

# Greenwood Nebraska

*Small Town, Nebraska with Big Heart*

## **Board of Trustees November 28, 2018 Meeting Minutes**

NOTICE IS HEREBY GIVEN that a Regular Meeting of the Greenwood Board of Trustees will be held at 7:00 p.m. on Wednesday, November 28, 2018 at the E.L. McDonald Community Center, 619 Main Street, Greenwood, Nebraska. Said meeting is open and the public is encouraged to attend. The Board of Trustees reserves the right to adjourn to Executive Session per State Statute 84-1410. The open meetings act is posted in the meeting room for the public to view.

Meyer, Starr, Wilkens, Gerlach and Piehl are present

### **Consent Agenda**

Approve/Disapprove minutes

Approval of time cards

Claims

Financials

Gerlach mentioned a typo in the minutes. Starr asked what the image trend invoice for. Cadwell explained that the invoice was given to her by Wrich and was an old invoice that had not been paid. Starr made a motion to approve consent agenda. Meyer seconded the motion.

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

### **Communication of Citizens**

Consider requests from individuals present. Each speaker will be allowed two minutes and no action will be taken on these topics until the next Board Meeting. The Village Board will review the matters and take action as they deem appropriate. Notice: There is to be no comments or disruption to the meeting in progress. You will be asked to leave if the above is not adhered to. We ask for your cooperation and courtesy. Thank You.

Ahlman said he was contacted by the Nebraska Forest Division and he will meet with them in regard to Ash Border. They will be pulling samples from his trees.

### **Old Business**

#### **Discussion approve/disapprove recouping losses from former employee overpayment**

Starr said he met with the former employee regarding this issue. Starr said the numbers that he was shown by Fiala did not match up with what the auditor put in her report. Starr said he feels if we do pursue it and try to recoup our loss, he thinks we are setting ourselves up for a lawsuit which could cost the town more money. Starr feels that Fiala went above and beyond for us in regard to helping us get the next employee set up. He said that we also need to take in consideration that this could affect current employees with the village. Meyer said after reviewing the black book and some previous audits, we as the board are responsible too. Starr said it was approved at the time. Wilken said he agrees with that but according to the way the audit is written, the board gave the raise but didn't pass an ordinance until months later. Wilken said he feels that we are setting ourselves up for a bad situation with the state. I think we need to recoup the loss and after that he is fine with it. Starr asked Wilken if we would go after the other employees as well, because we had the same situation happen with them too. Elliott asked why we are having the same situation all the time. How come when you are giving raises you are not making ordinances? Elliott said you are setting yourselves up for failure. It is not even the employees' fault. It is the board's fault for not doing what you are supposed to be doing. Wilken said he agrees but they could have retroactive the raise in the minutes. Starr said that maybe the clerk could look into this a little more. Cadwell said that she had but so far had only been able to label the audio by dates, but hadn't had a

chance to listen to them in detail. Starr said the one thing that he noticed is the numbers did not match up with what the auditor had. Starr said we had a couple meetings with the insurance deal and the numbers did not match up. Cadwell said there is emails regarding the insurance mistake. She just does not know how to rectify the situation. Cadwell asked Bargaen how this should be handled. Cadwell explained that there was error in Fiala's pay because she sent an email to Paychex stating she was owed two weeks of vacation to her vacation account. Paychex misunderstood what Fiala was saying and paid her out for two weeks of vacation. Fiala said when she received her check and it seemed a little high so she went back and looked at it. Fiala said the next pay period she paid back part of it. Starr said he saw where it is being removed from her check. Fiala said it was put in her account, took it back out of her account, and then they adjusted it. She said that she was also charged around \$900.00 in taxes. Fiala said that everything Paychex did at the time was so in and out it was hard to tell what was actually ended up happening. Fiala said that it has been paid back in increments as it went through. Then we get down to the raise and she knows now that she was not entitled to it, but there are other employees that wouldn't be either because of the way the ordinance is written. Fiala said she feels as if she has been targeted for it. Bargaen asked if the board has figured out how much is truly owed. Wilkens said they have not figured out how much yet she would lose because of the ordinance and when it went into effect. Bargaen asked so what you are saying is the auditor's report is not necessarily correct. Wilken said on that part it is, but we don't have a dollar figured out. Fiala pointed out that she has paid taxes on that amount, so if she pays back that total amount, they figured off the gross amount and not the net amount. Fiala said it is a mess. Bargaen said he feels like the best approach would be to get all the numbers figured out and to figure out what the net result is. There should probably write a letter to the state auditor which Bargaen would assist with that and explain step by step to what we have found. Bargaen said it may be that they are not seeing the full picture or there is more to the numbers than what they could find in the records. Bargaen said if the board could come up with the numbers and what they can find in the records and come up with a net result, he would be able to draft some correspondence. Starr said it came up to be about a \$1000.00 for the whole thing. Wilken pointed out that part of that was the insurance thing. Fiala said that there was another amount in there that she was not even sure how the state auditor came up with it. She said the amount wasn't even a part of the payroll. Fiala feels as if the state auditor made an error too. Bargaen said that we need to figure out all the issues that came up with that and do a calculation based on that. Wilken said we need to figure out what was net and what was gross. Wilken said after that is done, we can draft something saying we forgive if they deem necessary. Otherwise we might have our hands tied on this. Gerlach asked if it is still possible to get a full payroll report from Paychex. Fiala said she already had one. Starr said that he was showing her some numbers and they just don't add up. Gerlach said he remembered the situation. Fiala said that Paychex did not do a good job. Piehl said that Fiala called the department of labor. The department of labor said that technically Fiala did not have to pay it. Fiala said if the board would like to take her to court for it, they can. Elliott asked why the department of labor said Fiala did not have to pay it, because it was the board's mistake. Bargaen said the first step is to figure out where we stand with the figures. Gerlach asked if there was a time frame that this needed to be completed by. Wilken said they did not give us a time frame. He would assume that this needed to be resolved sooner than later. Wilken said that it would clear Fiala's name as well. Fiala said speaking of that, she found the three bids for the three-phase project. That was something that was requested by the auditor. Cadwell said that we can send that over. Wilken said anything that we can find to give back to the auditor we will submit. Cadwell said we are getting ready to do the audit for the current year and I'm sure that can be included. Fiala thinks that 85% of the report can be cleaned up. Fiala said the documentation is there. Elliott asked Fiala were she found the missing documentation. Fiala said that she just knew who to ask for old meeting minutes. Meyer said that Starr made a comment regarding approval, time cards and financials, and we will run into a cost here. Meyer thinks someone should go to the state auditor and explain this is what is in your report and this is what we have. Meyer said it should be yeah or nay and be done with it. Bargaen said that what is in order is some kind of correspondence or discussion with their office. We have found some additional information and here is what we think the situation is. Starr said that if it had been a large amount, like thousands and thousands of dollars he could see it. He said this is minimal for what we are going to get ourselves into. Starr said this needs to be cleared up. Bargaen said there are a number of other issues with it. Gerlach commented that it is like opening Pandora's box. Bargaen said no, but there could be other considerations. Elliott said don't you folks realize like the one you did tonight, are you really sure those are correct? Does someone make sure those are correct before you ever approve those up there. Wilken said that Starr signs the timecards now. Elliott said that she realizes he signs them. Wilken said that no one had ever initialed them before. Starr said before the clerk

