

**RECORD OF PROCEEDINGS
SPECIAL COUNCIL MEETING VIA ZOOM
MONDAY, DECEMBER 21, 2020 – 6:00 P.M.
MAYOR WILLIAM G. KOONS PRESIDING**

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

MEMBERS ABSENT: Nairn

OFFICIALS PRESENT: Fiscal Officer Romanowski, Fiscal Auditor Lechman, Police Chief Rizzo, Street Commissioner Alder, Solicitor Matheney, Planning Commission Chairman Latkovic

VISITORS: Kelly Kimball, Laura Sprungle, Brian Doering (CVT)

The Mayor called the Special Council meeting conducted via the teleconference service Zoom to order. Fiscal Officer read the roll. Porter made a motion to approve the minutes of the November 23, 2020 Council meeting, seconded by Canton. Voice vote – ayes, Berger, Canton, Galicki, Porter. Motion carried.

VISITORS: The Mayor wished everyone a Merry Christmas and a Happy New Year. He introduced Steve Latkovic, Planning Commission (PC) Chairman, and explained that Latkovic would be addressing the Building Department report. Latkovic explained that he would be discussing findings that were discussed at the last PC meeting. PC felt that a few more steps should be taken beyond what was found in the audit. He summarized that the PC felt like it was a good first step, but highlighted issues surrounding how things get approved and how they are reviewed. The PC wanted to have the Solicitor conduct a deeper review on some of the applications. Latkovic deferred to the Solicitor to explain the audit she had conducted thus far. The Solicitor advised that she and her associate spent approximately 13 hours looking at documents. She had been tasked to look for the 2019 and 2020 zoning applications and permits for commercial industrial business or conditional use permits in the Building Department. She explained that it was a two year look back but narrow in scope. The Solicitor reported that the zoning records are well organized by street address. The business industrial commercial districts are primarily located along Bell Rd., Chillicothe Rd., Washington St., and Industrial Parkway. However, the conditional use permits could be in the residential districts as well. She added that there are paper files and the computer database. The Solicitor was able to find 20 to 25 zoning applications and/or permits. Not every permit had a zoning application and vice versa, which she said was acceptable since there are times a zoning application will be filled out and submitted, but no permit is issued. She further explained that the Building Department software (BDS) only inputs the data from the zoning application if in fact a permit is issued. The Solicitor questioned why the information from the zoning application would not be inputted into the system regardless of whether a zoning permit were issued. She thought this would be beneficial in tracking applications. Often the application would reflect comments from the Building/Zoning Inspector stating, ‘forward on to BZA, or forward on to PC, or meets present zoning,’ etc. The Solicitor thought this was important in the process and was part of the audit. They went through every single file. She added that there were a couple of instances in the Building Department files where the zoning file for the address was also located in that Building Department file, which could

sometimes make sense but was rare. The Solicitor added that the filing system is also color coded for ABR, BZA, and PC. She stated that in making sure both a physical file and a computer file existed, they did not always correlate as previously explained in relation to issuing a zoning permit. The Solicitor added that a physical three-part zoning permit is issued as well as a computer-generated permit. In keeping with this, some files were incomplete and only contained, for example, no zoning application but a permit or a receipt, which was confusing. Overall, she was happy to see how they were organized. The Solicitor explained that the Village was the first municipality to use the BDS software, and there are many ways to conduct searches with it. However, if an application is not entered, it would not be identified in a search.

The Solicitor explained that the charges for the audit are currently about \$2,600. The Solicitor advised that the PC would like a report to include a legal analysis of each of the zoning applications to identify which part of the zoning code applies, whether it should or should not go to PC, etc. She reiterated that some of the files were incomplete and she was uncertain that everything had site plans. There were a couple of instances where she did not know what the applications were for, but the request is more about a legal analysis and to address the investigation of fees. There are fees for zoning applications and permits, and there are zoning fees for PC and Board of Zoning Appeals (BZA). The Architectural Board of Review (ABR) is separate. The Solicitor stated that there were either receipts for fees that were received or fees that may have been waived. There were some instances of copies of cancelled checks that were in the file that indicated a zoning fee had been paid. However, because of the incomplete files, there was not always a zoning application, a cancelled check, a zoning permit, etc. PC requested she go back and look at what fees were charged or waived on the 20 to 25 that were pulled for the two-year period. The Solicitor relayed that PC asked for her recommendations going forward for the process in obtaining a zoning permit. She advised that the original motion pertained to conducting a Building Department audit, specifically to locate the records for the two-year period, which was done. She added that there were a lot of records and it would be advisable to discuss the records retention schedule.

