

**VILLAGE OF CHEBANSE
REGULAR MEETING, 7 PM
275 S. OAK ST.
APRIL 20, 2015**

President Dubuque called the meeting to order at 7 p.m. and announced the Village would be taping. Kathy Washington/Clifton Advocate took notes.

Roll Call: **Present:** Trustees Beherns, Kuntz, LaReau, Mathy, Perzee and Snyder. President Dubuque and Clerk Imhauser
 Others: James Smith/ Maintenance, Dale Prairie, Building Inspector, and Attorney Michael Donahue. Walter Dampf, Steve Emme, Jay Hansen, and Rick Adams.

The pledge of allegiance was recited.

Regular Minutes: Motion by Trustee Mathy second by Trustee Perzee to accept the regular meeting minutes for April 6, 2015. Vote: 6 yes

Executive Minutes: Motion by Trustee Perzee, second by Trustee Mathy to accept the executive session meeting minutes for April 6, 2015. Vote: 6 yes

Treasurers Report: Clerk Imhauser advised that the accumulated finance charges in the Water/Disposal account have been transferred to the four accounts, Water, Sewer, Tile and Refuse. Also Imhauser will be transferring funds in the motor fuel account and sewer account in order to cover payments. Motion by Trustee Kuntz, second by Trustee Snyder to accept the Treasurers Report for April 7th to April 20, 2015. Vote: 6 yes

Bill Statement: Motion by Trustee Perzee, second by Trustee Beherns to pay the bills dated April 20, 2015. Vote: 6 yes

Unfinished Business:

Commercial Property Addition/151 S. Chestnut St.: (Transcribed verbatim)

President Dubuque: Request for the building permit. To review the items that were discussed, the drainage situation, it is our engineers opinion that we do need to address the drainage in that alley and this situation has proven that the problem is large or in greater need to be addressed that what we had first looked at. The drainage – we had the – do you have them written down there

Trustee Beherns: No, I don't have my notes

Dubuque: I was trying to

Beherns: Easement

Dubuque: The easement was there

Beherns: Drainage, parking and easement

Dubuque: The Village has an easement there for the sewer, the manhole is uncovered there now for people to look at, there are pins placed where the Uptown Grille property lines are at, there were pins located at one time where Mr. Dampf's property was located at. The sewer easement issue was what the Village board had to discuss and if Mr. Dampf wants to build that building close to that easement

with the understanding that if we have to get in there and work on the sewer, there's a chance that the building could be damaged at no expense to the Village. That's something that's within your rights, Mr. Dampf to do. The board would like to see the permit that he's been issued be the permit on record but you stated that you don't want to build your building according to that permit.

Mr. Dampf: The permit that was already issued – no. I'm trying to go to the southwest corner and stay away from that manhole as far as possible. Trying to avoid building over that manhole, so close to it. So if there is any problem in the future we won't have to tear the corner of my building off.

Dubuque: Board members – do you have any comments you want to make?

Perzee: Just southwest of that manhole that's going to put you darn near to the alley isn't it?

Dampf: About 11' off my marker or about 20' from the alley, we might have 11'

Snyder: So going west it would be 20' past the end of your building before the alley.

Dampf: Well counting the alley, I think the alley is 10' is that right? And I'm going to have 11' off my property line

Perzee: That would be covering almost all of that fire department door then

Dampf: Pardon

Perzee" That'd be covering all of the fire department door

Dampf: Yah but it's all on the ?? like I said in the last meeting we had, you weren't sure but you thought that wasn't being used for vehicles, it was supposed to be used for walk-in.

Perzee: No

LaReau: No, that's what you assumed

Perzee: No I said that for all we know they could have put that door in there for

Dampf: Well you put the door in thinking they were going to use it for vehicles and just go over my property is trespassing, you know. You don't just put a building up and say I'll just use this piece of land for whatever we want. There's no need for that, you know any vehicles, you've got the whole front of the fire house, you have doors on the side, you have doors on the front they bricked up that they didn't have to. Now if they just want to use it for four-wheelers, like farm ??, something like that you've got plenty of room to get in there. But if you're going to try to put a 24' boat in there, yah you're going to have an issue.

Trustee Mathy: Can I ask just for the record what the building is going to be used for, is it storage, is it for hosting events, what exactly is

Dampf: Well originally now I'm going in for storage, my father is dying and I've got to liquidate his stuff and get his house up for sale and I need to take that stuff and put it in there so I can get rid of it you know accordingly.

Mathy: But for the club itself, there's no change in the usage of what it's been in the past and the new building is basically storage.

Dampf: Yah you know for right now, we have a picnic in it or something like in it or something like that, that's a possibility, yah that might happen but we've been here nine years and we don't cause no problems.

Mathy: Well no I'm just curious because as you know I'm right there, I don't see a lot of activity so I'm just curious what actually is going there, is it storage, hosting events or something else that – I'm just curious what the usage is going to be.

Dampf: For storage, right now. In the future, like I said we might have some tables or something in there, might have some kind of event like that, but you know we really don't have that many.

Dubuque: Any other comments

Building Inspector Prairie: I do, I thought when we were over there and laid that out, I thought we weren't on top of manhole covers

Perzee: We weren't on top of it, but boy we were right there

Prairie: Right, the only thing that was going to be in his building was his sewer line that tied into that manhole cover. I mean we were clear because we were able to bump it back a foot and a half or whatever to the south and then we gave him an extra foot wider at that and we were still off of that manhole cover when we were there discussing it that day.

Perzee: We weren't right on top of it but we were right there next to it and if anything had to be excavated the building would be in the way, maybe a foot off of that. I think that's what we talked about.

Mathy: That's the way I understood it, but he went back and forth quite a bit

Prairie: I mean he was concerned about his line being under it but like I said we've got others here in town that go directly over the sewer lines. I know it's close but I mean

Snyder: Do we know how wide that village easement is? Is that a 10' utility easement

Dubuque: It's supposed to be a 10' utility easement, I believe

????

