

**EDMORE VILLAGE COUNCIL
REGULAR SESSION
APPROVED JOURNAL OF MINUTES**

JULY 13, 2020

1. **CALL TO ORDER:** The regular session of the Village of Edmore Council was called to order on Monday, July 13, 2020 at 7:00 p.m. by **President Gloria Burr**.
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL:** Members present – **Ashbaugh, Colburn, Guild, Hadley, Moore, Rasmussen, Burr**. Also present: **Sgt. Germain** – Montcalm County Sheriff's Dept., **Justin Lakamper** – Village Manager, **Shirley Drain** – Village Treasurer, **Kerri Peterson** – Village Clerk.
4. **APPROVAL OF THE AGENDA:** **Ashbaugh** moves to approve the agenda as written. Supported by **Rasmussen**. VOICE VOTE: ALL YES: MOTION PASSED 7-0.
5. **PUBLIC COMMENTS ON AGENDA ITEMS:** **Tony Maxfield** is here representing himself to answer any questions that may arise during the discussion of 1398 Industrial Drive. He feels it has gotten off to a bad start. He stated he's been accused of not having permission or getting formal documents saying he was legal to pursue that development in purchasing that building. He did come to the village manager at that time and was told that he could do anything with that building if he was to purchase it, that he wanted. So that is how he followed through. He went on to state that later, **Lakamper** came to him and stated there was a problem with that so we tried to address it. **Maxfield** asked what needed to be done and asked for a variance to proceed with what they are doing. That was turned down by the council. On June 2nd, **Maxfield** stated he had a meeting with **Lakamper** where he requested to see about having it rezoned as a possibility to move forward and to allow redevelopment to work. He has not heard anything back from **Lakamper** for about a month and a half. He then saw this evening the council was having a discussion to move forward with legal enforcement. He also noted that the council is going to discuss about becoming a redevelopment ready community. He highlighted a couple points in the regulations on empowering communities and best practices. He went on to talk about how business operates now and how it's going to operate in the future, we are not an industrial state anymore. He then asked the council to consider the options that he has requested in the past before you seek council and move forward in evicting our tenants. "
6. **DEPARTMENT REPORTS:** **SGT. GERMAINE** (KP)
 - A. **POLICE:** ~~Deputy Berry~~ reported. Highlights included June 17th, while investigating a domestic assault complaint in the 600 block of West Pine Street, contact was made with a 41-year-old man from Chicago. It was learned that the man had a warrant for his arrest from Marion County Sheriff's Office in Illinois. The charge was for failure to appear for court to answer to a stolen firearm charge. The man was lodged in the County Jail at the request of Marion County. He was later released as Marion County elected not to extradite the subject back to Illinois. Full report on file.
 - B. **FINANCE:** **Lakamper** reported for Tracy. Tax bills have been mailed out. Completed 2019 Consumer Confidence Report for water which was mailed out with the taxes. Reviewed and approved the annual draft audit from Berthiaume Accountants. Currently working on the Investment Reporting Tool for streets. Once completed Tracy can submit our annual F65 form

to MDOT which shows how we have spent our ACT 51 monies. She continues to work on the quarterly payroll reports.

- C. **DDA: Lakamper** reported for Phil. Began the online self-evaluation for Redevelopment Ready Communities training. The training is tied to many MEDC grants and completing this process will help Edmore qualify for grants if applied for in the future. This is in guidance through the Village manager and President. Meetings with the Mid Michigan Arts Council and their President Alyx Halsey and Art Council trustees in collaboration with the Village Manager on Mercantile Strategies. Working with Matt Jourdan on the Rail to Trail sign for downtown businesses. DDA bylaws were developed in collaboration with the Village Manager and President for review and to move on to the next step for approval. Planning of three Edmore Community Events in collaboration with the volunteers from the local community action council. Tentative events are an Edmore Art Festival, Edmore youth Halloween event and Edmore Christmas in the Village. DDA updates: Mr. Travis Jensen donated kitchen equipment for the Market Place and Mr. Jason Hunt resigned from the DDA.
- D. **DPW: Burr** reported for Andy. In addition to regular work the DPW painted the basketball hoops, painted the doors on the shed and vault at the cemetery, poured foundations at the cemetery, mowed additional uncut lots, replaced 8 worn out American flags, sprayed at the sewer ponds, and completed water main flushing.
- E. **MANAGER: Lakamper** reported on the Audit: We received the draft audit from the accountants. Tracy and I have reviewed it for accuracy and have approved it for publishing. Once the auditors finish and publish the books we will be handing them out to you all. Darcie will not be coming this year to report on the audit. Our contract with Berthiaume requires them to come every other year. Bag Factory – Upstairs Bathrooms: Final inspections have been performed and approved. During inspection I noticed there were no fire alarms in the bathrooms. Konwinski Construction informed me that they have pulled the wires for this and have been waiting on their order for the alarms from the manufacturer who has not communicated with them since the shutdowns. Despite this they have received their final building inspections and have passed. Lakamper is waiting on an updated certificate of occupancy from the County. Potential Renters: The Arts Council has approached me with a proposal to rent out the space in the bag factory. They have proposed to use the west end of the basement, the usable portion of the blue room, and to have occasional access to the usual portion of the west upstairs room. The idea would be for them to have studio spaces in the basement to work on art and to have stands to rent out in the blue room. Local crafters and artisans could rent stands from the Arts Council to sell their products out of the blue room. They have proposed a \$1000 per month rent on a quarterly lease. This would allow for them to move out should we ever get higher paying tenants which they understand to be the ultimate goal. The idea would be to have them in there on a regular basis to have the doors open and begin to get regular use out of the building. Details still need to be discussed before presenting to the DDA for approval. Casair – We've been communicating back and forth. Lakamper has come up with a few alternatives to try and implement the agreement. Casair was looking at trying to use the bag factory's line towards part of our agreement, however that would require running a fiber line to the building at a cost to us of \$1500. So that doesn't seem to be an option for them. Chip Sealing will begin tomorrow morning on 11th Street, S. 4th Street, Pine-Juniper, and Greenfield. Code Enforcement – Grass: We've been handing out tags regularly. Each time we end up cutting one or two of them. That has slowed down a little bit. There is one house who has resolved to never cut the lawn. 424 S. 5th St: The flower shop

