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RECORD OF PROCEEDINGS
VILLAGE OF PENINSULA COUNCIL
JUNE 23, 2018 SPECIAL COUNCIL MEETING
9:00 – 10:30 a.m.

CALL TO ORDER AND ROLL CALL:

The Village of Peninsula Council convened from 9:00 to 10:30 a.m. for a Special Meeting at the Village of Peninsula Hall. Mayor Mayer called the meeting to order with the following Councilpersons present: Mike Matusz, Mary Booth, Michael J. Kaplan, Dee Holody, and Dan Schneider.

Councilperson Chris Weigand was absent.

Solicitor Brad Bryan was present.

PURPOSE: 1. Discussion Regarding Ohio Public Works Commission Grant.

Ms. Holody stated, last Saturday, we talked about some options, trying to come to some consensus about going forward or at least getting some value out of the work that we have already done in the Design Engineering. If everyone is not already familiar, in December, we talked about going forward with Design Engineering and being shovel ready, or close to shovel ready, which gives us more points towards Grants. We already have an application with the Army Corps of Engineers for $1,000,000. It will be difficult for us to compete because we are not a poor community that has low or low-medium household income values.

The reason we are asking for this meeting is to apply for the Ohio Public Works Commission Grant. This grant is $750,000 with a potential $500,000 0% interest loan. Due to the delay, we only have 30% of the engineering completed. We can still submit at this time. Would the Council consider moving forward to get 60% of the engineering completed by the end of the summer? We would present the project to the Public Works Commission in the fall, and we would likely qualify for the loan, which would keep our options open. The money would not be made available until next year, but you qualify the year before. If, as a Village, we decide to go forward, we have this option available. I believe we should try for the grant money. If we don't go forward, we don't have to accept the grant money.

Mr. Kaplan asked if at the end of the year we do not receive the grant, how do we fund this project? He emphasized no decisions were made to go forward.

Ms. Holody stated we decided, with Council, at the end of last year, to go forward to bring Central Sewers to the Village. We would like to apply for the OPWC grant and submit our NPDES permit application which would extend the Stantec contract and send the antidegradation report to the EPA. Those steps would have the EPA engaged with what we are thinking about doing.

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PURPOSE 2. Consideration of Legislation to increase Appropriation Budget to include Design Engineering Fees.

Ms. Holody stated I don't know why when we passed the contract in December, when we passed the Appropriations Budget, it was not included in a budget line item. We need to have something in the budget to pay Stantec. Regardless whether we decide to use General Fund to pay for this or we use the OWDA grant we have qualified for, we must have a line item in the OWDA as a re-imbursement fund. We must pay them first, then get reimbursed from the OWDA. We can decide to pay Stantec today and then appropriate it out of General Fund according to the Solicitor. The reason that we had the sewer fee in place is because it's a requirement of any loan we take. There must be a guaranteed source of repayment. So OWDA, the EPA, and the EPA Financial Division require that you have a Sewer Fee in place, so you can demonstrate a guaranteed source of repayment.

PURPOSE 3. Consideration of Legislation.

Mr. Kaplan stated the last time we were here, Ms. Holody stated the engineering was almost complete. Now, we are being told it's 30%, so thank you for the update. Being told that we must have a Sewer Tax in place isn't true. Yes, there needs to be a line item stating how the loan would be repaid. However, the credit of the Village would be enough. This document, if it's valid, obligates the Village to repay the loan not the residents, not the businesses, not the Chamber. Let's have the facts in front of us. There is no requirement from the State of Ohio or any of the agencies that we have a Sewer Tax. I thought I made a reasonable request to have a copy of the Grant Application.

Ms. Holody stated I sent it to everyone.

Mr. Kaplan stated no, you sent us a blank form.

A discussion then took place as to who should fill out the application form. Ms. Holody advocated for Stantec to fill it out since they have expertise in these matters. Ms. Holody stated Stantec would charge an additional $10,400 to prepare the applications and finish and file the NPDES permit application and antidegradation report and get to the 30% completion process. She recommended the Village get this work done to keep its options open. Filing the permit would put the Village on a time limit and start the conversations with the EPA.

