

**RECORD OF PROCEEDINGS  
REGULAR COUNCIL MEETING VIA ZOOM  
MONDAY, FEBRUARY 22, 2021 – 7:30 P.M.  
MAYOR WILLIAM G. KOONS PRESIDING**

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

**MEMBERS ABSENT:** Canton

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

**VISITORS:** Dean Hayne, Ruth Cavanagh, John Buda, Virginia Dix, Greg Heilman, Kelly Kimball, Ray, Brian Doering (CVT), Ann Wishhart, 564-36348, Chris Bell, Jim's Iphone, I2164022157

The Mayor called the Regular Council meeting conducted via the teleconference service Zoom to order. Fiscal Officer read the roll. Canton was absent. Carroll made a motion to approve the February 8, 2021 Council minutes, seconded by Galicki. Voice vote – ayes, all. Motion carried.

**VISITORS:** The Mayor appointed Eric Kimball as a Sergeant effective March 1, 2021 with a six-month probationary period and a pay increase of \$1,880.50. Chief Rizzo stated that Kimball had been with the South Russell Village Police Department for over 7 years and has 20 years of experience in law enforcement. Kimball had been serving as the Department's detective for two years and had done an outstanding job. The Chief looked forward to having Kimball lead the nightshift team. Porter made a motion to confirm Eric Kimball as the new Sergeant with a six-month probationary period commencing March 1<sup>st</sup> with a pay raise on successful completion of the probationary period in the amount of \$1880.50, seconded by Carroll. Roll call – ayes, all. Motion carried.

The Mayor introduced Dean Hayne, First Energy, to speak to Council about the Smart Meter Program, LED streetlights, and the power outages. The Mayor stated that he and Hayne discussed how the Village could help residents during power outages by providing a warm space, water, and locations to charge cell phones.

Hayne explained that he is the First Energy liaison with Geauga County and some of the eastern parts of Cuyahoga County. Through a presentation, he addressed the Smart Meter program. The meters collect customer usage information and are a key component of the modernized electric system. The meters assist in accurately determining usage and identifying power outages. He advised that meter installation in the Village was 95% complete. Hayne addressed and dispelled various concerns about the meters. A meeting participant asked if the system were to be hacked, could it prevent power from getting to a home? Hayne hoped that the security that had been put in place would handle this.

Hayne next addressed LED streetlights. Hayne explained that the LED streetlights have a longer lifespan of 12 to 20 years, are more efficient, and reduce light pollution. Because of the projected obsolescence of the current streetlights, he suggested it was a good time to make the

change. Many of the surrounding communities had already done so. Hayne presented three options for replacement of the streetlights. The least expensive would be to replace on failure, which would involve no cost but required the Village to notify First Energy of the desire to exchange the head with the LED equivalent. Replacing all the lights at once would require a payment up front and would be \$242 per fixture, or \$13,068 for 54 lights. If the Village wished to spread this cost of installation over 60 months, it would be \$16,718.

Porter clarified that if the Village were to do nothing, First Energy would replace the lightbulbs in the streetlights as they fail. Hayne concurred and added that the Village would have to notify First Energy that this is what it wanted to do.

The Mayor asked Hayne to address power outages and storms. Hayne discussed three recent storms where there were many outages for extended periods of time. Hayne explained that when there is an outage, residents should not assume the Illuminating Company knows about it. Residents should call to report outages. Hayne explained that during storms, the priority is to clear the area and make things safe. Critical facilities take priority and then transmission lines. Next, repairs are concentrated on the largest number of customers. He provided suggestions for storm preparation. Hayne provided contact information for First Energy, 1-888-LIGHTSS, and referred to the company's website, Twitter, and Facebook for more information.

