

FINAL

Minutes

Regular Meeting of the Elberta Village Council

401 First Street | ELBERTA, MI 49628

May 18, 2023 @ 7 pm

Call to Order and Pledge: 7:00 pm

Roll Call: President Jennifer Wilkins – PRESENT | Pro Tempore Emily Votruba – PRESENT | Ken Holmes – PRESENT | Ryan Fiebing – PRESENT | [Vacant Seat]

Audience: Scott Beehler (Gilmore Twp), Michael Cederholm (Frankfort Fire Chief), Norma Corwin (Clerk/Treasurer), Ryan King (Benzonia), Brett McGregor, Ken Mlcek (Fleis & Vandenbrink), Teri Reisner, Tom Reisner, Gary Sauer (County Commissioner), Justin Towle (DPW)

Approval of April 20, 2023 Regular Meeting Minutes Motion by Fiebing, seconded by Holmes, to approve with no changes. All ayes. Motion passed.

May 1, 2023 Special Meeting Minutes Motion by Fiebing, seconded by Wilkins, to approve with no changes. All ayes. Motion passed.

May 10, 2023 Special Joint Planning Commission and Council Meeting Minutes Motion by Holmes, seconded by Fiebing, to approve with no changes. All ayes. Motion passed.

Approval of Agenda

- **Motion** by Votruba, seconded by Holmes **to approve the May 18, 2023, Regular Council Meeting Agenda** with the substitution of "Amendment to Owner-Engineer Agreement Amendment #1 Between the Village of Elberta and Fleis & Vandenbrink" for former No. 7 item "MNRTF Grant Elberta Lake Michigan Beach Improvements TF20-0013 Bid Award." **ALL AYES. Motion passed.**

Correspondence

1. Email: Cathy Anderson regarding a water bill error, now corrected.
2. Unemployment Insurance Agency – Monetary Redetermination (Former Clerk Roberta Benedict). Unemployment denied. Village receives notification of attempts.
3. William Sanders (State Treasury) DEP Reporting Update. Followup on 5/30. Village will start reporting again once given OK from auditor.
4. Email: Samantha Bower (Studio 231) Bower requested a repair to the sidewalk outside her business. Council looked at photos of the sidewalk, which will likely be torn up during water line replacements late summer or fall. Council discussed cold patch in meantime
5. Email: Bert (surname unknown) re DPW
6. Terrance Hudson (Cabbage Shed) re no parking signs. Accidents and damage to crosswalk signs and other no parking signs have occurred

Inquiry of Conflict on Agenda Items President Wilkins will recuse herself from New Business #2 A and B because Justin Towle is her live-in son-in-law and New Business No. 5

Brief Public Comment on Agenda Items (3 min) Teri Reisner asked for details of correspondence received, spec. Anderson letter. Votruba said policy is not to read letters unless letter writer has asked it be read into minutes in order to save time at meetings. Correspondence is available at the office for interested members of the public.

Approval of Bills

Check Register \$48,930.48 AP, \$3,319.51 Payroll. **Motion** by Votruba, seconded by Wilkins, to approve paying the bills. **Roll Call: Fiebing Aye | Holmes Aye | Votruba Aye | Wilkins Aye | All Ayes. Motion passed.**

Financial Reports

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1 Rev/Exp Sheet reviewed. A budget amendment may occur in June **Interfund Borrowing**: Was not
2 completed because another payment request was received, so a new amount is subject for approval
3 (Agenda No. 3)
4

