

**RECORD OF PROCEEDINGS
REGULAR COUNCIL MEETING
MONDAY, APRIL 4, 2016 – 7:30 P.M.
MAYOR WILLIAM G. KOONS PRESIDING**

MEMBERS PRESENT: Canton, Nairn, Dishong, Kostura and Porter

MEMBERS ABSENT: Carroll

OFFICIALS PRESENT: Fiscal Officer Romanowski, Police Chief Rizzo, Street Commissioner Johnson, Building Inspector Heilman, Solicitor Ondrey, Engineer Haibach, Fiscal Auditor Lechman, Fire Prevention Officer Davis

VISITORS: Sharon Baker, Bell Road; Joan Demirjian, Chagrin Valley Times; Thomas & Colleen Browne, Bell Road; Mike & Meagan Mulloy, Bell Road; Tom & Sandra Meyer, Sheerbrook Drive; Tyler & Beth Somersshield, Bell Road; John Roshcheck, Attorney;

Mayor Koons called the Regular Council meeting to order and led the Pledge of Allegiance to the flag. Fiscal Officer Romanowski read the roll.

Dishong moved to approve the minutes of the March 28, 2016 Council meeting, seconded by Nairn. All in favor – Dishong, Nairn, Porter, Canton. Kostura abstained since he didn't attend the meeting. Motion carried.

VISITORS:

Sharon Baker addressed Council about a safety concern in her neighborhood. She stated her neighbors introduced themselves right away when she moved to the area because they have two Dalmatians that are very territorial. The neighbors with these dogs informed her they have an invisible fence but warned her the dogs may become aggressive if her children walk on their property. Baker was cautious about letting her blind dog outside while the Dalmatians were out as well. Last Wednesday, Baker was directing her dog near the front of her house to go inside when the Dalmatians came out of nowhere. One attacked her dog and was dragging it across the front lawn while the other dog was continuously barking. The Dalmatian owners ran over and had to pry the dog's jaws off of her dog.

Baker is very concerned about the aggressiveness of the dogs. Although she is a dog lover, she also understands dog instincts. She knew the invisible fence wasn't working because the dogs weren't shocked when they crossed it and she is concerned that they will come back since they know it isn't working. Baker added that she doesn't feel safe outside of her home on her own property.

Kostura asked if the dogs had their collars on when the incident happened or if the fence was on. In all the chaos, Baker said she didn't think to ask the owners.

Meagan Mulloy said the dogs' owner told her they always have collars on when she spoke with him several days before the attack.

Colleen Browne called the invisible fence company and they said 2014 was the last time the Dalmatian owners purchased an invisible fence battery. The company said the property owners had only purchased one battery in 2013 as well and added that the life span of a battery is three (3) months. Browne said the dog was roaming free, stalking her around her yard back in 2013. Instead of contacting the Police at that time, she contacted the invisible fence company and asked them to contact the owner.

Mike Mulloy informed Council his family moved into their home about one year ago and they have two children that are 4 and 2 years old. They decided to move to this area because they feel the community is safe and peaceful. When the Mulloys moved in, there were no dogs next door. Their neighbor came over to introduce himself and said that two Dalmatians moved into the rental home. He warned the Mulloys that the dogs are territorial. Mulloy and his wife love dogs and added that other neighbors in the area have good dogs, but the aggressive Dalmatians are a concern.

The Mulloys noticed how dangerous these dogs are in July of 2015 and scheduled a meeting with the Police Chief and the Geauga County Dog Warden to discuss the issue. The Chief was unable to attend last minute, but they discussed the threat and dogs' behavior with the Warden. The Warden warned the Mulloys that the dogs may become more aggressive. Mulloys run-ins with the dogs was always the same, as they would bark, growl, and show their teeth. On multiple occasions, Mulloy reached out to Police Department.

