

**RECORD OF PROCEEDINGS  
REGULAR COUNCIL MEETING VIA ZOOM  
MONDAY, NOVEMBER 23, 2020 – 7:30 P.M.  
MAYOR WILLIAM G. KOONS PRESIDING**

**MEMBERS PRESENT:** Berger, Canton, Carroll, Galicki, Nairn, Porter

**OFFICIALS PRESENT:** Fiscal Officer Romanowski, Fiscal Auditor Lechman, Solicitor Matheney

**VISITORS:** Kelly Kimball, Jim's Iphone, Greg Heilman, Steve Latkovic

The Mayor called the Regular Council meeting conducted via the teleconference service Zoom to order. Fiscal Officer read the roll. Carroll made a motion to approve the minutes of the November 9, 2020 Council meeting, seconded by Canton. Voice vote – ayes, all. Motion carried.

**VISITORS:** The Mayor introduced Steve Latkovic, Planning Commission (PC) Chairman, and explained that Latkovic would be addressing Council regarding a request by PC pertaining to signs in the Building Department over the past two years. Latkovic briefly explained the context of his request, explaining that at a recent PC meeting, a question was raised about whether a project that was provided a permit should or should not have gone before PC. A general determination was made that the items that had been given permits had not properly gone before PC. He did not feel the PC determined the reasons behind this. A public records request was made to provide PC with permits that had been issued over the past two years since January 2019. Two meetings later, PC received a number of permits. At the last meeting, it became clear that for a variety of reasons to include staffing, general oversight, and transition in the Building Department, not all the permits were included that should have been included. He further explained that among these were permits that the PC approved but were then not provided with the public records request. At the last meeting, the PC decided it should try to gain an understanding of the filing system in the Building Department. This would include how permits are tracked, at what point they are issued, how they are approved, etc. PC voted to have the Solicitor and her firm do an audit of the records so that the PC could understand the universe of the permits that were issued. The PC wanted to understand why items that should have been appropriately submitted to PC were not being submitted. Before being able to ascertain this, however, the PC needed to better understand the permitting process. They felt an independent third party could help achieve this understanding.

Latkovic asked the Solicitor for the specific motion made by PC, and she stated it was a motion to allow the Solicitor and/or Thrasher, Dinsmore, and Dolan to perform an audit of the Building Department records with respect to the years 2019 and 2020, looking only for zoning permits and zoning applications for commercial/industrial/ business district. Residential would not be included.

Latkovic stated the PC takes its job of oversight seriously and emphasized that there are zoning and business regulations in place for a reason. It allows the PC to appropriately address how the Village functions and the quality of life as a community. Latkovic found it concerning that there were certain things that were not coming through PC that should be, and the record keeping was not where it should be. The members of the Planning Commission felt it would be helpful particularly in giving a good

start to the new Building Department Administrative Assistant/Board Clerk/Assistant Zoning Inspector.

Porter asked Latkovic what the source of authority was for the PC to engage the Solicitor to do this type of audit. Latkovic explained that there is an ordinance that gives the PC the authority to hire professionals. The one caveat, however, involved paying for the service. Latkovic cited ORC 713.05, which gives PC the ability to appoint professional services. He was unclear about the appropriation process regarding the payment of this service and felt this would be a matter for Council. Porter asked if this was why Latkovic was appearing before Council, and Latkovic acknowledged that Council needed to do something proactive to allow PC to proceed. He had spoken to the Solicitor about potential costs and estimates. He conceded that investigative findings could expand the scope of the inquiry and acknowledged that providing an estimate could be difficult. He said that Porter's question was a great one, and that he would not be appearing before Council if he did not think the matter had significance to more than just PC. He addressed staffing issues with the Building Department and stressed it was important for the Village to ensure it has appropriate documentation and records in place that can be followed in the event questions about permits arise. Furthermore, it is also important in terms of the zoning and business ordinances. Porter explained his question was based on budgetary concerns and added that he was unaware that PC had a budget or authority to hire people and commit Village funds for that purpose. Latkovic stated it was a fine line of giving the PC authority without the money.