5 **New Business**

- 6 **1. Appointment of Council Trustee Candidate – Brett McGregor** (See attached) Volunteer with GTRLC,
7 Marine Corps. Interested in history, grants. Will have to run in 2024 election; Fiebing's and Holmes's
8 terms also end then. Motion by Votruba, seconded by Wilkins to appoint Brett McGregor as Council
9 Trustee with term ending November 2024. **Roll call: Fiebing Aye | Holmes Aye | Votruba Aye |**
10 **Wilkins Aye. All ayes. Motion passed.**
- 11 **2. Assistant, Department of Public Works (A) Hire Candidate (B) Resolution #2023-005 Wage &**
12 **Compensation for Assistant DPW** (see attached) Letter from Personnel Committee recommending
13 Towle in packet. The supervisor position was advertised, remains open, and no applications have been
14 received. Motion by Votruba, seconded by Fiebing to hire Justin Towle as Assistant in the Department of
15 Public Works **Roll call: Fiebing Aye | Holmes Aye | Votruba Aye | Wilkins Recused. All ayes. Motion**
16 **passed.** Wage hasn't changed from temporary hire rate. **Motion** by Holmes, seconded by Fiebing to
17 adopt Resolution #2023-005 Wage and Compensation for Assistant DPW. **Roll call: Fiebing Aye |**
18 **Holmes Aye | Votruba Aye | Wilkins Recused. All ayes. Motion passed.**
- 19 **3. Reauthorization to Interfund Borrow to Pay Elmer's for the Emergency Water Main Break in**
20 **Entirety: (A) Contractor's Application for Payment #1 for \$177,032.50 and #2 for \$9,317.50 (B)**
21 **Authorization for President to Sign the Engineer's Joint Contract Application for Payment #2.** In trying to
22 complete the interfund borrowing per last month's decision, Corwin/Wilkins discovered insufficient
23 funds in Municipal Streets; figures and funds borrowed from have thus been revised. USDA grant funds
24 should become available in late June or July. **(A) Motion** by Votruba, seconded by Fiebing to approve
25 the interfund borrowing of 107, 032.50 from Sewer Fund and now \$50,000 from Municipal Streets Fund
26 and \$20,000 plus an additional \$9,317.50 (total \$29,317.50) from the General Fund Savings account to
27 pay Payment #1 for \$177,032.50 and Payment #2 for 9,317.50 from Elmer's. **Roll call: Fiebing Aye |**
28 **Holmes Aye | Votruba Aye | Wilkins Aye. All ayes. Motion passed. Added Disclosure:** When the
29 USDA loan closes in June, the first draw will reimburse the Village for the \$177,032.50 and \$9,317.50 and
30 \$50,000 will be put back into the Municipal Streets Fund, \$29,317.50 into the General Fund savings acct
31 and \$107,032.50 into the Sewer Fund therefore paying back the short-term interfund loan. **(B) Motion**
32 **by Votruba, seconded by Fiebing to authorize the Village President to sign the Engineer's Joint Contract**
33 **Application for Payment #2 between Elmer's Crane and Dozer and the Village of Elberta via Fleis &**
34 **Vandenbrink. Roll call: Fiebing Aye | Holmes Aye | Votruba Aye | Wilkins Aye. All ayes. Motion**
35 **passed.**
- 36 **4. Resolution #2023-006 Fiscal Year 2023–2024 Wage and Compensation for Village Officials Who**
37 **Perform Village Employee Job Duties During Vacancies or Absences** (see attached Resolution and
38 memo) Staff turnover and vacancies have required council members to take on statutory and mandatory
39 duties that would normally be done by employees. While employees are sought, Wilkins in particular,
40 has been working long hours for the Village without pay especially since the Apr 27 resignation of DPW.
41 Attorney consulted. Officials will submit a monthly report and time sheet describing role filled, hours,
42 and duties performed **Motion** by Fiebing, seconded by Holmes, to adopt Resolution #2023-006 as
43 presented. **Roll Call: Fiebing Aye | Holmes Aye | Votruba Aye | Wilkins Aye | All Ayes. Motion**
44 **passed.**
- 45 **5. Approval of Interim DPW and Deputy Clerk** Motion by Wilkins, seconded by Fiebing to approve
46 Votruba as interim deputy clerk for compiling and posting minutes in hard copy and on website.
47 Votruba said for the purposes of compensation she calculated two hours per set of minutes (draft, final,
48 all posting). **Roll Call: Fiebing Aye | Holmes Aye | Votruba Recused | Wilkins Aye | All Ayes. Motion**
49 **passed.** Wilkins has been acting as DPW superintendent and village manager during at least a year of
50 employee turnover, putting in many hours during the audit and performing myriad other duties.
51 Votruba said some clarity about presidential vs. staff duties will be a welcome result of compensation