Every time the Mulloys go outside while the dogs are outside, the dogs charge the fence line at top speed. They bark, growl and lurch with a deadlock stare and the Mulloys constantly feel threatened. One time the dogs charged the fence line and Mrs. Mulloy fell off her bike and Mulloy's father-in-law carries a bat to take garbage out for them. Also, because of the fear of the dogs, joggers and bicyclists on Bell Road swerve into traffic when the dogs charge the line.

On Easter Sunday, the Mulloys were outside talking with their guests and the dogs barked aggressively at the property line to the point that their guests nervously got into their cars and left. His wife has sensed the dogs have become more aggressive, and the dogs breached the fence and attacked the neighbor's dog. Mulloy said his family has tried to be patient and notified everyone they can, but it is obvious the dogs can't be controlled. Mulloy said that 80 communities across Ohio have addressed the risk of aggressive dogs to ensure the safety of their residents and asked Council what the Village is going to do to ensure that the neighbors are protected from these dogs.

Megan Mulloy said her record of complaints and concerns with the dogs is probably the longest because their driveway is against the neighbor's yard and the electric fence line. This issue affects everything they do outdoors.

Sandra Meyer said as a Grandparent this is terrifying and it is disturbing that South Russell is not one of 80 places that addresses aggressive dogs.

Tom Meyer said he is a dog lover and doesn't scare easily but these dogs scare him. He takes a bat to the street to take garbage out and uses a trail to hide from the dogs to get back to his car safely. Avon Lake recently passed legislation of guidelines to declare a dog as a nuisance and he asked Council to consider looking at it.

Tyler Somersfield said the dogs haven't come into his yard, however, they are aggressive. He works at Rescue Village and has dealt with strong dogs but these dogs are different. He is concerned of what would happen if a child walked onto this property. He added that he doesn't think these incredibly aggressive dogs can be rehabilitated.

Colleen Browne said she doesn't understand why the Zoning Code is strict for certain things, but there isn't anything pertaining to the invisible fence setback lines. She believes setbacks and rules should be the same as they are for a regular fences because the invisible fence company can make an error and install the fence partially on the neighbor's property.

Dishong said he is also a dog lover and lives down the street from the property with the Dalmatians. When he runs by this property, he has noticed that these dogs are incredibly aggressive.

Porter asked Baker if her dog will be alright from the attack. Baker said the dog was taken to the vet and will be fine. She added the Dalmatians had their shots.

Kostura asked what the other neighbors' experiences have been and said that if it were his dog that was the issue, he would do everything he could to rectify it. Browne said the dogs barked constantly when they first moved to the home. The neighbors took care of the issue but it only lasted for about a week.

Baker said when the attack happened, the neighbor did come over to help. She apologized and said she thinks the dogs are so aggressive because they were attacked when they were living in Texas. However Baker pointed out the dogs came onto her property and attacked her calm dog. The neighbors don't tether them or put them on leashes.

Kostura asked if the neighbors will pay for the dog's medical bills. Baker said her lawyer's office sent them a letter and the dog bill, with a request to pay for the medical bills.

Canton said he lived in Warren years ago when he had small children. They were petrified of their neighbor's dog so he installed a 6-foot wooden fence. He added that a gentleman in Warren had a lion cub in his backyard around the same time and there was no ordinance in place to prohibit exotic animals. Canton said he understands what the neighbors are going through and doesn't feel they should have to deal with it.

Nairn contacted Baker when she heard about the attack. Nairn had a personal confrontation with one of the dogs on February 4th while walking down the bike path on Bell Road and was frightened. She commended all of the concerned residents for making their worries aware to Council and thanked them for attending the meeting. She said that Council's hands are somewhat tied due to domesticated animal laws in Ohio but added that Council does care about the situation.

John Roshcheck is Joseph Baker's law partner from Summit County and is representing the Bakers due to the dog attack. He said this is not a matter of passing judgement or criticizing the Dalmatians' owners, but sharing concerns for the welfare of the community. He would like Council to find a solution to the problem.