Latkovic felt the report was an important next step. The first step was driven from a public records request from PC to try to locate everything. Through the process, it was determined that the records seem to be there although it took time to find everything. One discovery was that things were not going through PC appropriately, which was why PC wanted to have the 20 to 25 applications reviewed. This was a broader issue and an opportunity for the Village to reset given the new staffing of the Building/Zoning Department. Latkovic viewed it as an opportunity to address how things in the Village are approved and reviewed. Latkovic added that he planned to spend time in the Building Department to gain an understanding of the process and operations so that PC could do what was necessary to adhere to the zoning code and the rules and regulations pertaining to what needs to be reviewed and what does not. Specifically, PC wants to engage the Solicitor and/or her firm in the same manner and amount to complete the review and provide a written report to PC. Latkovic was requesting another allocation of money to complete the work.

Porter asked what the purpose would be of the written report. Latkovic stressed that it is important to have the findings memorialized so that there is clarity around what was done, accomplished, and the findings. He advised that it did not need to be a deep narrative but should at least be summary points around what took place. In particular, the second half of this would be bookmarked that the findings were written down so that there is documentation if something were not given to PC appropriately why this was the case and what was it. Perhaps a trend would be noted. The final reason Latkovic cited was

that the Village was spending money for the audit, and there should be a public document that supported this. Porter asked the Solicitor how much the report would cost. She explained that the process was more time consuming because she wanted to make sure that even though something intuitively would go before PC for development review, the Village was always requiring a zoning application be completed first. An analysis of the 20 to 25 permits should not take long and would not be as long as the audit, perhaps only half the time. Porter suggested \$1,500. Carroll advised that with the concerns, he would prefer to allocate up to \$3,000 again. He felt that Latkovic's approach had been succinct and wanted the Solicitor to be able to finish the process without having to come back to Council to ask for a little bit more. Carroll thought it was a reasonable request. Porter clarified that \$2,600 had been spent of the original \$3,000 and that \$2,000 would cover the remainder. Carroll clarified that if Porter was suggesting using the balance of the \$3,000 and allocating an additional \$2,000, he thought this was a good approach.

Porter added that it should be a Building Committee issue as well and that the recommendation should come from them. Carroll stated that this matter was outside the Building Committee's purview and that it was Planning Commission. Porter asked for the Building Committee's recommendation. Berger asked someone to explain what hurdles were still out there. Latkovic explained that there was still uncertainty around exactly what happened with a number of the applications that did not come before PC. The challenge was that the PC did not have the information in front of them at the meetings and they wanted a third independent party to really examine the issue. The third party must have a knowledge of what is appropriate and not appropriate based on Zoning and the Village's ordinances. This would be the Solicitor, and she is in the best position to do this for PC. The hurdles are understanding why or why not something is not coming before PC. PC knows for a fact that there were a number of things that never came before PC that should have. It is important that a third party really back up the reasons why it should have, and this is where Latkovic planned to learn more of the Building/Zoning process as well. He said it is being led by PC, but it could help in other ways across the Village because so much goes through the different application processes. Berger asked Latkovic if he was suggesting that in some way the ordinances the Village has in place have not been followed. Latkovic stated this is clear that they have not been. Specifically, PC knows of a couple of instances where applications should have come before PC. He explained that having the review of those applications is critical. This has to do with signage and what the expansion of a building means. Therefore, an assessment by the Solicitor is important. There are times where ordinances can be clear as mud with exactly what is included, and Latkovic thought the PC had seen instances where the Zoning Code had not been followed. PC wanted to make sure it is understood why this was the case.

Berger said he would grant Latkovic that there is a difference of opinion as to whether or not an issue should have gone to PC. According to the ordinances as he reads them, that decision is made in the application process inside the Building Department as to whether PC sees it. If PC wants to change the ordinance to some other process, then Berger said he was open to that and happy to work with that. However, he wanted to make sure that according to the Village ordinances as they are written today and the processes that have been followed, this has been done, whether it is right or wrong. But Berger stated the ordinances had been followed. Berger further stated that if the Zoning ordinances had not been followed, then someone needs to tell him how the Village has not done that. If someone wanted to change the ordinances, then they should tell him that. He said he did not think or know that the Village had not followed the processes as they should have been followed. The Solicitor stated to Berger's point, part of the analysis in going through the Zoning applications might answer his question. She did

not think she could answer his question presently without this information. Porter asked the Solicitor if she needed the additional step to make the determination, and the Solicitor stated she would need to review the applications, look at the zoning code and part of the conditional use permits.

