

**RECORD OF PROCEEDINGS
ZONING CODE HEARING
REGULAR COUNCIL MEETING
MONDAY, JULY 11, 2016 – 7:30 P.M.
MAYOR WILLIAM G. KOONS PRESIDING**

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

MEMBERS ABSENT: Dishong

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

VISITORS: Emily Austin, Leaview Lane; Matt Catalano, Auburn, AL; Matt Granito, Geauga Dog Warden; Jeanie Garther, Circle Dr.; Joan Demirjian, Chagrin Valley Times; Alice Mullins; Circle Drive; Catherine Coffey, Kenton Road; Hailey Lowe, Arrow Wood Circle; Halle McClintock, Tartan Ct.; Clay, Lisa, Maybelle & Steve Burnett, Walters Road; Char Hartson, Wolfpen Dr.; Clair Michael & Anne Coffey, Kenton Road; Valarie Mariola, Hemlock Road; Ken & Kelly McClintock, Tartan Court; Cathleen Sincaglia, Bluffton, SC; Stephanie Catz, Rosella, Israel & Avia Catz, Radamoafama, Madagascar; Rich & Martha Bistriz, Daisy Lane; David & Stephanie Lowe, Arrow Wood Circle; Ken & Marilou Lowe, Manor Brook Dr.; Robert & Virginia Gross, Knolls Way; Jane Parker, Leaview Lane

Mayor Koons called the Regular Council meeting to order and led the Pledge of Allegiance to the flag.

Mayor opened the public hearing regarding an ordinance amending the residential district regulations of section 402 of the Zoning Code of the Village of South Russell by establishing new reduced minimum dwelling unit dimensions for residences in the Chagrin Heights Subdivision.

Mayor explained that this ordinance would allow smaller homes to be built in that area of the village.

There were no comments or questions.

Fiscal Officer Romanowski read the roll.

Canton moved to approve the minutes of the June 13, 2016 Regular 2016 Council meeting, and the June 22, 2016 Special Council meeting, seconded by Nairn. Voice vote - all in favor. Motion carried.

Mayor recognized five Ohio High School Athletic Association champions; Joe Bistriz, Annie Zimmer, Hailey Lowe, Catherine Coffey, and Halle McClintock.

VISITORS: Emily Austin addressed Mayor and Council regarding the Gadsden Flag which she referred to as the “Tea Party flag”. She stated that during the holidays, the “Tea Party flag” is flown in four places in the South Russell community; on public property to which taxes are paid. She said that in order to display it, tremendous disrespect is delivered to the American Flag. The Village takes down the revered American Flag and replaces it with the “Tea Party flag”, thus saying that it is more important to display the controversial partisan reputation of a fractured party than it is to fly a flag that represents every person in the room. She showed Mayor and Council a stack of documents representing some form of discourse in the form of emails, letters to the editor, etc. concerning the “Tea Party flag” and its display in the community. Referring to those documents, Austin stated the complaints far outweighed the positive feedback for its display. She said she read the minutes where the Gadsden Flag was discussed and it appears to her that every time a Council member expresses opposition to the flag or tells about someone that they know is also unhappy about it and a vote is eventually taken, she has never seen any “no” votes listed and she doesn’t understand why. She finds it extremely puzzling considering the fact that she believes that some Council members know it is wrong or divisive or wrong and divisive to hang that flag. She said it takes courage to go against the majority, but that is their duty as elected officials; to not necessarily go along with the majority. She asked why there is such short dialogue about the topic and why there are no “nay” votes. Austin said she has contacted governing bodies of eleven (11) surrounding communities, and none of them fly that flag - that fact should say something. She asked Mayor and Council to reflect on the third part of the South Russell Mission Statement which states “Promoting an attitude of professionalism and impartiality among the Village officials and employees in a fiscally responsible manner.” She called attention to the words impartiality and fiscally responsible. She said putting up a flag and taking it down, and taking it down and putting another one in its place, then taking that one down and putting the original one back up again - she said that is not being fiscally responsible. In referring to the words, “character of the village” and what the village hopes to represent. Austin asked what the “character of the village” says to people considering South Russell as a nice, safe, happy place to live and raise a family who might not be Tea Party movement supporters. To her, it would say look for somewhere else to live. Austin asked if this flag is an accurate display of the character of the village. Austin asked Mayor and Council to do what she considered the right thing and stop displaying the “Tea Party flag” in the South Russell community.

