

**VILLAGE OF CHEBANSE  
REGULAR MEETING, 7 PM  
275 S. OAK ST.  
APRIL 6, 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, LaReau, Mathy, Perzee and Snyder. President Dubuque and Clerk Imhauser  
                  **Absent:** Trustee Kuntz  
                  **Others:** James Smith/ Maintenance, and Attorney Michael Donahue. Brian Hertz/MG2A, Walter Dampf, Bill Brannon, Steve Emme, Larry Brave, Marie Emme, Bill Surprenant, Jay Hansen, Rick Adams.

The pledge of allegiance was recited.

**Regular Minutes:** Motion by Trustee Beherns second by Trustee Perzee to accept the regular meeting minutes for March 16, 2015. Vote: 5 yes, 1 absent

**Executive Minutes:** Motion by Trustee Mathy, second by Trustee Beherns to accept the executive session meeting minutes for March 16, 2015. Vote: 5 yes, 1 absent

**Treasurers Report:** Motion by Trustee Perzee, second by Trustee Snyder to accept the Treasurers Report for March 17th to April 6, 2015. Vote: 5 yes, 1 absent

**CD #200562:** Motion by Trustee Snyder, second by Trustee Beherns to renew CD #200562 for 15 months at .40%. Vote: 5 yes, 1 absent

**Bill Statement:** Motion by Trustee Snyder, second by Trustee Beherns to pay the bills dated April 6, 2015. Vote: 5 yes, 1 absent

President Dubuque asked to move ahead on the agenda.

**Unfinished Business:**

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

President Dubuque: All the parties involved are here. I had a meeting with Steve Emme on Wednesday and he brought it to my attention that there, is it okay if I read this letter from the Attorney. Steve Emme acknowledged yes. "Steve as promised I had one of our associate attorneys do a bit of legal research regarding the easement question. (Because at the previous meeting there was a question that he brought up, or a comment that he brought up about the easement over there on that property.) As I anticipated, the village attorney is wrong (but in Michaels defense he had no time to look up this case or anything) on the law regarding whether the time of adverse access can be assembled from use by more than one user so long as their adverse use is open and notorious, continuous (even a one-day break destroys the assumption) and linked by contract or otherwise. So the upshot is that if you owned the restaurant (and used the neighbor's back yard) for 3 years and the guy you bought it from owned the restaurant (and used the neighbor's back yard) for 18 years, you have 21 years of "easement by prescription" (akin to adverse possession). Tell the Village attorney to check out *Page v. Bloom*, 223 ILL. App. 3d 18 (5<sup>th</sup> Dist. 1991) (holding that an easement by prescription existed where the claimant had only owned the land for a matter of months but easement in question had been successively used by previous owners of the land for more than 20 years), and

scores of similar cases from around the state, all to the same effect.” Steve have you had any more conversations with Mr. Dampf about this?

Steve Emme: He stopped by the car lot last Friday and we talked for forty minutes. ????? It keeps listing cases throughout. It’s not like it happened just one time.

???: Were you able to ??? at all. I mean

Attorney Donahue: The first thing I want to say Steve is that these principles, talking about prescriptive easements. This is law school stuff okay and it doesn’t come up very often in the law. You might have fifteen cases and I researched all of them, but that was over a period of like thirty years. So in the overall picture under the law it’s not something that comes up every day, ok. When you and I had our conversation, ok we were talking about adverse possession which is different than prescriptive easement which Mr. Dampf. When you first proposed it to him because he wasn’t absolutely familiar with the law school stuff he passed on to one of his associates and that’s what you do when you’ve got a big ??? you do all the research, the associate did a good job. And I agree, I agree that if push comes to shove and you come into a conflict with the folks that want to put the building on the property that if you can prove it, ok you would have a prescriptive easement that would be in conflict with them putting the building up. But that would be between you and the owners of the property putting the building up.

Steve Emme: And nothing to do with the Village

Donahue: Pardon

Emme: Nothing to do with the Village

Donahue: Nothing to do with the Village, correct. Another issue

Trustee Perzee: Now is there anything that says it has to be 20’, 10’, 9’, he can’t do anything with the property. Is there anything that – at what point is an attorney or a judge going to look at this

Donahue: Here’s what would happen in my opinion. Steve’s attorney could go into court and try to prevent this from happening based on saying to the judge we have a prescriptive easement and he will violate our easement if he puts a building there. That’s the logistics of it.

Contractor Brannon: What about parking a bunch of vehicles on the back of his property?

Donahue: Same thing – could be the same thing.

Donahue: Whose parking the vehicles on the property?

Brannon: I’m saying if my customer, Mr. Dampf is restricted not to be able to build a building on his own property that he’s owned for seven years

Donahue: I’m not saying he can’t – a judge would have to rule that he couldn’t because anybody that’s trying to prevent him from doing it, any private entity trying to not let him do it would have to prove it in court that they have a prescriptive easement which would be interfering with them trying to put the building up.

Brannon: But according to my conversation with Mr. Dampf with his conversation with Uptown, when he bought Uptown (Russ & Rosie's) he bought the rights to use his property. And my first question to Walter was did Walter receive a check for Uptown or Russ & Rosie's using his property over the course

Donahue: The issue under prescriptive easement is has to be done, it can't be Mr. Dampfs owns the property - the prospective building is going up on is Mr. Dampfs, is that correct?

?? Yes

Donahue: Okay if Mr. Dampf never gave permission ok, yet this has been going on for a long time, ok, going on from Steve and the prior owner ok, across the property for more than twenty years, he did not get permission but it's been going on and he knows it's been going on ok, then they technically have an argument under the law to prevent them from putting up a building. But that all has to be determined and brought before a judge. Both sides have positions.

Walter Dampf: Excuse me, did the Village ?? 10' from my property line there is an easement that they provided so he could ??? Didn't the Village already do that?

Donahue: That is a public utility easement.

Dubuque: That is a public utility easement.

Dampf: So he does have an easement so his delivers and stuff can get made.

Dubuque: That's a public utility easement, its not anything to do with the easement between Steve and yourself. That's for

Dampf: Well yah right, Village easement, is that correct?

Dubuque: Its strictly for the upkeep of that sewer.

Dampf: Alright on the sewer issue, he uh about the sewer being so close to my property line. He says if they have repair work to do that it would stop the usage of his sewer where it's located now and I told him that the sewer got placed where it is by mistake. Is that correct?

