

—FINAL—

Minutes

Regular Meeting of the Elberta Village Council

401 First Street | ELBERTA, MI 49628

September 21, 2023 @ 7 pm

6 **Call to Order and Pledge** 7:00 pm

7 **Roll Call**

8 President Jennifer Wilkins – PRESENT | Pro Tempore Emily Votruba – PRESENT | Ken Holmes – PRESENT |
9 Ryan Fiebing – EXCUSED | Brett McGregor – PRESENT

10 **Audience**

11 Michael Cederholm (Frankfort Fire Chief), Kat Ralston (Clerk-Treasurer), Gary Sauer (County Commissioner)

13 **Approval of Minutes**

14 **August 17, 2023 Regular Council Meeting Minutes**

15 Motion by Wilkins, seconded by McGregor, to approve with chg to NB2 from “August” to “July” draw and
16 from “July” to “June” 2023 draw amount. All ayes. Motion passed.

18 **Approval of Agenda**

19 **Motion** by Votruba, seconded by McGregor **to approve the September 21, 2023, Regular Council Meeting**
20 **Agenda** with change: NB4 from “Approval of Interim Deputy Clerk” to “Payment of President for Clerk
21 Duties.” All ayes. Motion passed.

23 **Correspondence**

- 24 1. Bert – Compliments on Village water service and collaboration with Frankfort on Ironman

26 **Inquiry of Conflict on Agenda Items** NB4 Wilkins recused

27 **Brief Public Comment on Agenda Items (3 min)** None

29 **Approval of Bills**

30 Check Register \$287,834.50 AP, Payroll \$12,147.78. Large part of AP expenditure are payments to
31 Elmer’s, Fleis & VandenBrink, auditors, and the tree grant expense (will be reimbursed). **Motion** by
32 Holmes, seconded by Votruba, to approve the accounts payable expenditures. **Roll Call: Fiebing**
33 **Excused | Holmes Aye | McGregor Aye | Votruba Aye | Wilkins Aye | All Ayes. Motion passed.**
34 **Motion** by McGregor, seconded by Votruba, to approve the payroll expenditure. **Roll Call: Fiebing**
35 **Excused | Holmes Aye | McGregor Aye | Votruba Aye | Wilkins Aye | All ayes. Motion passed.**

37 **Financial Reports**

38 Rev/Exp Sheet reviewed. Wilkins said revenues in Major Streets, Local Streets, and Water Fund that are
39 in the Village savings account have not been transferred into their respective bank accounts and are not
40 showing up in the relevant accounts in the General Ledger report, creating the false impression of
41 negative balances. This will be corrected. Property taxes are in and accounted for.

43 **Unfinished Business**

- 44 1. **Decertification of Water and Sewer at 216 and 234 Furnace Street** ELHC’s applications were
45 incomplete and they had not paid the fee. Motion by Votruba to table and send a letter to ELHC
46 advising them of the terms of our ordinance, that decertification requires demolition. McGregor said
47 since the applications were incomplete we could simply table or reject the applications as
48 incomplete. After some discussion, Votruba made a new motion, to deny the applications as
49 submitted for being incomplete; seconded by McGregor. **All ayes. Motion passed.**