The Mayor introduced Ruth Cavanagh to speak about Paw Paw Lake road issues, road salt, silt pond and other issues. Cavanagh addressed Paw Paw Road and advised it was created in 1921 when it was still part of Russell Township and there were no standards. The Paw Paw founders at the time desired privacy and exclusivity. The road exclusivity no longer exists. It has been maintained for the past 100 years by the residents. Five years ago, the community had two large road projects and anticipated much more work that was beyond the community's scope, according to Cavanagh. After a one-and-a-half-year fight about how it would get done and how it would be paid, 44 neighbors voted to repave the road at a cost of approximately \$4,000 per homeowner. Except for the road width, Paw Paw Road now meets subdivision standards. Paw Paw Lake community is now asking the Village to plow the road for the residents who pay \$2,000 to \$3,000 split 44 ways for plowing. Residents pay from \$350 to \$3,000 and up for the Village portion of taxes. She offered that one solution would be a separate contract or agreement between Paw Paw and South Russell for plowing and salting. Cavanagh advised that Paw Paw Lake would ultimately like South Russell to take over their road maintenance and said they have met the standards except for width. However, for the time, she was willing to just address plowing.

Cavanagh spoke to both the former and present Street Commissioners about the Village's concerns. She acknowledged the concern that it could become a slippery slope. She hoped Council would hear their concerns as well and understood the potential for all the other private roads to request the same. Cavanagh presented five solutions: Council could do nothing for some of its tax paying residents, which was not a good solution; it could give Paw Paw Road plowing only; it could take over and maintain Paw Paw roads which would give the Village a major road widening construction project with ditching, drainage, and tree removal; or the Village could hire another plow driver because this was one of the Street Commissioner's concerns. She felt that among these solutions is a middle ground. She wanted to meet with the Street Committee.

Cavanagh addressed the history of the Paw Paw Lake. She stated that prior to the 1970's there was no silt pond. In 2002, the Lake and silt pond were dredged. In 2015, it required dredging again, and she referred to the subdivisions and excavations that had occurred, particularly east of Paw Paw Lake. It cost the community \$25,000 in 2015. In 2016 the Dominion gas line project occurred. She stated that protections were inadequate. This project filled in what had been dredged in 2015. There were appeals to the Village and Paw Paw residents met with Dominion. Dominion ultimately rejected Paw Paw Lake's claim based on the technicality that it did not have soundings from the 2015 dredging of the silt pond. She admitted another gas line was needed, but it was Council's contract. She asked if Dominion was looked at as a utility/subcontractor overseen by the Village Engineer? The result of the Dominion project was a complete failure of silt pond fill into Paw Paw. Their only recourse is to dredge again potentially costing residents \$42,000. Cavanagh stated that the Village cleaned up the gravel that accumulated in Sugar Bush Lake in 2014 after a culvert repair, which was the situation faced by Paw Paw. She asked why Council would not do this for Paw Paw Lake? Cavanagh felt that the Paw Paw Lake community had been treated as a dumping ground.

Members of the community have sought assistance through resources including the Chagrin River Watershed Partners (CRWP), Geauga Soil and Water, and the Environmental Protection Agency (EPA). Cavanagh stated this was a crucial issue that was not going away, and the community was asking for the Village's help.

Virginia Dix concurred with Cavanagh and added that Cavanagh had not gone into half the details about Paw Paw Lake concerning the watershed issues. She reiterated that they are taxpayers, and it is not even about the road, but the lake. She added that they are concerned about what will go on with the Lake Louise project in relation to Paw Paw's silt pond.

Regarding plowing their roads, Dix was aware that the Village had a smaller plow that could easily plow their street. She blamed the erosion of their roads on other developments. Dix was asking for a fair break.

Cavanagh acknowledged that she failed to address the Lake Louise project and said it would be futile to dredge before the Village did the Lake Louise Bridge dam spillway and gas line. This would mean more material flowing into their silt pond. This was the primary reason she was addressing Council.

Carroll asked Cavanagh and Dix if they had discussed the dredging of the pond and/or the impact of Dominion's work on the silt pond with the Engineer. Cavanagh had not. She had spoken with the Mayor and they felt that she should come present the issue to Council, which would give the Engineer a chance to review the matter before the March Council meeting. Cavanagh wanted to speak with the Engineer and said she was just laying the groundwork for it. Carroll encouraged Cavanagh to attend the Street Committee meeting in the first week of March when the Engineer would be present.

The Mayor asked for Cavanagh's notes and said he would discuss the matter with the Engineer. He stated that Cavanagh and the residents of Paw Paw Lake would be heard.