The Mayor said he stood in the Malloy's driveway last week and he can understand their concern. He asked the Chief what he would suggest for this situation. Chief said Council would have to add language that would address menacing fashion to the current ordinance to make it easier for him to enforce. Some ordinances explain menacing as something that would cause any person being chased or approached, to reasonably believe the dog would cause physical injury to that person. The current village ordinance was adopted in 1973.

Chief read from Ohio Revised Code (ORC) 955.22 addressing this situation. This section of the ORC states that the owner must keep the dog physically confined upon the premises of the owner, keeper or harbored by leash, tether, adequate fence, supervision or secure enclosure to prevent escape. Chief said once the dog passed the fence, the Police Department determined that the invisible fence is no longer an adequate fence and therefore the dogs must be leashed, tethered or supervised. The owner was informed of this requirement and has been doing this since the incident.

Chief said the owner is looking at a pet rescue in Cleveland, where the dogs will be evaluated to see if they will take them. If they are not accepted, they will consider euthanizing the dogs. Another option would be to relocate the dogs to another family member outside the village. He stated the dog owners have been cited for the offence, and were very apologetic for the incident. Before the attack happened, there was no offence per the current vague ordinance. Chief suggested adding the menacing fashion to the ordinance to try to prevent this from occurring again.

A neighbor asked if the owner is allowed to let the dogs run free as long as they are supervising them. Chief stated he ordered the owners to have the dog leashed, tethered or chained. If the owner doesn't comply with this command, the Police Department will issue another citation. Browne asked if the Police Department could require the dogs to be muzzled when outside. Chief said that can be done, but the owners are looking at their two options and should have an answer by end of the week. Chief said he could put more restrictions on these dogs if the neighbors feel it is necessary. Dishong said he doesn't want to take any chances and would feel better if muzzles were required.

Kostura asked if some of the language in the park ordinance is applicable for this situation. Chief said the language would be a good addition to the current ordinance but due to the dogs not being in the park, it doesn't apply to this situation.

Porter asked if the village can require the property owner to install a fence. Chief said there are stipulations in the ORC that would have to apply to give the village the right to require this and none of those stipulations apply in this situation.

The Mulloys expressed concern with this issue being pushed out further than Monday, when the owners should know if the dogs will be taken by the rescue facility.

The Mayor asked Chief or an Officer of the Police Department to visit with the property owner by noon on Tuesday, April 5th to remind them that the dogs must be on a leash, tether or chain, let them know there is concern of the owner's size and control of the dog, and the Mayor asked to check if the invisible fence is working. Chief said the invisible fence is irrelevant since it failed.

Mayor asked Megan Mulloy to put together an email chain to inform the neighborhood of what has been discussed. Mayor also asked the Safety Committee to make a recommendation for the ordinance amendment.

Meyer asked if Council will follow what happens to the dogs. Mayor said they will make sure the situation is handled.

Chief added that he will ask the dog owners to put a muzzle on the dogs, but can't enforce this request.

It was asked if the landlord is aware of the situation. Megan Mulloy said she contacted the landowners daughter, Denise Derbyshire, asking that they change the perimeters of the invisible fence so they feel more comfortable getting their mail and taking out trash. She didn't receive a response.

MAYOR'S REPORT: The Mayor met with the Chagrin Valley Jaycees and parking for the concert in the park was discussed. The Mayor said that the Jaycees have agreed to park the cars

to try to avoid damage to the park. Canton and Dishong said they are concerned the park might be wet and there will be damage. Dishong said he has a concern whether it rains or not and still thinks there should be no parking at the park property for this event.

Porter added that the parking lot is not that big and feels that a trolley is the best solution. The Mayor said the Chagrin Valley Chamber will not pay for a trolley. Dishong suggested asking the Chagrin Valley Jaycees if they would contribute a donation for the trolley. Mayor would like to get back to the Chagrin Valley Chamber by the end of April.

Mayor asked if Council had any other recommendations for recognizing Matthew Brett and Jack Binder. Mayor suggested planting a tree at Village Hall or the park. Ted Kruse is also selling eight trees along Bell Road for about \$425 per tree. It would also need a brass plaque of recognition.

