

RECORD OF PROCEEDINGS
TAX BUDGET HEARING/REGULAR COUNCIL MEETING
MONDAY, JULY 10, 2017 – 7:25 P.M.
MAYOR WILLIAM G. KOONS PRESIDING

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

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

VISITORS: Brayden, Bryce. Debbie & Todd Pocek; Patty Mills, Manor Brook Dr.; Mary Kay O’Toole, Foxhall Dr.; Ed Pyle, Potomac Dr.

At 7:27 p.m. the Mayor called the Tax Budget hearing to order. Fiscal Officer ready the roll.

The Tax Budget was distributed to Mayor and Council. Kostura explained this budget needs to be approved by Council so it can go to the County Budget Committee for approval. The Tax Budget hearing with the County will take place in August. There were no questions on the budget.

Mayor Koons called the Regular Council meeting to order at 7:30 p.m. Mayor led the Pledge of Allegiance to the flag. Fiscal Officer read the roll. Nairn made a motion to approve the minutes of the June 19, 2017 Council meeting, seconded by Canton. Voice vote – all in favor. Motion carried. Carroll made a motion to approve the minutes of the June 30, 2017 Special Council meeting, seconded by Kostura. Voice vote – all in favor. Motion carried.

Police Chief said he is looking to swear in Todd Pocek as a full-time officer for the Village. Pocek was first employed with the Village in 2007 as a part time officer prior to leaving in 2011 when he was promoted to a sergeant in Chesterland. He returned as a part-time officer for the Village in 2014. Pocek will be filling the open space left by the retirement of Officer Cardaman. Mayor stated he would like to appoint Todd Pocek as a full-time officer for the Village. Carroll confirmed that appointment, seconded by Nairn. Voice vote – all in favor. Motion carried. Mayor swore in Todd Pocek as a full-time officer for the Village of South Russell.

Chagrin Falls School Board President Mary Kay O’Toole thanked the community for their support on the recent school levy. She reported that the mobile school is in place. Street Commissioner said he was contacted by Chris Woofter from the Chagrin Falls Schools who asked about the school placing cargo containers behind the Gurney School modular units for storage. They will be on a hard surface and are temporary for about a year and a half. Building Inspector said she will run the storage units by the Fire Prevention Officer to make sure there are no issues. Koons said the school will need to get a permit from the Village’s Zoning Board of Appeals (ZBA) for this.

Former cemetery committee members Patty Mills and Ed Pyle were present to be part of a cemetery discussion. Fiscal Officer distributed cemetery information with the number of sales, burials and costs. Dishong said though the cemetery is not wildly busy, he feels the Village has a civic responsibility to its residents to provide this service and he is happy the Village has it. Mayor said the Village anticipated more interest in terms of sales at the cemetery and perhaps the Village is competing with Chagrin Falls in terms of prices.

Engineer reported the bio-swale in the cemetery is doing its job. There were some trees in the cemetery that died, but they are past the warranty. Engineer reported that certain individual trees from the initial planting didn't look like they were going to make it. At that time, Mayor Brett wanted them replaced for the cemetery opening. The landscape contractor did tell the Village that per specifications, the trees could only be planted in the growing season and it was well outside of that period so they could not warranty them. The contractor replaced and planted the trees.

Street Commissioner said there are five trees that were initially in the cemetery that are no longer there. He said if Council would like to replace them at some point, he would recommend going with a different type of tree. Street Commissioner also recommended doing the cemetery lawn maintenance in-house to be sure the proper care is taken and stones aren't damaged. He informed Council that Chagrin Falls has been kind enough to allow the South Russell Service Department employees to shadow their workers when doing burial preparation.

Mills said she is happy the cemetery is in the Village and it was a privilege to work on the project.

Pyle said it is good to drive by and see that the cemetery came to be. Pyle is also glad to see that Nairn is now on Council and is a representative of the residents. He feels her dedication and abilities will do well for the Village.

