

Village of Bancroft  
Regular Meeting  
July 6, 2020

The regular meeting of the Village Board of Bancroft was convened in open and public session on Monday, July 6 at 7:00 p.m. Present: Trustees: Hulstein, Peirce, Rief and Hermelbracht. Absent: Soll. Also present is Chief of Police Davis and other interested persons.

Advance notice of the meeting was published in the Wisner News Chronicle on July 1, 2020. Proof of publication is being attached to these minutes.

Chairperson Hermelbracht called the meeting to order and stated that a copy of the "Open Meetings Act" was on display in the meeting room.

Motion was made by Peirce, seconded by Hulstein to approve meeting minutes from the June 1, 2020 meeting. RCV: Ayes; Hulstein, Peirce, Rief and Hermelbracht. Absent: Soll.

Motion was made by Hulstein, seconded by Peirce to approve special meeting minutes from the June 18, 2020 special meeting. RCV: Ayes; Hulstein, Peirce, Rief and Hermelbracht. Absent: Soll.

Motion was made by Peirce, seconded by Hulstein to waive the three readings of ordinance no. 2020-07. RCV: Ayes; Hulstein, Rief, Peirce and Hermelbracht.

Hearing open at 7:01 PM for ordinance no. 2020-07.

Mike Oltrogge from Nebraska Indian College present to discuss the point to point contact program that he is working on with Dr. Cerny from the Bancroft-Rosalie School. The point to point contact program will allow the Bancroft-Rosalie school to provide reliable internet access to BR students that live in rural areas without reliable internet access. This program will give free internet access to K-12 students that attend Bancroft-Rosalie School. If at home learning is to happen, then these students will have reliable internet to complete the assignments for their classes. Oltrogge is asking if the Village Board of Trustees will support the inclusion of the BR school district and the village into the spectrum for the wireless broadband project. Agreeing and signing the support letter will allow internet service to 140 additional students. Of those 140, 18 are enrolled at Bancroft-Rosalie School and are descendants of Omaha Nation. Fifteen of those 140 currently don't have reliable internet access because of their rural location. Motion was made by Hulstein, seconded by Rief to sign the support letter that would support the waiver to include the entirety of the Bancroft-Rosalie School District on the Nebraska Indian Community College's Omaha Nation's FCC 2.5 Gigahertz application. RCV: Ayes; Rief, Peirce, Hulstein and Hermelbracht. Absent: Soll.

Dr. Cerny spoke with Clerk Novak in June asking if the water tower would be a possibility for an antenna for the point to point contact location for the wireless broadband project with the Nebraska Indian College. The water tower would be the correct height for the antenna location. Dr. Cerny was not present for the board meeting. The village board is fine with placing the necessary equipment on the top of the water tower if there is enough space for the antenna. Mike Oltrogge mentioned he can hire someone on behalf of the college to go to the top of the tower and look at the space available. Motion was made by Rief, seconded by Hulstein to place an antenna on top of the water tower for the wireless broadband project, if enough space is available on the water tower. RCV: Ayes; Hulstein, Peirce, Rief and Hermelbracht. Absent: Soll.

Randy Bargmann is present to follow up with his question regarding the village junk car ordinance and if that applies to businesses in town that have junk cars on their property. Clerk Novak emailed village attorney Matt Munderloh about the junk car ordinance. The current ordinance doesn't say anything about the difference between a resident or business property and what is allowed and not allowed. Clerk Novak got the following response from the attorney Munderloh, *"To your question about the applicability of Village Code Chapter 4, Article 5, 'Abandoned Vehicles,' it applies anywhere within the corporate limits of the Village—no matter whether the property is being used for commercial, industrial, residential, or other purposes. However, section 4-501 and the immediately following sections mostly apply only to vehicles left unattended on 'public property.' Section 4-501(A)4. does apply to 'private property,' but the vehicle must be left on that private property without the permission of the property owner. And so any vehicles on the private property of a repair shop, whether the vehicles are operative or not, and there with the permission of the shop, would not be covered by Chapter 4, Article 5. It's my opinion that businesses like Ideal Wheels are not in violation of these Code sections in Chapter 4, Article 5.*