The Solicitor stated that the actual motion which was passed unanimously by PC was, "Mr. Flaiz made a motion that the Planning Commission request the Solicitor and her firm to perform an audit and provide the PC with these zoning permits from 2019 through today, 2020, in the commercial industrial or business zoned districts or concerning a conditional use." The Solicitor reiterated that it is a matter of making sure that the records are there.

Carroll thanked Latkovic for bringing the matter to Council's attention. Carroll clarified if the zoning permits were granted and/or went before PC, there would be a fee. Latkovic thought there was an application fee but was not sure it was always charged. The Mayor stated there is a fee, but he did not know about waiving it. He added that this was part of the question of how this process had occurred and whether it was done correctly. Carroll stated his concern was whether this was a matter of which the State Auditor's Officer should be made aware as an independent third party. Carroll thought if the matter concerned funds and permit fees that may or may not have been applied, this could be problematic. He was aware that the State Auditor could come in and do investigations if contacted, and he wondered if the Village should be going to them. Carroll said he was not suggesting that there was anything nefarious happening, but based on what Latkovic articulated, it was important to have an understanding to form the best foundation for the new Building Department staff as well as for the boards.

Latkovic asked if this were the type of audit that occurred when wrongdoing was suspected and added that it was a step beyond where the PC wanted to go presently. Carroll agreed and said that if the Solicitor's firm found something questionable, it could be addressed with the State Auditor. Carroll advised that after a complaint was filed, the State Auditor would investigate. Carroll was providing this as an option. Latkovic stated this was a good point to keep in mind as the process progressed. He added that any findings would be shared with Council.

Carroll acknowledged that the Solicitor identified a specific scope of the audit but added it could be a slippery slope ultimately resulting in a substantial bill. The Solicitor stated she understood, but without seeing how the documents were filed and maintained, it would be difficult to provide Council with a fair estimate. However, once the organization process was determined for the two-year period, she thought it would take 10-15 hours. Carroll asked if Council could specify a specific period of time or allocate a specific amount of money for the initial investigation. The Solicitor agreed and thought this was fair. She added that she would potentially involve a law clerk to assist in the process, which would decrease the expense.

The Mayor suggested a motion to engage Thrasher, Dinsmore and Dolan to conduct the investigation requested by the Planning Commission in the amount of 10 hours and with a preliminary report to be presented to Council in December. Galicki suggested identifying a number of hours and possibly include a not to exceed amount. Porter suggested capping it at \$3,000, which would be 14 hours at the Solicitor's current rate. Porter made a motion that the Mayor and Fiscal Officer allow the expenditure of time by the Solicitor for the purposes of plowing through the PC motion, not to exceed \$3,000, seconded by Berger. Carroll clarified that within the 14 hours, the Solicitor would provide Council with a preliminary report in December and then request additional time at that point if required. The Solicitor concurred. Latkovic added that the next meeting of the PC is December 10<sup>th</sup> and wondered if a report could be made by that time. Porter thought it would be appropriate for the Solicitor to report her findings to PC and then PC could report the findings to Council. Latkovic advised he would provide Council with an update at the December 14<sup>th</sup> meeting. Roll call – ayes, all. Motion carried.

**MAYOR'S REPORT:** The Mayor wished all in attendance a happy Thanksgiving.

Regarding Veterans Day, the Mayor stated he arranged for the Building Department employee to work on Veterans Day so that she could have the Friday after Thanksgiving off, which most of the Village employees do. His mistake was that working on a Federal holiday meant triple time, so that she has 16 additional hours of compensation. The Mayor acknowledged it was his mistake and he apologized for the error.

The Mayor stated that the sign in the Augie's Plaza was being erected. He added that there were changes being made to the building. The pillar size became an issue, and the matter was addressed through the Architectural Board of Review (ABR).

