

Greenwood Nebraska

Small Town, Nebraska with Big Heart

Board Meeting Feb 27, 2019 Meeting Minutes

A Regular Meeting of the Greenwood Board of Trustees was held at 7:00 p.m. on Wednesday, February 27, 2019 at the E.L. McDonald Community Center, 619 Main Street, Greenwood, Nebraska.

Call to order

Mack, Starr, Wilken, Gerlach, and Piehl are present for this meeting.

Consent Agenda

Minutes

Claims

Approval of time cards

Financials

Gerlach made a motion to approve consent agenda. Starr seconded the motion.

Aye-Piehl, Gerlach, Starr, Mack Nay-None Abstain-Wilken Motion carried

Communication of Citizens

Ahlman said he was curious if Gerlach had checked in to Sabin being past her term limit for the Planning and Zoning Commission. Gerlach thought he believed she is over her term limit. Ahlman said he is also wondering if Wright is over his term limit.

Kubik mentioned there is an excess of cats in the neighborhood. He said they live under the Leadabrand house. Ahlman said he would check into that.

Old Business

Discussion approve/disapprove Layne well repair proposal

He said that he added the different options of getting the well back into service in his report. The first option would be to do nothing and run it as is. Option two would be to put the drop pipe in it, but not clean the screen. Option three is to clean the screen and everything else and that would be an additional \$12,000 more than the opposed \$6,000 to do the inspection. He said that would be around \$18,000 total. Vandeman went on to explain that the well had not been pulled apart for twenty-three years. He said that this would only be a temporary fix. It could work for another twenty years or it could only work for two. He said that he realizes that you are looking for a new area to install a new well, but for now we need to get this one back in service. He said that he is down 60% capacity just running off the other well. He also pointed out if the other one would have an issue, we don't have a backup. For now, he recommends cleaning the screen and everything else to get the well up and working properly. That way we can still run off of it. He said that we are currently sitting under the borderline on nitrates until the town gets further on decided to install a new well. He said that he has also looked in to nitrate removal system. He said that he heard the price of installing a nitrate removal system would cost around \$500,000. He said that we would also need to put up a building to do it. Vandeman explained that there would be a backwash cycle on the nitrate removal system in order to make it work. That would all go to the sewer plant. He is going to check to see if it is possible to have it run out through the ditch way to the creek. He said he needs to check on if it needs to be treated or not. He said for now we just need to get the well back together.

Wilken said him and the other board members attended the Midwinter Conference. Ceresco will be the pilot city for NO₃-N project. This company out of Hastings is going to do this for them. They will install glass tubes and insert algae in them. The algae remove the nitrates. Each well would need to be done

separately. They will install the system if we agree to their terms. There is something that they are recycling, but they didn't say what it was. They called it an oil. Gerlach said from what was said at their conference, there is a byproduct down the road that can be used for biodiesel. Up front, they would be willing to install, but they would want a profit share in return. What we were shown was what looks like a greenhouse, around 20 by 20 full of glass tubes. Vandeman asked how much water would they be able to treat? Wilken said he was told that they can take nitrates that are 100 parts per million and in eight days they can have it down to zero. Vandeman asked how many gallons are held at that facility? Wilken said the one in the lab held 200 Liters and they can have that amount done in three days. He said that they are thinking that they can do 45,000 gallons with the 20 by 20 shed. He explained that after it goes through this system, it actually pumps it back down into the well. Gerlach said they are also talked about using the byproduct as biomass fertilizer. That way they are not putting the harsh stuff back into the ground. Vandeman said that if they would go back to using manure, we probably wouldn't be having all the issues we are having today. Wilken said that the manure contains the same thing because of what the animal consumes has nitrates as well.

Piehl commented that it will cost us roughly around \$7000 to put the well back together. Vandeman said yes, to just put it back without cleaning the screen it will cost the \$7000. That would be putting the drop pipe a little lower and run the well a little slower. We are hoping to pull off a little less nitrate by pulling water from the bottom of the aquifer, because we are pulling it from the top currently. Vandeman said that he would like to get the screen cleaned because if we do end up reusing the well down the road with the nitrate removal, if we don't clean it now, we will need to do it again in 5 years. Piehl explained that her opinion is that if we already have it taken apart already. Why wouldn't we make the repairs to it? She said that no one has touched in since 1996. Vandeman agreed saying it was put in in 1985 and then taken apart in 1996. That was just preventative maintenance at the time. That was the last time it has been done. Wilken said that if do it again, it will cost us an additional \$12,000? Vandeman said that the \$5900 had already been approved before. Then it is additional \$4985.00 to sonar clean the well and remove the debris. Vandeman said he feels it will be money well spent.

Wilken made a motion to approve the quotes 1, 2, and 3 for \$17,882.22 with a 5% variance. Starr seconded the message.

Aye-Starr, Mack, Piehl, Gerlach, Wilken

Nay-None

Motion carried

New Business

Discussion from Roger Kubik regarding snow removal and employee retention

Kubik questioned why the snow removal was not started earlier after the snow stopped? Wilken said that he came up with a plan. He said that when we came up with the plan it had just started snowing. The last time he had seen anything on the weather it had said 2AM. He said that we always try to give a little time in case it does last a little longer. Kubik said that his thought on that is that our equipment is not capable of handling that much snow. The second part of that is first responders aren't making it out to my house if something would happen. He feels like the townsmen should have been given the okay to start a little earlier. He said that he figured they would have been out there as soon as it stopped snowing. He said that he feels we should be doing what we used to do. We should have at least had a few crisscrosses done in the intersections. He said that we have never plowed after 12 inches of snow. We plow after 4 or 5 inches of snow. We plow twice if we have to. Kubik said that first responders are his main concern. He said that we were put at risk, because if something had happened first responders would have not been able to make it there. Wilken said that he knows that first responders would have been able to get there. They have 4-wheel drive vehicles. Kubik said there should be money in the street fund. We should be able to get some men out there at night and get some things going. He said that he was unable to leave his house until 13 hours later. He said that in his opinion the streets could have been done sooner. He said that they did a great job with what they had, but it could have been done sooner. Gerlach said that in defense of the guys, the county wasn't even out until later that day to plow their areas. Starr said his concern was the wind. The wind was blowing hard until 11pm. He agrees that maybe we could have started a little bit earlier. Starr said that we had a plan though, and usually we just stick to that. Wilken said that we had one piece of equipment lay down right away. We lost a chain and the equipment was worthless until we were able to go to town and get another chain. Kubik said that it is just his opinion.

