

VILLAGE OF UNION
MEETING MINUTES
JANUARY 12, 2011

The Union Village Board met in regular session on January 12, 2011. The meeting was called to order at 7:01p.m. at the ALA Hall. The Open Meeting Laws were displayed. On roll call: Hardbarger, Jr., Vidlak, Chipman and Kahland present.

Minutes of December 22nd Special Board Meeting were reviewed. Vidlak motioned to approve minutes. 2nd by Chipman. By roll, Trustee votes are as follows: Hardbarger, Jr., -Aye, Vidlak-Aye, Chipman-Aye and Kahland-Aye. Motion approved.

Claims and Accounts were presented. Noted accounts were discussed for payment. Hardbarger asked McClane if he had authorized Willie Bescheinen to work on Loring's curbstops. McClane said he did. Typically curbstops are the responsibility of the municipality. The clerk added that in some cases, by ordinance, curbstops are made the responsibility of the resident to maintain, in case of damage caused by mowing or other yard work. Chipman made a motion to approve payment of listed accounts with the exception of the Volunteer Fire and Rescue payment in the amount of \$1000.00 pending proof of purchase. 2nd by Kahland. By roll, Trustee votes are as follows: Hardbarger, Jr., -Aye, Vidlak-Aye, Chipman-Aye and Kahland-Aye. Motion approved.

CLAIMS & ACCOUNTS
JANUARY 2011

NPPD	FIREBARN*	\$	79.69
BALLFIELD**		\$	40.00
WATER PUMP		\$	343.69
FIREBARN (TOWN BLDG)		\$	27.86
TOWER (WATER)		\$	17.89
TRAFFIC LIGHT		\$	17.89
AREA LIGHT RENTAL		\$	9.21
STREETLIGHTS		\$	435.52
SEWER PUMP		\$	77.57
ALA HALL		\$	32.16
CHRISTMAS LIGHTS		\$	19.37
WINDSTREAM OFFICE		\$	57.24
WINDSTREAM FIRE		\$	87.35
MELISSA HANSEN		\$	896.32
DEC SALARY WITH BONUS			

ACE HARDWARE \$ 96.47 WIYSEL STOP REPAIR/MISC
ALLIED RECYCLING \$ 1231.55 Monthly Trash Service
AFLAC \$ 465.40 NOV/DEC PREMIUMS/PD.
LOAN \$ 265.64 RESCUE SQUAD
LOAN \$ 618.44 STREET/SEWER
STEVE HEYEN \$ 899.97 DEC PAY
JOHNSON'S GAS N GO \$ 231.43 TRUCK/WINCH
US TREASURY \$ 800.00 IRS PAYMENT
NE DEPT OF REVENUE \$ 158.79 NOV SALES TAX/PD
BALL INSURANCE \$ 39.00 BALANCE ON LIFE INS PREMIUM
WILLIE BESCHEINEN \$ 80.00 LORING STOP REPAIR
UVFR \$ 99.57 SAFETY EQUIPMENT
STEVE HEYEN \$ 65.09 ROCK SALT/PD
US TREASURY \$ 850.62 4TH QTR 2010 W/HHOLDING TAXES
EMS BILLING \$ 155.46 Rescue Billing service/PD
NPHEL \$ 72.00 WATER TESTS
BESCHEINEN EARTHM \$ 1035.00 DISBURSEMENT DISASTER 1878
TERRY MCCLANE \$ 80.00 ADMIN PAY DISASTER 1878
MELISSA HANSEN \$ 173.25 ADMIN PAY DISASTER 1878
UTILITY SERVICE CO \$ 3145.45 WATER TOWER MAINT CONTRACT
NE DEPT OF REVENUE \$ 456.42 2010 STATE W/H TAX PAYMENT
UVFR \$ 1000.00 1st Payment for Jaws-of-Life

Correspondence:

Continental Western followed up their safety visit with a Loss Control Report on their findings. Items were noted for village action. They suggest we implement a playground maintenance plan. Safety regulations require the village to retrofit guard rails on the bleachers on seats above 30 inches. They also suggested that the village add resilient surface material under all playground equipment and remove merry-go-rounds at both parks because they no longer meet safety standards. Safety publications included in the mail pack were given to maintenance to look over.

EMS Billing sent their yearly paperwork requesting administrative information and the village's election to raise service rates. The board would like the clerk to get with the Fire Department's secretary to fill it out.

The Sarpy/Cass Health Organization sent information on their Free Radon Testing Kits. They

will be available at the Papillion Office from Jan. 10 – January 14 if anyone should inquire.