A slide show of water issues at 117 Southwyck from 2015 was shown. Street Commissioner explained the property is getting down-flow from Chagrin Lakes, Sugarbush, Bell Road, the Cotesworth property, etc. Engineer stated that the frequency of the high intensity rains has picked up. There are not more inches of rain falling, but those inches of rain fall quicker on a more frequent basis. Kostura said he spoke to this homeowner and neighbors 3-4 days ago and they said with the way the water is coming down Sugarbush and the Cotesworth property, that their backyards don't dry out until late July/August. The homeowner said he hasn't fixed his basement after the 2015 storm because he has been afraid something else will happen. At various points in time, several of the neighbors have put in their own drains that take the water from their backyards and send it out to the front. This resident has asked that the Village help pay for drainage from his backyard. Kostura said he explained to him that while the Village understands he is having issues, the Village can't do it for him because they can't do it for the entire Village. Kostura said he did inform the homeowner about the Chagrin River Watershed Partnership (CRWP) and perhaps they would be willing to walk the property with him and could give him suggestions on what should be done to address the issues.

MAYOR'S REPORT: Mayor said at the last ZBA meeting only three of the five members attended. Mayor said he told the ZBA and Planning Commission boards that they need to consider having an alternate so if someone can't attend a Planning Commission meeting or a Zoning Board of Appeals meeting there would be an alternate who could attend in their place. However, this alternate would then have to stay on the board as long as that issue remained in discussion/consideration. Mayor said he will be going to the Bainbridge Twp. meeting to talk to them on how they handle this issue.

Mayor said he is meeting with the gentleman who wanted to turn the red barn into a table making business to find out his thoughts on what went wrong, what the Village should have done and what he should have done.

Koons said municipalities lost the battle with the State of Ohio regarding income tax collection. Residents and businesses can now pay income tax through the Ohio Business Gateway (OBG) which will charge municipalities a 0.5% fee. Taxpayers can continue paying the Centralized Collection Agency (CCA), or they can pay through the OBG which will incur an additional 0.5% fee.

FISCAL OFFICER'S REPORT: Fiscal Officer reported that the Tax Budget Hearing occurred just prior to the Council meeting and it was advertised as required.

Fiscal Officer informed Council that the state audit is done and there were no significant findings. She received notice that the audit has been released and it is now online at the State Auditor's website for the public to view. Kostura stated the auditors were looking for things with a fine-tooth comb and in the post audit meeting the auditors said the things they picked up on were minor at best. He said the Fiscal Officer did a great job and the Village is in great hands. He said the auditors complimented the Village on having both a Fiscal Auditor and Fiscal Officer as a checks and balance system and that is sort of a gold standard of what villages should be doing.

Fiscal Officer stated that while the Village did have a Special Council meeting on June 30th to adopt the levy certification resolution, the county has issues with the legislation as written. Solicitor stated that the County Auditor's office had an issue with the levy purpose being for both roads and stormwater. The Prosecutor's office said there can't be two purposes combined into one levy and he would have trouble advising the Board of Elections to put it on the ballot. Solicitor stated the Village needs to reconsider if they want to have two separate levies, one for roads and one for stormwater, or take another approach to try to solve the problem. Solicitor said in talking to the Fiscal Officer she takes stormwater money out of the street fund, and that has not been criticized because that is funded with general income tax money. Theoretically the Village can do a road levy and devote that money strictly to road/street purposes. That would free up money from the Street Maintenance fund budget to do stormwater projects and the Village wouldn't have to pass two different levies. Solicitor said even though the Village has numbers from the Auditor, it still needs to go through this step and ask the Auditor again to

officially tell the Village how much a certain millage would produce and get it filed in time. The Village would need to hold another special meeting to pass the resolution for the actual levy to get put on the ballot. Fiscal Officer explained the income tax money and how it funds the Street Maintenance fund.

FISCAL AUDITOR'S REPORT: Fiscal Auditor had no report.

ENGINEER'S REPORT: Engineer reported that the road program is slated to start July 14th. The Street Commissioner distributed a project information letter to the residents that will be impacted.

Engineer reported that he and the Mayor met with the Ohio Department of Transportation's (ODOT) District 12 Director last week regarding the Bell Road invoice. The Village received an invoice from ODOT for approximately \$128,000 in addition to the loan amount of \$183,000 for a total of about \$311,000 in construction management inspection services. The Village was anticipating a total cost of about \$230,000 which gives us a delta of about \$80,000. He said the meeting ended with ODOT saying the Village has some valid concerns, but ODOT needed a couple of weeks to go back and look at the invoice to make sure everything is correct. The Mayor said the \$200,000 loan is a 0% loan and the Village could pay \$9,700 per year for 20 years – so that is something to think about. Kostura questioned ODOT's explanation on the 4% versus 10% cost. Engineer said they didn't get into the details of this. He said CT Consultants charges typically run 16-18% which includes design, administration, inspection, close out and profit. ODOT should be doing this without profit.

