

**RECORD OF PROCEEDINGS  
REGULAR COUNCIL MEETING  
MONDAY, DECEMBER 9, 2013 – 7:30 P.M.  
MAYOR MATTHEW E. BRETT PRESIDING**

**MEMBERS PRESENT:** Binder, Dishong, Koons, Kostura, Porter and Wolfe

**OFFICIALS PRESENT:** Fiscal Officer Romanowski, Fiscal Auditor Lechman, Police Chief Rizzo, Building Commissioner Hocevar, Street Commissioner Johnson, Solicitor Ondrey, Engineer Haibach

**VISITORS:** Mr. Unkrich, Fairview Road, Bill Stone, Fairview Road, Valarie and Tim Mariola Hemlock Road, James Flaiz, Sheerbrook Dr., Deborah Stephen, Hazelwood

Mayor Brett called the Regular Council meeting to order and led the Pledge of Allegiance to the flag. Fiscal Officer read the roll. Koons moved to approve the minutes of the November 25, 2013 Council meeting, seconded by Kostura. Roll call – ayes, Koons, Kostura and Porter. Binder abstained. Motion carried.

**VISITORS:** Bill Stone addressed Council about zoning issues on Hazelwood. He stated the lot sizes are about 50 feet wide. He said the average size of homes now is about 2,500 sq foot. He said the lot size in that neighborhood doesn't meet the required house size. Stone said there are buildable lots open on the west end and as the potential of property values rise, houses may be torn down to get multiple smaller lots. To look forward from the code that was written in the 1940's and apply some of the current things to it and move towards the future as well. He believes the simplest thing is to allow smaller sized houses to be built on these lots. Stone said he has read the zoning code and there are multiple conflicts in it. He believes the rights of homeowners throughout the village should be more consistent in regards to setback and so forth. Stone said there are two codes with unequal protection. He doesn't feel that the spirit and intention of the code is met. He believes that was to offer an opportunity for protection for building practices to the residents and even to the future homeowners of these houses. He stated the surrounding neighborhood disputed construction of a large home of 2,400 sq. ft. or more on a small lot. He said there were multiple references in the codes as to how the structure has to be in harmony with the surrounding homes so it doesn't detract from the neighborhood. Stone stated that at the time of zoning variance request, he doesn't believe all the information was available to make a responsible decision. There was a footprint drawing that showed the square footage outline of the house and a pencil drawing of the floor plan. Stone questioned how a decision could be made as to how the house fits in harmony with the neighborhood when the details of the home aren't known. Stone said the board seemed intent on was the property owner's right to make a reasonable return. He said the builder bought the lot that was in contention as one of five in July so he believes he had full knowledge of the codes when he went into this. Stone said the Zoning Board of Appeals (ZBA) can't force the builder to build on two lots rather than one. However, Stone said if they denied the variance that would have been the ultimate outcome. Stone inquired what the appeal process is for this case would be. Solicitor Ondrey stated someone has 30 days to appeal from the date that the minutes of the meeting are approved. ZBA will meet and approve the minutes, and that will kick off the 30 days for the right to appeal.

Solicitor stated that an interested party would then have to take certain steps stated in revised code requesting that transcript for minutes of the meeting and any other documents associated with it would be submitted to court. The court would then set down a briefing schedule for the appellants and for the Village to respond. The Village would be defending the ZBA decision.

Wolfe arrived at approximately 7:40 pm.

Emilie Unkrich stated she has lived at her current Village address for 46 years. When she and her husband bought the property they bought two lots and since then has bought two more lots, so she owns a total of four lots on the street. Unkrich stated the lots originally sold as places to build vacation house. She said she likes the green space, the cozy neighborhood and the nice little homes. She doesn't feel that the ZBA properly looked at all aspects of what would happen with a house that large and how it would interfere with neighborhood. Unkrich said Mrs. Sprinkle gave a lot of information to the ZBA members. She doesn't believe the board considered or even looked at that information regarding the conflicts. Unkrich believes that information should have been given a fair shake and it should still be looked at. Unkrich said she loves the United States and she says the Pledge of Allegiance with all her heart, but somehow what is going on with this situation, she is not comfortable with as far as how this particular item is being reviewed and looked at. She stated she felt the decision to grant the variance was decided before they walked in the room the other night. She said this needs to be looked at not only for this item but for the community to make sure all the citizens are treated in a fair manner.

Deborah Stephen stated that she lives in a beautiful neighborhood and a lot of the people who live there bought extra lots to keep greenery in the neighborhood. She stated she reviewed the building code and there is a lot of conflict between old code and the new code. She stated it seems that bits and pieces were cherry-picked out so that the builder could have the most advantageous ability to build on that lot and a lot of things were not considered, especially the aesthetics. Stephen stated the footprint of the house is over 50% of the lot. She said she believes parts of both codes need to be considered and stated she is looking forward to the appeals process.