Carroll asked Latkovic whether he thought the Village had not been following the process or the process had been abbreviated or was incomplete. Latkovic stated he was not entirely clear where the process fell apart but knew that there had been a couple of instances where in hindsight PC should have reviewed something, some application that was made that was never presented to PC. One example was a new business that never got to PC. Three months after they opened, PC found it was reviewing a business that had been running for three months. Carroll clarified that by ordinance, this should have been something that PC reviewed. Latkovic advised this was correct and stated that PC is supposed to review all new businesses. Carroll concluded that the ordinance was not followed, and therefore the report would be beneficial just to figure out the details. Porter verified that in this instance, it would be the landlord's obligation to inform the Village. Latkovic thought that it was the tenant's responsibility, and that the landlord should probably inform them. In this instance, the landlord should have known, and the tenant did not know. He was not sure what happened and advised that this is part of the problem. The matter was discussed at the last PC meeting, and no one had a good answer. The tenant was there and had no idea. She had been told two days before. One explanation given at the meeting was that someone, perhaps the Fire Marshall, used to go around the Village visiting tenants and knowing what was going on in the Village. Some part of this process changed, and the communication stopped. Latkovic did not know the truth of this but explained that this was why this was a process that required further understanding. He questioned how a business could function in the Village for three months without anyone knowing about it or informing PC.

The Mayor stated that in this instance, on September 15th, a person came in and applied to have a business at 1188 Bell Rd called the Knot Whisperer, a chiropractor. The Mayor explained that they pulled it out, created a file, and it got buried under 41 other files. They started digging down through everything that was done and found this one. The only due diligence that was done on it was helping to get electricity for her. The temp got the landlord to get her electricity and then once she had electricity, she was put in a file and the Building Department Administrative Assistant/Board Clerk/Assistant Zoning Inspector found it and it was brought to PC in December. The Mayor did not know when she walked in the door at 1188 Bell, but it was a dropped item that should have gone to PC because it was a new business. The Mayor stated this was one case where it was just dropped. He further explained that there were three or four others that he and the Solicitor discussed. The Mayor asked the Solicitor should they come in and get a zoning permit even though they may decide it is not a good fit. He explained that in the case of the whiskey distiller, he came to PC and PC approved his business but then he decided it was not a good fit, so the file was closed. He acknowledged that the Solicitor recommended that there should be a building permit filed right after PC. The Solicitor explained that a zoning permit is issued after the application is submitted and either approved by the Zoning Inspector or directed to BZA for a variance or PC for development approval. There is no permit in the beginning. What she was saying is that everything should start with the zoning application and filling out exactly what is happening for the Village's records regardless of what happens with the plans. The permit and the application are two very separate things. One cannot get the permit without the application. The Mayor asked if it would still be possible that someone will start going to PC to open a business but then decide against opening, should that situation end there. The Solicitor reiterated that it does end there, but everything should start with the zoning application. She stressed the importance of having the application in the system.

Carroll agreed with Latkovic's idea of a reset for the Building Department with the new staff and agreed to an additional \$2,000 to complete the audit. He added that if there were a concern of missing funds, the State Auditor could be engaged. The Solicitor asked that she be able to present her report first at the next PC meeting and then the subsequent Council meeting. Carroll made a motion to allocate \$2,000 additional funds to PC with the ability to use the remaining balance of the already allocated money towards additional work by the Solicitor for PC, seconded by Porter. Roll call – ayes, all. Motion carried.

MAYOR'S REPORT: The Mayor stated that the Sheerbrook Dr. residents met with the residents of the Woods of Wembley and it did not go well. The residents on the south side of Sheerbrook think Wembey is sending them an excessive amount of water because of the swale, and Wembey said they are not. This is still a private issue.

The Mayor stated he wanted to have somebody from First Energy and Lake Louise to discuss power outages, but not until February.

In January, the Village will begin to look at the water coming from Kensington that runs through South Russell and heads into Chagrin Lakes. The Mayor stated it was time to take a look at what the Village spent its money on last year and what changes and landscaping needed to be done with the area behind Village Hall. Additionally, the Village has to get ready for anything Chagrin Lakes has dealing with their dam.

The Village is in the process of working on the Manor Brook grant and looking at what the Village will be doing with Manor Brook and how it is going to go to Fox Run and then on to Sugar Bush. The Mayor stated he had a meeting last week with people from Sugar Bush, and they are concerned about their pond and silt pond and they have some issues.

He also had a meeting last week with some of the local communities dealing with snow plowing.

Galicki referred to the Mayor's meeting with local communities about snow plowing and asked if this pertained to the correspondence received by Council from one of the Village's private communities asking for snowplow services based on improvements that had been made to their roads. Galicki asked if this was one of the discussions the Mayor had, and if so asked that he summarize the discussion. The Mayor stated it was not one of the discussions. Galicki asked if the Mayor had answered the correspondence, and the Mayor clarified this involved Paw Paw Lake. He said he had not. Galicki asked if anyone had responded, or was Council letting the matter drop. The Mayor said it had not been dropped and it had been discussed for a long time, but he had not answered the petition. Porter said the topic was discussed at the Street Committee meeting.