Starr said we could always evaluate. Piehl agreed and said that it is definitely something we can take into consideration.

Kubik said that he hopes that when dealing with employees we are keeping good working relationships. He said that we need to try to bring the pay scales up to what Greenwood is and what these jobs consider out of them. It is hard to make a living with where the wages are at today. That is just my opinion. I think they do a lot more for Greenwood than most communities when you compare things. He said that he hopes that if the clerk survives the audits, things get positive, and gets the office under control, I hope there is an incentive for her with a positive pay increase. He said that he thinks she has done great things for us, in the short time she has been here. Including the audit, which is the worst possible scenario you can handle. He said that replacing people costs a lot of money. Keeping the people, we have saves us money. Gerlach told Kubik that there was a salary increase for the clerk at the last meeting. Kubik said he is aware and was hoping it would be more. Again, as long as you have a plan to keep it building on her performance, if the sales tax is paid, if the check list is done, and there is incentive to save the town money. If the auditor is off our back, it saves us money in the future. It is worth retaining our employees. Again, that is if she is getting the work done. I am not reviewing her so I don't know. From here it seems that she is doing a good job. Mack said that he won't comment on the snow removal because his street was excellent. He said that he does agree with what Kubik was saying in regard to employee retention. He also thinks that it is very important. He knows that we have lost good employees and we have trained good people. Before you know it, they are off somewhere else getting a job that pays more money. He said that he has thoughts about that but he will discuss that more when we get to line item number 8.

Discussion approve disapprove Mike Johnson for Planning and Zoning

Wilken made a motion to approve Mike Johnson to the Planning and Zoning Commission. Piehl seconded the motion.

Aye-Piehl, Gerlach, Wilken, Starr, Mack Nay-None Motion carried

Gerlach asked if that filled the board now. Cadwell said that there is one spot open still because Ahlman resigned. Johnson will fill J. Corey's seat. There is still one open position to fill. Kubik said that he would like to fill that position.

Discussion approve disapprove action against nuisance properties at 439 North and 511 North Street

Cadwell said the reason that this was on the agenda was because they had been brought to the Planning and Zoning Commission. Cadwell said that she dug up all the information that she could find on the properties. Starr said that one of these properties belongs to Tweton. He said that he spoke with him a little bit today regarding the property. Tweton told Starr that when his mom got sick, it set him behind on finishing it. He told Starr he would get back to work on it in the next few months. Wilken said that he still will need to get another permit. Wilken said that we need to continue on with the nuisance abatement because he will need to show good faith. The last time he had a permit was in 2015.

Piehl said that the house at 511 North Street looks as if it is going to fall down. Starr said that they tried to reach the owner when Fiala was the clerk, but had no luck. Wilken asked if that was the house that had been gutted? Cadwell said yes and she had spoke to Cass County regarding the owner. Cass County provided her with the address of a property that he had recently purchased. We should have a current address for the owner in case it was out of date before. Bargaen asked if these people have received a first letter from the village yet. Wilken said no, but he thought that Tweton had received a letter from the county regarding the permit. Bargaen said that in order for the village to exercise your nuisance ordinance, the village has to send notice. Gerlach thought that our previous board had. They thought the property had been vacant for 15 years or more. Bargaen said the board of health, nuisance officer, or maintenance staff by your code can make that determination. Cadwell asked so we do have a board of health? When do they meet? Wilken said whenever they need to. Cadwell said she had been reading the ordinance and just wanted to make sure she was doing things correctly. Wilken said that the board of health is the chairman, the clerk, the sheriff, and Lori Sobota. Bargaen again clarified that the board of Health, a nuisance officer or a maintenance staff can determine if there is a nuisance on the property. Then you send a notice. The offender will get five days to comply or appeal. If they don't, the village can do the work or take them to court to force them to do it. Bargaen said that state statue you to abate the nuisance if

you follow all procedures and notice. That is the process you would file. Cadwell asked if her understanding is the village sends two letters. Bargaen corrected her by saying no, it is one letter that needs to be sent declaring a nuisance. He explained that what probably needs to happen is that the village pass a resolution that the board will have a hear to, to direct that there is a nuisance and have a letter sent. He said that he realized that village code states the letter needs to be sent by certified mail, but the state statue doesn't require that anymore. He said that it used do, but then they realized that people wouldn't pick up their certified mail. Statue now allows for either first class mail conspicuously marked, certified mail, and he thought maybe even personal service works. The letter should say that you have 5 days to abate to the village nuisance or appeal to the village board. If they appeal, they can have a hearing. They are able to challenge nuisance declaration. You can either overrule the appeal or grant the appeal. If the appeal isn't granted, then they have the opportunity to appeal that to district court. First step, is to have an official named in the ordinance declare the nuisance. Then send the letter, and give them those five days. Bargaen said that you are able to give them more time if you would like, but it has to be at least 5 days.

Gerlach made a motion to approve action against the nuisance properties 439 North and 511 North. Mack seconded the motion.

Aye-Piehl, Gerlach, Wilken, Starr, Mack Nay-None Motion carried

Discussion approve disapprove considering authorizing board chair to execute cell tower agreement and related documents with Horvath Towers V LLC

Bargaen said that he tried to negotiate with them on price, but in the end \$12,000 per year rental price. Bargaen presented the board with a hard copy of the contract that needs to be signed. Gerlach pointed out that the national average for land rental for cell tower use is 1500 to 2200 a month. Bargaen said that he mentioned it, but the company was ready to walk away. Bargaen said that at the time the board was wanting to pursue this agreement.