Mr. Kaplan stated the application is from the Village and the Village needs to sign it with the Fiscal Officer making certain certifications. Mr. Kaplan asked

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how the legislation can be considered if the application is not filled out. He stated to move forward, the application needs to be filled out.

Ms. Holody stated her thinking now is different then in December. She stated she is not even sure we are ready to go forward with funding at this time. She would love to try for the grant but does not think we are ready to do it this year. She is not sure if we look bad if we turn it down if we receive it.

Mr. Kaplan asked how we can operate a sewer system if we cannot fill out a form. There are 7 attachments needed for this application. The Fiscal Officer must sign and certify the application in two places under oath. He asked whether it is possible to fill out this form and add these attachments before trying to force this through. He said let me state this to everyone here and everyone in the community, I will not vote on something unless I've read it. Mr. Kaplan pointed out the Solicitor stated to the County this whole project was on pause. This is now the third meeting at which I've been called to move forward on the Sewer System. Two months ago, I made a motion, that was seconded, to repeal the Sewer Tax. I was told by the Solicitor that it could not be placed on first reading because it hadn't been typed up. Here we are now with uncompleted forms and the Solicitor doesn't seem to have an issue with that. If I can't propose legislation until it's typed up, then you can't either. Can we please fill out the document before we discuss it? Can we not fill this out at the Fiscal Office?

Mr. Kaplan stated, in the Stantec contract, every piece of correspondence between the Village and Stantec is to be sent to the Village Administrator. I've asked him for a copy of that file and it doesn't exist. So, if we can't follow their contractual obligations, how can we move forward. Doesn't the Village fill out the Village's application form? We should seek available funding if it will not prejudice us later or make us look bad. Could we at least start to fill it out?

Mr. Kaplan asked what the interest rate was on the loan. Ms. Holody stated it was 0% over 20 years.

Mr. Kaplan stated when filling out loans, we need to meet with the Fiscal Officer. No one has met with the Fiscal officer about this project because nothing has come across his desk. We have hired a company without considering our budget. We owe Stantec $60,000 that we never budgeted. Now you are asking us to vote on them filling out a form that is going to cost us $10,000? There is no time limit with anything or anyone. Why would you apply for a permit, if no decision has been made to do the project that needs the permit? If the Council and Community wants to apply for a grant that will not prejudice the Village's loan seeking ability in the future and without making a statement of intention because the Village has not determined that intention, then I'm 100% for it. However, there must be a worked out, thought out, completed set of forms. If you want to hire Stantec to fill out a form, how much does it cost to fill out the form? I am open to open dialogue, and part of that open dialogue is that they follow their own contract and provide copies of all their correspondence. $10,400? I know a lot of people that could fill out this form for a lot less.

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Mr. Bryan stated theses applications are due by the beginning of July and are first considered in September by the Summit County Infrastructure Committee. A grant is very difficult to get in front of that Committee. We need to be in the 120-140-point range to get the grant traditionally. It is highly unlikely the Village would get the points without the design engineering for the project being mostly completed. Even at 60% design completion, it is unlikely we would get it. He also stated he would not suggest going after a loan. In filling out this form, the OPWC thinks you are intending to go forward with this project. Is it a legal obligation? If we can't go forward, we don't have to accept it, but the chances of getting any type of loan or grant the following year are very slim if you turn the loan down the year before. They will look unfavorably on you for that. Without having most of the design engineering completed, I don't see us getting a grant, and I would not recommend applying for a loan at this time.

The Mayor asked where are we getting all this money? The more money I bring in, the more money you want to spend on sewer pipes. At the rate you are spending on this, we aren't going to be able to afford this project unless you charge people more than a $15 tax. Stantec gave a promise to find us funding for this project. Now, they are saying they will do that only if we pay them $10,400 to fill out this application. Let's turn on the money. So, Mr. Kaplan, let's have the Fiscal Officer fill out this form without help from the Engineering Company.

Ms. Holody pointed out that Stantec has not peen paid a dime since the project started.

The Mayor stated we can't pay them if it is not in the budget. He stated I never signed the contract to go forward using them because they were never put in the budget to be paid, but now I'm being told I should sign everything even though it states that the Mayor needs to control the Council to make sure they don't overspend their budget. We didn't have the money in the budget, we still don't have the money in the budget, but we are going to open the checkbook and move forward. I think the project is right where it should be. It's frozen. It's stopped until we can meet and discuss all these numbers and quit assuming and quit having one person go to a meeting and come back with a whole new dialogue when everybody should hear what is being said. These backdoor meetings need to stop.