Dubuque: It was placed in the easement, the contractor placed it within the easement but they placed it further south in, not in the center of the easement but to the south of the easement. Right now what the conflict is, is the fact that Mr. Emme is saying that he has an easement going through your property in order for him to get his deliveries and the garbage pickup and everything.

Brannon: I believe the garbage pickup and everything else uses the city's utility easement more so than Mr. Dampfs.

Dubuque: They drive across the whole back side of that lot from the ruts and everything that I've seen in the picture, they drive across the whole back side of the lot.

Donahue: Your concern right now is with the Village giving you permission to; Mr. Emme could interfere with this thing. But as of right now, the issue in front of us is between what you want to do and what the Village is going to approve.

Dampf: The Village already gave us permission to build a building if we would build it closer to my other building, you know but I can't do that.

Brannon: Just based on the garage door

Dampf: The location

Brannon: That was put in 3-4 years ago by the Otto Township Fire Department which they can't access that door without going over my customer's property. And, uh according to Todd by previous issues with most municipalities any commercial properties can utilize 100% of the existing footprint of the property, except Mr. Dampf cannot

Donahue – Whoa, as a starting principle you are correct but with all these other issues come in

Dampf: Nothing prevents us from putting up a fence he says, if that's what

Dubuque: Yes it is right now. Right now you have an issue between yourself and Mr

Dampf: ??? court order and I can't do that ??? so right now I have nothing.

Dubuque: We're not going to issue a permit for you to build a fence

Dampf: Oh I need a permit to build a fence

Dubuque: Yes, you need a permit to build a fence, you need a permit to build your building

Brannon: So the way I see it we can park trailers and used vehicles in the back of the property until we get this resolved and there's no, we don't need a permit to park trailers, license vehicles back there, do we?

Trustee Perzee: Well you don't but, we're not trying to be horses asses here, we're trying to work it out. To me that right there is you being a horse's ass. If you start parking things back there just to do that now. The conversation we had the other day is me and I represent the board, I don't speak for the board, but I was up there representing all of us. We're trying to make all these parties happy, we're trying to make the Fire Department happy, Steve happy and you happy

Dampf: Did the Fire Department get a permit to put them doors in?

Dubuque: They got permits

Perzee: I don't know, I didn't write that permit. I don't know I'm sure Dale gave you guys a permit.

Dampf: ??? prior to them putting the doors in.

Perzee: I'm sure that it was, I don't know I didn't do the inspection of them.

Brannon: No one contacted Mr. Dampf to see if the Fire Department to see if its okay with him to utilize his property

Dampf: That's what I'm saying At the time of inspection didn't they realize they would have to trespass on my property?

Perzee: Maybe the Fire Department only had intentions to walk through that

Dampf: Well if they walk through the door, what's the difference now

Dubuque: What we're trying to explain is the fact that there has been using that area back there, be it the people that owned Russ & Rosie's or the people that own Uptown Grille or the people that owned the body shop have been using that area for loading and unloading

Dampf: ?????????? using it, like I said I never seen no truck like that but I'm not there 24 7 you know so they have to be getting in there and out of there when I don't notice, you know

Dubuque: It's been going on longer than what you've owned the building, ever since that building has been there.

Dampf: What I'm saying when we inquired about, is there any stipulations, restrictions on building a building we were told there were no restrictions, we could use 100% of our property to put the building anywhere we want.

Dubuque: Because at that time we did not know about these other court cases that have come up

Dampf: Well that's what we were going by at that time. ?????? come up and the Fire Department is trespassing on my property if they use that door but your saying that their intent was to only use that door as a walk in but now they want to drive across

Perzee: I never said that was their intent, I was just saying that it could have been

Marie Emme: I think the Fire Department has an easement back there

Dubuque: They own eleven

Emme: ??? told us that there is an easement from that building ten feet over I think it is

???

Dampf: they're saying ten feet is not enough that they want more

Emme: I thought you said that they couldn't come off the building of the Fire department into your property.

Dampf: Well its my property, its ten, uh the general easement ten feet off of the fire department

Emme: From the sidewalk

Dampf: ????? say twelve feet

Emme: No No Larry's got the paperwork

Dubuque: They own the property twelve feet off the sidewalk. The Village has a utility easement partially in that twelve feet and partially on Mr. Dampf's property. What we're discussing tonight is the fact that Steve brought up, brought it to my attention that there have been cases in the past where

because people have continually used the persons property to gain access for loading or for unloading trucks and getting the garbage out and everything like that, that there is a prescribed easement there in order for them to get in and out of their building. There are a number of things that we didn't look at that have come up since this all started because this particular case with the easement situation between Steve and Mr. Dampf is one, another one is an ordinance that we have that says if there is parking there in a commercial area currently that you can't take away the parking in order to add a new building. You have to have so much parking for so many, it's in the ordinance as far as the parking for so many people that are in the building or so many square feet. It's all described in the ordinance as far as what the building is used for.

Dampf: Well if that's so, how come the body shop uses 100% of its property and the only parking in front of it is public parking. If that's what you're saying then, I've got to provide parking for so many vehicles, the body shop covers their property line 100%

Dubuque: Right

Dampf: The only parking provided is the public parking in front

Dubuque: There's public parking in front and they have an arrangement, very similar to what there folks that are parking there are parking over on another person's property through an arrangement between the fire department and then that other person.

Dampf: But that's not the lot, so because they arrange parking somewhere else is a different location. That's not the lot saying hey I've got to provide so much parking.

Dubuque: They park all of their vehicles inside. The Fire Department, there ambulance is inside

Dampf: What about the workers, the employees

Dubuque: I just said they have an agreement with the land owner next door

Dampf: You said that they have to provide so many spaces for parking for employees, that's what you said.

??? And they do

Dubuque: They do, they went

Dampf: It's a different location, its not on their property line, it's a different location that provides

Trustee Beherns: I think what he's saying is why does he have to provide parking on his property for someone else. I think is what he's asking

Dubuque: I'm not saying that he has to provide it for somebody else. He has to provide parking for the people that are going in and out of his building. Based on the ordinance

Beherns: Where does the Uptown Grille provide parking for, for their customers

Steve Emme: Municipal parking

Dubuque: Municipal parking and Alessandro parks in the back. I'm just saying that every time something comes in you have to start looking at the whole situation and so the more we study what's going on the more you find out about it. But currently my issue is I don't want, it would be my recommendation not to issue any permits until the situation – I see some paperwork from a court saying Steve either has an easement or doesn't have an easement back there so that we can get that out of the way.