Dubuque: We would have to amend that permit if that's what the board decides they want to do to issue the permit. Is the building already bought?

Dampf: No I haven't bought it, no

Perzee: I guess my opinion hasn't changed, I'm okay with the permit as it is, but I'm not okay with anything that would be beyond that permit, I guess is my opinion. The fire department door has always been my main concern and if you want to build further that's not okay with me

Dubuque: Steve

Steve Emme: Have you got any drawing or anything on how it's going to sit, a blueprint on how it's going to sit on your property?

Dampf: I think my contractor might have submitted one at the time of the permit request but I don't have a copy of it.

Perzee: He did but it wasn't a very good one

Dampf: Oh Okay

multiple speaking

Mathy: I agree with Todd, I'm not okay with the door being blocked. I hear what you're saying but I think we're going to open up a whole other can of worms if something happens and they can't get that boat out of there.

Dampf: Where are they keeping the boat now, I haven't seen a boat in there for two years.

Mathy: I don't have any idea

Dampf: The only thing I've ever seen in there is building material and a sign

Mathy: Is there a, and you don't have to give me a reason, is there a reason why it has to be this certain size. Is there so much for storage, so much for hosting, is there – what is the main reason this permit doesn't work for you.

Dampf: Well I want it so far from the building because if in the future I decide to sell the building and someone tries to open up a restaurant or a bar or whatever they choose, there's got to be so much casual space in order for outside smoking and by having the building so far east, three feet from the other building you just don't have that area for a nice patio and the selling possibility for the building.

Prairie: There was ten feet wasn't there, 9 1/2' from the building to building

Dampf: Well not with the latest.

Perzee: It had like nine foot, you were going to take out a little bit wing to that side there, but yes I think it was like nine foot.

Dampf: Well like I said, it's not the same and the thing about the board, just, you know, I don't know what to tell ya. I want to use my property to the best benefit to me and you're saying I put a door here and you can't build no more because I put a door here. I think that's kind of bogus to tell you the truth, you know if you were using it for four runners or whatever you said, quads there's plenty of room but you put a 22' boat in there that's a little bit different. And why don't you use the alley side to put the 24' boat in, why's it got to be my side.

Perzee: Here's the deal, I don't necessarily disagree with you but the door is there, it's been there for a while, we have to deal with it. At this point

Dampf: They put the door in the last two years

Perzee: No, I don't know how long it's been there but I think it's been longer than two years hasn't it?

Jay Hansen: 07 when the building was remodeled.

Perzee: So 07 but regardless

Dampf: I bought the property in 07 and it wasn't there.

Perzee: So it was 08, I don't know but I know it's been in there longer than two years and my opinion is it's there and we have to deal with it

Dampf: They ripped up a perfectly good door in front

Perzee: Again though

multiple speaking

LaReau: Because that's the meeting room, that's why they bricked it up

Dampf: Well you change everything inside. No one came to us and say look we're going to put up a door and we're going to go across your property, you know. No one even suggested anything, you just did it. You think you can steal somebody's property because of what. You've got plenty of room you've got the lot next to me, you've got the civic lot, you could have built a shed for that boat if you needed it that bad.

Perzee: Regardless, that's done and it was done, so I'm just trying to deal with the facts at hand and the facts at hand are the door is there and we don't want to block that door – it's a public safety issue.

Dampf: Well

Perzee: That's what we have to deal with

Dampf: I'm keeping the building as far south as I can, that's going to give you a couple more feet. If you take a couple more feet and come over my property I'm not really going to scream and holler, you know, but I'd like to be able to build where I want.

Mathy: Is that property just in your name then? Cause I really don't know, you and several other people or is it just in you

Dampf: It's just in my name

Mathy: Okay

Dampf: You know if you make that door wider, you could pull it in there being wider, but they said they some type of room or something so they couldn't make it wider.

Prairie: It's a staircase going upstairs isn't it? It's for their attic, that's why the door was put on that side because they don't have the depth going in on the alley.

Dampf: You know like I said if you would if you would have made the door wider you could have got a boat in there.

Perzee: We could debate, discuss and argue about everything the fire department did wrong five or six years ago

Dampf: I'm being penalized for something they did – you just said what they did wrong so I'm being penalized for it.

Beherns: I agree - ?? on private property

Emme: ??? is not there now. You're going to put more congestion with our delivery trucks out in that alley and it's a public safety issue, maybe they have to get the ambulance out, get trucks there. You're not going to be able to come to the building. Every vendor we use ????. I had the property surveyed and it comes out we have 11' 4" ??? but beyond that the public safety issue, so ??? move a truck, somebody could maybe save their life, ?? ambulance service ?? moving a truck, back tailgate is down for a delivery because they have to be out in the alley

Dampf: How many deliveries are made in a month, or a week at your grille, how many deliveries

Emme: I would say four

Dampf: Four a week. And there's a designated easement that the village put it on

Emme: No

Dampf: Yah they did

Emme: No, we don't have any easement at all

Perzee: It's a utility easement

Dubuque: It's a utility easement not a

Perzee: Its for underground utilities, not for anything else, just to work on that pipe that is underground.

Dampf: Well then there's never been anything, any easement there at all, on my title search and everything there is, there was no easement across my property, over Mr. Meyers property which he says, which he says, there was nothing there. Now there's a dedicated easement on the sewer line project and it says its from 10' from my north property line and 10' wide and adequate for deliveries ??? If you're so worried about safety you've got a front door ??? I'm the guy getting punished here for something I didn't do.

Emme: Well I think when you bought it you probably didn't do enough homework because there's an easement that goes through there.

Dampf: I had a title search done and everything, everything was done

Emme: Okay, okay, it's been used for over twenty years, coming across there for deliveries ????? and that's good enough.