FISCAL OFFICER'S REPORT: The Fiscal Officer distributed her monthly report. Porter asked the Fiscal Officer if she thought the Village would be in the black at the end of the year. She said probably, but that was because a lot of projects would be carried over to next year to include Manor Brook and the Lake Louise bridge. She further explained that the Village is really hitting the deadline for the Lake Louise bridge. The Village had three years to complete it and it was now the end of the third year. The Engineer was working to get approval to do the project next year. A lot of work should also be done with Manor Brook, and she thought next year would be a really big year. The Fiscal Officer added that

the Village met its Income Tax revenue for the year. Porter noted that it came in above what was budgeted, and the Fiscal Officer explained that typically, the Village is conservative in its budgeting.

FINANCE COMMITTEE: Carroll stated the committee met on December 15th, and the minutes were distributed to Council. Salaries were discussed and would be addressed in Executive Session. The budget was discussed and would require approval by Council. Amendments could be made in January.

The loader and the salt truck were discussed with Porter in Street Committee, and the committee's recommendation was to hold off on both and reevaluate in January.

The Finance Committee wanted to develop a capital replacement plan of the major equipment in the Service Department to space out some of the larger expenses. Carroll explained that the Street Commissioner was doing an outstanding job, but this was just an additional conversation that the committee would be having.

Regarding the Cares Act funding, the projects are well underway and/or completed to include the flooring in Village Hall and the installation of the video conferencing equipment.

Carroll made a motion to approve the cash balances of November 30, 2020 by the Fiscal Auditor and Fiscal Officer, which he noted matched to the penny, seconded by Porter. Roll call – ayes, all. Motion carried.

SOLICITOR: The Solicitor reported that Congress passed the Consolidated Appropriations Act of 2021. She reviewed the highlights of the lengthy report and advised that the Village might be getting more money in 2021 for Cares Act. The Corona Virus Relief Funds had been expended. The deadline was extended to December 31, 2021 for spending already appropriated money. Carroll clarified that the Cares Act funds that were to be spent by December 31, 2020, now must be spent by December 31, 2021, and the Solicitor stated this was what she understood but wanted confirmation. She advised that Council should move forward with the ordinances and resolutions because she did not know if the President had signed it. The Solicitor stated that in March 2020, Council passed the Families First Corona Virus Relief Act, which dealt with sick leave and Family and Medical Leave ACT (FMLA) extended leave based on COVID. The provisions had been extended until March 2021.

The Mayor complimented and thanked the Solicitor for her efforts over the past year.

STREET COMMISSIONER: The Street Commissioner thanked Carroll for his compliment. He submitted his month end report for November.

STREET COMMITTEE: Porter stated the Street Committee met December 4, 2020, and the minutes were distributed to Council. The committee considered issues that were before the Street Committee. Regarding the driveway at 1087 Sheerbrook Dr., the Street Committee recommended issuing a check to the resident for its repair. Porter stated that the repair estimate for the driveway was \$3,600. It appeared that the Road Program contract specifications were not followed to the letter. The payment to Specialized Construction if approved would be over \$700,000 with a retainage of \$40,000. From this retainage, \$3,600 would be deducted if Council agreed. The check would be sent to the homeowner who would hire his own contractor to make the repairs. Carroll asked if the check would be provided as a reimbursement or up front. Porter said the committee would task the Street Commissioner with

ensuring the work had been done on the driveway. Porter advised that the estimate obtained by the Street Department was between \$3,200 and \$3,400, which was not much different from the homeowner's estimate. He was comfortable sending the resident the check.

Galicki asked what type of work was needed, and Porter stated there was a concrete base and asphalt overlay. He further explained that the concrete base was 1.5" and should have been 2", which was the specification in the contract. It was done as 1.5" because aesthetically, in the Engineer's opinion, the homeowner would have been more satisfied with a more gradual slope, which was not correct. Galicki advised that it was beyond the temperature window for concrete and asphalt work, and that would mean the work could not be accomplished until spring. Porter agreed, and added that once the check was cut, it would be up to the homeowner to take care of it.

The Fiscal Officer advised she was in contact with the Engineer who said he would hold \$3,600 from Specialized Construction for the driveway apron and the Village was holding about \$30,000 in retainage.

Porter made a motion to authorize the Mayor and Fiscal Officer to issue a check in the amount of \$3,600 to the homeowner per the estimate provided by the homeowner for the purposes of the homeowner engaging a contractor to fix his driveway, seconded by Berger. Carroll asked if the check would be cut now or when work was started. Porter advised it would be done now so the funds would be available to engage the contractor in the spring. Carroll asked what would happen if the resident did not get the work done. Porter stated at that point, the Village would demand its money back. Porter amended the motion to state if the work were not done within a year, the Village would pursue its return.

The Mayor reiterated that there was asphalt that was put down over concrete and asked if the Village could remove the asphalt. Porter said it could, but from a snow plowing and snow blowing consideration, the homeowner would prefer the Village did not do this. The Village would have to wait until spring. Porter advised that the committee viewed the issue as a contractor issue, not the Village's issue. Carroll stated that there were several shortcomings of the work done by the contractor. The Engineer was supposed to investigate these. Porter verified he spoke to the Engineer and determined there was ambiguity in the contract which would be construed against the Village and/or Specialized Construction.