New Business

- 1 **1. USDA Loan August Draw Request Form RD 440-11** Motion by Wilkins, seconded by Votruba, to
 2 approve the USDA loan form RD 440-11 August draw request in the amount of \$536,327.17. **Roll call: Fiebing**
 3 **Excused | Holmes Aye | McGregor Aye | Votruba Aye | Wilkins Aye. All ayes. Motion passed.**
- 4 **2. DWSRF (Drinking Water State Revolving Fund) August Request for Disbursement of Funds**
 5 **USDA Loan August Draw Request Form RD 440-11** Motion by Wilkins, seconded by Votruba, to
 6 approve the DWSRF (Drinking Water State Revolving Fund) August request for disbursement of funds
 7 in the amount of \$198,421.00 in accordance with the most current invoice, with \$35,000 to be paid to
 8 Fleis & VandenBrink and \$163,421.00 to be paid to Elmer’s. **Roll call: Fiebing Excused | Holmes Aye |**
 9 **McGregor Aye | Votruba Aye | Wilkins Aye. All ayes. Motion passed.**
- 10 **3. UHY Proposal for Accounting Services and Training** Auditing firm Baird, Cotter & Bishop is now
 11 UHY; contract for onsite training and help with bank reconciliations in Fund Balance to begin in
 12 October; if future help is needed after conversion to BS&A, auditors can help remotely. Wilkins will
 13 apply to State Treasury for reimbursement. Motion by Votruba, seconded by McGregor, to approve the
 14 proposal from UHY for accounting services and training, with a cap of \$25,000. **Roll call: Fiebing**
 15 **Excused | Holmes Aye | McGregor Aye | Votruba Aye | Wilkins Aye. All ayes. Motion passed.**
- 16 **4. Payment of President for Clerk Duties** Wilkins was approved for payment for DPW Supervisor duties
 17 but not explicitly for clerk duties, though she has been putting in many hours in the office. Votruba asked
 18 how long this will continue. McGregor asked about plans to hire a deputy clerk. Wilkins said yes
 19 eventually. McGregor has a draft policy proposal re office staffing in turnover periods for next meeting.
 20 Motion by Votruba, seconded by McGregor, to pay Wilkins for clerk duties during onboarding process
 21 for the new clerk-treasurer in accordance with Resolution No. 2023-006: Fiscal Year 2023/2024 Wage
 22 and Compensation Pay Scale for Elected or Appointed Officials Who Perform Job Duties of Village
 23 Employees (DPW Superintendent, DPW Assistant, Deputy Clerk, Deputy Treasurer) in Case of Position
 24 Vacancy or Absence. **Roll call: Fiebing Excused | Holmes Aye | McGregor Aye | Votruba Aye |**
 25 **Wilkins Recused. All ayes. Motion passed.**
- 26 **5. Rental Contract: Festival Fields** Kristi Mills suggested Festival Fields properties be rentable only to
 27 schools, nonprofits, and community organizations, because reservations of such a large area for a private
 28 function at such a low rate would cut into important ELSS revenue. Motion by McGregor, seconded by
 29 Wilkins, to make the proposed change to restrict the rental contract for Festival Fields to schools,
 30 nonprofits, and community organizations. **All ayes. Motion passed.**
- 31 **6. Ordinance 44 Chapter 9048 Dangerous Structures (See attached)** Revised and attorney reviewed
 32 ordinance allows Village to address uninhabited, unmaintained, unsafe buildings that are open to the
 33 elements and animals. Motion by Holmes, seconded by McGregor to adopt Ordinance 44 Amendment to
 34 Chapter 9048 Dangerous Structures and request the Clerk-Treasurer to publish the ordinance in the
 35 *Record-Patriot*. **Roll call: Fiebing Excused | Holmes Aye | McGregor Aye | Votruba Aye | Wilkins**
 36 **Recused. All ayes. Motion passed.**

Strategy Session: (Discussion only)

1. Committees Past, Present, and Future

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39 Wilkins is on most committees and is looking forward to more participation from others and more formal
40 structure/written records. Committee-Committee members McGregor and Votruba. McGregor drafting
41 committee descriptions including duties and items for regular review. McGregor wants to reinstate Historical
42 Preservation Committee. Holmes said more communication is necessary between council, committees,
43 president, staff. Concern about violating open meetings act with quorum has kept us from communicating and
44 collaborating effectively. Committees to participate in creating 5-yr and 1 yr plans (ex road improvements), tied
45 to budget. Capital improvement plan to be updated in three years.
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50 **REPORTS TO COUNCIL**