Jeannie Gaither addressed Mayor and Council stating that she objects to flying the Gadsden Flag. She said even though it is a historical flag, it has not been viewed as a historical flag for many years. She stated when she Googled it on the web it came up that the Gadsden Flag is the “Tea Party flag”. Gaither stated that the Tea Party was founded in 2010 by Michelle Bachmann and is

a very small minority in the Republican Party made up of a mostly southern, conservative and affluent group. They have 4 seats out of 100 in the Senate and 48 out of 435 seats in the House. She said in the last couple of weeks there has been a tremendous problem with divisiveness in the country and a real serious divide; racial divide, a fear of oligarchy, fear and terrible things happening with different races and religions. Gaither stated in the Pledge of Allegiance, we are one nation – we should not be splitting. The Village has to be a united community. She objects to using tax dollars to take up and down the flags. She said she knows why it was done 15-20 years ago, but that time has passed.

Mayor stated given the volume of material the elected officials have received on the topic, he said he wanted to give Council time to review all the information and then on Monday, August 8th he would like a motion to take some sort of action on this issue.

Carroll addressed Austin and said at the last meeting she mentioned the Swastika and used the Swastika to compare it to the Gadsden Flag which she calls the “Tea Party flag”. Carroll stated that he believes the Confederate flag and the Swastika flag and what they represent are not good – it’s very, very bad history in the world. Carroll said he is not a Tea Party member and doesn’t support the Tea Party, but he struggles with comparing those two flags with what the Gadsden flag represented prior to the Tea Party adopting it in 2010; they are not equal. He said what the Gadsden flag represents and what the Tea Party represents is nothing like what occurred in WWII and nothing like the history of the Confederate flag in the south and what that represented. He said this doesn’t mean that he doesn’t agree with their position about not flying that flag in the village, but they are clearly two very, very different things in his mind.

Canton stated that he has been on Council since January and he can’t speak for Council, but as someone who taught history for 32 years, he has to believe that Council allowed the flag to be flown because of its historical meaning going back to the American Revolution. He agrees it has changed. He said in regards to the comment made about majority – it is not easy living in a democracy. Canton stated that through his studies and his teachings he has learned that the founding fathers believed in majority rule with minority respect. He said we are expected to respect to minority thought – and that’s not easy. He is looking forward to discussion and debate on this subject in August.

Nairn stated that speaking for herself alone and not anyone else in the room, since 2009 she has been offended by things that have gone on in the country. She understands the 1st Amendment right and that people have the right to think, write and say just about anything they please. Nairn stated the Gadsden flag has belonged to every American since 1775, and she has been very unhappy that a fringe group came through gang busters in 2009-2010 and hijacked that flag. She stated that certain factions of the armed forces still wear the Gadsden patch; the Navy seals still wear the Gadsden patch. She does not understand why such a small fringe of people can have this kind of power to take something away from America. Nairn also stated she is appreciative to the visitors who spoke on this subject for taking the time to express their feelings; it means a lot when members of the community really are caring about things. Nairn said she too is

offended by stuff that has gone on. She stated in 2010-2011 all everyone heard about was the Tea Party, but by 2012-2013 it began to die back and she believes eventually it will go away. Nairn stated she meant no disrespect to anyone who may be a Tea Party member, but stated that most Americans don't consider Tea Party to be a viable party of the United States monarchal.

Porter commented stating that he is a Navy veteran and did 12 years active duty. He said the Gadsden flag was flown by the U.S.S. Ranger, as commanded by John Paul Jones in 1778. Porter said that flag cannot be appropriated by any group – it belongs to everyone. He stated as such the flag simply states the Navy's way of doing business – “don't fool with us”. Porter said he feels the flag represents South Russell in a way because the village has been furiously independent and succeeded from Russell Township and did it peacefully and successfully. Porter said he agrees with Nairn and he likes the flag out there and hopes to see that it stays. He said he appreciated the visitors' comments, but he feels that flag doesn't belong to anyone but the country as a whole.

Gaither said the flag has been sold and the Village can find another historical flag.

Mariola asked if the Gadsden flags were purchased by the village or if they were given by donation. She also asked if South Russell residents pay for the flags to be taken up and down.

