

**RECORD OF PROCEEDINGS  
REGULAR COUNCIL MEETING  
MONDAY, OCTOBER 8, 2018 - 7:30 P.M.  
MAYOR WILLIAM G. KOONS PRESIDING**

**MEMBERS PRESENT:** Canton, Carroll, Galicki, Nairn, Porter. Kostura arrived at 7:33 p.m.

**OFFICIALS PRESENT:** Administrative Assistant to Fiscal Officer, L. Galicki; Fiscal Auditor Lechman, Building Inspector Heilman, Police Chief Rizzo, Street Commissioner Johnson, Solicitor Matheney, Engineer Haibach

**OFFICIALS ABSENT:** Fiscal Officer Romanowski

**VISITORS:** Vincent Massa, Whitetail Dr.; Gary Dole, Maple Hill

Mayor called the Regular Council meeting to order and asked for a moment of silence for Fiscal Officer and Solicitor Ondrey, both of whom had critically ill family members. Mayor then led the Pledge of Allegiance to the flag. Administrative Assistant read the roll. Porter made a motion to approve the meeting minutes of the September 24, 2018 Council meeting, seconded by Nairn. Voice vote – ayes, all. Motion carried. Mayor stated there were minutes from the October 1 Special Council Meeting and requested a motion to approve. Galicki made a motion to approve, seconded by Nairn. Comments on the minutes: Carroll noted that there was no starting time for the interviews in the minutes, and Porter clarified that this would be decided at this meeting. Voice vote- ayes, all. Motion carried.

Kostura arrived at 7:33 p.m.

**MAYOR'S REPORT:** Mayor stated he would like to appoint John Dishong to the Planning Commission. Porter moved to accept the appointment, seconded by Carroll. Voice vote – ayes, all. Motion carried.

Mayor stated his report distributed to Council was substantial and included his thoughts after the budget session. He reviewed it with Department Heads this morning. Columbus Day is a Federal holiday, and normally Village employees would have the day off. However, they swapped it out for an extra personal day, which will likely be the Friday after Thanksgiving. Veterans Day is November 12th, and Department Heads will not attend the Council meeting on that day but will attend the November 26<sup>th</sup> Council meeting.

The Finance Committee and Fiscal Officer did a wonderful job with the budget work session. Mayor stated that the Village needed to put about \$2,000 into the Show Your Colors account for flags, poles, and brackets. It is in the General Fund, but consideration should be given to putting it in the Street Department and let Street Commissioner take ownership.

The old 5-year plan is also attached to the Mayor's Report for comparison. For the Street Committee, every penny was spent for every street that needed to be done, and he thought if there were five storm water issues, the Village would still end up in the black. Mayor does not recommend this, and stated that in five years, the price of asphalt can't be anticipated.

Mayor stated he had some interesting meetings relative to the Property Committee during the last two weeks. Mayor met with Dr. Holtz regarding his property with no resolution. He also spoke to Bruce Thomas about the property at the corner of Chillicothe and Manorbrook Dr. that, according to the Access Geauga website, Thomas owns. Thomas told Mayor that he does not own this property, nor does he pay taxes on it and speculated that it had been mistitled. Thomas was going to investigate this matter. Mayor stated that this property is probably common land, and nothing can be built there. Nairn asked about the approximate acreage of the property. Mayor thought it was about 16 altogether but said that seemed high. Porter suggested that the 16 acres may include other common property in addition to the corner property.

Regarding the Fall Festival, Mayor asked Canton whether the Village could amend the contracts next year to reflect that the participants get paid half if the event is rained out. As it stands, participants must be paid in full.

Mayor was contacted by a couple of Scouts about bat houses.

Mayor approached the Jaycees about providing funding for the playground project at South Russell Park, and specified he would like a \$5,000 swing set. Jaycees will be having a disbursement meeting where funds can be requested. CT Consultants is putting in the playgrounds for the Chagrin Schools, and they would be doing a third one if the Village can get one at the park. There will be a meeting between CT Consultants and the Chagrin River Watershed Partnership (CRWP) for additional funding that is coming due in January that may be appropriate for the Village. During a tour of Chagrin Falls Schools, Mayor inquired about the pavers that are being used around the building that allow grass to grow through while providing stability for the Fire Department vehicles; this may be something to consider for the park but may be expensive. Mayor could not recall if the Village was permitted to have a non-permeable surface at the park, and with the current parking area, it may be at its maximum. He suggested that the open cell pavers may be a solution.

Regarding Village Hall, Mayor met with Craig Cawrse from CT Consultants and discussed landscaping suggestions. Grass should be planted now, and additional work done next spring. With CT Consultants, Craig does charity work, and Mayor suggested the Village approach him about the cemetery.