The Mayor introduced Carlene Holtz, MC Art Studio and stated she would be sharing her ideas for a play area and plans for summer events. The Fiscal Officer advised that Ms. Holtz emailed and said she would be prepared to present the information at the next meeting.

**MAYOR'S REPORT:** The quarterly meeting of the CRWP would occur Thursday, February 25<sup>th</sup>, and the Village Hall 319 grant project and Park project would be showcased. On Tuesday, February 23, 2021 CRWP will put on a webinar on watershed friendly stream management.

The Mayor stated that the 264-page report was received from the Geauga County Sheriff's Department about the missing Microsoft Pro computer. He encouraged everyone to read pages 5 through 15 of the report. At the March 8 Council meeting, the Mayor hoped to hear a motion to hire a Human Resource professional to help the Village work through some of the issues mentioned in the report.

The Mayor stated that there was a meeting with CT Consultants and Dominion Gas to plan for the Lake Louise Bridge replacement project planned for this year. The contracts were ready for proposals from the contractors. There were a couple of issues on the exact starting date, the water level of the lake during the construction, and the easement compensation. There was some tweaking of the final location of the gas line. Dominion is planning a 20-foot deep and wide easement to run the new gas line. Nairn attended as a Public Utilities Committee member.

Nairn stated that the frustration level was apparent and there was a lot to think about. A meeting of the minds was necessary to get the project moving. She was glad that meetings had been consistently occurring to keep the project moving along. Nairn was concerned about the easement situation. A price tag was discussed, and she felt the project needed to keep moving. Nairn asked if the Mayor wanted her to continue to attend the meetings and noted the residents' concern about being able to use the lake over the summer. She felt it was important to continue to move forward. The Mayor hoped Nairn would continue to attend the Monday meetings.

The Mayor stated that the Ohio EPA (OEPA) was making some changes, and the Village had alerted them to needed changes in their procedures. On the Manor Brook project, paving of Chillicothe Rd. would probably occur in the spring of 2023. This would allow the Village to start the project this fall. Three culverts could be installed in 2022 after the Manor Brook Stream Enhancement project was complete. There would be six months to work out any kinks before the Village put in the culverts. The OEPA has made changes in the drainage easement. The Mayor deferred to the Solicitor to address this.

The Solicitor advised that as Nairn, Carroll, Galicki, and Porter were aware, there is a proposed landowner agreement that the Village is trying to work through with Whitetail Run Community Association for the four parcels. Part of the agreement addresses the use of private property to access and maintain the project site. There was discussion of a drainage easement to ensure the Village had access to these properties to maintain them over time. The Village created a combined single document containing the drainage easement and an environmental covenant. OEPA questioned why the Village was taking this route. The Solicitor explained that the Village wanted to steer away from a conservation easement because there was no need for the involvement of a third party like a conservancy agency. OEPA agreed but wanted the Village to separate the drainage easement as one document and have a separate document of the environmental covenant. The environmental covenant is fairly new, and it is something Ohio

EPA is working on with drafting templates. The OEPA attorney provided the Solicitor with the actual environmental covenant that the OEPA proposed. It contained very specific language, fill-in provisions, and required the OEPA as a signatory to the agreement. Since this is a grant, the OEPA is the one receiving the grant from the Federal Agency, and then the Village goes through with the project. Presently, the landowner agreement is still viable, but now there must be two separate easements; a drainage easement plus the environmental covenant that includes the OEPA. This is new, and the OEPA wants this to be available to any community that has these kinds of grants. This would be an additional exhibit to the agreement that the Village works out with the owners of the four parcels.

The Mayor stated there would be a meeting on Monday, March 1st at 4:00 p.m. with the Fox Run Homeowners Association (HOA). They had spoken about possibly giving the Village an easement for a corner of their property right near Gurney Elementary School/Sugar Bush/Fox Run where the walk bridge is across the creek. The Mayor stated it would be great for the Village and added that the Engineer had eyed that area for years. It was the second item in the 2004 CT Consultants Stormwater Study which suggested the Village get this property.

The Harvest for Hunger Drive is going on. The easiest way to participate is to drop off a check or cash in the box in Village Hall.

