

RECORD OF PROCEEDINGS
REGULAR COUNCIL MEETING MONDAY JULY 10, 2006 – 7:30 P.M.
MAYOR MATTHEW E. BRETT PRESIDING

MEMBERS PRESENT: Binder, Dishong, Flaiz, Koons, Porter and Wolfe

OFFICIALS PRESENT: Building Commissioner Hocevar, Police Chief Wetzel, Street Commissioner Johnson, Solicitor Ondrey, Engineer Foley, Treasurer Lechman and Clerk Gallagher

GUESTS PRESENT: Sally Butz-Voss, Bell Road; Peggy Scherer, GC Dept of Health and Bill Allen, GC Emergency Management; Peter Balint and Peter Bollen, Laurelbrook Drive; James Stotter, Marshall Kidd and Jim Eden, Chillicothe Road; Dick Baker, Waverly Lane; Sue Reid, CVT; Joan Rusek, WGS

Mayor Brett called the Regular Council Meeting to order and led the Pledge of Allegiance to the Flag. Clerk Gallagher read the roll. Councilman Koons made a motion to waive reading and approve the minutes of the June 19, 2006 Regular Council Meeting, seconded by Flaiz. Roll call – ayes, all. Motion carried.

GUESTS: Mayor recognized Peter Balint of 492 Laurelbrook Drive. Mr. Balint introduced his next door neighbor Peter Bollen and said that they are concerned about the excessive amount of water that flows through their backyards in heavy rains. Mr. Balint referred to the storm 2-3 weeks ago and said that he tried to track down where the water was coming from which lead him to the Cleveland Clinic drainage pond where there was quite a bit of water going over the overflow to the creek. Mr. Balint contacted Councilwoman Wolfe and has talked with the Mayor and the Building Commissioner, who investigated the problem. Mr. Balint said that he was present tonight to thank the officials who helped him and to determine a timeline for the repairs. Building Commissioner Hocevar said that it appears there is a breach in the overflow from the retention pond and the pipe might be gone or eroded away. Building Commissioner said that he and Engineer Foley visited the site and he also contacted Rob Kay who is the Service Manager for the Cleveland Clinic. Building Commissioner said that Mr. Kay got him in contact with the manager of the facility and contractors are looking into the problem. Building Commissioner said that he has requested drawings be submitted to the Engineer for approval before the repairs are made. Engineer said that clearly the outlet pipe is being bypassed; it could be that the culvert pipe is undersized or a combination of things. Mayor said that the Cleveland Clinic is aware of the problem and will rectify it. Building Commissioner said that he would send a letter to Mr. Kay asking for a timeline. Mr. Balint said that would be acceptable.

Mayor recognized Peggy Scherer of the Geauga County Health Department and Bill Allen who is the Assistant Director of the Geauga County Department of Emergency

Services. Ms. Scherer said that after 9/11 and the anthrax situation all the county health departments were mandated by the federal government to do emergency planning for bioterrorism. Ms. Scherer said that every county in the country has to have the capacity to immunize or distribute medication to 100% of their population within 48 hours. Ms. Scherer noted that the Geauga County Health Department is comprised of 34 people, 8 of which are nurses and there is approximately 94,000 people in the county. Ms. Scherer said that they are going to need to draw from the communities to help with the immunizations. Ms. Scherer said that the Health Department is going to form a medical reserve corps of volunteers, which involves setting up a data base, obtaining credentials and keeping everyone up to speed on the planning. Ms. Scherer said that 400-500 volunteers are needed to do non-medical things, such as paperwork, manning phones, etc. Ms. Scherer said that the Health Department talked with Emergency Management and the McCann's from Russell Township regarding the Citizens Emergency Response Teams (CERTS). Ms. Scherer said that there was funding available through the federal government to set up local CERTS.