ABR recently finished addressing a deck on Laurelbrook and added there were two new houses being built on Bell Rd., one on Hazelwood, and one in Paw Paw Lake. Two front porches and two pool houses and work in Industrial Parkway were also addressed by ABR.

BZA met to discuss a treehouse that had been built but was not according to code. Three conditions were put on the treehouse, but it was permitted to stay. BZA also considered a home at 103 Hazelwood that would require a variance. It also addressed a deck built 20 years ago without permission that required a variance.

Regarding Planning Commission Business, Crossfit would be moving and a gymnastics studio would be coming.

The Mayor concluded that there were a lot of things happening with ABR, BZA, and PC.

The Mayor stated that there had been meetings to prepare for the Manor Brook grant project. He anticipated needing to meet with the Homeowners Association to prepare the community for what would be happening on the Northwest corner of Manor Brook Dr. and Chillicothe Rd.

The Mayor reported that there was a meeting between the Woods of Wembley and the residents of Sheerbrook Dr. to deal with the swale behind the homes on Sheerbrook.

The Mayor reported that the Village has finished the 319 grant involving Village Hall and the wetlands at the park. The Mayor stated the key to the issue was the amount of water that comes onto the Village property. He stated that there will be a meeting with the Kensington Green HOA to ask for help to keep their water and discuss how to handle the water because if Chagrin Lakes HOA approaches the Village with a request for their dam, all the water would have to be held up while the dam repair took place.

The Mayor addressed the recent windstorm and said that the issues were the result of the strength of the wind snapping the poles. Some residents experienced four days without power, which meant no water or heat for many of the residents. He advised that it was a First Energy issue.

Carroll asked the Mayor to whom he referred when he said “we” are meeting with Kensington Green HOA. The Mayor stated it would be the Street Commissioner and the Engineer for the first meeting. Carroll advised that he and Porter had discussed this matter during Street Committee meetings, and he thought there were great opportunities. However, because the Mayor and members of Council live in Kensington Green, he wanted to be sure there were no conflicts.

**FISCAL OFFICER’S REPORT:** The Fiscal Officer advised that the ordinance for the 2021-2022 CT Consultants contract had been distributed to Council. She explained that the legislation was written for a two-year contract. The contract originally forwarded by the Engineer was for one year, but she spoke to him about changing it to a two-year contract as it had been in the past. She also suggested the contract go through December 31<sup>st</sup> instead of November 15<sup>th</sup> as it is currently written.

The Fiscal Officer advised that last week was the deadline for communities to return any unused Cares Act funds. Because of funds returned by some municipalities, the County Auditor’s Office notified her that the Village would be receiving approximately an additional \$1,300. At the December 14<sup>th</sup> Council meeting, there would be legislation to amend the appropriations for this funding. The Fiscal Officer spoke to the Solicitor and determined Council should pass another ordinance stating that as of December 31<sup>st</sup>, whatever is left of the funding will go to Safety salaries, because the last ordinance reflected a date of November 19<sup>th</sup>.

Also distributed to Council was the tax report because the Village received the November distribution which was the October collections. It appeared that the Central Collection Agency (CCA) had caught up with reconciliations. For November, the Village collected \$204,000, which was more than the Village had collected in October since she had been tracking it. If the Village collects \$45,000 net in December, the Village will be at what was budgeted and taxes will come in where projected.

Nairn acknowledged the efforts of the Fiscal Officer, Chief, and Village staff who helped to research and get pricing for projects that would add to the safety of the Village. She noted that a tremendous

amount of work was done in a short amount of time. The Fiscal Officer noted that it did take a lot of time, but she wanted to ensure that the Village did not lose the money.

The Fiscal Officer advised that the regular budget for next year was provided to Council. She asked Council to look it over and noted that there were still minor amendments to be made. She asked that any corrections be provided to her by the middle of the following week so that she could get the final budget put together and out to Council before the December 14<sup>th</sup> meeting for approval.