Dampf: You know, just because something was done not to my knowledge and you think its okay but that's not how it works. There's a dedicated easement there that nobody's going to build on and gives you adequate room to have your deliveries made.

Jay Hansen: On a commercial building permit does a blueprint need to be submitted before the permit is issued?

Prairie: Technically, yes but from the first time that he applied for the permit and then when we went to look at where the building is going to be he added another 10' and another 1' wider and that's why we all met over there to try and get what he wanted after he submitted a permit and then we got an agreement there was five of us there, we had an agreement where it was going to be ??? so

Hansen: So he did have a blueprint

Prairie: No, the building was never bought yet but we said we would issue a permit on what we agreed on to where the building was going to sit and that they could not start until we had the blueprint and everybody agreed on that that day.

Perzee: And that's where it was denied Steve any further to the left for the walk in doors, to the left corner

Dubuque: The permit says 25 x 60 metal building, building to be install 9-1/2' from existing building and that it does not go past existing overhead doors to adjacent building.

Beherns: But that irrelevant now isn't it

Dubuque: Yes, well it's irrelevant because that's not what he wants to build.

Beherns: I'll agree that we need a drawing

Dampf: Pardon

Beherns: I'll agree that we need a drawing to see where you want to put your building. We need

Dampf: My contractor submitted one when he did the permit

???: That was just a sketch, that wasn't – it didn't have any property lines or

Beherns: But its changed now is what I'm saying

Dampf: The building will basically be the same though

Dubuque: This is what he submitted

Dampf: Okay, well

Dubuque: That isn't a drawing

Dampf: Alright

Dubuque: This was the permit that he was issued

Dampf: And this is the building here I guess

Dubuque: That's what he gave us as far as what the building

Dampf: He may have got that off the website

Dubuque: This is his check he gave us for the permit, we haven't cashed it, this is the application for the building permit

Dampf: And that was back in October

Dubuque: And Dale has asked for the drawing and that's what he got

Dampf: Well I'll get on him and tell him to get you the drawing, I mean is that all you're lacking is a drawing

Beherns: I think to further discuss the situation; I'd like to see a drawing

Dampf: I mean basically we've already been okayed for a permit once we're just

Beherns: That's gone

Dampf: I know but we're just saying the location, the building going to be – we were okay with the building before

Train going through – hard to pick up several conversations

Emme: so this is a safety issue

Beherns: Is this a new concern from the last meeting

Emme: No I didn't have any drawings or anything to back it up. Nobody knew, I didn't know where the property line was back there, Lori showed me the property line, we're probably ten foot off, we had ten foot more property than what we really had. ?????????? we still need 4-1/2' on the other side for a safety aspect. Right now they do back the truck up to the door, they put a ramp up to the door ???

multiple conversations

Perzee: I think what we need is you had your property, your survey. Your contractor needs to show us exactly on your property line where the building, how the building is going to sit, where you want it to sit, how big it is, how many feet it's going to be off your property line, that's what we're looking for

Dampf: My plat survey right here, it will be in this corner, 11' or maybe more, it depends on how much room I have behind the lento and then there'll be 25' out and back 50' I think and down so that's the corner it will be in.

Perzee: You want to come all the way out to the alley.

Dampf: No 11', come in

Perzee: 11' okay

Dampf: Maybe more even, I might come in more

Perzee: And your 50' there

Dampf: Yah

Snyder: But we need specifics, we can't have maybe more, we need to know where it's going to go

Perzee: So your contractor draws the building on here and shows us the dimensions

Dampf: That's what I'm showing right now, we can make it out 11' ?? I'd give the fire department a little more if I could, you know what I mean, maybe it'd be 12' or you know, this is the corner we're going off. I'm keeping on this

corner that would give them more room to pull out if they had to come out

Perzee: Even that corner though Walter you going to need 20

Dampf: I'm going to be 11' in.

Perzee: Okay but that's what base this on right here half way through that

Dampf: But still I'm going to be all the way on the south side

Perzee: 24' over like this, then the fire department isn't going to have access

Dampf: going to have 15' to come out the door between my building and his building. He's going to have 15' – if they can't pull a boat out of that – between their door and my door there's 15' maybe more

Multiple people looking over a drawing and speaking

Dampf: My building from this line here is going to be 25' out

Emme: How big is your lot?

Dampf: How bigs my lot?

Emme: Yes, how big is your lot

Dampf: 27' ??

Emme: So theres not enough ???

Dampf: What are you talking about there's 12' right there and another 2' from mine

Emme: The dumpster is 7' wide

Dampf: You've already got a 10' easement there, what are you talking about

Emme: What I'm talking about is putting the dumpster right here

Perzee: You're over here Steve

Emme: ½' off of their it's already going to be encroaching your property

Dampf: This is already 11 32 off of that

Emme: We can't drive a garbage truck on a sidewalk, we have to start from this point

Dampf: That's what it says you see that – you see that arrow, from the edge of the sidewalk to my property is 11 32

Emme: But we need more room than that

Dampf: You need more room than a highway, what are you talking about

Emme: We need more than 11 .32 – the dumpster has to go in the middle

Dampf: The dumpster ain't going in the middle of my lot, it ain't going to happen

Emme: The dumpster will go in the middle of this, 4-1/2' coming into the south, 4-1/2' that'll put the dumpsters already sitting on your property

Dampf: The dumpsters not going to be on my property, it ain't going to happen

Emme: I know it's not going to

multiple conversations – several looking over a drawing

Dubuque: Okay so we're waiting on a drawing, is that what?

Dampf: I don't see why we're waiting on a drawing, I just showed them the plat survey and I just showed you how big the building is going to be. I mean I can draw three lines on it, if that's what you want.