Mayor replied that the volunteer group faded away when the issue of the “Tea Party flag” came up. He stated the Village Service Department employees hang and remove the flags. The Village does get some donations but it is also partially funded through South Russell funds.

Carroll explained that in the past the Show Your Colors organization took the donations, they would purchase the flags and hang and remove the flags as necessary. The group fell apart and that is when Council elected to take on that responsibility.

Mariola asked if a volunteer organization would approach the Village about handling the program, would Mayor and Council entertain the idea. Mayor said they would consider it.

Char Hartson addressed Mayor and Council and stated she has lived in the Village for a year. It is a beautiful, safe, clean and friendly community. She stated when she bought her house The Lantern was being built and she was told there would be a barrier and she wouldn't be able to see the building. She said in November when the leaves fell she was looking at “a great white city.” She said looking at the building loses the beauty of Kensington Green.

Hartson also thanked the individuals that worked on drafting the proposed new dog ordinance. She has a pet therapy golden retriever that was viciously attacked on the green in Kensington last September and it took two men pounding on the Pitbull to get it off her dog. That event has traumatized her. She now carries pepper spray and she is constantly on guard of other dogs. Hartson also mentioned a letter to the editor this past week in the Chagrin Valley Times regarding a very similar situation from another resident. She stated it takes a lot of responsibility

to be a good dog owner. She said people have to be encouraged to make police reports in order to protect other people, children, adults and other animals.

Chief stated that a lot of times residents ask the police to document the incident but they are not willing to sign a statement which would allow the Police Department to take the charges and send them to court. They cannot send cases to court without evidence; the statement is the evidence. Chief said filing a report is great, but in order to take action they need the statement. Regarding the case referred to in the letter to the editor, the Chief said instead of issuing a citation, there was an agreement worked out between the parties where restitution was made for medical bills. There was no citation issued because of the fact that they wanted to seek restitution before issuing a citation. He stated if someone signs their name to a witness statement, more than likely restitution will be ordered by the judge.

Carroll and the Chief reviewed the two proposed dog related ordinances that will be introduced. Chief explained that the control ordinance for the park gives the village multiple levels of penalties. The first offense is a minor misdemeanor which is a \$100 fine. Subsequent offenses up to M4 and that is a 30-day maximum jail time with an increased penalty of \$250. After the judge hears one of these cases, on a second offense the judge will put the party on probation and if that dog has another violation, the probation would be revoked and the owner will be given a choice to spend 30 days in jail or to relinquish the dog. This would give the police a lot more control of the situation – if they have the first offense recorded.

Matt Granito, Geauga County Dog Warden, told of an issue with a dog that left the property in the village. The person is debating if they want to give a statement. People don't want to upset neighbors and cause problems. Mayor said most dog owners and dogs are good but the dog issues are not ending.

MAYOR: Mayor informed Council that Molly Gebler of the Chagrin Valley Chamber of Commerce said she would like to do a community potluck on Sunday, September 11th at the South Russell Village Park at 5:00 pm to honor first responders. He will work with Gebler to see if they can work out details to make it happen.

The Police Department open house will be Saturday, September 17th.

Mayor reported he is working with a business that is in a residential neighborhood in the Village. It doesn't look good for the business to continue.

FISCAL OFFICER: Fiscal Officer referred to her monthly report and explained the request to modify the cell phone policy. Porter made a motion to amend the cell phone policy to remove the requirement that employees use Verizon as the preferred vendor, and employees no longer need to submit their cell phone bills for reimbursement, seconded by Nairn. Voice vote – ayes, all. Motion carried.

FISCAL AUDITOR: Fiscal Auditor reviewed and explained his mid-year revenue comparison report submitted to Council. He said things are on track and there is nothing to be alarmed about.

ENGINEER: Engineer reported that the 2016 Road Program started almost two weeks early. Milling and recycling was done on several streets before the holiday.

Engineer said he met with the Street Commissioner on a few additional areas to consider for this year's road program. On Sun Ridge, there are three areas along the east curb line that are looking bad; on Doe Court, Fox Lane and Reserve Trail there are partial depth repairs; and on Southwyck they were looking to do a full depth repair along the cul-de-sac. They were also looking to do a full depth repair and a little widening at Daisy and Bell at the western turnout. On Whitetail there is a problem with a buckled curb. The Engineer's estimate is about \$17,000 to get them all fixed. Kostura made a motion to approve the Mayor and Fiscal Officer to enter into an agreement not to exceed an additional \$20,000 for road repairs as presented by the Engineer, seconded by Canton. Voice vote – ayes, all. Motion carried.

