

### **East Palestine Village Council-Monday January 28, 2013-7PM- Community Center**

Mayor Zuch called the meeting to order. Present were Atty. Beagle, Mr. Cohen, Mr. Elzer, Mr. Figley, Mr. Tyger and Mrs. Wisser. The minutes from the January 14, 2013 Utility/Development and the Regular meeting were approved on a motion by Mr. Elzer, seconded by Mr. Cohen. All in favor, motion carried.

**AGENDA: Adam Philips for an Eagle Scout project.** Mr. Philips presented council with a letter and a drawing stating that he would like to build a sign of a map of the park including all of the ball fields and shelters on one side, and the back side would have sponsors, why it was built and a dedication. The sign will stand approximately 8 feet high. Mr. Elzer asked where he was planning to put it and Mr. Philips said across from the pool. Mr. Elzer said this is a great idea. Mr. Cohen stated he assumed it would be in color and painted but could he get council a color drawing to indicate what it will look like before it's constructed and Mr. Philips said he could. Mayor Zuch asked for a time frame and Mr. Philips stated he hopes to be done by April 1. Mayor Zuch stated that he (Mr. Philips) should state his intentions to the Park Board and Mr. Cohen said he would contact Mr. Philips with the date of the next Park Board meeting so he could attend. **Lisa Hamner of CSI on recycling.** Ms. Hamner stated that the funding is 100% approved and the vendor has been selected and all that is left is to choose the artwork for the bins. She stated that there was an overwhelming response from the kids at the schools submitting drawings and there are approximately 100 to choose from. She stated she would copy them all and if council could each pick two and give them to Pete she would meet with him and they would choose the winner on Friday as she would like to order the bins by Monday. It will take 4 to 8 weeks for the bins to be completed and they want to get started by spring. Village Manager Monteleone suggested instead of making hundreds of copies for council, that she come to the office Tuesday and they could narrow it down and then give them to council to choose. Ms. Hamner said the artistic ability at our schools is incredible. Ms. Hamner also stated that the recycling of electronics, including televisions will be ready to go by the cleanup day. Monteleone stated the Village is trying to re-implement a cleanup day and are shooting for April. CSI has volunteered to do the pickup and it will not cost the residents anything.

**CLERK:** Clerk Misti Martin announced there will be a Safety/Park/Rec/Cem meeting at 6PM, 1 hour prior to the regular meeting on Feb 11 at the request of Mr. Cohen. There was no Mayors report.

**MANAGER:** Manager Monteleone stated he gave everyone a written report. He then stated he asked Mr. Bob Rea from Buckeye Mineral to come speak. Mr. Rea stated that his company began in 2010 and has since leased 300,000 acres for school districts, municipalities and individuals. At that time there were 7 leasing companies in Columbiana County. He stated the companies were not sharing a lot of information and what was there was very industry specific and very one sided, so he formed a board called ALOV "Associated Land Owners of Ohio Valley" and went to conferences, spoke with lawyers, CPAs, geologists and engineers so they could understand all aspects and then drafted their own lease form. He stated that mineral management is a very important part of the process. At this point Mr. Rea passed out a diagram of the mineral layers to everyone and explained that their leases go from the Queenston layer and lower and the primary target is the Utica layer. Anything above Queenston is not in their lease. Above Queenston is the Clinton formation and 95% of wells in Mahoning and Columbiana Counties start at that layer. Above the Clinton layer is the Marcellus. Neither the Clinton nor Marcellus is a part of their lease. He stated that is the most important part of mineral management, you don't want to sign away everything from "the bottom of your foot to the middle of the earth" and that's how most of the leases done in the past were. He stated in East Palestine, the Marcellus area has a lot of value. He stated natural gas prices aren't very high so there isn't a lot of activity right now. He stated that his company is able to add a "PUGH" clause which states that if they are not using all of someone's acreage, they no longer have that acreage as part of the lease. Only the parts of land in drilling make money, if they don't use all of the acreage, you will not make money on those parts. Most leases are a 5 year lease and 5 year renewal; theirs is a 5 year lease with a 3 year renewal. He stated that if he had had our acres last year it would have been "a slam dunk" at approximately \$5800 per acre and 20% royalties. Right now most of the acreage in Columbiana is already leased by Chesapeake. At the end of each year, the demand declines. He stated they have shown our parcels and have gotten mixed reviews and some have said they will pass and want to see it again at a later date, and he is getting ready to show them again. He stated they can't give Monteleone a weekly or monthly report because when negotiations begin they sign confidentiality agreements, but he wants everyone to trust them. Most of Columbiana and Mahoning counties are already leased so they have to work harder for smaller areas. Some companies will come in looking for smaller areas so they can partner up with areas already leased. Mr. Cohen asked if the Village is in a pool with other prospective lessors, and Mr. Rea said yes because larger amounts of acreage