Gerlach made a motion to approve authorizing board chair to execute cell tower agreement as presented by Horvath Towers V LLC. Mack seconded.

Aye-Starr, Mack, Piehl, Gerlach, Wilken Nay-None Motion carried

Discussion approve disapprove variance 722 E. 7th

Grell questioned the board on what happens after the Planning and Zoning Commission turns you down? Is there another avenue? Gerlach asked if they had given a reason why they had turned him down. Grell said that he was not notified of anything, he had to come up and aske the village clerk. Cadwell said the reason that was given in the meeting minutes due to the fact that they agreed with what the attorney had said about granting variances. Bargaen had told the board at a previous meeting that variances usually were granted for odd shaped properties and usually were not granted due to costs. Starr asked if since this was going to be a multi-family home it will need to be 2400 sq. ft? Grell explained that it would depend on how you determine what the definition of the unit is. The way I read the ordinance is does require me to build a 2400 sq. ft. building. That is the way I read it. Each unit is an unit. The way I interpreted it was that it will need to be 2400 sq. ft, not 1800 sq. ft. That is reason I am requesting the variance. He said he understands why you wouldn't grant the variance. What he would ask you to consider is that, building regulations that are currently in place are the strictest within 80 miles of here. Ashland, Waverly, Lincoln and Omaha they are all 900 sq. ft minimum. For apartments, they are even smaller than that. He said that he would say that maybe Greenwood Nebraska should not be supporting more stricter zoning laws when it is tough to invest 240,000 or 250,000 in a neighborhood that simply won't economically support that. He addressed Piehl, referencing to a comment she made in a previous meeting thinking his building costs where high. He assured her that they were not, and wished they were lower. Costs of building in expensive today. He explained that minimum you are \$160 sq. ft depending on the finishes. He said that usually it is around \$180-\$200 per sq. ft. for him roughly. He said that he agreed that if it was him he probably wouldn't grant the variance either, but he would ask the board to reconsider the 1200 sq. ft minimum that has been put in place.

Grell said that he is glad to here Bargaen say that the nuisance abatement is much easier than it used to be. We spent years in court with Ahlman and thousands of dollars. We never did get some things cleaned up.

He said that if it is so simple, he would love for the village to go clean up the property next to where he is building.

Grell went on to discuss affordable housing. He said that affordable housing is a major concern. He said that rental houses and properties are in high demand in between Lincoln and Omaha. He suggested that the board think back to when you were young and what you could afford. He said that he markets to the young professionals. He targets this market. He requested that the ordinances be reviewed if possible.

Mack asked what it would take to change the ordinance. Gerlach said that it would need to go in front of the Planning and Zoning Commission, approval from the board, and two public hearings. Elliott mentioned that the ordinance had just been changed when they did the new comprehensive plan. It used to be 900 sq. ft. Starr feels that 1200 sq. ft is excessive. Grell said that he wouldn't care if it was changed to 1000 sq. ft. because that is somewhat reasonable. Grell thinks we should stay consistent with the 2009-2012 building codes because that is what other cities are using. Wilken said that he thinks we should approach the Planning and Zoning Commission in regard to this matter. Elliott said she thought the reason for the ordinance was because they didn't want a bunch of tiny houses being built. At that time, they weren't building duplexes. She thinks that they were trying to get the values of the houses up a little higher. Grell said his duplexes are valued at around \$120,000 the first year and he expects the value to increase \$160,000 to \$180,000. The last four duplexes he built, he expects to add around \$10,000 to the TIF account. This matter will be added to the Planning and Zoning agenda.

Discussion regarding conflict of interest forms on file with clerk

Gerlach said that he added this to the agenda after attending the conference. They learned that there are many things that need to be on file with the clerk pertaining to any business here in town that is associated with direct dealings with the town. Bargaen asked if we had that in place? Gerlach said no, but it was a big eye opener. Bargaen explained that anytime you have an ongoing conflict of interest, it should be on file. He said that you can obtain those forms off the NADC website. Gerlach said that there is another one regarding a local agreement for local businesses. He believes an example would be if Wilken's provided fuel to the town in an emergency situation on record. That way the town knows. Starr said he was aware of that. He explained that Fergus came to him. Gerlach said that but it is not in writing. It is a state statute that it has to be on file at the clerk's office. Bargaen said he has an outline with at least four examples of conflict of interest scenarios for conflicts of interest. Gerlach said that it is mentioned in the book that was given to him at the Mid-winter conference. Wilkens said that immediate family members, is like your wife or your kids. Bargaen said it can also be a business that you have substantial interest in, etc. Gerlach said that he just wants to ensure that we don't have further issues on down the road.

Wilken said that on a further note, he doesn't think the employee handbook goes far enough. At the conference, they mentioned a place up in Minnesota having two employees and one employee costs them over a million dollars because they didn't have a procedure on how to handle harassment. Gerlach said that this is stuff that we need to get handled. Bargaen said he thought that his office redrafted the employee handbook for the village of Greenwood. We could look at that again.

Discussion approve disapprove purchase computer equipment upgrade

Gerlach stated when he was in the office the other day, he realized that her drive is 95% full. He said that computer was purchased 2 or 2 1/2 years ago, but has been upgraded a couple time. Wilken asked if that was the laptop? Gerlach said yes that is what she currently has to work on. They gave us the option to upgrade the hard drive but then again that is a hard drive and that information is backed up to the cloud. He said that is pretty much what we have to work with right now. Wilken said he doesn't understand why we don't have a main frame here. Gerlach said that he tried to get that rolling when he got elected. Piehl said that all costs a lot of money. Gerlach agreed stating that it does cost a lot of money. Piehl said there was a big difference in what we discussed and what it ended up being, which is why it didn't happen.

