

Village of Fall Creek
Minutes of Public Hearing and Regular Village Board Meeting
May 8, 2023

1. **Call to Order:** To extend the opportunity for citizens to have a back-and-forth question and answer period, the Open House that was held prior to this meeting was extended, which delayed the start of this meeting. Meeting was called to order at 6:37 p.m., Village Hall Meeting Room, 122 E. Lincoln Ave., Fall Creek
2. **Roll Call:** Members Present: Village President Tim Raap, Trustees Ryan Aylesworth, Karen Herbison, Karen Hurd, Sheena Kaatz, Matt Mattoon. Members Absent: Chester Goodman. Staff Present: Village Administrator/Public Works Director Jared McKee, Police Chief Colin Mumford, Clerk/Treasurer Renee Roemhild. Also Present: about a dozen citizens.
3. **Pledge of Allegiance**
4. **Certify Open Meeting Law Requirements Have Been Met:** A notice of the meeting with the agenda was posted at the three public places and local newspapers were notified. In addition, a notice of the public hearing was published in the newspaper and those property owners affected by the special assessments were mailed individual letters notifying them of the public hearing.
5. **Adopt Agenda:**
 - MOTION (Herbison/Hurd) to adopt the agenda as printed. PASSED, without negative vote.
6. **Public Hearing re: Special Assessments for Randall Road Urbanization Project:** Village President Tim Raap opened the public hearing. Citizens spoke with the following comments/questions:
 - Rick Storlie, 219 E Randall Rd, cost comparison of the special assessments, boulevard & sidewalk restorative landscaping should ensure proper stormwater runoff, mailboxes, utility poles, driveway approaches, encouraged looking for grants at the State and Federal level, what happens if the permission slips are not turned in?
 - Mark Pranckus, 211 E Randall Rd, disappointed in the communication given to the affected residents, thinks it should be done better in the future.
 - Michael Schmit, 231 E Randall Rd, he & his wife lived on McKinley Avenue in 2019 when that road/utility project happened so this will be their second time paying special assessments within 5 years, he understood that improvements happen and they have to be paid for but felt it is important for the Village to compare with similar municipalities on how they are charging special assessments to make sure Fall Creek is doing it the best way possible.
 - Curt Strasburg, 153 E Randall Rd, agreed with Mr. Pranckus regarding wanting better communication, hoped the Village had taken into consideration the financial burden it places on the affected homeowners.
 - Vern Ming, 133 E Randall Rd, referred to the Developer's Agreement with C&M Properties and wanted an incentive for his own property and the right to get his own contractor, stated he was looking at going to an attorney to see if the process was done legally.
 - Mike Minner, 243 E Randall Rd, he valued leadership and had no doubt that the Board weighed their decisions and did not take this lightly, the project would benefit his property because of drainage issues, had concern for neighbors that live on a fixed income when they get a bill like this and their timeline for trying to figure out how to financially handle it, would like the Board to consider the special assessment process and better ways it could be done.
7. **Close Public Hearing and Village Board Discussion on Input Received:** Village President Raap closed the public hearing at 6:55 p.m. and stated this is the time for board members to discuss and they can reiterate any points they'd like about the project in response to the public comments just voiced.

Trustee Sheena Kaatz asked for a recap of the ramifications of just cutting into the old utilities and not doing the complete urbanization. Administrator/Public Works Director Jared McKee reiterated the discussions the Board had at previous meetings when comparing the options of complete urbanization vs. having the developer just cut into the south side of the road and tie into the old utilities. McKee stated the concerns of doing the hodgepodge tying-in scenario is that the current road does not have an adequate slope to handle more stormwater so there would be pooling water and safety issues, as well as the result that cutting into already aged utility pipes would further weaken them causing the need for their replacement in the near future. At that time, the opportunity to use the developer's money toward paying for the south side of the project would be lost, thereby making the project far more costly for the Village.

Trustee Karen Hurd stated the Village was in a unique position and could follow the example of some municipalities around us, like Boyd, that do not have special assessments. Hurd handed out a document to the audience and Board members that listed the following:

- her ideas to apply assets to the special assessments,
- investigate funding sources,
- newly allocated supplemental reoccurring funds in State shared revenue and that there should be discussion on restructuring Village personnel to save dollars by eliminating the combined Administrator/Public Works Director position, hire a Public Works Director and increase the clerk's hours, and
- encouraging septage acceptance at the wastewater treatment plant.