Beherns: The three lines that you draw on that survey if that's not to scale, your building has to be within that crayon that you're going to use to draw those three lines that's what we're trying to tell you. If that building does not exactly match what you submit to get your permit, I mean to scale, to scale, if your building does not match that your permit is null and void

Dampf: That wasn't required before

Trustee Kuntz: It's always been required

Dampf: But not to scale

Kuntz: Everything is to scale, you can't submit something without going to scale, you can't write something on a napkin

Dubuque: That's why he didn't accept the drawings that got turned in

Prairie: The only reason why we agreed to issue that permit was because you never ordered your building and you didn't have a complete set of plans and we discussed that

Dampf: Well

Prairie: No let me finish, we discussed that the day that we were there that nothing would be started until we had a complete set of plans and laid it out on the property

Dampf: Well I'm calling the builder like I said

Prairie: Is that true or not?

Dampf: I wasn't going to order the building until I get a permit

Kuntz: You don't have to though because to get a blueprint you don't have to order a building. I've done it many times, you can get a blueprint, submit it for your permit, get your permit then buy your building

Dampf: Listen I have a contractor and I'll call him and tell him

Kuntz: Okay

Dampf: You're telling me and I'm totally, its something I don't understand

Beherns: Now we're going to have the same list of concerns when that drawing gets submitted

Dampf: I just know I'm trying to get a permit to build a building

Kuntz: And we're trying to go through the right steps to get you your permit . Do your part, get us what we need and we'll help you but for right now, the last few minutes, we're wasting our time and we don't have a blueprint so now we're waiting on you

Dampf: You didn't say anything to the builder the last time we were here

multiple speaking

Kuntz: The bottom line is get us the blueprint and then we can move on

Dampf: You want a blueprint of what, that's what I want to know

?? Of what you're building

Dampf: You want a blue print of the building

Snyder: And showing exactly where it's going to go on the property

Dubuque: We've done that with every commercial property that we've had anything to do with. When they built the Crazy Beaver they brought us the exact architectural plans, the plans where the parking was going to be, where the building was going to be, where the retention pond was going to be

Dampf: Well like I said you asked me for a plat survey, I got that. This is the first I heard about this blueprint, I thought the builder had submitted a print with the application so I'll call him and tell him but we don't have to wait until the next meeting. He can turn that in at anytime

Kuntz: We have to approve it at the next meeting

Dubuque: If we can't see where the building is going to go on the lot and what the building is going to be like according to scale then its hard to approve a permit in order to build that building.

Dampf: Alright, when I get out of here I'll call him up and say hey I need this blueprint and the village needs a blueprint to move forward.

Beherns: The list of concerns is still going to be there

Dampf: Pardon

Beherns: The list of concerns is still going to be there even after you submit your drawings

Dampf: What concerns are those

Beherns: Blocking the fire door, drainage and deliveries and parking or whatever

Dampf: Lets get all that out of the way, you know let's not keep that hanging over our head, let's get it out of my way

Kuntz: Well it'd be better if we had a blueprint to look at to see if this is going to be a problem

Dampf: Well

Kuntz: Am I right

Dampf: Obviously there's some reason that you're saying that the door is an issue even if you had a blueprint its not going to change the footage that

Kuntz: It may not be blocking it, we don't know that we don't have a blueprint

Perzee: Yah we know it's going to block it, we were out

Dampf: That's not going to change the issue, its still going to be from my building to there still going to be approximately 15', now if that's big enough to – you know – you said earlier it was there mistake, not mine

Perzee: Of course

Dampf: You know I shouldn't be penalized for their mistake

Beherns: I'm curious, when the fire department put the door in, this is for my own decision on how I vote or whatever the case comes to, what was thinking on that door that you put in?

Jay Hansen: Storage

Beherns: No I mean as far as getting access to the entire property

Hansen: Everybody been driving on that property for fifty some odd years

Beherns: It never came up in a meeting

Hansen: Never, nobody every approached us, the previous owner of Russ & Rosies never said a word

Kuntz: I don't think they need to approach you though, I think that was something that you should have approached them

Rick Adams: That door was in the plans and it got approval from you

Perzee: Yah I get that but again going back to ??????? yes you could have put the whole thing as a door and walked in for all ??? we would approve that we don't care where you put a door but

Adams: We didn't realize we were going to be trespassing, we didn't know that

Beherns: Now that you know that does that change anything? I'm just having a conversation, does that change anything, I mean if somebody

Adams: ???

Beherns: If somebody had a building next to your property and put a garage door facing your property and the only way to get into it was to drive over your land and you wanted to do something with your land. Are those legitimate concerns

Adams: Yes legitimate concerns

Beherns: Okay

Adams: But when we did what we did we didn't know it was a concern

Kuntz: You guys should have went forward with them and said hey can we do this instead of just assuming

Adams: we asked for a permit and we didn't see these issues when we did that at all

Beherns: I'm not pointing a finger; I'm just trying to get the whole story on what the thinking was when this happened that's all I'm trying to get

Adams: We just thought that it was alley and it was accessible, that's what we thought

LaReau: And as long as I knew that was an alley too. Did you know that was there property?

?? No

LaReau: Nobody knew it was – did you

Snyder: Up until now I thought the restaurant went all the way back to the alley

Beherns: So you see the concerns of

Adams: We see the concerns but when we acted we didn't realize it was a concern

Mathy: Did you ever approach them once the door went in and said hey

?? there's a walk-in door there

Dampf: ??? doorman, you're going to drive over my property ?? and he said

Beherns: talking to anybody from the fire department

Mathy: I apologize, you did say that you talked to the contractor, the guys working at the last meeting, I can remember that

Dubuque: Okay so contractor is going get us a scale copy of where the building is going to go on the lot

Perzee: You understand that piece right, don't just print off a blueprint off the internet and give it to us, we need to know exactly where that blueprint on your property is going to be sitting

Dampf: I'll tell my contractor to get a blueprint and contact the mayor and find exactly what you need to submit, ya know that's why I pay a contractor

Perzee: And to Adams point, when that's done we still have, once we see that we can say okay you're going to be blocking the fire department door, we still have an issue with that

Dampf: We got to get that issue, I don't know what we can't get that issue out of the way

Snyder: Because we can't see right now how much of the door it's going to block all of it, some of it

Beherns: ?? with Steve right

Perzee: That doesn't take

Dampf: Like I said I don't know what difference it makes, it still my property

Beherns: Whats that?