County Commissioner – Sauer / Verbal Report; Jared Henry, chief public defender for Manistee and Benzie, resigned; Jane Johnson now acting PD. Road commission hired Troy Hines. Rumble strips installed at accident-prone Lindy intersection. Homestead Hills school ribbon cutting. 24/7 road patrol delayed till spring; Headlee Reset public meeting 10/30 5:30pm at government ctr. Thompsonville clerk resigned (vote to be able to hire nonresidents); Gilmore clerk Kat Tierney resigned; Dave Bissell will act as clerk. Location of ballot dropbox TBD

Frankfort Fire and Rescue Report (see website) – Millage up for renewal November 7 (City of Frankfort); pancake breakfast at Dept. during Fall Fest weekend Sat. Oct. 14. FFt. Council approved fire cadet program by resolution. 569 total runs (fire+EMS) so far this year; first fire run (8min) of September in Elberta at Furnace Street Distillery (malfunctioning alarm). Homecoming parade Fri Sept 22. Field Trips for preK–5th grade.

LSS – K. Mills / Written Report 3 remaining rentals for this year including Halloweekend.

Zoning Administrator – J. Mills / Written Report

Betsie Valley Trail – J. Ottinger / Written Report (attached)

Planning Commission – Fiebing / (see minutes attached) draft master plan reviewed; specific goals

Parks & Recreation Commission – Wilkins / See Minutes; Met at Tot Park; Elberta Beach grant: GTRLC will help; bid period has been extended; Parks&Rec possibly to offset \$8K for restroom; Grace Williams kept park very tidy during Jammin Mondays. Calls for memorial benches

DPW – Towle/Wilkins / Written Report (attached); Chris C has been communicating with Spanish speaking residents about water project; his 90-day review is in October; extended gangway coming for kayak launch; plan in place for Robarge extension

Clerk-Treasurer – Ralston / Verbal Report Taxes all collected except for one personal property tax. One month on the job; it’s “municipal boot camp.” Working to learn enough to answer residents’ questions specifically re water bills; communication through water bills; trainings with clerk/treasurer’s associations

BGFAC – Wilkins & Votruba / State has been updated on DEP reporting delay; Wilkins meeting with meter company next week. Loan payments and budget amendments next meeting

BLUA – Wilkins & Holmes / Verbal Report Stink reports. Replacement of muffin monster brush.

Personnel & Policy – Holmes (DPW), Votruba (Office) (see attached) CDL study to begin soon.

Water/Sewer Committee – Wilkins & Holmes / Water project underway; see website for updates.

Extended General Public Comment (5 min) None

Announcements

Ironman and Tree planting workbee went well. Tree bags borrowed from Frankfort.

Adjournment

8:40 pm by Holmes

Final minutes prepared and posted by

Emily Votruba, Trustee

VILLAGE OF ELBERTA
Ordinance No. 44 of 2023

AN ORDINANCE TO AMEND THE VILLAGE CODE CONCERNING
DANGEROUS STRUCTURES

THE VILLAGE OF ELBERTA ORDAINS:

Section 1. Amendment of Chapter 9048.

Chapter 9048 of the Village Code is hereby amended to read in its entirety as follows:

CHAPTER 9048 – DANGEROUS STRUCTURES

Section 1. "Dangerous Structure" Defined.

As used in this Ordinance a "dangerous structure" means a building or structure that has one (1) or more of the following defects or is in one (1) or more of the following conditions:

- (a). A portion of the building or structure is damaged by fire, wind, flood, or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the catastrophe and does not meet the minimum requirements of the building code enforced within the Village for a new building or structure.
- (b). A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.
- (c). A portion of the building or structure has settled to such an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by the building code enforced within the Village.
- (d). The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, or the removal or movement of some portion of the ground necessary for the support, or for other reasons, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.
- (e). The building, structure, or a part of the building or structure is manifestly unsafe for the purpose for which it is used.
- (f). The building or structure is damaged by fire, wind, or flood, or is dilapidated or deteriorated and has become an attractive nuisance to children who might play in the building or structure to their danger.
- (g). The building or structure is vacant, dilapidated, and opened at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

- (h). A building or structure, or portion of a building or structure, above or below grade, which is not and cannot be used or occupied, either temporarily or permanently, as permitted under the building code for the State of Michigan, as amended, inclusive of all rules, codes and regulations pertaining thereto. This subsection (h) shall not apply to any building or structure for which has been issued a valid, pending zoning and building construction permit for ongoing construction.