Dampf: I would consider that special treatment because I would say issuing my permit, if there's an issue on it, let Steve go to court and stop it.

Steve Emme: We're fine with just the way it's been for sixty years. If you want to go to court and try to break the easement we have

Dampf: Well that's what I'm saying but I want, I would want the permit to construct the rest of my building. I'm not asking no more than anyone else that owns property in town. As long as I'm violating no zoning laws or anything

Perzee: Michael, we can't tell someone or not give him a permit because he might bring him to court, can we?

Donahue: absolutely right, absolutely right.

Perzee: Okay

Donahue: The issue, Mr. Dampf, the reason the issue came up at all is because that would be an issue you would have to deal with if this building goes up, then, okay. As to whether the Village has another basis to deny you the permit on the building, that's a separate issue. This came up, Steve brought this issue up and it's good from your perspective that this came out for informational purposes, okay because his attorney if he proves his case is going to court to stop, even if we issue the permit, to stop you from putting that building up.

???

Perzee: Could that building get up and then could the judge tell them to take the building down?

Donahue: chances are what would happen is rather than telling him to take the building down, I think the attorney would move fast immediately, because after a while when ?? sitting on your hands, the guys putting the building up and now you try to make a complaint. No the right thing to do would be for his attorney to move immediately if he so chooses. And if he thinks he can make a case, a prescriptive easement. ?? applies to anyone else coming across that property that thinks over the years they have also had prescriptive easement on it, they could also go into court and say we've been doing this for years and now this guy wants to put a building up. So for informational purposes, Mr. Dampf – that's important for you to know. Now the issue is to whether or not the Village could deny you a permit based on those grounds, in my opinion, absolutely not. The issue is that the Village might have some other issue that will affect, houses, safety and welfare of the Village to deny you a permit that's a whole other issue as to whether the Village has that or not. I believe we might have some additional information by way of engineering studies, possibly that may bring another issue to light here. Is that correct Mr. Mayor?

Dubuque: Greg had sent me up the information and I think everyone has a copy of it concerning the water run off and whether or not, how that would affect the area around it.

Brannon: I'm not a contracted engineer and don't know that much about drainage but I do know when the rain comes down, it comes down on the ground whether its flat ground or metal roof with gutters, the water is still coming down in the same footprint area of the roof.

Beherns: But the issue is when you condense it into a single downspout or numerous downspouts you condense that volume into a certain location.

?? Okay

Perzee: By putting the building there it can't soak into the ground there (multiple speaking) in the alley

Beherns: so there is a concern

Perzee: I have no clue what any of this means but is it bad? I guess I defer to Adam with this

A copy of information from Greg Gustafson of Berns, Clancy & Associates was provided to Brian Hertz/MG2A

Trustee Mathy: I don't know what it means either

Brian Hertz/Engineer: Yes what they did was a pretty simple calculation for drainage. There just showing that there is an increase because of the change in the use. Like Trustee Snyder said it can't infiltrate into the ground because it's from a roof, or from a gravel lot or whatever. So he's showing that there's an increase rate of runoff which

Perzee: But do you read that as, oh man this is terrible or

Hertz: I mean its double (multiple speaking) It's all a matter of ??? If you look at the 24 x 30', I guess that's about the size that you're talking about. (Can't make it out) Okay, 24' x 60' its all a matter of comparison. What the issue comes down to its all related to storm water detention and why you provide storm water detention on developments is for improvements. If the water runs off the property quicker the ??? to infiltrate. So a simple analogy is if you took a gutter and hung a bucket at the end of the gutter, that bucket is going to collect that water and drill a hole in the bucket, it will run out at the rate that was closer than what it did before. Storage there ???

Perzee: Well I guess so everyone knows where I personally stand. Again I want to make it to where every party can live with what the other party is doing. And it sounds like we can't now. I don't know your not happy about something, I don't know about the fire department. I thought the fire department was going to be satisfied if we gave them the room by the impression from our last meeting. I don't know if you guys were excited about a building but we were going to make it so you guys could live with the building. Steve I know you weren't excited about having only whatever we talked about, 14 to 16 foot, workable but you weren't excited about that

Steve Emme ?????? (train going through)

Beherns: ?????????????? (train going through)

Steve Emme: ??????

Brannon: ???????? downtown Chicago, no place to park

Steve Emme: ??????????

Perzee: You weren't happy about the building going up, but it sounded like you were going to

Steve Emme: well you were talking about 17 feet but since then I went and looked and the sidewalk ???

multiple speaking

Perzee: ?? corner of the building and then you guys aren't satisfied, is there something you guys weren't satisfied with

Dampf: well you said earlier they built that door for a walk in door. Now (multiple speaking)

Perzee: I said they put an overhead door, there intention might have been just a walk through. They have

Dampf: Well like I said it wasn't ????????

Perzee: But really, I get what you're saying but that happened years ago, its there. My point is, is there something you not satisfied about, the 24 x 60 that we discussed, you had to push it up against your building. Is there something you're not satisfied with.

Dampf: ??? If I push it up against the building it gives me three feet, so to make a patio area

Brannon: And to have a smoking area

Dampf: And I decide to sell the building in the future for maybe a bar or a restaurant, their going to have a patio area to use for smoking or for whatever they use ??????????. We're only adding 60', I still have twenty feet that I still have to deal with.

Perzee: Speaking personally for myself, I have no offense to Steve, to me I don't care how much he crows Steve with deliveries because they can deliver elsewhere. My major concern is the Fire department, that is public safety, I will do everything I can to make their life easier

Dampf: Why ain't they using the door right now, can you explain it

Perzee: No I can't, I can't speak for the Fire Department.

Dampf: The only thing on the other side of that door is construction material. There's no vehicle, for the last two years, there's no vehicle, there's lumber

Brannon: Mr. Dampf did question them while they were putting that door in as to why they are putting the door in because he knew where his property line was. And they basically said for storage, at that time.

Bill Surprenant/Fire Department: No we were never approached. I don't have any record of that. We were never approached. That was put to house smaller vehicles from the get go. It was never been as a walk in door

Dampf: At that time did you know that you would have to trespass on my property to get that vehicle in?

