

DRAFT

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

**CALL TO ORDER:**

The Village of Peninsula Council convened from 9:00 a.m. to 10:30 a.m. for a Special Meeting at Peninsula Village Hall. The following officials were present; Mayer Douglas Mayer and Councilpersons Michael Matusz, Mary Booth, Michael J. Kaplan, Dee Holody, Christopher Weigand, and Daniel Schneider. Solicitor Brad Bryan was also present.

**LEGISLATION:**

3<sup>rd</sup> Reading:

**Ordinance No.18-2018. An Ordinance Repealing Chapter 931 of the Codified Ordinances Relating to the Village Wastewater Service District Monthly Sewer Fee.**

The Ordinance was read by title. Mr. Kaplan made a motion to adopt Ordinance No. 18-2018 and that motion was seconded by Mr. Matusz. Mr. Kaplan related the following regarding this Ordinance.

The County has stated it would cover all the costs and would begin billing us no less than one year after the system was up and running. There is no purpose for this tax if the Village decides not to build this system for all or part of the Village. What is the problem? What are the potential solutions? Which one do we want? It's an unreasonable burden on part of the community to stockpile money.

It's unfair to charge a family the same tax as a commercial establishment. Originally, the project was to be, a portion of the Village would have a sewer installed and all of it paid for by the people of that District on a scale that approximated their use of it. We are asking them to shell out tax money to the Village for an indefinite period with no agreed plan.

We could go with the plan that's been proposed; we could go with a septic system plan; we could go with a County plan; we could go with all the Village; we could go with part of the Village; or we could go with a different segment of the Village. None of these matters have been discussed. Why are there people being charged this tax when nothing has moved forward? We should not be collecting a tax now for that service.

The problem is that the second billing has already gone out. There are members of the community that have not paid the last quarter, so they are now being charged 10% interest and penalized for something they don't have. If they do not pay by August 1<sup>st</sup>, 2018, they will be turned over to Summit County to have their taxes assessed for \$90 and it will cost us \$2,000. The \$15 that all of you paid will go towards the \$90 that the people didn't pay, and the County gets

10% of that. The intent was there, but your money is not going to go towards the sewer. I am in favor of repealing this chapter.

Ms. Booth stated the reason the tax was added was so that we could show that we could pay back the 0% interest loan. The County has no interest in building the sewer. The County cannot obtain a grant, and the Village would have to pay 100% of the cost if the County did build it.

Ms. Holody stated the \$750,000 grant and 0% interest loan are a substantial savings, and that is why they're was a \$15 per month fee. The County has no ability to get a grant. We should put the money on hold until next year. The grant application is not ready so will lose the opportunity to apply. That is why I am voting no.

Council then discussed whether everyone would be willing to put the sewer fee on hold and put the money already collected in a separate fund. Collection and enforcement would be stopped against those who haven't paid it and the money collected would be placed in a separate fund until we see the direction we are headed.

It was established that there was close to \$3,000 in the account at this time.

Mr. Matusz stated he thinks the money should be refunded, in fairness to those who have paid, he was okay with putting the ordinance on hold.

The idea of sending refunds out to only those who request them was raised. Discussion was then had as to whether that was too complicated.

Mr. Kaplan pointed out the obligation to repay the loan falls on the Village.

Ms. Holody stated when we were looking at the OWDA loan, we had a choice. We could go through the Department of Finance (EPA) for Design Engineering. We were asked by the EPA when we were going to institute the sewer fee to guarantee the source of repayment. We could have stated it would come from the General Fund, but we didn't. We said it would come from this \$15 sewer fee. We were strongly encouraged by the EPA to get it done. I don't want to see this unraveled since we have put so much work into it. I agree that we can put a hold on the fees until the work is completed. I am also okay that it could come out of the General Fund. It was my understanding and that of the engineering firm that we can't charge those people that wouldn't be using it. This had to stand up in court according to the engineering firm. It had to be spread evenly across all homeowners and business regardless of size. I would like to see the ordinance stay in place but put it on hold or refund it all. Pay the engineering firm from the General Fund.