Nebraska is holding their annual Asphalt Paving Conference in Kearney, Feb 15 and 16.

The NDEQ sent a Wastewater Operator Certification Program Newsletter. They have improved their Operator Certification Webpage. The village is waived from certification requirements at this time, but the clerk will access the site to retrieve any pertinent information.

The Lower Platte South Natural Resources District gave notice that meters are required on Wells by January 30, 2011. Our wells have a meter that is working at the moment, but may need to be replaced. LPSNRD offers a cost-share program of 75% up to \$975. Heyen was tasked to get some estimates on new meters. The District requires municipalities to report yearly totals and they want us to provide them with well and meter serial number information.

DANKO sent a memo about narrow banding requirements on radios and radio controlled sirens effective January 1, 2013. Heyen reported that our outdoor sirens are hardwired through telephone lines. The Fire and Rescue use radios that may fall under this regulation.

The village received a motion to dismiss the Adair Asset Management lawsuit against lien holders of 115 W. Main St.

The Nebraska Municipal Clerk Institute sent a schedule of their curriculum for this year's sessions to be held Mar 14 - 18. Registration deadline is February 18. The Board requested that this be added to February's agenda.

The Clerk's Report:

Matters that are typically reported at this time have been move to active agenda items.

The Village Maintenance report: was given by Heyen.

The village pumped an estimated 1,182,000 gallons of water, using 50 gallons times the hours the pump ran in the month of December. The meter read 481,000 gallons and was only working intermittently. Heyen said the meter should be working properly now. The lift station ran at a rate of 4.5 hours per day.

Heyen reported frozen water pipes at 110 B. St. With no electricity connected at the property the pipes froze and filled the basement. Heyen dug up the curbstop by hand and when he pulled the cap off it was filled with sand. In his opinion it was intentional because the cap was in place and there was too much sand to just have washed in. He pulled off the stand pipe with a winch to cut water to the property. All in all it took him four hours to cut the water supply to the home.

Heyen spread salt on the streets to prevent ice. He was not sure if it did much good.

He received two low water pressure calls, one from the McWhas , and one from Bill Bescheinen. When he checked the pumps they had just turned on. When he called back both said the water pressure was normal again. He thinks that because they are both on the low end of the scale that their pressure will be low just before the pump kicks on.

Snow removal went well. The F-250 suffered some electrical issues that are fixed for now, but overall the truck did fine. He wasn't aware, a first, that he needed to plow the main street parking areas. He went back a few times through the residential areas, as cars were moved, to clear spots he couldn't get to on his first runs.

Heyen cleaned and cleared the sewer pump. He received no alarms. The sockets on the Christmas lights are old and the copper tabs worn. They need to be restrung or replaced for next year.

Union United reported that they have received grant funding from the Re-Tree Nebraska Program. The game plan was discussed at the last regular meeting. In upcoming meeting the

group will discuss timeline and spring planting. The group will meet the first Thursday of each month at 7:00 pm at the American Legion Auxiliary Hall.

The next fundraiser is scheduled for March 5, 2011. It will be a soup supper with a silent basket auction. Union United will be raffling a Lied Lodge Getaway for 2 at their upcoming fundraisers. The group is planning a bowling tournament in March.

Fire and Rescue Report 4 Rescue calls were covered since last meeting. Three were transported. No Fires since last meeting. Bescheinen reported that the jaws-of-life unit is scheduled for delivery tomorrow. The State Fire Marshal representative will train the Union volunteers on it at a later date.

Old Business

The board addressed the increasing problem with delinquent utility bills. There is \$10,345.00 outstanding for delinquent utility bills. The board agreed on the need to start shutting off service to those accounts. They understand that some of the accounts hold large balances and need some time to get current. The board discussed cutting services the beginning of March 2011. The board acknowledged that they have been too lenient in the past and can't expect payment in full this month from some of the delinquent customers, but they have had ample time to get current and/or make payment arrangements.

Chipman motioned to authorize the chairman to contact delinquent utility customers by February 1, 2011, in any manner he chooses, to give notice of the March 1, 2011 disconnections and to shut services off at his discretion. 2nd by Vidlak. By roll, Trustee votes are as follows: Hardbarger, Jr.,-Aye,Vidlak-Aye, Chipman-Aye and Kahland-Aye. Motion approved.

