

**RECORD OF PROCEEDINGS
SPECIAL COUNCIL MEETING (VIA ZOOM)
WEDNESDAY, JULY 22, 2020 – 8:00 A.M.
MAYOR WILLIAM G. KOONS PRESIDING**

MEMBERS PRESENT: Berger, Canton, Carroll (8:10), Galicki, Nairn, Porter

OFFICIALS PRESENT: Fiscal Officer Romanowski, Police Chief Rizzo, Solicitor Matheney

VISITORS: “Anne’s 3rd Fire,” Greg Heilman, Kelly Kimball, “Samsung Galaxy S7”

The Mayor called the Special Council meeting conducted via the teleconference service Zoom to order. The Fiscal Officer read the roll.

The Mayor asked if there was a motion to open the playground and deferred to Nairn to discuss the 07-21-2020 Park Committee meeting. Nairn stated she would not be making this motion. Nairn stated that it was a unanimous decision by the committee to keep the playground closed. Regarding the closing of the pavilion, Nairn stated that there were mixed messages being sent to the community, and the committee felt specific groups should not be given authorization to use the pavilion. A large group gathering of an HOA was specifically addressed in the committee discussion. Nairn stated that if people wander in and sit down at the pavilion to share a meal or hold a group or organization meeting, that is fine. Everyone enters and utilizes the pavilion at their own risk because the park itself is open. However, granting specific groups permission to use the pavilion at this time conflicts with the playground being closed.

Canton referenced a previous meeting where Mr. and Mrs. Tripp commented that if the Village were not going to be opening the playground, the Village should continue to complete other work at the park. He agreed and hoped the installation of the benches and digging of the swale would be on the schedule. The Mayor stated he would check with the Street Commissioner.

The Mayor stated that the agenda item regarding a missing piece of equipment would be discussed with the Police Chief in Executive Session.

Berger asked the Mayor what the resolution was on the pavilion. The Mayor stated there was no resolution. It was physically open, and the Village would not be chasing people out who use it. Berger stated that the Village should not be authorizing or allowing groups to reserve the pavilion and it should be hands off by the Village. The Mayor agreed and said that even the idea of telling people to put a note up - he would not do that. When the Building Department has been contacted about reserving the pavilion, they are told that it is open and is first come, first served. Porter added that it is ‘use at your own risk.’ Galicki said that by the Mayor telling some people to put up signs to reserve the pavilion and taking de facto reservations basically is what muddied the water about use of the pavilion. If the Mayor would pledge not to do this, there should not be an issue maintaining it as open and on a first come, first served basis. Berger agreed.

The Solicitor stated that it was necessary to ensure that no one was violating the more than 10-person rule that is still an order from the Ohio Department of Health. Nairn stated it is being violated, and the

Solicitor stated this is an issue of which the Village must be cognizant. She understood the Village was doing the first come, first served, but perhaps if people were calling the Building Department to inquire, in addition to informing them that it is on a first come, first served basis, they should be reminded of the 10 person limit rule. The Mayor asked what would happen if the Village received a report of 25 people in the pavilion, would the Village chase them out. The Solicitor stated yes, the Village could do this.

Galicki asked if larger gatherings were occurring behind the Police Department. The Chief stated that over the weekend there was, and the Mayor facilitated this. The Chief also spoke with Porter about it. He nor his officers were present, so he did not know how many people were there. It was advised that if social distancing were being honored and the participants were wearing masks, it would not be an issue. Nairn asked who was there, and the Mayor stated Chagrin Yoga held an outdoor yoga class behind the Police Department with 21 people and they spread out on the grass. The Chief reiterated that he called with a concern about the event and spoke to Porter. He was concerned that residents would think the Police Department was condoning the gathering. Nairn asked if the group was utilizing any Village amenities. The Chief stated they were contained to the backyard but stated again that it was Sunday and he was not there, and the officers were on the road, so he did not see what occurred. The gathering was in a wide-open space and he did not believe it was a violation as far as the gathering was concerned, but this was the reason he discussed it with the Mayor and Porter.

The Solicitor reminded Council to keep to the actual agenda for the Special Meeting notice.