Hurd verbally began to go over her document. When she brought up her suggestion for restructuring Village personnel, President Raap called for a point of information stating that topic was not on the agenda. Hurd stated this is just ok. Raap responded it's not on the agenda (per State open meeting laws). Hurd then indicated people could read the suggestion she had listed in the document. Hurd stated we have different ways we can look at our budget and we need to do that, and we need to consider accepting septage as a funding stream so that we can fund projects, that it was a very viable option, that we have to look at a few things to make us marketable. Hurd stated as she mentioned in a meeting a week ago, that we need to consider a referendum (to raise taxes) as a possibility because we do have a levy limit and we cannot go over that so it would have to go to referendum if we wanted to be able to do a project such as this. Hurd stated she would encourage us as a board not to make a knee-jerk reaction decision, we have so many possibilities that have gone unexplored, and would like to see us do some planning and wait on doing any special assessments, we need a cost analysis, a revenue analysis, a policy analysis, and we have not done that thoroughly to make a decision.

Trustee Matt Mattoon said even though the idea has been brought up to not special assess, we are not there yet. He said our current ordinance requires us to special assess and we are in the middle of this project. Because the cost of capital projects has increased by leaps and bounds, he wondered if one way to help with this project would be to extend the amount of time that no interest is charged to the property owner as a means of giving them more time to figure out how to pay for it.

President Raap stated we have talked in detail about the funds available for this project, and if you think back you will remember several times when I asked the Board to be thinking about the special assessment policy, so we are not flying by the seat of our pants as some comments made seemed to indicate. Raap continued by saying this has been brought up many times because I remember doing so because I've been through it with the McKinley & Kopplin projects. Raap stated this is a fine opportunity to talk about these things but let's be clear, we have talked about these things before. Special assessments are a painful process, no one wants to have a special

assessment placed on their property, but this has been how we have partially funded our capital projects for many, many years. Raap stated we have been getting grants before, you can see on the spreadsheet that was presented at a prior meeting (and is on the website) that most projects have received grants and that has not removed the need for this share of the funding. Raap said to say that we haven't been having grants and that grants are some new and novel concept is not the case; the past Boards have been doing a good job at that. Raap stated it's true that the numbers for this project came in higher than expected, but that's part of the environment we're in, so that's where we're at and we've got to decide what we are going to do. Raap said he spent some time looking at the numbers again with the Administrator and there's a 10% contingency that could be removed and a shifting of a mobilization charge that could be done - that would get the special assessment numbers down some. We've done this cost-sharing process through special assessments up to this point; is this the right time to get rid of that funding mechanism? We can talk about it, but you still need to consider these projects need to happen so how are we going to pay for them? If we put it on the tax roll and taxes go up for everyone, is that fair to the people who have already paid special assessments?

Raap said he wanted to make sure the public hearing questions asked and comments made were addressed:

- **Permission slips/temporary construction permit:** McKee stated most of the work to be done falls within the public right of way, but the contractor would need to come onto an individual's private property for such things as restoring the dirt and lawn due to replacing the sidewalk. If the homeowner does not wish for the Village to do those things on their property, they do not need to turn in the temporary construction permit.
- **Timeline and payment plan:** McKee stated when the Board passes the Final Resolution the assessment becomes valid and is a lien on the property. There is a 60-day time period from the date of the passing of the final resolution in which no interest is charged. The resolution sets the payback period at 20 years but allows the property owner to make extra payments at any time or choose a shorter amortization schedule of 5 or 10 years if they prefer.
- **Comparables with other communities regarding special assessment policies:** Raap stated that we have checked on the policies of other communities and Trustee Chester Goodman referred at a prior meeting to research he had done, but there are so many variables for something like this that it is a hard thing to compare. Conducting surveys with like-sized and area communities is something we have done in the past and something we continue to try to get better at because we want to know how we measure up with other communities. Raap stated a brief example from the recent survey on the special assessments saying Osseo and Augusta have very similar assessment policies to ours, but the City of Altoona typically has higher special assessments than we do. Raap stated doing comparisons with prior Village projects was also a factor in the McKinley project; the assessments came in at a higher burden than what had been in the past and so the Board reduced the percentage that was charged.
- **Referendums:** Raap stated a referendum is a tax, it's asking for permission to be able to tax more money. Mattoon stated he felt it was important to recognize that changing the method for paying for capital projects would create a fairness issue because, for generations, there have been special assessments. Mattoon said others have had to pay them so would it be fair to then raise their taxes so someone else doesn't have to pay special assessments? Mattoon said the Board has to weigh how those who have already paid their property's special assessments would feel about that and if a change is made, in fairness, should we then pay back those who had to pay special assessments in the past? Trustee Ryan Aylesworth stated that to sum it up for him, there were two ways to pay for this portion of the Randall Road project - by special assessments or by increasing taxes for the whole Village. He stated if the later way was chosen,

why didn't the folks on McKinley Avenue get to have that option when their project was done and how would they feel about that? Trustee Hurd said that with all policy, at the State, Federal and local level, as we go forward and make good changes for the future, to go back and pay reparations is always an issue we face, but we can't do that realistically, but we shouldn't let the past shackle us.