Mr. Allen said that CERTS is a group of volunteers that respond under the auspices of the County Health Director, the Fire Chief or the Police Chief in any given emergency. Mr. Allen explained that during a blackout, properly trained volunteers would control the traffic at intersections so the safety forces could go out and do other things. Mr. Allen said that in 2004 Emergency Management received a grant for \$3,800 to get citizens involved and the program failed to get off the ground after 11 months and the money was returned. Mr. Allen said that they also hosted a Terrorist Awareness Program and of 120 invitations sent out only 14 people attended the 3-day session. Mr. Allen said that since that time FEMA and Homeland Security has mandated that counties form a Citizens Council and on March 22, 2006 he approached the County Commissioners with this concept. Mr. Allen explained that the council would consist of representatives, such as fire chiefs, police chiefs, elected officials, business communities, churches, board of education, Red Cross, etc. Mr. Allen said that the Citizens Council would set the agenda and how the 48 hours of training of civilian personnel would be used. Mr. Allen said that the County Commissioners have not yet made a recommendation concerning the Citizens Council; County Administrator David Lair is waiting for communities and representatives to show the leadership and enthusiasm for this council.

Mr. Allen said that Bob Weisdack of the Geauga County Health Department was the leading advocate of CERTS, which is now supported by the fire chiefs and the police chiefs of the county. Mr. Allen said that if the county needs to have a mass inoculation or in the event of terrorism, people will need to serve. Mr. Allen said that they met with the Russell Township group and Dr. Campbell of Bainbridge, who is trying to form a group there. Sally Butz-Voss, who is a member of the Village Emergency Operation Plan, asked how many people from a community are needed. Ms. Scherer said that they need as many people as they can get and explained that the western part of the county is more populated and probably where most of the volunteer help would come from. Ms. Butz-Voss asked if the County Commissioners have done anything. Mr. Allen said that basically none of them have come up and supported it. Ms. Scherer said that basically the County

Commissioners do not want to be responsible and they should not have to be; this should be a community grass-roots type of work. Ms. Scherer said that someone should step forward in a leadership capacity to start organizing and get the word out that volunteers are needed. Ms. Scherer left some literature and two video tapes.

MAYOR'S REPORT: Mayor reported that there was more flooding in the Village on June 22 and the Bellwood pump station for the sewer system had an issue, which the county corrected. Mayor stated that there was also a small power outage and First Energy repaired the lines within 2½ hours.

Mayor encouraged Council and the Emergency Operation Plan Committee to stay engaged with emergency preparedness. Mayor said that although the county is the organizing aspect of this, the Village must stay up to date.

Mayor referred to the Tax Expenditure Limitation Amendment (TEL) and encouraged Council to pass legislation opposing its passage. Mayor said that it appears that this amendment is to be removed from the ballot, but may not. Mayor said that it is important for communities to make a statement regarding this amendment.

CLERK'S REPORT: Clerk reported that she submitted the 2007 Tax Budget to the County Auditor on Friday July 7.

Clerk reported that the Village received a notice from the Ohio Division of Liquor Control regarding a liquor permit transfer at 540 East Washington Street. Clerk explained that the Village could request a hearing for this permit. Mayor and Council said that they would not request a hearing.

Mayor reported that the Clerk sent out invitations to the 2005 Appreciation Brunch which is Sunday August 6 at the Red Maple Inn in Burton.

TAX ADMINISTRATOR'S REPORT: As Tax Administrator, Clerk reported that she submitted the Quarterly Report of April 1 through June 30 to Mayor, Council and Treasurer.

Clerk reported that she would attend the Central Collection Agency's (CCA) Quarterly Tax Administrators Meeting tomorrow and the Ohio Municipal League's (OML) Municipal Income Tax Seminar this week in Columbus.

TREASURER'S REPORT: Treasurer Lechman submitted the Cash Management Report as of June 30, 2006. Treasurer said that both bank accounts have been reconciled for the month of June. Treasurer reported that the interest is increasing and has already exceeded the interest income budgeted for the year.

Treasurer reported that he looked into the cost of issuing notes and spoke with Ernie Deminilis of Squire and Sanders. Treasurer said that the fee for \$800,000 in notes would