Regarding the Cotesworth property the owner wants a financial settlement for an easement. Solicitor said an easement would have to be granted by the property owner or the Village could take it by eminent domain. The Village would have to first offer the owner what an expert says it is worth before a lawsuit could be filed. Solicitor said if the Village uses the property infrequently, there may be an alternative where the Village could negotiate a license which does not transfer with the property. If they granted the Village a license, there would not be a problem with the title when selling the property and then the Village would have to try to negotiate with the next property owner.

BUILDING INSPECTOR'S REPORT: Building Inspector informed Council that the corner gas station property has transferred ownership.

Building Inspector passed around pictures of a proposed property at 609 Bell Road. The property owner wants to build a 2,400-sq. ft. building to put his cars in. The ZBA has denied the application and now the owner has come back with a second application for a 2,000-sq. ft. barn. Building Inspector said if the property owner attached the building to the house, he wouldn't even need a variance. Mayor stated that this gentleman is asking for a barn the size of the previous barn that was on the property. There was brief discussion about what would be needed to attach the barn to the house.

POLICE CHIEF'S REPORT: The speed box broke and the Chief was looking for guidance from Council whether this should be replaced this year (though it wasn't budgeted), or plan for it in next year's budget. His department uses this equipment on a regular basis. The cost of the original speed box was \$4,000 back in 2006; it lasted 11 years. The replacement cost for a new and improved model would be just under \$5,200.

Chief explained that Officer Zippay has been asked to serve as an assistant commander for the Accident Investigation Unit (AIU) of the Valley Enforcement Group (VEG). Zippay has levels 1 & 2 in traffic crash school training. VEG will pay for his continuing education to further him along to more advanced training. AIU goes out about a dozen times per year to investigate crashes.

STREET COMMISSIONER'S REPORT: The Street Department has been doing many driveway culvert replacements.

The Street Commissioner has been in contact with Dominion East Ohio Gas regarding the gas line improvement for Bell Road east. They did come out and do some restoration, but it was poor restoration. Dominion had a third party come out to do an evaluation of the restoration. This company then gave Dominion a project list of work that needs to be done, however Street Commissioner had additional items not on the list. Street Commissioner will continue to work with Dominion to make sure all issues are addressed.

Regarding Bell Road west, the Service Department crew will be doing some right-of-way restoration.

Street Commissioner said he received the ODOT salt bid numbers. Last year the Village spent \$30.53/ton and this year the cost is \$27.11/ton.

SOLICITOR'S REPORT: Solicitor Ondrey informed Council that Planning Commission is recommending that Council adopt the proposed medical marijuana ordinance. He stated it could be introduced at this meeting for the first reading. However, since it is a zoning issue, the Village will have to schedule a public hearing with advertisement 30 days prior.

Solicitor informed Mayor and Council that there is a company that is trying to construct monopoles that are over 100+ feet tall used for local telecommunications. They are attempting to persuade communities that they are a Public Utilities Commission of Ohio (PUCO) company and therefore the municipality must allow them in the right-of-way (ROW) just as the other utilities. He said this was an issue that came up in Chagrin Falls recently and was withdrawn. That seems to be their pattern, they make the approach to communities and then they withdraw their request. He believes they may be working on legislation in Columbus to help their cause. Solicitor is working with his partner to try to coordinate with some other municipalities to draft some zoning legislation so that the municipalities can get control of the situation. Engineer said

he ran into this issue in Madison Village where a company called Mobilitie was proposing a 135+ feet high and 6 feet round “utility pole”. Dishong said due to the different generations of mobility, 3G, 4G, and 5G coming, things change. He said 5G has a lot of “small cells” on existing poles. Engineer will forward information on Mobilitie with what they were proposing to the Village for their reference.

