

EAST PALESTINE VILLAGE COUNCIL MONDAY AUGUST 13, 2012-PARK COMMUNITY CENTER 7PM

Mayor Zuch called the meeting to order at 7 pm. Present were Mr. Elzer, Mr. Figley, Mr. Tyger, Mr. Rauch and Mrs. Wisser. Ms. Beagle arrived shortly after the meeting began. The minutes of the July 23, 2012 and Special Meeting of August 3, 2012 were approved on a motion by Mr. Rauch seconded by Mr. Elzer. All in favor. Mr. Elzer made a motion to approve the July department reports after commenting on how well the pool has been doing. Mr. Rauch seconded, all in favor, motion carried.

AGENDA: Dan Scott was on the agenda to speak on the Street Fair, but decided to wait and speak at a later date.

CLERK: The Clerk stated that Ms. Beagle called a legislation committee meeting for Tuesday August 21 at 7pm at the Police station.

MAYOR: The Mayor read a letter out loud that Finance Director Traci Thompson received from Dave Yost, Auditor of State congratulating her for clean and accurate record keeping and giving her "The Auditor of State Award".

MANAGER: Manager Monteleone stated he had submitted a written report and if there were any questions he would be glad to answer them. He also stated he received a phone call from a young lady going to Kent State for business administration and she needs to do a 7 hour a week non paid internship. He thinks it's a great program and something the Village should utilize. In reference to the Sumner Street bridge project he stated that we have received the interest free loan, which came out to \$316,000. He is researching it, checking the condition of the bridge and making sure it needs done. And he also has Dallis Dawson looking for available grants. Monteleone said he wants to be sure that its something that absolutely has to be done before any more loans are taken out. Mr. Elzer stated he saw contractors in looking at the bridge on Kemple Dr. Monteleone said they were here and looked at 3 bridges, but Sumner was not one of them as it is too small. Mr. Figley said that John Jurjovic spoke with them after they looked at Park Dr. bridge and wanted him to relay what they told him. Jurjovic then said that they told him it is a standard 1940 "cookie cutter" bridge, but that is in amazingly great shape and at that time he didn't know if he would even put a load limit on it. Mr. Figley stated that they were told that the Sumner st bridge needed replaced. He looked at it and said it may need repairs. He stated he feels there is no need to get excited about replacing it because it is a short span bridge and its not on the load rating schedule at this time and it is within the Villages jurisdiction to look at and decide. He doesn't want to get on the wrong track and spend money on replacing a bridge that isn't needed. Monteleone said they are re-assessing it and gathering more information and he will present it to council at a later date.

LAW DIRECTOR: NO REPORT. Mr. Figley said he had some things to discuss with the law director. He stated that he is against executive session. He stated that at the last meeting Mr. Elzer asked for executive session. There were 3 votes to go into executive session and he voted no and then the meeting was adjourned. He said that after the meeting he understood that two councilmen, the law director and the manager had a meeting and discussed what was going to be discussed in executive and he wanted to make that public. Atty Smith said that wasn't the case, that some of council asked her questions and she said she has an open door policy. She said that Mr. Figley has asked her questions and she has sat and discussed things with her. She stated that she meets with the Manager on a regular basis. Mr. Figley said he was told that they discussed the former managers legal issues and where things stood. Atty Smith said that wasn't the case. That there were questions asked about it and she felt it should be discussed in executive session. Figley asked if she said that she had him down to \$120,000 and possibly going to \$100,000. Atty Smith said she has had discussion with the current Manager in between council meetings and she was leaving it at that. Figley then asked if it was untrue what he was told. Atty Smith said there was discussion but not positive about what was said. Figley said if that was discussed in the open then it does not need to be discussed in executive session. Mr. Elzer then asked Atty Smith to go over the parameters of executive session. She stated that any legal matter that is pending is reason. Mr. Elzer asked if there was any reason what has been discussed in previous executive sessions should not be discussed in open council. Atty Smith said in her opinion it is about pending legal matters and should be kept confidential and the best interest of the Village to remain confidential. Ms. Beagle stated that in executive session for legal matters when Atty Smith is present that gives council a privilege of confidentiality. You waive those privileges when you leave executive session. Ms. Beagle said she has a lot of correspondence from residents who are tired of all of the executive sessions and bickering instead of getting city work done. She said the rules and regulations are very important. She is very concerned with appearance this council is giving to the residents and feels executive sessions are being over used. She stated that Thursday she is going to a class about Ohio Sunshine Laws to help understand these rules. She stated she will fight for the residents of East Palestine and also that executive session is very important when it comes to legal matters. But that council also needs to be more transparent. Not every issue is a legal issue and executive sessions need cut back and real business needs to be taken care of. She stated she has heard things from executive session and easily traceable and if we want the confidentiality with legal council we have to do our part. Mr. Figley stated that at the special council meeting on Aug 3, regular business was taken care of, then executive session was called with a vote of 3 yes and himself voting no with the statement " I would like to tell you why". He was told no, not to speak and the meeting was over. Mr. Figley stated they should have gone into executive session, and Atty Smith said no they couldn't because there weren't enough votes. Mr. Figley said there were enough votes and Atty Smith disagreed. Mr. Figley said there was a quorum and the majority of the quorum voted yes. Mr. Figley then stated that only council should be going into executive session. The Mayor, the manager and the law director are only allowed in by invitation. At this point he said he had the documents to prove what he had just stated. Mr. Figley said people need to know what is discussed there. At this point, Atty Smith began reading statutes from ORC section 121.22 regarding acceptable reasons for executive session. Ms. Beagle asked if this is really what Mr. Figley wanted, statutes being read. Mr. Figley said no. He said he was going to tell council at the special meeting why he voted no and was told he couldn't, and he felt he had the right to do so. Mr. Figley stated that they need the law director there so they can ask questions but not to run the meeting. Ms. Beagle stated that the matter of the Manager being in executive session is up for interpretation. He also stated that he does not agree that people filing for unemployment along with other things that have been discussed in executive session should be kept secret. He said executive session is used only so councilmen have to keep quiet about it. Ms. Beagle said that sometimes we have to keep quiet to preserve confidentiality. Mr. Figley said yes, sometimes but he feels its been violated. Ms. Beagle said she would prefer to use the word overused instead of violated. Atty Smith stated that with the threat of litigation there is strategic planning along with legal opinions and looking at evidence, it is important to keep the case in executive session rather than in the public. It compromises the case. Mr. Figley said that cases are on tv all of the time, and Atty Smith said that is typically after the cases are already filed. Mr. Figley