BUILDING INSPECTOR: Building Inspector reported that the elevator passed inspection.

Porter asked about the windows being replaced in the service garage area. The budget only included \$2,400 for the repair, but the estimate came in at \$3,500. Porter explained that the windows in the service garage that face the fuel tank are not energy efficient and are leaking; air blows in and they need to be replaced. They want to put in glass block. Building Inspector stated it is the same contractor that did the garage addition; he would brick in the one window and then half of the other window and then install glass block in the top half. The glass block would match the other glass block on the building. In order to do this project, Council will need to amend the appropriations.

STREET COMMISSIONER: Street Commissioner informed Council that the salt cost for the upcoming season has decreased by about 40% from last year and is down to just over \$30 per ton; it was \$50.51 last year.

POLICE DEPARTMENT: Chief reported that a bear was seen multiple times in the Village.

The new citation program and printers are in the cruisers now and things are running well.

SOLICITOR: Solicitor said he had no reports on village business. However, he will send Mayor and Council a copy of a decision from the Court of Appeals regarding a school board going into executive session. They were not properly announcing the reason for the meeting, or would broaden the discussion on what they had advertised. There was a lot of criticism by the court that the school board was not meeting the requirements of the Open Meetings Act and ultimately the court voided school board's decision to close one of the three high schools. Solicitor stated it is a cautionary tale; sometimes it is easy to forget how serious compliance is

supposed to be. He believes this is something everyone needs to be aware of and keep in mind because Mayor and Council go into Executive Session with some regularity.

Mayor stated he went to the Mayors' Conference and they recommended having the reason for Executive Session written out in advance and carefully articulated for the record.

Mayor said the Village still has the possible sale of property and asked the Solicitor about going into Executive Session for that. Solicitor Ondrey explained that they could go into Executive Session to discuss potential sale or purchase of real property, but the statute qualifies that and says it is allowed in order to prevent an unfair bargaining advantage or competitive advantage. Solicitor states he represents another entity that has been criticized for holding Executive Session without articulating what is going to be some of the unfair advantage. Solicitor stated his position is if the Village reveals that, it would expose a potential unfair bargaining issue risk. Solicitor said the Village can go into Executive Session to discuss purchase or sale of real property, but not just to talk in general about that topic. It is supposed to be a situation where if you talk about it in public, it would cause a problem with bargaining. Nairn asked if there is a set of parameters of what can be discussed. Solicitor said it is a long statute; there are 5-6 common exceptions. He said elected officials can go into Executive Session to talk about litigation as long as the lawyer is present, purchase and sale of real property, and personnel issues. He stated when talking about personnel issues, they are supposed to give a general description whether it is discipline, pay issues, etc., they cannot just say personnel - it has to have more definition. Solicitor will forward some information on Executive Session reasons and parameters to Council.

COMMITTEES: Nairn had no report.

Kostura stated he would like to go into Executive Session to discuss the service agreement between Inspection Solutions, LLC and the Village of South Russell to discuss personnel and compensation issues.

Carroll said Chagrin Falls Suburban Fire Department historically has come to the Village in November for the contract renewal. He believes the Village needs to reach out to them to present earlier so the Village isn't caught trying to make a decision without much time. Carroll said he has tried to reach out to Chief Zupan and can try again unless the Mayor wanted to do that. He believes the Village needs to get an idea of what the Fire Department is looking at for an increase. Mayor said he will reach out to the Fire Department.

Monday October 17th at 5:30 pm was selected as the date for the 2017 Budget Work Session.

Canton said regarding installing a new street light at Maple Hill, First Energy has given the village a cost of approximately \$1,681.

The white line striping extensions on Bell Road have been removed.

Porter said the Building and Utilities Committees met because Dominion East Ohio Gas has asked permission to put a 10 x 10 shed on village property where they will put gas monitoring equipment. It was decided to install it by the Police Department near the other utility monitoring equipment which is surrounded by trees so it is not very visible from Kensington Drive or Bell Road.