has submitted their temporary zoning permit for their greenhouse, which has been approved with the condition that it is taken down in the fall at the expiration of the permit., 312 S. Brown St.: We are pursuing legal enforcement action as of today. The structures in question were not removed by July 13th, so that has begun. Curtis Park: We received a grant to buy some new equipment, met with the equipment manufacturer about replacement, with some members of the parks committee. We still need to get a full parks committee meeting together to finalize that decision. Changing the placements adds a little bit of a cost so we need to approve that. **Burr** asked **Lakamper** if the equipment has been ordered. **Lakamper** responded no. **Burr** asked why we hadn't ordered it yet. **Lakamper** explained that we need to tell them exactly what we're doing before we order it. **Burr** asked if we had to tell them where it's going to go before we order it. **Lakamper** answered that we have multiple proposals at the moment which depends on where it is going to be placed. There will be a difference in the amount of wood chips that are ordered depending on where we place it and that's on the same order. **Burr** questioned why we can't order the equipment without doing all that. **Lakamper** replied that he can ask them if we can put a work order in just for the equipment and a secondary one later. **Burr** stated, we're looking at September and October if we don't get this ordered right now. **Lakamper** agreed. **Lakamper** resumed reporting DDA: DDA Chair Jason Hunt has resigned from his position at the last DDA meeting, which was never brought to order due to a lack of a quorum. The next DDA meeting will be on August 19th. Election: Reminder that if you're interested in running for the election in November for the four open seats on the board, your petitions have to be turned in by July 21st to be on the ballot. M46 Sidewalk: During the repaving of the driveway at 212 E. Main, some of the sidewalk was damaged. The owners had the damaged pieces repaired by Dan Petersheim, which included the problematic lip and root around the tree. This has all been repaired at no cost to the DDA/Village. Speed Limit on First Street: In response to concerns of a resident on First Street over speeding, I contacted the Road Commission to discuss adding a 'reduced speed ahead' sign to alert drivers to the changing speed limits as one drives into town. They have agreed to add them. Discussion ensued about the signs coming into both sides of town and replacing or adding to them. All agreed that it is a problem, and nobody pays any attention to the signs most of the time.

- F. **PRESIDENT:** **Burr** thanked everyone for wearing their masks for this meeting and social distancing. We have to do what we can to try to keep Covid-19 out of our community. It's getting very, very close. Good luck to our new business in town, Edmore Provisionary. Looks like they are doing quite well and running quite smoothly. Haven't heard any complaints.

7. **TREASURER'S REPORT:** **Drain**

- A. **TREASURER'S REPORT & COMMENTS:** **Drain** reported the books are closed and balanced for the month of June. All loans are up to date except Mustang Junction. **Lakamper** stated he spoke with him today and payment should be coming. **Drain** emailed Darcy and asked if there was anything she would like to say to the council. Darcy said everything looked really good and this is the first time in a lot of years that the water fund is in the black and it looks like next year it will also be in the black. This is the first time in a long time the water fund has not gone into the red. Audit is good.
- B. **APPROVAL OF PAYMENT OF BILLS:** Motion by **Rasmussen** to approve the bills of the June 08, 2020 meeting. Supported by **Moore**. ROLL CALL VOTE: Ashbaugh, Colburn, Guild, Hadley, Moore, Rasmussen, Burr. ALL YES: MOTION PASSED 7-0.

8. **COMMITTEE REPORTS:** Later in agenda. **Colburn** stated they need to get an ordinance committee meeting together. Ordinance committee meeting date was set for Wednesday July 15th. **Hadley** and **Burr** discussed the parks committee getting a meeting together. **Burr** stated we need to get moving on this park equipment. Parks Committee meeting was also set for Wednesday July 15th.
9. **APPROVAL OF MINUTES:**
 - A. **REGULAR COUNCIL MEETING June 08, 2020:** **Ashbaugh** moved to approve the minutes from the June 08, 2020 meeting. Supported by **Colburn**. VOICE VOTE: ALL YES: MOTION PASSED 7-0.
10. **NEW BUSINESS:**
 - A. **APPROVAL TO ADD UP TO 7 STREET LAMPS ON M46:** **Lakamper** reported that Consumers Energy will be replacing the 7 suspended streetlamps on M46 starting at First Street heading west. These lamps hang in the middle of the road on a wire that is connected to a pole on either side of the street. Consumers Energy will be replacing each of these with one lamp that hangs directly off the pole on the south side of the street similar to the light poles on the East end of M46. They have informed me they can install more lights on the North side of the street at a cost of \$100 per light. Comes out of major street funds so there is no problem with money. **Burr** thinks that's a good plan. **Guild** asked how they planned to power the lights on the north side of M46 since the power to the poles running the suspended lights currently is on the south side of the road. Discussion ensued as to why they wanted to remove them from the middle of the street. **Lakamper** doesn't know if it has anything to do with the power source. More discussion took place around the positioning of the lights on the north side of M46 in comparison to the south side. **Drain** asked if Consumers is going to do all the work, install the poles, and supply the light for \$100 per light. **Lakamper** answered they are going to use existing poles but yes. **Guild** is still curious on how they're going to run the power on the north side since the existing poles are telephone poles. The board agreed that for \$100 per light it was a very good idea. Motion by **Guild** to proceed with 7 additional streetlights on the north side of M46 at a cost of \$100 per light. Supported by **Rasmussen**. ROLL CALL VOTE: **Ashbaugh**, **Colburn**, **Guild**, **Hadley**, **Moore**, **Rasmussen**, **Burr**. ALL YES: MOTION PASSED 7-0.
 - B. **RESOLUTION OF INTENT TO BECOME REDEVELOPMENT READY COMMUNITY CERTIFIED:** **Lakamper** reported that the RRC is a certification program from the MEDC (Michigan Economic Development Corporation) to train all municipalities to stay on the best practices for economic development, rezoning, etc. The RRC certification is a multi-step process. We need to pass this resolution to become RRC engaged. This is a term that MEDC uses to know that a community is working with them towards becoming certified. As of right now, being engaged qualifies you for the MEDC grants that require it, which is pretty much all of them. The training is quite helpful and very useful. He invites anyone who wants to take the training or check it out to let him know and he will set them up. **Lakamper**, **Burr** and **Garcia** have all began the process. Resolution 2020-3 simply states that we are on board with trying to become certified. **Lakamper** explained the steps, that there is no cost to us, and it can only be beneficial to us. **Hadley** moved to adopt Resolution 2020-3: Authorizing the Village of Edmore to participate in the MEDC Redevelopment Ready Communities Program. Supported by **Rasmussen**. ROLL CALL VOTE: **Ashbaugh**, **Colburn**, **Guild**, **Hadley**, **Moore**, **Rasmussen**, **Burr**. ALL YES: MOTION PASSED 7-0.
 - C. **APPROVAL TO HAVE VILLAGE ATTORNEY DRAFT AN ORDINANCE ENFORCEMENT LETTER FOR 1398 INDUSTRIAL DRIVE:** Motion by **Colburn** to have the village attorney draft an ordinance enforcement letter for 1398 Industrial drive. Supported by **Ashbaugh**. **Lakamper**