look appealing, but they won't necessarily take all of the acreage. Mr. Cohen asked if because we are in a pool will that hurt the chances of leasing just our acreage and Mr. Rea said no. It would have been an advantage six months ago but right now they are being more selective. Mr. Cohen asked how active Marcellus is right now, and Mr. Rea said right now it's not. Mr. Cohen asked the status of Utica in Columbiana County and Mr. Rea said it is very active. Mr. Cohen asked what Utica is being leased for right now and Mr. Rea said approximately \$5000 per acre. Mr. Cohen asked why we do not have a lease. Mr. Rea stated no-one feels compelled to take it, Chesapeake says they have everything wrapped up and he said they are looking at their competitors. He said our acreage at 130 acres is minimal and there would be a lot of overhead for whoever takes them. Mr. Cohen asked if he could give a timetable and Rea said no, it could be a month or a year away. Mr. Cohen said that he keeps reading that the industry is in a managed decline that could last until 2015 because gas prices are so low. Mr. Rea said that is true if you are only looking at Marcellus and dry gas. He said what makes East Palestine valuable is because we have wet gas from the Utica and abundant oil. Mr. Cohen then asked again why we don't have a lease and Mr. Rea said because we only have 130 acres. Mr. Rea stated that we are at the wrong end of the curve and they will have to work smarter and harder and negotiating non drilling leases are difficult. Atty. Beagle stated the problem is not so much the small acreage because Buckeye Mineral is pooling us, but that we are "late bloomers." Mr. Elzer stated that Mr. Rea said our acreage is not contiguous, but the acreage in between is not yet leased so isn't that to our advantage. Mr. Rea said there is benefit in that it's not leased yet, but it is also all small parcels. There is a lot of overhead for small parcels. Mr. Elzer asked if the original number of \$5800 per acre, if that was just for Utica and not Marcellus. Mr. Rea stated we will not see that number again. Mr. Rea stated Chesapeake is currently leasing at \$2000 to \$2500 per acre and we could get a deal right now at that rate.

**LAW DIRECTOR:** Atty. Smith stated the new legislation tonight is for the CDBG grant asking for authorization for the city manager to enter into an agreement with Ohio Department of Development for the Housing Revolving Loan Fund. This is required to continue to participate in the CHIP program. She said that technically since we are not a City, we don't qualify for it, however Bleckman and Associates have asked us to authorize this agreement because there is still money left under the CHIP program that needs administered. There will be no new money. Ble

ckman drafted the legislation and it does not have the emergency clause in the title, but it is further down in the legislation. In reference to the Electric Trust legislation, council asked her to look into it. She said it began in Nov 1974. She stated it is the Electric Utility Plant Fund and not a trust fund. It was to only be used for purposes of capital improvements. She said there are two instances where it has to be paid back. The first is if there is any legislation saying we are going to pay it back, it has to be paid back and the only way to get around that would be to repeal the legislation. The other reason would be if it was spent for something other than capital improvement because that's what it was set up for under the ORC. Atty Smith also stated that after talking to the Manager and Finance Director and the grant writers they have indicated that showing the debt borrowed from the Electric Fund that may to our advantage in securing grants because it is viewed as debt. Mr. Figley stated that Thompson had explained to him at one point that we claim it as an asset but not as a liability. Smith said she wouldn't speak for Thompson but she believes it is both an asset and a liability but Smith said she would look into it with Thompson. Mr. Figley said it was an advantage to the City to have that fund and he wants to make some type of payback. Atty. Smith stated another option would be to not suspend for 5 full years. Mr. Cohen asked if vote to suspend payment does that mean that we can't make a payment if we want. Atty. Smith said there are no pre payment penalties so she didn't see why it couldn't be done. Mr. Cohen stated that according to her memo, there had been advances and transfers not used for correct purposes. Atty Smith stated she needs to speak with the Finance Director to see where exactly some of the finances were allocated to. If they went for capital improvements it's ok but if they weren't, there is an issue. Atty. Smith said she will get the information to council so that they have it ahead of the next meeting. Mr. Elzer stated that we are not discussing whether or not we should pay it back, but the fact that we can't pay it back. Mr. Elzer also said that he not suggesting there be no savings account, but why put it into a fund that has restrictions. Mr. Cohen stated he is bothered by the prospect of past councils improprieties. Atty Smith stated that we do not have all of the history yet. Mr. Elzer stated that we have the CHIP fund that started out at \$500,000.00 that still has money available for housing rehab. Mr. Tyger asked if we were allowed to get more of those funds, or just administer them. Atty Smith stated she called Marshall Bleckman to ask if the legislation had to be an emergency because she knows council doesn't like emergencies and if the money we are administering already allocated to a project or is it still available, but she didn't receive a call back. Atty. Beagle stated she is against legislating the Electric fund debt away and she doesn't see how it can be carried on the books as an asset and not a liability because we would have failed audits. The debt is owed to all of us, and she feels it unethical to obliterate that debt regardless of

what happened in the past even if it means making \$100 payments. Atty. Beagle stated that borrowing from yourself is a smart business practice. Mr. Cohen stated we should still do the second reading on the suspension legislation and then it could be voted down or tabled.