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1 and documentation of Wilkins's work. Holmes said she should certainly be compensated for her DPW
2 supervisory guidance of new employee. **Motion** by Votruba, seconded by Fiebing, to approve Jennifer
3 Wilkins as interim DPW so she can be compensated. **Roll Call: Fiebing Aye | Holmes Aye | Votruba**
4 **Aye | Wilkins Recused | All Ayes. Motion passed.**

- 5 **6. Resolution #2023-007 MDOT Category B Grant – Bye Street** Mlcek explained applications for this
6 annual opportunity are due June 15. Two Village applications for Bye Street rejected. Grant covers up to
7 50 percent of construction costs but not engineering. Estimated Village cost \$94,100, which we have in
8 Streets fund; if grant rec'd, work and engineering fee occurs in 2024. **Motion** by Wilkins, seconded by
9 Votruba, to adopt Resolution #2023-007 to establish a request for funding, designate an agent, attest to
10 the existence of funds, and commit to implementing a maintenance program for Bye Street crush and
11 shape improvements funded by the Transportation Economic Development Fund Category B Program.
12 **Roll call: Fiebing Aye | Holmes Aye | Votruba Aye | Wilkins Aye | All Ayes. Motion passed.**

- 13 **7. Amendment to Owner-Engineer Agreement Amendment #1 Between the Village of Elberta and**
14 **Fleis & Vandenbrink** Mlcek explained adjustments to water main routing along different streets;
15 procurement of agreement with DNR for railroad right of way easement placement instead of Old M168;
16 assistance with emergency water main break; and the 20ft instead of 10 ft deep borings as required by
17 MDOT; for a total of an additional \$40K. **Motion** by Wilkins, seconded by Votruba to approve the
18 amendment to the Owner Engineer Agreement between the Village of Elberta and Fleis & Vandenbrink,
19 contingent on receipt of USDA approval. **Roll call: Fiebing Aye | Holmes Aye | Votruba Aye | Wilkins**
20 **Aye | All Ayes. Motion passed.**

- 21 **8. USDA Water System Improvements Contract #1 – Water Main Bid Award** Mlcek said only one bid
22 rec'd for #1 and #2 (below) The sum total of the bids for the two projects exceeded the project budget
23 by about \$1M. Discussed with Wilkins how scope could be adjusted; water main portion of project tied
24 to another grant, making it difficult to trim; getting rid of old main and lead pipes a priority; F&V
25 recommend awarding contract #1 to Elmer's and eliminating New Well contract (#2); well 1 is old but
26 maintaining its capacity and is in compliance with EGLE. **Motion** by Wilkins, seconded by Votruba to
27 accept the recommendations of Fleis & Vandenbrink and approve Elmer's Crane and Dozer as
28 Contractor for the USDA Water System Improvements Contract #1 – Water Main Replacement
29 contingent on USDA approval. **Roll call: Fiebing Aye | Holmes Aye | Votruba Aye | Wilkins Aye | All**
30 **Ayes. Motion passed.** Mlcek said Elmer's had offered \$152,070 in credits because of some of the
31 overlap between the two contracts. **Motion** by Wilkins, seconded by Votruba to approve that change to
32 the work order. **Roll call: Fiebing Aye | Holmes Aye | Votruba Aye | Wilkins Aye | All Ayes. Motion**
33 **passed.** Wilkins commented that water rates were not raised appropriately for many years, which is why
34 our water fund is so broke and we're having so much trouble affording these and future necessary
35 updates. A new well is "next on the list." The latest rate increases are necessary and go directly into these
36 improvements.