Surprenant: That's never been brought to our attention. Again, we had the permit to put it in there. They knew what it was there for. It's not a walk up door. It's an overhead vehicle door and we were never approached by you or anyone else about what it was used for or restrictions.

Dampf: Was, when did you put a door on the west side where you could get a door to get your vehicles in or out.

multiple speaking

Dampf: okay why couldn't you make you door wider so you wouldn't have to trespass on my property.

Surprenant: There's a stair well on the other side of the door. And we house our ambulance personnel there also.

Dampf: When you bought the property that wasn't in there.

Surprenant: When we bought the property we remodeled the entire thing as it is now, we didn't build it in phases. It's never been approached by us or anything else, we never had concern question or

Dampf & Brannon: ??????????????

Dampf: Yes they said that's all it's going to be used for.

Surprenant: The contractor knew exactly what it was for. That's the one, either him or us should have been addressed not the laborer or whatever.

Dampf: Well even so you believe that trespassing on my property is okay right

Surprenant: No I'm not arguing, that's not a point that I need to address

Steve Emme: Todd I would like to point out while I was sitting here that if he was going to sell his property he couldn't sell it with the building to close or whatever. When we bought our property about the easement, how were we going to and I drew a little picture there for you on the as built.

Perzee: Yes I see it

Steve Emme: That's approximately the easement that we have there. It's not to scale, that's what we have and that's how it crosses the property. It's been going on for over twenty years and this is what we bought so if you're going to take this away from us now, we have no access

Multiple speaking

Trustee Mathy: For clarification, who are you? Are you his contractor?

Brannon: I'm his contractor

Mathy: Are you part of the club to, or

Brannon: No

Perzee: I guess as far as I, we tried or I tried to make all parties agree, although I don't believe that all of you were 100% happy with the agreement, but we were all going to live with the agreement and now it sounds to me like we can't all be happy so as far as I'm concerned, I'm kind of done and you're talking to an attorney, you're talking to an attorney, we have an attorney. It sounds to me that this is attorney stuff now, so I believe the village done, we've done everything that we possibly could to try to make all parties happy and lets all be good neighbors and it doesn't sound like we can do that so as far as I'm concerned

Brannon: But as before can we get the permit and let the court fight it out.

Dubuque: According to the parking and loading ordinance that's in our Ordinance book 4.2.3, existing parking and loading facilities, accessory off-street parking or loading facilities which were in existence on the effective date of this ordinance which was 1992, or were provided voluntarily after such effective date, shall not hereafter be reduced below, or if already less than, shall not further be reduced below the requirements of this ordinance for a similar new building or use. So that area has been for I don't know how many years been used for parking, existing parking and loading not only from Steve's building but from the building when it was a store when the previous owners had it so you'd have to get a variance from this ordinance in order to change and allow the permit to go.

Dampf: My property is his parking lot, is that what you're telling me?

Dubuque: No your property has been used previously as a parking lot for that store, for your motorcycle club for various things.

Dampf: Its our own personal parking

Dubuque: Its been used for a parking lot. In the event

Dampf: Yah but, not their parking. I park

Brannon: Before you had the building

Dubuque: even – before you had the building and even when you bought the building for the last eight years, nine years however long you've owned that building that was a parking lot and a loading area and before you owned the building it was a parking lot and loading area. When this ordinance was put into place it was a parking lot and a loading area. And this ordinance tells me that the existing parking and loading facilities, accessory off-street parking which is what that is or loading facilities which is what that has been which were in existence on the effective date of this ordinance or were provided voluntarily and all the people previously and yourself have voluntarily provided that as a parking lot. After such effective date shall not hereafter be reduced below or if already less than shall not further be reduced below the requirements of this ordinance for a similar new building or use. Am I reading that any other way?

Perzee: Did you read that Michael?

Donahue: This was just brought to my attention, I haven't had a chance to really delve into it. It sounds to me though is that new building goes up, okay you've got to have parking spaces.

Perzee: To what extent?

Donahue: That's what we're – it sounds like the parking spaces that have to be provided for that property when a new building goes up can't be less than what was initially provided for in the ordinance. That's what I'm interpreting what I'm seeing for the first time here.

Dampf: Well there'll be room for parking on the left side of my building if that's an issue because I'm not using 100% of the property. They just won't be able to park where I guess they want to park. They can park in the front of the building.

Brannon: There still will be ??? to the end of his property to the easement to the alleyway in the back.

Perzee: And there will still be fifteen, I don't remember

Multiple speaking

Perzee: Do you remember how many feet it was from the corner of the fire department to the, when we were out there, from the corner of the fire department to the end of where your building is going to be. Is it 17', 16'

Brannon: 16'

Perzee: Like 16' so technically we're not affecting your parking because you could still get two cars side by side

Steve Emme: Where is this at?

Perzee: Behind your

Steve Emme: We don't own any property behind – it belongs to the fire department. We've got maybe eight feet out the back door

multiple speaking

Donahue: Based on the history of the water problem in that area is the board familiar of the history of any water problems in that area or before we get to this issue of parking because that's another basis upon which this board if they decided to in the interest of the public welfare of this village, even if there was flooding there already that this building is going to significantly contribute to the flooding problem that may be a basis to deny the permit also. That's the first thing that I want to know, anybody that wants to testify to that, that's another issue before we even get to this parking issue which is

Beherns: I'll address the water issue. Has the fire department, Uptown Grille or even the community building, that entire building. Has any one of those three properties done anything to control the water issue

?: No

Surprenant: We haven't

Beherns: Has anyone done anything to control the water issue?

?: No

Steve Emme: We have not tried to add on

Beherns: That is how I address that issue

Donahue: Okay then we're done with that then

Beherns: In my opinion

Donahue: Okay

Mathy: When you say address it, Steve was at a meeting and I don't know how long ago. When did you come

Steve Emme: Last year

Mathy: Was it last year

Steve Emme: maybe it was two years ago

Mathy: – for verification purposes, it has been brought to our attention whenever that was that he had water problems back there.

