

VILLAGE OF LYNDON STATION
Regular Board Meeting Minutes
Monday, February 14, 2022

The Monthly Regular Village Board Meeting was called to order at 6:01 p.m. on Monday, February 14, 2022 by President Ed Welsh. The roll call was taken by Village Clerk Lori J. Scully. Present were President Ed Welsh, Rebecca Coley and Trustee Jan Miller. Also present was Gene Churchill and Steve Klicko from Public Works and Utility Clerk Rachel Dombroski. Chief Jeremy Bonikowski joined the meeting later.

President Welsh opened the Public Hearing for the rezoning of 150 E. Wright Street which is owned by Larry and Kristi Whaley. First to speak was Larry Whaley. He said his wife Kristi and her family have lived in Lyndon Station and have many ties here. Larry said he moved here in 2004 and gave his background of how many years he and his wife Kristi dedicated their time to the Lyndon Station Fire Department and First Responders and retired in 2020. Larry did a lot of work when he was Village President for four years including working on the playground equipment to make it functional with the Fire Department. They both are involved with fundraisers for people who have had tragedies occur. They are always giving back to the community in one way or another. It is their home. Larry said this is a perfect commercial site surrounded by businesses on a county highway a short distance from the interstate. They purchased the lot in 2016 and believe it should be commercial and they took out a commercial business loan on the property. We are only asking this to be used as the highest and best use some sort of commercial development consistent with commercial zoning. The Board has always been forcing them to keep it as vacant land. They have their own business and if they should want should be able to operate it on their property. Give them the same opportunity as their neighbors, BP Gas Station, Suzie's Sweets, Metal Stamping Works, Scully Storage Sheds and others in that area. They want to put the contentious proceedings behind them and help the Village that they love to succeed. Please, they are asking (the Village Board) to do this very thing. Next to speak was Attorney Elizabeth Stevens, an attorney from Asley Brendalson in Madison representing the Whaley's. She said she works on a lot of zoning matters and she sees a lot of the community become interested in them often times. Prior to her life as an attorney, she worked in the legislature. She helped draft statutes. The reason you will find these some of the statutes drafted as the way are is because of the contentions and the way that contentions can arise. The statutes are really intended to provide the framework for an impartial decision for due process. Zoning and rezoning shouldn't be done by public opinions as they are not facts. First fact is that the vacant land is not used to its highest and best use. (Inaudible.) Second fact is that in the 2015 Economic Development Plan states more land needs to be developed within the Village. The third fact is that there have been no zoning changes since 2016. Fact four is that this property is virtually surrounded by commercial businesses. Fact five is that this property is served by water/sewer. Another fact is that commercial will increase the tax base. President Welsh said the last Village President said that this property zoned to commercial was said and done. He also had the paperwork for this property and everything. I didn't hear any of that in the facts. Attorney Stevens said as far as she is aware and perhaps the Whaley's can answer the question, there is no signed, sealed and delivered document as to which what may or may not be located on the fact. That is unsubstantiated at this point. The Whaley's have even considered locating their own business which they run on that property. And even were that true, that is a business that is already set in stone. The zoning, the reason petition neither in your ordinances nor in the state statutes allow a decision to be made based on a conditional use. So sure, we can rezone commercial unless you do this. The way in which the ordinances of the Village read there is no conditional use allowance. And so that would not be a permitted factor to consider. The permitted factors to consider are whether it is consistent with the policies of the Village such as the 2015 Economic Development Plan which does identify this as the most important commercially viable parcel