A group of people want to take over the butterfly garden, according to the Mayor. There will be a Zoom meeting Thursday, February 25, 2021 at 1:00 p.m. Ruth Cavanagh asked the Mayor where the butterfly garden was located, and he said just west of the Pavilion. The Girl Scouts originally did it but had moved on to bat houses. The Mayor put the word out that he was looking for someone to take it over and this group of people came forward to take it over and cover the costs.

**FISCAL OFFICER'S REPORT:** The Fiscal Officer distributed an Appropriation amendment for the Lake Louise project. The money was in the fund, but since the project had not been done last year, it was necessary to budget for it this year.

The Fiscal Officer advised that she had spoken to the Building Department Administrative Assistant/Board Clerk/Assistant Zoning Inspector who had been working on a flow chart of the department's processes and putting together an instructional book. The Building Department Administrative Assistant/Board Clerk/Assistant Zoning Inspector was concerned about coverage for the department in the event she required time off. They discussed cross training, and she asked the Fiscal Officer if this would be possible. The Fiscal Officer wanted to ensure that Mayor and Council agreed with this. Carroll thought it was a great idea. The Mayor stated that it would be put on the Building Committee meeting agenda. Carroll reiterated that it was a great idea, and he was glad that the Building Department Administrative Assistant/Board Clerk/Assistant Zoning Inspector addressed it with the Fiscal Officer.

Carroll thanked the Fiscal Officer and the Chief for getting the computers prepared for Council. He explained that through CARES Act funding, all of Council had been provided with laptop computers to use for social distancing requirements etc. The purchase had been discussed by the Finance Committee and approved unanimously by Council. In the event this matter was forgotten, Carroll reiterated that it was discussed and voted on. He again thanked the Chief and

the Fiscal Officer for their efforts. The Mayor stated there will be a Finance Committee meeting to discuss the whole process, which is coming up on March 2, 2021.

**FINANCE COMMITTEE:** Berger stated the next meeting will be March 2, 2021 at 8:00 a.m. and will be via Zoom. On February 19<sup>th</sup>, there was a joint HR and Finance Committee meeting. He would defer to Nairn to report on this meeting. Two weeks ago, Berger introduced the idea that the banking resolution required updating. He distributed banking research he conducted. He advised that through this investigation, he found that it was not possible to get better interest rates than the local banks.

Carroll asked Berger if the Finance Committee meeting minutes submitted to Council required amending. Berger stated this was correct and they would be amended on March 2 at the Finance committee meeting. Carroll verified that the minutes that were provided to Council were in error and would be corrected and fully represent what occurred at the meeting. Berger agreed.

**SOLICITOR:** The Solicitor stated she had nothing to report. She wanted to remind Mayor, Council, Fiscal Officer, and Village employees about public records. The Solicitor stated that the Village has a Record Retention Schedule with which employees and Elected Officials should be familiar. It should be understood what records are to be maintained, held, retained and for how long. There is a Records Commission that meets twice yearly by statute and includes the Solicitor, Fiscal Officer, Mayor, and a resident member. In the event of questions about public records, she encouraged everyone to ask the Fiscal Officer or the Solicitor. The Fiscal Officer is the records custodian designated as such by statute and by Council through her obligation to attend Public Records and Sunshine Law Training. Additionally, the Solicitor stated that Elected Officials are supposed to attend but may appoint a designee. The Ohio Sunshine Law Manual is updated yearly and is a fantastic resource. Training is available frequently through the Ohio Attorney General website. When in doubt, the Solicitor encouraged everyone to hold on to the record in question and ask the question before throwing it away or deleting it. The Solicitor added that in the Ohio statutes, there is a statute regarding disposal or deletion of records and when it is not in accordance with Records Retention Schedule. The fine is larger than failing to promptly respond to a public records request. It is a separate fine and up to \$10,000. She wanted to ensure that everyone understood that there are definitely consequences and liability that can subject the Village to risk.

Carroll thanked the Solicitor for the clarification.

The Fiscal Officer stated that the Chief found a solution to the email issue. The Chief stated that the emails the Village currently has are southrussell.com emails and are set up as a front for sending them to personal emails. This creates an issue with the security of the emails. The Chief said that the Village can archive all the Village emails on the Google server. Everyone would need to log into their South Russell email to access it. They would have a new password, and the username would be the email address. Starting tomorrow, none of the emails would go to personal emails, but would stay within the South Russell domain and be archived.