Valerie Mariola stated she has been a resident of this development for 45 years. She stated that the homes built in that area are on multiple lots. Mariola stated there are 21 homes on Fairview Road and 17 of them are on multiple lots. She said if everyone in the neighborhood sold their homes and people built on every lot, there could be 44 homes on that street where there is currently 21. Mariola stated the ZBA did their best with the rules that had been set to them. However, she believes the old and new rules don't mesh with the neighborhood. She said to think of that area with 44 homes on that street is scary. Mariola said she believes 2,500 sq. ft. homes are acceptable in some areas, however they are not acceptable in that area. She stated most of the homes in that area range from 975 sq. ft. to 1,465 sq. ft. She stated the builder needs to build with the thought to preserve the neighborhood the way it is - it's been this way for 50 years, it should be this way for 50 more.

Mayor informed Council that ZBA granted variance on this issue. Mayor said the residents' points are very valid and agrees that the code needs to be looked at. Mayor stated the Chairman of the ZBA sent draft letter asking Council to look at the issue. He stated the Planning Commission (PC) said the Village should look at the options and the possibility of creating a zone in this area where a different requirement of the minimum allowance of square footage is

required. Mayor said prior to this issue coming up, the Planning Commission hadn't known there was an issue. Mayor said the process would be for the ZBA chairman to send his letter to Council and the Planning Commission. Mayor said he believes the Planning Commission would look to make a recommendation at their next meeting and then it would go to Council. He stated a zoning change must go through three readings as well as a public hearing.

County Prosecutor and former Village Council member Jim Flaiz thanked Mary Beth Wolfe for her years of service to the community. Flaiz said he had the pleasure of serving with Wolfe for seven years. He stated he always appreciated Wolfe's perspective, though he may not have always agreed with it, he appreciated it. He thanked her for her hard work and service to the village.

### **MAYOR'S REPORT:**

Regarding the waterline extension topic, the Mayor said he met with the County Auditor to get information on what is involved in creating a community reinvestment area. The Mayor plans to have a follow up meeting in the next 7-10 days with the developer, the schools and the county representatives. He said there is complexity to the issue, but if it is going to happen, it will have to happen soon.

Mayor stated Council he forwarded information from his Mayor's Association regarding HB5. It has passed the house 56 to 39. It is expected that the impact to the Village is out a couple years, however the Fiscal Officer will get updated information from the Central Collection Agency for greater clarity.

Mayor informed Council that the dispatch center recently had their open house. Mayor said the communities that have been in the council of governments (COG) are in; some of the others that were considering joining have not made final decisions. Mayor said some communities do not want to be part of the dispatch group, but part of the facility that was recently created. He said there is some financial upside to that, but the COG would also lose some future capacity. Mayor reported that January 15<sup>th</sup> is the expected start up date for new dispatch center.

As 2014 approaches, Mayor asked Council to share feedback to him regarding committee requests.

Mayor reported that the Fire Prevention Officer identified an issue with propane heaters being used in area businesses. Mayor stated it looks like this may be another issue with language in the code regarding propane having to be revised.

**FISCAL OFFICER:** Fiscal Officer reported she distributed legislation for commendation of retired Police Chief Wetzel to be reviewed and adopted.

Fiscal Officer reported there are some amendments to the appropriations that her committee would address and she is looking for Council to adopt the 2014 appropriations at this meeting.

Fiscal Officer stated she distributed a letter to Mayor and Council that the library is requesting a representative from the Village to be on a committee for potentially building a new library. The Mayor said he would respond the library.

**FISCAL AUDITOR:** Fiscal Auditor distributed and reviewed his monthly report.

Fiscal Auditor reported the Village has \$2.9 million as of the end of November. He reviewed approximate balances in the various accounts.

Fiscal Auditor stated the cash balance went up last month which is unusual. Income tax collections are up significantly over what was budgeted. He reported in many areas the Village has already met the expected revenues with one month of collections remaining in the year. He said the Village is up about \$400,000 from where we thought we would be.

There was brief discussion regarding Homestead and Rollback and its effects.

**ENGINEER'S REPORT:** Engineer Haibach said he has been in contact with Karvo Paving which is the contractor who has been selected for the Bell Road project. Engineer said he has an approximate date of December 20<sup>th</sup> for utility relocation to start. Engineer put together a project prospectus that included everything that would be included in the project for the Streets Committee to disseminate that information to residents along Bell Road.