Carroll asked the Fiscal Officer to forward the purchase order number for the Fit Tester to him so that he could order it.

**FINANCE COMMITTEE:** Carroll stated the minutes of the November 4, 2020 Finance Committee meeting were distributed to Council. Carroll addressed the question raised by Berger at the previous Council meeting about the Fund Balances and explained that everything was in order and it was a matter of an entry error. The Fiscal Officer explained that she does her books in her financial software and then the Fiscal Auditor runs his own to ensure that they balance on every fund, which they did. She realized after the discussion at the previous meeting that the present Council may not check the website for the financial reports, so she will now provide Council with her monthly cash balances so that Council can see that she and the Fiscal Auditor balance monthly. She further explained that the error noted at the last meeting was not with the Fund Balances, but on a graph she provides to elected officials as reference material. The Fiscal Officer corrected the graph and redistributed it to Council. She emphasized that the cash balances do balance to the penny on every fund.

Carroll made a motion to approve the fund balances of October 2020 as submitted since they match to the penny, seconded by Berger. Roll call – ayes, all. Motion carried.

**SOLICITOR:** The Solicitor stated she had nothing to report.

**STREET COMMITTEE:** Porter stated the Street Committee will meet December 4, 2020 at 7:00 a.m. The driveway at 1087 Sheerbrook Dr. and other Street Department matters will be discussed.

**BUILDING COMMITTEE:** Canton stated he had nothing to report.

**SAFETY COMMITTEE:** Canton stated that his wife brought to his attention that three police cars were on Whitetail Drive, which concerned him. He discovered that the Police Department was awarding two bicycles to children who live on Whitetail. He thanked the police and the Chief for a job well done.

The Mayor complimented the Police Department for their vacation watch.

**HR COMMITTEE:** Porter stated the HR Committee will be meeting on December 4, 2020, at 8:00 a.m. Porter advised that Council will be addressing pay issues regarding the new promotions in the Police Department as well as the Pay Range Ordinance because the \$2.00 raise for the Administrative Assistant raised the hourly rate above what the pay ordinance allowed. It would have to be amended.

At the December 4, 2020 meeting, the committee would review the grievance procedure which will incorporate the Solicitor's comments. It will then be presented to Council at the December 14<sup>th</sup> meeting for consideration and potential adoption.

**PROPERTIES COMMITTEE:** Nairn asked if there had been any developments on the Charlie Brown Tree on Chillicothe Rd. and Bell Rd. She asked if it would eventually be removed. The Mayor stated the two Charlie Brown trees would be cut down and the large tree would be decorated for Christmas. A comprehensive plan would then be considered for the corner.

Nairn stated she would be scheduling a committee meeting for December to formalize a structured inventory plan for Village property.

**PUBLIC UTILITIES COMMITTEE:** Galicki stated there was nothing to report.

**PARK COMMITTEE:** Nairn thanked Canton for acknowledging the Street Department's work on the brick walkway at the South Russell Village Park. She agreed it was quite beautiful.

Nairn stated that consideration was being given to revive the Monarch program with the Scouts. The bat houses caused quite a heated conversation between the Park Committee members. Some members were not happy about the installation of bat houses, but Nairn noted that bats are necessary in getting rid of pests. Appropriate locations of the bat houses would be considered.