On October 9<sup>th</sup>, Mayor is meeting for the sixth time with the residents from Waverly Ln. regarding runoff they get from Gurney School. A couple of weeks ago, Mayor had a meeting regarding the Section 319 Grant - number 2. It involves the land west of Chillicothe. Manorbrook, Fox Run, Sugar Bush, and Southwyck were invited to the meeting to hear the Village's plan for an upcoming project to catch the water over there.

Mayor is proposing a bike tour next summer, with an ice cream social afterwards.

Spectrum service continues to be a problem, and the Mayor has spoken to other area mayors who are also dissatisfied. Something needs to be done.

**FISCAL OFFICER:** Absent.

**FISCAL AUDITOR:** There was no report due to the timing of the meeting.

There was a question by the Street Commissioner regarding the check received from the sale of the 1992 truck. The check was deposited today, and Fiscal Auditor asked whether the Village should wait for the check to clear before allowing the purchaser to take the truck. Auditor clarified that it was a personal check. The purchaser planned to take the truck Tuesday or Wednesday. Street Commissioner suggested the Village keep the title until the check clears. Solicitor verified that this could be done. Chief suggested that in the future, the Village should require a certified check.

**FINANCE COMMITTEE:** Porter discussed the credit card policy in response to new rules by the Ohio Legislature. Council members have a copy of the new policy in their packets and Porter stated that the Solicitor reviewed and approved it. Porter pointed out that a big change is that the limit has gone from \$4,000 to \$8,000. The credit cards used by the employees have a limit of \$2,000 per card with four cards issues – one to each Department Head. The Fiscal Officer will contact the bank with lost or stolen cards. Improper use of the card and discipline are also addressed in the policy. Nairn asked where the four cards are maintained. Chief has a card locked up at the Police Department. Building Inspector carries hers. Street Commissioner keeps his in his office. Canton clarified with Solicitor that the new policy document is in accordance with the latest changes to the law. Solicitor stated it was. He added that he liked the Solicitor's comment that maybe home rule would override this, but he was not betting on home rule overriding too much anymore. He said he thought it was good the Village is complying. Solicitor agreed and added that the Ohio General Assembly in their legislative analysis said that non-chartered municipalities must comply with this and the Village is non-chartered. Mayor asked whether the monthly credit card statements need to be attached to the financial report as specified in the policy. Porter stated that the statute requires that the legislative authority receive them. Solicitor agreed and stated they need to be itemized. Mayor also pointed out the caveat in the policy regarding use of a personal credit card and reimbursement in an emergency and asked if this gave the Village flexibility. Porter agreed that it does. Porter made a motion to adopt the revised Credit Card Policy declaring emergency and waiving further readings. Nairn seconded. Roll call – ayes, all. Motion carried. Porter made a motion to adopt, Nairn seconded. Roll call – Ayes, all. Motion carried.

Porter added that Fiscal Officer noted a question in her report about budgeting \$110,000 from the State Highway Fund and \$140,000 from the Street Maintenance fund to go towards storm water issues. There was discussion at the budget meeting about setting aside \$250,000 for purposes of dealing with storm water next year, and this was how Fiscal Officer wanted to break it out so that the money is accounted for in 2019. Council did not have to approve this tonight and could wait until Fiscal Officer is present at the October 22nd meeting.

**SOLICITOR:** Regarding the small cell wireless facility legislation codified ordinance with respect to House Bill 478, the Federal Communications Commission (FCC) has issued a ruling that preempts many of its provisions. One of the largest issues is the “shot clock” whereby small cell applications where there is existing infrastructure are given 60 days to process. Where there is no existing infrastructure, the Village has 90 days. Additionally, the application fees were reduced. It has not yet been published in the Federal Register, but once it is, it is effective 90 days from then. Solicitor will draft legislation for the change. Mayor asked Engineer what the chances were someone would apply to the Village for a small cell facility in South Russell. Engineer stated that in the next few years, the chances were low. Porter asked for clarification about the meaning of “existing infrastructure”. Engineer explained that it means if there is already cellphone tower transmission infrastructure in place. Porter asked if South Russell has one. Chief advised that there is one near Panini’s. Kostura asked what role the Planning Commission has in this matter and if the Planning Commission can block or modify it. Solicitor replied that the FCC is not addressing much in terms of design guidelines, and that it is more about the time specified for processing applications and fees; Solicitor has not read the entire ruling. Kostura clarified that applicants would still have to come before South Russell Zoning and Planning Commission to make the application, but it would have to be done within the confines of 60 or 90 days. Solicitor speculated that there would be challenges to the FCC ruling.

Mayor asked Solicitor to congratulate David Ondrey for reviewing the Stormwater 319 Grant and identifying an error that will be addressed by the State of Ohio EPA. Council will need to approve the amended document.

