

**RECORD OF PROCEEDINGS  
REGULAR COUNCIL MEETING  
MONDAY, FEBRUARY 24, 2014 – 7:30 P.M.  
MAYOR MATTHEW E. BRETT PRESIDING**

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

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

**VISITORS:** Ann Dunning, Morningside Drive; Sylvia Debick, Maple Hill; Mary Beth Wolfe, Daisy Lane; Jack Sutcliffe, Maple Hill; Gary Dole, Maple Hill; Kate Ignaut, Maple Hill; John Krissing, Maple Hill

Mayor Brett called the Regular Council meeting to order and led the Pledge of Allegiance to the flag. Fiscal Officer read the roll. Porter moved to approve the revised minutes of the February 10, 2014 Council meeting, seconded by Binder. Roll call – ayes, all. Motion carried.

Gary Dole asked about the status of getting a water line to Gurney school that was recently discussed. The Mayor explained that Mr. Dole was referring to the idea of getting a water line from the new assisted living/Alzheimer's facility on Chillicothe Road to Gurney School. He explained that the proposed project ran into an obstacle with the pressure that currently exists not being adequate enough to extend the line further. He stated that Geauga County is looking at either raising the existing water tower or putting in some other type of booster pump to increase the pressure. Unfortunately the timing for either of these solutions would take time to complete and would be outside the desired opening of October 2014 for the assisted living center. Mayor stated the CEO of the assisted living center would still like to pursue this idea for the future.

**MAYOR'S REPORT:** Mayor stated the circus is coming to town and he is working with the Solicitor on completing the agreement with the Jaycees.

Mayor informed Council that the Chagrin Falls Women's Club (CFWC) has teamed up with Lowes Greenhouse and is selling gift cards as a fundraiser. CFWC does take care of gardening at the Village's corner lot. He stated the last couple years the Village bought gift cards from the women's club to purchase plants for village properties. Binder made a motion to purchase \$300 in gift cards from Chagrin Falls Women's Club, seconded by Kostura. Roll call – ayes, all. Motion carried.

The Mayor reported that the stormwater management annual meeting will be held March 6<sup>th</sup> at 7 am at Village Hall. The Village has to file a report with the Environmental Protection Agency (EPA) for Stormwater Phase II.

The Mayor said the informational meeting regarding the Bell Road West project that was held at 6:45 pm, (just prior to the Council meeting) was well attended and provided good feedback.

The Mayor said the Village will be working with the Chagrin Falls Fire Department and collecting donations for the Cleveland Food Bank.

Mayor reported that all board openings, except the Park Committee's opening, are now filled. The Park Committee currently has one opening.

**FISCAL OFFICER:** Fiscal Officer said regarding the Cleveland Food Bank food drive, the collection boxes will be dropped off on March 3<sup>rd</sup> with one in the Village Hall entryway and one in the Building Department. Chagrin Falls will put an ad in the Chagrin Valley Times listing South Russell as a drop off point. Additionally, the Village will look to put information on the southrussell.com website. Collections will be taken through the end of March.

Fiscal Officer informed Mayor and Council she will be attending the State Auditor's conference in Columbus on March 5-6<sup>th</sup>.

As Tax Administrator, Fiscal Officer reported that the January tax collection, which was the February distribution consisted of gross collections of \$200,752.37 and after overhead and refunds, the net distribution to the Village was \$185,236.20 which is a year-to-date collection of \$279,149.54.

**FISCAL AUDITOR:** Fiscal Auditor distributed and reviewed his January 31, 2014 Cash Management Report with Mayor and Council. He explained that regarding income tax collections as well as the ambulance billings, the Fiscal Officer reports in gross where he reports net. Fiscal Auditor balanced with Fiscal Officer on all funds.