be \$2,750. Treasurer said that there would be a lot of initial work as this is the first time the Village would be issuing notes. Treasurer said that because there are no real plans for the Muggleton property at this stage, the Village could issue general obligation debt. Treasurer said that Council would need to vote based on a percentage of the total valuation. Treasurer said that he would recommend a 1-year issue, which can be renewed five times and because the Village is a municipality the rate of interest is 4½%. Treasurer said that the process would be to get information to Squire and Sanders who would then prepare a note ordinance, which Council would have to approve and then obtain a fiscal officer's certificate. Treasurer said that the Village might choose to take the notes to a bank and ask them to buy the notes or go out to market. Treasurer said that if Council wants to consider this at the August 14 meeting, the paperwork could be completed by the end of August. Treasurer said that there is a matter of conveyance as you would need to take possession of the land. Mayor said that the Village could not take title of the property prior to the Clean Ohio Grant or the federal appropriation and the Village should know by the end of this year if the funding is awarded. Treasurer said that the final payment for the Muggleton property is due February 2007 and if the Village waits until then, the interest rates may change. Mayor asked the Treasurer to ask if the financing had to be tied to that property or could the Village use something else as collateral. Binder asked if the Western Reserve Land Conservancy generously offered to carry the Village through 2007 and if so what would be the cost. Mayor said that the Land Conservancy has indicated that they would do it at whatever rate they can obtain through a financial institution.

ENGINEER'S REPORT: Engineer Foley reported that the 2006 Road Program is complete and asked Council to approve the payment of \$69,274.20 and the Change Order in the amount of \$4,818.00. Dishong said that there are no punch list items and there were no major issues with the Road Program. Dishong made a motion to authorize \$69,274.20 to be paid to Ronyak Brothers Paving, Inc. on July 31, 2006 and approve the Change Order of \$4,818.00, seconded by Wolfe. Roll call – ayes, all. Motion carried.

BUILDING DEPARTMENT REPORT: Building Commissioner Hocesvar reported that Jim Holt has chosen not to accept the contract to do building inspections as a subcontractor for the Village. Building Commissioner said that Mr. Holt said that due to health reasons he is unable to accept the contract.

Building Commissioner reported that the Mayor and the Building Department Committee would meet this Thursday to work on some resolutions regarding the Building Department.

Building Commissioner received quotes from three appraisers to do appraisals of the Village owned properties. Binder said that Council should proceed with this as the properties are assets and the Village should have some third party establish their value. Binder said that selling additional property was one of the first lines of funding discussed for the Muggleton property. Binder made a motion to authorize the Building

Commissioner to obtain appraisal of the Village owned properties at a cost not to exceed \$1,100, seconded by Koons. Roll call – ayes, all. Motion carried.

Building Commissioner submitted a report to Mayor and Council regarding what is exempt from the new State Residential Building Code. Mayor said that if a resident wanted to build a one-story detached accessory structure, provided the floor area does not exceed 200 square feet, he would not need a building permit. Building Commissioner said that was correct, but the Village could still enforce its zoning.

Building Commissioner referred to the new septic systems and said that there are some structures going in the front yards. Building Commissioner asked the Solicitor if the Village wants any control over the boxes in the front yards in the ordinances. Building Commissioner said that the new septic systems are being put in due to health issues and they can be put in right up to the property line in the front yard. Building Department Committee said they would review this issue. Mayor said that this is not the newest regulation for septic systems, but what is currently the regulation. Building Commissioner said that people are trying to get the septic systems in before the first of the year when the new regulations begin. Treasurer asked if it was inevitable that all of the Village would be on sewers one day. Mayor said that at some point in time the vast majority of the Village would be on sewers. Mayor said that the Village has the responsibility under Stormwater Management Phase 2 to make certain that septic systems are functioning throughout the Village. Mayor said that some homeowners are organizing and looking to go to sewers. Mayor said that he believes that within 10-15 years the subdivisions within the Village would be on sewers.

Building Commissioner reported that the Planning Commission is scheduled to meet on Thursday July 20. Building Commissioner said that Craig Cawrse of 547 East Washington Street is on the agenda.

Dishong asked about the electrical inspection contract with Chagrin Falls Village. Solicitor said that discussions are still on-going regarding the indemnification. Solicitor said that Chagrin Falls insurance would not cover inspections done by South Russell's inspector. Solicitor said that Chagrin Falls was willing to indemnify South Russell's inspector with several years of our deductible on our insurance. Solicitor reported that he checked with the Village insurance and it does not have a deductible for this type of coverage. Solicitor said that he suggested to Chagrin Falls Law Director that if we got indemnification from them for \$5,000, that would cover any defense cost that South Russell would incur before our insurance takes over. Solicitor said that the Village runs a low risk on inspections. Solicitor said that Chagrin Falls would like us to consider a proposal that we go under this agreement of \$75 for each inspection and the indemnification would be for \$5,000 and our insurance would come in and defend if necessary.