in the I-90 Corridor. President Welsh asked Attorney Stevens if it goes commercial, would the Board have any say and they sell it as commercial or if they put their own stuff on there, would the Board have any say so and what would be allowed to go there. Attorney Stevens replied if you have a building permit, President Welsh said as far as business wise, could you put up like another porn shop right there if it went commercial. Attorney Stevens said the Village has one of the most thorough porn shop ordinances that she has ever seen. She said certainly the Board has a say if it is a porn shop. Trustee Coley said that this kind of situation came up with the property across the interstate and we didn't have that in place for that kind of property. Attorney Stevens said the Village also has what is called a Public Nuisance Statutes and Ordinances where if it is a threat and there are some legal and case law characteristics there. The public nuisances have been applied to certain types of businesses before with different levels of success certainly. For instance, say it is a rock and roll club, they are playing until 5:00 a.m., 8:00 a.m. loud music through a megaphone that you can hear throughout the town. That is something that your ordinances do address. So, the type of thing that really does create like I said a public nuisance, not only that, private citizens have the ability to address private nuisances. Entirely different set of standards. But your ordinances do kind of address that situation. The morals kind of ordinance that you have doesn't really, because of first amendment issues, and to the public nuisance it gets really tricky. But most other things that would create a public nuisance, are well within the confine of that. So, for instance, you could address if there is issue happening with a business through that kind of ordinance. That you already have. Trustee Coley said we don't have anyone from the Planning Commission here. President Welsh said no. Trustee Coley said that they should have been here for that part of the meeting. The clerk said she notified the Chair but she didn't know if he notified the rest of the commission. Trustee Coley said she understood about the rezoning that we can't, you know, we either have to decide to rezone it as commercial not dependent on what might be there, correct? Attorney Stevens said correct. She said at this stage, I can truly say, it is not known at this point what might be there. Trustee Coley said she heard in some of the conversation you didn't even think it would be suitable even for your business. Attorney Stevens said it would be suitable for their business. Trustee Coley said that it was said that there was no interest in a residential manner but you guys have never tried to sell it or you know list it as outside. Larry Whaley said they have never tried to sell it. Trustee Coley said that is why I don't think that is a clear thing that you... Larry said no one has never come to them to purchase it for residential, that is an understatement. Trustee Coley said that not saying you went out to find someone to purchase it for commercial. Larry said that is a correct statement. Or residential? Larry said yes. President Welsh asked if anyone had anything else to say at the Public Hearing. Gerry Wiese of 346 Rogers Street said it is hard to be supportive without knowing what is going to be going in on that property. It gets very congested one day per week and sometimes in the middle of the week. It could have an impact on housing values in that area. If you have ever been there on a Sunday, you would realize that. I respect what you guys are doing in the business, but various businesses in the area, some positively and some negatively. So, it is really hard to support something not knowing what that business is going to be. Attorney Stevens asked President Welsh if she could give an answer. She said she appreciated his sentiment and I truly mean it when the ordinances and the Statutes we drafted was to enable an impartial decision to be made and the ordinances that the Village has adopted, don't distinguish if it is residential, you can have a four-plex, an eight-plex, a single family and commercial kind of gives you the leeway...Trustee Coley asked in order for an apartment there it has to be zoned commercial? Attorney Stevens answered no that has to be residential. She continued that has a gambit from a four-plex to you know it is kind of commercial and so it has to be made on the decision of the policies of the municipality. And the policy of the municipality entails in the 2015 Economic Development Plan identifying that parcel as a commercially viable parcel. It is the chicken and the egg thing; I think that everyone is struggling with rightfully, unfortunately all we can do is make a decision on policy that exists in the Village. (Unknown speaker.) (Inaudible.) Trustee Coley said with the (2015 Economic Development) Plan, that it is suggesting that that property is the best place to do more. I am just curious as to what the difference is vacant, I know the property tax is low. I am just curious to what the difference is as residential cause there are two lots there? Larry and Kristi Whaley, both said it is one parcel. Trustee Coley said you had it put together? She said there was two lots there.