**ENGINEER:** Final Road Program costs were \$329,016.95, which is about \$1,000 under the \$330,000 target. The roads that have been paved this year look great, and the Engineer looks forward to a successful road program next year. He added that last May, the Village applied for a pre-application for an Ohio Public Works Commission (OPWC) funded project to replace the Louise Drive bridge. The preliminary rankings for the preapplications have been released, and the Village scored well. The total project cost is estimated at \$246,000, which includes construction, administration, bidding, plans and specs, etc. A 50% grant was requested of the OPWC, and it appears the Village will receive that money. The final application needs to be completed but is more of a formality. Engineer will meet again with the County Engineer’s Office to review the application before submission. The \$123,000 would be received in 2019 for replacement of the bridge. Mayor questioned whether the money should be pursued given that the bridge may still be good for another three to four years and asked if this could be delayed. Engineer explained that the Village can’t delay the grant, but could decline it. Depending on how competitive future funding cycles are, the Village may not get the project funded. Engineer recommended using the funds being offered. Regarding the anticipated need to address Bell Road East in the future, Mayor asked it would it be better to hold off on asking for funds until that time, or to keep going for everything the Village can get. Engineer replied that it is better to go for everything the Village can get, and then use it because there is no guarantee on any future funding. It never hurts to ask because the funds can always be turned down without penalty if the Village isn’t ready for a particular project. Mayor asked how the bridge project will affect the paving of the Louise neighborhood. Engineer stated that the money is available in July, and that the project can’t be awarded until then. Street Commissioner stated that the project won’t be started until 2020. Engineer stated that the Village could bid the project ahead of the award date

so that the Village would be ready to award in July. It will likely be a fall project at the earliest and it could also be done in the winter. He sees the project as being a fall 2019 or winter/spring 2020 project. Paving could be done when the bridge project is complete. Mayor clarified that Ridgcrest, Louise, and Garden Park would be paved. Porter asked about the duration of the bridge project. Engineer thought it was a couple-month project. Mayor asked if it would be one lane at all times. Engineer agreed and pointed out that this was the sole ingress/egress for the neighborhood. Street Commissioner and Engineer pointed out that there will be lag time due to acquiring specialized materials for the bridge. Kostura clarified that the Village could go out for bid when the Engineer puts out the standard road program bids. Engineer agreed and stated while it can be bid, it can't be awarded until the money is available.

**STREET COMMISSIONER:** Turned in the month-end report. Service Department started the headwall repair and grate replacement on Maple Springs.

The 1992 truck was sold for \$12,600. The buyer is from Missouri and is sending a carrier Tuesday or Wednesday of this week to pick up the vehicle. Mayor asked if the Street Commissioner was surprised by the selling price. Street Commissioner felt it was just the market and noted positive feedback on the website.

**STREET COMMITTEE:** The next meeting is scheduled for October 18, 2018 at 7:00 a.m. in the Service Garage.

**BUILDING INSPECTOR:** Besides the report she submitted, Building Inspector reported the demolition of a house on Ridgewood that has a "sliver" in South Russell Village. There was another issue with a home where the owner passed away, and the house was sold. The new owner has mold issues. A mold remediation company was called and used a chemical in the basement that deteriorated the wiring and plumbing throughout the basement. There is an ongoing issue and David Hocevar has been going to the home to help the resident with the problem.

Carroll asked whether rent was paid on the rental property and Building Inspector stated it had with an added \$50 late fee.

**BUILDING COMMITTEE:** No report

**POLICE CHIEF'S REPORT:** Walters Road is open and traffic complaints have ceased. Safety Committee addressed a topic that was brought up at a Village Hall meeting of residents from Fairview Rd. about reducing the speed limit at the west end of the Village going into Chagrin Falls prior to Fairview Rd. A decision was made to put a recommended reduced speed sign, which is a 25-mph yellow sign with the image of the curve ahead. This will be the first step. It was noted that exiting Fairview onto Bell Road looking east, there is limited sight distancing with the curve, and the cars are coming around the curve at 35 mph or greater. This makes it risky to get out of the side street. No action will be required for the sign because the current speed limit on Bell Road is by Ordinance. Nothing would have to be changed in the ordinance because the speed won't be changed. It will only be a recommended speed of 25-mph. Mayor asked about the trees at one house just east of Fairview, and Chief said the right-of-way

was discussed regarding the Village trimming those trees. The last time the Street Commissioner approached the homeowners, they voluntarily trimmed the trees at the Village's request. Chief believes the right-of-way does not allow the Village to go into the yard to cut the trees and that the Village would have to approach the homeowners and request them to do it.

**SAFETY COMMITTEE:** Council needs to accept the new updated School Resource Officer (SRO) Memorandum of Understanding (MOU).

Chief reported that the department received notification from the vendor of the police software that Windows 7 will no longer be supported as of January 2020 and recommended upgrading to Windows 10 Professional.