Adams: You've got other issues to discuss besides that

Beherns: Drainage, parking ordinance, easement and

Adams: You haven't discussed parking ordinance yet or

Dampf: The what

Beherns: Well let's discuss the easement, what was the concern there? These are the concerns you guys brought to us

Emme: we've been driving over that ground, the owners of our property for over twenty years and I'm sure it's over fifty years

Beherns: Did you just tell me that was up to the neighbors to determine whether or not

Mathy: That easement in my mind, correct me, the attorney is sitting right here, that's between the two property owners, that's not a village issue, cause really if whether we did want to, didn't want to that really between the property owners, correct

Dubuque: What can happen is we can, you can get us the drawing, we can decide you know what we're going to give you a permit, at that point in time these gentlemen can hire their attorney to say stop, nothing's going to happen, we're going to court to determine what this whole easement situation is

Dampf: Well there's a dedicated easement now

Dubuque: That's something totally different

Dampf: It is a dedicated easement right?

multiple speaking

Dampf: ??? easement on a piece of property

Snyder: The Village has one, that's the deal you have with the village ??? Now the easement that he's talking about is a civil case between two property owners. You want to put a building there, Steve's got to get his lawyer to go get an injunction to stop you from building your building because he has to prove whether or not he has easement and that's something for the judge to take care of, not

Dampf: Yah I know but there is an easement that goes between the alley and his building that the village already got

Snyder: it runs down both sides of the property line

Dubuque: It just runs, it just takes care of that sewer issue. It doesn't talk about his rights to get to his building or anything like that. That will become between the property owners in that area and the Village won't have anything to do with that.

Beherns: You agree with that Michael?

Donahue: Yes I was going to say Mr. Dampf the other easement we're talking about you're not going to find that on a survey okay, the only way that easement is determined if the judge listening to evidence about reputation, history and habit, okay you won't spot his rights to descriptive easement on a survey. That's what I think you're looking for is to say where's this easement that everybody's talking about. It's in the common law and it's based on in this case Mr. Emme or the fire department attorney would go into court and say that we have a right to cross that property, number one to get our boat out and number two this has been going on for twenty years with the restaurant and as a matter of

habit and reputation by law okay, we're going to prevent Mr. Dampf from interfering with our right to do that. That's what prescriptive easement is and what you must realize is even assuming the board grants you the permit for the building okay, both the attorneys for the fire protection district and the attorneys for Mr. Emme will go into court and try to stop you cold

Dampf: Okay they can do that

Donahue: I just want to make you aware of that, that's all. That's a whole other issue that

Dubuque: And that part has nothing to do with this board

Beherns: To the easement we can agree that is an issue between neighbors. I think that covers the door issue as well, correct?

?? Yes

Donahue: There's something about easement by necessity and that relates to the issue of the public safety and there's all kinds of issues here

Beherns: They have a concern but not with the board, that's between their attorney

Donahue: Absolutely

Beherns: That takes care of the easement, do you agree with that?

?? Yes

Dubuque: I believe so

Donahue: The board could go ahead and issue a permit and then what would happen is the attorneys would go into court and they try to stop the authorization for the work based on the permit and try to stop the job and we would be going into court saying judge we're here because we want to know what you decide because we are now bound by your decision. We're not going to fight, they're going to fight, we're not going to fight but I have to go there to see what you want the village to do at this point.

Beherns: Okay, the drainage issue that we discussed, that's a, I think we all agreed that the village has an obligation to assist the entire block that has drainage issues, so that's something we're going to work on

Dubuque: That's what we talked about

Beherns: Drainage, we'll move forward on that as far as the village's obligation. The parking ordinance, what's your interpretation of that cause I'm a little confused on that myself

Donahue: From my reading of the ordinance it looks like there's an argument that that property has been used for storage, what was the designation of that property in the past, like in 1992, what was the designation of that property?

Dubuque: The building was a convenience store and so the area in back of it was used for doing deliveries to the store,

Donahue: And it required so many parking spaces

Dubuque: And for parking for the folks that worked there

Donahue: And in 1992 that ordinance passed that said that anything that happens after that, the number of parking spaces can't be reduced

Dubuque: And I don't

Donahue: Now we have an issue with the building going in there and is that building subject to the original 1992 ordinance which says the number of parking spaces.

Beherns: By putting a building on that property, we're reducing the number of parking spaces

Donahue: Something to that affect, yes

Dubuque: If the building is the size that he wants to make it, it will reduce the area that can be used for parking past the number of parking spaces

Beherns: There's three things he needs to do, reduce the size of the building to accommodate the parking spaces for the building, not put up a building, or apply for a variance

Dampf: I'm having a hard time following there, what I got to do

Beherns: to follow the parking ordinance, it sounds to me the way our attorney interprets it our ordinance says that if you put up that building you have to have the appropriate number of parking spots made available.

Dampf: For who?

Beherns: For your property, for commercial property

Dampf: Yah but for who, for what, there's no, there's not going to be any employees

Beherns: That irrelevant, our ordinance says you have to have a certain number of parking spots for the square footage of the building you are putting up

Dampf: How many am I supposed to have?

Beherns: Well the way I interpret that is 7-1/2 so where are the designated parking spots

Donahue: The ordinances doesn't say it, the ordinance just says they have to be accommodated somehow

Dubuque: On the property

Beherns: So if he can come up with 7-1/2 parking spots, let's assume its 7-1/2. If he can come up with those with the size of the building he wants to put up, then he doesn't have to do anything

Donahue: Right

Dubuque: Right, if he wants to say they're going to park inside the building then those can be considered parking spots

Dampf: If I park the vehicles inside the building, that would be considered parking, correct?