???: We have moved downspouts and rerouted water to help avoid flooding

Beherns: If you have addressed your water issues, that's fine, I'm okay with that. But if you're telling me that you haven't over all these years, I have an issue with that

multiple speaking

Jay Hansen: ?? for assistance from the Village to grade that easement behind the building to get that water to run off in the right way

Beherns: So you're telling me that you're trying to address your water issue

Surprenant: Yes

Beherns: That's fine, Steve

Dubuque: Steve came to the board and asked us

Beherns: And at the time we determined that we couldn't do anything in the way of tile work and that there was some things that Steve could do on his property to eliminate some of his water issues. Have those been done?

multiple speaking

Beherns: downspouts, lift pumps

Steve Emme: we had one downspout

Beherns: that you added, that you changed

Steve Emme: we've only got one, ??? behind our building so we ?? run over to the fire department and they've got problems the old body shop building they've got water. So anything I do, the only thing I can do is run is to the edge

Surprenant: But he did talk to us, that was the reason we came to – so he did what he could do he came to us to help divert some of it from the fire station

Beherns: So you're working on a water issue

Surprenant: our water problems yes

Beherns: okay that's fine. Has the community building or anybody done anything that you know of

Mathy: with the question of that, I can remember as a matter of record Steve coming to the board whenever it was, a year, months or a year and a half. For us to be accurate, it was brought up at a board meeting, I was here and I heard it

Beherns: My point is that if measures haven't been taken over all these years, diverting a downspout ?? to try something. If the issue hasn't been attempted to be resolved over all these years, a 24 x 60' building in that area is not going

Steve Emme: If the water is running across ???

?: No its running west, the downspouts of that building would be running west to the alley

Beherns: I'm sure you guys understand my point.

Brannon: does not affect Uptown Grille totally one bit what so ever and the downspouts should be on the west of the alley it wouldn't affect the fire station at all

?: the problem is the water doesn't move from there and it does pond in that corner

Steve Emme: If we had like a 24' storm sewer ?????? that's what we need ???? the town putting in a detention pond, but that's not possible. The engineer that was here two weeks ago that said that, he admitted water problems and the first thing he came out with was ??? was going to put a retention pond in ????????

Beherns: For a 24 x 60' building

Emme: ???

Perzee: I don't know if that was correct

Emme: That was the first

Perzee: Well

Emme: he came up with several different things, that was the first thing

Perzee: I also remember that he said there's a possibility that this could help the water issue, that there is a possibility. He did say that. I mean I'm no water expert, but – does that sound unreasonable that

?: No he's talking about diverting the water to the west where it would go down the alley'

multiple speaking

Hertz: he's talking draining down the alley to wherever it needs to go

Perzee: he did mention retention pond, but I don't know where he

multiple speaking

Hertz: it was probably his first thought, that was the first thought I had to

multiple speaking

Emme: ? anything to the west – Jim Rohr is across the alley ??? along the side of the building ???

Dubuque: And that's why I just passed out this letter that we had received from Jim. I'll read it if the board wants me to. Dear Village Mayor and Trustees: I am writing to give our opinion on the proposed addition to or a separate building being discussed regarding the old variety store property between the community building and the Uptown Grill. First I have no ill feeling for the owner of this property, but I believe the decisions before the board should be based on affects of such additions. An addition will affect neighboring business properties. This property has always been a congested area for traffic in the rear of the building, the multiple additions to our fire district has added to this congestion, with this new addition the congestion would be much worse making it nearly impossible for the fire department and the Uptown Grill to operate, not to mention the affect it would have on the community building and our property because they own the property across the alley if developed in the future. We have been fighting storm water and drainage in this area for the past 30 years or so. This area has been dug up, cleaned and rerouted many times in the past. I believe to this day water still gets into both neighboring basements, and addition will not help this issue. Again, as a concerned citizen allow this addition for business that is neither non-tax producing, nor do they employ people of our community wouldn't benefit the village, but in fact create more headaches for the board. It doesn't make sense. I'm not certain what the use of this addition will be, but parking will create another issue, Thank you for your consideration, Jim Rohr, RR&S Enterprises & Ken's Truck Repair, Inc. So he has a concern with drainage also.

Perzee: But just to point out, he only has a concern if someone else builds on their property for drainage not for future development of his own property. I just wanted to point that out.

?: I don't think he said that

Perzee: Well he said, you're right he didn't, you are correct he didn't say that exactly but

Dubuque: There's already a foundation on his property that has been there for, I don't know, thirty years, actually longer than that but anyway. So adding a cement foundation isn't going to change the water runoff on his property.

Perzee: Not to mention the affect it would have on the community building and our property if developed in the future.

Beherns: Have you guys seen the scale of the building that is being proposed here, I mean in comparison to the entire block. We're talking about water runoff on that building and look at all the surrounding buildings. Please tell me we're not arguing this point.

Steve Emme: Its way to overbuilt isn't it

Beherns: The entire block,

Steve Emme: That's right it is

Beherns: okay so let's address the water issue as a whole block, not as somebody that wants to put up a building in comparison. Look at that, that's about the size of building we're talking about, look at that in comparison to the other building ?????

?: So if we get the water to run off properly

Beherns: ??? that would help solve a lot of issues with all ??

?: So lets get the water to run off now before we get another in there to create more of a problem

Beherns: Lets address it at the same time

????

Beherns: So the water issue is not an issue anymore, is that correct?

multiple speaking

Surprenant: No it is an issue take care of water issues in that ??

Beherns: What if the Village were to get a tile up the alley and then the property owners pipe through that tile

multiple speaking

Dubuque: Theres already tile there

?: I don't know what they are and don't know if they are completely open

Beherns: So what if we can reach an agreement to that

Surprenant: You going to reach that tonight?

Beherns: I'm saying look at the size of the building he wants to put up

Surprenant: That's a problem that already exists, right?

Beherns: You think that that water is seeping into that area where he wants to put the building to not already add to the water issue you already have.

multiple speaking

Steve Emme: ??????? service that building ??????????

Beherns: What have you done to change it? What have you done to try and change it?

Steve Emme: Not much we can do, what can we do?

Beherns: Have you called Perm seal. Have you rerouted, the outside sump pump. What have you done to change it?

Steve Emme: Well, that south wall, we're right up against his building, ???

Beherns: So there's nothing you can do to change it.

Steve Emme: Well we own one foot of it, I don't - there's nothing we can do that I can see to do

Beherns: I can give you some options

Steve Emme: Whats that

Beherns: Their costly – Call Permseal

Brannon: You've got a sump pump, an old foundation, it's got to be repaired from the outside. It has nothing to do with the ground itself

Steve Emme: We don't have any means to do it, we have one foot

Brannon: That's all it takes, you've got to excavate it out, reseal it, mortar up the holes on the inside and outside of it ????