Nairn advised that October 16<sup>th</sup> will mark the end of the six-month probationary period for Officer Allan Frantz. Nairn made a motion to remove Officer Frantz from probation and increase his salary to Patrolman First Class effective November 1<sup>st</sup>, seconded by Galicki. Porter asked if Chief recommended this, and he acknowledged he did. Voice vote, ayes-all. Motion carried.

Nairn made a motion to accept a donation in the amount of \$100 for the Shop with a Cop program, Galicki seconded. Voice vote, ayes-all. Motion carried.

Nairn made a motion to accept the modification to the SRO MOU made by the Chief, Galicki seconded. Voice vote, ayes-all. Motion carried.

Nairn stated the next Safety Committee meeting will be November 6<sup>th</sup> at 8:00 a.m.

**HUMAN RESOURCES COMMITTEE:** Carroll reported that the committee is reviewing job descriptions prepared by Clemens Nelson.

Carroll stated that a letter of resignation was received from the Board Clerk and Carroll read it into the record, Exhibit (A) attached. Nairn made a motion to accept the resignation of Lorraine Sevich, Board Clerk, Kostura seconded. Voice vote - ayes, all. Motion passed.

Carroll stated Sevich required an exit interview and a posting for the opening needed to be done for the Board Clerk position. Carroll made a motion to post the open position for the Board Clerk, Nairn seconded. Voice vote – ayes, all. Motion passed.

Mayor added that he is sitting down with Sevich Friday morning at 8:00 a.m. just to talk. Galicki added that Sevich visited Village Hall today inquiring about her exit interview.

**PROPERTY COMMITTEE:** Canton announced that the Village received a \$23,291 grant from NatureWorks for a playground at the park. He wanted to thank the CRWP staff for writing and shepherding the grant to success. Porter seconded the acceptance of the grant. Galicki asked for clarification of CRWP's involvement in the playground grant; he was uncertain why a watershed group would be involved with writing a grant for a playground. Engineer clarified that NatureWorks is a comprehensive program, and although it seems like a strange partner, CRWP is well versed in writing NatureWorks grants. Under the NatureWorks program, a

playground is an acceptable grant application. Canton stated that this year Geauga County granted approximately \$47,000 - South Russell Village received half of it. Galicki said as a relatively new member of Council, he would like to know if there were any discussion of the public's interest in a playground or if there was consideration about the playground issue going to a vote to see how the public felt about it. Canton stated the Village had an open meeting in May where the community was invited. This meeting was a requirement of the grant application. The CRWP was present at that meeting along with a company that builds playgrounds. The Village has been offered a \$50,000 donation from a community member to install a playground, and has now been awarded a \$23,000 grant to go towards a playground project. Galicki asked if those monies will fully fund the playground. Canton said that right now the playground is estimated to cost \$113,000. The playground will not be built until the Village has all the money to fund it. Kostura asked what the Village's portion would be and said he didn't remember seeing a plan for the playground. Mayor said he has a presentation about the playground and he will share it with Council. He said there is some basic idea what it will cost the Village, but "we are not there yet." Kostura asked if the equipment proposed is worth \$113,000, or if that was skimping. Canton stated the family who is donating \$50,000 made it a point that the playground will be "top shelf" all the way. Kostura asked again about what the project will include, and whether it will be like playgrounds at Gurney School or the Intermediate School or Bainbridge's River Road Park. The Mayor said that the Village will put in the structure that is needed to make it a safe facility and then add to it. Mayor thinks that it may be sparse in the beginning, but separate pieces of equipment will be added over time. Canton said that the plan showed eight or nine different play areas or stations in the huge area. Nairn asked how big of an area is proposed and whether it included preexisting room for expansion. Canton and Mayor responded the area will be 80 feet by 80 feet. Canton said community members with children love the idea. Mayor added that he expressed interest in having the school district donate the old swing set from Gurney School. Galicki asked whether the motion should be withdrawn until Council is informed on what the plans for the playground are. Mayor reiterated that there was a motion to accept the \$23,291 from NatureWorks. Voice vote. Aye - Canton, Carroll, Kostura, Nairn, Porter. Nay - Galicki.

