

MINUTES
CITY OF CHEROKEE VILLAGE, ARKANSAS
REGULAR CITY COUNCIL MEETING
6:30 P.M., THURSDAY, July 19, 2012
CHEROKEE VILLAGE CITY HALL
(meetings are video recorded)

Councilman Russ Stokes called the regular meeting of the City Council to order at 6:30 p.m. on July 19, 2012. He led the Pledge of Allegiance followed by a moment of silent prayer.

Roll was called by City Clerk Lana Hamilton. Present were Jerry Adams, Curtis Bratcher, Lynn Maxedon, Verna Mae Newman, Russ Stokes, Tom Thone, Ray Torbit, Kent Viers, and City Attorney Jon Abele.

APPROVAL OF THE AGENDA: Councilman Stokes asked is there was a motion to approve the Agenda. Councilman Adams requested the addition of the flood plain issue be made under New Business. Councilman Stokes stated the flood plain would be added as Item #7 under New Business. Councilman Bratcher moved to approve the amended agenda, seconded by Councilman Newman and unanimously passed.

PUBLIC COMMENTS ON AGENDA ITEMS: (limit 3 minutes per person) None

APPROVAL OF THE MINUTES: Councilman Stokes asked if there was a motion to approve the June 21, 2012 minutes. Councilman Maxedon moved to approve the minutes from the June regular meeting of the C.V. City Council, seconded by Councilman Viers and unanimously passed.

CORRESPONDENCE: None.

MAYOR'S REPORT: None

FINANCIAL REPORT: Councilman Stokes asked if there was a motion to approve the Financial Report. Councilman Maxedon asked if the 10% Reserves would be reflected on the August report; City Clerk/Treasurer Hamilton stated they would. Councilman Thone stated he had questions but would like to direct them to the respective department heads. Councilman Torbit moved to accept the Financial Report, seconded by Newman and unanimously passed.

DEPARTMENT REPORTS:

- **FIRE:** (report on file) Councilman Thone directed a question to Chief Taylor regarding the 833 Fund; Councilman Stokes asked Taylor to approach the podium. Thone asked if the 2011 expenses shown for were monies exchanged from one account to the other or new expenses. Chief Taylor replied it was a transfer of funds and the 833 monies would be transferred on a quarterly basis in 2012 rather than yearly as the expenses

accrued. Thone stated he had been on the Hot Springs Village website and inquired about the Cherokee Village ISO Rating; Taylor stated the rating is Class 6. Thone stated Hot Springs has 26,000 acres which is almost double Cherokee and eighteen (18) fire fighters which is approximately the same as Cherokee. Thone stated Hot Springs' rating was a Class 5 and asked how their rating could be better than Cherokee. Taylor stated the rating was based on the location of fire departments as well as the built on areas in the west section, with no structures, which count against Cherokee; built on areas are locations with streets and fire hydrants. Taylor also stated the Village is short one fire fighter which results in closing one of the fire stations part-time. Thone asked Taylor if he would contact the Hot Springs Village Fire Chief and inquire about their ISO rating; Taylor stated he would do so. Chief Taylor stated Cherokee could ask for a grading at any time, but stated we were less than one point from being a Class 7 rather than a Class 6. Councilman Adams commended Taylor and the Fire Department for their efforts during the extreme heat and dry conditions. Adams also commended Taylor on the department's participation during Thunder on Thunderbird. Chief Taylor stated approximately 10,000 gallons of water was used during Thunder on Thunderbird at the fireworks display area and the grass parking area. Chief Taylor also stated the residents had been very cooperative during the burn bans and there have been very few fires to date. Adams commended the residents for the minimal use of fireworks in the Village. Councilman Torbit stated the newspaper indicated a rural fire department assisted with the fireworks; Taylor stated Nine Mile Ridge Fire Department assisted Jack Lowe with the activities for the kids. Councilman Maxedon complimented the fire department on the annual pancake breakfast; Taylor stated the attendance was short due to the extreme heat.

