

**VILLAGE OF ELM CREEK  
BOARD OF TRUSTEES  
REGULAR MEETING MINUTES  
JUNE 27, 2019, 7:30 P.M.**

A Regular Meeting of the Elm Creek Village Board of Trustees was convened in open and public session at the Elm Creek Village Center, 535 W. Boyd Avenue, Elm Creek, Nebraska at 7:30 p.m. on June 27, 2019. Advance Notice of this meeting was given in advance thereof by posting of Notice in three public places within the Village and publication in the Beacon Observer, as shown in the Certificate of Posting affixed to these minutes. Advance Notice was simultaneously given to the Chairman and all members of the Board of Trustees and their acknowledgment of receipt of Notice and the agenda are affixed to these minutes. Tanner Tool called the meeting to order at 7:44 p.m. by calling for the roll with the following members responding: Kyle Lawrence, Davis Miner, Cory Halliwell, Tanner Tool and Mike Brown. Absent: none. Tanner announced that the Open Meeting Laws were in the hallway leading to the meeting room for the public's inspection.

**CONSENT AGENDA**

It was moved by Tanner and seconded by Cory to approve the Consent Agenda consisting of the minutes of the Regular Meeting on May 23, 2019 and the Special Meeting on June 13, 2019, and approval of the Claims for the month of June 2019 in the amount of \$147,931.62. Ayes: Kyle, Davis, Cory, Tanner and Mike. Nays: none. The motion carried.

**DEPARTMENT REPORTS**

**BUILDING PERMITS:** Matt Weaver has a building permit to replace the fence at his house and Mike Brown has a building permit to replace the front porch and back deck on his rental house. It was moved by Tanner and seconded by Davis to approve Matt Weaver's permit contingent on final assessments by Tim to make sure within his setbacks. Ayes: Cory, Davis, Kyle, Tanner and Mike Nays: none. The motion carried. It was moved by Tanner and seconded by Cory to approve Mike Brown's permit contingent on final assessments by Tim to make sure within his setbacks. Ayes: Cory, Davis, Kyle, and Tanner. Abstain: Mike. Nays: none. The motion carried.

**EMPLOYEE REPORTS:** Tim reported the backhoe has some wiring issues and will need to replace the harness, Holmes Plumbing fixtures for the park restrooms has been ordered, they have been busy painting the parking lines downtown, more road patch has been purchased. The board would like Tim to get some estimates on a lift basket and some safety harnesses. Tim will work with GD Concrete on getting some rip rap to take out to the lagoons. Davis and Tim will look into pricing on a bucket for the tractor. The board would like Tim to work with Lance on the open storm drain on the west side of Red Top. The board has also requested Tim to get a quote from Samuelson's for cleaning from Easy street to highway.

**SHERIFF'S REPORT:** Captain Bob reported for the Sheriff's Department.

**REGULAR AGENDA**

**AGENDA ITEM #1: DISCUSSION/ACTION RE: Carnival for Stampede Weekend**

Jim Gunderson with Elm Creek Entertainment was requesting board approval this year for the Carnival for Stampede weekend. They would like to use the same location as last year on the street by the park which worked well. Tim will set up temporary fencing by Janet Westlake's house so that people are not walking all over her lawn and flower garden. McWhorter's is requesting to have their campers at the ball field parking lot instead of at the campground this year. It is easier for them to keep an eye on their equipment. The board was good with all of this as long as their campers are self contained. The board offered Jim their assistance this year with the handing out of tickets as was done the year before. Jim also mentioned to the board that he

is working to get Jim Salestrom, singer-songwriter, to come and perform at Elm Creek this November. Tentatively looking at the date of November 22<sup>nd</sup>. He potentially will perform for the students at the school during the day and then have an evening performance for the public.

**AGENDA ITEM #2: DISCUSSION/ACTION RE: Volleyball Tournament**

Lindsey and Joe McCarter were at the meeting to visit with the board about the use of the sand volleyball courts for the volleyball league that starts up this Sunday and will run for 7 weeks and then their tournament for Stampede weekend. The league supplies their own nets, poles, ropes and balls. The village supplies the trash dumpsters and will drag the sand for them each Friday. Tim will have Devon take care of this for them and the board was good with it.

**AGENDA ITEM #3: DISCUSSION/ACTION RE: Add flag poles at the Memorial downtown**

The Legion would like to have some Service flags added behind the current flags down at the Memorial. The would be approximately 8 ft tall. The board said they would have our guys get started on that project.