had done them before, it wasn't done by the board members. Starr said know he does it and passes it on to someone else to sign off on it too. Gerlach said that it's per the auditor that we are double checking. Elliott said from this point on we should not ever have this problem again. Starr said no we should not have this problem. Elliott commented that you should know what you are approving while you are sitting at these meetings. Wilken said that they shouldn't have had this problem before but we are all learning from this situation. Fiala said part of the time cards had been signed off on because Criswell had signed off on them. She thought when Moll was chairman, he had signed off on part of them. She said then Paychex did the calculation, other than that the only thing I did was send in how many hours each employee had worked. Fiala said she didn't have any control over payroll itself. Mack asked if they were going to set a time limit on when you are going to get this squared away. He said he feels this is important before he joins the board. Starr said the sooner the better. Mack said he feels like the current board needs to get this thing squared away in his opinion before the new board comes on. Meyer said per the audit and he won't go in to detail, but that is only one item of who knows how many that needs to be rectified. Meyer commented that these things did not happen over night and with working together positively he is sure we can get these things cleared up. Mack said all he is talking about is the thousand dollars that needs to be recouped. He doesn't care about the other items. That thousand dollars that we are talking about needs to be rectified, by the current board which you are a member of. He said that when the next board comes on which he will be part of, he doesn't want anything to do with this. Piehl said she thinks we should get it rectified. Starr wants to get it done as soon as possible. Piehl said that we have discussed and discussed it. Wilken said he is sure that Fiala would like it cleared up today, obviously. Wilken told Mack next meeting you are on the board. Mack told Wilken that is what I am saying, so you have two weeks to figure this out. Mack explained that this has been going on for quite a while. Wilken said he thinks the state auditor will be back sometime in December. Starr asked Cadwell when the state auditor will be back. Cadwell said she called HBE to let them know the payroll was almost complete. HBE said to call when it had been completed to schedule an appointment. Cadwell explained that the process will be that after Cadwell is complete, the accountant will make a copy and do their figures. After they are finished, they will turn it over to the state auditor. Cadwell said she did find some mistakes where the water bond was paid out of the street account for the 2017 -2018 year. Cadwell said the accountant will let her know how to correct the situation properly. Piehl asked if the auditor will only throw a red light at this, not anything else. Cadwell explained that the next audit will be more extensive. Wilken said it will be done more in depth. Piehl said that she was referring to Fiala's situation. She said that we have a whole list of stuff that needs done. She said as long as we are doing something to recoup it or fix the problem. Wilken said basically we are trying to clear her name because she is an individual compared to an entity. Wilken said we can correct the issue with the bond payments coming out of the wrong accounts. Wilken said we are just trying to clear Fiala's name and get this situation handled so Fiala can move on with her life. That way it is not hanging over Fiala's head. Piehl said which is the point of this, not the thousand dollars. The point is this is her name that got printed in a paper. Starr said it was not like she was stealing from the town. It was an innocent mistake. Piehl said it is not like she wrote herself a thousand-dollar check. Barga said he thinks that is what the auditor should know and what the circumstances surrounding this situation are. Wilken said we can put that in our letter to them. Barga said the auditor's real enforcement action is the audit itself and to raise the issues. They stop state funds if necessary. To what extent they would do that he does not know. It's best to keep communication open with the auditor. Piehl asked if we needed to figure out an amount. Piehl said isn't it around \$600 or something. Cadwell said it was \$648 was the amount that was figured regarding to the raise and ordinance. Cadwell thought that maybe if she is able to go back and listen to the minutes, she will find something. Fiala said that it was the current board's first board meeting. She thought it would have been the beginning of December 2016. Wilken asked if that was when Fiala's raise was approved. Starr was not sure. Fiala said yes that it was the first meeting in December. Cadwell said she would definitely listen to try and figure it out. Wilken said if it states it is retroactive it will not be a problem. Fiala said she feels that she can find it. Wilken said that they cannot find anything documented in the minutes and that is what the problem is. Cadwell said if she can find the recording then they can give it to the state auditor. Fiala said she found part of the minutes so she can probably find the rest because now she knows who has copies of all the minutes. Wilken said if you can find them make copies and give them to the clerk so we can put that with the letter to the state. Gerlach said again like Mack was saying can we have this resolved by December 10, 2018. Wilkens asked if we could at least have a letter prepared. Barga said it will not be resolved until the state says it is resolved. Wilken said it could take the state awhile. Barga said it