Dubuque: If you park vehicles inside the building it would be considered parking spaces

Beherns: When he does the drawing, show 7-1/2 available parking spots assuming that's the way the ordinance reads available for that building that you're going to put up

Dampf: Okay

Beherns: Whether its inside or outside, you have to have access inside if you're going to park cars inside. That'll eliminate the parking ordinance if I'm reading or understanding that correctly

Mathy: That's the way I understand it

Beherns: Okay, drainage

Emme: What about the unloading portion of that ordinance

Beherns: That to me is the easement that you need to argue

Emme: I know but the building had something about loading and unloading

Beherns: For the subject property

Dubuque: There is no loading and unloading for the property anymore though. Its not, while it's still commercial property, it's not a store, it's more of a

Donahue: Its says off street parking or loading facilities which were inexistent on the effective date of the ordinance ?? for off street parking or loading facilities

Beherns: Why do you care about his loading or unloading anyway

Emme: It's the ordinance

Donahue: No this is off street parking or loading cannot be reduced so we're good with the issue of the off-street parking

Beherns: So we have a concern with loading or unloading on that property

Dubuque: Part of the reason that this is so unclear is the fact that there's a chart in the ordinance that says and I'm just going to say it, Commercial, except as specifically provided below and there's different type commercial – Commercial is one for 200 sq ft of gross floor area, that's one parking spot, off-street parking spot. Now if it's a furniture, appliance store, motor vehicle sales, machinery sales or wholesale its one for 400 sq. ft. of gross floor. If its an office, a bank or a public administration building its one for 400 sq. ft. of the gross floor area. Now if its manufacturing or warehousing, it's one for each employee on the maximum working shift plus one for each vehicle used to conduct the business of enterprise, ok so now we really haven't hit the fact that it is a club as far as

I'm concerned. Now churches, theatres, auditoriums and other places of assembly, to me we're getting in the ball park now. One for five seating spaces, one parking spot for five seating spaces, one for each structure over a hundred thousand square feet of gross floor area so

Perzee: One per what, read that again

Dubuque: Okay, for the off-street loading and unloading spaces which shall be provided for the churches, theatres, auditoriums and other places of assembly, number of parking spaces is one for five seating spaces and then the loading, off-street loading and unloading spaces which shall be provided is one for each structure over a hundred thousand square feet of gross floor area. I have no idea what all that just

Beherns: So if anyone of the two buildings if a hundred thousand square feet or more he'd have to provided loading and unloading, is that the way?

Dubuque: That's what it looks like. He has to provide at least one loading space

Beherns: For anyone of those two buildings over a hundred thousand. I'm not trying to find reasons why he can build the building; I'm trying to find what I can stop him from building a building and you've not provided that

Dubuque: I'm just trying to explain what the ordinance is and why we're having difficulty with it because I don't have any idea how many club members he has, if he has twelve club members then I'm saying you have to have two parking spots, two and a half

Perzee: I don't think we can have half a parking spot

Dubuque: Right

Mathy: How many club members do you have Walter?

Dampf: Well there's different chapters, but out of this club house they switch different chapters so it goes up and down, you know we can have anywhere from a half dozen to a dozen

Perzee: So you're not just ?????? are you

Dampf: No

Perzee: So if we gave him, if he got four parking spots, I think you're covered

Beherns: I think you guys agree we're working through the issues, right

?: Trying to

Beherns: Okay, you agree with that. It's not the way you wanted to start out, I understand that but we're working through with your concerns

Emme: Well I'm concerned we're not going to be able to get the trucks in, ???????

Beherns: What's the requirement on the delivery distance from the truck to the back door, I'm sure there's something that states that

Emme: ??

Beherns: What is the delivery distance from where the truck delivers to the access point of the building surely there's a distance there that you cannot exceed as a business.

Emme: They've always backed to the door

Beherns: I Know but what is the requirement

Emme: I don't know, based on the ramp to the back, I don't know it have to be a really long ramp if we're going to do it from the alley

Beherns: Is it 10', is it 100', 5', I don't know

Emme: I don't know

Beherns: That would be a legitimate concern you have

Dubuque: If there was something and the delivery services were saying we are not going to carry it further than fifty feet then, that's just an example. I have no idea but that would give us something to say okay he needs to be able to back in x number of feet, right? Is that where you're coming from. But that is still going to be something that is a civil situation and not for the board

Emme: But if he closes us up, you're taking away our easement that we've had historically fifty years

Dubuque: We're not taking it away

multiple speaking

Dampf: And he hasn't had the easement for fifty years, he just bought the place two years ago

Emme: Historically it goes with that property

Dubuque: They just have to show that it's been there for over twenty one years

Dampf: That's hearsay

Dubuque: It doesn't matter who owns the building

Dampf: It's hearsay

Donahue: That's for a judge to determine Mr. Dampf

Dubuque: That's where the judge will determine

Emme: Well if Kaluzny came in with their smallest truck to pump out our waste oil from the fryers and that and they said they would not be able to bring their truck up, that was the smallest truck, they usually bring a large truck with a semi, but that truck would not make it back there

Beherns: ??? closer to the alley

Emme: No we could put it on the fire department. Like I said before once they move out from that sidewalk and put the dumpster ??? we can't get around

Dampf: Now he's worried about my property

Emme: ?????

Beherns: You both have extremely legitimate concerns it's just a matter of how do we handle it to make sure that everybody's covered especially ??? we're trying to make it work by our ordinances and by law and what our attorney tells us. You guys need to make sure you're covered by your attorney and see what you can work out with your neighbors and I think the way I understand it, basically what I feel is you're asking us to stop this building for various reasons that worked through minus the dumpster issue and the water issue which I still have questions about that.