**AGENDA ITEM #4: DISCUSSION/ACTION RE: Ameritas Investment Corp to discuss funding opportunities**

Board Member Tanner Tool introduced Ordinance No. 2019-16 entitled:

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF HIGHWAY ALLOCATION FUND PLEDGE BONDS, SERIES 2019, IN THE AMOUNT OF NOT TO EXCEED FIVE HUNDRED THOUSAND DOLLARS (\$500,000) FOR THE PURPOSE OF PAYING THE COSTS INCURRED IN CONNECTION WITH THE CONSTRUCTION OF STREET IMPROVEMENTS IN THE VILLAGE OF ELM CREEK, NEBRASKA; PRESCRIBING THE FORM OF SAID BONDS; PLEDGING FUNDS TO BE RECEIVED BY THE VILLAGE FROM THE STATE OF NEBRASKA HIGHWAY ALLOCATION FUND; AGREEING TO LEVY TAXES; PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING THE DELIVERY OF THE BONDS TO THE PURCHASER; PROVIDING FOR THE DISPOSITION OF THE BOND PROCEEDS AND ORDERING THE PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM.

and moved that the statutory rule requiring reading on three different days be suspended. Board Member Davis Miner seconded the motion to suspend the rule and upon roll call vote on the motion the following Board Members voted YEA: Kyle, Mike, Cory, Tanner, and Davis. The following voted NAY: none. The motion to suspend the rule was adopted by three-fourths of the Board and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Board Member Tanner Tool moved for final passage of the ordinance, which motion was seconded by Board Member Cory Halliwell. The Chairperson then stated the question was "Shall Ordinance No. 2019-16 passed and adopted?" Upon roll call vote, the following Board Members voted YEA Kyle, Mike, Cory, Tanner, and Davis. The following voted NAY: none. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Board, the Chairperson declared the ordinance adopted and the Chairperson in the presence of the Board signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed the Clerk's signature thereto and ordered the Ordinance to be published in pamphlet form as provided therein.

**AGENDA ITEM #5: DISCUSSION/ACTION RE: Variance Request**

It was then moved by Tanner and seconded by Kyle to deny the variance request from Jeb Boston for the construction of a detached garage based on the planning commission's recommendation. Ayes: Cory, Davis, Kyle, Tanner and Mike Nays: none. The motion carried.

**AGENDA ITEM #6: DISCUSSION/ACTION RE: USA Communications Lease Agreement**

Tabled to next regular meeting.

**AGENDA ITEM #7: DISCUSSION/ACTION RE: Consider award for Calkins and Easy Street Street Paving Project**

It was moved by Tanner and seconded by Mike to accept the low bid from Blessing Construction for \$409,391.50 for the Calkins Avenue and Easy Street Street Paving Project as recommended by Lance Harter with Oak Creek Engineering. Ayes: Kyle, Cory, Davis, Tanner and Mike. Nays: none. The motion carried.

**AGENDA ITEM #8: DISCUSSION/ACTION RE: Present Water/Sewer/Paving Improvement Plans for Sunrise Street Place**

Lance Harter with Oak Creek Engineering was at the meeting to present and discuss with the board the plans for the water, sewer and paving improvement plans for Sunrise Street Place. No action.

**AGENDA ITEM #9: DISCUSSION/ACTION RE: Seek approval to advertise for bids for Water/Sewer/Paving Improvement Plans for Sunrise Street Place**

It was moved by Tanner and seconded by Cory to advertise for bids for the Water and Sewer Improvement Plans for Sunrise Street Place. Ayes: Kyle, Cory, Davis, Tanner and Mike. Nays: none. The motion carried.

**AGENDA ITEM #10: DISCUSSION/ACTION RE: Easements**

Nancy and Leland will have the Easement and Real Estate Transfer Statement signed and drop off to the clerks office. Wendy will take to the Register of Deeds office to be recorded. No action.

**AGENDA ITEM #11: DISCUSSION/ACTION RE: Interim Utility Superintendent**

It was moved by Tanner and seconded by Kyle to approve Tim Bell as the Interim Utility Superintendent at \$21.00/hour for 90 days with an Employee Evaluation to be completed at the end of the 90 days. Hourly rate to be effective and paid out on the July 1, 2019 payroll. Ayes: Kyle, Cory, Davis, Tanner and Mike. Nays: none. The motion carried.

**AGENDA ITEM #12: DISCUSSION/ACTION RE: Purchase of Real Property**

No action.

**AGENDA ITEM #13: DISCUSSION/ACTION RE: Ordinance to create an Administrator Position**

It was moved by Tanner and seconded by Cory to suspend the statutory rule requiring that Ordinances be read on three separate occasions, so that Ordinance No. 2019-15 might be introduced, read by title 3 times, and adopted at the same meeting. Ayes: Kyle, Mike, Cory, Tanner, and Davis. Nays: none. The motion carried.