Attorney Stevens said it is one parcel reabsorbed because of right-of-way. Larry Whaley answered that there was one parcel that belonged to the Village. The Village Clerk answered that the Board did do that. It was just forgotten. Trustee Coley said I guess it wasn't really much of a question. I am just looking at what a commercial property would mean to our Village. Clerk Scully answered you would take the Village mill rate for 2021 and multiply those times the assessed value of the improved parcel) what would be the portion that the Village would obtain from that and yes, it would have a higher impact as far as the assessed value if it is commercial, verses residential. Is that what you were asking? Trustee Coley said right. She continued even if that were an apartment building? Or something like that. Clerk Scully said she didn't think the value of the land would change that much only adding the new improvement on it. Commercial has a much higher value than residential. Trustee Coley asked whether it is vacant or not? Clerk Scully answered yes. I would give that information to the assessor for next year and then as of January 1st if it was rezoned, then he would say regardless if there are any improvement on it or buildings then the assessed value equalized with all other commercial properties. Larry Whaley asked if our taxes would go up whether we put our business on there or not? Clerk Scully said probably not as much as improved parcels. Larry Whaley said if the property was rezoned commercial the taxes would be higher. Norm Austin from the Plan Commission joined the meeting. President Welsh asked him if he had anything to say? We are in an open meeting right now on the rezoning of 150 E. Wright Street. Norm Austin said the Plan Commission what we felt and we feel where the area of the land that it should be a commercial lot. (Inaudible). We hope it will bring more business to town. I know a lot of people talked about a motel, apartments this and that maybe we can get something especially the water bills and everything else this town needs. I just think it's growing up here right across the street for years, there used to be a school where the war memorial is and I just don't see how it can't be a commercial property with three out of four voting on this all agreed on this as well. So hopefully the Board takes that into consideration. President Welsh said majority of what is the gentleman on Rogers Street, what is his name again? (Gerry Weise). I think either it goes commercial or stays residential is not the issue, it is that people were worried what will be going there. Is the main concern of the whole situation. Is it going to be something that gonna bring in more crime or I am saying it wrong we are not going to put a strip club there and have a bunch of guys running down the street? That's what I am saying. Kristi Whaley said how much she and Larry love this town and have done for this town we are not going to put in something in like that. President Welsh said that Gerry doesn't want to walk out his front door and see something like that. Larry Whaley said Gerry I get your concern; I think this is ten pages long that we've dedicated ourselves to...President Welsh said I understand that. Larry Whaley said why would I do something...Kristi Whaley said I don't know if everyone knows what our business is but it's typically like a... kind of like a landscaping business so if that is what we are going to do that is the type of business we would do. Attorney Stevens said the type of businesses that are allowable in a commercial without a conditional use permit, were a conditional use permit they would have to come back to you. But those businesses that are allowed in a commercial zoning parcel are apartment house, grooming house, hotel, living quarters over businesses established, restaurants, (inaudible) garage, retail store/shop, repair shop, union parlor, funeral home, mercantile establishment, bank, office building or studio, lodge hall, gasoline and service station provided that storage tanks are underground, bowling alley, dance hall, skating rink or tavern, builder supplies or plumbing and heating supply, logger plants and then the conditional uses for which they would have to come back to the Board for approval, recreational campgrounds, light manufacturing and here was when I mentioning the public nuisance kind of component where the noxious, dangerous or offensive by reason of omission of odor, gas, dust, noise, fumes, flames, appearance or vibration, etc. So, the ones that I read are the only businesses that can be there without them having to come back to you for your approval for a conditional use permit. President Welsh asked the audience is there anyone else that wants to speak? Attorney Stevens said the point is by zoning it commercial doesn't preclude residential development on the parcel. It just gives greater opportunity for something to go there. Anything that is permitted in a residential zoned property is also permitted in a commercially zoned property. So, that would preclude a residential development if that became a possibility. Plan Commission Chair Norman Austin said that this is so close to multiple businesses in town and it would be nice to have something on

that corner. That is our biggest problem in town we get a lot of over flow from the campgrounds. You come off the interstate and all you see are storage sheds, or a funeral home...so nothing promotes you to come to town. You know we can't get a lot of signage out there, and we get people who are worried about what is going to come into town. I deal with five bars and I do what I do. That shouldn't be the case at all, and I think we need to keep an open mind and help grow this town. I sit at no meetings and I hear we have no money so I come in and help do a fundraiser for the park. So, the more we get in here now not, "oh we need a hotel and this and that", well nobody is knocking on the door so I think it is very important that we move forward and I hope that it is something that does generate for the Village. Especially for us uptown all the bar owners and the bank to get people to come around that corner.

Since Norm Austin was present, the Board went to agenda item #17 (Plan Commission Updates.) Norm said that they had sold 41 slabs so that completes the whole project (on the park sidewalk). So, it just has to be laid out so once she gets the project you guys can see it so you can see how it is laid out. There are people who should be acknowledged who helped a lot on the project and it is a nice idea to have them listed.