Engineer is working on finalizing some things on cemetery. His office has to prepare a storm water pollution plan for cemetery and he has been in contact with the Chagrin River Watershed Partners on that issue. Since the Village will be clearing about an acre of land, the Village has to have a plan for it, so Joyce Bond is working on that.

Regarding the Anglers Drive pond, Engineer stated he has had no additional communication with the residents on that issue. Engineer stated he staked property line for the residents so they can inspect the property stakes. Mayor said he would like the Engineer to schedule a meeting with the residents of Anglers Drive to show them what he staked out. Koons questioned the work on Bell Road with First Energy. Engineer replied that First Energy has to lower one conduit.

Mayor stated the Village website has been updated with information regarding the Bell Road project and stated that a letter would be sent to the residents on Bell Road that are going to be affected by the project before the first of the year. Engineer stated there are some residents that things such as stones, landscaping, etc. near the road that may be impacted by the project and the owners may want to move them prior to the project starting if they want to save them. Engineer stated the contractor is expected to start January 13<sup>th</sup> with the storm sewer work. Mayor stated the staging area will be the First Energy area to the north of Bell Road. Mayor said the most significant item with the project is that the culvert pipe by Gurney School will have to be replaced. Therefore, Bell Road will close for one week in March/April in order to do that culvert work. Mayor stated the Village has pushed for spring break week for the full road closure to have the least amount of impact on the residents. Binder said the Streets Committee is concerned about mailbox replacement on Bell Road. The Engineer replied that the mailboxes that are currently hanging on by a thread may fall apart when removed for the road project. The homeowners can purchase a new mailbox and post, the Village will put it back in the ground for them. Binder said the mailbox issue should be addressed in the letter that is going to residents. Street Commissioner stated some of that information is addressed in the newsletter article and on the website.

**BUILDING COMMISSIONER'S REPORT:** Building Commissioner thanked the Engineer for getting all the Village's plats stored electronically. He stated any time he asks the Engineer to review site plans or as-builts, he always does a great job.

Building Commissioner said regarding the variance discussed earlier in the meeting, he would recommend Planning Commission have a work session to discuss the topic. Building Commissioner said he has some ideas and he has been to the ZBA meetings and has talked to residents and maybe there is a compromise to come up with an adjustment to the zoning to make it easier for them to live with what happened there.

Building Commissioner stated that Snap Fitness has requested an expansion.

Dishong arrived at approximately 8:26 pm.

Building Commissioner stated his department has attended Bureau of Workers' Compensation safety meeting which gives the village a 2% reduction in the workers' compensation rates. If the village stays accident free until the end of the year, we may be able to save another 2%.

Mayor stated that he noted the electrical inspections for Chagrin Falls are up from the past. Mayor said the Village should revisit the arrangement.

**POLICE CHIEF'S REPORT:** Police Chief said he arranged for traffic control for Turkey Trot Thanksgiving morning. There were no complaints.

Chief informed Council his department was awarded a AAA bronze safety award.

Chief said his department is in the process of increasing security in the police station as the village has to be in compliance with LEADS. Auditing for compliance with that security will begin in January.

Chief said Shop with a Cop went very well with 11 children participating with \$3,700 in donations received. Each child received gift cards from Walmart. This is the first year they did the program with Bainbridge and Aurora police departments and shopped at the local Walmart in Bainbridge.

**STREET COMMISSIONER'S REPORT:** Street Commissioner reported he has updated the website to include information on the Bell Road project. The information can be found under the Village News tab and on the homepage.

Street Commissioner said Precious Resources preschool will be hanging ornaments on the corner lot tree on December 19<sup>th</sup> for their school project.

**SOLICITOR'S REPORT:** Solicitor Ondrey set up a hearing time of 7 pm for the public hearing for the zoning code change.

**COMMITTEE REPORTS:** Binder, Kostura and Wolfe had no report.

Dishong requested newsletter articles be submitted to him within the next couple days.

Koons distributed pictures of potential grills and fireplaces for the park pavilion. He said the Parks Committee is also requesting lighting ideas.

Koons distributed a photo of a proposed plaque of recognition for Chagrin Jaycees for the pavilion.

Koons said the Parks Committee began discussion pavilion booking procedures. Mayor stated that the Bellwood pavilion is reserved through a website and it seems to work well.

Koons reported that Lee Schiemann is stepping off Parks Committee.