Dishong asked about the landscaping at the Bell Station. Building Commissioner said that the owners of the Bell Station did what the Planning Commission agreed to regarding

the size of the trees and mounding. Building Commissioner said that they are under the obligation to replace the dead trees.

POLICE CHIEF'S REPORT: Police Chief Wetzel reported that the new cruiser is in service and is parked in the Village Hall parking lot for Mayor and Council to see. Police Chief said that the graphics on the car are different from previously and says "Protect and Serve".

Police Chief reported that Speed Century has agreed to let the Village use a radar speed sign on a demonstration basis. Police Chief said that the sign is to be in place on July 18 for 24 hours and it will obtain data. Police Chief said that software would be downloaded onto a Police Department computer and the data is presented on an Excel spreadsheet. Police Chief said that the speed sign also gives the speed of the vehicle as it passes and only clocks vehicles coming toward the sign; there is no camera. Dishong said that the unit costs about \$4,000 and is mounted on a speed sign and can be moved. Dishong said that this would give us some facts on the speeding within the Village.

Jim Stotter of 5145 Chillicothe Road asked if there was anything further on the rotweilers. Police Chief said that the resident from Manor Brook Drive who was last bothered by the rotweilers has sent a letter to the Municipal Court Judge and the Dog Warden saying that the situation is getting worse. Police Chief said that the owner of the rotweilers has been cited twice. Mr. Stotter asked if another letter would help. Police Chief said that it would not hurt.

STREET COMMISSIONER'S REPORT: Street Commissioner Johnson submitted the Month End Report to Mayor, Clerk and Street Committee.

Street Commissioner reported that the Road Program went very well. Street Commissioner stated that the driveway at 21 Chelsea Court and the drainage swale at 1075 Bell Road were also addressed.

Street Commissioner reported that the crack-sealing program was to start today but was delayed due to the rain.

Street Commissioner said that he has scheduled the additional road striping for the traffic lanes, the turnouts and the school zone.

Street Commissioner said that the Holiday tree is to be removed tomorrow and in the next two weeks Tom Reid is going to take core samples for testing and is then going to give us direction on the location and size of a replacement tree.

Street Commissioner reported that jetting and cleaning out of culverts is scheduled to begin Wednesday.

Street Commissioner referred to the Village Hall landscaping and said that in the next couple of weeks stakes and ribbons will be placed where the planting of trees will be located.

Street Commissioner reported that the Farmers' Market ends on October 7. Street Commissioner said that he would make arrangements for the Fall Trash Day on Saturday October 21.

WEB MASTER'S REPORT: As Web Master, Street Commissioner reported that there had been some minor problems with emails due to the host company changing servers.

SOLICITOR'S REPORT: Solicitor Ondrey said that he had nothing further to report.

Binder referred to the Solicitor's bill and asked about the notations for the realtor fee for the Western Reserve Land Conservancy. Solicitor said that it was not a realtor fee and his recollection was that the Land Conservancy paid \$5,000 as a finder's fee, which was not listed as part of the cost. Mayor said that Land Conservancy did disclose that they did have a finder's fee and he had a conversation with Solicitor Markowitz regarding the fee and if it was fair and reasonable. Mayor said that the conclusion from the Solicitor was that it was fair. Solicitor said that if it were a commission, it would have been substantially more than \$5,000. Binder said that he is concerned that they are calling it a finder's fee as the realtor does not have a license.

COMMITTEE REPORTS: Porter, Flaiz and Koons did not give a report.

Wolfe reported that the Public Utilities Committee has been investigating the idea of having one trash hauler in the Village. Wolfe reported that she talked with Waste Management regarding an exclusive contract they have with Roaming Shores, which has over 800 households. Wolfe reported that Waste Management is doing the billing on a quarterly basis and Roaming Shores collects franchise fees from Waste Management. Wolfe said that Waste Management is also providing dumpsters for the Village at no cost as well as for their spring cleanup. Binder said that Waste Management does the billing for some of the communities they contract with and in other contracts, the communities do their own billing. Binder said that there are many advantages to one hauler, such as one carrier's trucks and one day a week. Binder said that it looks like something to pursue whether it would be paid through the tax rolls or by billing. Solicitor said that it was his impression that Roaming Shores was a private homeowners association and not a municipality. Wolfe said that it is a homeowners association. Solicitor said that as a municipality you could designate one trash hauler. Mayor said that Chagrin Falls and Moreland Hills provide the service and its is paid through general revenues. Dick Baker of Waverly Lane asked if the committee had contacted any other haulers. Wolfe said no. Mr. Baker asked why and said that there are three haulers on his street and Waste Management is the least dependable.