Mr. Kaplan stated we have a couple of options. We can amend the ordinance to refund the money when it is possible by the Fiscal Officer. It is on the agenda for a vote, but we don't need to make a vote on passage today. The Council could agree on a resolution to direct the Fiscal Officer to stop billing, not pursue any collection enforcement, and refund the money. The Ordinance would still be in effect.

Mayor Mayer stated he does not see the difference. If we repeal it, the people get their money back, we don't have to do any more. If a year from now something changes, we could vote it back in. Why are we putting it on hold when we are already putting it on hold and we could vote it back in.

Mr. Kaplan stated he would like to compromise with the other side if that is possible. The goal is to stop the fee and get the people their money back. He stated Ms. Booth's resolution sounds reasonable to him even though it wasn't his first choice. Mr. Kaplan asked the Solicitor if that was something that could be put into place to stop the enforcement of the ordinance until that legislation is passed. The Solicitor stated yes.

Mr. Bryan stated the Village is not compelled to enforce the Ordinance, especially if there is a direction from Council and the Mayor to not do so.

Mr. Kaplan asked how we do it at a special meeting. Mr. Bryan stated the topic of the sewer fee is on the agenda. Council should make a motion directing that the sewer fee ordinance not be enforced while the issue of repealing or suspending enforcement of the ordinance is pending.

Mr. Kaplan asked if he could get a straw vote from everyone to see if that is what Council wants to do. He framed the options as voting on the repeal ordinance at this meeting or agreeing to pass the resolution to suspend the enforcement and refund the money at the next meeting. It was agreed that Council would pass the resolution to suspend enforcement of the ordinance and refund the money to those who requested a refund.

Mr. Kaplan asked if the Mayor could send something out about Council's decision to the property owners in the District since the bills for the quarter have already gone out. It was agreed that any checks that were received would not be cashed. A question was posed whether the Village could back bill the property owners if the enforcement moratorium were lifted in the future. Council determined it would not and could not legally do that.

Mr. Kaplan withdrew his motion to adopt Ordinance No. 18-2018.

**Resolution No. 21-2018. A Resolution Authorizing Stantec Consulting Services, Inc. to Prepare and Submit an Application on Behalf of the Village of Peninsula to Participate in the Ohio Public Works Commission State Capital Improvement Program or Small Government Program for Funding for a Wastewater Project and Authorizing and Directing Mayor Douglas Mayer to Execute the Application and All Contracts with the Ohio Public Works Commission for Infrastructure Funds on Behalf of the Village**

Ms. Holody stated it was her understanding that Council did not wish to go forward with this Resolution. She stated she sent a message to just explain the process for applying for the grant application for the \$750,000 grant and the \$500,000 loan. Council wanted to see the expenses relating to this grant and loan and the application. It is \$1,500 for the engineering firm to have the 30% design review meeting with the County. The balance was about \$7,000 to finish the application and get it to the EPA for applying for the OWPC grant. She stated we are only 30% complete with the design engineering. The original plan was to be 60% complete in July and 100% complete by the end of the summer to stand up in front of the committee. We have very little chance of reaching those goals. We still have the Army Corps of Engineers grant application pending.

Mr. Kaplan asked that the email from last night be included in the minutes. He stated he keeps asking for the e-mails of the public records, liaison records, the communications, and the correspondence so he can learn as well.

Ms. Holody stated there is a 6-page packet for the public works application; Stantec filled them out.

The Mayor stated John Stiegel was asked by Council to fill them out, so why would Stantec fill them out?

Ms. Holody stated there are a lot of attachments that go with the application. She stated she and Ms. Booth can work together on the application if Council wants to go forward with it, but she is not going to do the work if the Council doesn't want to go forward with it.