**PUBLIC UTILITIES:** Carroll noted that the Council packets included an agreement with the United States Geological Survey (USGS) for the extension of well monitoring and that the price had increased. This could be due to the County not participating in the contract, which leaves the Village responsible for paying for travel and lodging. Carroll asked if the Mayor had been in contact with the contractor, and Mayor said he had not. Porter asked for clarification about the expense and whether the expense to the Village was \$8,000 or \$11,400; Mayor replied it was \$11,400. Carroll stated the deadline for contract renewal is October 15th and questioned whether there was enough time to make the decision. Carroll suggested that USGS be invited to a Council meeting to do a presentation before committing to the contract. Porter pointed out in the contract that USGS addressed the improvement of well GE364 by installing a new recorder - this is near Manorbrook. There would then be two recording wells instead of one. He questioned whether this was worth \$3,400. Regarding The Lantern, the Village does not know what a full facility would do to the water table, and perhaps the Village should continue the contract. Mayor suggested one more year of doing all the wells. Carroll suggested waiting until meeting with USGS to decide. Porter stated that with automatic wells, the Village may not want USGS to visit in person. He added that USGS checks quality too. Nairn asked if Mayor, Porter, and Carroll

have heard a presentation in the past. They clarified it was several years ago. Kostura stated that at one point there were eight well monitoring systems in place, and the Village has gradually reduced the number because of the expense. It seems that the results have been similar for the past eight to ten years, and it doesn't seem prudent to continuously spend money on the monitoring if there are no changes. He stated that if they don't have to come up and can reduce their charges, it might make sense to continue the monitoring because of The Lantern.

Carroll addressed the Section 319 Grant of Kensington Green. Mayor stated that the issue with the contract is the nondiscrimination written affirmative action plan. Solicitor Ondrey caught this error and the Ohio EPA changed their wording. Mayor stated this documentation needs to be re-signed. Carroll asked how this would affect the original agreement and whether this was just a correction or would a representative from Kensington Green have to sign again. Carroll stated there were some issues of whether Kensington Green followed proper procedures on the approval of this contract. Mayor said the change is simply a correction of the nondiscrimination written affirmative action plan - it is one form in the grant paperwork. Porter made a motion that the Mayor be authorized to sign the change that was recommended and approved by the Solicitor, Canton seconded. Galicki asked whether in good faith that Council could go forward with the correction. He stated the grant was entered into by the Village with a contract with Kensington Green Homeowners Association for which the homeowners were unaware and proper procedures were not followed to get their buy-in for the project. There is a situation with Kensington Green whereby the whole grant may be null and void because there are residents who are at the stage of saying that either the project needs to be explained to the community or the project needs to stop. Mayor asked Galicki whether this discussion could be stopped at this point to do the motion and then continue discussion with Galicki's point. Galicki explained that the point of continuing with voting on the motion is to allow the Village to go forward with the grant. Galicki stated that the Village may not be able to go forward with the grant, so he questioned whether it was the proper time to make the correction. Mayor stated the motion was just correcting the paperwork, so it was the proper time. He explained that if Council doesn't agree with the grant, when the ordinance comes out, Council can vote the grant down. Galicki disagreed and stated it was an issue that the grant was entered into under false pretenses. Mayor cautioned Galicki to "be careful." Galicki replied that he is careful and willing to go on record talking to the efficacy of how the contract between Kensington Green and the Village was entered into. Mayor reiterated that the motion has been made and seconded to allow Mayor to sign the nondiscrimination written affirmative action plan. Carroll asked Solicitor that with this motion, a language change is being done to the contract itself, not to whether there are questions on the validity of the contract. That by correcting the nondiscrimination written affirmative action plan, if the contract is not valid, this change doesn't impact that. Solicitor responded that it did not. The Village can always go to the actual contract itself when it comes out by the Ordinance or Resolution, however it is done, but this is literally just inserting the corrected page for what was there before. Carroll clarified that voting does not validate the proposal and that the issue with Kensington Green can be addressed by voting it down. Solicitor asked if there was anyone present from the HOA. Carroll asked about the expenditure of Village funds and the fact that there are three members of Council that live in Kensington Green that could theoretically benefit. Solicitor asked if they are on the board, to which the reply was no. Porter clarified that there were two Council members from Kensington Green, not three. Solicitor clarified that Mayor lives there, too. Carroll asked if Porter also lives in Kensington Green to



which he stated he does; Carroll clarified that there are three who live in Kensington Green. Porter clarified that there are two Council members and the Mayor. Mayor stated he does not have a vote. Carroll stated there are issues that will be looked at down the line, but a change in the language can be affected, then Council will need to fix all the other issues potentially. Mayor reiterated that Council was now voting to sign the corrected issue. Voice vote. Ayes – Canton, Carroll, Kostura, Nairn, Porter. Nay – Galicki. Motion carried.

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

Nairn gave third reading on an ordinance prohibiting loud, cracking or chattering noise from exhaust systems of trucks weighing more than 8,000 lbs. and further prohibiting the use of engine retarders on such trucks and establishing penalties for the violation of such prohibitions.

Kostura seconded. Porter asked if “gross vehicle weight” could be inserted. Mayor asked Nairn if she understood what gross vehicle weight is, because he did not. Porter explained that it is the entire weight of the vehicle, not the tractor without the trailer or trailer without the tractor. Mayor stated that the ordinance is being changed and there is a second. Kostura asked if the ordinance was actually being changed, because he thought that this had already been changed. Porter did not see a change in the title. Porter stated that the ordinance itself is correct. Roll call – ayes, all. Motion carried.

