

Minutes for the November 8, 2014 Regular Council Meeting
Held at 10:00 am at the Town Hall on Division Street

1. Mayor Paine calls council to order and roll call is taken. Present are G.Ritchie, P.Seeholzer, J.Wolfe, M.Feyedelem, G.Finger, and D. Kaminski. All are present.

2. All rise and recite the Pledge of Allegiance to the Flag

4. Discussion and/or amendments to the 10-11-14 council minutes. Motion to accept the Minutes as presented, made by Finger, 2nd by Feyedelem, All in favor; motion carried.

5. Discussion of Pay Ordinance No. 1140 : Motion to accept the Pay Ordinance as written, made by Seeholzer, 2nd by Finger, RC: G.Ritchie- yes, P.Seeholzer- yes, J.Wolfe- yes, M.Feyedelem- yes, G.Finger- yes, D.Kaminski- yes; motion carried.

7. Committee Reports

7.A. Police- Chief Ehrbar reports that for the month of October to today, 8 police reports have been filed; 130 departmental phone calls have been answered; 1 OVI arrest occurred; 7 traffic tickets were given for speed violations and delinquent disposal fees; 44 verbal warnings were given for open containers and excessive speed; 1 house check was done; 4 vehicle lockouts were attended; and there was one assist with KIEMS. Tomorrow is the Half Marathon for the benefit of the purchase of a new police car. Chief Ehrbar especially thanks large donors to the car fund Ed Kuchar and KI Venture Resort and he thanks all the others who have donated.

7.B. Safety Committee- M. Feyedelem reports that the Village received an email from Dave Duignan, Fire Chief of Sandusky, to advise us that they will have an ambulance standing ready to transport any patient that is possibly infected with the ebola virus. The specially prepared ambulance will be made available to any EMS Department that needs it. Chief Duignan is available for any questions. The ambulance can be requested through Erie County Dispatch.

7.C. EMS- S. Devine is not present and there is no report.

7.D. Fire Dept.-Chief Hostal reports that there were no fire calls in October. The Fire Dept. will be decorating Memorial Park downtown at noon today. Everyone is welcome to attend and help.

7.E. Finance- P. Seeholzer reports no meetings.

7.F. Lands & Buildings- G. Finger reports that most of the Village buildings have been winterized. The downtown bathrooms will be the last to winterize. A lock will be added to the downstairs bedroom pocket doors in the Dwelle House.

7.G. Airport- G. Ritchie summarizes that the Airport Levy was soundly defeated 65% to 35% at last Tuesday's ballot. Council will have to discuss with the FAA about how to proceed.

7.H. Planning Commission- G. Finger reports that the Commission met and approved the re-platting of a property on Division Street which is on the agenda today.

7.I. Design Review Board- G. Finger reports that there will be a meeting shortly, but it has not been scheduled yet regarding the replacement of the steps to the Town Hall.

7.J. Board of Zoning Appeals- G. Finger reports that no hearings have been needed.

7.K. Transfer Station- D. Kaminski has nothing to report today.

7.L. Village Administrator- Stevenson asks members of Council and the Mayor to contact him if they have items they would like to see done over the winter season.

7.M. Streets & Sidewalks- J. Wolfe reports that no meetings have been held.

7.N. Park Board- James Erne reports no meetings.

7.O. Mayor's Financial Report- Mayor Paine reports that for October, the Court received a total of \$1,920 in fines and costs. Checks were issued to the appropriate authorities.

7.P. Legal- D. Lambros speaks about the Planning Commission's October Meeting wherein they granted the proposed minor subdivision for the Murrays. That is before Council today. Murray took a 6 lot subdivision and turned it into 4 lots. Murray received permission from the Erie County Board of Health. In review of our codified, council will have to pass an ordinance. The plat bore the required engineer's stamps. Council has the item on this agenda and it requires Council action. Lambros suggests that Council approve the subdivision by motion today and he will then do the appropriate ordinance to accept the Murray Subdivision for the December Council Meeting. The Lincoln Road issue came up this summer to him. Lambros did research on the road, to look for any indication of a street dedication for Lincoln Road- on old plat maps, in Council Minutes. Nothing was found that indicates any documentation was brought to Council, reviewed by Council, and then legislatively accepted by Kelleys Island Council or subsequently recorded in Erie County. All of the aforementioned is required for the statutory dedication of roads. Lambros then went to Erie County Offices and searched there also for any documents that the county might have and he found nothing more. The only mention that Lambros found was that Lincoln Road was platted for plat purposes only. It didn't even indicate the width of the road so even that is in question. Lambros was given a deed to review, which he did, that includes the language "for ingress and egress only" which means that the holder of the deed can use the road to get to and from their property. To have ingress and egress to one's property does not require that it is a public road. It gives them no right to use other property than the road to get to/from their own property. All research indicates that Lincoln Road is not a public road. A separate issue has been raised by some of the property owners on Lincoln Road whether there is a "prescriptive easement or prescriptive right-of-way" with respect to the end of Lincoln Road. That is a use right, not an ownership right. It is a judicial issue, not a legislative issue. That is not a council issue. Council does not have the authority to make that determination; that is a judicial issue and it must go in front of the court. Only a court can decide it. Historical facts are the basis for the court decision, which the concerned parties must bring forth to the court. There is no relief possible from Council as Council is not the proper body. Council does not have judicial authority. Lambros closes by saying that he does not know if there is a right or not as it is not in his authority to make that determination with the research he has done. Lambros adds that he is available after the meeting if anyone wants to speak with him further on this topic.