Solicitor stated that Council recently passed a motion to proceed with the sale of the “Krappe” property, therefore a decision needs to be made on how the Village wants to proceed. In the past, the Village was advised it was a matter of home rule and the Village could handle the sale of the property in any reasonable fashion it wanted. However, the State statute provides for advertising of so many weeks in the local newspapers with a sealed bid to be opened at a specific date and time. The Village doesn’t have to accept any bid and can turn them all down if they don’t like them. Solicitor said if that is how Council wants to proceed, they should make a motion so the Village can take the steps necessary to get it advertised in the newspaper. The Village could install a “For Sale by Owner” sign and advise interested parties to contact someone for details. If the Village wants to get a realtor, that is okay too but the Village doesn’t need a realtor if it just wants to follow the statutory process. Mayor said he feels the Village needs a sign so residents, including those on Laurelbrook, know the Village is selling the property. He said the Village should put up a sign and then a month later do the five weeks of advertising. Dishong said he wants to sell the property, but not at any price, it must be worth it. Solicitor said the Village could set a minimum bid. There was discussion about having a phone extension with a voice mailbox where calls for that property would go. Solicitor said that was what he was envisioning, that the people call the number on the sign and when they call they are told to submit their bid by specific date. He said people may want to tour the property and the Village would have to make arrangements for that. Mayor said when the Laurelbrook people came before Council, they showed water flowing over Laurelbrook and asked Solicitor if that was something that had to be disclosed. Engineer said the property has a creek on it. Solicitor said he doesn’t think the disclosure statement law would apply to vacant property, it would be sold as is. And, he doesn’t think that is a defect that would have to be disclosed; it is a creek and it is a natural event. The Solicitor would come up with an advertisement to run for five consecutive weeks in the newspaper of local circulation. Building Inspector said she has a sign from the rental property that has an information tube on it so property and bidding information could be put with the sign. Solicitor asked if the property had a street address because it would be easier to reference the property in advertising; Building Inspector will look into that. Mayor said the Village will put a sign up the whole month of August, advertise five weeks for all of September into October and then on October 9th bids must be in. The Mayor said he feels more comfortable with a realtor. Solicitor said if the Village gets a realtor there are costs to pay. There was brief discussion on whether a realtor was necessary. Porter stated the Village could place the sign and set up the voicemail and see what kind of interest there is. If the Village gets overwhelmed with calls then it can get a realtor if necessary, but if the Village only gets a few calls, it wouldn’t be necessary. Mayor doesn’t want to get bogged down and feels a realtor is necessary.

COMMITTEE REPORTS: Porter had no report.

Nairn reported that the Building Committee will be meeting on Friday, July 21st at 10 a.m.

Canton said the Parks Committee met and discussed several topics. Regarding the wind at the park, the Committee would like to have see-through blinds on the pavilion. They felt the trees were too expensive and would block the view of the park. Regarding having police in the park when there is alcohol being allowed to be consumed, the committee felt that was not necessary. They felt if the police stopped by to say hello to those at the party and let them know they are available, that was enough. Concerning contracts and permits, the committee felt a contract wasn't necessary, especially if it was for a not-for-profit organization. They felt as long as the organization checked in with village hall on the dates and made sure it is open, that was good. The Park Committee liked the idea of the cricket tournament and the VelaSano bike group using the park. The Park Committee believes that the Mayor should have the ability to waive the fee for the pavilion. Canton said the Park Committee noticed quite a bit of bird droppings at the pavilion and would like to have the pavilion cleaned at least weekly. The group also inquired whether a pump well could be installed at the park.

The next Park Committee meeting is August 16th at 6:45 p.m. at the pavilion.

Mayor said he heard from people on Southwyck who said there was a huge party on Deerfield with over 200 people and the music went on and on. Dishong said he lives a half a mile away and his windows were vibrating so he couldn't imagine what it was like next door to the party. Carroll said the Village doesn't have an ordinance regarding this type of thing so the Chief said technically they couldn't do anything to shut them down; the music stopped about 1:30 a.m. Carroll informed Council that the Chief said his department has an issue with this type of thing about once a year so it is not a huge problem. Solicitor said Chardon doesn't permit amplified music after 10 p.m. and that may be one option the Village would want to consider. Solicitor said the Village's disturbing the peace ordinance addresses certain bad things like lude behavior or fighting but doesn't address this kind of situation.

Carroll said Council needs to decide on the speed box and whether they want to amend the appropriations this year to accommodate a new speed box or to wait until the 2018 budget. Council agreed to amend the appropriations.

Dishong said the Human Resource committee submitted the handbook for comments. The next Human Resource committee meeting is July 12, 2017 at 7:45 a.m. Mayor said the Finance Committee met this morning with the Department Heads to review the purchase order process and asked if the HR committee thought they should do the same with the handbook. Carroll and Dishong said he didn't feel a meeting was necessary but the department heads could share any concerns. Dishong said there are not any dramatic changes. Carroll said he encourages department heads to share it with their staff and they could comment on it, but really it is straightforward.