**STREET: NO REPORT**

**SAFETY/PARK/REC/CEM: NO REPORT**

**DEVELOPMENT:** Mr. Elzer stated there was a Planning Commission meeting a few nights ago for a re-plat at the Vineyards and also when zoning came into town they were grandfathered in with non conforming use permits. Dr. Ortenzio has asked that his building be given a wider zoning option for his upcoming retirement. The Chamber is still working on the Street fair.

**UTILITY:** Mrs. Wisser thanked the Fire Dept for being invited to their annual dinner. Also Thursday the light pole in front the Municipal building began falling over. They had a meeting today with Ohio Edison today. She stated they were hoping to get light poles replaced with a grant but found out that the Village is going to have to pay to replace the pole in front of the office. There are not many grants available. Manager Monteleone stated that we would have to pay for all new poles, and asked about refurbishing the existing poles and Mr. Turner is to get back with him with a date of when he will have answers to all of these questions. Mr. Figley asked who originally bought the poles. Mr. Turner from Ohio Edison advised that Ohio Edison owns the poles but we pay a maintenance fee on the poles. Ohio Edison has to do the maintenance or replacement, we can't. They do not have replacement poles to match the existing ones, and we have to pay for it. Mrs. Wisser stated the cost of a pole is \$5000 to \$7000. Mayor Zuch stated that during the downtown revitalization project Ohio Edison said that the poles were theirs and the advantage was they would maintain them and if something happened they would replace them.

**FINANCE: NO REPORT**

At this point Mayor Zuch gave a brief explanation of tonight's legislation.

**VISITORS COMMENTS ON CURRENT LEGISLATION:** In reference to not paying back the Electric Fund that he was around when all of this took place and there was a lot issues with the residents thinking that the Mayor and Council at that time got kick backs, and if it's not paid back he doesn't what the residents will think.

**VISITORS:** Shane Hamner, Lisa Hamner, Charlie Hutchens, John & Patti Bosley, Chuck McGuire, Dan Scott, Mary Anne Tyger, Jerry Coblenz, Jonathan Philips, Adam Philips, Emery Coon, John & Bonnie Davis, Mark Rhodes, Chuck Treece, chief Kevin Dickey, Scott Wolfe, Dianna Elzer, Shirley Wilson, Jim Mackall, Brent Wilson, Tami & Bob Harris, Katie Schwendemen, Bill & Jean Riddle, and Bob Rea.

**LEGISLATION:** Atty. Beagle introduced **Ord 3-2013** for a second reading and made a motion that it be read by title only, seconded by Mr. Cohen. **An ordinance suspending all payments on loans owed to the Electric Trust for a period of five years and repealing legislation in conflict herewith.** Mr. Figley made a motion to table **Ord. 3-2013**. Mr. Elzer feels that no one is going to vote for this legislation as some of council does not want the fund to exist and some want it to be paid back sooner. Atty Smith stated she felt that it possibly should be tabled until everyone is clear on how it is on the books. The above motion to table ord 3-2013 was seconded by Mrs. Wisser, all in favor; ordinance 3-2013 is tabled. Atty Beagle introduced **Ord. 4-2013** for a seconded reading and made a motion that it be read by title only, seconded by Mr. Cohen. All in favor. **An ordinance amending the employee manual as to section 1.25: uniforms.** Atty Beagle introduced **Ord. 5-2013** and made a motion that it be read by title only, seconded by Mr. Cohen. All in favor. **An ordinance authorizing the City of East Palestine through the office of the City Manager to enter into an agreement with the Ohio Department of Development, Office of Housing & community Partnerships for the local administration of a housing revolving loan fund.** Atty. Beagle made a motion to suspend the rules and declare an emergency, seconded by Mr. Cohen. All in favor. Atty. Beagle called for a vote on **Ord. 5-2013**, seconded by Mr. Cohen. Atty. Beagle-y, Mr. Cohen-y, Mr. Elzer-y, Mr. Figley-y, Mr. Tyger-y and Mrs. Wisser-y. Six yes to pass. At this time Mayor Zuch requested a moment of silence for Office Bernard "Cork" Doran who recently passed away. Mr. Cohen made a motion to adjourn, seconded by Atty. Beagle, all in favor. Meeting adjourned.

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Mayor Margo Zuch

Misti J. Martin- Clerk