

VILLAGE OF EARLVILLE

Regular Monthly Meeting
Village Hall

June 11, 2013
7:00 PM

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NOTICE: Pursuant to Article 7 of the Public Officers Law § 104-1, notice of this meeting was given to the media at least seven days in advance and the same posted on the May 15, 2013.

Tonight's meeting minute notes: All votes by the Village of Earlville Board of Trustees (herein "Board" or "Village Board") 5-0 are to be read as "aye" votes from Village of Earlville Board of Trustees members Corey, Hayes, Moore and Chapman. The "Village Office" is the Village of Earlville Municipal Office located at 8 North Main Street. The "Planning Board" means the Village of Earlville Planning Board.

Mayor William Excell called the meeting to order at 7:00 p.m. Board members present were Trustees Henry Moore, Gerald Hayes, Margaret Corey and Sara Chapman. Also present were Village Clerk-Treasurer Kelly Beach, CEO Matthew VanHeusen, DPW new hire Dale Wissenbach, Town of Sherburne Councilman Ed Meyers and Village residents Lauren Moran and David Crandall.

A resident from 51 W. Main St. was present to request installment payments for her past due water bill. Trustee Moore stated that he knows she has been having health issues and he knows that in the past the Board has taken this same issue into consideration. Moore stated that he was willing to accept payments, as he understands that sometimes people fall on hard times, especially the elderly who face health issues and he is uncomfortable with them having to make a choice of buying food versus paying bills. Moore pointed out to the Board that this resident has always paid previous water bills on time, and sometimes people do need help. Hayes asked what kind of payments she had in mind and the resident explained that she was not sure of the dollar amount but she would have it paid off before the next bill came out in July. Excell asked Chapman her feelings on extending the due date for this resident and Chapman stated she would like to hear Corey's opinion first. Excell explained that he was running the meeting and he had asked for her opinion. Chapman then stated that she did not feel that they have made exceptions in the past and they should not start now. Chapman stated that she understood the circumstances but doesn't feel it should change the fact; if they made exceptions for one resident, then they would have to make exceptions for others as well. Trustee Corey stated that on the current shut off list given to the trustees at this meeting there is still a person having trouble paying their bill. Earlier this year this person was denied an extension even though they had a physician's note stating that their health was poor. Moore reminded the Board that the resident Corey was referring to also took it upon themselves to turn their own water back on. If he recalled correctly, that was the reasoning behind not granting them an extension. It was one thing for residents to come to a Board Meeting and ask for an extension and quite another to simply reconnect their own water. Corey stated that she doesn't feel exceptions should be made if they are not made for everyone. Mayor Excell stated that he felt that the other residents did not come in and put themselves in a position of publicly asking the Board, they left it up to the Clerk-Treasurer to bring it to the Board. In his opinion, that should count for something as it took a lot of courage. After a lengthy, heated discussion, a motion was made:

Motion#1-6.11.2013

Trustee Hayes motioned to give the resident at 51 W Main St. a chance to make installment payments, however the bill must be paid in full before the next water bill is due or the water will be shut off. Trustee Moore seconded the motion. Trustee Chapman wanted to change the motion to stipulate payment dates and amounts, Trustee Moore advised that the motion was on the table and could not at that time be changed. If she did not agree with the motion, she could vote no and if the motion failed, a new motion could be made to her satisfaction. Chapman voted no as she would feel better if the payment agreement was more structured. Corey voted no, Moore voted yes, Hayes voted yes, and Mayor Excell broke the tie with a yes vote, 3-2 in favor of the motion.

Mayor Excell asked if anyone had any questions and Trustee Chapman questioned the resident regarding what reasonable amount could be paid by installments, in which the resident replied again that she would have to make the full payment in July.

Motion #2-6.11.2013

Trustee Moore made a motion to enter into Executive Session at 7:15 to discuss matters regarding ongoing litigation. Trustee Corey seconded, motion approved 4-0. Invited into the executive session were Mayor Excell, Trustees Moore, Hayes, Chapman, Corey and the Clerk-Treasurer. No motions, proposals or other voting occurred during Executive Session. At 7:37 Trustee Chapman moved to move out of Executive Session seconded by Hayes, 4-0.

Motion #3-6.11.2013

Upon re-entering public session, Trustee Moore made a motion to invite Michael Kicinski and Village Attorney William Getman to the next Board Meeting on Monday, July 8th to discuss ongoing litigation. This motion was seconded by Trustee Hayes, 4-0.