Beherns: My point is that water ???? if you can convince me that putting that 24 x 60 building in comparison to the rest of buildings in the whole surrounding block that they have not tried to do anything to prevent their water other than diverting the downspouts. If you're telling me that that's your main concern, that's your concern with the water, is that right?

Steve Emme: No we have easement through ???? water ?????? There's a lot of things wrong

Beherns: Okay the water issue then

Mathy: I don't pretend to know and I don't care whose opinion is what. I care what the engineer tells me cause that's why when we go back to this form here that's got all these numbers that mean zero to me

Beherns: ??

Mathy: I'm not saying he is, that's my point. I need an engineer to tell me yes it will adversely affect the water problem back there or no this building will not

Hertz: It's going to affect it, yes definitely. You're taking an ??? area and putting it on a lot where water could go before so regardless of how little bit it might ??? it could seep into the ground there, for an engineer to sit on the witness stand or testify that it's not going to increase the grade of run off that's a lie. You can't do it.

Donahue: If I may though, the issue is to the extent, you know, what's your opinion to the extent.

Hertz: I mean without more information, I mean having a drainage plan to know where the water is going currently, where its going to go when proposed and built, its hard to say. There needs to be – any commercial project that I've been involved with, there's always a plan prepared, a drainage plan. There's probably an advantage there to do that. It sounds like that should be done.

Beherns: Okay so we need a drainage plan. Can we all agree on that?

Dubuque: Yes

Mathy: Yes I agree on that

Beherns: Okay so that's the water issue, we need a drainage plan, we can move forward on that

Steve Emme: And ??????? you say ??????? taking up most of the block and you have a big slab of concrete by the fire station and all that and this is all bad, maybe it wasn't planned out good. To keep adding to it doesn't make it right. Doesn't matter if you add 1% more it doesn't make it right. The people that sat in these chairs years ago they didn't plan right for the Village of Chebanse. Now these problems are here. ?????????? 40-60 years ago or maybe longer, I don't know

Beherns: So we need a drainage plan

Steve Emme: I think you need that 24" storm sewer going to a retention pond

Beherns: Which can be part of the drainage plan

multiple speaking

Hertz: ?????????? drainage plan, it's a plan prepared by an engineer. It should also show the requirements for your off-street parking, they need to show that they can provide X amount of spaces on their lot so they can show that there not decreasing the amount of space so that's part of the plan.

Dampf: Well he required a Platte survey and I got that

Hertz: that's a first step

Dampf: And I got that, you know I've been these ??? that you require, jumping through your hoops and like I said we're told at one time that we could build 100% on our property and we didn't go that big. We've got an issue about rain water now, is the rain water adding the volume that might seep. Is it going to ?????????? cause a big problem. Like he says according to the map you know it's not enough that there would be an increase, but not enough that it would cause any danger right

Hertz: I understand that, but in order for somebody to say yes or no, you've got to have a plan

Beherns: As far as the Village is concerned we need some kind of a drainage plan.

Hertz: Right

Beherns: Okay so that's one, what's a second concern

Larry Brave: I'd say a big concern is are you opening up the commercial area in town where anyone can put up a pole building with a rat barrier and a gravel floor?

Beherns: Say that again, are we opening up what?

Brave: ????? are you basically saying anyone that wants to put a commercial building up in ?? they can put a rat barrier a pole building and a grave floor.

Beherns: If it meets our ordinances why not?

Brave: Okay your saying that's what you want your downtown to look like

Beherns: If it's in our ordinances, is what I'm asking, why wouldn't we

Brave: I'm just saying is that what you want

?: Do you want to have pole buildings with rat barriers or do you want to have concrete foundations?

Beherns: It doesn't matter what I want. I'm asking if it's within our ordinances why would we

?: Is it within your ordinances to build that type of building in your commercial area

multiple speaking

Perzee: He's not putting in a gravel floor, its all concrete

Brave: Its concrete, okay

Perzee: Everything that he is doing is within our ordinances

Brave: Okay

Perzee: Our building

Dampf: I'm not asking for a variance, I'm going by whatever building law they have

Beherns: Okay so what's our second issue?

Surprenant: How about the ordinance that he just read about parking

Dubuque: Parking ordinance

Surprenant: Loading and parking cannot change. So if he put a building on it, it's going to change

Beherns: So if his building does not encroach on access to your overhead door

multiple speaking

Dubuque: No it's not his parking its the parking that is currently there

Surprenant: that it can't be changed

Perzee: Are we considering

Surprenant: you put a building it can be changed

Perzee: Are we considering that that whole area from his back porch to the alley that's what we consider as parking

Dubuque: has been loading or parking

Perzee: But not for his property, for surrounding

Dubuque: No it has been for his property

Perzee: Not since he's owned it

Dubuque: It doesn't matter, at the time of that ordinance it was any building that has parking

Perzee: It ain't going to make any more sense, is that true?

Donahue: Initially yes, that's why I'm reading it, I want to look into it more but it is

Beherns: So he can't put a building up because it would take away parking

Dubuque: Correct

?? That your ordinances

Brannon: I think that constitutes half the buildings in Chebanse doesn't it

Beherns: He can't put a building up because it takes away from parking. is that correct?

Donahue: It looks to me like if he puts the building up he has to compensate for the additional parking in accordance with the 1992 ordinance which controls that

Beherns: He can put the building up but what does he have to do for parking to allow

Donahue: That's what I haven't had a chance to look at yet. ??? issue

Dubuque: There's a table in here

Donahue: What I was going to suggest Adam if someone wants to make a motion to go into executive session that's the issue we could hash out

Beherns: But ??????????

Mathy: It may or may not be depending on how the ordinances reads

multiple speaking

Mathy: ??? Steve has his attorney involved which again is between the two of them. Walter you indicated you have an attorney too, correct?

Dampf: Yes

Mathy: Okay we have our attorney involved. Whether it be granting the permit, the attorney is going to have to tell me at this point, the attorney representing every entity here

Beherns: What are the issues

Mathy: I've heard your opinion. I'm telling you this is where I'm at. The attorneys need to say yes they are going to go along with our ordinances and grant the permit, they're going to have to tell me that we are not going against our own ordinances. There's attorney's all over the place here so its going to take not just our opinion, it's going to take our attorney and then they can work out whatever Steves working out on their end to figure that whole thing out

Beherns: The list of concerns that I've got

Mathy: Yes drainage and parking are two things that have been brought up

Beherns: Drainage and a parking ordinance. What – is there any other concerns? Delivery

?? That's part of the parking and

multiple speaking

?? That's an ordinance that you have so I don't see how you can circumvent that and issue a building permit

Beherns: I'm not trying to circumvent anything, I'm trying to figure out what all the issues are for now. That's what I'm trying to figure out – so drainage and our parking ordinance

?? utility easement

Beherns: Is that a concern for you?