- **POLICE:** (report on file) Councilman Thone inquired about Unit 117. Chief Crook stated when he started with the department in 2009 Unit 117 was the unit he was assigned to. Crook stated the car had nearly thirteen thousand (13,000) miles on it and when he researched the service records he discovered the vehicle had never had an oil change. He stated a maintenance schedule was started at that time and he felt there was already damage to the engine from lack of maintenance. Crook stated the engine ceased up on one of the hotter days; mechanics stated there was oil in the vehicle when they tore the engine down. Thone asked how many miles the vehicle currently had on it; Crook state one hundred thirteen thousand (113,000). Thone asked why the vehicle was towed to Melbourne; Crook stated the vehicle was towed on a previous occasion when the ignition went out on it which was a dealer only program for the ignition.

- **ANIMAL CONTROL:** (report on file) Councilman Thone stated the Statement of Revenue did not show any monies received from Ozark Acres and the monies were due semi-annually. Glenn Harris stated he would contact Ozark Acres. Clerk Hamilton stated she had just received the monies from Ozark Acres. Thone stated twenty-four (24) cats had been picked up last month from Ozark Acres and he inquired about the fee received for that service. Hamilton stated she thought the fee was \$35 and Ozark Acres would be billed once the final figures were received from Harris. Thone asked Harris if he was in charge of Animal control; Harris stated he was. Thone asked Harris if he was Code Enforcement; Harris stated he was Code Enforcement and Building

Inspection. Thone asked who was in charge of Building and Grounds; Harris stated he was in charge of Building and Grounds as well. Thone asked Harris how he was handling all these departments on less than forty (40) hours per week; Harris stated he worked full-time and Charles DeLoach now worked part-time. Thone asked what Charles DeLoach did and Harris stated he was Code Enforcement and Building Inspections also. Councilman Newman stated we were over on our count for dogs. Harris stated our Animal Control officer had been on vacation for one (1) week and after her return, the animal rescue people were on vacation for one (1) week so we are behind two (2) weeks. Harris stated there were also two (2) sick animals that were scheduled to leave but had to be held back so the veterinarian could check them out but they would be leaving in the coming week. Councilman Torbit asked if there were any horses at the shelter yet; Harris stated there were none. Harris stated the Arkansas for Animals non-profit organization had not returned the rental agreement and the shelter would not accept any animals without the signed agreement and proof of liability insurance. Councilman Adams asked Harris if he ever worked more than forty (40) hours per week; Harris stated he as well as others worked more than forty (40) hours per week without pay if there was work to be done. Torbit asked if work had begun on the walking trail. Harris stated the city had received fifty (50) percent of the grant funds and were working on the topographical map. Harris stated the city has six (6) months from June 19, 2012 to begin construction. Harris stated the city would start roughing out the trail in the fall due to the extreme heat now. Harris stated the city has two (2) years to complete the trail and the Street Department is booked up and will soon begin with chipping & sealing. Harris stated logs are currently being selected for benches along with other background work.

- **STREET:** (report on file) Councilman Maxedon inquired about the status of the Experienced Works worker. Street Superintendent McKnight stated the Government program had been shut down during the paperwork process. Maxedon asked if the Street Department would not be receiving a worker; McKnight stated they would not. Councilman Torbit asked when road work would be complete on Delaware. McKnight stated the Water Department needed to complete their repairs before the road repairs could be finished. There have been repeated leaks but once those repairs are complete, culverts will be installed. Councilman Thone stated there were monies budgeted for base rock materials, chip seal and cold mix chips for FEMA but no expenditures. McKnight stated the Street Department has already completed the concrete work on the FEMA spots and the base rock material had been started; the cold mix work on the FEMA spots is almost ready to start and will then be chip sealed. Once the work has been completed, the city will receive their twelve and a half (12 ½) percent from the State.

- **COMMUNITY SERVICE:** (report on file)

- **DISTRICT COURT:** (report on file) Councilman Stokes announced Joan Romans would be leaving and Catherine Williamson had been selected to replace her among the seven (7) candidates interviewed by the Personnel Committee to replace Joan. The final selection was made by the Mayor and the Chief of Police.

PLANNING & ZONING

- **PERMIT COMPARISONS:** (report on file)
- **CODE ENFORCEMENT:** (report on file)

COMMITTEES:

- **PERSONNEL:** Councilman Newman stated the Personnel Committee had been interviewing the seven (7) candidates for the District Court Clerk position.
- **SAFETY:** Councilman Torbit stated due to lack of a quorum there was no meeting.
- **WEBSITE & GRANT:** No report.