Mayor Excell explained that Water Shut offs had originally been scheduled for Monday, June 10th; however the Clerk-Treasurer had been out of the office for most of June 5th, 6th, and 7th due to a family emergency. Based on this, Excell had advised the Clerk-Treasurer to move the shut off date to Friday June 14th to give her time to verify all payments received thereby ensuring there were no accidental shutoffs on accounts that had in fact been paid. There have been four accounts that have called the Village Office to ask for an extension on the due date for their Water bill. Only one of four residents was present to request the extension, that one having been discussed at the beginning of the meeting.

The following due date extensions were approved unanimously:

- 60 North Main Street asked to extend the due date to June 19th. This was approved with the understanding that if it is not paid on the 19th, the water will be shut off on the 20th of June.
- 53 West Main Street asked to extend the due date to June 26th, shut off on the 27th
- 4 Fayette Street for an extension until the end of this month, shut off on June 30th.

Motion #4-6.11.2013

On a motion by Trustee Moore, seconded by Trustee Hayes, Regular Board Meeting Minutes for May 14, 2013 were approved 3-1 with Moore, Hayes and Corey voting yes, Chapman voting no.

Motion #5-6.11.2013

On a motion by Trustee Moore, seconded by Hayes, Special Board Meeting Minutes for May 23, 2013 for the DPW laborer position were approved 3-1, with Moore, Hayes and Corey voting yes, Chapman voting no.

Motion #6-6.11.2013

On a motion by Trustee Moore, seconded by Hayes, Special Board Meeting Minutes for May 31, 2013 for 2012-2013 year end budget adjustments were approved unanimously.

Motion #7-6.11.2013

On a motion by Trustee Chapman, seconded by Trustee Moore, Abstract 713 which included General Fund Vouchers totaling the sum of \$36,988.93 which included previously paid items and Fire Department P.O's 0716-0720 were approved unanimously.

Motion #8-6.11.2013

On a motion by Trustee Moore, seconded by Trustee Hayes, Abstract 714 which included Water Fund Vouchers totaling \$35,728.02 was approved unanimously.

Motion #9-6.11.2013

On a motion by Trustee Moore, seconded by Trustee Corey, Abstract 715 which included Trust & Agency Fund Vouchers totaling \$9,158.00 was approved unanimously.

Town of Sherburne Councilman, Ed Meyers reported that there has been no meeting since the last Earlville Board Meeting and the next Town of Sherburne meeting was tomorrow, June 12th, therefore he had nothing to report on.

Trustee Chapman reported that she has had no FOIL requests or Fair Housing issues to discuss.

Trustee Corey reported that the events committee is meeting tomorrow afternoon. There is still a question on the Chicken BBQ vendor and whether one will be present for Earlville Days. The committee is looking for more food vendors, preferably ones that will stay longer in the day. Activities lined up are- Softball Tournament, village-wide garage sales, model airplane display, kids games, Fire Safety House, Bounce House, Cruise-In, Dunk Tank, Garden Tractor Pull, Pie Eating Contest, Zoomobile, Medevac Helicopter, Parade with prizes, the band My New Obsession, Fireworks, raffles all day and more. The flowers in the barrels done by Corey and Mrs. Moore are starting to go brown; they are hoping for good weather so the plants don't die. Corey reported that she has heard nothing on the Municipal Building electrical wiring issue. She stated that she will see Ford at the Events Committee meeting on Wednesday and will talk to him then.

Trustee Moore allowed CEO Matt Van Heusen to give his monthly report. Van Heusen stated that the hand rails that were installed at the library when the ramp was replaced are completely wrong. He is handling this issue with the library. He also conducted a building fire inspection of the Library tonight; a minor infraction was found and dealt with. Van Heusen stated that the Health Dept. had contacted him last week regarding an issue; however that turned out to be irrelevant as it was in the Town of Lebanon. He has contacted the realtor in charge of 19 North Main Street regarding the tall grass. He was under the impression that the issue had been addressed as the front yard had been mowed; however he was contacting them again because the back yard was left untouched. Trustee Corey stated that Mr. Corey was the one that mowed the front lawn this last time, not the realtor. Mayor Excell stated that per a letter received from the County, the village could no longer add mowing charges to the Village Tax bills; therefore there currently is no recourse for the violations issued. Matt suggested changing the law to something similar to what Cortland is following. They give residents 24 hours to mow the grass and if it isn't done within those 24 hours, they hire a contractor to mow it. In the case of Earlville, give them 24 hours to mow it, as 30 days is unrealistic because it could potentially be a hay field by then, and if it is not mowed then have DPW mow the lawn and send the property owner a violation ticket to appear in court to pay the charges. Basically, get it done or show up to court. Trustee Moore stated that if the process drags out then the village should be able to put a lien on the property; at least when the property is sold, the village can get the money owed to them. No final decision was made, no action was taken.