could possibly take months. Bargen said that it comes down to information coming to him. Piehl said if it helps for other people to go with the recordings with Cadwell, email them to her.

Wilken made a motion to have documents to the attorney by December 5<sup>th</sup>, 2018 so there can be a letter written to the state of Nebraska by December 10, 2018. Starr seconded the motion.

Aye-Gerlach, Wilken, Starr, Meyer Abstain-Piehl Motion carried

### **Elliott Nancy community center rental questions**

Elliott asked if anyone remembered when we had the meeting in the other side of and it was brought up to start renting out the community center. Wilkens said that Krings had brought that up to him too. Elliott asked what the board was thinking in regard to this. Wilken said he hadn't really heard anything regarding this. Elliott said while she was there for the election, she noticed that there is nothing in there. She said that when you rent out a place there is only tables and chairs. She said there is no longer a stove or silverware. She said there is no longer plates and napkins. Elliott said you can't hardly rent that out in that condition. Wilken said as long as you let them know that upfront, you can. Elliott said you can't charge them \$75.00 for that when you are not supplying them with the things they need. Wilken said it also has heat, air, and electricity. Meyer said that years ago, it used to be when this was developed, boy scouts, girl scouts, funerals whatever had to make a deposit of \$25. The clerk would inspect it and if it looked cleaned the deposit was returned. Meyer pointed out that we are a community and we need to support our local people. He said that doesn't mean you have to give things away because electricity and water does cost. He said that we need to remember that they are property tax payers. Elliott didn't realize that there were still tables and chairs in there because she thought all those were sold. She said that when they had the election up there, they didn't even have a towel to use, a fork or even a cup to drink out of. It had all been sold. Elliott asked Fiala what happened to the money from the sale of all those items. She asked if the money had been kept separate from all the rest of the accounts. Fiala said it had been placed in the general fund. She is not sure where it was put, but said that it was set aside. Starr said that he was going to ask about the renovation committee because he would like to see the other side completed. Starr said when he was a kid, they had stuff over there all the time. Elliott said the committee was waiting to see what the board wanted done with it. Elliott asked if anything had been put in the budget for them. Elliott said the committee is just waiting for the go ahead. Starr asked if the committee still meets. Elliott said they are having Santa Claus at the community center this year. Elliott said it is a nice building and it looks nice. She doesn't know why they can't have birthday parties or something like that. She said that she is leery about the price. She said that it was raised a few years ago. She thinks it was raised in 2006 to \$75.00. She feels the price of \$75.00 is fine for the fire department, because they have stuff there. She just doesn't think the community center should be rented out for that much. Gerlach asked if Cadwell had the current fee schedule. Elliott said the last one she had a copy of is from 2006. She thinks that is probably the most current one. Wilken thought one was done around 2008 or 2010 when he was on the board before. She said that in 2006 the cost of renting out the community center was \$30.00. She said then it was raised to \$75.00 which she felt was a hefty fee. Piehl asked Elliott if the cost of the fire hall rental and community center rental was done at the same time. She said no because the fire station at that time was not rented out. It was when it started to get rented out that the fees of what the community center would of. The cleaning and the same rules that applied to the community center applied to the fire station. She has a copy of the community center rules and fees but she can see that this is outdated. Ahlman asked if is more realistic to rent it out for \$25.00 for boy scouts and \$50.00 for something that is generating more money. Elliott said she feels that \$50.00 would be better than the \$75.00 it is currently set at. Piehl said it would definitely be something to consider since it is lacking somethings. Elliott said that she noticed further on down the agenda an item that she will speak about now. She said way back when we had these rules, the local organizations city groups like the brownies, girl scouts, church groups, friends of library, 4-H, etc. did not pay anything to use this. It was free because their thing was this was a community center and it is for those organizations within the community. She said she doesn't know if she would say the same for the fire hall, but the community center should be for the community. Piehl said since she has been on the board, they have always just donated it. She can't recall a time that they have charged for any of those organizations. Piehl said it has to be local organizations. Meyer said years ago the community center had their own fund with their own money. They need to get a community center entity again, to keep track instead of putting all the money together. It's like for the old dump, you know for the state health there is supposed to be \$1500 left in there and no one knows. He realizes that he knows this is more work for the clerk, but that way if a new board comes on there are answers. Meyer said this needs to be incorporated into the budget. Elliott said she doesn't know what year her document is from, but here is a total of \$540.00 that was brought in that year. She said the fees covered things like