**ENGINEER'S REPORT:** Engineer gave an update on the cemetery project. He has received a final set of plans which he will review with the Street Commissioner and Building Commissioner. Engineer reported that the bid estimate with gravel road is \$175,000, and the alternate bid for asphalt paving is estimated at \$200,000. Engineer stated he would advertise as early as March 7<sup>th</sup> if the Village wishes or he can push it back pending comments or review. Mayor clarified that the \$175,000 is for construction only and the clearing of the property is outside of that. Engineer said his Survey Department's high tech equipment doesn't work really well in this cold weather, so they are behind in their survey work. The survey crew could come out sometime in the next 2-3 weeks to delineate the property for clearing. Mayor said the Village allocated \$200,000 for the cemetery project to include the engineering. Engineer replied that the engineering is paid up-to-date and he does not anticipate much more in engineering costs for the project. Fiscal Officer asked for a cost estimate for clearing the property. Engineer said he didn't know but recommended the Village get a quote from a couple companies that do that type of work. Mayor said multiple items fall under the \$200,000 appropriation – items such as the cost of the project, additional engineering fees, clearing of the land, and cemetery software. The survey costs were included in the engineering costs. Mayor said the Street Commissioner and Building Commissioner should get quotes for the clearing once the area is delineated. Dishong said he is encouraged that the number came back in the range that we expected and he is looking forward to seeing the plans.

Regarding the Bell Road West project, Carroll asked if anyone notified the fire department about the upcoming road closure. The Mayor responded that the resident that lives in the house where the closure will be has agreed to allow emergency vehicles cut through her driveway during the closure period.

Binder informed Council that he has discussed the idea of rumble strips for the Bell Road West project with the Engineer. Binder has concerns that people don't always pay attention or even text when driving and if they drift off the roadway they could hit a pedestrian. Engineer said it would cost more money but he broached the subject with Ohio Department of Transportation

(ODOT) and let them know it is something the Village considering. He explained that this would be a roughened texture under the edge line that makes a noise when someone drives over it. Mayor said the Village should find out what the cost is and what is involved with it to find out if it is even an option.

Engineer reported he will soon be doing his evaluation of the roads for regular 2014 road program.

**BUILDING COMMISSIONER'S REPORT:** Not scheduled for this meeting.

**POLICE CHIEF'S REPORT:** Police Chief reported the he and the Fiscal Office had a bid opening on February 14<sup>th</sup> for a new police SUV Interceptor. He reported that the Village received three bids; two for the old cruiser and one for the new cruiser. He said after discussing it with the Safety Committee, they have a recommendation. Binder made a motion to accept the bid from Liberty Ford for \$22,443.31 for a 2014 SUV Interceptor which is the net price after a \$4,000 trade in on the old cruiser, seconded by Carroll. Roll call – ayes, all. Motion carried.

**STREET COMMISSIONER'S REPORT:** Street Commissioner reported that the village currently has approximately 250-300 tons of salt in the building and is waiting on 500 tons to be delivered. He also reported that ODOT's idea of going out for additional salt from other contractors fell through.

Street Commissioner reported that spring sweeping is scheduled to start approximately April 4<sup>th</sup>.

**SOLICITOR'S REPORT:** Solicitor Markowitz was present in Solicitor Ondrey's absence. He had no report.

**COMMITTEE REPORTS:** Carroll had no report.

Koons reported that the Parks Committee is seeking two bids for fireplaces for the pavilion and they are working on putting together a reservation system for the pavilion as well.

Koons reported that model airplane demonstrations will take place at the Fall Festival. The committee is still waiting to hear from the skydivers and whether or not they are interested in participating.

Koons asked Solicitor Markowitz to ask Solicitor Ondrey about the language/wording he suggested adding to the park sign regarding visitor's entering the park at their own risk.

