**MINUTES**

CITY OF PLEASANT VALLEY

2340 Kingmont Road

Pleasant Valley, WV 26554

Work Session, September 27, 2023

**ATTENDANCE**

Chip Phillips (Deputy Mayor), Matt Heston, Gary Timms, Mike Walls, Chuck Ledsome (City Council members), John Funkhouser (City attorney); Mike DeVault, Phil Mallow, Joey Garcia (Delegates WV Houe of Delegates), Mike Oliverio II (Senator, WV State Senate)

The meeting was called to order at 6:05 pm by Chip Phillips.

Chip explained the purpose of the meeting which was to clarify when the City of Pleasant Valley could work on or maintain roads within the city limits that were not designated as state roads. It was the opinion of the city attorney that public money could not be spent on repair or maintenance of private property (i.e., non-state roads). Chip distributed a color-coded chart listing the streets that were state and non-state roads within the city limits. A discussion followed regarding ways that the non-state roads could become under the WV Department of Highways (DOH) prevue. It was questioned if the city could apply to the DOH for orphan road status for non-state roads. John Funkhouser said he had talked with an assistant counsel for the DOH who informed him that there is a moratorium on accepting orphan roads. Mike DeVault explained that, even for roads that had been accepted as orphan roads, there is a sunset clause.

A discussion followed regarding ownership of non-state roads. Mike DeVault asked if ownership of the non-state roads could be determined through tax records. John explained that ownership was often by a defunct organization that had not transferred ownership, so no taxes were being paid on the roads. Gary Timms explained that there were many ways a road could be derived with multiple ways to determine a right-of-way. Several believed finding ownership of the roads would be very difficult, if not impossible. John stated that obtaining easements would be equally difficult.

Joey Garcia asked who would be liable if the DOH gave permission for the City of Pleasant Valley to perform maintenance and repairs. Would it be the DOH or the city? Gary Timms explained that the city is in the process of hiring an engineering firm on retainer to act as consultants to the city. This, he believes, would minimize the liability to the city.

Chuck explained that the city had commissioned a hydraulic study at a cost of approximately $80,000-$100,000 to look at drainage and water issues. There are drainage issues with the area around the Interstate at the Millersville Road intersection. The city asked the DOH for help in dealing with this but was denied because it is a federal highway. Gary said the estimate to run piping under I-79 was approximately $2 million but the city was prepared to apply for grants to help with the cost. It was the general opinion that the city had done as much as possible without further cooperation from the DOH.

Mike Oliverio stated that it appears that legislation is the only solution. Mike DeVault and Phil Mallow agreed that it needed to be in code, a blanket ordinance, to allow municipalities to maintain and repair roads and streets. They suggested that the only pushback they could see from the DOH would be the liability issue. Mike Oliverio and Joey Garcia will reach out to the General Counsel for the DOH to determine any objections they may have to such legislation. This would be beneficial in drafting the legislation.

Mike Oliverio, Mike DeVault, Phil Mallow, and Joey Garcia thanked the City Council members for asking them to the meeting and then left the meeting.

A second work session was called by John Funkhouser to discuss a pending lawsuit brought by Jason and Jamie Harris of Dawn Drive against the City of Pleasant Valley and C.W. Stickley for damages to their home. The suit claims $100,000 in damages. The litigants are soliciting an offer of settlement in this amount. John asked if the council members wanted to move to settlement or not. Chuck and Gary said no but the other members needed more time to consider this information. John stated that he needed a decision at the next City Council meeting during which an executive session would be held to discuss the matter.

The meeting was adjourned at 7:30pm by Chip Phillips.

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