UNFINISHED BUSINESS: Councilman Stokes stated there was no unfinished business.

NEW BUSINESS:

1. Glenn Harris to discuss City Hall drainage problem – Harris stated there is a ten (10) inch drain behind the building in the area that was formerly a loading dock when the City Hall building was a grocery store. The drain pipe runs under the building approximately eighteen hundred (1800) feet to the river. Harris stated this is one ten (10) inch continuous pipe and somewhere along the line there is at least one blockage that can not be unstopped on the front side of the building just off the front walk. A high pressure jet was brought in to unstop the line and it was not successful using five thousand (5000) lbs of pressure. Harris stated there have been heavy rains in the past with one as recent as a few months ago that was within two (2) inches of flooding the Police Department again. Harris stated there is the potential for the court room and entire building to flood in heavy rains. Harris stated a sump pump has been installed at the rear of the building but stated it should only be used as a back-up to prevent flooding in the building. Harris proposed an intersecting culvert be installed at the stop sign at the corner of Santee and the parking lot. Harris stated the cost for the culvert material would be five hundred (500) dollars with a total cost of the project at one thousand (1000) dollars. Harris stated the intersecting culvert would allow a blockage to be flushed out on either side and a camera brought in if necessary to locate the blockage. Harris stated there is a hump in the asphalt on Santee and there could be a blockage or separation in the line running under Santee. Councilman Viers stated flooding could cause structural damage to the building; Harris stated it could and was unsure what insurance would cover in a flood. Viers asked if the water could be diverted above ground towards Iroquois; Harris stated he felt it should go straight towards the river where there is a natural elevation fall. Councilman Torbit asked if there was a check valve at the river in the event the river water got high; Harris stated there was not but if the river got high the water would push up through the new culvert head. Torbit asked where the water was dumped from the sump pump; Harris stated there is a two (2) inch PVC pipe that runs into a separate storm drain. Councilman Newman asked if the air

conditioner had been raised; Harris stated it had been raised onto a new stand. Councilman Maxedon moved to expend the \$953.17 and take care of the problem, seconded by Adams. Councilman Thone said he would like to solve the problem if we know there is a blockage and address that as well; Harris stated the blockage would be resolved as well. Maxedon stated the manhole would need to be installed in order to back pressure the line and remove the blockage. Councilman Adams asked if debris could be part of the problem with the blockage; Harris stated it was and there are plans to remove the dumpster for City Hall's use and resident's use and relocate the dumpster to the Farmers Market. Harris stated the part-time residents would need to be notified of the change and the starting date before this could be done. Councilman Stokes called for a roll call vote; the motion passed unanimously.

2. Glenn Harris to discuss the need to add 8 turbines for ventilation on City Hall's roof – Harris stated there is no ventilation in the attic and he has done a study from 1995 to 2011 on the Entergy bills. The study showed a jump between four hundred fifty (450) and five hundred (500) dollars the first warm month of the year, every year. Harris stated he had obtained a quote of one thousand (1000) dollars for labor and materials to install eight (8), fourteen (14) inch turbines on the building. Harris stated the payback would be one (1) summer on the installation of the turbines. Harris stated Community Service could install the soffit vents. Councilman Newman asked how many soffit vents would be required on the building; Harris stated between twelve (12) and fifteen (15) but the cost is minimal for the vents themselves. Harris stated a representative from Entergy said the installation of the turbines and vents would result in a twenty-five (25) to thirty (30) percent savings on utility bills. Councilman Torbit asked if bids would be taken; Harris stated he would obtain two (2) bids for the work. Councilman Maxedon requested a proposal be made at the August 16th Council meeting.