*However, keep in mind that we also have nuisance Code sections. Section 3-401 defines "litter" to include "any machine, vehicle, or parts of a machine or vehicle which have lost their identity, character, utility or serviceability as such through deterioration, dismantling or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded or thrown away or left as waste, wreckage or junk." "Litter" also includes "any motor vehicle without a current license and not housed in a storage or other building." These Code sections also apply anywhere within the corporate limits of the Village. Whether businesses like Ideal Wheels are in violation of sections like these is kind of a grey area. My view has always been that so long as the property owner can establish the vehicles are there as part of a legitimate business, I've usually let the issue alone, theory being that a legitimate business is not a "nuisance."*

*That takes us to zoning. Our zoning ordinance, at page 13, defines "salvage or junk yard" to include "a place where ... abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment, but not including ... establishments for the sale, purchase or storage of used cars or trucks presently in operable condition...." And so the crux of this is whether the vehicles are operable or not. If not, the definition applies; if so, the definition does not apply. To the extent they have vehicles that are inoperable on their property, businesses like Ideal Wheels probably fall within this definition of "salvage or junk yard." These operations are permitted only in the AG and I zones. See pages 20, 31, and 35 of the existing zoning ordinance. And they are permitted only under certain conditions, which are set forth in section 6.3, page 35. Finally, they are permitted only as a permitted special use—which means the property owner needs to ask the planning commission and Board of Trustees for a special permit to use property in this way.*

*I don't know how the Ideal Wheels property is zoned. If it's not AG or I, there is a problem. If it is AG or I, they should consider asking for a special use permit, though I don't know they could comply with the regulations, as written, because you'll see after reading section 6.3 that the operation is supposed to be at least ¼ mile from a residence, in a building, and so on.*

*I also don't know how long Ideal Wheels has been in operation. If they were operating prior to the passage of our zoning ordinance, they are probably OK to continue to operate as a nonconforming use. I don't know when we first passed zoning. Page 16 of the zoning ordinance refers to the zoning map dated "2007," and so that is probably when it was passed. If the Ideal Wheels operation was there prior to 2007, it's probably fine. But if not there until after 2007, there are issues.*

*This may be more than you wanted. But I don't think Chapter 4, Article 5 is really applicable at all. Boiled down, it's a zoning issue."*

Clerk Novak asked attorney Munderloh if a special permit would still be needed even if Brad didn't own the business before 2007 (Petersen purchased in 2009) since its been a body repair shop since before the passing of the zoning ordinance in 2007. Attorney Munderloh said, *"The right to maintain a legal nonconforming use runs with the land itself; it is not a personal right. Thieman v. Cedar Valley Feeding Co., 18 Neb.App. 302 (2010). And so given the use of the property prior to the passage of zoning, it's my opinion a special use permit is not necessary here. Ideal Wheels should be mindful that nonconforming uses are not supposed to be "extended, enlarged, or increased in intensity," p. 5, zoning regulations. This, too, is a bit of a grey area. But a clear (and extreme) example would be that there probably shouldn't be 1,000 cars there at any given time, after the passage of zoning, if, prior to zoning, there were only 10 at any given time."*

No questions were asked by Bargmann over the response from the lawyer. Petersen also stated that once the substation gets their privacy fence put up, Petersen will continue the fence on his property which should hide some his cars in the back of his property. Chairperson Hermelbracht told Petersen to keep cleaning up what he doesn't need any more and keep his property maintained.

Motion was made by Rief, seconded by Peirce to approve LB840 application no. 2018 for \$17,000.00 or 20% of the overall project cost with \$17,000.00 being the maximum amount given. RCV: Ayes; Peirce, Hulstein, Rief and Hermelbracht. Absent: Soll.

Motion was made by Peirce, seconded by Rief to approve LB840 application no. 2028 for \$2100.00. RCV: Ayes; Peirce, Hulstein, Rief and Hermelbracht. Absent: Soll.

Motion was made by Rief, seconded by Hulstein to approve LB840 application no. 2015 for \$9200.00. RCV: Ayes; Rief, Hulstein, Peirce and Hermelbracht. Absent: Soll.

Motion was made by Peirce, seconded by Hulstein to approve LB840 application no. 2017 for \$640.00. RCV: Ayes; Hulstein, Rief, Peirce and Hermelbracht. Absent: Soll.

Motion was made by Rief, seconded by Hulstein to approve LB840 application no. 2004 for \$900.00. RCV: Ayes; Peirce, Rief, Hulstein and Hermelbracht. Absent: Soll.