**BILLS LIST:** Porter made a motion to ratify the bills paid on September 28, 2018 in the amount of \$2,415.41, Nairn seconded. Voice vote – ayes, all. Motion carried.

**NEW OTHER:** Canton and Galicki had no new business

Carroll advised that Council needed to go to Executive Session to discuss the Council interview process for candidates for the upcoming open Council seat. After Executive Session, the time and location would be established.

Carroll verified with Building Inspector that the rent was paid with a one-time late fee. Building Inspector stated the due date is the 22<sup>nd</sup> and the payment just received was the September payment. The October payment will be due on October 22<sup>nd</sup>. Carroll asked how many times the renter has been late this year. The Building Inspector did not have this information, but it was speculated that it has happened often. Building Inspector stated that the due date for the rent had been recently moved from the 15<sup>th</sup> to the 22<sup>nd</sup> to accommodate the renter. Carroll suggested that a better deterrent than a \$50 late fee should be considered. Porter stated that there was a limit of what could be done. Kostura verified that there is no lease with the tenant, and is currently renting the house month to month.

Kostura stated that this was his last Council Meeting and thanked Council for the best six years and for their friendship and guidance.

Nairn requested clarification about charges from Thrasher, Dinsmore & Dolan, specifically a September 5, 2018 charge of \$44 attached to her name. Nairn stated that the charge pertained to ballot language. Mayor asked if it concerned the Police Levy, and whether she contacted Ondrey

about this. Nairn stated she did not. She clarified that this was not the first time she had seen such charges and questioned whether this possibly concerned proofreading of an item and then following up with an email relaying that she saw no errors. She asked whether that could have resulted in a \$44 charge - Kostura replied that it would. She asked what work was done in twelve minutes that would result in a \$44 charge. Nairn was embarrassed that without placing a phone call to the attorneys' office, she would have incurred this charge. Nairn addressed the issue because it was the third or fourth time it had occurred. Solicitor would investigate the charge. A copy of the invoice was provided to her.

Porter addressed Kostura's original appointment to Council and subsequent reelections, and stated he has been a tremendous Council Member, and will be sorely missed.

Nairn thanked Kostura for his guidance, and stated whoever replaces him will have huge shoes to fill.

Mayor stated Kostura will be appropriately recognized in the future.

Carroll made a motion to go into executive session to discuss the vacant Council seat interview process, Porter seconded. Roll call – ayes, all. Motion carried.

Kostura announced that Council was coming out of executive session at 9:41 p.m.

Carroll stated that the interviews for the open Council position will take place on Saturday, October 13<sup>th</sup> in the South Russell Police Department Conference room. The meeting will start at 8:30 a.m. with the first interview at 9:00 a.m. The candidates to be interviewed, in no particular order are John O'Donnell, Ray Schloss, Vincent Massa, Robin Rood, Meagan Mulloy, and John Wahl. The interviews will be scheduled in alphabetical order beginning at 9:00 a.m. Mayor will notify the candidates of the date and time of their interviews; Kostura seconded. Nairn asked about the source of the interview questions. Porter stated that each Council member brings one or two questions to ask each candidate. Nairn was concerned about overlap in the questions. Carroll suggested that Council forward him three to four questions they would like to ask. If there is overlap, he will mesh them together and finalize the questions at 8:30 a.m. when they meet. Regarding the set questions for each candidate, Galicki explained that based on the applications, he would have specific questions for the candidates. Carroll stated that there would be an opportunity to ask these as further questions. Nairn clarified that the opportunity to ask further questions would follow the set questions. Canton suggested that their answers and comments would generate more questions. Porter again clarified the format and then agreed that this would be fine, at least initially. Mayor stated that it might be necessary to be a dictator about the further questions, because of the time element. Carroll agreed and then stated that it would probably be one question per Council member allowed. Nairn asked whether the candidates should be asked if they have questions of the Council. Voice vote – ayes, all. Motion carried.

