

David Field said personally, as a resident of the village, that he doesn't want to pay for the Bays water. He also said that if he just read the easement himself, he would agree with the Bays but that lawyers word things differently.

Joel Bay said the law can't be changed or everyone is in trouble. Tom and Joel Bay both said it was a mistake to cooperate with Rushville and they should never have allowed a water meter to be put in, and further, would not allow the village to install a second meter, which was previously recommended by the village. He acknowledged they do use a decent amount of water: cows requiring 80 gallons a day, sheep 3, again claimed none of board members had read easement.

7:30 PM: Tom & Joel Bay left meeting.

RE: Public Works Supervisor – Art Rilands

A copy of this report is on file with these minutes.

Trial Start for Water Plant is scheduled for tomorrow, will be a couple weeks to work the bugs out before it is fully operational. Bassett Street will be a couple months as the trees on Bassett St will need to be removed.

RE: Fire Department

A call log was provided previously from the Rushville Fire Department for February 2013.

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RE: Reading Center Director – Dodie Baker

A copy of this report is on file with these minutes.

There were no questions for Dodie. Dodie said the Magic School Bus would not be happening this year due to it costing more than expected.

RE: Code Enforcement Officer – Reggie O’Hearn

No report provided.

RE: Bay Easement

Discussion about Bay easement resumed briefly. John Sawers commented that he receives as much water as he wants for any use currently at no cost. It was noted that the letter sent to Bays stated that we were giving them the option to pay for the portion of water not used for livestock, not simply cutting it off without trying to work out a mutually beneficial solution, including the village’s willingness to set up additional meters separating the Bays personal water usage from their livestock water usage so free water can still be provided for the livestock. Mayor Bagley said if the easement has been interpreted incorrectly for 65 years then it’s interpretation needs to be changed to reflect it’s original meaning.

RE: House on Warren Street

Trustee Fields asked about condition, Mayor Bagley said it was mold-free.

RE: Safe Routes to School Resolution

Bruce will be receiving quotes for engineering. The cut off quote deadline is Friday 3/15/2013 and then the next step will be to pick the top three. The clerk will follow up with Bruce.

RE: Tax Levy Override

Trustee Jabaut made the motion to adopt Local Law 1-2013 to override the tax levy limit in General Municipal Law Section 3-C. Trustee Field seconded the motion. Unanimously carried.

RE: Water Improvement Project

Water Plant to start tomorrow, March 12th, 2013.

RE: Sewer Beds

Tabled.

RE: Tobacco Free Public Locations

Trustee Elwell asked about Tobacco-Free signs cost, Mayor Bagley said signs are provided.

Mayor Bagley also mentioned that the rotary club willing to provide some benches. Trustee Elwell said a couple places were marked for benches. Discussed

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benches along trail, it was decided that two would be plenty. Mayor Bagley asked if extra benches for sidewalks would be nice and where we could put them. It was agreed that benches would need to be placed strategically so as not to become “hangout places.”

Discussion about Tobacco Free Public Locations resumed. The board seemed to be in agreement that “No smoking within 8’ of public entrances” and “No smoking in park would be good laws.” Trustee Sawers said local law needed to put up signs for No Smoking. Mayor Bagley suggested getting a policy instead of a law to save on the lawyer fees of creating an actual law. Fees were discussed as penalties, it was decided that penalties were not really needed and statistically people tended to respect the signs just as much even if there was not a penalty. The clerk will check with Helen Dunlop to see if a Local Law is required in order to put up signs or if signs can just be put up with only a policy.

RE: Budget 2013/2014 Prep

Budget was reviewed. There were no questions. Funds for Community Center were discussed. Mayor Bagley asked for amendment in budget to allow for a one-time expenditure of \$50,000 as a start-up allowance to pay off the \$26,000 owed in taxes for the Community Center and to allow initial expenses/materials to set up Community Center to be paid. Mayor Bagley wanted the boards opinion and approval to make sure everyone was on the same page. Mayor Bagley said the sidewalk grant recently received will pay for completing both the north and south side of Gilbert Street.

Art asked if the library needed improvements/additions. Dodi said it was outgrowing it’s little building. Mayor Bagley said until we get more grant money to fund the library we need to be careful what we create: if the library gets too big, funds to maintain it will increase and the village budget will not necessarily increase with it.

Mayor Bagley said the 501-C3 will raise money following the initial start-up for the Community Center so it should pay for itself once opened and all that should be needed is a one-time budget adjustment in order to get it on it’s feet.

Trustee Field asked if the Village can sell the Community Center if for some reason it doesn’t pay for itself and work out. Mayor Bagley said Bill Kenyon straightened out property lines on deeds so lines are clean and it can be sold if needed, old ice cream store building will be torn down and the lot turned into a parking space. Arrangements are being made between village attorney Bill Kenyon and the Martin Trust Attorney Carl Schwartz.