The Mayor asked the Building Committee to address the new contract with Inspection Solutions. Berger explained that to adhere to the budget, he created a spreadsheet which reflected the hours that would be worked, the tasks, and fees Dave Hocevar would charge the Village with a maximum of \$48,250 per year. Berger stated that currently there is no limit on Hocevar's contract. Berger created a contract similar to the existing one but added the limitation. If Hocevar needed to work additional hours, it must be approved by Council. Carroll asked if the rate otherwise was the same. Berger advised the rate was the same as the current contract.

In looking at the draft contract, the Solicitor asked to see this addition to the contract and asked if Hocevar agreed with the new version. Berger stated that he did. The Solicitor asked about the proposed change regarding commercial, residential, and zoning services Hocevar would provide. Berger stated that these were addressed in the draft contract. Carroll asked if zoning was being added to Hocevar's responsibility, because he currently was not the Zoning Inspector. Berger stated Hocevar is doing the zoning now, but he is not listed as the Zoning Inspector. Carroll asked if this meant that the proposal of making the Building Department Administrative Assistant/Board Clerk the Zoning Inspector was no longer a consideration. Berger stated at the moment it was not. Going forward, the Building Department Administrator would be made the Assistant Zoning Inspector, which would give that position the authority to sign some of the violation documents, etc. under the direction of Hocevar and Inspection Solutions. Carroll questioned whether the Committee was still looking at making the Building Department Administrative Assistant/Board Clerk position full-time since it would not be adding the Zoning Inspector job or the extra inspection details. Berger stated yes.

The Solicitor referred to the contract draft, and stated that under the insurance portion of the contract, she wanted to be sure the part about the certificate of insurance adding the Village as an additional insured was included, and noted that under number 2, it specified, "upon request." She said it was in the original contract and suggested it would be made a requirement and not upon request. The Village

should demand that it is an additional insured, not just subject to the Village's request. She considered it imperative that the Village requested that.

Berger stated this was an issue when he drafted the contract and intended to take it out as a request and make it a condition of the contract. He would make the change. Porter stated that if the change were not made, he would suggest an indemnification provision.

Regarding the terms of the contract, Galicki referred to Porter's statement that the contract went from the current year contract to a month to month contract. He viewed the draft contract as yearly and wondered if it was a matter of it being standard contract phraseology for a month to month contract. Porter said it was in that its effective date is July 1, 2020 and goes month to month thereafter. The Solicitor agreed. She advised that Council had previously amended the contract to be month to month.

The Mayor addressed the insurance matter again, and the Solicitor further explained that Hocevar had provided a proposed contract and she revised it because it did not have the additional insured language that she felt was important. The Mayor clarified that the "upon request" should be removed and "the Village will be listed as an additional insured under said insurance policies" added. The Solicitor stated this was her recommendation. Porter stated he would add that Hocevar's company should provide copies of the certificates of insurance upon request, because without it, the Village could ask and Hocevar could say no. He would add this to the contract. Berger agreed. Nairn stated that this should be provided before the contract was even executed, and it should be stated in the contract. Porter suggested deleting the "upon request" statement. Porter advised that it should read, "will be provided upon contract execution." Nairn agreed.

Canton made a motion to accept the 2020-2021 with changes Inspection Solutions' contract, seconded by Berger. Galicki asked the Solicitor if it was irregular to vote on the contract without having it in writing. The Solicitor stated that the changes being made were not substantive. Carroll asked the Building committee about Hocevar doing zoning since it was his understanding that Hocevar did not like or want to do zoning. Canton stated he had been doing zoning and was back on board. Carroll advised that Hocevar had made statements about not liking to do zoning and it seemed that some of the zoning had been lack luster. He advised the Village would just have to make sure it was being done.

Canton modified the motion with Porter's assistance to state that the Fiscal Officer and Mayor be authorized to enter into an agreement with Inspection Solutions, LLC, as provided for in the service agreement between Inspection Solutions LLC and the Village of South Russell as amended at this meeting, seconded by Berger. Roll call – ayes, all. Motion carried.