Mayor asked Galicki what the deal was with the Kensington issue. Galicki stated that it is the contract that was entered into between the Village and the President of the HOA. The HOA president signed the agreement without authority of the homeowners for the use of common

land. Given that that parcel is part of the grant request that was forwarded, there is an agreement that Kensington Green basically secedes to public use making wetlands and provides easements. The other part of the agreement talks to Kensington Green being responsible for maintenance of this after the first two-year period. That requires two-thirds vote of the homeowners of Kensington Green and that was never done. Nairn asked for clarification and asked if the plan was presented at an HOA meeting or not. Galicki stated that it was not. Porter identified the agreement and stated that it was not presented at an HOA meeting. Galicki clarified that the agreement to which Porter was referring is the contract. Porter further explained that the Kensington Green HOA bylaws state that if they are going to give an easement to anyone else, it has to be done by two-thirds vote of all homeowners. When the HOA President signed this, when Ross Golden signed this, Porter thought that he did not know what he was signing. But Porter stated that it was intended as a letter of intent. But the document is written as a serious contract. Galicki agreed and stated that there is a contract lawyer who is a homeowner within Kensington Green who does not dispute that this is a contract; call it a piece of paper, call it an agreement, and you will note in the language of the Watershed Partnership who provided the briefing to the Village, she strictly refers to it as a contract. Porter agreed that it is. Galicki stated it is contractual language and the HOA President really did not have the authority to enter into the agreement. Porter stated he needs to look at the bylaws because they were changed a few years back, but he thought Galicki was probably right. Galicki stated he has a copy of the bylaws and the verbiage is specific and talks about use of public lands for any other purpose. Mayor asked who the contract lawyer was in the neighborhood. Galicki stated it is a new resident who was at the HOA meeting. Porter stated that the document is a contract. Porter stated he is a contract lawyer and agrees with the new resident, but also told the homeowners assembled that the Village is not going to antagonize 105 homeowners, so maybe the Village ends up leaving Kensington out of the proposal and just "do the swimming pool by the road." Porter did not know if the Village could do that. Nairn asked whether the contract attorney resident is upset. Galicki stated there was more than one person, but many who are upset, that without authority the HOA President entered into the contract to give away public lands. Mayor stated that no one had contacted him. Galicki stated that Mayor is out of it because his name didn't come up when he presented it to the HOA. He talked about the Village, and not about the Mayor. Aside from whether the residents are or are not upset, due process was not given to the homeowners. He pointed out that the Mayor is a member of the HOA and should have known that a two-thirds majority was needed to go forward and contract on the part of the Village. Mayor stated he guesses he will wait and see. He contacted the newly elected Kensington Green Board members Thursday after the HOA meeting, gave them all the information he had, and has heard nothing from anybody about this issue. Galicki said part of this is that the actual contract was supposed to be distributed by the HOA President to all hands, and this has not been done yet. Mayor asked if there is going to be a meeting or something. Galicki said he did not know, and relayed that the HOA is asking what the Village is talking about and why no one briefed them and asking why they were not invited to talk about the project. Galicki speculated that there may be some residents that might see that it doesn't have much value to Kensington Green but might help out their neighbors and may have bought into it. The fact of the matter is that they were not given the opportunity to even voice an opinion about the project. It was signed, sealed, and delivered after the fact. Galicki asked what would happen if the Village started to excavate that area without informing the homeowners. He questioned if everyone would remain silent. Mayor stated he didn't think anyone would do that either. He stated that there was a meeting at

Village Hall and he believed Galicki was present when Buzz Ostergaard said, "I don't have any water problem. I don't care." There were two meetings in Village Hall where the Kensington people were present, only five people showed up. He didn't think that the Watershed Partners would just bring in a backhoe and start doing some work. Galicki pointed out that the contract agreement states that it is a done deal. Mayor asked if Galicki thinks they could really do that, and Galicki said "yes." Carroll agreed and stated that looking at the contract, it explicitly spells out what and how it is going to occur. The Village applied for a grant which it received, so the CRWP are working under the fact that the Village applied for this grant with the understanding that the Village could do this project, and now they should go ahead with the project. The problem that the Village would have, though, is Kensington did not follow their own internal policy in what they are supposed to do. Carroll suggested that this would put the grant in jeopardy because the Village applied for it under the auspices that all the rules were followed, but they weren't. Carroll stated that from a practical standpoint, if the Village starts doing work, the HOA, if there was pushback, would ask the question about whether there was two-thirds vote, and without it how the Village even got the grant. Bluntly, Carroll stated that it puts the Village in a position of having to pay the grant funds back. He stated it is a muddy situation, but that perhaps it could be salvaged. There would need to be work done to salvage it though. Mayor stated he agreed. Carroll stated he did not know Kensington Green HOA rules. Porter said that is not on the Village. Carroll agreed, but stated that the Village signed into that contract. Porter stated that paragraph 13 states there is a 30-day termination clause. The Village can send a letter to Kensington stating what was done, and they can send a letter to the Village stating that they are done, before the grant is awarded. Carroll clarified that the grant has been awarded and is pending approval by Council. Porter proposed that the Village could give the grant back and not do the project. Porter stated he was on the bylaws writing committee for Kensington Green HOA. Doing what is needed is a bear and for a good reason. Kensington Green does not want people selling off common area in the development without a two-thirds vote of ALL homeowners, not two-thirds of who shows up. Galicki added that there is a 90-day advance notification which is also required to take the vote. Porter stated there is a back-door way around this, which Porter stated he was not in favor of, but was done anyway. Mayor stated he would imagine that the Chagrin River Watershed Partners (CRWP), and the Village have been down this road before, and CRWP will probably tell the Village what to do. Mayor is meeting with them on October 9<sup>th</sup> at 9:30 a.m., and he will tell her that there is some opposition and go from there. Mayor thinks that if there was a meeting with the Kensington people, and it was spelled out what was going to be done, it is still going to be very difficult to get two-thirds vote, but at least an attempt was made. Galicki stated there may not be an understanding, but the issue is that a contract was entered into with the HOA which is invalid. Mayor stated that he agreed and the HOA president "blew it." Galicki stated that the HOA president explained at the HOA meeting that what he believed he signed was not what the Village told him. So, the waters get a little muddy. Galicki suggested that perhaps without the Kensington Green contract, the Village would not have gotten the grant. Mayor stated the Village would wait and see. He suggested that the Village get the CRWP involved. Carroll clarified that the Village did get the grant and Mayor agreed. Carroll questioned whether Kensington Green HOA not following the process will jeopardize the grant. Mayor did not know and would ask CRWP when he met with them. Porter asked that the Village find out and said perhaps the worst thing that could happen is that the Kensington part of the plan is not done. Mayor stated the Kensington part is two little curves. Galicki clarified that it was taking portions of the common ground and making them