**ORDINANCE NO. 2019-15**

**AN ORDINANCE RELATING TO APPOINTED OFFICIALS; TO REQUIRE THE APPOINTMENT OF MUNICIPAL ADMINISTRATOR; TO PROVIDE FOR RESPONSIBILITIES AND DUTIES; TO PROVIDE FOR THE SALARY OF THE MUNICIPAL ADMINISTRATOR; TO AUTHORIZE THE EXPENDITURE OF CERTAIN FUNDS; TO PROVIDE FOR THE REMOVAL OF THE MUNICIPAL ADMINISTRATOR; TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND TO PROVIDE AN EFFECTIVE DATE.**

BE IT ORDAINED BY THE CHAIRPERSON OF THE BOARD OF TRUSTEES OF THE VILLAGE OF ELM CREEK, NEBRASKA.

**Section One. Village of Elm Creek, Nebraska Code of Ordinances** shall be amended with the addition of the following to be inserted as a new **§ 31.022** with the remaining section of the Code to be renumbered accordingly:

**§ 31.022 MUNICIPAL ADMINISTRATOR.**

(A) *Responsibilities; qualifications; how appointed.* In order to provide efficient and orderly operation of the municipal government, and more effective administration of the affairs of the Village, there is hereby created the office of Municipal Administrator. The Municipal Administrator shall be responsible for the proper administration of all affairs of the Village and shall have general supervisory authority over all Village departments. He or she shall be appointed by the Chairperson with the consent of a majority of the Board of Trustees for a period of one year, unless sooner removed, solely on the basis of administrative qualifications, and need not be a resident of the Village or State when appointed. During the absence or disability of the Municipal Administrator the Chairperson may designate some proper qualified person to perform the duties of the office.

(B) *Powers; duties.* The Municipal Administrator shall be the administrative head of the municipal government under the direction and control of the Chairperson and the Board of Trustees and shall be responsible to the Chairperson and the Board of Trustees for the efficient conduct of his or her office. The duties of the Municipal Administrator shall be as follows:

1. Make and keep up to date an inventory of all property, real and personal, owned by the municipality;
2. Act as purchasing agent for the purchase of all supplies, goods, wares and merchandise, equipment and material which may be requested for the various departments, divisions, or services of the municipality;
3. Keep the Chairperson and the Board of Trustees fully advised as to the financial condition and needs of the municipality and shall be responsible for and prepare the annual estimate of expenditures for presentation to the Chairperson and the Board of Trustees prior to the passage of the annual appropriation ordinance;
4. Serve as public relations officer of the municipal government, and in such capacity to endeavor to investigate and adjust all complaints filed against any employee, department, division or service thereof and cooperate with all community organizations whose aim and purpose is to advance the mission and strategic plan of the municipality and the best interests its people and to attend meetings of such organizations if in the judgment of the Administrator such attendance is necessary and desirable;
5. Attend all meetings of the Board of Trustees with the duty of reporting any matter concerning municipal affairs under his or her supervision or direction and to attend such other meetings of the municipal departments and officials as his or her duties may require;
6. Analyze the functions, duties, and activities of the various departments, divisions and services of the municipal government and of all employees thereof, and to make his or her recommendations regarding the same to the Chairperson and the Board of Trustees;
7. Carry out the Chairperson and/or the Board of Trustees' recommendations in coordinating the administrative functions and operations of the various departments;