new towels and stuff like that. She said she didn't realize it was that nice in there. She noticed that there was paint and stuff on the walls and that wasn't there. She said that someone did ask her when all that stuff was sold where did the money go. She said the money could have been used for Community Center Foundation could have used it. Gerlach said it is still sitting in an improvement fund. Fiala said she would have to look at the accounts because she knows where she put it. Wilken said he thought that there was an account at Great Western Bank that was made for the community center. Piehl said that money got taken by the board before us. Gerlach said that account got cleared out prior to us. Elliott said that was in the minutes too. Wilken said that was all supposed to be for the community center if he remembers correctly. Piehl said the amount was around \$5000. Piehl said she dug through and tried to figure it out and it had been closed. Elliott said the board at the time did not think they needed it anymore because we were going to redo it. She said she does know why it wasn't saved for the remodel. Elliott said if you want the committee to get started on that, we can get started on that for you. Elliott said that the committee didn't even know what was given in the budget for the remodel, if anything. Wilkens pointed out that they contracted someone else to do their budget this year. Starr said we can use some of the funding from capital outlay. Elliott said she will get with Krings and let her know. She said they just want to start renting out. She feels the out of towners should be charged a little more. Gerlach said that on the last fee schedule, the fees were listed. Meyer told Elliott to give Jim Peterson a call. He said that we used to go through SENDD, but now they go through some outfit out of Omaha. So evidently the county is getting better cooperation out of the new one versus SENDD. Cadwell told Meyer SENDD opted out of doing Cass County this year. Elliott said she will look into it. Gerlach requested that Elliott provide the board with a want and need list for the community center. Gerlach said to make a list of what needs to be done right away. Starr said like a stove. Gerlach though maybe new table and chairs. The others are heavy and old. Elliott said it is a good project to get started on.

#### **Allocation of payroll**

Cadwell told the board that auditor needed this recorded in the minutes. She spoke to the accountant to see how they would like this done. Cadwell explained that the expense of her payroll will go to the general fund. The librarian's payroll expense will come out of the library fund. Fergus and Stewart's payroll will be split equally between the street, electric, water, and sewer funds. Strode and Wiggle will come out of the electric fund. Cadwell said she actually did hear it in some minutes and that is what they were doing back in 2016. She said she didn't hear that until tonight though. Gerlach made a motion to approve allocation of payroll as stated that is currently in effect as to document in the minutes. Wilkens seconded the motion.

Aye-Gerlach, Wilkens, Starr, Meyer, Piehl      Nay-None      Motion carried

#### **Discussion approve/disapprove bore bids for 4<sup>th</sup> and West Streets**

Fergus said he provided the bids for the board packet. GE placed a bid for \$10.00 a foot. GE seems to be the most cost effective. Wilkens pointed out that one company only bided on two hundred and fifty feet. Gerlach asked Fergus what this was for again. Fergus explain that the location is behind the Coop on West Street, just off of 4<sup>th</sup> Street. He said they will be going from a three-phase cabinet and running behind to the transformer by the Corey residence. Wilken explained that way they can bore all the way behind the Corey house. That way they can loop that, so if we have an outage in one area we can loop back. He said that they can go underneath by Yoder's warehouse and go underneath the tracks and tie into that one. That way if one side is out, they can divert power to another. Starr said this will be like phase one of what we are trying to do. Piehl said that way if the power went out, there would just be a few with outages. Wilken said that we can flip that over there where it is only going to be a few houses instead of a whole side of the village. Gerlach said so this is phase 1 of a project that was supposed to take place ten years ago. Fergus said he is still waiting on a bid from Spickelmier for phase two of the project. Fergus said they have to get ahold of the railroad and the state which about going underneath the highway which could be costly. Wilken said their will have to be someone from the railroad there the whole time. Meyer said he pointed this out to a couple of other board members, but the K2 bid they have excluded railroad insurance and working within the railroad right away. Fergus said that K2 never actually came out. They gave a bid over the phone. Wilken said they must know that we have railroad tracks, so they probably put that on there. Meyer clarified so we don't need a permit. Wilken explained not for this because we won't need to go under the railroad. It is the next one phase that we will need a permit for. This will go underneath on West Street back to the alley between West Street and Pleasant. GE said that the number is very close to what it would cost unless we run into issues and then the price could jump. Starr asked if Spickelmier had actually came out and measured. He asked why Spickelmier bid was less footage than GE's bid. Fergus said he is unsure but it is two runs. One is 230 feet and one is 120 feet.

Gerlach said obviously he missed one. Starr said that the bids would be around the same or actually a little more than GE's bid. Starr asked if we have all the supplies needed for this project. Fergus said yes and they will be backhoeing. Fergus said they are going to try to make this easy. Piehl asked Fergus if GE gave a time frame of when they would be able to do the project. Fergus said sooner better than later. They said they would be able to get to it very quick. He said that Spickelmier is two weeks out. Fergus said if the weather holds up they will still be able to get to it.