- **Driveways:** McKee stated the project includes the driveway up to the sawcut line. If a property owner wants something beyond that, we'll have to check with the contractor.
- **Information in advance about upcoming projects:** Raap stated there were comments made wanting more advance notice regarding the Randall Road project. Raap stated that we've been trying to put together information that will help us prioritize capital projects better. Previously the Plum/Roosevelt project was on the top of the list, but the Administrator/Public Works Director completed a more extensive assessment of the underground capital assets in regards to age and what's been failing. Raap said we hadn't had that information before; with staff now we are trying to compile more data, have been putting more information on the website, and have started doing some open houses so we are trying to get better and will continue to make concerted efforts in that regard.

President Raap stated he was getting the sense that members of the Board would like to look at the numbers again so they could decide to move on to the next agenda item and make a motion to table it at this time, if desired.

8. Consider Final Resolution Authorizing Public Improvements and Levying Special Assessments Against Benefitted Property in the Village of Fall Creek for the 2023 Randall Road Urbanization Project:

- MOTION (Hurd/Herbison) to table the decision regarding Randall Road special assessments until alternative solutions have undergone a thorough cost analysis, revenue analysis, and policy analysis. PASSED, without negative vote.

9. Consider Award of Contract for Randall Urbanization Project: No action.

10. Consider Loan for Randall Road Urbanization Project, Possible State Trust Fund Loan Application: No action.

11. Recognition of Visitors/Citizen Input: Jamie Kaeding, 224 W Washington Ave, said he wanted to revisit what Trustee Hurd brought up during citizen input at the last meeting in reference to his use of social media. He felt it important for the Board and the public to be able to fully understand exactly what's going on. He felt it was an organized effort to openly criticize, intimidate, and directly threaten him in an open meeting setting; there were three complaints all directed at him at the same meeting from three different people, so it appeared to him that it was orchestrated. He said in last month's meeting he heard Trustee Hurd state that as a Village employee he was seen as a representative of the Village, even when he's off the clock, and because of that he should not have the right to give his personal opinions in a public forum. Kaeding stated the ironic part of it was that she was literally at a meeting as a Trustee, being paid for being a representative of the Village at that meeting, and she recused herself and then gave her personal opinion as citizen input. Kaeding asked why he should be held to a higher standard than her, and felt it was not an ethical choice of a Trustee to criticize an employee in a public meeting.

Kaeding listed his complaints as follows:

- he was directly criticized by a Trustee in an open meeting and that is a violation of open meeting laws because there is closed session for discussing such matters,
- it was erroneously stated that him having a political opinion was a conflict of interest and that is not true because he had nothing to gain by it,

- he felt threatened by Trustee Hurd's comments that if one of her employees criticized her, they would be fired. Kaeding said because he is one of the employees here and she is one of the seven trustees that employ him, is he now supposed to fear being fired because he is speaking up?

Kaeding said Trustee Hurd also stated the Hatch act which she said prohibited federal employees from expressing a political opinion. Kaeding said with only a simple web search of the Hatch act, he found the vast majority of federal employees have little or no restrictions on sharing their political opinions; the Hatch act refers to high level secret service employees. Kaeding said the whole point he wanted to make was that there was no point to bring up the matter in a public meeting, Jared had spoken with him about complaints about his social media and it was handled accordingly, based on the laws protecting each employee's rights. He stated when he came to last month's board meeting, he wasn't expecting to be embarrassed in front of the entire Board at a public meeting.

12. Approval of Minutes:

- MOTION (Kaatz/Mattoon) approving the minutes of the 4/10/23 Committee of the Whole, 4/10/23 Regular Board, 4/20/23 Public Works, Public Safety & Property, and 5/1/23 Special Board meetings. PASSED, without negative vote.

13. Financial Report:

- MOTION (Mattoon/Aylesworth) to approve the 4/30/23 Budget Comparison Report. PASSED, roll call vote: Herbison-yes, Hurd-yes, Kaatz-yes, Mattoon-yes, Raap-yes, Aylesworth-yes.

Trustee Sheena Kaatz requested moving ahead to agenda item 18A. The Board concurred.

18.A. Ballfield Update: Matt Bartow presented an update on the progress at the ballfield, stating everything is going very well and the first game on the new field will be a scrimmage this coming Thursday and their first tournament will begin Friday. Bartow requested approval of a draw request, stating if the Board approves the full amount, it will bring the total contribution of the Village to a little more than they originally agreed upon. He also summarized the donated time, material, and money received to date. Those donations have totaled approximately \$90,000 so far. Members of the Board expressed their thanks to all who have contributed time and resources to make this such a successful project that will benefit the entire community.

- MOTION (Mattoon/Aylesworth) to approve the full pay request of \$9,414.35 even though it goes \$502.83 over what the Village intended to contribute. PASSED, roll call vote: Hurd-yes, Kaatz-yes, Mattoon-yes, Raap-yes, Aylesworth-yes, Herbison-yes.