The Mayor clarified that the contractor had put down concrete and then asphalt, and Carroll explained that it was a newer driveway and where it ended, instead of feathering the asphalt over the concrete, it was saw cut and the contractor tried to mesh it so it was an even seam and flat. The lip was supposed to be 2" and was not. The concern of the resident was that there would be deterioration with it after he had just had all the work done on the driveway. Furthermore, the contractor went further into the driveway than the homeowner anticipated, so the process was not really clean. Porter said the contractor tried to make it look good. The Mayor stated that they went above and beyond and now it was going to bite them. Porter said that the opinion of the Street Commissioner and Street Committee was that overall, the contractor did an outstanding job with a large project. The Mayor stated his concern was with giving one resident \$3,600 when there were 58 other residents who may have had problems. Porter said there were a couple of rumblings, but no one had taken it to the degree of the resident in question. Carroll advised there was the resident with the brick driveway, and this was addressed. The Mayor stated there

was a scratched mailbox and the Village spent \$750 on the brick driveway. He was worried about this current driveway complaint. The Village did 131 driveway aprons less the brick one, and there was one complaint. The complaint started the night the road was paved. The Mayor stated this would be a tough one to explain as to what went wrong. The contractor went above and beyond and now they must lose \$3,600. Porter advised the price of the Road Program was almost \$750,000, and in the view of the committee, the contractor earned all but \$3,600 of it. The contract said what the contract said and if the contractor did not follow it, even if acting according to the Village Engineer's direction without a change order, that was on the contractor.

Carroll added that during the Street Committee meeting, it was discussed that the resident examined the contract and addressed some points that were possibly missed in the contract. An example of this was the drawing versus the actual contract with the berming material, which was something that should have been caught. At the end of the day, Carroll stated that in the resident's mind, his claim was legitimate and if the contract was not followed to the letter, which it appeared it was not, then the resident had a right to the \$3,600. Porter agreed.

The Mayor stated that since nothing would be done on the driveway for a while, would Council consider tabling the matter until the next meeting on January 11, 2021. Porter saw no reason to delay, and Carroll agreed. The Mayor explained that it would give everybody a chance to take a look at the driveway and would give Council a chance to talk directly to the Engineer. Porter stated he spoke to the Engineer on the topic and felt that the homeowner was entitled to the contract value. If Council members were to view the driveway, they would see what appeared to be a very nice driveway. Roll call – ayes, all. Motion carried.

Porter addressed the Village's trash hauler issue and explained that the current contractor had been charging the Village about \$700 per month, and there was another trash hauler interested in the Village's business that was quoting \$100 per month. The Street Commissioner called the current waste hauler to inform them of the potential bid, and the current hauler decided to lower its price to match the bid. Porter offered the Street Commissioner kudos for saving the Village \$600 per month and \$7,200 per year by making an inquiry. The Street Committee recommended that the Village continue with the current hauler at the lower price.

The Solicitor asked if this would be a revision of the contract. The Street Commissioner explained that the effort was a conglomerate between the Fiscal Officer, her Administrative Assistant, and himself to address the issue. Waste Management gave the Village three options. One would be to take a new deal effective January 1 of \$110 per month as a three-year agreement. The current price is \$774.31 per month. The second option would be to ride out the current agreement through 8/17/2021 and then the Village could drop the hauler and find another option. The third option would be to pay \$3,100 to get out of the current agreement. The first option was most beneficial. Porter asked if Waste Management would be sending a new agreement, and the Street Commissioner stated they would.

Porter made a motion that the Mayor, Fiscal Officer, and Street Commissioner be authorized to enter into a contract with Waste Management for the provision of waste management services for a period of three years in a contract at a rate of \$110.00 per month, seconded by Carroll. Carroll advised that Waste Management's business practices were frustrating to residents as well. Berger asked if they would be

sending the Village a rebate for the \$680 per month that they have been overcharging. The Street Commissioner advised they would not and stated that the practice would be to tack on charges to every bill. Berger asked why the Village would not use the competitor who provided the quote used to reduce Waste Management's charge. The Street Commissioner stated it would cost the Village more money in the long run. Berger suggested that this was because it would cost the Village \$3,100 to get out of the contract. The Street Commissioner stated this was correct. Porter further explained that the other option would be to pay \$774 per month until the contract expired in August and then change contractors. This would be more than \$3,100. Porter advised it was more economical to stay with Waste Management in a long-term deal at 1/6 of the going rate. Berger clarified that the Village would dump Waste Management in three years. Carroll agreed.