8. Procure facts and submit long range improvements to the Chairperson and the Board of Trustees;
9. Recommend to the Chairperson and the Board of Trustees the appointment and dismissal of all department heads over which he or she exercises jurisdiction. Appointment or dismissal of department heads will be made upon the recommendation of the Chairperson and confirmation of the Board of Trustees. The Municipal Administrator may appoint and dismiss all subordinate employees of the municipality, as well as provide for the transfer of such employees from one department to another, except those employees covered under the Civil Service Act of the State, the Municipal Attorney, and the Municipal Clerk;
10. Perform the duties of the Utilities Supervisor and/or Building Inspector in the absence of a specific appointment to those offices by the Chairperson and the Board of Trustees;
11. Administer and be responsible for all departments and divisions of the municipal government, which are under the Chairperson's and the Board of Trustees' direction, including all public utilities presently owned or hereafter acquired by the municipality, including the Fire and Police Departments. The office of the Municipal Attorney and Municipal Clerk shall not come under the administration and responsibility of the Municipal Administrator; provided however, said Administrator is to be available to assist those offices in any administrative matter that may arise and those officers in turn shall be available to assist the Municipal Administrator in the discharge of his or her duties;
12. Recommend to the Chairperson and the Board of Trustees for adoption such measures and ordinances as are deemed necessary or expedient;
13. Prepare and recommend to the Chairperson and Board a classification and compensation plan;
14. Make investigations into the affairs of the municipality and any department or division thereof, and any contract or the proper performance of any obligation pertaining to the municipality;
15. Exercise general supervision over all public buildings, streets, and other public property which are under the control and jurisdiction of the Chairperson and the Board of Trustees;
16. Prepare and submit to the Chairperson and the Board of Trustees as of the end of the fiscal year, a complete report of the finances and administrative activities of the municipality for the preceding year;
17. Keep the insurable property of the municipality appropriately insured;
18. Serve in any appointed office or as head of any department within the municipal government if the need arises and when appointed thereto by the Chairperson and the Board of Trustees and to hold and perform the duties thereof at the pleasure of the Chairperson;
19. The Municipal Administrator shall have the duty to keep open his or her office for public affairs during days and hours approved by the Chairperson and the Board of Trustees;
20. Perform such other duties and exercise such other powers as may be delegated to him or her from time to time by ordinances or resolutions of the Board of Trustees, job description, and where action of the Board of Trustees is not required, such duties and powers as may be prescribed by the Chairperson; and
21. To analyze the needs of the community for all types of community and economic development projects and to be responsible for preparing grant applications and administering grants when appropriate.

(C) *Salary.* The Municipal Administrator shall receive such salary as may be determined by the governing body and will be available for public inspection at the office of the Municipal Clerk.

(D) *Authority to expend funds.* The Municipal Administrator, in the discharge of his or her duties, shall have the right to expend an amount not to exceed the limits set forth in the applicable state law, pertaining to Villages, entering into contracts for the municipal work and improvements or purchase of equipment or any lesser amounts set by the Board of Trustees without advertising for bids and within any dollar amount on behalf of the municipality for general purchases, maintenance and improvements, the expenditure limitation herein to apply to all departments of the municipality.

(E) *Removal of Municipal Administrator.* The Municipal Administrator may be removed by the Chairperson by and with the consent of the Board of Trustees.

**Section Three.** Any ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section Four.** This ordinance shall be published and shall take effect and be in full force from and after its passage, approval and publication as required by law.

PASSED AND APPROVED this day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Village Clerk

It was called to question as to the adopting Ordinance No. 2019-15. It was moved by Tanner and seconded by Mike to adopt Ordinance No. 2019-15. Ayes: Kyle, Cory, Davis, Tanner and Mike. Nays: none. The motion carried and Ordinance duly adopted by the Village of Elm Creek, Nebraska.

**AGENDA ITEM #14: DISCUSSION/ACTION RE: Approve opening the position of Administrator**

It was moved by Tanner and seconded by Kyle to approve the opening of the position of Administrator. Ayes: Kyle, Cory, Davis, Tanner and Mike. Nays: none. The motion carried.

**AGENDA ITEM #15: DISCUSSION/ACTION RE: Seek action to solicit estimates on storm damage repairs**

It was moved by Tanner and seconded by Cory to accept the bid from Complete Roofing for the Library \$6,825.00, Village Shop \$7,615.00, Concession Stand \$3,789.00 (with added vents) and proof of bonded insured. Ayes: Kyle, Cory, Davis, Tanner and Mike. Nays: none. The motion carried.

**AGENDA ITEM #16: DISCUSSION/ACTION RE: Discussion on the Business Income/Extra Expense and Work Comp Program thru EMC Insurance**

No action.

**AGENDA ITEM #17: DISCUSSION/ACTION RE: Discussion on the street patching quote from GD Concrete**  
Tabled to the next available meeting.

**AGENDA ITEM #18: DISCUSSION/ACTION RE: Legal matters – Wendy Stephens**

It was moved by Tanner and seconded by Cory to approve the Wendy Stephens Settlement Agreement for \$20,000.00 even with \$500.00 monthly payments or a lump sum payment of \$16,000.00 paid by October 1, 2019. Ayes: Kyle, Cory, Davis, Tanner and Mike. Nays: none. The motion carried.

**AGENDA ITEM #19: Adjournment**

All agenda items having been considered, it was moved by Kyle and seconded by Mike to adjourn this Regular Meeting. Ayes: Davis, Kyle, Cory, Tanner and Mike. Nays: none. The motion carried and the meeting was adjourned at 10:07p.m.

ATTEST:

\_\_\_\_\_  
Chairman-Elm Creek Village Board

\_\_\_\_\_  
Village Clerk

(SEAL)