- 37 **9. USDA Water System Improvements Contract #2 – Water Supply Bid Award** Mlcek said existing Well
38 #2 does not meet EGLE's isolation requirements, but that's the only issue. It still functions properly for
39 water needs. **Motion** by Votruba, seconded by Holmes not to award Contract #2 for a new Well at this
40 time. **All ayes. Motion passed.**

- 41 **10. Elberta Water Operator in Charge Resignation – Scott Little** Little serves a wide geographic area and
42 resigned given Chris Pritchard is available to meet our needs. **Motion** by Holmes, seconded by Votruba,
43 to accept Scott Little's resignation. **All ayes. Motion passed.**

- 44 **11. Elberta Water Operator in Charge and Backup Operator – Chris Pritchard & T. Jake Cline** Cline is
45 Bear Lake water operator. Former VOE backup water operator Dave Bissell is retiring. Wilkins explained
46 the emergency contact list. **Motion** by Votruba, seconded by Holmes to appoint Chris Pritchard as
47 Elberta Water Operator and T. Jake Cline as Elberta Backup Water Operator. **Roll call: Fiebing Aye |**
48 **Holmes Aye | Votruba Aye | Wilkins Aye | All Ayes. Motion passed.**

- 49 **12. Resolution #2023-008 Wage and Compensation for Elberta Water Operator and Backup Water**
50 **Operator** Wilkins said it was unclear whether Bissell, for example, ever got paid; wage resolutions are a
51 new effort at transparency. Resolution would be in effect till end of fiscal year. Cline is compensated only

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1 if called to service when Pritchard is unavailable. **Motion** by Votruba, seconded by Wilkins, to approve
2 Resolution #2023-008 Wage and Compensation for Elberta Water Operator in Charge and Backup Water
3 Operator as presented. **Roll call: Fiebing Aye | Holmes Aye | Votruba Aye | Wilkins Aye | All Ayes.**
4 **Motion passed.**

5
6 **Reports to Council**

7 **County Commissioner** – Sauer / Verbal Report; Memorial Day ceremony 1 pm at Veterans Memorial Park, cannon
8 will be fired; Indigent Defense, trial court, opioid funding; battery plant in Grand Rapids; new payroll clerk at Road
9 Commission; Maples unqualified audit, 76 beds (full); health dept remodel; dog issue trail CLPRA; new
10 Homestretch construction; brining to begin; delay in Sutter Rd/Crystal Downs project; Thompsonville water project
11 bids, new wells, meters, rate increases.

12 **Frankfort Fire and Rescue Report** – Cederholm/Verbal and Written Report and safety message (see website).
13 Dept has 24 members. No Elberta runs in April. Primer repairs to pump truck. Selling 14 unneeded air bottles.
14 Water safety training being prepared for kids if Coast Guard doesn't do it.

15 **LSS** – K. Mills / Written Report First wedding May 28

16 **Zoning Administrator** – J. Mills / Written Report Sign permit issued for Elberto's bld.

17 **Betsie Valley Trail** – J. Ottinger / Written Report June 24 Stormcloud/Five Shores all day fundraiser

18 **Planning Commission** – Fiebing / Verbal Report Halfway through Master Plan draft review. Open House Visioning
19 Session: Waterfront, Downtown, Housing. June 15 at LSS from 4 to 6:30 pm. Food truck ordinance discussion.

20 **Parks & Recreation Commission** – Wilkins / See Minutes. Lack of quorum no mtg. Historical ideas for trail and
21 collaboration with other entities for grants.

22 **DPW** – Towle/Wilkins / Verbal Report, Personnel Reports. Brush pile end of 1st Street. Need help with beach
23 boardwalk.

24 **Clerk/Treasurer** – Corwin / Verbal Report Audit week: Learned how to properly prep for audit. Bank recs.