The Fiscal Officer asked the Street Commissioner if there were a definite deadline because she had not seen an agreement between the Village and Waste Management. She explained that the matter began when she explored pricing for her home, received a more equitable quote, and called Waste Management who then reduced her charges by more than half. She felt the Village should also explore pricing. The Fiscal Officer explained that she asked the Street Commissioner to investigate this, and initially he was told that every month the Village paid the bill, it tacked on another month to the agreement. In 14 years with the Village, she did not recall signing any kind of agreement with Waste Management. She asked the Street Commissioner if this agreement would continue to add a month and wondered if it was locked in at this rate. The Street Commissioner explained that there was a phone call made by the company to the South Russell representative where their services were reviewed. At this point, the pricing would be addressed, and they could adjust it at this point. Carroll asked if the agreement was \$110 per month for the next three years and asked if it really was an agreement contract. He felt this should be reviewed by the Fiscal Officer, Mayor, or Solicitor to ensure the price would not increase. The Mayor suggested holding off on the discussion until January 11th. The Street Commissioner said it needed to be addressed at the current Council meeting. It really should have been addressed by December 18th. Porter suggested Council move on it and said that the Street Committee would monitor it along with the Street Commissioner. He said he wanted an actual contract specifying three years, \$110 per month, and no nonsense. Carroll advised that if Council did not have the contract, he did not trust Waste Management. Porter agreed. Porter amended the motion to include "as of January 1, 2021." Roll call, ayes, all. Motion carried.

Porter said the Paw Paw Lake issue was discussed by Street Committee. He explained that the petition/request from some of the residents was for the Village to plow the streets in Paw Paw Lake even though it was a private road with a width of approximately 20 feet. The Mayor and Street Commissioner stated it was 16 feet. The Street Committee recommended that the Village did not do this. If the residents can make their roads conform to Village specifications, Council would revisit the issue about making it a public road. The Mayor stated he would contact them. Carroll advised that the Village had specified what was necessary width wise and with the turns, etc., which Carroll viewed as including compromises. However, the community had the roads done, and they were only 16 feet wide. Carroll agreed with Porter that if the community brought the roads up to the specified standards, Council could discuss the matter again. Porter added that he, Carroll, and the Street Commissioner had driven the new road since it had been paved and agreed that although it looked nice, it was very narrow and there were concerns about turning room needed by the Village plow trucks.

The Fiscal Officer requested a motion for payment to Specialized Construction and added that the Village would still be holding the \$30,000 in retainer. Porter made a motion that the Village pay Specialized Construction in the amount of \$725,627.31 for the 2020 Road Program with the thanks from the Village for a job well done, seconded by Carroll. Roll call – ayes, all. Motion carried.

BUILDING COMMITTEE: Canton stated the Building Committee met December 15th and the minutes were distributed to Council.

FISCAL AUDITOR: The Fiscal Auditor submitted his report for the month ending November 30, 2020. Regarding the fund balances, the total funds were \$3,889,486.81. He pointed out that the fund balances which were arrived at independently, matched the Fiscal Officer's fund balances to the penny. He reported that the interest rates had again decreased. The Village balances increased during the month of November, which was unusual. The Village had a healthy receipt from Income Tax, and the amount planned for 2020 had been exceeded. Other receipts included an Ohio EPA Grant for Manor Brook for \$31,229 and COVID grants. The Village also received a refund of \$11,301 from Bureau of Workers Compensation related to COVID. The Village was in the black by almost \$850,000 when it had anticipated being quite a bit in the red. It was a healthier picture than expected.

Porter pointed out that the Village would be issuing a check to Specialized Construction for the Road Program, but given what COVID had done to the economy, it was rather remarkable how the Village would end the year. The Fiscal Auditor stated that the Village may still see some effects next year because of the lag in income tax. Much of the Village's receipts are based on prior year income.

POLICE CHIEF: Police Chief Rizzo advised that the video conference project had been completed and would be available for when Council resumed in person meetings in Village Hall. The Police Department flooring project had begun, and the Shop with a Cop shopping had been completed. It would be a modified program where families were selected, and shopping was conducted online. Gifts were wrapped, and the department would be delivering them shortly.

SAFETY COMMITTEE: Canton stated that minutes from the December Safety Committee meeting had been submitted.

Chief Rizzo advised that part-time Officer Jim Clague had retired and one of the new part-time officers, Redrick, had resigned. Canton made a motion to accept the part-time officers' resignations, seconded by Porter. Roll call – ayes, all. Motion carried.

Canton made a motion to approve funds to be earmarked for the Route 306 traffic study. Galicki asked how much funds, and Chief Rizzo stated it had not been discussed. He explained that the traffic study was required by Ohio Department of Transportation (ODOT) as well as a radar check to see if it would be feasible to reduce the speed limit on 306 through South Russell. Further information was needed from the Engineer. The Fiscal Officer asked if there were a dollar amount, adding it had not been included in the budget. Chief Rizzo said it had not been discussed yet with Council.