Carroll reported that the Safety Committee met and will look to do a formal swearing in for the police employee promotion at the meeting in August.

ORDINANCES/RESOLUTIONS:

Carroll introduced an ordinance amending section 618.18 of the codified ordinances of the Village of South Russell by adding a definition of a “dangerous dog”.

Carroll introduced an ordinance amending section 618.01 of the codified ordinances of the Village of South Russell by establishing new additional regulations regarding the control of dogs within the Village.

There was brief discussion about M4, M3, and M2 penalties listed in the ordinance. Kostura asked if restitution can be included in the ordinance. Solicitor will look into it and check with Prosecutor Coyne. Porter said in his experience, if restitution is warranted, the judge will order it. He doesn’t believe the ordinance has to state restitution, but he said it doesn’t hurt anything. Chief said vet bills, etc. can be added to the incident report that gets sent to court and request that the judge order restitution, he believes that would work.

Mayor said this ordinance would go through three readings and will look for Council to adopt the ordinance, with some possible tweaks, at the September 12th Council meeting.

Mayor gave third reading on an ordinance amending the residential district regulation of section 402 of the zoning code of the Village of South Russell by establishing new reduced minimum dwelling unit dimensions for residences in the Chagrin Heights Subdivision. Porter made a motion to adopt, seconded by Nairn. Roll call – ayes, all. Motion carried. **Ordinance 2016-23**

Kostura introduced an ordinance amending appropriations increasing Safety Fund Expenses \$4,060, Service Fund \$1,700, and Capital Fund expenses \$2,900. 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 2016-24.**

Kostura introduced an ordinance transferring \$8,660 from the Income Tax fund with \$4,060 to the Safety Fund, \$2,900 to the Capital Fund and \$1,700 to the Service Fund. 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 2016-25**

BILL LIST:

Carroll made a motion to ratify the 6/22/16 bill list in the amount of \$300; the 6/30/16 bills in the amount of \$42,383.92 and approve the 7/15/16 list in the amount of \$52,851.84, seconded by Kostura. Voice vote – ayes, all. Motion carried.

NEW/OTHER: Kostura, Nairn, Porter, and Canton had no report.

Darrell Johnson has reserved the park pavilion for July 17th for a class reunion; they are requesting permission to have alcohol. Carroll make a motion to approve alcohol for the class reunion at the park pavilion on July 17th, seconded by Nairn. Voice vote – ayes, all. Motion carried.

POLICE DEPARTMENT PRESENTATION:

Chief gave a presentation on his department which will be included in the online Council packets. There are nine full-time officers and seven part-time officers. They have two interviews scheduled for the new future. They are hoping to boost part-time staff by one or two officers to give them eight or nine part-time officers. There are two upcoming full-time retirements in 2017.

Chief explained incidents have been decreasing. Historically, the number of incidences per year 2011-2,137; 2012-2,062; 2013-1,993; 2014-1,972; and 2015-1,860. As of June 30th there have been 950 incidents. He believes this decrease in incidents is due to patrol tactics and visibility of the Police Department.

Chief gave a photo tour of the Police Department building prior to, during, and post the rehab project that took place a few years ago. He also reviewed the cruisers and the equipment they contain.

Chief stated the main objective of his department is to maintain a strong bond between the Police Department and the community and reviewed the community programs run by his department including; vacation watch, Shop with a Cop, Cops & Kids Fishing, senior citizens meetings; Helmet Smart, E-Commerce Safety Zone, third grade seat belt program, home security assessments, bus driver safety and awareness, Safety Town, child safety seat installation, social medial updates, and bike patrol.

Chief explained the benefits of being with the Valley Enforcement Group (VEG) which include having access to an accident investigation unit, tactical units such as SWAT and hostage negotiations, emergency response vehicle, and the child abduction response team. He also reviewed the benefits of the Chagrin Valley Regional Dispatch (CVD).

At 10:00 pm Carroll made a motion to go into Executive Session to discuss possible sale of property and employee compensation, seconded by Nairn. Roll call – ayes, all. Motion carried.

Council reconvened at 10:24 pm.

ADJOURNMENT: Being that there was no further business before Council, Porter moved to adjourn, seconded by Carroll. Roll call – ayes, all. Motion carried.

Meeting adjourned at 10:25 p.m.

William G. Koons, Mayor

Danielle Romanowski, Fiscal Officer