reported that we are discussing the property at 1398 Industrial Drive. It is formally the offices of Potato Services and was purchased by Mr. Maxfield and turned into a rental apartment. It has since, for several months been used as a rental. **Maxfield** replied, over a year and a half. **Lakamper** went on to state that residential use, per our ordinance, is not permitted in the industrial zone. What we are asking for today is to move forward with enforcement to prevent that use as a rental in the industrial zone. **Colburn** responded that he thinks we have two issues here. One is compliance with the zoning and the other is the possibility at some point in time of changing the zoning. Today, we are talking about compliance with the zoning. Discussion ensued between **Colburn** and **Tony Maxfield**, owner of 1398 Industrial Drive. **Colburn** asked **Maxfield** if he owned the property. **Maxfield**: Yes. **Colburn**: You say you talked to the former village manager about this? **Maxfield**: Correct. I believe there's more people that know about that than just me, but yes. **Colburn**: He reportedly doesn't recall that. **Maxfield**: Well. **Colburn**: We have no way to know one way or another whether you had that conversation, or whether you didn't have that conversation. But I think it's reasonable to assume, Tony, that you are aware of zoning. You have been around here and building things and doing a lot of positive things as well in the community for a long while. **Maxfield**: And never ran into this issue. **Colburn**: You never had to follow zoning rules before? **Maxfield**: I have done what I was asked to do. I asked and was told if I own the building, I can do whatever I want with it, by your village manager. Obviously, he's been fired a couple of times, so I don't know what kind of [inaudible] or anything you'd ask anyway. **Colburn**: Right, but it just seems that because of all your experience in the town, I would think you would have known he gave you incorrect information. **Maxfield**: No, I would not. **Drain**: Weren't you on the planning commission, Tony? **Maxfield**: No, I have never been on there. **Drain**: Never been on there, okay. DDA, right. **Maxfield**: By the way, the planning commission, everybody agrees the best use of the property is a residential apartment. But you turned that down because you didn't agree with that. **Rasmussen**: Most of the time when we change a variance or zoning or something, we usually have an idea of what the property is going to be used as or bought for. We had no idea. You have 5 acres with a house on it, a building, we have no idea what the property is going to be used as with the other four and a half acres. **Maxfield**: That question never came to me. Before you move on to basically bringing this up and starting something that I don't think is necessary, because I don't I don't think you've looked at all the options for it, again, I felt I did my due diligence and I was told exactly that I didn't have to do anything. He knew exactly what I was using it for, so I went ahead and purchased it. I did have to get zoning permits to work on the building. I did that. I wasn't trying to get away with anything. I got my building permits and the ability to do that. I went forward. Like I said, it's been a year and a half, it's actually two years this month my one person has been in there. Lady that's been there that by the way, moved from Florida to come to our community. There's another young lady and her son that have been there, that once again came from another community and came here to Edmore to live. I think we just have to be more forward thinking in seeing, what can we do? What else use is that property for? What is the best use for it? It borders up against a farm, and across the road another residence. Yes, on the north side it's bordered up to commercial property which includes a gym, which could be residential or commercial I guess, in the need for it in the area where this is, you do have about 200' away I think we decided today, to the line of the industrial property of the neighbor to the west. So that's a good buffer in there for that. Again, what is best use? This is not an industrial town. Is there a use for it? It's been there a long time. Is somebody going to come in there to build, when

you start looking at your uses for industrial property, what it could be used for it. It was used for an office all these years. What need is there for an office? If it could be an office, people would be able to sell it in the three years they were trying to sell it at a reasonable price. They couldn't. I moved forward on it and asked if it could be used as apartments and was told yes by the village manager. Again, do you want... You're asking... I've been asked to kick them out, but number one, I can't kick them out. They have contracts. Number two, you can't kick them out because we are in the middle of Covid. You can't kick somebody out if they don't even pay their bills or if they destroy your building. It's just not a possibility. You can start proceedings, but is that what's best interest of the village and the people's money that you're going to spend to do that, versus having these people live there which is adding tax money, adding water bills, adding sewer bills. I think even Shirley mentioned that, hey the first time in years you've been in the black. Well, the way to stay in the black is keep moving more people into your community. There's been question that I can't do what I'm doing in my apartment building because that's not residential. Well I'm doing again, same thing there. I'm doing the same thing it was being used for several years now, is monthly apartments. Well now I'm told I can't do it. You want to keep your water bill in the black? You know, my building, when I can get that open, is going to provide \$10,000, over \$10,000 in your water bill fund. Every year. I think you just have to work with somebody that's trying to improve your community and take a bad situation, which that building was there on M46 and fix it, the same way you're going to have an empty building sitting out there on the Industrial Drive. I don't know. Does somebody have a better use for it? I've been asked, could you use it for this, use it for that, use it for this, use it for this. I don't know what other use it's for. It wasn't built as an industrial building. It was built as an office with a kitchen in it and all the stuff that was perfect for an apartment. The people who are there love it. It's probably one of the nicest apartment buildings you're going to have in your town. It's one of the highest taxed apartments in your town. I mean, I'm asking you. What would you expect of me if you say no, we don't want the residents there, we want them kicked out? What's your suggestion for the use? Tom had a nice little write up. He suggested maybe we need a porno store in town, from what I read on his paper about me. **Colburn:** I think that's kind of inappropriate. That's not what I said. We don't need you to be making false statements here. **Maxfield:** You were inappropriate, Tom, in your writing. So, I'll stop at that. That's an option. Tom had an option. Does anybody else have an option of what it should be used that for? **Colburn:** I never said anything of the sort. Again, we have 2 issues here and if you think you're helping yourself in this issue Mr. Maxfield, you're not. **Maxfield:** Excuse me? **Colburn:** We have 2 issues here. One of them is compliance and the other one is usage, and according to you... **Maxfield:** And I have addressed both and I have... **Colburn:** I was very quiet and I listened to you go on for a long time! **Burr:** Okay! One at a time! This is not going to go into an argument. **Colburn:** I was very quiet and let him talk. **Burr:** Yes. **Colburn:** Now it's my turn. **Burr:** Tony, are you done with your presentation? **Maxfield:** If it's his turn. **Burr:** Okay, Tom, go ahead. **Colburn:** All right, thank you. **Burr:** It's your turn. **Colburn:** All right. The points you brought up are worthwhile discussing. But they're worthwhile discussing at another time, when we're talking about another issue, which is rezoning that area, potentially. **Maxfield:** As I've asked for? Twice. **Colburn:** That's for another issue. But right now, we're talking about compliance and the lack thereof. **Maxfield:** Okay. **Colburn:** My position is this property needs to get into compliance before we discuss whether or not we're going to rezone things. This discussion should have happened before this... **Maxfield:** That's what I've asked. **Colburn:** And it wasn't.