Canton provided a first reading for the ordinance amending ordinances 2015-41, 2016-33, 2017-08, 2018-07, 2018-44, and 2020-07 by amending pay ranges for South Russell Village employees due to increases over time. Carroll asked if the HR Committee reviewed this. Porter stated he had reviewed it but there had been no formal meeting about it. Carroll concluded that neither HR nor Finance Committees had examined the changes. He asked if it had originated out of Building Committee, and Berger stated it had. Carroll asked why neither HR nor Finance met to discuss it. Porter stated HR could address it at the next meeting. Carroll advised that normal protocol would have been to bring it to the committees prior to introduction of the ordinance. Galicki agreed and said it was irregular that without review by HR or Finance, the Building Committee was bringing up a pay scale recommendation for the entire Village. He felt something was wrong. He speculated that perhaps there was an agenda

that someone wanted to carry out, and although Berger said he was a process man, he was abrogating the process with the recommendation. Galicki had some serious concerns.

Porter asked what line-item 16 stated as it did not print on his copy. The Mayor stated that line item 16 was a zoning inspector position and line item 17 was also a zoning inspector but had been changed and should read, "Zoning Secretary." Porter asked for the pay range for the Zoning Inspector, and the Mayor stated, \$20.39 to \$29.55. Carroll asked where the committee came up with the rates. The Mayor stated it was the ordinance with two changes that were made, where in line 17, "Inspector" was scratched out and "Secretary" replaced it. In line 21, "Building Department Administrator" was added. Galicki asked the Mayor to refocus on the question asked about how the pay ranges were determined. The Solicitor felt there might be some confusion in the way the ordinance was drafted. She explained the actual ordinance which included Mayor, Council, and positions one through twenty were the original ordinance that Council passed in February. Number 21 was added, and the pay range was given to her. She further advised that she inadvertently included Zoning Inspector twice. Other than that, she did not change anything with respect to the previous ordinance. If Council moved forward with the ordinance, it could be revised to state, "the new position 21," to clarify that this is the only amendment. However, another amendment would be the effective date. She stated she made an error in putting the Zoning Inspector twice, but the pay rate and range were the same as had been adopted previously for Zoning Inspector and Zoning Secretary. This was where she believed the confusion was created.

Carroll asked again how the pay range for the new position 21 was determined. The Mayor stated he provided it. Carroll asked the Mayor how he determined the pay range. The Mayor stated it was based on what the current Building Department Administrative Assistant/Board Clerk was currently paid and putting in a maximum limit. Carroll concluded that it was an arbitrary range based on the Mayor's opinion and assumption. The Mayor stated that Carroll could say that. Carroll stated that when the pay ranges were examined by Clemans Nelson, the objective was to ensure the Village was in accordance with the make up of the community, the workload, etc. The Village spent some serious money to make sure it was in line with what should be done. Making an arbitrary pay range was not proper process. There had been so many arbitrary decisions that this was the reason Council had Clemans Nelson conduct the analysis. Carroll reiterated that this matter should have been brought to the Finance and HR Committees, and it seemed this was very arbitrary and not following proper protocol. He did not understand what the rush was given the last Council meeting where meeting with HR and Finance on a couple of these issues was discussed. Nairn stated this was a big steamroll suddenly. Carroll continued to say that then there was a Special Council meeting for the Building Committee to put forth items on their own without consultation of the other full two committees. This was completely inappropriate especially when an arbitrary pay range was determined. The Mayor stated that Council had between now and September to make any changes to the ordinance. Galicki suggested changing it and not even introducing the ordinance because homework had not been done on it. The Mayor said that was fine. Porter stated the ordinance had already been introduced and was at its first reading. Galicki added that it was ramrodding the legislation. Porter stated it was not ramrodding because it required two more readings unless readings were waived. Nairn stated there had been no prior discussion or investigation that she received or to which she had been privy. This was a steamrolling. Carroll added that the documents being discussed were received at the last minute before the meeting, which also was inappropriate. Nairn agreed. Carroll advised that Berger talked about process, yet this process had been totally derailed. Galicki stated he objected. Carroll stated perhaps Porter and the Building Committee did not see it this way, but this was completely out of protocol. Council stated there is a process, and to Nairn's point, they were being steamrolled with some of the issues and it has become exhausting.

The Mayor asked when HR would have a meeting to look at the ordinance. Porter advised that nothing was scheduled, but proposed meeting Friday July 31st at 8:00 a.m. in Village Hall if co-committee member Nairn and the Fiscal Officer were available; they replied they were available.