Porter said the Utilities Committee met on how the sewer process should move forward. Porter said the committee recommends that the communities involved should utilize a petition similar to what Lake Louise had with 75% of the owners of the lots involved in the potential sewer extension would have to be in favor of it. He said the committee believes this should be done by April 1, 2014 to measure the public support for expansion of the sewer. Porter said 75% is a round number based on all the lot owner. The ones in favor would be the numerator and all lots would be the denominator. The result of that calculation with 75% or more, then the village would go ahead with the project. Mayor asked Council to consider the recommendation and look to formalize it at the next Council meeting. Wolfe questioned how to clarify those that don't vote and how those should be counted. It was decided those that don't vote, would be a "no" vote as they are counted in the denominator. Wolfe stated that the meaning of a non-vote needs to be clarified with the property owners at the time the vote is taken so that it is clearly understood. She stated that was an issue when the subject came up previously. Mayor stated he would like a decision at the first meeting in January. Koons stated that the police levy passed by 75-78% - he doesn't think this has a chance. Koons said he lived 13 years on septic and they would have never gotten sewers with these parameters. Koons said 75% is way too high for him. Mayor said the discussion and debate would occur at the January meeting to finalize the parameters of what Council is looking for in order to move forward.

#### **ORDINANCES/RESOLUTIONS:**

Kostura gave second reading on an ordinance to rezone a portion of parcel 29-066100 currently zoned for R-1-A, (residential one family), to R-3, (elderly assisted living), and to delete section 4.06(e)3 of the zoning code of the Village of South Russell.

Wolfe introduced an resolution of appreciation for James Wetzel and declared an emergency. Wolfe moved to waive further readings, seconded by Koons. Roll call, ayes – all. Motion carried. Wolfe moved to adopt, seconded by Koons. Roll call – ayes, all. Motion carried. Resolution 2013-44.

Dishing introduced an ordinance increasing the general fund salary/benefits \$2,000, Building Department fund salaries/benefits \$4,000, Safety Fund salaries/benefits \$10,000 and Safety Fund other \$3,675, Operating Fund salaries/benefits \$10,000, Cemetery fund \$100, Income Tax Fund \$40,000 and declared an emergency. Dishong moved to waive further readings, seconded by Kostura. Roll call, ayes – all. Motion carried. Dishong moved to adopt, seconded by Kostura. Roll call – ayes, all. Motion carried. Ordinance 2013-45.

Dishong introduced an ordinance for the 2014 Annual Appropriations in the amount of General Fund \$1,066,249, Special Revenue Funds \$3,518,779, Capital Funds \$2,421,706 and Agency Funds \$70,000 for a total of \$7,076,734 which includes grants for the Bell Road Project and

declared an emergency. Dishong moved to waive further readings, seconded by Kostura. Roll call, ayes – all. Motion carried. Dishong moved to adopt, seconded by Kostura. Roll call – ayes, all. Motion carried. Ordinance 2013-46.

**BILLS LIST:** Binder made a motion to ratify the bills list dated 12/4/13 in the amount of \$3,560.00, seconded by Dishong. Roll call – ayes, all. Motion carried.

Binder made a motion to approve the bills list dated 12/13/13 in the amount of \$49,734.19 seconded by Dishong. Roll call – ayes, all. Motion carried.

**NEW/OTHER:** Binder, Dishong, Kostura, and Porter had no new business.

Koons said this has a trying year with many projects in the Village. Koons commended Mayor for keeping everyone on the same page and keeping Council in a positive frame of mind.

Wolfe thanked the Village for allowing her to serve the community.

Binder thanked Wolfe for her friendship, insight, her perspective on issues. He stated losing her is a real loss to Council.

Dishong said he didn't always agree with Wolfe, but he always valued her opinion. She had a lot of great insight into the Village and she will be missed.

Koons told Wolfe he appreciated the fact that he could disagree with Wolfe without being disagreeable.

Kostura said he feels slighted because he didn't have the opportunity to work with Wolfe as long as other members of Council had. He said when he was looking at the Council position, Wolfe took the time out of her busy schedule to sit down with him and give him very candid thoughts and he truly appreciated that. He appreciates her views on things and appreciated the fact that they could agree to disagree and still be friends when they walk out the door.

Porter told Wolfe it was a pleasure sitting next to her for the last eight years. She will be sorely missed and he hopes she will return.

Wolfe said it has been a real honor to work with the Department Heads and the people who run the Village day to day. The Village has some quality people that work for the Village and she is very appreciative of that.

Mayor said he enjoyed Wolfe's time on Council and echoed the Council members statements. He stated Wolfe exemplified the character of the village. She gets that it is about the residents and that has always shown through. He feels she represented the Village well. Mayor thanked her for her service to the Village.

**ADJOURNMENT:** Being that there was no further business before Council at 9:11 pm, Wolfe made a motion to adjourn, seconded by Porter. Roll call, ayes - all. Motion carried.

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Matthew E. Brett, Mayor

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Danielle Romanowski, Fiscal Officer