Linda Churchill spoke (about the property zoning issue) about the only thing she was worried about when you are going to put a business in there, no matter what it is, the only thing she is worried about is the safety issues of heavy traffic or whatever the business is if the Board can have a say in how they treat the safety. Trustee Coley said that if that ends up being commercial, that is handled by the State, isn't it? Attorney Stevens said that it is kind of a combination so you have a building code which would regulate driveways. Where they might place a driveway and certainly that can be a consideration. The State has weight limits, for instance this is a county highway, interstate and a bunch of collector roads. There are weight limits. The Village has public nuisance and as noted that are designed very broadly to protect the public health safety and welfare. There are a number of arrows in the quiver and they do kind of cover all those locals. Linda said that is going to bring in traffic no matter what. President Welsh said "we're closed".

After hearing no more comments from those present, Trustee Coley made a motion to close the public hearing, seconded by President Welch, two ayes carried, one abstention Trustee Miller.

Trustee Miller joined the meeting.

The Pledge of Allegiance was recited.

The minutes of the Regular Board Meeting of January 13, 2022 were approved on a motion by Trustee Miller, seconded by President Welch; three ayes carried. Discussion. The Village Clerk read the January, 2022 Payables Report. Discussion. Trustee Coley made a motion to accept the January 2022 Payables Report in the amount of \$16,819.49 seconded by Trustee Miller; three ayes carried. The Village Treasurer read the January 2022 Treasurer's Report. Discussion. Trustee Coley made a motion to approve the Treasurer's Report with an ending balance of \$102,216.11 minus Covid-19 Funds of \$25,329.79 with a balance of \$76,886.32, seconded by President Welch; three ayes carried. Trustee Coley suggested that the Covid-19 Funds be shown below the totals and the monthly funds show the regarding the Gasser bill of \$6,658.00. This had been paid for by General Fund for the Village and the Board had voided the \$6,658.00 per the Board's passage in February, 2022. After discussion, Trustee Coley made a motion to rescind the motion to approve the February, 2022 Treasurer's Report and amend the payments regarding the \$6,658.00 for the Gasser bill, seconded by President Welch; three ayes carried. Trustee Miller made a motion to approve the Water Report with an ending balance of \$15,571.85, \$5,588.20 in Water Savings and \$17,297.12 in the CD, seconded by President Welch; three ayes carried. Steve Klicko read the Sewer Report. After discussion regarding the payments for the hauling of sludge costs, President Welch made a motion to approve the Sewer Report with a balance of \$18,150.82 and \$7,561.18 in WWTP; seconded by Trustee Coley; three ayes carried.

Under Public Comments, Gene Churchill wanted to discuss the lift stations. He said the way the lift stations work in Lyndon Station, all the effluent goes into a basket and then strains out a lot of the material that goes in and then goes to the wastewater treatment plant. Some of the material that goes in there is not supposed to be flushed. He spoke with Steve, and there is a flyer that is called the "Three P's" that he would like to take to the businesses to post. Rags are the biggest problem. They are getting stuck in there and it takes hours to get cleaned up. Flushable wipes are another problem. Gene said he thinks that people don't know. He has been going every two weeks to clean them out, sometimes three, it is a lot of material. He would like to have them posted and have Rachel include them with the bills to each customer. Trustee Miller said a lot of people may not know they cannot flush them because they say on the package that they are flushable. Steve discussed more regarding this issue. Chief Jeremy Bonikowske said he found someone in the Dells who would charge approximately \$1,100.00 to update and maintain the Village website with the same annual fees. The same website can be used and just pulled over to update items. The Fire Department can be linked to the Village website. The Village Clerk questioned Chief Bonikowske about the new U.S. Cellular bill regarding charges not being separated into the correct departments for billing. The Village General Fund paying for all phone bills for all departments.

No one from the Plan Commission was present for their vote for the rezoning of 150 E. Wright to the Village Board. (Again, Trustee Miller recused herself from the Village Board table and sat in the back of the audience.)