3. Verna Mae Newman to report on the Arkansas Municipal League conference that took place in Hot Springs, June 20-22, 2012 – Councilman Newman stated she provided a printout, in the lobby, on the conference. Newman stated there were two (2) continuing ed classes; one (1) class was The Role of Elected Officials in the Economic Development and the other was Purchasing, Bidding, Best Practice Ideas for Professional Procurement. Newman stated those were required classes she took; Newman stated other classes of interest included Municipal Finances, Grants and Funding Sources, and Old Buildings, What to do when they Become a Safety Hazard. Newman stated there happens to be a new law on the books which allows the city to perform one (1) asbestos abatement a year without having State officials come in. Newman stated the Street Sign Regulation Bill effective June 2014 will require the City to replace street signs; we can not have all capital letters and this will be done throughout the entire state. Newman stated she attended a Resolutions Committee which was three (3) different meetings; items discussed included twenty-eight (28) resolutions, two (2) which will be on the November ballot, Amendment One and Amendment Two. Amendment One is a statewide, half (1/2) cent sales tax, which will not be on medicine, groceries or gasoline; the benefit will be for street repair and Cherokee Village will receive approximately eighty-two thousand (82,000) dollars per

year for ten (10) years for city streets. Amendment Two is a severance tax on the natural gas companies which will not cost citizens but will cost the natural gas companies to repair damages to streets caused by them. Newman asked everyone to read the amendments that will be on the November ballot. Newman stated it was a good conference. Councilman Torbit asked if the Street Sign Bill was stop signs or all signs; Newman replied it included all signs. Councilman Stokes stated it included all named street signs. Newman stated the signs need to be reflectable. Newman stated she has spoken with the Superintendent of Streets, Robert McKnight, and he will order the proper reflective signs as he routinely replaces street signs. Newman stated the city would be checked for proper signs and will be required to have a plan in place which McKnight already has.

4. The Cherokee Village Fire Dept. would like to address the Council on the SAFER GRANT (Staffing for Adequate Fire and Emergency Response) – Captain Johnny Pendarvis addressed the SAFER GRANT. FEMA and Homeland Security have set aside money for the states and federal government to re-supply fire fighters to anybody who applies for them. Pendarvis stated there is no guaranty everyone who applies will receive the grant. Pendarvis stated the grant would cover the salaries and benefits for two (2) years. Pendarvis stated this is a minimal way to update the loss of one (1) fire fighter and soon to be loss of another fire fighter. Pendarvis requested permission to proceed with the paperwork to receive the grant. Councilman Torbit asked if this was a one hundred (100) percent grant; Pendarvis stated it was with the exception of items such as bunkers and fuel to send them to the academy. Councilman Newman asked if Pendarvis was simply asking for permission to apply for the grant; Pendarvis replied he was. Councilman Newman made a motion giving permission to apply for the grant, seconded by Bratcher. Councilman Maxedon stated he had spent a considerable amount of time looking into the grant and stated he didn't believe LOPFI was included in the grant and felt the City would be paying the LOPFI. Maxedon asked what else the City would be required to pay for; Pendarvis stated the grant information said salary and benefits. Maxedon stated the material on the web said health insurance and did not say LOPFI. Maxedon stated he challenged the benefits. Maxedon stated the City has a budget problem and the Fire Department is the largest problem. Maxedon stated the Fire Department needs to work on keeping their costs down. Maxedon stated the firemen are the City's highest paid employees, highest paid firemen in the area and are way above average for all jobs in our area. Maxedon stated the average fireman earned more than the Mayor and the Clerk Recorder combined. Maxedon stated the firemen's benefits cost one third (1/3) of their salary. Maxedon stated after careful consideration of the request, he could not support the request for two (2) firemen. Maxedon stated he could support replacing Chief Taylor. Thone asked Pendarvis when the City lost the second fireman; Pendarvis replied it was when the City first took over. Thone stated we had been operating like this for many years; Pendarvis stated the loss is why Omaha has been closed so much. Thone stated he agreed with Maxedon and would replace one (1) fireman but not two (2). Councilman Stokes asked if the motion to apply was passed would the Fire Department come back and advise the grant was granted. Pendarvis stated there was a time period from August 2012 when the application period closed out until September 2013 when the City could be notified if the

application for the grant was accepted. Councilman Newman asked if the grant was received, would the City have to accept the grant. Thone stated the City would not want to apply for a grant and then turn it down. Councilman Torbit stated historically when a grant is applied for you may only receive half of the grant; Torbit stated they do not have to approve the amount of the requested grant. Councilman Stokes stated another thing to consider was the two (2) year grant requested by the previous Police Chief a few years back to add officers to the Police Department. Stokes stated after the grant expired the City assumed financial responsibility for the officers; Stokes stated this hurt the City budget. Maxedon requested the motion be changed from two (2) to one (1) fireman. Stokes asked if the grant would allow that; Pendarvis stated you could apply for any number of firemen. Councilman Newman changed her original motion to read, "apply for one (1) fireman". Councilman Stokes called for a roll call vote on the matter. There were seven (7) yeas; Stokes voted no, passing the motion to apply for a grant for one (1) fireman.