And Tony, I'm sorry, I have to believe, you're a very intelligent man, very experienced man, a prominent businessman, I have to believe that you understand different zoning and industrial park zoning does not include residents. So, whether or not you had a conversation with Neil, nobody knows. **Maxfield:** Yes, they do know. **Colburn:** I don't. **Burr:** There is nothing in writing! Just to clarify this between all of you, there is nothing in writing. We have gone through everything. There aren't any village minutes. There's nothing. There's nothing been done. That's what we have to go on! That's what we have gone on and that's what we are going to go on! **Maxfield:** Well. **Burr:** So, there is nothing in any records whatsoever! **Maxfield:** Aaron, do you recall any conversations with Neil in regard to what I was doing with that property? **Hadley:** I had a conversation with Neil multiple times talking about usage. People were complaining about the building being used for the wrong reason and he said, as far as zoning goes it gives us the ability to prevent what's built there, only what's in accordance with the zoning can be built there, but once the building is built, what people use it for is up to them. **Maxfield:** And that is the exact reason... **Burr:** And that is wrong. **Hadley:** Well it may be wrong, but I'm just saying that he said, if somebody had a factory and they cleared out the equipment and people were sleeping in it, there was nothing he can do about it. **Burr:** Our thing is as a council, as a whole, we have no record. We cannot go on hearsay. We've done this with anything else. We can't use hearsay. We're not going to use hearsay. We have no record. This is where we are. We need to proceed. **Drain:** Gloria, it would not matter if Neil said to Tony, you can do this, it's okay. He had no authority. The council owns the zoning ordinance, the council owns all the ordinances. It would have had to come to council and been a council decision. **Burr:** And it never did. **Drain:** Which then it would have been recorded. So, if Neil did that and everybody fell into place because he did it, it was wrong. He should not have done that. Like you say, he was fired twice. **Maxfield:** I agree. **Drain:** That was not a good... He should not have done that. He didn't have the authority. **Maxfield:** It wasn't correct. I should not have been told that. But I was told that and basically being called a liar by some people but there is somebody else that knows part of the conversation, too. **Drain:** Because Tony, Neil came to my house one day on a whole different issue. We stood on the porch and talked, and I said to him, Neil, how can you allow a residential to go into a commercial. He said, what can I do. That was his answer, what can I do. So, there you go. **Maxfield:** So, you almost know he told me I could go ahead and do anything I wanted. **Drain:** That was the village manager then. **Burr:** It was not done properly. **Maxfield:** I know. **Burr:** The council knew absolutely nothing about it. **Maxfield:** That's why I've asked the council to fix it but I've been... **Hadley:** But I think that the reason this is important that we keep glossing over is, to answer Tom's accusation here that Tony should have known better, if Tony acted in good faith, going to the village manager who he thought would be able to give him the correct answer and he was given the wrong answer, so then he acted based on the information that was given which was incorrect. So, Tom is saying, he should have known better, that answers that accusation. I think that's why it's significant. More importantly, I want to move on to why is it at the last meeting when we did not vote or actually, how did... **Burr:** The variance was denied. **Hadley:** I think there was actually a motion to deny the variance which is a very interesting way to handle things. But my question is at that meeting there was I thought some pretty good discussion about moving on to rezoning and that was where it was kind of left and now, we're talking about getting into a legal fight. Getting attorneys involved, the courts and everything else. I'm asking, to the best of my knowledge, there was never a rezoning hearing, a zoning board of appeals hearing, which would simply