The clerk briefed the board on the receipt of FEMA disaster 1878 grant funds in the amount of \$5761.29, which represents the Federal Government's 75% share in the disaster funds. \$1035.00 will go to pay the Bescheinen Earthmoving invoice for their services during the disaster. \$1143.53 goes to reimburse the village for labor and force account equipment usage. \$253.69 will pay the clerk and chairman administrative costs for disaster briefings and claim preparation. The rest, \$3328.07, is allotted for the repair of the town truck and the Montana

Tractor.

The Ford F-250 had the following claims: replace exhaust, bumper and bodywork. The amount dispersed is to cover three insurance deductibles in the amount of \$750.00 at 75% and also includes an estimate of what the adjuster felt wouldn't be covered by our policy. The Montana tractor claim covers 75% of the estimate to fix and/or replace transmission and also includes transport to Lincoln. The clerk reported that she had spoken with NEMA about the board's previous hesitation on fixing the body of the F-250 and the village's intent on returning that portion of the claim. NEMA said that, most likely, it would cost the government more money to accept its return, so the village can keep it. When all the work the village decides on is completed, the clerk will submit the final forms to report the village's expenditures. Once the state receives the documents they will send their portion, 12.5%, of the remaining claim and give us further instructions.

Heyen reported that he straightened out the bumper on the F-250 already. The clerk will provide Heyen with the contact info at Keckler's to have the exhaust repaired and John's tractor to have the Montana picked up for transmission repair. The chairman decided to decline the bodywork on the F-250.

New Business

Nebraska Statute 17-201 allows villages and other class cities to appoint a health board. The State law does not require the members to live within the city limits. The village ordinance requires that the members live within the village limits and this has hindered the number of candidates for these positions. Chipman requested to repeal the current ordinance Section 1-501 MEMBERS. Chipman then read the title of his proposed modification to Village Ordinance 1-501. Then Chipman motioned to waive the three readings of the modification to Village Ordinance 1-501. 2nd by Vidlak. By roll, Trustee votes are as follows: Hardbarger, Jr., -Aye, Vidlak-Aye, Chipman-Aye and Kahland-Aye. Motion approved. Chipman then again read the title of his proposed modification to Village Ordinance 1-501. Chipman then read the entirety of his proposed changes to Village Ordinance 6-301.

Chipman then motioned to amend ordinance 1-501 to so read:

The Village Board of Trustees shall appoint a Board of Health consisting of three members: The chairperson of the Village Board and two other members. The appointees shall hold office for one year unless removed by the Chairperson of the Village Board with the advice and consent of the Trustees.

2nd by Kahland. By roll, Trustee votes are as follows: Hardbarger, Jr.,-Aye,Vidlak-Aye, Chipman-Aye and Kahland-Aye. Motion approved.

The appointment of the Health Board was tabled to allow the amended ordinance 1-501: Members to be publicized in accordance with Village Ordinance 1-306.

Chipman proposed a new Vacant Properties ordinance be added to govern downtown businesses and highway commercial properties. The proposed ordinance was originally drafted for use by Nebraska City by its attorney, Bill Davis. The purpose of the ordinance would require buildings left vacant for periods of time to be registered with the village and require scheduled inspections. It would place the burden of maintenance and demolition at the property owner's feet and protect the Village. Because this is a new ordinance, not an amendment, the board wishes to read it in at 3 meetings to give the residents a chance to respond and voice their opinions.

This ordinance will be assigned to Old Agenda item A. and be read in at the next two meetings and published in its entirety to the meeting minutes starting in February.

Chipman proposed a modification of Ordinance 7-101: Fire and Rescue: Operation and Funding. The change allows the Village the option, rather than mandate, to create a separate levy to support fire and rescue functions. According to Section 35 of the Nebraska State Code, the provision of Workman's Compensation insurance constitutes ownership and authority over operations of the Fire and Rescue Department. Chipman read the title of his proposed modification to Village Ordinance 7-101. Then Chipman motioned to waive the three separate readings of the modification to Ordinance 7-101, 2nd by Vidlak. By roll, Trustee votes are as follows: Hardbarger, Jr.,-Aye,Vidlak-Aye, Chipman-Aye and Kahland-Aye. Motion approved.

Chipman then read again the title of his proposed modification to Ordinance 1-701. Chipman then read the entirety of his proposed changes to Village Ordinance 1-701. Chipman then motioned to amend Village Ordinance 7-101. 2nd by Kahland. By roll, Trustee votes are as follows: Hardbarger, Jr.,-Aye,Vidlak-Aye, Chipman-Aye and Kahland-Aye. Motion approved.