Dubuque: It is for the Village

Beherns: Okay

Dubuque: Deliveries and loading

Beherns: I'm not trying to take sides, I'm trying to get a list of concerns, that's all I'm trying to do. Utility easements. What else do we have that are concerns

Steve Emme: I'm concerned about building too close to that sewer line that goes through there.

Hertz: Yes that the utility easement

Steve Emme: I would think you would want to stay off of that far enough

Donahue: It does that as his peril, If he goes on that he does it as his peril

Steve Emme: Well maybe, but okay so it has to be dug up and we have to tear the building down to dig it up.

Donahue: But if he does it on his property he does that at his peril.

Steve Emme: That's right

Donahue: Built on a utility easement

Dampf: I'm open to building to the south, it's only 25' wide, the lot is 27 1/2'

Brannon: We went out there and measured, we miss the man hole cover as it is multiple speaking

Brannon: We miss the man hole cover but they have access to the man hole cover

Steve Emme: No No to get in there with a tractor

Donahue: Is it a 12' easement, 15'

Dubuque: It was a

Donahue: If it goes anywhere within that 12' or 15' he does it at his peril.

Steve Emme: Well that's right

Brannon: But what he's saying is the man hole cover

Donahue: I'm talking about the manhole cover covering the entire easement

Brannon: Right, but we're going to miss the entire easement but the manhole is four feet closer to his property so where his property is, if we build on his property line, the concrete slab will go over the top of the easement, on the top of the manhole, that's where your guy missed the mark

Donahue: regardless whether somebody missed the mark or not that easement is there, okay and that means the public utility can go where, if your buildings there they can rip it down

Perzee: that answers your question. To answer your question, if we put this building there and the Village needs to dig to work on that sewer line, well it sucks to be the club because the building is going to get moved

multiple speaking

Perzee: I don't know that that would need to be done but there could be enough room for them to do their repairs without – certainly we're going to do everything we can

Steve Emme: I would think a plan would go in to make sure that no building ever had to be tore down to work on the sewer. Whether its three foot off center, four foot sure you'll be able to repair it but – okay so it's Friday afternoon, the sewer gets broke and we have to dig it up ?? talk about, the first thing I would do if they were going to take my building down, I'd get a lawyer, go to court and get it stopped and this is going to go on for probably a month.

Donahue: they would take expectance to a public utility easement. No way in hell

Steve Emme: So at 1 o'clock on Friday and we find out on Friday to tear the building down

Donahue: They'll do whenever they have to

Hertz: There's got to be language in that easement document that says no building can be erected.

Donahue: Oh sure it's a regular legal document which is recorded against the property

Brannon: And only tie into the sewer connector is his property anyway. Yours is tied into the back so if anything happened to it, it's only his drainage tile that's affected.

Beherns: And the fire department

Donahue: But the overall planning issue here is to what's happened in the past, we have to focus on the issues, the board has to focus on the issues that are before them right now. What Adam is trying to do is limit the issues they have to deal with. You can complain about somebody made a mistake forty years ago and as a result we've got this problem now that's all well and good but we have to focus on what we have to focus on now to try to resolve this issue, treat Mr. Dampf fairly and address all the concerns and operate from the Villages obligation as to what the Village has to do. We can't control what your attorney is going to do Steve, we can't control what Mr. Dampfs attorney is going to do. We just have to do what the Village thinks is appropriate to do.

Beherns: Are there any other concerns?

Perzee: Well I think the Fire Department needs to throw I their concern with their door

Beherns: Well that would be under the parking ordinance

Trustee LaReau: Parking and loading

Surprenant: ????????

Beherns: Okay, we are trying to make everybody happy and we've seen all the concerns on the table tonight

Steve Emme: Our easement

Beherns: The sewer, So if these three items are addressed and dealt with, at the next meeting I don't want another set of issues. Anything you've got, let's hear it

Steve Emme: Well I think if we get this ball rolling and Walter you need to get your attorney, come down to the lot

Dampf: That's between you and me Steve

Brannon: The courts not going to listen to a damn thing between you and he until we get a permit. The judge is going to throw it out until we get a viable permit

Steve Emme: ????????

Dampf: ??? get a permit, whatever happens in the future between you and I that's going to be in court

Brannon: And before that just goes to court, we have to have a permit or else the judge is just going to throw it out without it, a permit

Donahue: You're right, a judge can't issue an opinion if its got no what they call a controversy before him

Steve Emme: ?? we're going to use it ?? to go to court and stop him. And if they can come to it and stop then deal with the next step

Donahue: For right now there is nothing to attack because we haven't issued the permit yet

Steve Emme: Well we could challenge our easement going to the property. ?????

Dubuque: I would like to issue a no engineering since it is a commercial property

Conversation going on between Steve Emme and Michael Donahue reviewing a map showing where his delivery trucks go thru

Donahue: And that's for your attorney, because

Steve Emme; That's right

Donahue: Because if Mr. Dampf is issued a permit and you guys want to challenge it, then that's your move. That has nothing to do with our relationship with Mr. Dampf and whether or not we're going to approve a ??? to Mr. Dampf

Beherns: Three concerns, three major concerns – drainage plan, the parking ordinance and the utility easement

Surprenant: Its says parking and loading

Beherns: Okay parking and docking and loading

Surprenant: Yes, it seems to me that would be pretty important for Steve, he could stay in business and you guys could get a sales tax

Trustee Snyder: The ordinance, I believe, doesn't have anything to do with Steve, it has – if he wants to put a building on his property it only affects his parking and loading

Brannon: Exactly

Snyder: Not for Steve, Steve's is an easement, that'll be after we, after the permit is issued

Brannon: I mean its not like Steve has a dock that a semi backs to, the guy dollies everything in to the store, or to the restaurant

Snyder: The parking and loading ordinance that would prohibit the building from taking parking and loading away would be just for the property that the building is built on