The Mayor stated Stantec has been continually billing us since April for Special meetings and a meeting with the County. Money keeps getting spent that we don't have. Who is authorizing this? I asked them these questions and they won't give me answers. We are not going forward with it anyway. The Mayor stated Mr. Kaplan asked for "no prejudice" with the OPWC but you can't guarantee it. What would it cost us to move forward? No prejudice means you

are giving good faith by going forward. There is language that we could go forward.

Ms. Holody stated she did take into consideration how we would score. We aren't going to get this grant.

Mr. Kaplan stated if we are going to leave it in the record, we need to state the application was prepared and filled out by Stantec. Mr. Kaplan stated we need to put in the motion where the applications came from who filled it out.

Ms. Holody stated there is no motion regarding the resolution on the table and she will withdraw the resolution. It hasn't been moved.

**Resolution No. 22-2018. A Resolution Amending the Annual Appropriation Resolution.**

This Resolution was read by title. It was explained that this Resolution called for appropriating \$70,000 in the budget under the Capital Projects line item to appropriate money to pay Stantec. A request was made to hear from Mr. Stiegel about why this expenditure is not in the budget. A request was made to get a breakdown of the Stantec bill prior to the next meeting.

At this point of the meeting, residents asked some questions and made comments.

A question was asked as to what level the Village's businesses are out of compliance. The resident was advised the Village does not have any notice that any company is out-of-compliance? The businesses that are in question are working with the EPA.

A resident stated they would like to see on the agenda at the next meeting a plan to sort out and get the data regarding the septic systems in the Village.

A resident asked whether the Village could do its own testing. They were advised the Village is not set up to perform that type of work. The Heath Department works for us and would do it if the Village asked.

Mr. Slocum stated he attended the May 22<sup>nd</sup> meeting. He asked that we all speak out about what we heard. He stated he thinks there is a disconnect on the NPDES systems. Is it a sanitary system or a pollution system? Could one of them fail? Maybe. Could the EPA come and shut us down? No. He heard that Village is okay from the County and the EPA.

A comment was made stating today we are okay. The argument from the other side is that everyone is not compliant because everyone has not been tested.

Someone stated they favor the no-action option. Mr. Weigand stated there is not a no-action option. Some action will need to be taken whether it is by the Village, the businesses, or the residents. Mr. Kaplan stated the State of Ohio in 2015 stated that septic systems are legal. In January 2019 everyone is going to

have a piece of paper stating that you have a septic system. We in the Village have gotten different messages from the Health Department and the EPA. We need to document this correspondence and make all documents public records. All water that comes through the houses goes to the river or evaporates. If the Village has a sewer plant, it will dump all the water in the river. If it doesn't work right, the Village gets fined. If it doesn't work at the house, we are not fined.

A resident stated we need to keep things under our own control. We replaced our tanks several years ago and several times. If I can control and maintain it, why should I pay for other people's lack of maintenance and repair.

A resident stated this is not the same Village I moved to 40 years ago. I can't have family here due to tourism. My house is on the market. People can't even park in front of my house. Whoever said growth in the Village is phenomenal is mistaken. There have been picnics in my yard and beer bottles in my yard. Where does the growth stop? Who is maintaining and taking care of their properties. If you don't live downtown, come and stay at my place.

Another resident asked why Stantec dominates the talks at every meeting. When are we going sever ties with them? When are you going to recalibrate and stop spending taxes?

Ms. Booth advised the County did not want to work with us. At the start of the year, there was a vote placed as to whether go forward with them.

The Mayor stated he was still open to a few more questions.

A resident asked if there is a way the Village could get the grant and still use the County.

The Mayor advised yes and no. There might be a way to do so but it could not be piecemeal.

A motion to adjourn was made and seconded. All were in favor of adjournment; none were opposed.

Respectfully submitted:

Douglas G Mayer, Mayor Date

John Stiegel, Fiscal Officer Date

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