Kostura reported that there was a Planning Commission meeting where Jean Makesh, the CEO for the Lantern of South Russell, and his architect came and laid out their plan of what the facade would look like as well as the building footprint. Mr. Makesh was not looking for approval at the time, but he was looking to give the Village an idea of what things would look like, how it would be set up, and the boundaries of the facility. He discussed using the barn as a senior/community center to include features such as a swimming pool, an aerobic area, a weights facility and a community meeting room. Kostura said the plan looked very nice but he would have to expand the footprint of the barn which would require a variance on that area because it is within the 300 ft boundary. This is something Mr. Makesh wants to discuss not only with the Planning Commission but also with the Zoning Board of Appeals. Kostura passed around a copy of the plan drawings and explained that Mr. Makesh has kept in trying to keep the boundaries around all sides a fair width. Kostura said some residents attended the meeting and expressed

concern about fire drive that encompasses the entire facility in the event there was a fire. He said the outside is all one story, but there is an issue with height as the Village's height restriction is 28 feet and there is one roofline that might be at 29-30 ft. He stated the developer did that because it is all one story he wanted to make it fit more in line with rooflines and the architectural theme of the community with steeper roofs. Mayor explained there are several issues that still need to be addressed for the project such as water supply, drainage, etc. The Mayor explained that the developer's timing is getting compressed and he will have to put it in high gear to get all the required approvals from the Village. The Mayor reported that he will get the developer in contact with Yoram Eckstein, the Village's hydrogeologist. The Solicitor will forward Mr. Eckstein's new contact information to the Mayor.

Kostura reported the Planning Commission (PC) also discussed zoning for the west end of the village, primarily the Hazelwood area. The residents would like to restrict the house size, but that is not allowed by law. They also discussed restricting how much of a house can be put on a property based on the property size, but that didn't help much because a resident could still build a pretty large house on that size property. They also discussed how to deal with the new zoning requirements versus the old zoning requirements and when they apply and don't apply. Kostura reported that Bill Stone will sit down with the Building Commissioner and they are going to go through what the issues are with the old code and new code and come up with some recommendations for PC to see how they could all co-exist together. Mayor said the lots in that area are odd shapes and sizes and encouraged Council to drive past the area to get a better understanding.

Porter reported that the Public Utilities Committee (PUC) and the Fiscal Officer met to discuss the potential sewer initiative for the eastern end of the Village. Porter distributed a sample ballot, envelope, map showing the area that might be impacted by the extension of sewers as well as a suggested timeline. He also stated that on the sample ballot, he suggested removing the "either" option because that could go as a yes or a no and wasn't definitive. Therefore, the ballot would only have the "for" or "against". Porter stated he contacted the Department of Water Resources, and the Health Department about attending a public informational meeting on April 3<sup>rd</sup> at Gurney school at 7 pm to share information on both sides of the issue. Porter explained that 212 parcels are involved in possibly being effected by a sewer extension; therefore, 127 households would need to vote in favor of sewers in order to move the initiative forward. Porter stated that Lake Louise has already voted and their votes are tabulated. The remaining residents will vote by individual ballot. Porter stated ballots would first go out by regular mail hoping for a large response. If the Village doesn't get a response from a particular homeowner, then the Village will send a ballot to that homeowner certified mail. If the Village receives enough of a response from the initial mailing with 128 votes one way or the other, the vote is over and sending certified mail may not be required. Carroll clarified that if the second mailing goes out, if there is 60% affirmative of the total ballots received, that is what the initiative would move forward on. He went on to say that information regarding the issue and the map that was distributed would be put on the website for reference. Carroll said the drop dead date for vote submission is May 2<sup>nd</sup> with a final recommendation at the May 12<sup>th</sup> Council meeting.

John Krissinger stated he had concerns about the vote being decided by 60% majority. He also informed Mayor and Council that two people in the neighborhood are going to court because they haven't followed any of the regulations to have the septic systems inspected. Mr. Krissinger also questioned whether there would be a separate engineering charge for each separate lot.