5. Liz Keel has a brand new camera that Glenn Harris would like to buy for the city – Harris stated Code Enforcement was in need of a camera. Harris stated Code Enforcement has a Samsung camera that needs to be replaced and it is in the budget to purchase a camera. Harris stated numerous pictures are taken for court; Harris stated the Cherokee Village judge requires pictures of conditions where citations have been issued. Harris stated Ordinance 2010-09 states any time the City does business with an employee, it requires approval of the Council. Harris stated Liz Keel had a new, unused camera with case and memory card she purchased for one hundred thirty-one dollars and twenty-six cents (\$131.26). Maxedon made a motion to approve the small purchase, seconded by Newman. Stokes called for a roll call vote and the motion passed.

6. Ordinance 2012 – A & P – Ordinance Creating the Cherokee Village Advertising and Promotion Commission, Levying a Gross Receipts Tax, and Other Purposes – Councilman Maxedon stated if the Council had not had adequate time to review the ordinance it be postponed until the following month. Stokes asked the Council their preference. Councilman Torbit made a motion to delay reviewing the ordinance until the August meeting, seconded by Maxedon and unanimously passed.

7. Flood Plain - Glenn Harris stated FEMA has included Lake Cherokee, Lake Thunderbird and Lake Sequoyah in the flood plain. Harris stated these lakes have never been in the flood plain before and there have been no changes to the lakes or dams. Harris stated even in the one hundred (100) year classified flood a couple of years ago no houses were flooded. Harris stated we have been working on this issue since November 2011 and have recently been assigned a new contact to work with from FEMA who has proved to be an asset to the City. Harris stated the issue involves SID as they are over the lakes, our local government, State Representatives, Senators, real estate agencies and our local citizens. Harris stated this has a negative impact on the economy and potential house sales on the lakes have been delayed. Harris stated the City has been unable to obtain flood plain elevations from FEMA until this week. Harris stated this will require surveyors to survey the properties for the elevation and to

complete the proper certified forms to remove the properties from the flood plain classification. Harris stated this will need to be done to prevent the homeowners from purchasing flood insurance; there are approximately three hundred eighty-three (383) homes affected by this change. Harris stated homeowners are receiving letters from their mortgage companies instructing them to purchase the flood insurance or insurance will be provided by the mortgage companies at a higher cost. Harris stated a Little Rock firm has quoted one hundred thousand dollars (\$100,000) to survey the properties. Harris stated a local surveyor, Lindley Surveying, has quoted seventy-five (75) dollars per house which is a total of twenty-eight thousand seven hundred twenty-five dollars (\$28,725). Harris stated he received a letter from SID in which they stated they would pay one half (1/2) the cost for the surveying if the City paid the other half which would be fourteen thousand plus dollars (\$14,000+). Harris stated the options at this point are for SID and the City to absorb the surveying cost or for the homeowners to purchase flood insurance. Councilman Maxedon asked how future homes built would be addressed; Harris stated they would be covered under the new flood plain elevations. Councilman Thone asked if Lake Thunderbird was four hundred eighty-four (484) feet and his house was four hundred ninety (490) feet, was his house in the flood plain; Harris asked Mike Chandler to respond. Chandler stated if the top of the foundation elevation was above the base flood elevation the house should be able to be properly certified. Thone asked if the four hundred eighty-four (484) foot elevation was the top of the water; Michael Chandler stated it was the top of the spillway. Tom Hrezo stated if any piece of the property in question is below the four hundred eighty-four (484) foot elevation, the house is considered to be in the flood plain. Hrezo stated each piece of property would need to be surveyed to obtain certification stating the structure was above the flood plain. Hrezo stated FEMA looks at the lake from satellite and can not determine where the structure is on the property. Councilman Newman asked if the survey would verify the house was not in the flood plain; Hrezo stated it would. Councilman Thone asked if FEMA could come back on Lake Chanute, Lake Omaha, Lake Aztec and Lake Navajo; Thone stated this could be an on-going issue. Hrezo stated it is a possibility FEMA could eventually include the four (4) other lakes. Councilman Torbit stated his understanding was the flood plain was based on the lowest point of the structure even if it is a basement; Harris stated that is correct. Councilman Stokes stated the City either puts the onus on the homeowner or spends the additional fourteen thousand three hundred sixty-three (14,363) dollars to correct the problem and asked Council for their comments. Councilman Maxedon stated he did not feel the burden should be put on the homeowner as the lakes were there when they purchased their homes, however, Maxedon stated he had a problem paying for the surveys. Councilman Newman asked if there was a guarantee from SID for the payment of one half (1/2) the cost; Harris stated there was a letter signed by Jimmy Chandler from SID. Councilman Stokes asked if the City or SID had sufficient documentation stating FEMA would accept the certification once properties are surveyed. Harris stated FEMA has assured the City the survey process is what is required. In response to a question posed from the audience, City Attorney, Jon Abele, stated the issue affected a large part of the City and he did not feel it was a cut and dry issue whether the City could spend the money to pay for the surveys. Councilman Adams asked if the County should share part of the cost; Attorney Abele stated he did