Porter amended the motion to authorize the Mayor and Chief of Police to obtain a quote from CT Consultants as to the cost of the traffic study with a view of potentially lowering the speed limit within the Village limits of Route 306 through the Village from its current speed limit of 45 mph, seconded by Canton. Voice vote – ayes, all. Motion carried.

Canton made a motion to approve obtaining quotes for a new police vehicle, seconded by Porter. Carroll asked if the Chief was going to go with State Bid or get quotes and State Bid. Chief Rizzo replied State Bid.

The Mayor asked if it was necessary to get a motion to get quotes. Porter advised that it might be over \$50,000. The Fiscal Officer stated that in the past it used to be \$25,000 was the limit and then when it was changed to \$50,000, Council members at that time preferred to still go out for bid. If it would be obtained through State Contract, it was not necessary to go out for bid. The Solicitor verified that on a State Bid, there was no competitive bidding. Carroll asked if a Department Head could obtain a quote on his/her own and asked why it was necessary to have a motion to get a quote. Porter stated that it had been done in the past because Council liked to know what Department Heads and the Mayor were doing in terms of obtaining quotes and for what. This precluded surprises down the road about quotes that were obtained without Council's knowledge. He agreed there was nothing stopping a Department Head from calling a vendor to determine a cost. Carroll thought it would be streamlining for the Department Heads to obtain three quotes and then present them to Council to determine whether funds would be expended. If the project were to exceed \$50,000, it would be presented to Council to go out to bid. He did not want to see the Department Heads' hands tied in getting quotes for inexpensive items. The Mayor stated that in January, there would not be motions for quotes. Porter agreed. Roll call – ayes, all. Motion carried.

Canton made a motion to earmark funds for elevator repair. Carroll asked how much, and Chief Rizzo stated there were two quotes. One was to repair it, which would be \$5,000 - \$6,000 to replace the circuit boards that control the lift. The quote to replace the entire structure was \$40,000. The Chief advised that it was not used often, but the Village must have it. He thought it made the most sense to authorize the repairs instead of replacing it. Seconded by Porter. Carroll asked if in the future, NOPEC grant funds could be used for the elevator. The Fiscal Officer stated that the NOPEC grant funds must be used to save energy, so if the new elevator used less electricity, it would be a possibility. The Mayor asked if the Street Commissioner was comfortable with the expense of repairing the elevator, and the Street Commissioner stated absolutely and added that the Chief had done all the electrical work possible, and the computer board needed to be replaced. Roll call – ayes all. Motion carried.

HR COMMITTEE: Porter stated Human Resource (HR) Committee met December 4, 2020, and the minutes were distributed to Council.

Porter stated that the latest version of the change in the Village's grievance procedure had been distributed to Council for review. The biggest change it addressed was the situation where a grievance might be filed against one or more Council members.

Porter said that in Executive Session, HR Committee would be making a recommendation regarding employee compensation.

PROPERTIES COMMITTEE: The Mayor stated he spoke to Nairn who could not attend the Council meeting. He discussed that a display like the one proposed by Eagle Scout candidate, Charlie Cimperman, had been installed in Frohring Meadows.

PUBLIC UTILITIES COMMITTEE: Galicki stated there must be an adoption of a competitive retail program for Natural Gas. He understood that the Solicitor and the Mayor may have discussed this issue in August and then again in October, although it did not come before the Public Utilities Committee. In August, the Solicitor received some ordinances that were drafted by Northeast Ohio Public Energy Council (NOPEC) to institute in the Village. The Solicitor had some questions on these and Council had not been presented with the Village's Natural Gas plan and/or program that was proposed. As the legislative authority for the Village, Council needed to adopt the operation and governance of this program after Council was advised of what the options were and select a particular program. Then there must be two public hearings that articulate what policy or program Council had adopted as a Village. Galicki spoke to the Solicitor and asked that she provide supporting information.

The Solicitor stated there is a statute, Section 4929.27 of the Ohio Revised Code. With the Mayor being the Village's representative to NOPEC, she hoped that the Village could reach out to a NOPEC representative and determine if they have the actual Plan of Operation and Governance and options for the Village to consider. Her hope would be to obtain this plan from NOPEC and have it presented. She thought the best idea would be for it to be addressed in the Public Utilities Committee, which could then vet it before coming to Council. She said it could also skip this step and go straight to Council. Either way, without the plan, the two Public Hearings could not be set. The Public Hearings require posting with a summary of the plan. Without a plan, a notice cannot be posted nor can the hearings be held. The Solicitor offered to reach out to NOPEC but felt the Mayor would have better contacts.

With this, Galicki hoped that at one of the January meetings, Council could be addressed by the NOPEC representative to potentially lay out what the Village's options are in terms of plans before Council goes forward to adopt a program. After this, the Public meetings would be held for the public to raise questions about the plan. He reiterated that he would like first to get the NOPEC representative on the agenda to inform Council of what options are available with respect to the Natural Gas program.