Wilken said he understands why we got a laptop, but you can also download stuff from a laptop to a main frame. Kubik said that the data on that hard drive and reduce it down from 95% because you are going to lose the information if not. Kubik said with the mobility of a laptop, you need to have some security plan to keep it in the office. A desktop stays here in the office, so it is here when you guys need it. Gerlach mentioned that he was part of the cyber crime seminar and there are things that will need to be

implemented or we will be forced to implement in the next few years. He said that he is waiting on information to be sent to him regarding minimum standards that need to be in place. Right now, to get us by, which he realizes is just a band aid, we can get a bigger hard drive or off load it. Gerlach said he knows people have spoken with Colin regarding this issue. He said that he personally has never spoken with Colin. He said that he has left messages and sent emails and never gets a response. He said that he has also requested that he be at meetings and he never show up. Again, on that note, I feel if he won't show up when requested, he shouldn't be working for us period. He asked the board if they agreed? Mack said that he did and he agrees with the fact that the village needs more equipment of our own so we absolutely don't have to have the cloud. He feels that the cloud is a nice thing, we need to have a hard drive that things are backed up to every night. It's here, in case something does go wrong. He said that he is not a computer expert. Gerlach said that there are some guidelines that the league of municipalities has and they are supposed to be sending that over to us with a plan that we can implement. He thinks we need to get this done soon. Mack said that he doesn't think we need to spend thousands of dollars to do this. I think the original plan was quite price. Starr said that it was around \$12,000. Mack thought that we could get by for less than \$12,000. Starr said that was the plan that Gerlach had put together a couple years ago. Kubik said he thinks the first thing that needs to be done is purchasing a PC, something reasonable with the capabilities you discussed. Gerlach said the prices have come down since he came up with a plan two years ago. What he had originally envisioned, there was a server going to be in the office with a redundant hard drive in it, in case it needed to be pulled. There was also going to be a new laptop, that would get us by for 5 years. Then a docking station. Grell asked if the programs the village operates on are web based? Gerlach said that some of them are. Starr said everything is going to web based because that is what the future is.

Kubik mentioned that software companies are going to have a maintenance program for you. They are also going to have the requirements for minimums on your laptop. You have to get your software guys to tell you what your minimum requirements are and where the future is for them. So you know that you are putting stuff in the office, that will work along with the updates that are coming in the future. There are a lot of options, when it comes to backups. Kubik said that it is not expensive to get a new computer. At least start with a plan to get something newer. Have a plan to off load it during the slow time. Gerlach mentioned that another thing that came to mind is the disposal of obsolete equipment. He said that there are old computers sitting in the back that probably still have sensitive information on them. Kubik said that you just need to drill your hard drives. You don't ever sell things with your drives in them. Gerlach said that we need to get the ball rolling on these matters. We could get someone here on site that sees what is going on. Gerlach asked if we have an agreement with Colin or the company he works for? Starr said he doesn't think we ever had an agreement with him. He thinks he was just referred to us by Yoder's. That is who set their stuff up. Starr said that he has worked with him personally in a couple places. He is a software network guy who doesn't really show his face. He is not from here. He is tough to get ahold of but he knows his stuff. Piehl said that he is very nice. He has done some work at her place of employment. He comes in and does what he needs to do. Mack asked how he charges us? Starr said by the hour. Cadwell said that he is very reasonable. She said that she likes Colin. She reaches him by email versus phone. I did ask him to come to this meeting and he couldn't because he had two other prior engagements. She said she did ask him to come to the next meeting but she hasn't heard back yet. Cadwell said that whenever she asks about something, he pretty much gets it done right away. Piehl said to be honest, it would probably be easier to get him to meet with a couple board members versus come to a board meeting. Mack asked if he is the expert that we want to speak with or do we want to find another expert? Piehl said she thinks he knows his stuff. She knows a lot of people that use him. Fergus said that working with him is great. Gerlach said his problem is that if for some reason he was unable to continue helping us, what do we do? Grell said there are 500 other software guys you can call. Piehl said that he doesn't have our information at his house. Gerlach said you would be surprised on how much information he has access to. Piehl said I am sure he has access, but it is not like he has it just sitting out. Gerlach argued are you sure? Piehl explained that she was unsure and she wasn't going to accuse him of something. Gerlach said he isn't either but what he is trying to point out is that there is no back up in place. Grell asked if there was an agreement with him? Piehl said we call him if we need something. He

fixes it and it is done and over. Grell said that you need a contract and insurance of liability. If it does happen, we are out of luck. Grell said that there should be something stating he is insured. If he damages your systems, what is that going to cost you to get back? Piehl thinks maybe there is something, they have always used him. Grell said that anyone doing business in town should be insured. Piehl, thought maybe it is on file. Elliott said that Fiala should know that. Fergus said that he doesn't think there was ever a signed contract. Piehl said that he has been around longer than the current board.

Piehl said moving forward they need to figure out what to do with the drive. They discussed prices of the computers and the process. Wilken asked Gerlach to get some prices. Gerlach told Cadwell to get something from Colin too. Kubik pointed out, just don't let the hard drive fill up or you will have another set of problems. Gerlach said there is too many records on that computer, some of those could be removed. Cadwell explained that by law we need to have records on file going back ten years. Gerlach said not on that machine though.

Wilken made a motion to table the computer equipment upgrade. Gerlach seconded the motion.

Aye-Wilken, Starr, Mack, Piehl, Gerlach Nay-None Motion tabled

Discussion approve disapprove overtime for town employees

Mack said he had a discussion with some of the employees. The big issue that they got is that they get called out at 3am and work for 4 or 5 hours. Then when it comes down to when they get to 40 hours, they are sent home. There is no overtime for these people. Mack said that if it was him working under these conditions, he would probably stay in bed. He believes the employee handbook had been changed to limit their hours to only 40. He feels that we need to take a good hard look at how we are treating our employees. If we expect to keep people, something needs to change. We have trained a lot of good people for other companies. It seems like they get experience and then they leave. He explained that we have two guys working here and he doesn't have a problem if they receive overtime. Ahlman said he feels if they should be getting time and half in emergencies. Mack said if they don't want to work the overtime that is fine.