Wolfe reported that the Properties Committee met with the Service Department regarding the landscape at Village Hall. Wolfe reported that the Village received a quote of

\$1,803.75 for trees along the driveway entrance. Wolfe stated that the Service Department would plant the trees.

Wolfe recommended that the Village rent the house at 5244 Chillicothe Road for not less than \$900 a month for one year beginning October 1, 2006. Flaiz asked about the condition of the property. Wolfe said that the potential renter has seen the property and is comfortable with its condition. Binder reported that the Village has received \$28,800 in revenue for the rental of the property and expenses incurred of \$19,148. Wolfe made a motion authorizing the Mayor and Clerk to proceed with the lease negotiations for the rental house at 5244 Chillicothe Road for \$900 a month for one year beginning October 1, 2006, with the stipulation of only two dogs on the property, seconded by Porter. Roll call. Binder voted nay. Porter, Wolfe, Dishong, Flaiz and Koons voted aye. Motion carried.

Binder reported that he and the Mayor met with John Gibbon of Walter & Haverfield regarding the cable franchise agreement. Binder said that Mr. Gibbon recommended that the Village move very quickly to get something done prior to federal regulations kicking in which takes away the authority to negotiate an agreement locally. Binder said that a lot of the information was included in the email that was sent out today. Mayor said that the Village could gain increased revenue, as some things are not defined in our current contract. Mayor said that the Village could look to negotiate a number of things. Binder said that the Village agreement does not include advertising fees at this time. Mayor said that there is a risk that the Village may not reach an agreement with Adelphia. Solicitor said that in order to close the deal with Time Warner Adelphia needs to have as many franchises buttoned down as they can. Binder made a motion authorizing the Mayor and Clerk to enter into an agreement with Walter & Haverfield to provide cable television franchise renewal legal services at a cost not to exceed \$10,000, seconded by Wolfe. Roll call. Porter voted nay. Wolfe, Binder, Dishong, Flaiz and Koons voted aye. Motion carried.

Binder reported that Alltel submitted a traffic report for the use of the lines and it seems as though the system is sized properly.

Binder reported that the Central Collection Agency (CCA) would be conducting a business canvass sometime this month. Binder said that he sees a real need for some type of communication to the residents to make certain they are paying their income tax to the proper collection agency, which is CCA and not the Regional Income Tax Agency (RITA).

Binder said that the Finance Committee previously recommended that a replacement levy of 2.3 mills be placed on the November ballot and is now recommending that the levy be held off until the May ballot. Binder said that there is new information that funding might be available to the Village and it would not be prudent to go to the voters at this time. Mayor said that there is some sense from voters that May elections are not well publicized and is an effort to squeak things through. Dishong said that it is uncertain

when and if the Village receives any funding for the Muggleton property and at this time the replacement levy should not be placed on the November ballot. Flaiz said that if there are no county issues on the May ballot, then the Village might have to pay for the election. Mayor said that Finance Committee believes there will be a need at some point to replace this operating levy. Binder said that at some point the income tax credit should also be looked at.