The Mayor stated that Jeff Heinrich of NOPEC would be at the January 11, 2021 and January 25, 2021 Council meetings to answer any questions Council may have. Galicki responded that answering questions was ok, but would he be presenting Council with a program or program options? The Mayor said he did not know but would find out.

ORDINANCES/RESOLUTIONS:

Carroll introduced an ordinance finding that public safety personnel are substantially dedicated to mitigating or responding to the COVID-19 public health emergency and declaring an emergency. Carroll made a motion to waive readings, seconded by Berger. Roll call – ayes, all. Motion carried. Carroll made a motion to adopt, seconded by Berger. Roll call – ayes, all. Motion carried. **ORD 2020-62**

Carroll introduced a resolution requesting Advance of Taxes for the General, Safety, Operating, and Road fund from the County Auditor for tax advance dates of January 22, 2021, February 5, 2021, July 7, 2021 and July 23, 2021. Carroll made a motion to waive readings and declaring an emergency, seconded by Berger. Roll call – ayes, all. Motion carried. Carroll made a motion to adopt, seconded by Berger. Roll call – ayes, all. Motion carried. **RES 2020-63**

Carroll introduced an ordinance Amending 2020 Annual Appropriations increasing CARES Act expenses \$1,385.99 and declaring an emergency. Carroll made a motion to waive readings, seconded by Berger. Roll call – ayes, all. Motion carried. Carroll made a motion to adopt, seconded by Berger. Roll call – ayes, all. Motion carried. **ORD 2020-64**

Porter introduced a resolution to allow the use of an employee dishonesty and faithful performance of duty coverage document rather than a surety bond and declaring an emergency. Porter made a motion to waive readings, seconded by Berger. Roll call – ayes, all. Motion carried. Porter made a motion to adopt, seconded by Berger. Roll call – ayes, all. Motion carried. **RES 2020-65**

Porter introduced an ordinance amending the grievance procedure subsection of the progressive discipline policy section in the Village's Employee Handbook.

Carroll introduced an ordinance to transfer from the Income Tax fund to the Safety fund \$270,000, Operating fund \$135,000, \$200,000 to General Fund, and \$4,500 to Special Road fund declaring an emergency. Carroll made a motion to waive readings, seconded by Berger. Roll call – ayes, all. Carroll made a motion to adopt, seconded by Berger. Roll call – ayes, all. Motion carried. **ORD 2020-66**

Carroll introduced the 2021 Annual Appropriations as follows: General Fund \$1,240,386, Special Revenue Funds \$4,255,361, Capital Project Funds \$319,200 and Trust and Agency Funds \$81,000 for a total of \$5,895,947 and declaring an emergency. Carroll made a motion to waive readings, seconded by Berger. Roll call – ayes, all. Motion carried. Carroll made a motion to adopt. Seconded by Berger. Roll call – ayes, all. Motion carried. **ORD 2020-67**

BILLS LIST: Carroll made motion to ratify the bills dated 12/15/2020 in the amount of \$652,858.38 as well as the bill list dated 12/22/2020 in the amount of \$128,855, and the bills list of 11/30/2020 in the amount of \$84,365.90, seconded by Berger. Roll call – ayes, all. Motion carried.

NEW/OTHER: Galicki had no new business.

Porter wished everybody a very merry holiday season, Merry Christmas, Happy Hanukkah, Festivus, and Kwanzaa as always.

Berger concurred with Porter.

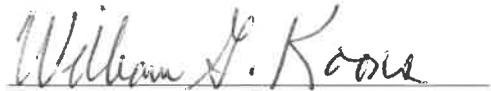
Canton concurred. He added that the Village is fortunate to have members of the community who are willing to render expertise so it can be a better Village, and Canton thanked them. With that said, Canton stated that the Building Department was blessed to have a total of 67 years' experience between the Building Department Administrative Assistant/Board Clerk/Assistant Zoning Inspector and Dave Hocevar. He and Berger support them. Canton stated that they welcomed the study proposed by the Planning Commission and looked forward to a well-defined permit zoning process to make building and planning more efficient.

Carroll wished everyone happy holidays.

Porter made a motion to go into Executive Session at 7:47 p.m. for the purpose of discussing employee compensation, seconded by Carroll. Roll call – ayes, all. Motion carried.

Council left Executive Session at 8:12 p.m. Porter made a motion that the pay for Tim Alder, the Street Commissioner, be increased from its rate at the end of 2020 by \$5,000 for 2021 and that he not get the 3% increase that Council voted for all current employees, seconded by Carroll. Roll call – ayes, all. Motion carried.

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


William G. Koons, Mayor


Danielle Romanowski, Fiscal Officer

Prepared by Leslie Galicki