7.Q. Treasurer's Report- C. Brown reports that Council has the usual fund and treasurer's report in their packets. The only thing that has not been mentioned is that the check has been delivered using 90% FAA funds to purchase the Scheiber property. That closing is imminent.

9. First Readings (none)

10. Second Readings (none)

11. Third Readings & Emergencies

11.1 ORDINANCE 2014-O- 17 : AN ORDINANCE TO MAKE TEMPORARY APPROPRIATIONS FOR THE MONTHS OF JANUARY, FEBRUARY, MARCH, 2015 AND DECLARING AN EMERGENCY.

Motion to suspend the three reading rule, made by Seeholzer, second by Finger;
RC: G.Ritchie- yes, P.Seeholzer- yes, J.Wolfe- yes, M.Feyedelem- yes, G.Finger- yes, Kaminski- yes; motion carried.

Motion to pass as an emergency, made by Seeholzer, second by Kaminski;
RC: G.Ritchie- yes, P.Seeholzer- yes, J.Wolfe- yes, M.Feyedelem- yes, G.Finger- yes, Kaminski- yes; motion carried.

11.2 Motion to accept the Planning Commission's recommendation to approve the re-plat of the Murray Subdivision to a lesser number of lots and to direct the Solicitor to prepare the appropriate legislation, made by Seeholzer, second by Wolfe; all in favor; motion carried.

12. Items from the Mayor
12.1 Mayor's Proclamation:

Mayor Paine reads the Proclamation that he issued for Thomas C. Eakin:

Village of Kelleys Island
Proclamation

- WHEREAS: Thomas C. Eakin, well known humanitarian and famous sports figure has spent the last forty years helping and promoting people and institutions in Erie County.
- WHEREAS: Mr. Eakin in the Founder / President of the Ohio Baseball Hall of Fame. He is also Founder / President of "Ohio For History and is a member of the Kelleys Island Historical Association.
- WHEREAS: Tom Eakin has received many important awards for his outstanding achievements in community and sports service. He has received the Ellis Island Medal of Honor and the Ohio Governor's Award to name a few.
- WHEREAS: Tom Eakin is the only person in the world to appear in Marquis Who's Who in the Guinness Book of Records and Ripley's Believe It or Not!

NOW THEREFORE, I, Kyle Paine, Mayor, join with our community in honoring this great American, Thomas C. Eakin, and do hereby proclaim Friday, November 14, 2014 as:

Thomas C. Eakin Day

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Village of Kelleys Island, Ohio to be affixed this 14th day of November, 2014

(signed)
Kyle Paine, Mayor
Kelleys Island, Ohio

13. Items from Council

- 13.1 Feyedelem reports that the VFW replaced all the US flags on Village property.
- 13.2 Feyedelem says that since the Village Hall was given by the Kelley family for community use, he would like to see the maintenance fee waived. **Motion to waive the maintenance fee for the community potluck**, made by Feyedelem, second by Seeholzer; all in favor; motion carried. Brown thinks that the legislation that was passed to collect the maintenance fee does not allow for the waiver of it and asks Solicitor Lambros to review it. If an amendment needs to be made to allow the council waiver, then Lambros says that he will have the legislation available for Council at the December Meeting, which will be before the community potluck.

14. Old Business

14.1 Lincoln Road correspondence: includes letters from Mark Drennen, Issam Kodeih, and David Sharkey

15. Public Participation for people interested in addressing council.

15.1 Mark Drennen, 302 Lincoln Road, KI, brought a Lucas County representative with him, John Borell of Toledo, and Mr. Borell continues that he sees another option for Lincoln Road. Mr. Borell says that a common law dedication is possible, in which the actions of the village are reviewed- such as placement of a stop sign, creation of a cul-de-sac, and maintenance that the Village has done. Lambros responds that there is a possibility of a common law dedication and he will forward that information to Council.

15.2 Patrick Lentz, 319 Lincoln Road, says that he is appalled at the allegations that have been made against his family by Mark Drennen. He thinks they have been disrespectful and not truthful. For three generations the Lentz family have done title searches and hired an attorney to research their Kelleys Island property. Mr. Lentz agrees with Mr. Lambros that Lincoln Road is private. Mr. Lentz says that he has had issues with the end of Lincoln Road, with trespassing on his beach, opening burning on his beach, and the taking of Zebra Mussels from his beach. No trespassing signs that he placed have been taken down and defaced.

15.3 Gretchen Sharkey, 140 Lincoln Road, KI, says that she submitted a letter to members of Council. It is her opinion that until a court decides if Lincoln Road is private or public, and if it reaches the lake or not, that nothing should change from the past, that is that her family and others should be allowed to use the beach.

15.4 Patrick Lentz, 319 Lincoln Road, KI, responds that beach rights are not built into the Lincoln Road properties. He happens to own other properties in other areas that have beach rights and those beach rights are explicitly stated in those deeds.

15.5 Jami Catto, 302 Lincoln Rd., KI, says that there were no problems with use of the beach area until last summer. He thinks that until the controversy is resolved all the barricades and brush blocking the route to the beach should come down.

15.6 Bill Minshall, 319 Titus Road, KI, Zoning Inspector, says that PERS has changed how member credits are used in the pension system. He has to retire at the end of November or he will lose his service credits. He has assurances from Mayor Paine that he will be rehired in February. For the months of December and January, all zoning questions should be directed to Mayor Paine.

16. New Business

17. Motion to adjourn, made by Finger, second by Kaminski; all in favor; motion carried.

(adjourned 10:30 am)