14. Approval of Bills:

- MOTION (Mattoon/Kaatz) to accept the Invoice Listing and Payroll Pay Summary Reports of 4/11/23-5/8/23. PASSED, roll call vote: Kaatz-yes, Mattoon-yes, Raap-yes, Aylesworth-yes, Herbison-yes, Hurd-yes.

15. Report of Village Administrator: Administrator Jared McKee gave his monthly report highlighting the departmental duties accomplished since the last regular board meeting.

16. Committee Reports: Public Works, Public Safety & Property Committee Chair Sheena Kaatz called the Board's attention to the meeting minutes.

17. Unfinished Business: None.

18. New Business:

B. Keller Park Tennis/Pickleball Court Concept: Raap reported that prior approval was given to use some of the bequeath money to come up with some concepts and we have now received two concepts that were presented for the Board's initial review. McKee reviewed details of each concept.

C. Resolution Designating Public Depositories & Authorizing Withdrawal of Village Moneys: Village President Raap stated this is a resolution the Board addresses every year after the election.

- MOTION (Mattoon/Herbison) to approve Resolution #2023-0508C. PASSED, roll call vote: Mattoon-yes, Raap-yes, Aylesworth-yes, Herbison-yes, Hurd-yes, Kaatz-yes.
 - D. Resolution to Rescind Resolution #1999-0610A For the Sale of Village Code:**
 - MOTION (Herbison/Hurd) to approve Resolution #2023-0508D which rescinds a prior resolution that is no longer needed. PASSED, roll call vote: Raap-yes, Aylesworth-yes, Herbison-yes, Hurd-yes, Kaatz-yes, Mattoon-yes.
 - E. Appointments:** President Raap made the following appointments: Police Committee-Brad Ceranski (5-year term), Fire District-Norm Brunkow (3-year term), Zoning Board of Appeals-Gwen Hoekstra (3-year term) and Pamela Mattoon (3-year term), Plan Commission-Evan Nyberg (3-year term), Heather Glassman (3-year term), and Sheena Kaatz as Village Board Representative (1-year term).
 - MOTION (Herbison/Hurd) confirming the above appointments. PASSED, without negative vote and with Trustee Mattoon recusing himself.
- President Raap made the following appointments:

<u>Community Relations, Recreation & Health</u>	<u>Finance, Personnel & Economic Development</u>	<u>Public Works, Public Safety & Property</u>
Matt Mattoon	Tim Raap	Karen Herbison
Ryan Aylesworth	Ryan Aylesworth	Chester Goodman
Karen Hurd	Chester Goodman	Matt Mattoon
	Karen Herbison	
	Sheena Kaatz	

- MOTION (Mattoon/Kaatz) confirming the above appointments. PASSED, without negative vote.

President Raap stated Matt Mattoon will be chair of the Community Relations, Recreation & Health Committee, Karen Herbison will be chair of the Public Works, Public Safety & Property Committee, and Ryan Aylesworth will be vice-chair of the Finance, Personnel & Economic Development Committee, and noting that Village Code states the President is the chair of the Finance, Personnel & Economic Development Committee.

19. Committee Recommendations

- B. 1st Reading to Amend Ordinance §7.1.2.C. Health and Sanitation re: Free Items on Boulevard:**
 - MOTION (Hurd/Aylesworth) to hold the first reading of the above ordinance. PASSED, without negative vote.
- C. 1st Reading to Amend Ordinance § 10.2.4.C. Motor Vehicles re: Parking Near School:**
 - MOTION (Hurd/Aylesworth) to hold the first reading of the above ordinance. PASSED, without negative vote.
- D. Direction to Employees re: Enforcement of Parking Ordinances:**
 - MOTION (Mattoon/Hurd) to send the item to the Public Works, Public Safety & Property Committee. PASSED, without negative vote.
- E. Keller Park Grant Application:** Trustee Hurd stated the LWCF grant application paperwork had been resubmitted and a decision is expected this fall. President Raap stated he was glad to see that was in and said a point of information is that the Board had asked for the application to come back for signatures. He stated it's not a big deal this time but it's better to have consistency in the way we apply for grants and to have more eyes on an application before it goes out, it's good to have more committee involvement on what's written in the application. He stated we will bring the resolution back and put some clarification there.

20. Possible Assignment to Committee:

A. Business District Snow Removal: Administrator McKee stated there have been internal inconsistencies in how snow removal has happened in the past and requested the Committee look into it.

- MOTION (Mattoon/Hurd) to send the item to the Public Works, Public Safety & Property Committee. PASSED, without negative vote.

21. Adjournment: @ 9:18 p.m.

Renee Roemhild, Clerk/Treasurer