In September Board Meeting of 2010, Chipman motioned to add the McWha Lawsuit to the agenda after the meeting was brought to order. The motion to add the item to the agenda was in accordance with Village Ordinance 1-112. It appears that the State Statute for Open Meeting Laws only allows for emergency changes to the agenda 24 hours prior to the meeting. The agenda item proposed filing a lawsuit against Debra McWha to recoup penalties and interest charged against the Village by the IRS for Ms. McWha's failure to file and pay withholding taxes and to file W-2s while she served as the Village Clerk and Treasurer from 2003 – 2009, in the amount of \$10,533.44. This item was voted on, September 9, 2010 and approved, but purportedly in violation of State Statutes. The suit was filed September 29, 2010.

The residents were asked if there were any objections to the Village's continued legal action against Mrs. McWha and all responded, "Nay". Chipman motioned to ratify the Board's earlier decision to file a lawsuit against Debra McWha for the purpose stated above. 2nd by Vidlak. By roll, Trustee votes are as follows: Hardbarger, Jr.,-Aye,Vidlak-Aye, Chipman-Aye and Kahland-Aye. Motion approved.

The Union Fire Insurance Co. underwrote a public officials bond on Debra McWha from Dec. 2004 through October of 2009. The lawsuit covers penalties and interest occurring from Mar. 31, 2003 through Mar 31, 2009. The Insurance company proposed a settlement of \$7,090.74, the amount of penalties and interest accrued during their coverage period. If the settlement is accepted Chipman proposed to reduce the lawsuit against Ms. McWha to \$3,405.51. Chipman motioned to authorize the chairman to accept the settlement and sign Union Fire Insurance's condition of release. 2nd by Kahland. By roll, Trustee votes are as follows: Hardbarger, Jr.,-Aye,Vidlak-Aye, Chipman-Aye and Kahland-Aye. Motion approved.

The Village received correspondence from Ms. McWha's lawyer, Jamie Kincaid, offering the Village a settlement. If the Village drops the lawsuit against Ms. McWha, Ms. McWha would not file a complaint with State Attorney General claiming that the Board regularly violated the Open Meeting Laws Act by going into closed sessions in the board meetings on Jan 09, Feb. 09 and Jun. 09 and Sep. 09, without an appropriate reason. The other complaint they would file is the agenda change without 24 hours notice for the Sep. 2010 meeting.

Tonight's ratification of the Board's decision during that meeting rectifies that specific purported violation of the Open Meeting Laws. During the meetings that went into closed session, the Village's attorney was present and did not advise the Board that they may be in violation. Two of the closed sessions were to discuss Village security issues. The September 2009 closed

session was specifically requested by Ms. McWha, so she could discuss the reasons for her resignation in private. Chipman believes that there were no violations to the open meeting laws act in these situations, but only looks this way because the clerk failed to record the stated reason the session was closed in the meeting minutes.

According to NE State Statute 84-1414, a suit has to be file within one year of the alleged violation. Proven Open Meeting Laws Act violations, in general, could result in a municipal board members being charged with a misdemeanor. Chipman stated that he felt it would be inappropriate to give in to Ms. McWha's weak legal threat in order to cover the Board's personal interests over protecting the Village.

Mr. McClane added from the floor that, citizens filed a complaint with the Attorney General in 2009 about Open Meeting Laws Act violations. Ms. McWha signed an affidavit at that time, stating that no Open Meeting Laws were violated.

Chipman motioned to decline Ms. McWha's settlement offer dated January 6, 2011. 2nd by Vidlak. By roll, Trustee votes are as follows: Hardbarger, Jr.,-Aye,Vidlak-Aye, Chipman-Aye and Kahland-Aye. Motion approved.

The Board agreed to continue the lawsuit and, once the check cashes from the Insurance settlement, to amend lawsuit. Chipman motioned to reduce the lawsuit by the surety payment amount and to amend lawsuit, pending disbursement of insurance funds. 2nd by Kahland. By roll, Trustee votes are as follows: Hardbarger, Jr.,-Aye,Vidlak-Aye, Chipman-Aye and Kahland-Aye. Motion approved.

Vidlak motioned to adjourn at 8:42 pm. 2nd by Kahland. By roll, Trustee votes are as follows: Hardbarger, Jr.,-Aye,Vidlak-Aye, Chipman-Aye and Kahland-Aye. Motion approved.

The next regular meeting is scheduled for February 9, 2010.

Dwain Hardbarger, Jr.
Chairman