25 **BGFAC** – Wilkins & Votruba / See Minutes

26 **BLUA** – Wilkins & Holmes / Verbal Report

27 **Personnel & Policy** – Holmes (DPW), Votruba (Office) / See Report; More policy updates coming.

28 **Water/Sewer Committee** – Wilkins & Holmes / No report; daily commitment from Wilkins

29 **Extended General Public Comment (5 min)** Ryan King commented on municipal bonds, marijuana zoning, Iron
30 Works site, consolidating FEAS/Benzie Central, wave energy.

31
32 **Announcements** Spring Cleanup Saturday May 20 from 9am to 2 pm; Playground fall zone to be dug out after
33 cleanup.

34
35 **Adjournment:** 8:49 pm by Holmes

36
37 Final minutes prepared and posted by
38 Emily Votruba, Trustee

39

Village of Elberta
Application for Appointment to a Committee, Commission, or Board
 To assist the Village Council in making appointments to the various boards, commissions, and committees.

Please complete the application, sign, and return it to the Village office at:

151 Pearson Street
 Elberta, MI 48628-0008

FAX - 231-352-4033
 Email - Clerk@villageofelberta.com

To be appointed to a board, committee or commission seat, you must be a resident of the Village, and you must not be in default to the Village. The term of each board, committee or commission appointment varies and each appointee must be approved by the Board of Trustees.

I, (PRINT NAME) BRETT W MCGREGOR have lived in the Village for 3.5 year(s)

I live at (PRINT ADDRESS) 119 FRANKFURT AVE

My Phone number is 988 502 0248

My email is BW.MCGREGOR@HOTMAIL.COM

Circle the board, committee or commission that you are interested: **Board of Trustees, Planning Commission, Zoning Commission, Parks and Recreation Commission**

Why are you interested in serving on the board, committee or commission?
TO HELP MAKE ELBERTA EVEN BETTER THAN IT IS

What expertise would you bring to the particular board, committee or commission, to which you would like to be appointed:
PLANNING, BUDGETING & LAND MANAGEMENT AS A MILITARY OFFICER AND SQUADRON COMMANDER

Give a brief summary of your past and/or current civic involvement:
ELBERTA PARKS AND REC COMMITTEE 2020-PRESENT
GRAND TRUNK REGIONAL LAND CONSERVATION

[Signature]
 (SIGNATURE) Date: 14 APRIL 2023

Applications are forwarded to the Board of Trustees and are kept on file for one year. If you have not been appointed in that period, you will need to re-apply.

Recommendation to Hire Justin Towle as DPW Assistant

May 18, 2023

A Personnel Committee consisting of Chris Pritchard (current Village water operator and former DPW superintendent), Kenneth Holmes (trustee, former DPW staff), Bill Soper (resident and former trustee), Norma Corwin (clerk/treasurer), and Emily Votruba (trustee), interviewed Justin Towle yesterday.

On the basis of that interview, his resumé, and observations of Towle's work as temporary DPW assistant since he was hired for that position May 1, the committee recommends that the Village hire Towle as full-time DPW assistant.

Towle has demonstrated a desire and intention to maintain and improve the appearance and function of the Village's infrastructure, grounds, and services, an eagerness to learn and grow within the position and to remain in the job for a significant enough time to warrant our possible investment in his earning a CDL-B and other qualifications necessary for the supervisor role. As a Village resident, husband, and father here, he cited a deep personal interest in performing the important work of the department effectively, specifically with regard to the safety of our playscape equipment, trash collection, and plowing. In the meantime his previous job experience and skills (including computer skills, vehicle maintenance and operation, use of a range of tools, experience dealing with the public, initiative and organization) more than equip him to serve in the assistant role.