Carroll noted the Mayor's comment that Council had seven weeks to examine the changes but noted that he made it retroactive to July 27th. He stated it was ludicrous when someone did not even have the job that was being proposed.

The Mayor asked when Finance would meet to discuss the ordinance. Carroll advised he and Berger would determine a date next week or the following week.

The Mayor stated that the second reading of the ordinance would be at the August 10th Council meeting, and the third reading would take place September 14th. Galicki proposed that whoever introduced the ordinance withdraw the motion. First readings were being conducted before vetting of the ordinance by any of the committees. It was a total abrogation of process. If people were willing to have public scrutiny of their actions, including by the Ohio Ethics Commission, then it was not necessary to withdraw. However, this was highly irregular. Porter stated there was no motion pending. The Mayor stated it was a first reading and there was time to make changes and adjustments. Galicki asked if it was time for changes and adjustments or throwing something down somebody's throat, which was what it appeared to be.

Canton provided a first reading of an ordinance to create a job description of the Building Department Administrator. Carroll asked if HR had a chance to review this. Nairn and Porter stated no. Carroll addressed the Building Committee and reiterated that process was discussed. At the last Council meeting, it was suggested that the three committees work together to address the matter. Job descriptions generally go through HR. Through HR, Clemans Nelson conducted a job description analysis. Again, the process was being abrogated with the other two committees and Council as a whole to ramrod what the Building Committee felt it needed. This was out of protocol once again. It had been introduced and the Mayor would say there were seven weeks to work it out. The appropriate process would have been to have a draft sent to HR for review. He noted that he saw the Building Committee's agenda. Nairn asked if it was possible to withdraw or negate a first reading. The Solicitor stated it would simply be taken off any further readings. Carroll suggested that if it reached the third reading and there was still more discussion, it could be tabled until resolved. He stated that it was out of the norm to introduce something that had not been fully vetted or at least provided a few days before a meeting. Carroll added that the Building Department Analysis report was provided three days before the Council meeting.

The Mayor stated he wanted to extend the hours of the Building Department Administrative Assistant/Board Clerk to 40 hours a week at \$23.53 per hour with full benefits effective Monday, July 27th. Canton made a motion to elevate the Building Department Administrative Assistant/Board Clerk to a 40 hour per week full-time status with appropriate benefit package, seconded by Berger. Carroll addressed Berger and stated that he agreed to meet with HR and Finance to discuss this matter at the last Council meeting. Council was just given the job description and pay range, and HR and Finance Committees had not met. He asked how a motion was being made to appoint someone to full-time with additional unresolved issues yet to be discussed involving the department. He was perplexed and did not understand the urgency of the matter. Berger stated that at the previous Council meeting, a new job, the Building Department Administrator, was discussed, and he did put together a job description and pay range for it but that was not what was being discussed. This motion was taking the existing position

with no rate change to full-time and was a different issue discussed at the Council meeting. Carroll said this confused him more because at the last Council meeting, Berger discussed making the Building Department Administrative Assistant/Board Clerk full-time with additional responsibilities. Berger stated they talked about changing the position, but that was not what was being proposed. Carroll clarified that Berger was proposing that the Building Department Administrative Assistant/Board Clerk would be made full-time with no additional responsibilities, other than possibly Zoning Assistant. Carroll asked what the current Building Department hours were, and the Fiscal Officer stated 8:00 a.m. to 2:15 p.m. Berger stated the Building Department would be open from 8:00 a.m. until 3:00 p.m. Monday through Thursday for public hours. The Building Secretary would be there 8:00 a.m. until 4:00 p.m. unless she decided to take a lunch in which case she would be there until 4:30 p.m.