Emme: Well the water issue, I was here two years ago to complain or to file an argument or whatever and nothings been done for two years

Beherns: That goes back to my question at the last meeting Steve, what have you done to help it

Emme: Well if you look at my plat of survey there, we have about 4 inches between the building and the property line and the concrete, the walkway between the two buildings. I'm going to guess ??? because the building doesn't even set square, it's a little wider as you get back to the alley ??? what needs to be done is to put a ??? tile down below the foundation, fill with clean fill, let the water go in there and pump it out but there's nowhere to pump it

Beherns: The board agreed that we would pursue the issue of drainage for the entire block not just one building

Perzee: Another question, more for the fire department – if we were to give him the permit to build his building 25 x 60' wherever they see fit to put on their property as long as they are within our ordinances and that covers your door, would you guys talk to your attorney to see stopping him from putting up that building.

Adams: Without a board meeting we really can't

Perzee: What is your guys thoughts on that, is that something – clearly if we give him this permit, Steve is going to talk to his attorney and get – I mean clearly we now that. Is that something you guys would entertain, discuss it

Adams: We'd talk with our attorney and see what it would cost, what our potential outcome

Perzee: Okay, if we grant him any kind of building permit you're going to go to a meeting or lawyer and try to get this stopped, correct?

Emme: I've got his cell phone number, he'd stop it in two hours

Perzee: Okay, I'd like to make a motion to go into executive session

Beherns; Second

Perzee: Please don't go anywhere guys, last time you all scattered

Emme: It was a long time

Perzee: We're here trying to work this out for you guys, Stick around I'll come out and get you

Emme: How long will that be, twenty minutes, longer?

Perzee I don't know, it could, hopefully five, I don't know And Dale would stick around also please

Roll Call – Motion carried to go into executive session at 8:31 pm

In regular session at 8:31 pm

Donahue: The board has decided what you're going to do is you are going to submit an application for permit, okay, step one okay, your original \$90 check which is being returned to you at this time and you will resubmit it at the time that you submit your application. We're going to ask you to provide a blueprint, okay and the blueprint shall show four parking spaces inside or outside. These are the basic requirements for a permit okay but the specifications we would like when the application comes back to Dale is the blueprint to scale okay and that inside of that blueprint reflected on that blueprint will be four parking places inside or outside okay. Then what you do is submit it to Dale and Dale has the authority to issue a permit then provided all those requirements are met.

Dampf: Okay

Perzee: And all the requirements are highlighted in there for you. I'm sure your guy has Dales number

Dampf: Like I said, I'll hand it over to him and let him get in touch with Dale I guess and they can sit down and hash it over what they need

Beherns: (Directed to the Clerk) You will put drainage on the next agenda please

Dampf: Do I need, oh okay I see it, I've already got that all right

Dubuque: So that way – there is nothing different than new building that's been put up in the village. It's got all the drawings and whatever Dale needs

Dampf: I'll just hand it over to the contractor – that's what I pay him for

Dubuque: Okay

Donahue: Don't let him drop the ball, make sure that he follows that okay because Dales holding the keys on this thing and he knows that the board gives him the authority to do it only if all the requirements are met, but it's up to him, the requirements

Dampf: All right, I'll get on it right away you know if not tonight, tomorrow. Am I finished here?

Dubuque: Board?

I think so

Dampf: All right, thank you very much

Emme: Well the board doesn't have to meet on anymore

Dubuque: No

Perzee: No as long as he meets all the requirements and the ordinances

Adams: How will we be informed if he's gotten this building permit

Perzee: he's got to post it on his property before he starts building or he can contact the village office

Emme: The village will be notified the same day or the same hour

Prairie: Well once the permit is issued, Trudie will have a copy of everything he commits to us and the permit is issued. You can check with Trudie or watch the building cause he has to post it in visible sight in front of the building

Emme: I guess my concern is he goes in and starts scratching off that back and pours cement or something back there

Prairie: Well the permit has to be visible so if you keep an eye on the front of the building

Emme: I would like to know the day and the hour that his permits issued so I can transmit it to our attorney.

Prairie: You'll just have to keep checking with Trudie

Kuntz: We can't legally call anybody and tell them right? That's not our place

Donahue: Not really no

Beherns: As long as the permit gets posted so that everybody knows its been issued. Once it's been issued you do what you want

Adams: Where will you be posting at?

Perzee: He has to post it on his property

Prairie: He has to post it on his property for anybody to see

Emme: ?? building in Kankakee, this is required

multiple speaking

Perzee: Is there a law that says we can't let him know?

Donahue: No there isn't

Dubuque: There isn't a law that says we can't let you know, there is nothing stopping you from presenting Trudie with a FOIA freedom of information act for that permit so that when that permit comes to be public knowledge that you would get a copy of that permit

Trudie Imhauser: Well FOIA you have to respond to in five days so if there's more days involved – Can I just call him?

Perzee: Yes is there anything that says Dale as soon as you get the permit let Trudie know right away that you're giving him this permit

Prairie: She would know because I always come up here

Perzee: Okay Trudie you can call Steve and call the fire department. Jay do you want the phone call?

Hansen: Yes

Perzee: Okay call Jay

Imhauser: Okay Jay's going to get the phone call and Steve's going to get the phone call

Emme: Can I give you my cell phone number?

Imhauser: I think I have it but give that to me

Emme: 815-405-7020

Prairie: The building is supposed to be for cold storage, it's not supposed to be, I mean that's what he's submitting it as. He says maybe later on he might change the usage.

Donahue: That's a whole other issue

Prairie: Right, but for right now its just cold storage

Dubuque: Okay are we done with that issue? I would entertain a motion to have Brian come down and take a look at the drainage situation for that area to get started with that. Regardless of whether that building goes in or doesn't go in, whatever there's a problem there that we should address.