involve I believe sending out letters to the adjacent property owners and announcing a public hearing. Hearing what the public has to say about rezoning that property and then making a decision, because if we rezone that business, we kind of had decided I thought that that would solve this problem. So why did we skip that step and go right to spending money hiring an attorney, and getting involved in a court battle when a better option would be to consider rezoning and then if at a zoning board of appeals meeting we voted down the request to rezone the property, then we could talk about enforcement. I'm just curious why we skipped what seems to be the more amicable. Why did we go right to the legal matters? **Drain:** Have we had a request to rezone? **Burr:** No. **Maxfield:** Justin. **Drain:** Well there's your answer. **Lakamper:** You asked me to look into if it was possible. I told you it was possible. **Maxfield:** I asked you about it back on June 2nd. **Lakamper:** Yes, what is my options. **Maxfield:** What is my options. If I can rezone. You said you'd look into it and let me know. **Lakamper:** Right. **Maxfield:** We didn't address that. **Colburn:** Again, I think the appropriate time for that is after compliance is met. **Maxfield:** Why wouldn't the appropriate time be before you take the next step, which if you want to get into a legal battle, let's get into a legal battle, but you're making a laughingstock out of the community, which it's been that way for years. I talked to the village manager in Greenville and as soon as I mentioned Edmore, oh my god! He's got some ideas from all the paper writings and things that have been written, a few of your articles, that they aren't going to agree with anything. You're driving business away from this town. I don't know why. Obviously, you've got the board here, I think level heads will think this is the best route to go, but we know your opinion. **Burr:** When we voted on the variance for that property to have a residential living there, it was turned down. **Maxfield:** Yes. **Burr:** This is why we're here and this is what the letter is for, is for the variance. It is not for rezoning, it's not for anything else. **Maxfield:** I asked for rezoning. **Burr:** And it's been turned down. Your variance has been turned down. **Maxfield:** I agree, I agree. **Burr:** So, we need to move on that. **Maxfield:** That's why I asked for a zoning change and it's not been addressed and brought to you, when I asked that it be brought to you as a solution. I was asked to provide a solution. I provided a solution; you don't want to talk about it. You want to go legal. Great. We can go legal. **Drain:** Why didn't you ask for a rezoning permit? Why didn't you ask for that? **Maxfield:** I asked Justin is rezoning an option. He said he'd have to let me know. **Drain:** Give him a rezoning permit. **Lakamper:** Anybody can at any time request rezoning. I mean, you know that. I told you, that's possible, that's available for anybody to do. Our conversation that we had as to whether or not it was an option, was getting more into opinions about whether or not it would pass or not. Right? They can't pre-emptively rule on rezoning without a rezoning application and proper hearing. **Maxfield:** Oh okay, I'll go with Tom's forward [inaudible] way of thinking. You decide if you want to take this to a legal battle right now or if you're going to stop and look at options. **Colburn:** Whether it goes on to a legal battle is entirely up to you. **Maxfield:** No, it isn't. **Colburn:** Yes, it is. Because you can come into compliance anytime you want. **Maxfield:** Okay. Let's just do the vote. **Colburn:** To be perfectly honest with you Tony, this isn't the first incident of not being in compliance with zoning with the town. **Maxfield:** Well excuse me, Tom. I guess that's said that I have many violations. I don't know what those are because I've never had one. **Burr:** Right now, we're on the zoning up on the industrial park. We are not on everything else, we're on the industrial park. **Maxfield:** He brought it up. **Colburn:** The only reason I did is... The reason why I think it's so important to have compliance is because this is a unique situation. There is no sense in having zoning or having an ordinance or anything else if people are just going to be able to do what they want to do and if somebody hollers later

on say, oh well let's just fix it. We need to follow some procedures. **Maxfield:** I agree with you on that part, Tom. You have options and I think you need to take your options here and see where it goes. **Colburn:** If we move forward, if you choose to get in compliance, it stops. **Maxfield:** How can I get into compliance? I have to evict somebody I can't evict. So, let's see where we're going. **Colburn:** Well I think if I were you, I would say that to the court. I would say look, I am willing to do this, but I have to wait until it's legally possible for me to do it. That's what I'd say. And then you get in compliance at that point and then we can talk about rezoning. **Burr:** Like I said, we're here on the variance for the zoning. The zoning was turned down. You did not get your variance for the zoning. This is what this is for and we need to know, if we want to move on and have the attorney write a letter for 1398 Industrial Drive residence. And we have a motion. **Hadley:** Justin, just ballpark because I know we just signed a bill for some legal fees for a similar type situation, what's the lawyer's fee per hour? **Lakamper:** \$140. **Hadley:** So, he drafts a letter, \$140. He drafts a letter, then if Mr. Maxfield's attorney responds with any sort of response, that's got to also go to the attorney, review it. Hopefully, it stays out of court, but if it goes to court we're going to be, you know, and the cost of holding a public hearing to review rezoning a property seems significantly less. I don't know why we're not exhausting that possibility first. It just doesn't make sense to me. I think this is something we revisit after we have had the opportunity to have a public hearing, hear what the public has to say about rezoning the property. We might find out that all of the adjacent property owners are violently opposed to rezoning the property and that would weigh on our decision or many members of the public would stand up against it and that would weigh on our decision. But at least then we'd have a decision made and then we can talk about enforcement. If there's another option, I think that the more amicable option is out there. Not that we have to determine today that we're going to rezone it, I just think we need to determine that we want to consider rezoning it before we get involved in some kind of legal battle. It just makes sense to me. **Colburn:** Discussing compliance after we've rezoned is kind of silly. That's kind of backwards. **Hadley:** I'm not saying we have to rezone it. I'm saying let's hold a public hearing to consider rezoning it. That's all I'm asking. **Colburn:** We can do that in the proper order. **Drain:** Tom, I don't think you can ask Tony to kick his people out while we decide whether to rezone it or not. I mean, there's certain laws you have to take into effect – he has to with his people – while the council decides, because the council is the board of appeals, whether there is a rezoning or not. If the council hears it like Aaron said, and it goes through, nothing's really changed except Tony's fallen into compliance. If it doesn't go through, then is the time to talk about getting your people out. Am I wrong? **Colburn:** But the point is, there's two separate issues here. **Drain:** I know there is, but it's done. It's done. **Colburn:** But it's been done numerous times before with different people... **Drain:** It's been done. **Colburn:** ... and we've got to get to the point where we're willing to draw a line in the sand and say look, you have to follow these procedures and if we never draw the line, what's it going matter? **Hadley:** Is that line with Tony Maxfield's property? Is that the line that needs to be drawn? **Colburn:** I don't think the situation up on Pine Street or whatever has anything to do with Tony Maxfield. So, we're not picking on one person. We're trying to start... **Hadley:** That's not a zoning issue. **Colburn:** It's still an issue. We're not picking on one person, we're trying get things... **Hadley:** The point is, if you want it to come into compliance, Shirley is absolutely right. Rezoning that property will bring it into compliance. Problem solved. A lot less money than [inaudible]. **Colburn:** Because the next time we have another issue, we're just going to go through the same thing all over again. Oh well, you know, if you just do it after