Carroll asked Berger if he looked at the payroll sheets and whether he had a discussion with the Building Department Administrative Assistant/Board Clerk about arriving late. Berger stated yes, and stated that if she has come in late, she has stayed late. The committee impressed upon her the importance that if operating hours began at 8:00 a.m. then she needed to be there at 8:00 a.m. Carroll clarified that the Village was doing this because of value added for the community. It was not once or twice, but numerous times, that the Building Department Administrative Assistant/Board Clerk arrived after 8:00 a.m. The Village tells the public the office is open at 8:00 a.m., but it is not. Jumping into making her full-time and making it effective July 27th, appears to have been thrown onto Council without discussion by the HR or Finance Committees as Berger had agreed. Nairn added that it had been stated several times that the Building Department Administrative Assistant/Board Clerk had arrived after 8:00 a.m., and was not seated at the computer working at 8:00 a.m. However, she stays beyond her workday to make up for it. Nairn was having a problem understanding how a part-time employee was dictating these kinds of flexible hours. Nairn wanted to know who told her this was acceptable to come in late and make the time up at the end of the day. The Mayor stated he would have to look at the individual times. He said some of the time was communication with the Mayor and some of the time not. He did not have this information in front of him, but he could address it after seeing the time sheets that were being discussed. The Mayor acknowledged there were times the Building Department Administrative Assistant/Board Clerk would come in late. Nairn stated this had been discussed previously over months and months about chronic tardiness. The Mayor stated he would need the information in front of him and he would get back to her. There were days she was late that he received a call and days when she was late, and he did not get a call. Porter suggested her day begin at 7:45 a.m. so that she was at the Building Department in advance of its opening. Galicki stated they should just ask her what she wanted to do and let the inmate run the asylum. He felt this was truly a bunch of bologna and could not believe the discussion. There was a chronically late employee who now was unable to get her job done in the assigned hours that had been determined by an independent agency based on an analysis of the hours needed to perform a level of work. No metrics were used, but out of some orbit around Pluto, they determined that it needed to be a full-time position. Galicki asked what the Mayor and Building Committee were doing. Porter stated he did not appreciate the sarcasm. Galicki stated there was no sarcasm. Porter stated, "around Pluto?" and added that was sarcasm. Galicki said it should be called cronyism and execution of the Mayor's agenda to hire a crony for full-time work. Canton told Galicki it was uncalled for. The Solicitor stated that Council could not simply amend the time of the Building Department Administrative Assistant/Board Clerk's job description without an ordinance. The job descriptions are adopted via ordinance, and that one was adopted possibly in July 2019 when the two positions of Administrative Assistant and Board Clerk were combined. The job description includes part-time hours which would have to be changed.

Regarding excessive or chronic tardiness, Canton asked if there was a number of days the Building Department Administrative Assistant/Board Clerk was tardy. He and Berger made it quite clear to her that she needed to be in the office before 8:00 a.m. If her time started when her computer was turned on and she was two minutes late, then she should be docked two minutes pay. He did not see what the problem was. The Mayor suggested getting the information through the timesheets. The Mayor clarified with the Solicitor that Council could not do the motion because an ordinance was required; she concurred. The Mayor stated that at the August 10th Council meeting, the Solicitor would have the ordinance to extend the position from 25 hours a week to 40 hours a week, and Porter added to make it from part-time to full-time. Porter stated that HR would look into it as well and asked that the ordinance be prepared before the July 21st HR Committee meeting and suggested it be provided to Finance as well.

Canton withdrew the motion on the Solicitor's advice.

Carroll acknowledged the Building Committee's discussion with the Building Department Administrative Assistant/Board Clerk, but if the Building Department's business hours began at 8:00 a.m., she must be there at 8:00 a.m. There was no docking pay. If an individual was late for a job, there would be progressive discipline and there were expectations. Carroll stated that to be early is to be on time and to be on time is to be late. There was a history with this employee, and it could not be ignored from the previous employer. Porter agreed she needed to be on time, or it would become an employee discipline issue.

Carroll made a motion to go into Executive Session to discuss the investigation of possible charges of a public employee or public official, seconded by Porter. Roll call – ayes, all. Motion carried. Carroll requested that Chief Rizzo, the Solicitor, and Fiscal Officer be included.

There was discussion of technical issues involving Executive Session and returning to regular session while utilizing Zoom. It was decided that if there were any action required from the Executive Session, it would be addressed in a subsequent Special Council meeting.

The Mayor stated the Special Council meeting ended at 9:03 a.m.



William G. Koons
William G. Koons, Mayor



Danielle Romanowski
Danielle Romanowski, Fiscal Officer

Prepared by Leslie Galicki