Section 2. Prohibition; Exception.

No person, corporation, limited liability company, trust, partnership, or other legal entity shall own, occupy or maintain any dangerous structure within the Village. Provided, however, this section shall not apply to existing buildings or structures which are formally designated by the state of Michigan or the Village as historic buildings or structures, but only when such buildings or structures are judged by the village enforcement officials designated under Section 6 of this Chapter to be safe.

Section 3. Notice.

If a building or structure is found to be a dangerous structure, the Village shall give the owner of the building or structure written notice of the dangerous condition and thirty (30) days to demolish and remove the dangerous structure from the property or to repair the dangerous structure to make it safe. The notice may be personally delivered to the owner or mailed to the owner by first class mail at the address shown on the assessor's rolls.

Section 4. Inspection.

Village representatives shall have the right to inspect buildings or structures to determine violations of or compliance with this Ordinance. Village representatives may exercise this right to inspection by consent of the person having the right to possession of the building or structure or any part thereof, or by administrative search warrant.

Section 5. Penalty/Civil Infraction.

Any person who shall violate any provision of this Ordinance shall be guilty of a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation.

Section 6. Enforcement.

The Village President or other person appointed by the Village Council is hereby designated as the authorized Village official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 7. Nuisance.

A violation of this Ordinance is hereby declared to be a public nuisance or a nuisance per se and is declared to be offensive to the public health, safety and welfare.

Section 8. Injunctive Relief.

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Village may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 9. Abatement by Village.

If a Court of competent jurisdiction finds the owner or occupant of a building or structure in violation of this Ordinance, the Court, in addition to ordering the owner or occupant to demolish the dangerous structure and remove it from the property or to repair the dangerous structure to make it safe, may authorize the Village to demolish the dangerous structure and remove it from the property or to repair the dangerous structure to make it safe. The Court, however, shall not authorize the Village to demolish the dangerous structure if the cost of repairing the building or structure to a safe condition is less than the state equalized value for the building or structure.

Section 10. Cost Recovery; Lien.

- (a). The costs incurred by the Village in demolishing the dangerous structure and removing it from the property or repairing the dangerous structure to a safe condition, including reasonable attorney fees, shall be reimbursed to the Village by the owner or party in interest in whose name the property appears.
- (b). The owner or party in interest in whose name the property appears upon the last local tax assessment roll shall be notified by the assessor of the amount of the costs of the demolition or repair of the dangerous structure by first-class mail at the address shown on the records. If the owner or party in interest fails to pay the costs within thirty (30) days after mailing by the assessor of the notice of the amount of the costs, the Village shall have a lien for the costs incurred by the Village to bring the property into compliance with this Ordinance. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. The lien provided for in this subsection does not have priority over previously filed or recorded liens and encumbrances. The lien for the costs shall be collected and treated in the same manner as provided for property tax liens under the state General Property Tax Act.

Section 2. Validity.

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not effect any remaining portions or application of this Ordinance which can be given effect without the invalid portion or application.

Section 3. Effective Date.

This Ordinance shall become effective twenty (20) days after being enacted.

Ordinance No. 44 was adopted on the 21st day of September, 2023, by the Elberta Village Council as follows:

Motion by: Ken Holmes

Seconded by: Brett McGregor

Yeas: Brett McGregor, Ken Holmes, Emily Votruba, and Jennifer Wilkins

Nays: None

Absent: Ryan Fiebing


Katherine A. Ralston, Clerk/Treasurer


Jennifer Wilkins, President

I certify that this is a true copy of Ordinance No. 44 that was adopted at a regular meeting of the Elberta Village Council on September 21, 2023 and published in the Benzie County Record Patriot on September 27, 2023.