stated that the threat of a lawsuit from the former manager should not require executive session and he said the way executive session is announced is wrong. Atty Smith stated that she does not call for executive session. Mr. Figley stated that Atty Smith runs the executive sessions and Atty Smith stated that she does not. She answers questions and addresses issues. She does what is asked of her. Mr. Figley stated he was shut down at the last meeting, Atty Smith disagreed stating that he was going to discuss what was said in previous executive session. Mr. Figley stated that Mr. Giambrone said that Atty Smith was wrong and Mr. Figley had a right to speak and Atty Smith disagreed, that Mr. Giambrone said we could not go into executive session. Ms. Beagle stated that she felt it good that Mr. Figley forces issues out into the open. At this point Mr. Figley said he had documents stating who could go into executive session and who had to have an invitation. Atty Smith stated that she believes the Manager goes in because its in the Charter. Ms. Beagle said they would disagree on that, and Mr. Figley said there is nothing to disagree on because it's not in the charter. Ms. Beagle said that Atty Smith agrees that the Law Director and the Mayor do not have to be in executive session, and Atty Smith said yes she does agree with that. Ms. Beagle stated that employees are only as good as their boss and that Atty Smith works for council, The Manager works for council and thereby the citizens. She stated that we (council) need to ask ourselves why Atty Smith is running the meetings. That council needs to buck up and do the job they are supposed to do. Mr. Figley said that he and with agreement from the rest of council gave instructions that weren't followed. Mr. Figley stated that he doesn't feel executive sessions are handled right and none of the last executive sessions were proper. He said there was nothing that couldn't be discussed in open meeting. That the former Manager and Clerk filed for unemployment and were turned down multiple times and now there are hearings and that's why executive sessions were called? Ms. Beagle stated that Atty Smith believed those were legal matters, and that she didn't agree with that but didn't see the harm in it being done as a legal matter. She said many people have said to her that there are too many executive sessions and she agrees with that. She said we do need a certain amount of them but also need a lot more transparency. Mr. Figley said the reason he is so hostile and angry is because it wasn't proper for the mayor to read a note from another councilman. Ms. Beagle said no, that wasn't proper, and Atty Smith said she wouldn't comment on what happened in executive session. Mr. Figley said that's why he doesn't like executive session because council can hide behind it and he doesn't like that. Ms. Beagle said she didn't feel Mr. Figley was hostile, that he is passionate about his job on council.