Wilken made a motion to have General Excavating to bore 350 ft for our first phase of the 4<sup>th</sup> and West Street project for \$3490.00 with a 10% contingency. Starr seconded the motion.

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

**Discussion approve/disapprove bids for Dutch door for office and deadbolt for chamber door**

Gerlach asked if there was any word on this. Fergus said he hasn't heard anything back yet. Gerlach said he also was supposed to have something and wasn't able to get it. Wilken said Tweton was supposed to submit one as well.

Gerlach made a motion to table the issue for the next meeting. Starr seconded it.

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

**Discussion approve/disapprove Ahlman rezoning permit**

Wilken asked what the planning and zoning come up with. Ahlman said that Wright is in a different world. He said that the board of trustees had made him the chairman of the Planning Commission. Wilken said that the board had never done that. Ahlman said that they would do nothing. Wright told Ahlman was unable to talk at the meeting. Gerlach asked what the discussion was regarding to the permit. Ahlman said it was tabled. He said that Wright never mentioned anything from the ordinance book as to why it couldn't be approved. Gerlach said he just needs to know if it was tabled. Ahlman said yes, it was tabled due to not having enough people. Wilken said with the five people then just appointed to the board, they did not have their books for one thing. That is probably one of the reasons. Two members did not show. They still had a quorum, but they said there was no quorum. Ahlman said that there were five members who attended but since he was unable to vote on his own permit, that only made four members to vote. Wright told Ahlman that it would be deadlocked so the zoning permit was tabled. Gerlach said it was his understanding that with everything that has went on and now that there is a planning commission now that now that permit has been tabled there is nothing that the board of trustees can do about it. Once the permit is approved or denied, we can step in. Barga said that if this is a change of zone than a public hearing will be required and will need to be advertised beforehand. Gerlach said that since this is tabled, we can't do anything. Gerlach said that with the new members we need to get officers elected. Wilken said they need to elect a chairman just like we do. Wilken said that they thought they did not have a quorum. He said that Corey had contacted him regarding this. Cadwell told the board that Sabin is still on the board and she got her information so she can be notified of meetings. Gerlach said he thought that her term limit was up. Cadwell was unsure. Starr asked if everyone had received a book. Cadwell said she gave them what she could come up with. Gerlach said there are electronic copies on the website as well. Piehl asked if they scheduled the next meeting yet. Are they going to do a special meeting to elect officers? Starr asked Ahlman if there was a business ready to go into the area that he was trying to rezone as commercial. He wondered if that was why Ahlman was in a hurry to have this passed. Ahlman said that he wanted the zoning change to move equipment from his property to that area so neighbors are not complaining. Wright told him that he did not need zoning for that. Piehl asked so you are going to take the stuff from your driveway and put it on that lot? Ahlman said yes, he is going to put his equipment over there and get it out of his driveway. He doesn't want anyone complaining that he has equipment and added that there could possibly be more equipment in the future. He said he doesn't have control over what the members of the corporation will purchase for the sub division. If that happens, he will have equipment sitting in his ditch. Gerlach said that he has all the documentation needed. He thought that there were going to elect planning and zoning members and it didn't get done. He said that since no action was taken on the rezoning permit, there is nothing that the Board of Trustees can do. Meyer told Cadwell he will bring her a copy of the last zoning with the Leadabrandt property. They had it rezoned and there were two ordinances with it. The thing is you have to have documentation because number one the Chairman of the Planning Commission will need to sign it. The Chairman of the board will also need to sign it. Ahlman said this has been going on now for sixteen months. Everyone from his corporation is getting irritated. If we have to go to the appeal board, we will do that. Ahlman says he needs a reason from the zoning ordinances on why he is not getting this permit approved. He said all Wright informed him of were his opinions and feelings of the rezoning, not actual documentation from

the ordinances on why this would not be passed. Ahlman says it comes down to him not liking him. Ahlman asked who the assigned zoning administrator is. He said someone is assigned to this job and he would like to know who. Ahlman said that you have to have one. The board was unsure at the time. Piehl asked Ahlman if he knew who it used to be. Ahlman said that he is not sure we ever had one. He said that if you go by the new comprehensive plan anytime there is a denial of a permit there is to be a written response of why the permit is being denied. He has yet to get that in the four or five times the permit has been denied. There is no documentation on nothing and it is in the book that you have to. Piehl said it is the meeting minutes. Ahlman countered that it says in the book you have to send me documentation for why the rezoning permit was denied. He said that you can't tell him anything at the meeting, you have to send him a legal document from the zoning administrator why it was rejected. Otherwise, you cannot enforce your comprehensive plan. If you don't follow the comprehensive plan, no one has to follow it. Piehl said that if she is not mistaken, a comprehensive plan is just that, a plan. We are not legally bound by the comprehensive plan. Ahlman said by your guidelines you are though. Piehl said we can't be. Ahlman told her to read her book. It says point blank in the book that the zoning administrator will provide you a written response within a reasonable length of time. Bergen said that if the board has questions about this, I can give you legal advice, but he can't do it in open session. Elliott asked why it had to be in closed session. Bergen said because it is legal advice. Elliott said well it is public advice so why go to closed session. Bergen said what is public are the regulations. When someone is saying you must do such and such, I can give the board legal advice. Ahlman said all he is saying is what the plan says. Gerlach said that correct me if I am wrong, what I would suggest to speed this process up is call a special meeting to approve or deny the permit. Wilken said they first have to elect their chairman, etc. Bergen said there has to be a public hearing. It has to be advertised. Gerlach said before that, to get the officers, do we need to have a special meeting. After that, it needs to be advertised seven days to prior to the meeting. Ahlman said he thought it was ten days to be honest. Gerlach said so get officers elected, notice of meeting, have meeting, approve or deny. That is what needs to be done. The way he read it in the black book, that three members of the Planning Commission can call a meeting. You get three members to call it and put notice up. Ahlman asked if Wright as the chairman needs to be part of that. Wilken said Wright became the chairman when everyone termed out. He is chairman until the next meeting. Ahlman said he brought it up at the last meeting that they need to elect a chairman, secretary, etc. and he was told by Wright that he would be the chairman for the next year and that was it. Gerlach said as of right now, you guys need to call a special meeting to elect members. Now any three members of Planning and Zoning can call the meeting. That is the way it is written in the ordinance. Once that happens you will give Cadwell notice to when the meeting is going to be. At that point of time, at the same meeting they will be able to approve or deny the permit at that time. Wilken said if you have it posted. Wilken motioned to go to executive session for legal advice. Gerlach seconded the motion.