Starr said that he looked up the FLSA which is the Fair Labor Standard Act. In the handbook, it states that we can alter their schedule anyway we need fit. The FLSA says that too. Starr said he looks at it two ways. We are flexible with our employees. If they need to take time off, we allow them to. We are flexible. We don't know when bad weather is coming so they need to be flexible with us. If we want to be strict, and have them work 8am to 5pm, and then they have to leave early they will need to us their pt and vacation. Mack said that you could put that into flex time if you wanted to, but that is your thoughts. Mack said that his thoughts are they get overtime when they work overtime. They should get time and half when called in. Starr asked Grell how he did it when working for the village? Grell said that when he worked for the city it was a give take relationship. He would push snow 40 hours and then take off to make up for the balance. The cost benefit was for the city and for me. He could take extended days off in. He said that when he used to come out and do power outages, they paid him by the 15-minute increment. He said that he wasn't a fan of that, but it is a give take relationship. Wilken asked Grell when you were in charge of your own company, how did you treat your employees? Grell said he paid them overtime after 40 hours. Wilkens asked Grell if he asked them to go home after 40 hours? Grell said he did the same thing and was flexible. He asked them if they wanted to work a rigid schedule and get paid for overtime or do you want to work a flexible schedule and be able to come and go? Wilken asked if he offered his employees comp time instead. Grell said he offered comp time but put a cap on that. Starr said that according to ADP, we can not do comp time. The FLSA doesn't allow comp time either. Wilken said the State of Nebraska does comp time. Starr said well ADP doesn't keep track of that. Wilken said that he would just have to keep track of it on the spread sheet. Starr said that he did that before and didn't work well. Kubik asked how we are covered for after hours work? Who is on call? Piehl said that they used to have an on call and that didn't work either. Kubik asked if it snows and they are already have their 40 hours, what then? Starr said in that instance, we pay them overtime. Kubik said that to him if you call me in after my regularly scheduled day, you better be paying me time and half. You are taking me away from my family, my sleep and putting me in danger in the dark. Piehl said for day one she has been an advocate of the overtime. She explained that where she has an issue and she has never said this before is, she works in Ashland. The other day it was snowing and at 11am they were out pushing snow. There was

barely any snow on the ground and they were already pushing. She said that she gets back to Greenwood and nothing had been done. Starr finally called around noon told them to start pushing. Piehl asked Starr what their plan was before he called them? Starr said they had told before the call they were going to start pushing at 3pm. Piehl explained that you would have been paid all day and you weren't going to start pushing until 3pm, that is where my problem is. If you are on the clock, you need to start pushing the snow earlier. Let's get it started and then after hours if it snows more you can come in and get overtime. When you are here and it is snowing, we need to be getting something done about it. Fergus said he agreed with Piehl. One the particular day she is referring to, he had spoken with Starr. He asked Starr what he wanted them to do. Kubik asked why he was consulting Starr, isn't the chairman the supervisor of the crew? Piehl said no, the chairman can't be the supervisor. Kubik said yes, he can, and it has always been that way. You need one supervisor, not two. Piehl said that the chairman has to be the mediator if they are in a disagreement. Wilken informed them that we have an ordinance section 1 211: B, the chairman is on every committee. Piehl said that doesn't mean that he vetoes every decision that is made. This should be a group effort. Wilken said that actually the committees are just advisory committees. Kubik stated that you only need one supervisor, otherwise there is chaos. Isn't there? You need one person in charge of direction. Wilken said that it has been this way. Piehl said that she will be officially off this committee and it will save her a bunch of headaches. Kubik asked then who do the employees go to then? Do you do a calling tree? That wastes a lot of time too. First of all, I don't think they need much instruction. You hired people, they have a list and they go do it right? We aren't micromanaging anymore, you guys agreed on that. Doesn't he just get a list and figures it out? I mean isn't he in charge of his week to get the things on the list done? Starr explained that we have two full time employees. We have a water/sewer guy, two part-time electrical guys, and a clerk. We don't have enough stuff for them to do. Basically, all these two do is push snow and mow. I mean there are a few things here and there. They don't take care of water and sewer like Grell did. They don't take care of the electrical. Fergus said he helps Vandeman every time he is working in town. I do water taps. I am the guy in the hole for that. Starr said well you do a little other stuff too, but realistically we don't have enough work for two full time guys. Gerlach explained that he was going to interject on this, this debate has been going back and forth for the last two years. I have seen a list for two weeks out for them to do and now you are saying we don't have enough work? I know during the winter time it gets slow, and I have brought this up before. If she needs help in the office, go work in the office. I know you are doing maintenance repairs. I know you have taken inventory of the shop. You have done vehicle and truck maintenance. I know there is stuff to do. Fergus said he maintains every vehicle in there and every one of those vehicles is up to date on maintenance. Gerlach said there are things at the fire station. Gerlach said he had to throw my two cents in because I know there are things that can be done. Kubik said they always had a full time and had a part time because the employee had retirement requirements. He asked would they rather have a guy sitting at home because you have a full-time employee that you need to keep? Starr pointed out that Stewart is now full time now, insurance benefits, vacation, etc. Grell said that something we have done at work is become performance-based setting goals and standards. Your compensation goes along with goals you set in whatever your timeframe you set. If you meet those performance goals and everyone is agreeance that those goals when met, you will receive a certain compensation. You get a raise when you meet this expectation. Starr asked Grell how he would relate that to Greenwood? Grell said this is why when I had a contract here, and it said that you must apply a work order to me. If it is not supplied in a written work order it doesn't count. That way it was all trackable. Grell said that a simple work order process should be put in place. Starr said we have GIS. Grell said to keep it simple, like all work orders completed within whatever time frame. Gerlach said the way that is set up now, you give them a block of time or a date and go from there. You can track them on that to see if they are performing. Grell said this is a two-way street. Managers are in charge of making sure that employees have enough work and block out that time. Then if they meet those work orders and are, they are finished in time, they are compensated at this rate. You get your annual raise. What ever you decide. That way everyone knows what they have to do in order to you to be happy with their performance and them happy with your expectations. Fergus explained that as of right now, I only have one person submitting work orders through GIS. Starr said he doesn't have anything for him except to push snow. Gerlach is the only one who uses GIS. Gerlach said that was