Emily Votruba, Trustee
 Serving as Personnel Committee Secretary

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Resolution #2023-005
Wage and Compensation for Assistant, Department of Public Works

At the regular meeting of the Elberta Village Council, Benzie County, Michigan, held at the Community Building at 401 First St. on May 18, 2023, at 7:00 pm

The following resolution was offered by Trustee _____ and was supported by Trustee _____

WHEREAS The Council of the Village of Elberta unanimously voted at the February 23, 2023, Special Budget Hearing to adopt the Resolution for Fiscal Year 2023-2024 Wage and Compensation Pay Scale for the Village Employees and Appointed and Elected Officials and such wages for DPW employees remain budgeted and

WHEREAS the Village of Elberta received resignation letters on April 27, 2023, from DPW Superintendent Ken Bonney and DPW Assistant Lucas McClellan and

WHEREAS Notice of the vacancy of both positions was posted and requests for applications advertised, and

WHEREAS interviews were held by the Personnel Committee and a qualified applicant was chosen and offered the Assistant DPW Salaried Position at 40 hours a week, plus monthly Health Insurance Stipend, and the applicant accepted the offer on May 15, 2023, and was hired as the Assistant DPW on May 18, 2023,

NOW THEREFORE BE IT RESOLVED that the newly hired Assistant, Department of Public Works, Justin Towle, shall receive a Wage and Compensation Salary package of \$17.00 an hour at 40 hours a week plus a monthly Health Insurance Stipend of \$500 for the remainder of the 2023-2024 Fiscal Year.

BE IT FURTHER RESOLVED that the terms of this Resolution shall take effect on May 15, 2023, and shall be effective until the end of the 2023-2024 Fiscal Year, February 29, 2024.

YEAS: _____

NAYS: _____

Recused: President Jennifer Wilkins. Mother-in-law to Justin Towle

RESOLUTION DECLARED ADOPTED. By _____

Emily Votruba, Village President Pro Tempore

I, the undersigned, Clerk/Treasurer of the Village of Elberta, Benzie County, Michigan, do hereby certify that the foregoing is a true and complete copy of certain proceedings taken by said municipality of Benzie County at its special meeting held on May 18, 2023, relative to adoption of the resolution therein set forth, that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 207, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Dated: _____

Norma Corwin, Village Clerk/Treasurer

Resolution #2023-006
Fiscal Year 2023/2024 Wage and Compensation Pay Scale for Elected or Appointed Village Officials Who Perform Job Duties of Village Employees (DPW Superintendent, DPW Assistant, Deputy Clerk, Deputy Treasurer) When There is a Position Vacancy or Absence

At the regular meeting of the Elberta Village Council, Benzie County, Michigan, held at the Community Building at 401 First Street on May 18, 2023, at 7 pm,

The following resolution was offered by Trustee _____ and supported by Trustee _____

WHEREAS to maintain transparency and provide job duty coverage for Village Employees when there is a position vacancy or absence, and

WHEREAS The Michigan Supreme Court ruled in *Mocomb County Prosecuting Atty v Murphy*, 464 Mich 149, 161-162 (2001), that a public employee and a public official both are "public offices held by a public official" for purposes of the incompatible offices acts, and

WHEREAS Section 3(4)(c) of the statute, MCL 15.183(4)(c), provides that the governing body of a city, village, township, or county having a population of less than 40,000 may authorize a public officer or public employee to perform, with or without compensation, other additional services for the unit of local government.

WHEREAS the Council of the Village of Elberta will hereby be presenting a Resolution for Fiscal Year Budgeted Wage and Compensation Pay Scales for Elected or Appointed Officials who perform as Village Employees and Appointed and Elected Officials every year herein at the same time as the annual Resolution to Adopt the Fiscal Year Budget,

NOW THEREFORE BE IT RESOLVED by the Council of the Village of Elberta, Benzie County, Michigan, that the Fiscal Year 2023/2024 Wage and Compensation Pay Scale for Elected or Appointed Village Officials who are approved by Council to perform job duties in the absence or vacancy of a Village Employee be adopted as follows:

Public Official	Status	Rate Per Hour	Rate Per Meeting
DPW Superintendent	Full-time; not to exceed 40 hrs	\$20	\$30
DPW Assistant	Full-time; not to exceed 40 hrs	\$17	\$30 In Superintendent's Absence
Deputy Clerk	Part-time; not to exceed 16 hrs	\$17	\$35
Deputy Treasurer	Part-time; not to exceed 8 hrs	\$17	\$35 In Deputy Clerk's Absence

BE IT FURTHER RESOLVED that Elected or Appointed Public Officials Acting as Village Employees who wish to receive compensation shall submit a time sheet for each month of service with a breakdown of

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the number of hours per department, employee position covered, duties performed, hourly compensation, and total.

BE IT FURTHER RESOLVED that the terms of this Resolution shall be in effect from March 18, 2023, until the end of the 2023-2024 Fiscal Year, February 29, 2024.

AYES:
 NAYS:
 ABSENT:

RESOLUTION DECLARED ADOPTED. By: _____
 Jennifer S. Wilkins, Village President

I, the undersigned, Clerk/Treasurer of the Village of Elberta, Benzie County, Michigan, do hereby certify that the foregoing is a true and complete copy of certain proceedings taken by said municipality of Benzie County at its regular meeting held on May 18, 2023, relative to adoption of the resolution therein set forth; that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Dated: _____
 Norma Corwin, Village Clerk/Treasurer

VILLAGE OF ELBERTA
RESOLUTION #2023-006

A RESOLUTION TO ESTABLISH A REQUEST FOR FUNDING, DESIGNATE AN AGENT, ATTEST TO THE EXISTENCE OF FUNDS AND COMMIT TO IMPLEMENTING A MAINTENANCE PROGRAM FOR BYE STREET CRUSH AND SHAPE IMPROVEMENTS FUNDED BY THE TRANSPORTATION ECONOMIC DEVELOPMENT FUND CATEGORY B PROGRAM.

Minutes of a regular meeting of the Village Council of the Village of Elberta, Benzie County, Michigan, held at the Community Building, 401 First Street, in said Village, on May 18, 2023 at 7:00pm.

TRUSTEES PRESENT: _____ TRUSTEES ABSENT: _____

The following preamble and resolution were offered by Trustee _____, supported by Trustee _____

WHEREAS, THE Village of Elberta is applying for \$94,100 in funding through MDOT from the Transportation Economic Development Category B Program to construct crush and reshape improvements on Bye Street.

WHEREAS, MDOT requires a formal commitment from the public agency that will be receiving these funds and will be implementing and maintaining these infrastructure projects.

NOW, THEREFORE, BE IT RESOLVED THAT, the Village has authorized Jennifer Wilkins, Village President, to act as agent on behalf of the Village to request Transportation Economic Development Fund Category B Program funding, to act as the applicant's agent during the project development, and to sign a project agreement upon receipt of a funding award.

BE IT FURTHER RESOLVED THAT, the Village attests to the existence of, and commits to, providing at least \$94,100 toward the construction costs of the project, and all costs for design, permit fees, administration costs, and cost overruns.

BE IT FURTHER RESOLVED THAT, the Village commits to owning, operating, funding, and implementing a maintenance program over the design life of the facilities constructed with Transportation Economic Development Fund Category B Program funding.

AYES:
 NAYS:
 ABSENT:
 ONE VACANT SEAT

RESOLUTION DECLARED ADOPTED. By: _____
 Jennifer S. Wilkins, Village President

I, the undersigned, Clerk/Treasurer of the Village of Elberta, Benzie County, Michigan, do hereby certify that the foregoing is a true and complete copy of certain proceedings taken by said municipality of Benzie County at its special meeting held on May 18, 2023, relative to adoption of the resolution therein set forth; that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Dated: _____
 Norma Corwin, Village Clerk/Treasurer

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Resolution #2023-008
Wage and Compensation for Elberta Water Operator in Charge and Back-Up Water Operator