Community Center discussion resumed. Mayor Bagley said he is just trying to get a ballpark idea of what we can afford so he knows what the next steps to take will be. Trustee Elwell said \$26,000 buys property which is good since the village owns it anyway, now the village can legally do something with it, but where will the rest of the money needed come from? Mayor Bagley said if the \$50,000 budget amendment was approved, that leaves \$24,000 after taxes on the Community Center are paid for renovation. Trustee Sawers made a motion to use \$50,000 as a

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one-time start-up fund for the Community Center, with all remaining funds needed in the future to be raised by the 501 C-3 and separate from the village. Trustee Field seconded the motion. Trustee Sawers thanked Jon for all the effort he has put into pushing through the red tape to get the Community Center going.

Dodie Baker asked if there was a planned timeline for the Community Center. Mayor Bagley said that would be easier to predict now that there is a little money to start it with.

Trustee Field made a motion to approve budget with \$50,000 amendment for Community Center, Trustee Jabaut seconded. Unanimously carried.

RE: Welcome to Rushville Signs

Trustee Field suggested advertising on signs to fund signs or other Village needs. Art Rilands did not like this idea. Mayor Bagley suggested using the old black and white signs for the side entrances to Rushville, and putting new ones on the main roads. This way, only three new signs would be needed. Trustee Elwell made a motion to replace one sign a year and for the clerk to work with Trustee Sawers and Trustee Fields on fine-tuning the details for this. Trustee Field seconded. Unanimously carried.

RE: Fire Alarm in Barn

Art said he was thinking 6 sprinkler heads, a pull station, and heat detectors for an alarm system for the barn. This would be \$1,656.10 for initial install and \$300 annual monitoring. Trustee Elwell asked if that would reduce our insurance costs any. Art said not much. Mayor Bagley asked if Middlesex and Potter had an alarm system. Art said yes, they did. Mayor Bagley noted that the barns still burned down, wondering if a fire in which things were partially saved would really be less costly than just starting over. Art said it is a lot of work to accumulate equipment and rebuild an entire building and vehicles from scratch. Mayor Bagley said that we don't have any snowplow trucks and those were the cause of the fires in both the Potter and Middlesex barn fires.

Art said that there is still electrical equipment and any electrical equipment could catch fire. Mayor Bagley asked if grant money could be obtained to fund alarms. Art did not know. Mayor Bagley said the amount of money the village already pays on insurance is so extensive he hates to add more to that especially since our insurance money would cover fire damage. Art said there were funds left in the budget for it. Trustee Sawers made a motion to install alarms, Trustee Elwell seconded. Unanimously carried.

RE: Walking Trail

Art said the 2nd part of it will be started this year, Trustee Elwell said it needs rolling and when it is rolled, it will have the chance to firm up.

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RE: School Water Line

Art talked to John Smith and the DOH, not receiving much support for going forward or engineering an alternative to the current system.

RE: Flagpole

Mayor Bagley said the flagpole on top of the village building keeps getting tangled despite different attempts to keep it from wrapping around itself. Art suggested we get a streetlight pole from the firehouse. David Field noted we would need a permit. Art said we used to have a flagpole out front until someone ran it over, so if we did that again, it would need to be one big enough to not get run over. Trustee Elwell said the church flagpole cost was close to \$800.00. Trustee Fields made a motion to investigate and purchase a new flagpole, Trustee Elwell seconded. Unanimously carried.

RE: Tim Paddock

Correspondence was received from Tim Paddock regarding his alleged injury and workmen's compensation claim which will be forwarded to the workmen's comp insurance adjuster and our village attorney.

RE: Bills

Trustee Elwell asked about the light and antenna purchased by the fire department. Art said Middlesex will pay for half of that and the bill includes materials and labor so it is a fairly reasonable price. Trustee Elwell and Mayor Bagley asked about price of library toner. Dodie said it is a large color printer and uses a lot of ink. She said the purchase is only made every couple of months so it is not as expensive as it seems and is within the library's budget. The clerk will work with Dodie to see if there is a way to cut some of the costs on toner.

A motion was made by Trustee Field and seconded by Trustee Elwell to authorize payment of the general bills in amount of \$10,062.16, noting \$18,011.18 had already received payment due either to prior authorization or a due date prior to the board meeting.

A motion was made by Trustee Sawers and seconded by Trustee Elwell to authorize payment of the capital project bills in amount of \$191,119.61. No prior payments were made. Unanimously carried.

A motion was made by Trustee Jabaut and seconded by Trustee Field to authorize payment of the cemetery bills in amount of \$180.72. No prior payments were made. Unanimously carried.

A motion was made by Trustee Elwell and seconded by Trustee Sawers to authorize payment of the water bills in amount of \$3,450.64. No prior payments were made. Unanimously carried.

A motion was made by Trustee Field and seconded by Trustee Jabaut to authorize payment of the sewer bills in amount of \$969.13. No prior payments were made. Unanimously carried.

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RE: Adjournment

A motion was made by Trustee Field and seconded by Trustee Jabaut to adjourn the meeting at 8:48pm. Unanimously carried.

Respectfully Submitted,

Laura Fleig
Deputy Clerk-Treasurer