

## **EAST PALESTINE VILLAGE COUNCIL MONDAY FEBRUARY 10, 2014 7PM**

Mayor Zuch called the meeting to order. Present were Atty. Beagle, Mr. Elzer, Mr. Cohen, Mr. Tyger and Mrs. Wisser. Mr. Figley was absent. Also present were Village Manager Pete Monteleone, Finance Director Traci Thompson, Clerk Misti Martin and Law Director Dave Powers. The minutes from the January 27, 2014 Safety/Park/Rec/Cem Committee, Street Committee and Regular Meeting were approved on a motion by Mr. Cohen, seconded by Mr. Tyger. The January 2014 department reports were approved on a motion by Mr. Cohen, seconded by Mr. Tyger. There were no agenda items.

**CLERK:** Clerk Misti Martin announced there would another meeting of the Architectural Design Review Board on February 20<sup>th</sup> at 6PM.

**MAYOR:** Mayor Zuch thanked Manager Monteleone for the 2013 Annual Report stating that it is very complete and easy to understand.

**MANAGER:** Manager Monteleone stated that he had given everyone the Annual Report. He announced the Street Crew would be coming out that night for snow removal downtown.

**LAWDIRECTOR:** Atty. Powers stated he gave Council a written report, and that several matters were resolved in Municipal Court. He said they received a favorable ruling on an appeal for an unemployment claim.

**STREET: MR. FIGLEY WAS ABSENT.** Mr. Elzer said the Street Crew is doing a good job on the roads. Mr. Cohen asked if all of the overtime is putting a dent in the budget. Monteleone said there has been more snow this year but he feels it is ok for now. They are being conservative with the salt

**SAFETY/PARK/REC/CEM: NO REPORT** Mrs. Wisser said the Police Department is selling calendars for \$5.00 and all proceeds go directly to the Columbiana County K-9 Unit. Mayor Zuch stated that last week the School recognized the Village for their hard work during the water emergency and that it was nice to see so many of the police officers there in uniforms. It made her proud. Monteleone said it was very thoughtful of the school to recognize the Village.

### **DEVELOPMENT: NO REPORT**

**UTILITY:** Mrs. Wisser had no report but asked if anyone knew what happened with the power outage. Mr. Elzer stated that there were a lot of trucks working at the old BFI property so something must have happened there.

**FINANCE:** Mr. Tyger had no report other than to say the Manager Monteleone did a good job on the financial portion of the Annual Report.

At this point Mayor Zuch gave an overview of the legislation.

### **THERE WERE NO VISITORS COMMENTS ON CURRENT LEGISLATION**

**VISITORS:** Mark & Jennifer Whiteford, John & Dot Herbert, John & Bonnie Davis, Jim & Becky Foster, Terry McElroy, Dan Scott, John Hamner, Emery Coon, Dianna Elzer, Officer Don Johnson, Katie Schwendeman.

**LEGISLATION:** Atty. Beagle introduced Ord. 1-2014 for a third reading and made a motion that it be read by title only, seconded by Mr. Elzer. **An ordinance authorizing the Village Manager to enter into a contract with C&S Concessions for the operation of the Village Park Concession Stand.** Manager Monteleone asked if Ms. Justison had determined the new business name and she said it would be "Savvy J's Snack Shack" LLC. Mr. Cohen asked Ms. Justison to present proof of the name change to the Law Director as soon as possible. Atty. Beagle called for a vote on Ord. 1-2014. Atty. Beagle-y, Mr. Elzer-y, Mr. Cohen-y, Mr. Tyger-y, Mrs. Wisser-y. 5 "yes" to pass. Atty. Beagle introduced Ord. 3-2014 for a second reading and made a motion that it be read by title only,