Trustee Moore stated that he is still trying to touch base with Pastor Mark. He would like to be able to sit down with him and discuss the plans for the Skate Park.

Trustee Hayes reports that Animal Control responded to a call on Green Street on May 1st. By the time Hilsinger arrived on the scene, the owner of the dog had already picked up the dog. On June 3rd, he responded to a call on a dog feces complaint. Upon arriving he found out that the owner of the dogs was currently incarcerated. On June 6, Hilsinger responded to a call regarding a dog wandering around the grounds of the old school on Fayette St. The dog was located and transported to the Chenango County SPCA. Hilsinger did not receive the mileage check that was mailed out for last month. Hayes would like a motion to void last month's check and issue a new check that includes both last month's mileage and this month's mileage.

Motion #10-6.11.2013

On a motion by Trustee Moore, seconded by Trustee Hayes it was approved to void Francis Hilsinger's mileage check issued in May and issue a new mileage check to Hilsinger which includes both May and June mileage reimbursement. Motion was unanimously approved.

The Opera House is going strong with programing scheduled all summer. Hayes has heard nothing from the museum. Hayes attended the Fire Company's monthly meeting on June 6th. They spoke of Earlville Days- Ford reported that the Fire Safety House will be in attendance and the Fire Dept. still needs people to be in the parade. Ford reported that only one bid was received for the rewiring of the Municipal Building. Hayes stated that it may be hard to get someone to do the job due to the fact that it needs to be bid using prevailing wages and it needs to go through the State to get a PRC#. Contractors in this area do not seem to like working on State jobs due to all the regulations involved. Hayes reports that the Events Committee is still looking for people to volunteer to man the dunk tank at Earlville Days. Moore stated that he had to work that day; however Mayor Excell and Trustee Chapman were interested in volunteering.

Mayor Excell reported that the tow behind mower that was purchased around 1995 had broken down on Thursday June 6th while Tucker was mowing the fields by the bus garage. Upon inspection, Tucker determined that the bearing for the mower blades had stopped working. On Friday June 7th, Tucker took the parts to Clinton Tractor to order the parts to rebuild the bearings, but was told that they could not be ordered as they were obsolete. New bearings could be ordered at a cost of \$1,202.76. Clinton Tractor advised Tucker that they had a used mower that could be purchased at the cost of \$1,975.00. Tucker called Excell from the store and explained the situation. Excell then called Hayes and the two of them discussed the fact that the mower was purchased around 1995 and was in bad shape- it needed welding again in two spots that it had already been welded in numerous times before, due to rust and poor maintenance. The wheel bearings are also getting bad and are in need of replacing. Bill explained to Hayes that Tucker and he did not feel the mower would last much longer due to poor maintenance even with the bearings replaced.

Because the softball teams use the fields almost every night, the fields needed to be mowed and maintained. It had not been mowed that week and if left unattended they would become unplayable for the teams. Based on these facts, it was agreed by both Hayes and Excell that keeping the Village property properly maintained did allow the Village to make an emergency purchase of the used mower. Emergency Purchase documentation is attached to these minutes.

Trustee Moore voiced concern that the other Board Members were not consulted and he did not necessarily consider it an emergency purchase. Trustee Chapman stated that they could have been contacted, even if by e-mail. Mayor Excell stated that he understood there viewpoints, however at the time, Deputy Mayor Hayes and himself made what they felt was the best decision to purchase the equipment and what is done is done.

Tucker has finally been in contact with Jerry Jusianiec from Jerry & Sons County Line Tree Farm who has graciously donated the new tree to be planted in the Village Square. Tucker and Wissenbach will pick up and plant the tree on Thursday or Friday, depending on the weather. Tucker had asked if he could get some topsoil and stock pile it in the Village for when it was needed to plant the tree. It was decided that since there was no secure place within the Village to store it, he will be picking it up as needed. Trustee Chapman commented that the length of time in getting the tree replaced has been an embarrassment to the Village and many people have complained and/or commented on it to her. Mayor Excell asked that if the tree is not planted by Friday did he have permission to purchase a replacement tree. A brief discussion followed on the difficulty and length of time it has taken to finally coordinate the planting of the tree.