Dishong said if the Village does do something, he would like it to be on the Village Hall property, not at the park. The Street Commissioner said he remembered Matthew Brett talking about wanting to plant an evergreen tree by the pavilion that could be strung with lights at Christmas time.

The Mayor also requested to hold an executive session at the end of the meeting to discuss pending litigation and personnel issues.

The Mayor said he meets with department heads every Monday morning and distributed his agenda from the last meeting to Council. He asked Council to contact him if they have any questions.

FISCAL OFFICER'S REPORT: The Fiscal Officer stated she met with Financial Network of America, (FNA), for the new deferred compensation program that will be available to employees. FNA will be meeting with interested employees at Village Hall on Thursday, April 21st.

The Solicitor will have the ordinance to change the Cemetery Board to a Cemetery Committee available for the next Council meeting.

The Fiscal Officer is attending the Lean Ohio Bootcamp program with Council members Canton, Carroll and Nairn. This training teaches the attendees how to reduce waste in their budgets while having the best of the best. She is finding the training to be very educational and beneficial.

The Fiscal Officer was asked to order business cards for Canton and said any other Council members can contact her if they are interested in business cards as well.

FISCAL AUDITOR'S REPORT: The Fiscal Auditor didn't have his monthly report available due to the early meeting date.

ENGINEER'S REPORT: The Engineer met with the Street Committee to review the 2016 Road Program project. They based the roads suggested for the 2016 Road Program off of the 2015 PCI ratings. They are estimating a total of \$350,000 for this year's road program, which includes administrative fees. Roads to be bid out include Fawn Court, Champion Lane, Woodland Court, Kimberwick Court and a 250-foot section of Garden Park, with about \$338,000 in construction costs. Discussion followed concerning the condition of village roads.

Nairn noticed that roads in the village are about 25 years old and asked if this is typically how long asphalt roads last. The Engineer said that typically asphalt roads last about 18 years and one of the many factors of determining what holds up a road is what kind of soil is under it.

Kostura moved to go out to bid for the 2016 Road Program to include Fawn Court, Champion Lane, Woodland Court, Kimberwick Court and a 250-foot section of Garden Park, seconded by Canton. Voice vote – all in favor. Motion carried.

The Engineer said it was noticed by the Geauga County Engineer's office that the 60-inch corrugated metal pipe under Cascades Drive is in poor condition and will need to be replaced. The Engineer looked into seeing how much it would cost to bring the culvert up to current standards and increase the capacity. Residents have noticed that water builds up during significant rainstorms and floods their properties. Replacing the culvert with a concrete box automatically increases the capacity for the culvert and the Engineer would like to install a wing wall, which will channel or direct the flow. The estimated cost is about \$57,000 for the complete job. The Engineer hasn't contacted the County Engineer's office for project funding yet. The Engineer stated the condition of the culvert isn't currently causing a health and safety issue but it will have to be replaced. He thinks the project can wait until next year. There are six homes beyond the culvert so the village can hold off on this for now, especially if it can possibly receive some funding from the County.

BUILDING INSPECTOR'S REPORT: The Building Inspector referred to her month end report.

The Planning Commission met March 31st and reviewed an amendment to section 3.07(b) of the Zoning Code of the Village of South Russell to eliminate the requirement of mailing notice of Zoning Appeal Hearings to the property owners within 500 feet of any yard of the property involved, and to change the mailing requirement to properties that are contiguous to the property to be discussed at the hearing. This change was adopted by ordinance in 1998 but somehow wasn't added to the Zoning Code when it was approved. It was thought that this section was included in the code until recently, when it was noticed by a resident that notices weren't properly sent out for a Zoning Board of Appeals (ZBA) Hearing. A public hearing will have to be scheduled before the ordinance change is approved by Council.

The Mayor added that discussion was also held concerning the square footage of homes in Chagrin Heights. The Planning Commission would like to revise the minimum allowable square footage of a home proposed to be built in the area of the village and will continue discussion on this topic at the next meeting on April 26th at 7 p.m.