Aye-Meyer, Piehl, Gerlach, Wilken, Starr                      Nay-None                      Motion carried  
We will go to executive session for the Ahlman's rezoning permit and to protect the public's interest at 8:03pm. All board members, the attorney, and clerk exited the room to hold executive session in another room.

Wilken made a motion to come back into open session at 8:22pm. Starr seconded the motion.

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

Mack said she had a question regarding the rezoning permit. She asked wasn't this permit at the beginning for housing a business, not a place for him to store his junk. Wilken said it was made first to rezone as commercial for business purpose. She reiterated, not for storing his junk over there. Ahlman said it is a business. You must not know what a corporation is. Wilken said originally Ahlman was trying to rezone for commercial. Ahlman didn't have enough square footage so it changed it to industrial. Through the comprehensive plan, the change is acceptable. Wilken said that they need to have the Planning and Zoning commission meet on December 11, 2018 to elect new officers. The attorney will be present to help them go through the process. Cadwell will be there to take notes. Starr requested that Cadwell send out a letter to all the members. Wilken said that Allman's permit will be decided upon at that same meeting.

Wilken motioned to have a meeting for the Planning and Zoning Commission on December 11, 2018.

Gerlach seconded the motion.

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

**Discussion approve/disapprove employee review for Patsy Mandery**

Piehl said that her and Starr sat down with her and discussed her hours and how she breaks them up her time up between the different buildings. Piehl said overall, she does a great job. Starr explained that she

takes care of community center, the fire hall, the library, office, and in the off season the park bathrooms. Right now, she is making \$150.00 every two weeks. His recommendation is to up her pay to \$175.00 every two weeks. Wilken asked Piehl if that was his recommendation as well. Piehl said yes. Wilken said that you have to make an ordinance for this. Bargen said that you could recommend that pending approval of an ordinance. Wilken asked if they were able to make it retroactive to this date. Bargen said he believes that will work.

Starr made a motion to move Patsy Mandery's pay from \$150.00 every two weeks to \$175.00 pending approval of an ordinance retroactive to November 28, 2018. Meyer seconded the motion.

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

**Current Business (discussion with approval or disapproval as needed)**

**People's Service report (Kenny Vandeman)**

Wilken said that Vandeman will not show up to any further meetings, because he was on Wilken's property and went through Wilken's sewer with out notifying him. He said they came through his sewer. Wilken said they were on his property and in his sewer that he paid for without notification. He said they put things down his sewer that he did not approve. Wilken said that he told Vandeman to get off his property. Vandeman now he claims he does not want to come to the board meetings. Wilken said he does not think that anyone in the room would like someone on their property without consent, especially when he was not the one with the sewer issue. Wilken said that everyone has his phone number. Piehl said that if she is not mistaken, don't we have an ordinance stating that when there is an issue with electrical, water, and sewer we have the right to enter the property. Wilken said not on his property. That is his clean out and he put that in. Piehl said she thinks this because it goes to the city's main. She could be wrong, but she does think there is an ordinance that states this. Wilken said that is why there should be a man hole in the street, not on his property. Piehl asked why there was not a manhole in the street. Wilken said you will have to the people who installed over there which was Vandeman. Fiala said it was her understanding that there used to be a manhole over there until they repaved the streets and it was covered up. Wilken said to his knowledge there was never a manhole over there. Fergus said there is supposed to be a cleanout, but there is not a manhole. Wilken said there is not a clean out over there either. Fiala said her only point if there was a problem and one of these guys came on to her property, they would not call her if she wasn't home. They would probably knock on her door and go ahead and do what they need to do. They wouldn't call me on the phone or anyone else in town. Wilken said so if they came through your sewer line and then in month you were having issues. Wilken asked Fiala if she would like to know about it. Fiala said they wouldn't have tried to call her. Fergus said if we were in dire need, they would have tried to make contact. Fergus on this particular situation, the only person that was having problem was that homeowner down the road for Wilken. Fergus said there needs to be a manhole out there. Piehl said her point is that she is fairly certain they can go on any property and she is just stating that the situation was not handled correctly. Piehl told Wilken as an employee of this town, you shouldn't have screamed and yelled at him. Starr said that Vandeman stopped by and talked to him. He was under the assumption that he had spoken with Wilken. He said that Wilken was having sewer issues and he got that information from Fergus. Wilken said he was not the one having issues it was his neighbor down the road. Starr says it probably could have been handled better. Wilken said if someone would have just called and asked him, he would have allowed them to. Wilken he is the chairman and everyone has his phone number. He said other board members knew about it and no one bothered to contact him. He said that Vandeman, Stewart, and Fergus all have his number. Why didn't anyone call especially when it is on his property. Starr said that he agrees, Stewart or Fergus should have gotten ahold of him. He said that since he is the chairman, he should be made aware if anyone is having issues. He should be involved in the day to day operations of this village. Elliott agreed. Wilken said the problem is Vandeman is know refusing to come to board meetings. It states in the contract with People's Service that Vandeman is required to come to one meeting a month. Wilken said he will treat Vandeman with respect. Wilken said that when Vandeman was on his property he was unaware of what they were doing over there. Meyer asked if they solved the problem on his neighbor's property. Wilkens also mentioned that when they did get the problem solved, they had sucked all the water out of his toilets and did not mention that to him. Wilken said then he had sewer gas in his house. Do they do that to everyone? Piehl explained that she is just saying we do have an ordinance and she does know that the town guys go on properties to check meters and stuff. Wilken said you don't come on someone's property and not tell them. Wilken said when someone tells you there are ten guys on your property and someone calls you to ask what they are doing it is upsetting. Piehl said she agrees that as the chairman you should have been notified, but at the same time there was an appropriate way to handle it. Wilken said that he was not