the fact then we'll fix it. **Drain:** Well hopefully we have a village manager and a council that stays on top of these things. **Colburn:** That's what we're trying to do now. **Drain:** Well it should have been stayed on top of a year ago or two years ago or whatever. **Burr:** It wasn't. **Drain:** That council and that manager should have dealt with it. **Burr:** It wasn't brought to the council, only just a couple people knew about it, nobody else knew about it. **Guild:** You said that Neil knew about this and you said others. You said others knew about it. Are you referring to others as other people on the council, other than Aaron? **Maxfield:** That was the discussion that got brought up. **Guild:** Just Aaron is the only other one. **Maxfield:** Well, I think Shirley just mentioned this evening that he had a discussion and he said, what can we do about it. He keeps mentioning he told me I can do what I want. It doesn't matter. **Drain:** So, he didn't have the authority to tell you that. But at this point... **Maxfield:** No, I agree. **Drain:** But at this point it doesn't matter, it's 2 years later. **Maxfield:** Yes, I agree 100%. **Drain:** Now we have to deal with what's in front of us right here, as a council. **Maxfield:** That is what I came to ask. **Drain:** And as a newly appointed council because it was already done way before them. **Maxfield:** All I'm asking is, is this the direction that should be taken versus answering my question about rezoning. Which the planning commission already approved to approve it for a variance, so they obviously agree the best use of that property is for residential. **Guild:** Do you have any documentation or anything from Neil saying it was okay to proceed.? **Maxfield:** No, I do not. I tried to find that in email, but I did not have it. **Guild:** I just find it so hard to believe that being the village manager that he would do that. **Maxfield:** Well. **Guild:** I just and I'm not calling you a liar either. **Hadley:** Well like I said, he did say that to me, Shirley said he said it to her, so he probably said it to multiple other people, too. That like I said, he told me that if for instance PCA were to tear out all of their equipment and people were to start sleeping there, there's nothing he could do about it. **Burr:** Yes, there is, because it's not residential. **Hadley:** Well I understand that you say that there is, but I'm telling you... **Drain:** That's what he said. **Burr:** That's what he said. **Hadley:** ... that Neil said that there wasn't. So, to the situation of coming back after the fact and fixing the problem, why didn't this come up when the building permits were applied for? The building permits were applied for and approved and that never raised a red flag. Hey, Tony's turning this building into apartments, wait a minute, that's not allowed. **Lakamper:** We don't have any check over that when it goes to the county. **Hadley:** Well how did the county let it? I mean, isn't the prerequisite to a building permit, a zoning permit from the township? **Drain:** It used to be. **Lakamper:** One would assume, but that didn't happen. **Drain:** It used to be. **Lakamper:** He doesn't have a zoning permit, so it didn't happen. **Hadley:** The building permit didn't happen? **Lakamper:** No, the building permits happened. What I'm saying is there was obviously no prerequisite for it because he doesn't have a zoning permit. They gave him the building permits without having a zoning permit. There was a disconnect there. I just wanted to point that out. **Hadley:** Okay well and that's fine, but then again, there's another example. Someone dropped the ball which allowed Tony to move forward in good faith believing he had the right to do so because the zoning supervisor of the township never told him he couldn't. So, everything he's done is acted in good faith believing that he was doing something that was allowable by law, now 2 years later we're coming back and saying it's not. So, just to answer Tom's objection here as far as, well we can't just let people do what they want, he went through all of the proper channels. Multiple people dropped the ball along the way that should have told him that he couldn't do it and at which point he could have followed the proper channels but no one told him to do so and no one stopped him from doing so because somebody messed up along the way. Multiple people by

my understanding. So now we have the opportunity to fix that problem. **Colburn:** I'm sorry, I just don't believe that he didn't know. I'm sorry, Tony's done a lot of work. I can't believe he doesn't understand the difference between the residential and industrial property. **Hadley:** Tom, do you have the ability to read people's minds? **Colburn:** No, but I can read history. **Hadley:** You don't have to... Tony, Tony... **Colburn:** And I can see he has been [inaudible] on many different things. **Hadley:** You asked Tony a question, did you know? He said, no. **Colburn:** Did he know what? **Hadley:** So, the only option is that we have to believe that Tony is lying or that you know more about him than he does. The point is he acted in good faith and I think we ought to honor that and we ought to at least investigate some other options. **Guild:** Well, it's pretty obvious somebody's lying because Neil said he never said that. **Hadley:** Well. **Colburn:** I'm not accusing Tony of lying. **Maxfield:** Yes, you are, Tom. **Colburn:** No, I'm not. **Burr:** We are not going to be in an argument! **Colburn:** I'm not arguing with him. **Burr:** We have a motion on the floor. We are to discuss the motion and it will come up for a vote. **Colburn:** Honestly, I'm not saying this like... people can misunderstand things, and did you have a conversation with Neil about something generally, Neil may have simple meant, well I don't have the authority to enforce things. I mean there could have been a simple misunderstanding. **Maxfield:** No, I questioned him specifically. I'm looking at this property. They have not been able to sell it. They're going to leave town. It's going to be empty. Can it be turned into apartments? Yes, you can do whatever you want. So, you believe me or not believe me, Tom. I don't have any respect for you either so we can go from there. **Colburn:** I don't have any disrespect for you. **Maxfield:** Well I do. **Burr:** That will be enough between you two. **Colburn:** I don't disrespect you. I think you're a good businessman. **Maxfield:** Can you have him stop too, Gloria? **Burr:** Okay. **Colburn:** I haven't said anything bad. I've been saying nice things about him. [President Burr used the gavel to regain order in the meeting] **Burr:** That's enough! You got your point across! You got your point across! Would any other council members like to add their points? **Rasmussen:** Would it be possible to... It's obvious right now that it's going to be two sides. They're not going to work. And Tony is right, he can't just kick people out with Covid going on this and that and it could go on for a while. Is there a way we can table this until we can get the stuff we need, information or permits or whatever to get the process started and at least give it a month to see how it goes? **Colburn:** What is it you want us to get together? Our documents? **Drain:** Rezoning. A rezoning application. Filled out, paid for, and turned in. **Rasmussen:** The whole thing is, if Tony wants to start forward, okay start forwards. Because both sides are not going to, they've got their option, whatever they want to say, but there are still people involved. We still have Covid, we still have a lot of things going on in our country and if something could get started in the next month, get the zoning permits started getting the things rolling, maybe the resolution would come at us. I don't know. I don't know what to do. **Colburn:** If we put this forward, Jerry, that won't force him to put anybody out on the street. He can't do that. Putting this forward is not going to change any that. It's not going to break any laws; it's not going to force anybody out before the Covid thing is resolved. It's simply making a determination from the court saying yes, you're out of compliance, yes you have to get in compliance as soon as it's legally able to do it. That's all. **Maxfield:** And spending several hundreds of taxpayer monies to do something that we could vote on right at this moment saying, yes proceed with that or no, not let's not proceed at this time, let's figure out what we're going to do. **Burr:** Tony, as a council, we will vote here in a few minutes. We don't need to be told how we're going to vote and when we're going to vote. We're here to discuss, and we are discussing it and when it comes to a vote, we will