wetlands, not just two little curves. The Village would be taking more than half an acre of land and making it into wetlands which will in perpetuity be wetlands. Also, as part of the contract, after two years following construction, the Village is requiring Kensington Green to maintain it in perpetuity. Porter suggested that the Village not do the Kensington portion of the project. Galicki asked whether it is even worthwhile doing the project without the retention pond at Kensington. Porter stated that his reading of the proposal is that without the Kensington piece, it helps, but is not essential. Essential is the little swimming pool. Carroll added that there may still be possibilities and referenced a comment made by Kostura about Bullfrog Pond. He suggested the possibility of doing something there. Carroll clarified that this grant does not cover this, but the Village is spending \$75,000 potentially of Village funds, which is a whole other issue that requires a vote. Mayor stated that one of the big things that CRWP tries to do is stay away from private property. They had plans for Bullfrog Pond but decided it was not worth the hassle. Galicki asked Mayor to explain how Bullfrog Pond, on one side of the street is private property, but common grounds on the other side is not common property? Mayor clarified that their original plan included Bullfrog Pond and the Spillway, but they didn't want the hassle. Carroll stated he thought that those items did not qualify for the grant. Galicki stated that was his understanding as well. He referenced the CRWP presentation where Kim Brewster stated that there are options that involve Bullfrog Pond, but the grant did not cover those. Mayor agreed and said they took it out from the original intent. Porter asked what they were talking about with Bullfrog Pond, other than planting native species around the pond, and two little things at the spring bed. Porter posed the question that if the Village does not do this, would it lose the grant money - he doubted it. He added that maybe the Village would, and clarification should be sought. Mayor reiterated that he would see Kim Brewster the following day. Porter stated that Ross Golden should not have signed the contract, and Galicki agreed. Porter added that the law presumes people read contracts. So, then it becomes an issue of apparent authority, and whether the Village can make them do it. He guessed that the Village could, but the Village would not antagonize 105 homeowners.

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



William G. Koons, Mayor



Danielle Romanowski, Fiscal Officer

Exhibit

(A) Letter of Resignation – Sevich/October 10, 2018

Prepared by: Leslie Galicki

11 Ridgecrest Drive  
South Russell, OH 44022

Mayor William Koons, Ph.D.  
5205 Chillicothe Road  
South Russell, OH 44022

Dear Dr. Koons,

Please accept this letter as notice that I will be resigning my position as Board Secretary two weeks from today's date, which will be October 10, 2018. Up to that date, everything related to my job will be current and up to date – everything will be filed, all notices sent out, etc.

Thank you for the opportunities you have provided me over the past year and a half. I know more about Villages and local government than I did before, and I can respect how our Village is run.

I consider myself fortunate for having worked alongside of the Fiscal Officer, Danielle Romanowski. She is a true gem, and I learned so much from her about our Village government. She went out of her way to help me, answer the hundreds of questions I had – always with patience. During the time at my job, I never saw her even take a lunch. Never - she would get something to eat, and eat at her desk. She has a work ethic that you just don't see very often, and South Russell Village is very fortunate to have someone of her caliber. She created a climate that made it a pleasure to come to work, and I am forever grateful. I am relieved that she now has the help that her position requires.

I appreciate and value the experience and the knowledge I gained while working under your tutelage at South Russell Village.

If I can do anything to help with your transition, please let me know.

Most sincerely,

Lorraine Sevich