Kostura said the Planning Commission met and talked about the marijuana proposal to not have facilities in the Village. Kostura said it came to his attention that there are locations in the Village that could support a grow facility if in fact someone wanted to put one in. The Planning Commission's position was that they did not want that in the Village.

Ondrey said the marijuana ordinance was brought before Council previously and it was forwarded to Planning Commission. The ordinance did not get altered or changed by Planning Commission so it is the same as previously submitted. The ordinance prohibits retail, cultivation and processing in all zoning districts. Solicitor said the Village must have a public hearing. A date of September 11th at 7 p.m. was set for a public hearing on the medical marijuana ordinance.

Kostura said a proposed table refinishing/manufacturing business in the red barn went before the Planning Commission. It doesn't look like that is moving forward based on other requirements to rehab the barn with the proper equipment facilities to make it a viable option.

Kostura said the Street Committee is meeting July 14th at 7:30 a.m.

Kostura said the Finance Committee is currently working through the 5-year budget plan. They have received a five-year budget proposal from one department and they are working on that. The other departments 5-year budgets will be put together once that information is received. The 5-year plan will be introduced to be reviewed by Council in September as scheduled.

Kostura made a motion to approve the 2018 Tax Budget as submitted, seconded by Carroll. Voice vote, all in favor. Motion carried.

ORDINANCES/RESOLUTIONS:

Carroll introduced an ordinance amending the appropriations increasing the Safety Fund expenses \$5,200 for the purposes of buying a new speed box. Carroll made a motion to waive further readings, seconded by Nairn. Roll call, ayes – all. Motion carried. Carroll made a motion to adopt, seconded by Nairn. Roll call, ayes – all. Motion carried. **Ordinance 2017-21.**

Kostura introduced an ordinance amending Sections 2.01, 4.01, 5.01, 6.01 and 7.01 of the zoning code in order to prohibit medical marijuana cultivators, processors or retain dispensaries in the Village of South Russell in accordance with ORC 3796.29.

Kostura gave second reading on an ordinance authorizing, approving, and adopting the accounting procedures and internal controls for the Village of South Russell and declaring an emergency. Kostura said since they are going through discussion of this, he is okay with taking "declaring an emergency" out so that Council can just go through three readings. In the proposed ordinance, the amount that the department head could purchase without reauthorization from Council and Finance's recommendation is \$1,500. Carroll clarified that if it is \$1,500 or less, they can just make the purchase. Kostura said if it was in the line item, they don't need to go back to Council for approval, but they still must have a purchase order before they buy it. Emergency repairs are covered under part D.

Dishong gave second reading on an ordinance adopting the Employee Handbook for the Village of South Russell dated June 12, 2017.

Kostura introduced a resolution requesting the county auditor to certify to the taxing authority the total tax valuation of the subdivision and the dollar amount of revenue that would be generated by a specified number of mills of 1.5 mills and declaring an emergency. Kostura moved to waive further readings, seconded by Carroll. Roll call, ayes – all. Motion carried. Kostura moved to adopt, seconded by Carroll. Roll call, ayes – all. Motion carried. **Ordinance 2017-22.**

BILLS LIST: Kostura made a motion to ratify the 6/29/17 Bills List in the amount of \$18,053.21 and approve the 7/13/17 Bills List in the amount of 49,679.20, seconded by Dishong. Voice vote, ayes – all. Motion carried.

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

Kostura asked if the Village passed a Road/Street levy, could they use that money for stormwater that runs in conjunction with the street program. Solicitor replied that he felt if there was a stormwater problem effecting the street or there is a connection with the stormwater and the street, those monies could be used. The levy language says streets, roads and bridges, so the Village must be able to show a connection. Solicitor gave the example of the problem north on Chillicothe that the idea of a retention pond was discussed, that is not effecting South Russell roads, so to spend money out of this proposed levy on that would cause a problem. Carroll said if the Village is going to do this, he wants to be sure that the other money is spent on stormwater; that “X amount of dollars” consistently every year goes towards stormwater.

Council set a special meeting date of July 31st. 7:30 a.m. to consider legislation to put a levy on the ballot.

ADJOURNMENT: Being that there was no further business before Council, at 9:35 p.m. Carroll moved to adjourn, seconded by Porter. Voice vote – all in favor. Motion carried.



William G. Koons, Mayor



Danielle Romanowski, Fiscal Officer