Jack Sutcliffe questioned if 60% voted yes, what would be the next step. Porter replied if the vote was in favor that the Village will request that the county begin the process of installing sewers in the eastern end of the Village up to Snyder Road. From that point on it become a county project and it is done by the County. The Mayor said the County Commissioners will have to approve the project and they have their own process. Mr. Sutcliffe asked how the Village came up with 60% representing the majority. Porter explained initially they thought it would be 75% but after discussions it was decided that number was too high. Porter said when Maple Hill discussed this project years ago and only included themselves, the percentage was between 75%-90%. He stated that now because the area is larger it was felt that 2/3 would be too hard to achieve. In order to be fair to everyone, 60% is the right amount as it demonstrates significant support going forward.

Mr. Sutcliffe stated it seemed unconscionable that without a mandate 60% of the people can tell other 40% that they have to dig into their pockets. Porter replied if the Village required unanimity nothing would ever get done. Solicitor Markowitz stated that the Senate requires 60% to get legislation to the floor for vote and 51% for legislative approval.

Sylvia Debick said to the best of her understanding the quote received from the Department of Water Resources is \$27,500 per household which includes the construction and the engineering. She said once Council and the Commissioners approve the project and they hire an engineering firm, then \$3,000 per household would be taken out of the \$27,500 and would be paid up front and the construction would begin. When the project is done, the remaining \$24,500 would go on the tax bill. Solicitor Markowitz stated the assessment doesn't go on tax bill until the actual costs are determined and certified by the Commissioners and then it goes on the tax duplicate. He said they wouldn't put the engineering on the tax duplicate unless it has been determined that the project is not going to proceed. They would hold the engineering in advance and not assess residents until it is determined that it is not feasible and then they would put it on. Otherwise, they put the entire cost, including the engineering, on the tax duplicate. Mr. Krissinger asked if the project is going to move forward, are there any government grants that could help with the project costs. Mayor replied that the Department of Water Resources indicated they are not seeing any grants out there, but if this project is to move forward, at that point they will do a deeper review to see if there is anything they could possibly find.

Ann Dunning stated that she found out from the Chagrin River Watershed Partnership (CRWP) that there are some grants available for stormwater issues, so that might be of some help to the overall project.

Binder stated he personally is in favor of sewers but he is not in favor of a vote that doesn't include all the homeowners. He believes the denominator should include every property owner and every taxpayer that is in the affected area. He believes that every property in the affected area counts and if they don't vote, that is a vote for the status quo.

Mayor said he requested PUC make a recommendation of parameters needed for Council to move forward. He said what was put together had a lot of good details of what would need to occur. Mayor stated he has some concerns and stated, "my position is, and I thought this was the Village's position, is that we are not going to force sewers on anybody, but if there is a compelling majority of those that are still on septic systems that wish to move to sewers, we would support their endeavor. We are not going to push it on, but if there are enough that say this is what they want to do, we are going to support that." He went on to clarify that this would

be a vote of all 212 parcels that have been identified and it is not if one community is in favor and another one isn't, the one that is in favor goes and the other doesn't – it is all or nothing.