contacted as the chairman, he was contacted as a homeowner at that moment. He didn't know who was there. Mack said actually they were there the day before also. Wilken said so that was 24 hours without notification. Mack said quite frankly Wilken's water was used to flush out the hole. There is more to this story than what was told. Fergus said the neighbor had issues back in May and Wilken was contacted on that one. Wilken said he was not called to be told that all the water was sucked out of the sewer along with his toilets. Fergus said you were made aware that they were jetting the sewers. Fergus said we did get his permission at that time. Wilkens agreed and added because you called me. Fergus said at the time of the recent issue, he was working on electrical. Piehl asked Fergus if he had told Vandeman the day before that he would take care of notifying Wilken. Wilken said that clean out was installed on his property by him and for his use, not for the city's use. The city did not pay for that. Piehl said that it still goes to the village's main. Wilken said he cleanout is for his use when he has an issue. Piehl explained according to the ordinance, if there is an issue and they are not aware of where the issue starts or stops, they have a right to access any of them. Wilken said they can go to the manhole at the end of the street for that. Piehl said they could have, but she thinks they can access any of them, correct. Gerlach asked Bargaen if she was correct in how that was stated. Fergus said that they have never used anyone's personal clean out. He said last time the neighbor had issues they contacted Wilken. Wilken said he they would have not even been aware of the clean outs if he hadn't told them back then. Fergus said they must have just assumed they could use it. He said he was aware, but not working on the project. At the time, he was working on an electrical issue. He was kind of an in between. He thinks that because they were given permission before they kind of assumed it would be okay again. Obviously, that was not the case this time. Bargaen said that the ordinance that Piehl is referring to is for water service. Gerlach asked if the wastewater they referred to in the ordinance is for sewer. Bargaen said that the wastewater is referring to leaks from service. Bargaen says that it seems like there should be a counterpart for wastewater but he just doesn't know without checking the statues. Piehl said any sewer, water, electric or anything that a city takes care of they have the right to access. Bargaen said that if there was a threat to life, limb, property cities are able to do what they need to protect health and public interest. If that would require inspecting a property that is hooked up to one of the city's systems, then in an emergency they can do that. Wilken said that legally he was not required to install a clean out, he did that for his protection. Bargaen said without checking the statue, he is unsure if there is a counterpart for the sewer system. In general, when a city provides services and if there is no other way for them to get to the issue to fix it, they would probably have the right to enter. Wilken agreed saying that is fine, but please contact him. Wilken said there was no contact. Wilken said he does not want to blame anyone. He said this day and age someone could have come out with a gun. He is not saying he would, but it is happening in the world today. Starr said on Monday, there was a different plumber at the property with the issue, and they came over to Starr's and checked out his cleanout. He said that they walked by his window and he had no idea who they were. Gerlach said that he has seen this in the city of Lincoln before. If no one is at home, they through a tag on the door to notify the resident's that they have been there. Wilken said that he was given a tag. He thought this situation was resolved after he had spoken with Starr, Stewart, and Fergus. Gerlach said it is his understanding that anytime we do something on a property we are to give notice. Cadwell said it would be smart to give out identifying uniforms for the townsmen so people can identify who they are. Starr said moving forward, we need to get tags. Wilken said he is fine with what they did, he is not okay with not being notified. Piehl said moving forward she thinks we should get tags, but on Wilken and Mack's part, it was handled poorly. You shouldn't treat an employee of the town like that. Mack asked Piehl if she always believes everything she hears. Mack said that Vandeman wrote a book about the incident. She said that she never believes everything that is said. She is saying that it could have been handled better. Wilken said he is not saying that he couldn't have handled it better. He said the town also could have handled it better. Wilken said that there are five people that could have contacted him. Wilken said that Mack was the only one that did contact him. Mack said they do keep an eye on their neighbor's houses while they are gone. Gerlach asked moving forward on this, since we are supposed to have a representative from People's Service here, what are we going to do. Meyer said that he is sure that the people that were working on issue were not registered with the village clerk to show liability insurance. Gerlach asked if they were going to ask for a new representative from People's Service? Piehl recommended calling the Grashorn and going from there. Wilken said I am sure that it is not the first time someone has yelled at him. Wilken said he will make an attempt to call Grashorn and apologize for his actions. Wilken said what he did was probably a little over board, but he did have a right to know that someone was going to be on my property. Piehl said that is something we need to fix within the town. Wilken said he talked with Starr regarding the issue because he was part of this. Wilken said he also