STREET: Mr. Figley stated he spent a good deal of time the Manager today and he was questioning some things and that the Manager showed him a book of tasks hes been working on: complaints, streets, alleys and many other things and he was very impressed with it. He stated the Manager is doing a very good job at handling these problems. They have a disagreement and they are both going to present their case. There are 13 or 14 repairs from utility problems that need repaired. Mr. Figley thinks that a contractor should be hired and have them come in and do all of the repairs at once and have our guys watch and learn how they do it. Saw cut them square, dig and replace with 6 inches of concrete and then 2 inches of blacktop and seal them. The low price to have this done is \$7,950. He wants to have them fixed all at once and then in the future the Manager can mandate that the holes made due to repair have a certain time frame to have them repaired. Ms. Beagle asked what the other bid was and Manger Monteleone said it was \$ 13,833. The Manager stated he doesn't disagree with Mr. Figley he just wants to present both options to council and however they choose to proceed he would make it happen either way. Manager Monteleone spoke with John Boley and told him how they wanted it done and if the Street Dept. could do it and he said they could. Monteleone worked with the Finance Director to get an approximate of what it would cost having the Street Dept do it and came up with \$4000 give or take. That figure is for materials. Monteleone then stated that John Boley said that if the Water Dept would do the digging and then they could follow behind with the concrete that it could possibly be done in two days. Monteleone asked Jurjavcic who was in attendance. Jurjavcic said you have to make sure it is tamped good and it may take more than 2 days. Mr. Figley asked if it can be done in 2 or 3 days, why hasn't it. These have been this way for over a year. Ms. Beagle asked what the labor would cost for the street dept for 2 or 3 days. Ms. Beagle asked Mr. Figley if it could be done as well by the Street Dept. Mr. Figley said that they can do it, but he doubts it would be done as well as people that do that job every day. Mr. Elzer asked where the money would come from. Monteleone said there is money left in the street levy. Mr. Elzer asked who would be responsible for the repairs in the future, Street or Water. Jurjavcic said that most of the time the water dept will dig them and then street dept will finish. Jurjavcic stated street dept is understaffed and the water dept is very busy. That it would be an issue of coordinating. Mr. Figley stated the water dept also has the Moore Lane water project starting that is going to keep them very busy. Ms. Beagle said she liked the idea of an outside contractor then the street dept could start out on top. Mr. Elzer said he agreed with Ms. Beagle. Mr. Rauch also likes the outside contractor idea. Mr. Tyger and Mr. Figley also agree.

SAFETY/PARK/REC/CEMETERY: Mr. Rauch stated that the kennels have been built and the k-9 unit is on its way. He gave one last warning to the drug traffickers, to find somewhere else to go. He said he was very happy with the report from the park stating there have been almost 12,000 swimmers so far this year. Mr. Figley questioned the railing missing from the stairs at the park. Mr. Rauch said he would contact members of the park board and see if there are funds available to have a new railing installed. Manager Monteleone asked to look at it with Mr. Figley and then he would see if there was money available and that we would address it in house. John Jurjavcic asked the Manager to stop at the treatment plant, as he may be able to help with this issue.

DEVELOPMENT: Mr. Elzer said the Car Cruise is this weekend on the 18th and said the response has been tremendous. Mr. Elzer said there are ongoing meetings about the street fair. Mr. Rauch said that a few years ago that there was a group with electricians and plumbers that willing to donate their time that wanted the fair back on the main street. He doesn't think the cost is as high as they were told in the past. He said the numbers at the fair have plummeted. The Manager along with the Mayor spoke with George Cope from the American Legion. Mr. Cope said that the Legion does want to stop doing the fair and turn it over to someone else but they were having a meeting with a company and making sure they were not obligated by any contracts to continue. Mr. Rauch said if the Village could help them or any organization move the fair back to Market St. we should. Ms. Beagle asked if the merchants downtown were ok with it being moved back to Market St. Mr. Elzer said yes, the response has been great. Manager Monteleone said that Dan Scott had spoke with him and they were waiting until the American Legion knew for sure that there were no contractual obligations. He also said he had suggested to Mr. Scott about having a pre existing organization take it over and have the volunteers work under that organization. He said that the Village couldn't run it but that we would do what we can to help. Mr. Rauch said as long as there was a suitable detour it could be closed. Pam Figley stated that there a couple different organizations that may take it over.

UTILITY: (Mrs. Wisser had to leave at 7:30 and came back at 8:15)

FINANCE: Mr. Tyger reminded everyone that at 6pm before the next regular council meeting there is a budge meeting. He asked the Finance Director if there was any progress with the ambulance billing. The Finance director said the first check was received for approximately \$4000 or \$ 5000.

VISITORS: Dan Scott, chuck McGuire, Pam Figley, Katie Schwendeman, Charles Treece, Karen King, John & Bonnie Davis, Tiffany Inman, Dave Biggins, Mark Rhodes, Traci Thompson, Chief Dickey, Teri Rauch, John Jurjavic, Tami & Bob Harris, Rich Bolon, Park Grim, Brock Jurjavic, Dianna Elzer, Jim Mackall, Pam Figley, Traci Thompson.