At a regular meeting of the Elberta Village Council, Benzie County, Michigan, held at the Community Building on May 18, 2023, at 7:00 pm,

The following resolution was offered by Trustee _____ and supported by Trustee _____

WHEREAS The Council of the Village of Elberta unanimously voted at the February 23, 2023, Special Budget Hearing to adopt Resolution #2023-001 Wage and Compensation Pay Scale for Village Employees and Appointed and Elected Officials and such wages for DPW employees remain budgeted, and

WHEREAS The Village of Elberta received a resignation letter on May 15, 2023, from Elberta Water Operator in Charge Scott Little, and

WHEREAS The Village of Elberta hired Chris Pritchard at a Special Meeting on May 1, 2023, under Resolution #2023-004 to be Back-Up Water Operator in place of Dave Bissell, who is retiring, and

WHEREAS The Village is required to have a qualified Water Operator in Charge to remain in compliance with EGLE rules and regulations and for emergency purposes,

NOW THEREFORE BE IT RESOLVED That the Elberta Water Operator in Charge, Chris Pritchard, and his certified Back-Up Water Operator, Theodore "Jake" Cline, shall be paid a rate of \$29 (twenty-nine dollars) per hour, as necessary (hours will vary), to complete all Water Operations tasks, testing, result submissions, and emergency work in the Village of Elberta.

BE IT FURTHER RESOLVED that the terms of this Resolution shall take effect on May 18, 2023, and shall be effective until the end of the 2023-2024 Fiscal Year, February 29, 2024.

YEAS:
 NAYS:
 ABSENT:

RESOLUTION DECLARED ADOPTED. By: _____
 Jennifer S. Wilkins, Village President

I, the undersigned, Clerk/Treasurer of the Village of Elberta, Benzie County, Michigan, do hereby certify that the foregoing is a true and complete copy of certain proceedings taken by said municipality of Benzie County at its regular meeting held on May 18, 2023, relative to adoption of the resolution therein set forth; that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Dated: _____
 Norma Corwin, Village Clerk/Treasurer

YOUNG, GRAHAM & WENDLING, P.C.
 Attorneys at Law
 104 E. Forest Home Ave., P.O. Box 398
 Bellaire, Michigan 49615
 (231) 533-8635
 Facsimile (231) 533-6225
 www.upnorthlaw.com

Bryan E. Graham _____ Peter R. Wendling _____

MEMORANDUM

TO: Elberta Village Council **VIA EMAIL**

FROM: Bryan E. Graham

DATE: May 15, 2023

SUBJECT: Council member serving as village employee and/or other village official

Jennifer has asked me to address whether a council member may simultaneously serve as a member of the council and as a village employee and/or other village official. This question involves an analysis of the incompatible public offices act, being MCL 15.181, et seq. Section 2 of the act, MCL 15.182, provides that a public officer or public employee shall not hold two or more incompatible offices at the same time. The act defines incompatible offices in the following terms:

Incompatible offices means public offices held by a public official which, when the official is performing the duties of any of the public offices held by the official, results in any of the following with respect to those offices held:

- (i) The subordination of 1 public office to another,
- (ii) The supervision of 1 public office by another,
- (iii) A breach of duty of public office. MCL 15.181(b).

The Michigan Supreme Court ruled in *Macomb County Prosecuting Atty v Murphy*, 464 Mich 149, 161-162 (2001), that a public employee and a public official both are "public offices held by a public official" for purposes of the incompatible offices act.

Section 3(4)(c) of the statute, MCL 15.183(4)(c), however, provides that the governing body of a city, village, township, or county having a population of less than 40,000 may authorize a public officer or public employee to perform, with or without compensation, other additional services for the unit of local government. Therefore, because the village has a population less than 40,000, a council member falls within the exception and can hold both the position of council member and village employee and/or other village official.

If there are further questions concerning this matter, please let me know.

BEG

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