vote. **Maxfield:** That's what I'm waiting for. **Burr:** Anymore discussion? **Ashbaugh:** I have something to say. It was my understanding at the meeting that we had previously about this situation, that we were going to wait and revisit his rezoning of it. I think that he, in good faith, did what he thought was the right thing to do and Tom implied that he just went ahead and did what he wanted to do. Well he did it with the understanding, as far as the story goes, he was given the permission to do that. So I think to let the situation that Shirley and Aaron and Tom added, to get the application for rezoning paid for and then go through that process and see what happens from there and then go on with legal action. That would be my comment. **Maxfield:** Thank you, Bonnie. **Burr:** Any other comments? **Guild:** Yeah, why haven't you applied for a rezoning permit, Tony? **Maxfield:** I wasn't told to do that. I was told he would have to have that approved... see if that would fly and then we could move forward. That was back before your last meeting, so I don't know why it wasn't addressed. **Drain:** You can always fill out an application for anything, Tony. You can always fill out an application for anything. It might end up in the wrong pile, but you can always fill out an application. **Maxfield:** Absolutely. I'm willing to do that. Just the same as I did when I was asked. I was asked to be a variance for it and so I filled out a variance and paid for that. Then I asked about okay, can we rezone? Well, let me see. So, I. **Burr:** Okay, we have a motion on the floor. **Guild:** I would like to ask Justin what he has to say about that. **Lakamper:** About? The entirety of it or? **Guild:** About Tony saying he asked you and apparently you never told him nothing. Is that it? What to do? **Lakamper:** Well if we want to go into the history of it, I had my first conversation with you kind of when I got here, probably say August. Right? **Maxfield:** Right. **Lakamper:** We didn't just talk about this property, we talked about 3 properties. I asked you to come in on all three of them, you came in on one. **Maxfield:** I was asked... **Burr:** Let him give his point of view, you had yours. **Lakamper:** You came in 8 months later and then we had a variance, that didn't go. I reached out to you, asked can we have a meeting, that was in March. In June you responded to me, we had a meeting. At that meeting I said, we have two options. You comply with the zoning ordinance which doesn't allow residential or we can possibly rezone. You as a resident or as an owner, as a landowner, have every right to apply for rezoning at any point. The conversation that we have all had revolves around whether or not that would be an option realistically, and that's kind of what we're getting at right now. Does that sound correct to you or? **Maxfield:** My turn? **Burr:** Yes. **Maxfield:** Thank you. I don't know the exact timelines on all that Justin, we had those discussions and yes, the first when we did discuss it, obviously I was being singled out on three different properties for violations that is multiple violations in this community, so yes I was being singled out. I said, well if this is going to happen, make it official and officially address all the situations in town, but that still hasn't been done to my knowledge so I'm still being singled out and I don't think you want to go to court over that part of it. I had requested the idea can we rezone. I was told by you no; a variance would be better. You should apply for a variance, so that is what I did. The variance got turned down so I came to you on June 2nd and we set down the next time and said okay, obviously we could move forward with the issue about I'm in violation and kick people out and move forward with that or what's my other options. Which okay, I asked to rezone before, and you suggested variance. My variance turned down now, okay I asked let's go for rezoning. You said you'd get back to me. That has not happened. It's been a month and a half ago. All I get is you're going to take legal action, want to move forward with legal action. I'm just trying to help the council also move forward in the best possible way to keep this community growing, having other businesses think about coming to this community but when you have this by a

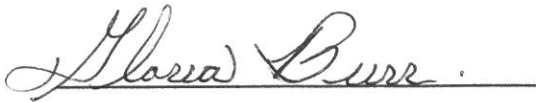
couple people on your board, it's pretty tough. So again, I think it's pretty simple right now, as Gloria said, it's a vote. Do you have any more questions? I'd be glad to answer those as long as I'm not being attacked. Thank you. **Burr:** Anybody else got any questions before we vote? **Colburn:** So, Justin, did you drop the ball? **Lakamper:** No. I mean, I can't approve a rezoning. **Colburn:** You communicated what need to be done. **Burr:** Yes. **Ashbaugh:** Could we have the motion reread to clarify? **Guild:** Are you saying Justin didn't do his job? **Maxfield:** I would never say Justin didn't do his job. **Burr:** Excuse me! Quiet please. **Maxfield:** I was asked a question. **Burr:** I was talking when that question was asked. So, excuse me, she asked me a question first. **Maxfield:** Direct him first. **Burr:** That's enough. Quiet. If you're going to set and laugh, you may leave. **Maxfield:** You want me to leave? **Burr:** If you're going to laugh and make fun of people, you can leave! The question was, what was the motion. The motion was, approve to have the village attorney draft an ordinance enforcement letter for 1398 Industrial Drive. Tom made the motion, Bonnie supported it. That answered Bonnie's question. Okay Chet, did you? **Guild:** No, thank you. **Burr:** Anybody else? I'm going to call for a roll call vote please. ROLL CALL VOTE: YES: Colburn, Guild, Moore, Rasmussen, Burr. NO: Ashbaugh, Hadley. MOTION PASSED 5-2. **Guild:** I would just like to add to that, Tony. It doesn't mean this is over with and you can't come and request to have it rezoned. **Maxfield:** I'll be glad to do that. I told Justin I'd be glad to do that. **Guild:** That would be I think the first step, to do that. **Maxfield:** Yes. You might save yourself some money. **Guild:** I know regardless of what you think about us people on the board and I know you and I have had a history, you've done a lot for this town and a lot of things have gotten away from you. **Maxfield:** Chet, we have a history, but we can communicate. **Guild:** Well I understand that. **Maxfield:** I'm not slammed like I am some people. **Rasmussen:** I'm with Chet. Get the ball rolling as quick as we can, to get to that answer quick as we can. Then everything will turn out. **Maxfield:** You can have a zoning request tomorrow. I mean that's all I've asked and that's why I've questioned why are we doing that, why wasn't that asked for. **Rasmussen:** We're not asking anyone to leave their residence, we're not asking anything like that. **Maxfield:** I appreciate it, Jerry.