another thing that he was going to bring up later on, but that is another discussion down the road here. Fergus said that he has been staying on top of GIS. He is on it every day. Gerlach said that Stewart has been doing the field work for the mapping and Fergus has been doing the actual audit on GIS. Fergus said that with the snow everything is pushed back. Gerlach said that he is sure he has at least two solid weeks of auditing the GIS program. Kubik said we should also be in planning mode right now. That way when it gets nice, what are the twenty projects we have on the list ready to go? Are the supplies here for this project? There are things from him to do. He's got 40 hours' worth of planning. Kubik said that if needed he could provide a list, he would make one. He said that he could see 100 hours of work needing to be completed. Starr said he would appreciate if Kubik made a list. Kubik said street signs, trees, maintenance plans, are there supplies ready? Starr said the trees are cut. The water meter replacement, replacing sewers, replacing hydrants, etc. Wilken said that we got a new tar machine this year so they will be working on that when it gets warm. Piehl said they did a meter audit last year. Fergus said that every new meter gets tracked as it comes through. He has every meter number, address, and name are in his laptop computer.

Starr said that it has to be one of two things. We can have a set schedule and they work by it. If they need to take off, they take off early. They work overtime, we pay them overtime. The second option, more flexible, if they want to take off early on Fridays if they have over 40 hours. Fergus said in the past you guys have worked with me on Fridays. He feels like it should be a choice. Starr said that works well for Fergus. Realistically, Stewart should be a part time guy. Fergus said that he has at this point, he has ten hours over what he should have for a regular week. Is he going to have to leave early two hours tomorrow and take all day Friday off? How do we work this out? Starr said that if we go by the handbook, we adjust the schedule. Fergus asked if this comes down to one person's decision or is this a majority vote to force an employee to go home like that? Wilken said that if we do it that way, you have to take 2 hours off tomorrow and all day on Friday. What happens if we have an issue on Friday? Mack said that we very well could have an issue on Friday. Fergus could be 100 miles away and Stewart could be in Lincoln. Then what do we do? We need to figure out a plan. Starr said let's just have them work their regular scheduled hours and if they need to take off, they can take off. Pay them overtime if needed. Mack asked if it can be done that based on what is written in the employee handbook? Piehl said yes, we are able to change it. Starr said the only thing it says is we can alter their schedules to fit the 40 hours. Mack asked it doesn't say anything regarding over time? Starr said that a supervisor can alter their schedules to fit the 40 hours. Bargaen said you as a board have to come up with the policy. We are able to alter the employee handbook. Whatever you guys want to do, we will make it fit the FLSA and the other state statues. Mack asked when that can go into effect? Bargaen said that it will just need to be on the agenda for the board meeting and you will need to vote on it. It will then go into effect. Bargaen asked just to be clear you guys are going to have the employees work their regularly scheduled hours are going to pay overtime when necessary? Starr said yes and if they need to come in early to take off for an appointment, I say no they need to work their regularly scheduled hours. Otherwise, they need to use their vacation we give them. Wilken said if they have their 40 hours in and need to take off they are able to. Fergus said that he spoke with Stewart regarding this, we wouldn't be opposed to our overtime being stored in a comp bank. We are open to overtime being used as comp time. Gerlach said that goes to back to the issue of being unable to track it. Starr said that if we are going to do it that way, he will not be in charge of ADP. Fergus asked if there is anyway it could be added in to ADP? Starr said that it is too difficult, but could be done. Grell asked if he was able to add a line item to the payroll service? Piehl said that Starr takes care of payroll. Starr said that it would be a pain. Piehl said that if we just keep it like every other job, everyone has a set schedule, you work your hours, and if you work overtime you get paid for overtime. This very standard. Gerlach asked if they get called in, is there a minimum that they get paid for? Starr answered two hours. J. Mack asked don't you feel that it is reasonable, to be a little lenient with your employees? You can't be strict all the time. Wilken said that they are all lenient at times. Starr said that we really need to look at that second maintenance position. Gerlach said just for clarification, so we will pay over time for anything worked after the scheduled 40 hours? Starr answered yes, and clarified so if they take a vacation day, that time will not be included in that 40 because they didn't actually work the 40. Piehl reminded them that the overtime has to be approved. Bargaen asked if they wanted the attorney's office to review the handbook?

Bargen suggested they make a motion to have Rembolt and Luedke review the handbook for any updates necessary. Fergus said that there are times when he left early and Stewart still had a full day worth of work and then he is told he has to go home. Starr brought up reviewing the second position again. He thinks this is something we really need to look at. Gerlach asked if only having one person is an insurance risk? Fergus said no but it is a safety factor. Starr asked Grell for his opinion in the matter. Grell said that if it is risky, you should not be doing it by yourself. Do not do it by yourself. He feels common sense applies here. Fergus said that we are not under OSHA's thumb, but we are under Nebraska Department of Labor who follow OSHA's guidelines. Grell said there should be a man on the ground, then a man above. A man on in the hole and a man above. There are certain things that are requirements. Starr agreed when you are doing projects like that. Kubik wondered if the part time guys are going to be there when you need them? That is where we had struggled before. He feels Stewart has been an exception, you don't find guys that live in town and show up when you need them. Cadwell feels that if you moved Stewart to a part time position, he would quit all together. She feels that would really upset him. Piehl said her only concern with that it that Stewart works hard. Wilkens said that he will work 50 hours and only clock in for 40. Piehl agreed and with a smile on his face. He is a good worker. Kubik said that as a citizen he would not want to see his services deteriorate because we only have one guy. The cost of two versus one is not that significant. Mack said that the fact is that there aren't too many more people that know more about the town than Stewart. When something goes wrong, he has knowledge of where the problem might be at. He has done quit a bit for town and we would be losing an asset. Starr agreed and explained that the reason Stewart had been brought on full time was because the previous maintenance man had quit. They brought him on full time until they filled that spot. Then they hired Fergus, and he still remained on full time. Fergus said that Stewart was full time before that. He came on full time over 5 years ago. Elliott asked why the board doesn't review the handbook? She said that it would cost the town a lot of money to have the attorney review the handbook. Mack didn't think so. Elliott said that the board could take the issues that they found with the handbook to the town attorney. Bargen said from his understanding you guys would like to have a standard work schedule. He thought that it was written that way already. He will just check to see if there are any updates needed. Wilken brought up the harassment policy needed review too.