Motion #11-6.11.2013

On a motion by Trustee Corey, seconded by Trustee Moore, it was agreed that if the replacement tree for the Village Square is not received by the end of the day on Friday June 14, 2013, a replacement tree will be purchased at a cost of not more than \$500. Moore, Corey and Chapman voted yes. Hayes voted no, stating that he thought \$500 was too much to spend on a tree and was rather surprised that Chapman voted yes, considering that she is all for saving the Village money. Motion was approved 3-1.

Dale Wissenbach was introduced as the new DPW Laborer. Excell stated that Tucker will call to find out when next water class is being held at Morrisville. Excell reminded Wissenbach and the Trustees that he has six months to obtain both a CDL-B and a Water Operators License. It was stressed that since the date of the next water class is unknown, that will be taken into consideration. A new contract outlining the necessity and time frame of obtaining the licenses was given to the Board for review. There were no questions from anyone on the Board regarding the contract and after reviewing it himself, Wissenbach signed the contract in front of the board.

Excell reported that Tucker has been doing a lot of cleaning; he has told both DPW workers that from now on there was no reason for both of them to be doing brush pickup. Excell will be seeing Yacono Paving on Thursday regarding the previously mentioned street work. He is simply looking to get a quote on repairing the two streets discussed in a previous Board Meeting. He asked if trustees had gone over to look at the damage on Clark Street and Cushman. None had. Excell asked the Trustees to make a point to go over to the streets before next month's Board Meeting.

Excell would like 5 new chairs purchased for the Board Members as the chairs currently used during Board Meetings are uncomfortable. After a brief discussion on the cost to the Village, Excell asked for a motion. No motion was made and the discussion was dropped.

In old business, a bill from Shaw's Electric for work done in 2007 on the installation of the then new Fire Siren was discussed. It was not understood why the Village is just now being billed for work that had been done 6 years ago. Trustee Moore was not comfortable with the way the bill was presented; as it was not broken down to show the actual cost of individual charges, it was simply lumped together.

Motion #12-6.11.2013

On a motion by Trustee Chapman, seconded by Trustee Moore it was agreed that a letter will be sent to Shaw's Electric stating that the Village will not be paying the invoice for \$2,997.50 based on the fact that it is for work done over 6 years ago. The letter is to further advise them that they may contact the Village's attorney William Getman if they have any questions. This motion was approved unanimously.

In new business, Trustee Chapman stated that do to the Open Meeting Law village business could only be discussed in a Board Meeting with a quorum. Trustee Moore and Mayor Excell explained that two members of the Board could discuss Village Business especially if it was a difference of opinion in the way certain matters were being handled. For instance, if someone had a problem with personnel, they would take that problem to Excell, if someone had a problem with FOIL, they would address her. There would be no reason to wait until a Board Meeting to address it if the problem could be solved beforehand. A heated debate followed. Chapman stated that when Excell, Moore and Hayes stood around outside smoking and talking together, it was considered a quorum and therefore they were performing an illegal act. CEO Van Heusen interceded and explained that per the state law, as long as the members of the board were not discussing Village business, it was not considered illegal, even if a quorum of 3 was formed.

Chapman stated that she felt that she had been disrespected at last month's meeting by Excell when she stated that the Mayor did not have sole hiring rights of Village employees- that the Board members were supposed to vote on and approve the person hired. A heated discussion between Trustees then followed. Excell apologized to Chapman for becoming upset with her comments last month and reminded her that in response to her objections, he had in fact asked the Clerk-Treasurer to contact NYCOM to verify the hiring process. He stated that as soon as the clerk-treasurer contacted NYCOM and it was found out that in fact Chapman was correct in the hiring process, he made the appropriate moves to correct the situation. Per NYCOM, the correct hiring process is for the Mayor and one other Trustee of his choice to conduct the interviews and then the Mayor takes the top contenders to the Board for voting approval. The Mayor does have the right to vote on the new hire.

Chapman stated that she felt that since the Clerk-Treasurer did use vacation and sick time, the Village should be able to hire a part time person to fill in when the clerk is out of the office. That way, residents would be able to pay their water and tax bills at the Village Office when it was supposed to be open, and they would not feel the need to go to the Library to complain to her about it. It was pointed out that if a part-time assistant were to be hired, the Board would have to increase taxes to pay another salary. It was

also pointed out that up until the previous clerk-treasurer, the Village had always been open on a part time basis, that the Clerk-Treasurer is more accessible now than in the past.

Chapman commented that Meeting Minutes must be online as well as in writing within two weeks. The clerk-treasurer responded that it was her understanding that the minutes must be made available to the public within two weeks, however they did not need to be online within the same timeframe. CEO stated that if there was a Village web-site, then the meeting minutes did in fact need to be published there as well, within that time frame.