not know the procedure and could not answer. Adams said this came from Federal to State to County to City and questioned why it was the City's responsibility to bear the burden of the cost; Adams stated the State and the County should share in the cost. In response to a question raised from the audience, Attorney Abele stated he did not believe the City carried Errors & Omissions Insurance. Hrezo stated the seventy-five (75) dollars per house would save the homeowners a tremendous amount of money; Hrezo stated he did not feel the City should pay the entire cost and felt homeowners should assist with the payment. Hrezo proposed the homeowners be notified and request payment from them to get the certification to resolve the issue. Newman asked if the City could request the homeowners pay the survey fee; Hrezo stated the City could and the homeowners would have a certificate on their house stating they are not in a flood plain when they sell their house. Councilman Newman asked how long the City had to make a decision on the issue; Harris stated it needs to be taken care of in the near future as it is affecting business and sales of homes. Councilman Bratcher moved to table the issue until the August meeting. In response to a question posed from the audience, Clerk Hamilton stated she would check with the State auditor on the matter of the City paying the survey fee. Councilman Torbit stated Kathy Nix indicated at a Kiwanis meeting there of a form homeowners could apply for at her office in regards to the flood plain, costing the homeowner fourteen (14) or sixteen (16) dollars. Councilman Stokes stated there was a motion on the floor to place the issue on the agenda for the August meeting; Newman seconded the motion. Thone asked if Planning and Zoning would be willing to send letters to the homeowners and collect the money for the surveys; Hrezo stated he would work with Glenn Harris and Liz Keel to do this. Adams stated he would like to see someone from the County assist with this; Hrezo stated they have been contacted in the past. Stokes stated Planning and Zoning needs to put together a plan and Clerk Hamilton needs to contact the State auditor for clarification on the City spending the money.

COMMENTS OF CITY RELATED ITEMS: (limit 3 minutes per person) A concerned citizen approached the podium and stated the property on the corner of Pontiac and Hiawatha needs to be cleaned up. He stated SID owns the property; Adams stated the property is owned by the Water Department. Newman stated the City has nothing to do with that property. Adams stated the Water Department has guaranteed they will clean the property up.

ANNOUNCEMENTS:

1. The Spring River Farmers Market is open Friday & Saturdays from 9 a.m. till 1 p.m.
2. July 27th and 28th the Spring River Farmers Market will be having "Christmas in July". Councilman Adams encouraged everyone to attend that weekend and every weekend the Farmers Market is open.

ADJOURNMENT: Councilman Newman moved to adjourn the meeting at 8:05 p.m., seconded by Torbit and unanimously passed.

NOTE: Minutes are prepared by Kathi Blackwell, Assistant to Clerk/Treasurer Lana Hamilton (with Hamilton's approval)

DATE: _____

APPROVED: _____
Russ Stokes, Acting Mayor

ATTEST: _____
Lana Hamilton, City Clerk/Treasurer