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11-15-11 *ew*

Village of Wapella  
Executive Session Minutes  
May 17, 2011  
Village Hall

Present was Trustee Vernon Meadows, Brad Karr, Tom Brame, Rusty Karr, Sharon Riddle. Also present were President Mark Miller, Clerk Elizabeth Weikle and Attorney Jeff Jurgens.

President Miller said Sharon before we get started do you want to advise the board on this (envelope).

Riddle said we had this unemployment referees decision appeal. We had this previously but for some reason whoever the transcriber was couldn't find the audio. So we had to rehave it. So this was against Heidi Carver where we blocked her unemployment since she quit last end of July. So she hasn't gotten unemployment because I felt like she walked out and there were some other instances. Anyway we had that hearing last week and they did find for us still. So, I am sure she will appeal again. The appeal was upheld, so she won't be getting unemployment at this time.

Tom Brame said can I assume at this particular time that this case is closed as far as our old lawyer. If we have a new appeal will the new lawyer handle it.

Jeff Jurgens said we can. I think we should just probably wait and see what happens.

Riddle said I'm sure she will appeal.

President Miller said if she appeals we will address that matter at that time.

Jurgens said the other pending litigation is there are at least three cases pending against the Village right now. One is the deal of Jane Buraglio, basically removing her from the ballot as a trustee candidate at the last election. She appealed that to the circuit court in Dewitt County and she lost there. She has now got that in appellate court in the fourth district. I talked to her attorney today because typically when you loose one of those appeals and are knocked off the ballot, the courts typically don't continue to hear those unless there is some important issue that they want to rule on for future people to abide by. I wasn't sure exactly what they were going for after the appeal. I talked to her attorney today and it sounds like they want to continue fighting that. I don't know what type of relief they think they are going to get but I am going to continue to talk to her about that. Their appellate brief is due June 3rd and the Village's is due on July 3rd. I will keep you apprised of that. My hope is that they would decide that they are throwing money after something, they shouldn't be throwing money after but sometimes people do that. So, we will just have to wait and see. The other two cases involve the billboards. The property owners in Walnut Circle are basically filing two lawsuits. One is an appeal of the variance ordinance that was granted by the Village board and the other is a court action trying to say the Village acted improperly granting the permits and allowing those

billboards to be put up. I talked to the attorneys that represent the billboard companies, and I talked to the attorneys that represent the property owners. Basically, the Village, as far as I can see, is really between a rock and a hard place. There were some things that should have been done differently in terms of allowing the billboards to be put up. I think that one of the things was the placement of the billboards and I think you, Trustee Riddle, issued a permit to allow them to move it which is one of the things the property owners are complaining about. Well, the property owners filed, which is the thing they filed at the last meeting, basically is an appeal of that decision which stays it. The billboards even though they want them moved, they have done an action that requires them to stay in place right now. So, we've got some defenses to the lawsuit that the people filed in terms of one they are asking for relief that we literally can't give them but we are also gonna have some problems in some of the process that was used. On the flip side, if you guys were to say look we want those billboards to be taken down, then the billboard companies would come after you. They would sue for money damages and they will say we were stopped from taking those kind of actions. So, we really are between a rock and a hard place at this point in time. The hearing I think have been set for status in September. We have to file some pleadings before then but the billboard company is basically saying is look we will move the billboards so they meet all the set backs, we will agree not to advertise any competitors of the Walnut Circle people and we will give them a year of free ad space to get this thing resolved and settled. To me that sounds like a pretty reasonable compromise. When I talked to the attorney for the property owners, he informed me he was not fully aware of this offer. According to the attorney though, there are a couple of property owners who just want the billboards torn down. I feel the next step should maybe be to have everyone sit down and see if we can't come to an agreement such as the offer from the billboard attorney. I wanted to first take the temperature of the board, to see how you feel about the billboards whether you want them moved or torn down.

Tom Brame asked who's property are the billboards on?

President Miller said they are on Chris Bartels property.

Brame asked are they on state right of way?

Riddle said they are going to be moved into compliance on Chris's property. That was my understanding when I issued that permit.

Jurgens said that is part of the problem (where they are located). There was some question as to whether or not part of the signs were on a neighbors property. It is my understanding that is part of the reason why the billboard company wants to move the signs which I'm sure is at great cost to them.

Brame said after they move them is there other laws they broke?

Jurgens said the problem is, what they will argue is that no special permit was issued.

Brame said did we have to have one?

Jurgens said they are arguing that they needed one since it is so close to the highway, they are also claiming as part of the variance procedure there was no zoning board of appeals. That is where they are really going to get us on the process part. I have advised Miller that they really need to appoint that zoning board. As far as the lawsuit, I think that everybody is better off, if we can get everyone together and try to get them to agree to a deal.

Brad Karr said he didn't mind the billboards but it seemed like there was some things done wrong when the permits were issue.

Rusty Karr didn't mind the billboards.

President Miller said we needed to do what was in the best interest of the village.

Sharon Riddle said she felt most of the people didn't mind the billboards as long as it didn't cost the Village anything.

Jurgens said there was one other thing. When I talked to Dawn Walls, the attorney for Jane Buraglio, she indicated to me that she also represents another former employee, Paul Schmid, who may be filling a claim against the village.

Riddle asked for what?

Jurgens said she is supposed to be sending me all the records.

Someone said wrongful termination.

Riddle said we paid him off under protest.

Tom Brame motioned to come out of executive session. Rusty Karr seconded.  
Ayes: Vernon Meadows, Brad Karr, Tom Brame, Rusty Karr and Sharon Riddle

Nays: None

Absent: Jason Trimble

Motion carried with 1 absent.