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

Porter introduced an ordinance authorizing the Mayor and Fiscal Officer to enter into an agreement with CT Consultants to furnish and perform various professional engineering services and to act in the capacity of Village Engineer for 2021 and 2022 ending on December 31, 2022 and declaring an emergency. Porter made a motion to waive readings, seconded by Carroll. Roll call – ayes, all. Motion carried. Porter made a motion to adopt, seconded by Nairn. Roll call – ayes, all. Motion carried. **ORD 2020-59**

Porter introduced an ordinance amending the overtime subsection of the compensation policies section in the Village's Employee Handbook and declaring an emergency. Porter made a motion to waive further readings, seconded by Carroll. Roll call – ayes, all. Motion carried. Porter made a motion to adopt, seconded by Nairn. The Mayor clarified that this motion did not affect any employees other than the Building Department Administrative Assistant/Board Clerk/Assistant Zoning Inspector. The Fiscal Officer and Solicitor clarified it was only for the Building Department. Roll call – ayes, all. Motion carried. **ORD 2020-60**

Porter made a motion that the salary of Officer Divita, who is now Patrolman 2<sup>nd</sup> Class, be set at \$69,026 per year with the proviso that if he successfully completes his six-month probationary period that it would increase to \$76,696 per year, seconded by Carroll. Roll call – ayes, all. Motion carried

Porter made a motion that the salary of Lt. Pocek be set at \$82,000 per year and that it increases to \$84,000 per year after successful completion of six months' probation, seconded by Nairn. Roll call – ayes, all. Motion carried.

Porter stated that Council previously approved a \$2.00 per hour raise for the Administrative Assistant and stated it would be necessary to amend the Pay Range Ordinance to reflect an increase in the top hourly rate permitted for an Administrative Assistant. Porter introduced an ordinance amending Ordinance 2020-53, Pay Ordinance for the Village, specifically line item #1 for the Administrative Assistant to change the maximum from \$18.59 per hour to \$22.04 per hour to allow for the \$2.00 hour increase and allow for potential growth in the future depending on performance. Porter declared an

emergency and made a motion to waive readings, seconded by Nairn. Roll call – ayes, Nairn, Porter, Berger, Canton, and Carroll. Galicki recused himself. Porter made a motion to adopt, seconded by Nairn. Roll call – ayes, Nairn, Porter, Berger, Canton, and Carroll. Galicki recused himself. Motion carried. **ORD 2020-61**

**BILLS LIST:** Carroll made motion to ratify the bills dated 11/13/20 in the amount of \$30,424.52, seconded by Berger. Voice vote – ayes, all. Motion carried.

**NEW/OTHER:** Nairn, Porter, Berger, and Galicki had no new business.


Canton stated that although living through challenging times, there was quite a bit for which to be thankful. He wished everyone a happy and blessed Thanksgiving. Council thanked him.

Carroll asked for clarification on when the new septic pumping requirements went into effect, and Berger stated January 1, 2021. Carroll asked if notices were being sent via certified mail, and the Mayor stated no. Carroll clarified that even the final notices were not being sent certified, and the Mayor stated they were not. Carroll thought Council had discussed doing this. The Mayor stated that 30 notices were sent the previous week notifying residents who had to get their septic cleaning done this year. Carroll stated there was a resident in Sugarbush who was concerned because he did not receive the initial notice and then received a 15-day notice. The resident thought the letter was threatening. Carroll would contact Canton about this matter.

Carroll addressed the worsening situation with COVID and encouraged Council to socially distance and consider doing things differently with extended family. He said that the Cleveland Clinic and Metro Health had been designated as recipients of the Pfizer Vaccine. High risk populations, health care workers, and first responders will probably get the vaccine in six to eight weeks. The general population will be sometime after this. Carroll emphasized that everyone should think about loved ones and although it would be difficult not to share time with them, it was important to do what could be done to be safe. Carroll wished everyone safety and happiness on Thanksgiving. Canton thanked Carroll.

The Mayor stated that the septic issue would be put on the agenda for the next Building Committee meeting. The Mayor said the septic letters were not resident friendly and needed to be revised. Carroll agreed.

**ADJOURNMENT:** Being that there was no further business before Council, Carroll made a motion to adjourn at 8:24 p.m., seconded by Nairn. Voice vote – ayes, all. Motion carried.



William G. Koons, Mayor



Danielle Romanowski, Fiscal Officer

Prepared by Leslie Galicki