Ms. Holody stated Stantec is available to come to these meetings.

The Mayor asked how much that will cost and asked why you can't ask them to come to a meeting when you are paying them $450,000.

Ms. Holody stated the contractor must be paid for their time. The contract is not a fixed price contract. They charge by the hour based upon their time.

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Mr. Kaplan stated it has been one month since a request was made to turn over the public records and nothing has been shown. He requested that we ask Stantec to go back to December and produce all correspondence to this point and then to meet with all of us. We have four legislative parts, and I don't think we have enough info to discuss any of them. We do have a second reading that would repeal Chapter 931 of the Codified Ordinances relating to the Village Wastewater monthly fee. I would like to consider that as a second reading. The first reading to consider the grant or loan applications should not be put on the table or should be tabled since they have a lot of things wrong with them. About 21-2018 and 22-2018, I don't have those copies. When everyone gets copies of the agenda, they should also get copies of the legislation. Mr. Stiegel is the Clerk of the Council. He should provide the agenda, useable minutes, and the materials needed to do our work and keep public records straight.

Mr. Kaplan stated it is a fact that once a public record request is initiated, that if it is not provided, there is a per day, per document penalty. Back in March, Stantec was asked to turn these records over to the Solicitor. Where are the records?

The Mayor asked whether there was anything on this agenda we can move on today?

Mr. Kaplan stated the second reading on the sewer tax repeal ordinance. With respect to the other items, you can't have a 1st reading if Council doesn't have the papers. We are asking the public to attend our meetings. They want education and information, so they know what our resolutions are going to be. So far, what we have shown them is that we can't make a decision, we can go behind people's backs and have special meetings, and we don't have the info to move forward on. We can't get the info to the public at our regular monthly meetings. Why is that? Our regular meeting goes to 10:30 at night so we must have these special meetings in the mornings to give them and ourselves the information. We don't move fast enough on a regular meeting. If we scheduled that meeting on a Monday evening, there would be better awareness for the public turnout.

Ms. Holody stated she tried to get approval to meet two times a month, but no one agreed to that. Mr. Kaplan told her to put that request on the agenda at the regular meeting and we will discuss it.

Mayor Mayer stated when you request a special meeting, please be aware our staff is part time. On Wednesday, the Administrative Assistant is not in the office. On Friday, the Fiscal Officer is not in the office. When you put in a request on Thursday, when 3 people are here, they must drop everything to get the mailings out, get the agendas out, and hunt Mr. Bryan out. Start planning appropriately.

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At this time, **Ordinance No. 18-2018, An Ordinance Repealing Chapter 931 of the Codified Ordinances Relating to the Village Wastewater Service District Monthly Sewer Fee**, was read by title on second reading.

Ms. Holody asked whether Council wants Mr. Stiegel to fill out the application form to the best of his ability, so everyone can see what it looks like?

Mr. Kaplan stated he would make the following motion: prior to further discussion to enter into a loan agreement, we should have the Village Fiscal Officer prepare such papers as necessary to complete the document and be ready for signature if we move forward.

The Mayor stated the application is due July 6, and it will not be completed by then. The Fiscal Officer must sign the completed paperwork.

Mr. Kaplan stated if the application is completed and John says he is ready to sign it, and it's clear from the application and from the Solicitor that it won't hurt the Village if we don't go forward with it and if it won't prejudice us with the County if we choose to go that way, then I'll vote for it.

Mr. Bryan stated if the Village submits the loan application and the Village receives the loan, that means the Village is expressing the intent to the OPWC it is going forward with the project. He questioned how the project could move forward without grant money. He stated that it is highly unlikely that the Village will be awarded the grant money.

Ms. Holody stated we need to set a special meeting for next Saturday and stated someone needs to make a motion.

At this time, Mr. Kaplan made a motion to adjourn the meeting that was seconded by Mr. Schneider. All were in favor of the motion; none were opposed. The motion carried, and the meeting was adjourned.

Respectfully submitted:

Douglas G Mayer, Mayor Date

John Stiegel, Fiscal Officer Date