Mayor addressed Solicitor Markowitz and stated that historically Solicitor Ondrey has shied away from the Village doing any kind of village-drafted petition. That the Village has tried to give those individuals circulating the petition some guidance and direction, but Solicitor Ondrey has been very cautious about the Village doing anything like that. Mayor asked Solicitor Markowitz his opinion on the proposed ballot that was distributed at this meeting. Solicitor stated he agreed with Porter that the Village should remove “I am agreeable to either option” because the people for the yes and no could each argue that the “agreeable” is a vote for them. Solicitor said he would also make it clear on the ballot that the voter cannot make any changes to the form. Lastly, Solicitor stated this is probably the most important, not only from a legal perspective, but just from the basic fairness perspective – if the Village is not going to require 60% of *all* homes and will only require 60% of *those that respond* – he believes that needs to be on the form as well so the people appreciate their need to vote because if they don't vote and they were against the initiative, it could end up hurting them. It should be stated specifically that it won't be 60% of all the homes, it will be 60% of those that respond. Solicitor said when it comes to whether the Village does the form or someone else does the form, ultimately the Village will be seeking the approval of the county to move ahead with the project. He doesn't have a legal reason that the Village couldn't use the form that it would like to see adopted and the Village could give the residents a sample form that it prefers, but he would allow each development to create their own form of they wanted to. However if they did this, they ought to submit it to the Village first to know that that form would be something Council could glean the answer to what the people really wanted. Solicitor said preferably the Village would encourage the residents to use the Village form, but if they want to petition the Village on any form they want, he doesn't know how the Village could stop that. Solicitor Markowitz said one of the basics of democracy is that the public can petition the government in any form they prefer. Mayor asked for clarity on the voting process. Porter explained the ballot would go to all residents in the potential project area except Lake Louise as they have already voted. If a homeowner doesn't respond, the Village would resend a letter with the ballot by certified mail. If they don't cast a vote after that, then it is considered a non-response from that homeowner and they are not counted in the denominator. Solicitor said he had no problem with doing it that way and stated there is no legal mandate one way or the other of how to do it. Solicitor Markowitz said, “I understand David's reluctance as to why we wouldn't be the ones initiating this, but I also have no problem on the other side saying if you want a form that you know works for your willingness to move ahead with this project on behalf of the residents, then use this form with those modifications.”

Mayor stated he echoed Binder's comments on only having 60% of those that respond decide the initiative. He explained his concern by saying that if the Village only got 50 responses, and of that 35 of them were yes – given what has been presented, Council would be compelled to move forward. Mayor said he believes it is incredibly dangerous to have that few number of people that have indicated that they want to move forward with the project commit that many other people. Mayor said if the vote is not based on the number of parcels impacted by the project, the Village would run that risk. Mayor questioned whether the PUC has run the 60% by the Department of Water Resources Department. He said historically when the Village asked them for their direction, they struggled to give an exact number, but the number that Gus Saikaly shared previously was that he would certainly like to see a number greater than 70%. Mayor said he brings this up because he feels if Council goes forward with a vote at 60% and only counting up those responses that were submitted, he would assume that the Department of Water Resources would not support the project.

Porter replied that the Department of Water Resources may not support it at that percentage, but the last time the Village addressed this issue it was only Maple Hill that wanted to go forward, Lake Louise was initially in but then dropped out. And to have one subdivision of 45 homes proceed, 70% in favor seemed low. He went on to say that out of 212 homes, 60% of respondents in favor seems fair. Mayor stated that he doesn't believe the Department of Water Resources would support it and he doesn't believe the County Commissioners would support it. Porter said he would clarify that with the Department of Water Resources but Council wants 60%. He said if he hears from the Department of Water Resources that they would definitely not proceed with the project unless there was a percentage of  (whatever it may be), then Council could make an amendment to the motion to change the percentage.

Carroll said the Mayor was correct and the Department of Water Resources and the County Commissioners could say the percentage it is not enough, but he feels in fairness to trying to get the project initiative moving forward, the Village has to come up with something and do something about it. Carroll said that at the time this issue was previously discussed Council passed two ordinances requesting to include Maple Hill in the sewer district and another requesting the county to move forward with sewers in Maple Hill - and then it pulled back after it got the referendum petition. Carroll said there has been a good faith effort towards the initiative. He said the PUC can check with the county and if they say there is no way 60% is enough, then Council would have to look at raising it to whatever percentage the county would consider. He said if the County doesn't say either way, we won't know unless we do something.