Dated: Sept 27, 2023

Katherine A. Ralston, Clerk

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SEPTEMBER 5, 2023 BETSIE VALLEY TRAILWAY MANAGEMENT COMMITTEE MEETING

The Mungra Grit 24 hour biking event scheduled for September 9 and 10 will have 12 riders. The riders will be re-routed off of the trail along Crystal Lake due to the riders are not allowed on the trail after dusk per the Crystal Lake Homeowners Association.

The report from the Friends of the Betsie Valley Trail coordinator:

The blinking lights of the trail crossing signs are working now and will continue through November and start up again in April.

Runoff from Lake Street is still an issue and AJ Excavating will hopefully be able to remedy the trail from washing out this fall. The estimated cost of rerouting the water under the trail is \$10,355. The Trailway Management Committee has \$8300 left in the account and will get the rest of the money from the Friends.

Volunteers have been very busy clearing the edges of the trail from Adams Road to Frankfort getting ready for Ironman 70.3 which is scheduled for September 17.

The Friends of the Betsie Valley Trail hope to have a Trail Etiquette Campaign in place by next spring. They have reached out to the Tart Trails Committee for ideas. If they put together a successful etiquette campaign, I will hire them for an etiquette campaign for pharmacies.

The Crystal Lake Homeowners Association is asking for motorized access to the Betsie Valley Trail to do work on their property. The homes on the bluff are having difficulty working on their lakefront property without motorized access to the trail. The consensus of the committee members is that the homeowner needs to apply for a permit with date, work to be done, who is doing the work, and that the company doing the work is insured. The trail in that area can only support so much weight before it gives away and will need expensive repairs.

Respectfully Submitted,
Jon Ottinger

Regular Meeting Minutes of the Elberta Planning Commission
401 First Street Elberta, MI
Monday, August 14, 2023 @ 5:30 p.m.

Call to order and Pledge of Allegiance: 5:32 p.m.

Roll Call: Kennedy- present, Murphy- present, Fiebing- present, Ottinger- excused absence & one vacancy

Audience: Ryan King (Benzonia) and Katherine Ralston (incoming Village Treasurer/Clerk)

Approval of Minutes- (Fiebing/Murphy) Approval of July 12, 2023 regular meeting minutes
- all Ayes. Motion carried.

Approval of Agenda- (Kennedy/Murphy) – all Ayes. Motion carried

Correspondence: None

Public Comment: None

Old Business:

Reviewed and discussed with Sara Kopriva, community planner with Beckett & Raeder, draft chapter 8, future land use map of master plan update.

Reviewed and discussed with Sara Kopriva draft chapter 1 the housing goals section.

New Business:

None

Zoning Administrator's Report: August 3, 2023 report

Public Comment regarding agenda items only: None

Adjourn: By Jen Kennedy at 6:25 p.m

Personnel Meeting Recap of things to do in September 2023:

Justin and Chris (ADPW)

*Regular tasks are now daily routine

SEPTEMBER LIST:

Streets:

- Sept. 17 Plant 15 granted trees according to mapped locations.
- Trim in 4ft along M168/Frankfort Ave. (for BVTail)
- Continue to mark water and sewer lines per Miss Dig requests.
- Bishop looking at LSS Lot Lights
- Robarge Plan for tree and brush clearing – **Kerby & Smitty's**
- Stop sign behind post office – New post, it's way too short.
- Clean up first Street to close road to all dumping. **Equipment rental**
- **Justin start studying for CDL**

Waterfront Park:

- Iron Works weeds and small tree removal (When there is time)
- Concrete Patch path to LSS
- Street lights at LSS parking – replace bulbs, Bishop plus plugs

Penfold Park:

- Penfold kayak launch extension piece (**Call EZ Dock**)
- Stain Pavilion – **Jen**
- Toilet issues. Gil fixing?