Office Davis is wanting to purchase a WatchGuard in car camera system for the police car. The old camera system isn't working correctly. The total cost of camera with installation will be around \$5,420.00. The State of Nebraska has a grant application where he could receive a maximum of

\$3500.00 for the camera. The state application requires a DUNS number so Clerk Novak has been working on getting the village DUNS number reactivated since it hasn't been used since around 2012. Once the DUNS number is activated the State of Nebraska Grant application can be completed. David Branch is present with Cuming County Economic Development and he said that the remaining money needed could be grant funded as well so there wouldn't be any cost to the town on the camera. The village board is fine with the purchase if all available resources can be used to help with the cost.

Hearing for ordinance no. 2020-07 closed at 7:42 PM. No public comment made.

Motion was made by Peirce, seconded by Hulstein to approve ordinance no. 2020-07. RCV: Ayes; Hulstein, Rief, Peirce and Hermelbracht. Absent: Soll.

**ORDINANCE NO. 2020-07**

**AN ORDINANCE OF THE VILLAGE OF BANCROFT, NEBRASKA, AMENDING THE VILLAGE'S ECONOMIC DEVELOPMENT PLAN TO PROVIDE FOR WORKFORCE AND LOW-INCOME HOUSING PLANS AND CHILDCARE INFRASTRUCTURE DEVELOPMENT, CARE, AND EDUCATION PROGRAMS; PROVIDING AN EFFECTIVE DATE.**

Motion was made by Hulstein, seconded by Peirce to approve SDL for Tavern 310 for wedding reception on August 29, 2020. RCV: Ayes; Rief, Peirce, Hulstein and Hermelbracht.

Reviewed proposed 2020-2021 budget. The only big projects expected for 2020-2021 is a new well for the village, pending the nitrate levels on the south well. The other major expense is the painting and cleaning of the water tower, if that isn't completed in the 2019-2020 fiscal year.

Employee reviews and wage review will be tabled until the August meeting when board trustee Soll can be in attendance.

Reviewed council reports.

Reviewed delinquent utility accounts.

Motion to pay June bills made by Peirce, seconded by Rief. RCV: Ayes; Rief, Hulstein, Peirce and Hermelbracht. Absent: Soll.

A motion to adjourn was made by Hulstein, seconded by Peirce. RCV: Ayes; Hulstein, Rief, Peirce and Hermelbracht. Absent: Soll. Meeting adjourned at 8:09 PM.

*Michael Hermelbracht, Chairperson*

*Megan Novak, Village Clerk*

June Wages		8,962.14
BHE	gas fee	247.00
B-R Journalism	library	40.00

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Brodart Co.	library supplies	94.06	
Brook Darnell Construction	street repairs	5,553.00	
Capital One Card	books/utilities/tests	5,071.69	
Center Point Lg Print	books	30.40	
Core and Main	supplies/dues	4,437.82	
CVA	fuel	163.22	
D. Redding	phone service	40.00	
David Fannon	park	322.00	
Engelhardt TV	police	148.49	
Ideal Wheels	street	148.95	
Johnson and Mock	law fee	1,245.00	
Kings Disposal	trash fee	3,770.00	
Lorensen Lumber	street repairs	5,138.26	
Lyle Soenksen	cemetery	266.91	
Mels Small Engine	supplies	12.00	
MicroMarketing	books	41.98	
Mid America Enterprise	maintenance	48.78	
NE Public Health Lab	test fee	231.00	
One Call Concepts	service fee		11.90
Pender Ace	supplies	82.41	
Peters Lawn Service	mowing	1,195.84	
Platte Valley Comm	police	227.29	
Popular Subscription Service	magazines	602.81	
Quality Printing	supplies	314.96	

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Quality Printing	supplies	67.57
Ru-Des Mart	fuel	168.31
Seals and Service	sweeper repair	1,106.00
Tri State Communications	police	327.00
Wisner News Chronicle	publishing	187.15
<b><u>TOTAL</u></b>		<b><u>\$40,303.94</u></b>
 <u>Paid from the Friends of the Library account</u>		
Creative Product Source	summer reading supplies	140.13
<b><u>TOTAL</u></b>		<b><u>\$140.13</u></b>