Koons asked about how the Village would handle the Lake Louise petitions because it really wasn't the same as the one that would be sent in the mail to the other houses in the affected area. He questioned the potential issues of Lake Louise not voting on the ballot with the more specific language. Porter said his recollection was that the \$27,500 was published to them, the tap in fees were published to them. Ann Dunning said they were looking at approximately \$38,000 if they were to install sewers themselves. Koons asked if the Village would be smart to send the ballot out to the Lake Louise residents anyway. Porter said he would rather not because there has to be an end point somewhere. He said the approval rate for the County may not be 60%, but for the Village purposes, that is what Council decided on. Carroll said Koons did have a legitimate concern but he would refer to the Solicitor's comment that if their petition was good enough the Village could accept that. Kostura said he believes the Lake Louise petition was significantly more detailed than the proposed petition by the PUC and the numbers the County proposed to just Lake Louise was significantly higher, and they still got the majority of residents. Ann Dunning said Lake Louise got 68% and they presented their petition to Council and the only reason they haven't asked Council to go ahead and request the county to proceed with the project was because they were asked to wait and include all the rest of the proposed area. Dunning said she believes there is a technicality there that the Village already has the petition on the table. Porter said at the next Council meeting the PUC will come back to Mayor and Council with a new ballot and more details about the April 3rd informational meeting.

There was a discussion about the Lake Louise petitions that were submitted about the "yes" being a yes, the "no" being no and the no responses not counting. The Mayor said he felt that was an issue because the people who presented the petition at that point weren't informed that if they didn't respond at all that they were excluded from the vote. Ann Dunning said she didn't agree. Kostura said he recalls that Lake Louise did some extraordinary efforts to make sure people were informed. They tried to reach residents that owned the house, but living someplace else, went to their houses specifically and knocked doors. They didn't just send it in the mail and hope for the best. Dunning said she has envelopes at home that show how many people returned

the vote. She said her recollection is 3-5 that didn't respond. Porter said he recalled the non-responses being 5, however with the costs being less, some of the no votes might now be a yes; however he believes there has to be an end point.

Binder said the Streets Committee met on February 14<sup>th</sup>. They discussed an idea of "no parking" on Manorbrook and Alderwood and are looking at the terms of the Village's no parking ban. Binder said the Service Department has found there have been a fair amount of vehicles left on the streets which makes plowing difficult.

Binder said on February 20<sup>th</sup> the Safety Committee met with a representative from another camera company that wants to quote on closed circuit monitoring of the village campus. He said his quote was a much more aggressive number. One area that the Committee was interested in was an entry system at Village Hall with a camera. The committee would like to look into access control with a key fob for Village Hall.

Dishong said that with all the upcoming projects such as trash day, the Bell Road West project, the sewer initiative, etc. the timeline for the newsletter would be moved up. He is looking to get articles by the first week of March in order to get it out before the April 3<sup>rd</sup> informational meeting.

Dishong reported that the Finance Committee met and there will be some appropriation amendments and transfers that would have to be adopted.

Dishong said the Human Resource Committee met and they will look to go into Executive Session later this evening to discuss employee compensation.

Kostura made a motion to amend the fuel sharing agreement with the Chagrin Falls Schools, seconded by Binder. Roll call – ayes, all. Motion carried.

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

Dishong introduced an ordinance employing Pease-Kerr-Canfield Insurance Partners as insurance agent for the Village of South Russell and declaring 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 2014-6.**

Dishong introduced an ordinance authorizing the 2014 Property and Casualty Insurance with HCC Public Risk Ohio Insurance Company for \$21,705 declaring 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 2014-7.**

Dishong introduced an ordinance amending appropriations increasing \$15,000 for Special Road Fund, increasing Street Maintenance by \$25,000, increasing Park Fund by \$3,000, increasing \$2,300, increasing Income Tax transfers \$28,000. 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 2014-8.**



Dishong introduced an ordinance transferring from the Income Tax Fund to the Safety Fund \$250,000, Operating Fund \$150,000, Street Maintenance \$100,000 and Special Road \$8,000. 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 2014-9.**

**BILLS LIST:** Kostura made a motion to approve the 2/28/14 bills list in the amount of \$27,083.36, seconded by Carroll. Roll call – ayes, all. Motion carried.

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

At 9:16 pm Dishong made a motion to go into Executive Session to discuss employee compensation, seconded by Kostura. Roll call – ayes, all. Motion carried.

Council reconvened at 10:17 pm.

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

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Matthew E. Brett, Mayor

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Danielle Romanowski, Fiscal Officer