Beach:

- Spray for poison ivy
- Bring broken boardwalk sections to shop for rainy day projects
- Bring back other Life Ring Holders to store

Garage:

- Find source of leak in roof
- Meter inventory **ASAP**
- Back 40 grooming
- Oil changes in trucks **ASAP**
- **Replace water meters – new system**

Water/WaterProject:

Valve turning
Marking meter pits and curb stops and sewer lines
Homeowner contact

Village of Elberta Parks and Recreation
Minutes

Thursday September 14, 2023, 7pm @ Tot Park

Call to Order: 7:03pm

Attendance: Grace W., Bill S. and Jen W.

Absent: Brett M.

Guests: Justin Towle (DPW)

Council Liaison: Brett M.

Approval of August 10, 2023 Meeting Minutes: Changes: None

Motion 1st: Bill S. Motion 2nd: Grace W. Ayes: 3 Nays: 0 Absent: Brett **Motion Passed**

Approval of September 14, 2023 Agenda: Changes: None

Motion 1st: Bill S. Motion 2nd: Grace W. Ayes: 3 Nays: 0 Absent: Brett **Motion Passed**

Park Fund Rev/Exp: Reviewed. Request for Jen to see if P&R has \$8,000 to put towards the overbid cost of the Beach Bathroom building.

Correspondence: None Received

Committee Reports

*Elberta Dunes South Trail: Trail is trimmed up; signs are still in the works. The main parking entrance has been unusable due to the water project. Water main pipe blocking entrance. Port-a-potties were not able to be cleaned either.

*Beach: Memorial Pier station & roll out planks are in BAD shape. DPW will be bringing boardwalk sections and roll outs in for repair during the winter months. Jen and Ken M. talked with GTRLC regarding the grant and bid awards due dates expiring. GTRLC is scraping up the remaining \$350,000 needed to get the Beach project started. Sand Products has only offered material in-kind help.

*Parks/Grant Updates: Tot Park: Fall Zone and swing seat replacement complete. Looking into teeter totters for the park and putting chips under the slide and teeter totters. Waterfront Park: Fall zone and Swing seats replaced. Penfold Park: Pavilion to be painted, propellers cleaned up. Kayak Launch Extension being ordered. Train climber in bad shape. Ball field: Back stop is rusty and needs to be fixed. Discussed a list of rules and regulations for ballfield use. Justin said the dugouts are settling and will need to be shored up soon.

*Elberta Historical Preservation: Brett and Bree have the application for the National Historic Registry 50% complete. The plan is to do it in phases, Life Saving Station, Iron Works and then create a district. Tagline is SOS. Save Our Station! We did not receive the grant for the LSS that Bree wrote. We will try again next year.

Unfinished Business:

1. **Elberta Beach Project.** \$3000 committed from P&R. Designated fire rings, life ring stations along the beach. Bucket rack for beach cleaners. **Tabled until project start.**
2. **Dedication Plaques.** - Jen researching. **Ongoing**
3. **EDNA signs at Penfold hub of BVT** – Brett is getting sign wording together. **Ongoing**
4. **WFP National Historic Registry** – Brett and Bree have the application 50% complete. **Ongoing**
5. **Penfold Park Train Climber** – Brett calling the tribe, his email was not responded to. Bill will check the structure to see if he can tighten things up on it. **Ongoing**

New Business:

1. **Elberta Beach Bathroom Building Bid Change.** Jen updated that AJ's could not hold the original bid for the bathroom building because of an increase in material prices. The Village would be responsible for \$8,000 extra for the bathroom building. Bill requested Jen to check P&R cash fund and report back at the next P&R meeting.
2. **Memorial Benches at Waterfront Park.** The office has received a few requests for memorial benches at waterfront park. No current P&R member knew how that was run. If anyone knows how it was done, please advise.

Public Comment: DPW Justin reported on Veterans Park options as the water project moves along, and the ELHC property fisherman using the LSS dumpster area as a bathroom.

Adjournment: Motion 1st: Grace W. Time: 7:40pm