Gerlach made a motion to table this until the town attorney reviews the employee handbook and updates with the addition of approval of overtime. Mack seconded this motion.

Aye-Mack, Piehl, Gerlach, Wilken, Starr

Aye-None

Motion tabled

Ordinance

Discussion approve disapprove Ordinance 482 for Occupancy and Inspection Program for Rental Property

Wilken said he has a few concerns with this. He is wondering who is qualified to do these inspections? How much will the fee for the inspection be? How much will we pay the inspector? Bargen said that this would only effect properties that are rented to other people. Grell mentioned that the there are exceptions listed in the ordinances, such as family. Bargen said this ordinance had been originally drafted 7 or 8 years ago for the town of Fairbury. Other towns, have shown interest. LaVista has a program in place. This is based on research on US Supreme court cases. The idea is that municipalities have the police power authority to regulate businesses. Renting a property is viewed as a business, and that is the basis for regulating that operation. It is a simple requirement. What you are saying is anyone who is renting a property to a third-party, excludes family and other entities such as the Housing Authorities is required to have this inspection. Anyone who is doing a standard rental is required to go through a 15-point inspection by the village and get a certificate. The certificate is initially good for one year. Then everyone goes through that again and they get a two-year certificate. The third year you get a three-year certificate and then after that it will always be three years. There is a bunch of work with this. He has a whole stack of forms that go along with this. I have the initial notice to the land owners. The first step, would to be figure out who your land owners are. What most towns do is view their utility records and see if they match the records at the deed's office. If they don't that is usually an indication that this is probably a renter. You send out the initial letter saying you have been identified by a landlord of a rental property. You are required by this ordinance to sign up, pay a fee, and be inspected. If you fail to comply, you will

be unable to rent your property. That is how you would start to get that database built. Then, once that is built, people will sign up to be inspected. The biggest question is probably who is going to do these inspections. Wilken asked what type of qualifications do they need to have? What will they pay them to do these inspections? Do they need to be a HVAC, certified in plumbing and electrical? Do they need to have this whole background? Bargen said that some towns might go that route, but he doesn't think you have to. All you are doing is enforcing the IPMC codes. They usually send out letter out explaining what the code provisions are and include the checklist. That doesn't require someone necessarily trained to be an inspector. It is probably a good idea to have someone that has some training. What Fairbury does is contract with a general home inspection company. Again, they are not inspecting to make sure that HVAC is properly installed, just the basic stuff that meets the code. Wilken said that in the event that it would go to litigation, you would want to show someone had some training in the area. At this point, the village already has on file or on the books the IPMC codes. You could already enforce that against properties. It wouldn't take a professional inspector to find an issue, but as long as you name someone to do it. Bargen said that he thinks they even call it a review as opposed to an inspection. We do that just to make sure that it is meeting a through whatever. Grell asked if this premise is based on voluntary compliance as far as inspection, am I correct? Bargen said yes, the idea is to get ahead of nuisance properties. Grell said that the problem he sees with this is that people are not going to abide by it. You are going to have to take them to court. He pointed out that there are building and zoning laws in place to correct those issues now. We aren't taking anyone to court now. We are not enforcing those things now. Why would we add more legislation? Bargen explained that is the issue. This is great, but you have to be willing to enforce it. In Fairbury, we have around seven lawsuits filed. That is out of 200 and some properties. We had almost 90% participation. We were shocked. Grell asked if the trailer court will fall into that category? Bargen said yes. Grell explained that his fear as a landlord is that he does things correctly, if you pass this, he will follow it. If this thing gets passed, here is what will happen. It happens with every other zoning law we pass ever passed. There will people that will abide by it will abide by it, and the people that won't, just won't. We won't go after them because we need more money to take them to court. So, we will up the fees, so the people that are voluntarily complying will now pay more fees every time the fee schedule comes out. What will happen is that eventually, you will be paying this fee for no service what so ever. I get a certificate of occupancy through the county when I build. My point would be if we are not going to enforce the current ones. We don't know who the code enforcement authority is going to be. Based upon the history of us doing things, there is no ways that this is going to get enforced if we are not enforcing any of the current codes. The nuisance abatement alone could keep the town busy for ten years with the current stuff that is on the books. The property that came in to question, the trailer court, there are already numerous violations that have occurred and we have done nothing about it. As, someone who pays an enormous amount of fees, schedules, and taxes, why would I want another fee to watch nothing get enforced. So, if you pass this, I will abide by it. It is not in my interest to have a crappy tenant property. He questioned if he was able as a landlord if he was even able to tell a tenant that the property would need to be inspected due to the landlord/tenant act? There are certain provisions he has to meet to go inside a tenant's house. So, he would never tell a tenant that they need to let the city in. Bargen said that there are provisions on here that you will need to get the tenants permission as well. If you don't get it, you get an inspection warrant. Grell pointed out that is court. More money and more fees. He said that if your intent is to start enforcing all these things and make some of the nuisance properties go away, then go for it. If this is something just to put on the books to say you are in violation of something, then don't bother because those people are already in violation of other things. Piehl agreed to his statement. She said that she brought the board that there were only 4 trailers in compliance over there. She brought all the things that weren't in compliance to the board. The next step forward was we were going to start the court proceeds and it was going to cost money. Mack said that he agreed with Grell about the need to start enforcing things and getting things cleaned up. Gerlach said that we use Cass County as our police enforcement. The way he understands it is that if we have a violation of our ordinances, we call Cass County and say go write them a ticket. Bargen said he thought the agreement that the village has they have excluded ordinance enforcement. Grell said that the board at one time had got together while they were renewing there interlocal agreement and said we want the ordinances enforced. He explained that it