Regarding the rezoning of 150 E. Wright Street from residential to commercial, President Welsh asked if "Are we going to discuss this?" Trustee Coley said, "I don't know, are we?" President Welsh said "make a move Bec". President Welsh said "if one of us votes yes and the other one votes no, what is the next step after that." Attorney Stevens said I am not the one to answer that. (Inaudible). Trustee Coley asked if the Plan Commission made a recommendation. President Welsh said the vote was 3 to 1 (with one abstention) to approve the re-zoning. Trustee Coley said she is going to be honest that she has very, very, very mixed feelings about that and I know what you are saying not to go by feelings or opinions or such just to a person who has put a lot of time and energy into this Village I feel divided. I feel divided because of the unknown, the unknown of not knowing what kind of business can go there and that is to me the that is part of not only as a taxpayer as a property owner close to there, as a resident of the Village, and there is a lot of things that make it very difficult to me. And I know I go by the facts I understand the facts but there are some things that makes me feel uncomfortable just because we don't have any control after that happens. Right now, we're are at the only point where we still have control. That's my concern. That not knowing what is going there, you know, not saying I don't trust you guys, and think that you have done wonderful things for the Village or anything like that. That's where, I am just speaking honestly here because that is where I am at. That doesn't mean I have made a decision. I also thought there was to be a full Planning Commission that besides with the exception of you abstaining, and there was only four that made the recommendation. On the Planning Commission side of that I was understanding that the full Planning Commission was going to be involved in the recommendation and there were only four members I mean besides, I know you had to abstain but isn't there seven members?" The Village Clerk answered that there was not when they had the meeting. Two more were appointed last month. Kristi Whaley said "there was another Planning Commission that also approved this last year. And also, the Zoning Board of Appeals approved this last year. This has been approved legally in the past. You're not taking the recommendation of the people." President Welsh said then "I can change my house from residential to commercial." (Inaudible). More questions were asked and Attorney Stevens answered them. More discussion. President Welsh said "so are you going to make a motion to approve or disapprove to rezone?" Discussion. President Welsh said, "I make a motion to not to approve the commercial rezone." (Long Pause.) Trustee Coley said "Is this something we should discuss with Peter?" Many more questions were asked about the rezoning from Trustee Coley and Attorney Stevens answered them. (Long Pause.) Trustee Coley asked "if either way

I go if I don't second his motion then it is a non-vote?" Attorney Stevens said if there is not a second there is not a decision made. But for all intents and purposes it is the equivalent of a no vote. More answers were given. Trustee Coley said "I will second the motion. I need to clarify a few things on that motion." Attorney Stevens gave her more information. Trustee Coley said "Any more information is that public information?" She would like to get more public opinions and she is very cautious.

Trustee Miller joined the meeting.

Trustee Miller made a motion to approve the 50/50 Petition for Juneau County Public Works, seconded by President Welsh; three ayes carried. The Board members signed the Petition.

Trustee Miller made a motion to approve Clifton/Allen/Larson to do the 2021 Audit for the Village, seconded by Trustee Coley; three ayes carried.

President Welsh made a motion to approve making copies of the clerk's filing cabinets keys, seconded by Trustee Coley; three ayes carried.

A motion was made by President Welsh to have Jeremy Bonikowske, Gene Churchill and Robert Darnell be added as users of the Village charge card with their own card, seconded by Trustee Coley; three ayes carried.

After a discussion, the Web Host issue was tabled to March, 2022.

The August 2022 Referendum for Budget Expansion was tabled until March, 2022.

The Resort Tax was tabled until March, 2022 when more information is available.

No discussion took place regarding the sidewalk by the park.

Under New Business, the Board chose February 21, 2022 at 6:00 p.m. to meet with Tim Stockman of Davy Engineering regarding the Sewer Plant. Steve Klicko said that he would like on the agenda the 2022 Sewer Televising and Cleaning on the agenda for March.

Fire Chief Troy Madland gave the monthly Fire Department Report. He said there was 29.50 hours for February totaling 101 hours for the year (not including EMS). Luke Stanek is the new treasurer for the Fundraiser Fund. Regarding the BP Gas Card, Chief Madland requested that his name be added to it or to try to get a card for him. The clerk will straighten it out. He said there have been six calls this year already to Pine Valley Home in Kildare with 22 calls in 2021. Perhaps there could be some kind of special charge because of the nature of the calls. Discussion.

A motion to adjourn was made by President Welsh, seconded by Trustee Coley; three ayes carried. Meeting adjourned at 8:35 p.m.

Respectfully submitted,

Lori J. Scully
Village Clerk