Porter asked why the current Zoning Code requires 2,400 square feet minimum. The Building Inspector stated that Mayor Young wanted bigger houses in the village but didn't take into account there were many smaller homes in the Chagrin Heights area.

POLICE CHIEF'S REPORT: The Police Chief referred to his monthly report and said March was a busy month for animal complaints.

The community events for this spring are scheduled. The Police Department is looking at introducing a new home security evaluation program to the residents as well.

Porter asked if the E-commerce area is set up. Chief said that the Street Commissioner will install the signs at the Police Department parking lot soon.

The Chief stated that Joe Constant Sr. gave a donation of a 4-foot police decal for the Police Department conference room.

STREET COMMISSIONER'S REPORT: The Street Commissioner will provide his month end report at the next meeting.

The Street Commissioner said there is some additional room in the salt dome if another community needs to store salt to meet their minimum contract amount for the winter season.

The Street Department will be installing the new signs at the Police Department and the no parking zone signs within the village as the weather permits.

The Street Department will address the mowing of village properties when the weather breaks.

There are two foundations scheduled for installation at the cemetery this spring. The Street Commissioner would also like to review the cemetery drainage swale that is in line with some of the lots with the Engineer.

SOLICITOR'S REPORT: The Solicitor was not available to report.

FIRE PREVENTION OFFICER: The Fire Prevention Officer distributed his monthly report and said that March was very busy with the Lantern project. The Lantern of Chagrin Valley ran into some problems with state inspections. The Fire Prevention Officer is trying to work with them as much as possible to address the issues so the facility can open soon. He added that it is a nice facility.

Porter asked when the Lantern will be getting their occupancy permit. The Fire Prevention Officer stated that Dave Hocevar will approve that after all of the current issues are addressed.

The Mayor said the Lantern of Chagrin Valley has invited Council, Boards and employees to attend their open house event on April 25th at 5 p.m. Please RSVP to the Village Office.

COMMITTEE REPORTS: Dishong, Nairn, and Canton had nothing to report.

Kostura scheduled a Finance Committee meeting for April 11th at 7:30 a.m. and a Street Committee meeting for April 22nd at 7:30 a.m.

Porter will be scheduling a Building Committee meeting soon.

ORDINANCES/RESOLUTIONS:

There were no ordinances or resolutions before Council.

Kostura distributed a copy of an ordinance amending section 3.07(b) of the Zoning Code of the Village of South Russell by eliminating the requirement of mailing notice of Zoning Appeal Hearings to the property owners within 500 feet of any yard of the property involved. This change was suggested by the Planning Commission at their March 31st meeting and will be placed on first reading at the next Council meeting. Fiscal Officer added that Council will have to hold a public hearing on May 23rd prior to considering adopting the ordinance, and an advertisement for that hearing will have to be placed in the newspaper prior to the next Council meeting.

BILLS LIST:

The bills list wasn't available to approve due to the meeting being held early in the month.

NEW/OTHER: Dishong, Kostura, Nairn and Canton had no new business.

Porter asked about the progress with the Bell Road project. The Engineer will be meeting with ODOT and should have an update by the next Council meeting.

The Mayor will meet with residents of Waverly Lane and Chagrin school officials at Gurney School on April 5th at 1 p.m. The school is going to inform Waverly residents that they have done everything requested to attempt to restrict water flow onto their properties.

At 9:10 p.m. Dishong moved to enter into executive session to discuss personnel matters and pending litigation, seconded by Kostura. Roll call – ayes, all. Motion carried.

Council reconvened at 9:54 p.m.

ADJOURNMENT: Being that there was no further business before Council, Porter moved to adjourn, seconded by Nairn. Voice vote – all in favor. Motion carried.

Meeting adjourned at 9:55 p.m.

William G. Koons, Mayor

Danielle Romanowski, Fiscal Officer

Prepared by Jennell Dahlhausen