spoke with Stewart and Fergus. Mack mentioned that as a matter of suggestion, if there had been a manhole placed in the street where there is supposed to be one, there wouldn't have been a problem. We need to address that and get a manhole put there on next agenda. Mack said that there also needs to be a manhole placed on the end of West 4<sup>th</sup> Street because there is not a manhole there either. Fergus said especially since this isn't the first issue over there. Bargaen said the ordinance that deals with the sewer system, gives the city the village the responsibility to repair and replace all pipes and mains. He thought this probably includes clean outs as well. Wilken said moving forward he will try to get ahold of Grashorn or the owner of People's Service. He said he will apologize and see if he can get Vandeman back on board and if not, get a new representative. Starr said Vandeman has been around for a long time. He knows the town better than anyone.

**Discussion approve/disapprove McKenna Sobota Greenwood Fire and Rescue Department**

Gerlach asked Sobota if she has done any training yet. Sobota said that she will take the EMT national training this coming Saturday. She is one the very last step to becoming a registered EMT.

Starr made motion to approve McKenna Sobota to the Fire and Rescue Department pending background check. Wilken seconded the motion.

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

**Discussion approve/disapprove resignation of building inspector**

Wilken made a motion to approve Mack's letter of resignation. Meyer seconded the motion.

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

**Discussion approve/disapprove new building inspector**

Wilken said he thinks this needs to be tabled for 30 days to advertise for a new building inspector.

Wilken made a motion to reorder the agenda to reorder the agenda and place Watt's Electric as the last agenda item. Piehl seconded the motion.

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

**Discussion approve/disapprove waiving firehall rental fee for 4-H**

Elliott asked if they can use the community center for their meeting. Wilken said yes. Gerlach asked if there was a reason they were using the Fire Hall. Fiala said it is a one time meeting a year for their Christmas Party sort of thing.

Piehl made a motion to waive the fire hall or community center fee for the 4-H. Gerlach seconded the motion.

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

**Discussion approve/disapprove purchase of gravel/salt**

Fergus got a price for a pallet of bag salt for the sidewalk from Menards. Fergus said that it is \$7.99 a bag for 49 bags. If you buy 1 bag the price is \$8.99. If you buy 49 bags you get a price cut to \$7.99 a bag.

Starr asked how many you would use in a year. Fergus thought about twenty a year. Fergus said that it will not go bad in a year's time. The price could go up anyway. Wilken said if we want to get rolled salt with sand gravel mix, we can get that for \$170.00. GE has salt, but will not give us any because they are running short from last storm. Buell Trucking has a ton for \$170.00 or we can go with the dried sand with no salt and that is \$38.40 per ton. Fergus thought the total would be \$581.00. Piehl asked how much gravel we had in stock. Fergus thought enough for one or two spray loads. He said we are down to the very minimum. Piehl asked what was done with all the gravel? She thought that they had just bought some. Gerlach said that we just bought white rock. Piehl thought we had bought gravel in March. Fergus said we usually don't buy gravel. Piehl thinks we need to go with some salt, because salt is what melts things. Wilken said that a whole fifteen-ton load of salt/sand mix will last all year. He said that it doesn't need to be put inside. A tarp can be placed over it. Fergus said it won't hurt the roads as much as salt brine. Wilken said it will be around \$3000.00 if we wanted to do both.

Starr made a motion to approve the purchase of gravel/salt and bagged salt for the max price of \$3000.00. Piehl seconded the motion.

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

**Discussion approve disapprove Watt's Electric legal action**

Wilken made a motion to go into closed session to protect public interest topic to discuss legal action at 8:53pm. Gerlach seconded the motion.

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

We are going into closed session to protect the interest of public at 8:54pm

Wilken made a motion to come back into open session at 9:38pm. Gerlach seconded the motion.

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

**Board questions or comments**

Gerlach made new building permits and demolition permits. Gerlach thinks that there needs to be revisions to the fee schedule. They thought this could be completed around the beginning of the year. Piehl discussed calling Neptune and not hearing back regarding issues with software. Starr said that he is meeting with Libal next week. Piehl and Starr are meeting next week to see how they can get Greenwood more involved in Ashland's school board. They discussed the incident where the maintenance building being hit by a vehicle. They discussed were the insurance company was at with the claim.

Wilken made a motion to adjourn at 9:49pm. Gerlach seconded.

Aye-Gerlach, Wilken, Starr, Piehl, Meyer

Nay-None

Motion carried