VISITORS COMMENTS ON CURRENT LEGISLATION: Mr. Elzer stated that he does not like emergency legislation as it only gives them one day to look at it. He said it seems like all of the legislation is emergency. Atty Smith stated she drafts them based on what is requested of her. Everything there was all since the last meeting. Mr. Rauch stated that on some of the emergencies they need to go into effect right away but they could have an emergency clause but still have 3 readings. At this point Rich Bolon asked if there was any progress on the oil and gas leasing. Atty Smith stated that currently she is working with BP and that Chesapeake is reexamining our group. Mr. Elzer asked if there was the option of two readings and Mayor Zuch said you can read it as an emergency and at the second or third reading it can be passed as an emergency and it goes into effect immediately. Manager Monteleone stated the second piece of legislation was for JS Northeast. Council had previously passed legislation to that effect except it had the word "tentative" in it and it was contingent on funding. To actually award the contract the Manager felt more comfortable with legislation removing the word tentative and removing the bore portion also. This is an emergency because the contract needed signed the next day. Mr. Figley asked for the completion date of the project. Manager Monteleone said 45 days from August 20. At this point Mrs. Wisser returned and the Mayor asked if she had a report for utilities. Mrs. Wisser said she had no report for utilities but was contacted by Brian Scott who puts on Stripes for Soldiers and he wants to use the tennis courts at the park on Oct 20 to put on a show. Mrs. Wisser made a motion to allow Brian Scott to use the tennis courts on Oct 20. Seconded by Mr. Elzer. All in favor. Motion carried. Mrs. Wisser stated that initially she went around to all of the departments and shadowed them and once the kids are back in school that she is going to do that again.

LEGISLATION: Mayor Zuch stated there was a typo on the agenda under legislation. The second piece of legislation was listed as a resolution but is actually an ordinance. Mr. Rauch made a motion to amend the agenda that being the second piece of legislation listed as a resolution but is actually an ordinance. Seconded by Mr. Tyger. All in favor, motion carried. Ms. Beagle introduced **res. 16-2012** and made a motion that it be read by title only. All in favor. **a resolution appointing Misti Martin as clerk of council/admin assistant for the village of east Palestine, ohio and declaring an emergency.** Ms. Beagle made a motion suspend the rules and declare an emergency. All in favor. Finance Director stated that the 90 day trial is about 30 days past due and if this resolution would go back to July. Mr. Elzer and Mr. Rauch said it would go back to July. Ms. Beagle called for a vote on **res 16-2012.** Ms. Beagle-y, Mr. Elzer-y, Mr. Figley-y, Mr. Rauch-y, Mr. Tyger-y, and Mrs. Wisser-y. 6 yes to pass. Motion carried. Ms. Beagle introduced **ord. 20-2012** and made a motion that it be read by title only. All in favor. **an ordinance providing for the authorization of the interim municipal manager to enter into and accept a contract with j s northeast company, inc., as to construction services as to the moore lane waterline improvements project, and declaring an emergency.** Ms. Beagle made a motion to suspend the rules and declare an emergency. All in favor, motion carried. Ms. Beagle called for a vote on **ord 20-2012.** Ms. Beagle-y, Mr. Elzer-y, Mr. Figley-y, Mr. Rauch-y, Mr. Tyger-y, and Mrs. Wisser-y. 6 yes to pass, motion carried. Ms. Beagle introduced **ord 21-2012** and made a motion that it be read by title only. All in favor. **an ordinance providing for the authorization of the interim village manager to solicit bids and further sell personal property, identified as 1979 sutphen pumper fire truck, further identified as having a 4 man cab, Detroit diesel engine, Allison automatic transmission and accompanying hale 1500gpm pump and 800 gallon tank, deemed not needed for municipal use with the approval of the board, officer, and or director having supervision thereof and or municipal council, and in accord with methods of sale authorized by ohio revised code 721.15, et seq., and further authorizing the interim village manager to enter into an agreement with firetec used apparatus sales for the advertisement and potential sale of such vehicle, without limitation to the village to sell by other means, and declaring an emergency.** Ms. Beagle made a motion to suspend the rules and declare an emergency. Mr. Elzer stated that this authorizes the Manager to get bids and sell. He asked if these could be separated. He said that council loses all knowledge of what happens. He asked for separate legislation, one for bids that council can go over and then one to sell. Ms. Beagle asked if that was needed. Mr. Figley said he still has the flexibility to do that. The Manager said that he would get the bids and take them back to council before any decisions were made. All in favor, motion carried. Ms. Beagle called for a vote on **ord.21-2012.** Ms. Beagle-y, Mr. Elzer-y, Mr. Figley-y, Mr. Rauch-y, Mr. Tyger-y and Mrs. Wisser-y. 6 yes to pass. Motion carried. Mr. Rauch made a motion to adjourn, seconded by Mr. Elzer. All in favor. Meeting adjourned.

Mayor Margo Zuch

Misti J. Martin- Clerk