(Verbatim stopped)

A motion by Trustee Mathy, second by Trustee Perzee to have Brian come down and address the drainage issue. Vote: 6 yes

President Dubuque requested permission from the fire department and Steve Emme to go into their building and run a wire through the drainage to see if we can figure out where it's going. Both advised it was okay to enter the building.

Employee Compensation: Board discussed employee compensations. A motion by Trustee Mathy, second by Trustee LaReau to give James Smith \$1.00/hour increase, Don Brave \$.50/hour increase and Trudie Imhauser \$1.00/hour increase effective May 1, 2015. Vote: 6 yes

Trash Recycling Containers: Board members reviewed the amendment to the garbage recycling container ordinance. A motion by Trustee Beherns, second by Trustee Snyder to adopt **Ordinance #15.02**, an ordinance amending Article II Chapter 13 Section 201 regulating use of garbage receptacles within the Village of Chebanse. Vote: 6 yes

Clerk/Treasurer/Water Billing Job: President Dubuque advised that he has one candidate, Cheryl Robbins, however, has not spoken to her recently. Board members discussed the candidate, the hours and the pay. A motion by Trustee Kuntz to accept Mayor Dubuque's recommendation for town clerk Cheryl Robbins at \$12.00/hour for 40 hours. Motion removed for failure to get a second. Further discussion on the number of hours, 35 or 40. A motion by Trustee Perzee to place an ad in the paper for a 35 hour/week clerk at \$12.00/hour. Motion removed for failure to get a second. Trustee Mathy suggested that President Dubuque ask Cheryl Robbins to be at the next board meeting so that board members can meet her and if they have any questions they can ask at that time and also ask at that time if she is interested in 35 or 40 hours. A motion by Trustee Kuntz, second by Trustee LaReau that if Cheryl Robbins turns President Dubuque down that he goes forward with an ad in the paper as soon as possible. Vote: 1 present, 5 yes Clarification of the number of hours if Cheryl Robbins says she is no longer interested in either 35 or 40, then move forward with the ad in the paper. If she says she is still interested than do not move forward with the ad in the paper.

Committee:

Streets/Alleys: Trustee Snyder advised he spoke to Brian Hertz/MG2A who indicated he is still looking to see if the sidewalks/safe routes to school is still available.

Officers:

Clerk: Clerk Imhauser reminded that economic interest statements are still needed for Trustees Beherns and LaReau. May 1st is the deadline.

Also a representative from Tom Bennett's office will hold traveling office hours here on May 4th from 10 to 11.

New Business:

Liquor License Permits: Clerk Imhauser advised that all information has been received. A motion by Trustee Mathy, second by Trustee LaReau to approve Class A Liquor Licenses for the Bar T Saloon DBA County Line Saloon and the Uptown Grille. Vote: 6 YES

Turn A Round Resolution: Board members reviewed the turnaround resolution for review and passage. A recommendation from President Dubuque to remove language from the resolution regarding "whereas, updating how injuries are apportioned to ensure employers pay for injuries" be removed from the resolution. A motion by Trustee Beherns, second by Trustee Kuntz to approve the Resolution in Support of the "Turnaround Agenda" for Local Government Empowerment and Reform striking the ninth whereas updating how injuries are apportioned striking the ninth out of the twelve whereas. Vote: 6 yes

Community Work: Nothing to report

Possession of Marijuana: President Dubuque asked board members to think about – there has been talk about state legislators wanting to be more lenient with marijuana possession. We can be more strict but not less strict than the State. Subject is tabled to the May 4, 2015 meeting.

Boy Scouts: Board members discussed a donation to the Boy Scouts for camp. No more information has been received from them and we previously discussed providing them with other organization names to also contact. Board will wait to hear from them.

Camp 911: A motion by Trustee Mathy, second by Trustee Perzee to donate \$150.00 to Camp 911. Vote: 6 yes

Floor Cleaning: A motion by Trustee Perzee, second by Trustee Beherns to get the floors in the village hall with Norgaard at \$170.00. Vote: 6 yes

Mosquito Spray: A motion by Trustee Mathy, second by Trustee Kuntz to approve two cases with a cap of \$500.00. Vote: 6 yes

Poppy Day Sales: A motion by Trustee Mathy, second by Trustee Snyder to approve the Legion to do the Poppy Day sales on May 16th 8 to 12 on whichever corner they see fit in the Village. Vote: 6 yes

Flowers for Pots: A motion by Trustee Perzee, second by Trustee Kuntz to purchase flowers for the pots around the Village with a cap of \$300.00. Vote: 6 yes

Hydrant: President Dubuque advised that the fire hydrant near Zion Lutheran does not have a Storz fitting and the cost is \$171.00 A motion by Trustee Perzee, second by Trustee Mathy to buy Storz for the hydrant on Walnut with a cap of \$200.00. Vote: 6 yes Trustee Kuntz asked if this could be appropriated every year to be able to get all hydrants updated. President Dubuque advised he is working on a grant to move forward with this.

Communications: President Dubuque advised:

- Letter from Deck & Baron/Attorney regarding a distribution of a bequest on behalf of Audrey Spies in the amount of \$2,500.00 for the Civic Center. Trustee Perzee asked board members to think about what to do with the funds in memory of Audrey Spies. Subject will be placed on the agenda for May 4th.
- Central Stars Golf Outing is May 16th and any help that can be given would be appreciated. Subject will be placed on the May 4th agenda
- Trustee Mathy thanked the American Legion for the Easter Egg Hunt
- Trustee Kuntz complimented the Pool Cover business on the building/grounds and how nice it looks

Public Comment: None

A motion by Trustee Beherns, second by Trustee Perzee to adjourn the Regular Meeting of the Board of Trustees for the Village of Chebanse at 9:45 p.m.

Minutes of the April 20, 2015 Regular meeting of the Board of Trustees for the Village of Chebanse respectfully submitted by Clerk Trudie Imhauser.

_____Trudie Imhauser_____ Signed ___5-4-15_____ Date