Chapman stated that she feels that the Meeting Minutes are dishonest, they do not include the tone of the meeting and that the comments recorded are not accurate and in full. Trustee Moore stated for the record that Chapman's dissertation was her opinion and not facts. A heated discussion followed.

Mayor Excell read the Open Meeting Law from the NYCOM handbook regarding meeting minutes, pointing out that "the minutes must indicate which members of the public body were present, must contain a summary of all motions, proposals, resolutions and any other matters voted upon and the actual votes. Minutes must be made available to the public within two weeks of the meeting. Minutes are not required to be and should not be a verbatim account of the meeting. Nor should the minutes include a reference to each comment made during the meeting...Furthermore, the public body may, by majority vote of its membership, require that a specific statement, text of a resolution or agreement, etc., be included verbatim in the minutes." Chapman suggested passing a resolution to include a verbatim account of all Board Meetings. There was no motion for this action.

In Public Comment, a resident on Fayette Street stated that most days of the week, as she is driving around the Village, she sees people traveling at high rates of speed. She says that there are no police officers parked in front of the Village Office at night and she does not feel that the Village is getting the service that the Village is paying the Madison County Sheriff's for. She stated that she rarely sees a police presence within the Village. Saturday night at 10:30pm there was 9 cars parked at the Skate Park. She thought that it had been decided that the park would be closed at a certain hour. Trustee Moore explained that the village is not contracting with the Madison County Sheriff; they do not have set hours of operation within the Village and the Village is not paying them anything to be here. Hayes and Moore stated that they have definitely seen an increase in police presence since the Field Office was moved to the Main Street location.

Excell asked the resident if she thought they needed a police officer in the Village twenty-four hours a day. That if the Village was to hire a policeman the Village residents would be paying for them through the Village Taxes, which would require a significant increase to cover the salary. Chapman stated that she does not want 24 hour protection, she just wants some available. The resident asked him what is more important to him- saving money or the protection of residents. Mayor Excell stated that what was important to him was finding ways to protect the residents while at the same time, saving the village money. Trustee Chapman stated she does not want to make excuses to residents that she wants to make a difference. Town of Sherburne Councilman Meyers advised Chapman that the Boards' job is solely to administer, not to enforce- the police have the job of enforcement.

Moore stated that if more people would call the Sheriff's office to file complaints, perhaps the Sheriff would increase patrols to the Village. Chapman stated that the Village is putting the burden on the Village residents where the Village should be handling the problem of keeping the residents safe. Meyers explained that normally the Sheriff would patrol every street at least once on their post, but do to the fact that the Sheriff's Department patrols multiple Villages and Towns; it makes it hard for them to focus on one particular Village. Van Heusen added that it is the same thing in Madison County, they are covering several villages and towns, and the field office upstairs gives them easier access to public coverage, which benefits the Village as well as the residents.

Excell reported that he is working with Sherburne Mayor Bill Acee on the possibility of Earlville purchasing a squad car that Sherburne will be selling in the near future. Mayor Excell feels that if the village can get the car and park it around the village, it will encourage people to slow people down and possibly curtail other criminal activity as well.

The same resident stated that there are 19 homes currently for sale in Earlville, 8 empty houses and several empty business store fronts. She asked what the village has done to bring more businesses to Earlville. The resident stated that the Board needed to entice a couple of small businesses to come to Earlville; perhaps one business being a pharmacy. Moore mentioned that he has heard of a place that has a

committee made up of residents and Board Members to address long term planning. Chapman and Moore will look into what can be done to promote more business within the Village; Moore invited the resident to be part of this process, however the resident declined the invitation, stating health reasons and time.

The Village Drop box on the door needs to be modified or a new one purchased as questions have been raised regarding payments disappearing from the box while the Village Office is closed. Van Heusen stated that there is a type of mail box available with an inside locking mechanism. Mayor Excell suggested getting an old mail box to put outside the door. Nothing was decided on this matter.

Excell reminded Board Members that the Clerk-Treasurer works for the Village, not the Trustees and that as Mayor; he is in charge of personnel. Therefore they need to go through Excell with any requests, comments or complaints for the Clerk-Treasurer.

With nothing further to discuss, Trustee Chapman motioned to adjourn the Village of Earlville Board Meeting at 8:43 pm, seconded by Trustee Hayes and carried 4-0.

“I certify this document is a true and accurate description of the regular board meeting of the governing board of the Village of Earlville June 11, 2013.”



Kelly Beach
Clerk-Treasurer

Village of Earlville

- Village Seal -