- D. **APPROVAL OF THE DDA BY-LAWS:** **Guild** moved to accept the DDA by-laws. Supported by **Moore**. **Colburn** asked about Article 3, Section 2, Subsection 3, when it says persons having an interest in the property, there is no mention of residents on the board and he questions if this is standard. **Drain** responded that they have so much trouble trying to fill the seats on so many of these commissions over a period of years that they took that out. **Lakamper** added that also it's not required by enabling legislation. It's just requires that a majority if they have an interest in a business in town. The DDA would be businesses and the business owners might not necessarily be residents. **Hadley** asked if the DDA had bylaws in the past. **Lakamper** answered that as far as he was aware of there are no bylaws for the DDA. **Burr** stated there is not a copy in the village office of any past bylaws. **Hadley** asked **Lakamper** if to the best of his knowledge these bylaws comply with the Enabling Act from the state. **Lakamper** stated yes. **Colburn** asked about disclosure of interest. What happens if they don't disclose a conflict of interest? Is that contemplated in the law that governs all this. Would that invalidate the vote? **Lakamper** is unsure. **Colburn** asked if it needed to be addressed in the bylaws. **Lakamper** stated the next DDA meeting is August 19th. **Colburn** asked if these bylaws can be amended. **Lakamper** responded that yes, they can. **Colburn** stated that if we can pass this and it can be amended later if needed, he's good with that. **Hadley** stated that **Colburn** is asking if the DDA is able to amend it and I'm saying that's part of the DDA board's responsibilities, to adopt and amend the bylaws. **Hadley** questioned if the DDA can vote to not accept the

bylaws that we approve. **Lakamper** stated they could. **Colburn** asked **Lakamper** if he thinks it okay to pass it now and then look into the items in question and it can be amended later. **Lakamper** stated that he would have to look at the ordinance about disclosure and what kind of misconduct that would be. That would be addressed in a different clause. **Lakamper** suggests passing it as it is and amending it later if needed. ROLL CALL VOTE: Ashbaugh, Colburn, Guild, Hadley, Moore, Rasmussen, Burr. ALL YES: MOTION PASSED 7-0.

- E. **NITA CURTIS BOARD APPOINTMENTS TO 2024:** **Burr** asked Jane Beach if she would like to say. **Beach** spoke that the following people's terms expire in 2020 and they are being reappointed for four years. She stated that if she understands their bylaws, they are a bit of a subsidiary to the Village, so the Village makes all appointments. I've been involved with working with the Nita Curtis for years and it's been a pleasure working with Gloria and Justin and Bonnie and the whole board. This has been a very nice time working together. **Burr** thanked them and stated they appreciate working with them, too. It's been really fun and enjoyable. I've really enjoyed being on your board. Motion by **Guild** to accept the reappointments to the Nita Curtis Board to 2024 of Jane Beach, Karen Deja Caulkett, Catherine Naru, Shirley Wulff. Supported by **Rasmussen**. VOICE VOTE: ALL YES: MOTION PASSED 7-0
- F. **APPOINT NICOLE HADLEY TO DDA BOARD:** **Guild** asked if we advertised that there was an opening on the DDA. **Burr** responded no, just by short word of mouth. **Guild** thinks we need to advertise this. **Lakamper** stated that the last position was advertised for several months. **Colburn** replied that we already have one applicant, so I don't feel we need to go several months. **Burr** suggested waiting until next month and see if we get any more applicants. A month would be plenty of time to advertise we're looking for a DDA board member. Motion by **Guild** to advertise for one month and table the appointment until the August 2020 meeting. Supported by **Colburn**. VOICE VOTE: ALL YES: MOTION PASSED 7-0
11. **ENTER CLOSED SESSION TO DISCUSS MANAGER'S PERFORMANCE REVIEW:** **Moore** moves to enter in to closed session to discuss the manager's performance review. Supported by **Rasmussen**. VOICE VOTE: ALL YES: MOTION PASSED 7-0.
- President Burr** closed the regular session to enter in to closed session to discuss manager's performance review at 8:36 p.m.
- President Burr** re-opened the regular council meeting at 9:07 p.m.
12. **PERSONNEL COMMITTEE:** **John Moore** reported that we have the new manager's contract. We have given **Lakamper** a raise. He will be making \$60,000 per year over a 3-year contract. **Burr** asked **Moore** to touch on the blight. **Moore** stated that the original question was what are we going to do about the blight and how are we going to enforce it. We discussed that enforcement needs to get stiffer with people who are not in compliance with the ordinance.
13. **NEW BUSINESS (CONTINUED)**
- A. **APPROVAL OF MANAGER'S CONTRACT:** **Lakamper** stated he wanted to be clear on the contract. The contract also includes over the next two years an additional 5 days of vacation. Just for clarification. Starting next year, 3 days one year and an additional 2 days the following year. **Burr** explained we gave **Lakamper** a raise to \$60,000 a year, a 3-year contract, and over the next 3 years he will get an extended 5 days of vacation pay. 3 days next year and 2 days the following year. **Moore** moves to accept the renewal of Justin **Lakamper's** manager's contract for 3 years. Supported by **Colburn**. ROLL CALL VOTE: Ashbaugh, Colburn, Guild, Hadley, Moore, Rasmussen, Burr. ALL YES: MOTION PASSED 7-0

14. **PUBLIC COMMENTS:** Tony Maxfield thanked the board for allowing him to put in for a zoning change and hoping that's the best way to move forward.
15. **COUNCIL COMMENTS:** Ashbaugh thinks the village is looking very nice and she appreciates the community. Burr appreciates the community also and thanks everyone for doing their part. Thanks everybody for coming.
16. **ADJOURNMENT:** Motion by Rasmussen to adjourn. Supported by Colburn. VOICE VOTE: ALL YES: MOTION PASSED 7-0
President Burr adjourned the meeting at 9:15 p.m.



Village President

Approved for Publication



Village Clerk

NEXT MEETING: August 10, 2020