Dishong reported that Mayor and Council Members Dishong, Flaiz, Porter and Wolfe met last week in a work session to consider the Clean Ohio Fund Grant for the Muggleton property. Dishong said that the decision was 4-0 that Council would pursue making a formal application for the funds. Mayor said that Mark Skrowronski of the Western Reserve Land Conservancy asked for an indication from the Village that they would like to pursue the Clean Ohio Fund Grant. Wolfe said that she researched how much acreage is needed for ballfields and found that a full-size soccer field takes 1.59 acres, a lacrosse field takes the same and a baseball field is about 2.5 acres. Wolfe said that it does not include parking or access and if there were one field of each it would take 5.5 acres. Flaiz said that parking could be put on the other acres rather than the 10 acres. Wolfe said that she thought that was only parking for the park. Mayor said that if it were parking specifically for the organized ballfields, it could not be on the more restrictive easement. Dishong said that when Council originally talked about a cemetery it would take less than 3 acres. Binder said that he was sorry that he was unable to attend the meeting as he was on the previous Council who negotiated this property. Binder said that he feels it is essential to retain the flexibility that was negotiated and this would change the spirit of what Council discussed. Binder said that we are renegotiating the contract and relinquishing a tremendous amount of the Village's rights and flexibility for these Clean Ohio Funds. Binder said that the Village paid top dollar for this property and he is very concerned that we are relinquishing all of our flexibility for eternity for a short-term fix. Binder said that it is a relatively small amount of money and we are relinquishing a tremendous amount of control and flexibility and he is absolutely against it. Dishong said that the general consensus from the public meetings was that the land be used mostly for passive purposes anyway. Binder said that he remembers people at those meetings standing up and saying they wanted ballfields. Dishong said that he does not think \$400,000 is a small amount of money. Binder said that it is for eternity and future generations will regret this if it is passed. Dishong said that he disagrees and that they will value the fact that it was protected. Binder said that the Village is giving up that control. Dishong said that this authorizes the Village to go after this grant, but it does not mean that we will get it. Solicitor said that he is assuming the Village can apply and if they say yes, you qualify and award you the grant, the Village can still back down. Solicitor said that he did not think the Village would be legally obligated to accept the grant. Flaiz said that even though the Village would not be legally obligated, he thinks that the Land Conservancy would expect us to follow through and accept the grant, as there is an enormous amount of effort to secure a grant. Dishong made a motion authorizing the Mayor to partner with the Western Reserve Land Conservancy to submit application for Clean Ohio Funds for the Muggleton property, exempting 10 acres from

the conservation easement, seconded by Flaiz. Roll call. Wolfe and Binder voted nay. Porter, Dishong, Flaiz and Koons voted aye. Motion carried.

Dishong asked that newsletter articles be submitted to him by August 10.

ORDINANCES/RESOLUTIONS: Binder introduced an ordinance transferring \$193,000 from the Income Tax Fund to Safety Fund \$100,000, Operating Fund \$60,000 and Special Equipment Fund \$33,000, declaring an emergency. Koons moved to waive further readings, seconded by Binder. Roll call – ayes, all. Motion carried. Binder moved to adopt, seconded by Koons. Roll call – ayes, all. Motion carried. Ordinance 2006-29

Koons introduced a resolution opposing passage of the proposed Tax Expenditure Limitation (TEL) Ohio Constitution Amendment and encouraging the voters of South Russell Village to reject the proposal. Dishong moved to waive further readings, seconded by Binder. Roll call. Porter, Wolfe, Binder, Dishong and Koons – ayes. Flaiz - nay. Motion carried. Porter moved to adopt, seconded by Koons. Roll call – ayes, all. Motion carried. Resolution 2006-30

BILLS LIST: Koons made a motion to ratify the bills paid June 30, 2006, seconded by Binder. Roll call – ayes, all. Motion carried.

Koons made a motion to approve the bills to be paid July 14, 2006, seconded by Flaiz. Roll call – ayes, all. Motion carried.

NEW/OTHER BUSINESS: Porter, Binder, Dishong and Flaiz did not have any new/other business to discuss.

Wolfe reported that the Red Cross held a blood drive at Gurney School on June 28, which was very successful.

Koons reported that he attended a City Club Meeting and Rich Cochran of the Western Reserve Land Conservancy gave the presentation. Koons distributed a map of the 14-county region of the Land Conservancy. Koons said that on the back of the map it shows that the population of Cuyahoga County in 1950 was 1.3 million people and that population has not changed in the year 2002. Koons said that people were living in a small area in 1950 and now they are all spread out with the same number of people who have to pay for the infrastructures such as sewer lines, water lines and roads and that is why taxes continue to go up.

ADJOURNMENT: There being no further business to come before Council, Dishong made a motion to adjourn, seconded by Binder. Roll call – ayes, all. Motion carried.

Matthew E. Brett

Mayor

Nancy J. Gallagher

Clerk