is confrontational with residents/property owners, these are confrontational things. They went out and started issuing tickets and they would bring them up to the clerk, because it is not the county's job to file those tickets. Not one of the tickets were ever filed. The Cass County Deputies were catching all this flack. If you do not file the charges, here is what the violators sees, the violator is not upset with the city. The violator is upset with the county because the cop gave me a ticket that will not be enforced anyway. There is a pattern of that and I wouldn't enforce it either. The community standard has said that if I write this ticket, you are not going to enforce it, so there is no point in writing this citation as a police officer. This goes back to the enforcement. If you are going to enforce it, enforce it. Kubik said that public shame has gone away. Most people don't care anymore. It used to be if a neighborhood got together it would get fixed. That is true today. If we all believe in fixing the town and we all start banning together, it will change. There is no doubt in my mind. We can force someone out of this town very quick if we don't agree with their plan. The community is not on the same page. Public shame is not a big deal anymore. People don't fear it. Ahlman asked if there is a possibility that someone could be appointed to say you have had thirty days and we are going to fine you for it. Bergen said that you can have a code enforcement authority. Some towns do that, but in terms of police enforcement, you usually have an interlocal agreement with your sheriff. That is why a lot of these property ordinances are enforced in civil court. You take a few people to court. Bergen said that you can write tickets all the time and one ticket for each violation. Grell said that a \$25 ticket is no big deal compared to a \$1800 civil suit. Bergen said if you take them to court the disadvantage is the cost. He explained what they are doing in the city of Fairbury, is suing for injunctive relief, which is where we ask the court to forever bar them from violating that ordinance. If they ever do, we can bring them back to court for contempt. That would lead to either a fine or imprisonment. It is a lasting solution. It does potentially cost more, but it is a lasting solution for issues you might have. Grell said that abatement laws have been laxed, I would say that the village start there. That is the cheapest and quickest solution. Bergen said that there are some towns that have the mistaken notion that you have to get a court order first. Grell said that we have spent thousands of dollars on nuisance abatements in the past and didn't really get anywhere. Bergen said that is a common problem a crossed the state. The issue is do you want to abate the nuisance yourself and spend the money. There are two goals. The first would be to get rid of a problem property to increase the value of the surrounding properties. The second would be to get the person to comply so the village doesn't have to pay for it. Unfortunately, those two usually don't coincide with one another. Fairbury has applied for state grants to house demolitions. They have been pretty successful with this. The trick with this type of program is work intensive on the front side and then enforcement issue. Cadwell asked Bergen to clarify how we go about this step by step. Grell suggested paying Bergen to come up with a nuisance abatement process. Pull out a book, insert address, that way you don't have to contact Bergen every time. Bergen said that he has form and letters for everything. Grell said that if you make this a process, one will become two and two will become four. Then you will have a process. Cadwell said that she will follow through if it explained to her thoroughly. Bergen said the process is in ordinance and state statue. Ordinance is not always what is current with state statue. Bergen said the statue requires the five-day notice and the chance for appeal. He thinks the statue requires the board of health or the mayor. Bergen explained that we have forms for notices for people that we can let you use. Grell said he would suggest if you are looking for something to easy enforce, Lincoln and Omaha have a maintain a disorderly house ordinance which is a criminal penalty. This has been very effective for getting people to comply. Specifically, we have used it with landlords. It has already been defended in Supreme Court. You could basically copy that ordinance and the trick is that you would have to get the sheriff to enforce it. You would also have to file the tickets.

Gerlach made a motion to table Ordinance 482 for further research. Wilken seconded the motion.
Aye-Piehl, Gerlach, Wilken, Starr, Mack Nay-None Motion tabled

Board Questions or Comments

Mack mentioned that the code books need to be updated. He also discussed employee reviews and files. He could find the employee reviews. He asked if we had files set up for the employees. Piehl said that they all have files, but not actual reviews. Piehl said that she was never told that the reviews need to be written out. We come, we present it, and it goes in the minutes. Wilken thought that it should be written.

Mack said that the forms need to be on file because when the time does come and you have an employee that is not performing, you will need to reference what has been documented in that file. He said that we should have an opportunity to view the review forms before a raise is given. Piehl said that she would be more than happy to fill out a form, it just wasn't relayed to her. Wilken said that this was brought up in the conference the other day. Barga said that it is better to have documentation. The board continued to discuss the documentation of review and issues.

Starr said that he feels the townsmen did a good job pushing snow this week. He thanked the other board members and citizens for their help as well.

Wilken said that there are some concrete steps setting on 3rd between Pleasant and Grand Streets and they need to be moved. Elliott explained that someone had tried to steal them from the homeowner. The homeowner was not able to get them back up to where they belong. Fergus agreed to help move them back.

Wilken mentioned that there were cars left up on Main Street during the snow storm. He said that the signs are not there anymore and they need to be put back up. Fergus said that they no longer have the signs.

Gerlach mentioned that there is a grant organization that is expanding into Cass County.

Piehl thanked everyone for helping with snow. She suggested that the extra helpers be insured.

Adjournment

Wilken made a motion to adjourn at 9:15 P.M. Piehl seconded the motion.

Aye-Mack, Starr, Wilken, Gerlach, Piehl

Nay-None

Motion carried