Dubuque: Right

Snyder: Not the adjacent property, its all easement stuff and again that's all civil lawyer thing. Nothing to do with

Donahue: Yes you're preventing my truck from backing up and, the right and doing my loading, I've been doing that for twenty years, that's the argument

Snyder: No, no that's a civil argument, the variety store, club building wants to put the building on the back of theirs and when they do that they're going to take it away from their own loading and parking which they cannot do. That's the issue for the permit

Mathy: Well that's why we need to review that

Snyder: That's what I'm saying; it has nothing to do with the trucks getting in to Uptown Grille

Donahue: That's the added easement

Surprenant; If want the concerns, that's another big concern

multiple speaking

Snyder: It has nothing to do with the village. That's a concern between these two after the permit has been issued. A civil matter, they have to take it to court and do it. It has nothing to do with the Village agreement between two adjacent properties

Surprenant: The village being concerned about a business being able to operate get shipments and having garbage in there, yah I would think that's a concern but maybe it isn't

Beherns: They can still get the garbage out and the deliveries, we all know that

Surprenant: You can, can they get that turn and get in there when that building gets there

Beherns: Yes

Surprenant: Ok

Beherns: 100% no doubt, but that's not my problem

Perzee: When there's 25' from the end of their building to the alleyway

?? Why can't they deliver to the front door

?? Because they can't park on the street

Steve Emme: ???

?? Chicago does it all the time

Perzee: I understand but I will point out that Chebanse isn't Chicago. you've said that a couple times. I understand but we're not Chicago or New York but I see what you're saying

Steve Emme: Okay we'll give up what we bought with the property, we'll give this up. You put this building up, are you going to help out ????

Dampf: off the property line, off the north side of the property line

Brannon: 4-5 feet

Dampf: We're going 25 feet off the south side property line

Brannon: The lots 27 feet wide

Dubuque: 2 feet off the property line

Beherns: the manhole

Perzee: very south end of the building

Dampf: ??????? the manhole won't be covered, right? You measured it right?

Beherns: Right

Perzee: But to answer the question is, 27 foot, 27 1/2' lot, the building is 24' wide

Dubuque: He said its 25 feet wide

Dampf: outside might be 25 and inside 24

???: And the overhang of the roof

Dampf: Yah I think its 12

Perzee: The building itself is 24 foot. You're three foot off the property line

multiple speaking

Dubuque: The building is listed as 25 x 60 on the building permit

?? Including the overhang

Brannon: That one there yah

Perzee: Because that included the overhang so that's where the 24 and 25, so the overhang is 2 foot off of there and it has to be, ??? because we weren't including the overhang. It was like 15-16 foot but if you take the overhang off you're 14-15

Steve Emme: take the sidewalk off

Perzee: because I was doing corner of the building

Steve Emme: Right because you take the feet for that sidewalk, what have you left me 11 foot? Right now I have this ?? easement that's 23 to 50 years old, but the day he puts that building up what's to stop him from saying you can't cross on that property line, I don't want you on that property. Stay out of that easement, who does it belong to, the village

Beherns: It's a utility easement

Steve Emme: The whole area between the Duvall body shop behind all belongs to the Village now.

Beherns: Utility easement, the property owners own it but the Village has right-of-way. You can build on it but if we need it it's coming down

Steve Emme: but you can't leave me 11 foot ????? we can't get through there ??? drive over his ground

multiple speaking

Brannon: you think you have that easement, you think that you paid for that easement

voices raised – multiple speaking

Mathy: that's a civil issue

Marie Emme: We had an easement on the farm for years, we never paid one red cent ?????? it has never changed and we lived there forty years

Steve Emme; before you bought the property you need to ?

Dampf: No before you did, because your claiming from the north to the south side and then how did they get to that easement, did it go all the way down to the west side or did it cross the ???

Dubuque: I would entertain a motion to go into executive session

Donahue: You guys are trying to identify something which only exists by history, reputation and the law, that's it. If you had the title sir, you would not see the prescriptive easement

multiple speaking

Dubuque: Hang on folks; we're done talking out of order. I would entertain a motion to go into executive session for possible litigation to discuss some of these issues and

Mathy: I make a motion to go into Executive Session to discuss possible litigation

LaReau: Second

Clerk Imhauser: Roll Call: Beherns, yes, LaReau, yes, Mathy, yes, Perzee, yes and Snyder, yes

Upon returning from Executive Session at 9:32

A motion by Trustee Mathy, second by Trustee LaReau to go into Executive Session for Personnel at 8:25 pm. Vote: 5 yes, 1 absent

Upon returning from Executive Session at 9:32 pm

Dubuque: Well Mr. Dampf has requested that anything that we would like him to do from before the last meeting even forward we do it in writing, so okay back in regular session. Show that Kathy Washington came back in, all other parties left. I really don't know where to go from here because there's nobody left to talk to about the issuance of a permit or not a permit or

Board members indicated to table the subject

Beherns: If they don't want to stick around then table it

Dubuque: Would the board like me to or like Michael writing a letter expressing what we need as far as the permit is concerned or

Mathy: Not me, as far as I'm concerned I'm giving up my night to be here – tabled. That's my opinion I don't know if you guys agree or disagree

Dubuque: All in favor: all indicated yes. Okay

**Employee Compensation:** Tabled to April 20, 2015.

**Sewer Rates:** Trustee Beherns indicated he felt that the rate should be raised to take care of the increase from KRMA and then re-evaluate after the budget is done. A motion by Trustee Beherns, second by Trustee Mathy to approve **Ordinance #15-01** an ordinance amending Ordinance #05-05, the Chebanse Sewer Use Ordinance. Vote: 5 yes, 1 absent

**Garbage Ordinance:** Tabled to April 20, 2015

**Committees:**

**Village Officers:**

**Clerk:** Clerk Imhauser reminded board members to get their economic interest statement in and they can be provided to her for mailing to the county.

**New Business:**

**Street Work/MFT Resolution:** The resolution information was provided for review to board members. Trustee Snyder explained the areas, yellow are for tar and chip, purple marked for spray patch. Total is \$82,491.86. Snyder asked about the alleyway that's been discussed and whether to continue with tar and chipping. Board members would like to leave it on the to do list of tar and chip. A motion by Trustee Beherns, second by Trustee Mathy to approve the proposed 2015 MFT street work resolution. Vote: 5 yes, 1 absent