seconded by Mr. Cohen. **An ordinance authorizing the Municipal Manger to fill the previously authorized position of Building Inspector, with Council further fixing the rate of compensation and hours of work, pursuant to Section 3.08 (d) of the Charter of the Municipality of East Palestine.** Atty. Beagle introduced Ord. 5-2014 for a first reading and made a motion that it be read by title only, seconded by Mr. Cohen. At this point Clerk Misti Martin stated a motion would be needed to amend the agenda to add this legislation as it was not originally on the agenda. Atty. Beagle made a motion to amend the agenda to add Ord. 5-2014, seconded by Mr. Cohen, all in favor. **An ordinance providing for the authorization of the Municipal Manager to advertise for public bid the construction of 1. The entire length of Sugar Camp Drive; 2. The entire length of High St; 3. The entire length of Leake St.; 4. Thomas St. from High to W. Grant St.; 5. East St. from High to W. Grant; 6. Pleasant Dr. South from E. Taggart to the Village Limits; 7. W. Taggart St. from N. Market to West Alley.; 8. W. Main St. from Everett to Brookdale Ave, together, known as the Street Resurfacing project, and to further award and enter into a contract with the lowest and best bidder, as relates to the contract, pursuant to the specifications and bidding requirements as determined by the Municipal Manager, and in compliance with law.** Atty. Beagle introduced Res. 2-2014 and made a motion that it be read by title only, seconded by Mr. Cohen. **A resolution authorizing the Village Manager to initiate action to determine if Village land owners are interested in a joint effort, with the Village, to lease the lands within the village for oil and gas production.** Mr. Cohen stated he is not satisfied with the brochure in general and specifically the "Frequently Asked Questions" section. Mr. Cohen stated that this will be the most important decision the Village ever makes and will have a major effect on every piece of property in town. We owe it to the citizens to give them more than what he considers an advertising brochure; they should have all of the information, the good and the bad. Atty. Beagle stated we need the pros and cons. Mr. Cohen said it isn't stated in the brochure but people have the right to know there could be drilling inside the village limits, he feels that the brochure tries to hide that fact. Cohen stated once we become part of a unitization unit, the ODNR takes complete control of all aspects. Atty. Powers stated he has negotiated a lot of leases with significant portions that have non surface rights, he stated there is no intention that the village would lease property and provide for a well to be drilled on that property, Mr. Cohen stated we lose control of the other property and that if they find a piece of property that is big enough, they can drill on it. Mr. Powers said that is true and Mr. Cohen said the people should know about that. Mr. Elzer said the intention is to put everyone together with Atty. Powers representing the Village and negotiate a contract and then offer that contract to them and that will be a non surface contract. Mr. Cohen stated we can't dictate that. Mr. Elzer said we can put it in the contract. Mr. Cohen said once the decision is made you lose control even if you put that in the lease. Cohen said that urbanized drilling is completely controlled by the ODNR. Mr. Cohen then read from ORC Section 1509.02, " it is here by created by the Dept. of Natural Resources the division of oil and natural gas resources....this division has sole exclusive authority to regulate permitting, location and spacing of oil and gas wells". Mr. Elzer said that is no different than anywhere else. Cohen agreed stating the people have to be aware of this. Mr. Elzer said trying to find reasons not to do things is not what they were elected to do. Mr. Cohen said the people elected them to give them information. Atty. Beagle stated they need the information on both sides so they can decide. Atty. Powers stated that what Cohen read was correct but that it doesn't contradict the terms of a lease; the State of Ohio can't come in and say where they are putting a well. Mr. Cohen said that the gas companies can, Atty. Beagle said once it is unitized they can do that. Mr. Cohen stated that each property owner has their own lease, not one big lease. Mr. Elzer stated that those leases will be based on what the Village negotiates. Cohen said nothing prevents a gas company from going to a property owner to negotiate putting a drilling rig on a property, Elzer said there is also nothing stopping them today without an agreement. Cohen stated he isn't saying we shouldn't do this, but the brochure is a lure without giving them all of the information. Cohen said the minute a lease is signed every property will then have a lien placed on it. Atty. Powers agreed this is true, Elzer asked if this was different from anywhere else and Atty. Powers said no. Cohen asked what happens when someone tries to get a mortgage on their property and Powers said he has seen no problems with that. Atty. Beagle stated that PNC Bank is

trying to find a way to protect themselves as a mortgage holder from this very issue, they are saying this is devaluing the property and they will foreclose on it, so is Quicken Bank. Cohen stated that Wells Fargo is not writing mortgages on properties that have gas leases. Elzer asked if he was saying that 90% of people in the tri state area cannot get mortgages. Cohen said this is all new and these laws have only been in effect for a few years and we don't know the effects. Atty. Beagle stated that farm land isn't being devalued like improved property, the pooling laws are the same but the effect is different on unitized properties. Elzer stated that most properties are unitized, Cohen state that isn't true. Cohen asked the difference between pooling and unitization, he stated at the last meeting when they discussed pooling he mentioned 65% and Elzer corrected him and said it was 90%. Elzer said that what he said was they didn't want to work with 65%, they would rather work with 90%. Cohen said there was no choice, Elzer said there was. Cohen stated the gas companies make the decision and Elzer said the state did. Cohen said once the companies have 65% of the property they file an application with ODNR to unitize the entire town. Elzer stated the brochure does not do that, it asks if they want to be a part of it. Atty. Beagle stated she wants to tell the residents to see a realtor, or call your mortgage company. Cohen said you can check the information on the bank websites. Cohen stated people should know that most mortgages have a clause saying that you can't lease the mineral rights without applying in writing to their bank. Atty. Powers stated he has not seen that clause in a mortgage and you are not severing the mineral rights you are leasing them, leasing and selling are two different things. Atty. Beagle asked if they would give the gas back. Cohen stated they are doing things backwards, voting on something before giving them the information is wrong. We should be telling people what they need to know so they can then make a decision. Cohen said we are telling the people why they should do it; we should also tell them the cons. Dianna Elzer stated that you can't say that you will lose control because you can't control what any particular landowner does, there are already substantial portions of land in the Village that have already been leased, being proactive in getting a contract where there is some protection is beneficial and that the brochure is simply gauging interest. Atty. Powers said the purpose is to gauge interest and he is not representing every Village property owner, Cohen said that is exactly what will happen. Cohen then asked what the next step would be, if he would contact the gas companies in which case he would be representing everyone. Powers said he will not sit down with each individual property owner and Cohen asked if he was negotiating the terms of the lease and Powers said yes. Mr. Tyger said the resolution states it could be the Manager or the Law Director. Cohen said what lease is negotiated that is the one people will be stuck with, and there will be people who don't like it and the response they will get is they don't have to sign. Cohen asked Elzer what happens then, Elzer said if someone decides to drill they get brought in anyway. Elzer asked if Cohen was saying that if 10% of the people don't want involved then the other 90% can't do it and Cohen said we don't know if that's what would happen and Elzer said that is what the brochure is for. Atty. Beagle stated the brochure says the village is not serving as your agent and then the next sentence says this is what imp doing as your agent. Mr. Elzer stated they should just vote on the resolution. Atty. Beagle called for a vote on Res. 2-2014. Atty. Beagle-n, Mr. Elzer-y, Mr. Cohen-n, Mr. Tyger-y, Mrs. Wisser-y. 3 YES to pass.

**ADJOURN:** Mr. Cohen made a motion to adjourn, seconded by Mr. Tyger. All in favor, meeting adjourned.

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**MISTI J. MARTIN CLERK**

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**MARGO ZUCH MAYOR**