The Solicitor clarified that the emails would be maintained in the South Russell domain, but if someone were to use a personal email account to transact, conduct, or discuss Village business, that would not be included in this. The Chief explained that the current southrussell.com

accounts are set up as surface accounts, which currently go to personal emails. The goal is to eliminate this step and just use the South Russell email for sending and receiving so that everything will be archived. The Solicitor thought this was helpful but reminded Council that if a personal email account is used outside of the South Russell domain to transact business of the Village, discuss business, or deliberate, this is still a public record even though it may be on a personal email account.

The Chief said he planned to contact Council members the following day to provide further instructions.

**STREET COMMITTEE:** Carroll stated that the Street Committee meeting scheduled for February 26<sup>th</sup> would be rescheduled for the first week in March. Porter suggested the meeting be conducted as a hybrid to make the meeting more accessible to the members of the public who wished to attend. Carroll concurred.

**BUILDING COMMITTEE:** Berger stated the next Building Committee meeting would be March 4, 2021 at 8:00 a.m. via Zoom. There was a special meeting of the Building Committee on February 18<sup>th</sup>. Summary minutes were distributed to Council. The purpose of the meeting was to review the Planning Commission (PC) report from the Solicitor. The committee was in the process of preparing written notes in response to the 19 cases that were raised. They expect them to be completed and reported to the PC no later than March 1<sup>st</sup>.

Berger relayed that the Fire Marshal asked Council to consider two issues. He wanted the Village Code to be updated to reflect the current State Fire Code. The Fire Marshall thought the Village was two editions behind. Many municipalities have an ordinance that automatically updates to the current State Code, but the Village does not have this. Secondly, the Fire Marshal requested that Council adopt an ordinance instituting fines for failure to comply with the Fire Code. Berger concluded that these were two issues the Building Committee would address and bring to Council in the near future.

The Mayor asked if these matters could be forwarded to the Solicitor, and the Solicitor stated she believed she had prepared a resolution with respect to the first issue, but not the fines. She knew she had looked into updating the Village Code because the way that it is worded lends itself to interpretation that it is updated to the most recent code. However, it would be beneficial to make it clear. The Mayor agreed that the Solicitor had prepared this, and that she was on top of it when the Fire Marshal joined the Village. He suggested the Solicitor forward it to Berger and the Building Committee.

The Solicitor asked Berger if the Fire Marshal knew of specific fines or whether it was at the Village's discretion. Berger stated it was within the Village's discretion and that it could be a fine for a first offense, second offense, with an escalating scale or it could be more complicated. Berger advised that without experience in the matter he deferred to the Solicitor's judgement. Carroll offered to forward the Lyndhurst policy to the Solicitor and added that a flow chart should be put in place to delineate the process with individuals who do not comply.

Carroll asked if the Special Building Committee meeting was via Zoom. Berger stated yes. Carroll asked if it was recorded. Berger said not to his knowledge. Carroll commented that this was interesting.

**SAFETY COMMITTEE:** Porter stated that the Safety Committee would be meeting Thursday, February 25<sup>th</sup> at 7:00 a.m. at the Police Department. Other than the promotion of SGT Kimball, he had nothing more to report.

The Mayor stated that at the March 8<sup>th</sup> Council meeting, Rick Lombardo would be giving a presentation about cameras.

**HUMAN RESOURCES COMMITTEE:** Nairn stated that as mentioned by Berger, HR and Finance Committees held a joint meeting on Friday, February 19<sup>th</sup>. There were two items of business discussed. One pertained to developing a job description and pay range for the new mechanic position that will be put in place in the Village. The other topic concerned a tiered salary system for all Village employees. The committees created a draft for the new mechanic job description, but Nairn felt it needed to be fine-tuned. In particular, the current description states that the mechanic will perform mechanic duties and responsibilities for 55% of the time. She questioned whether this meant 55% of one workday, or 55% of a week dedicated to mechanical work. That same portion of the description includes chip and seal work, patching potholes, and weed whacking. Nairn advised she and Porter needed to continue to work on this. Porter noted that for the tiered salary system, it applied to full-time employees rather than all employees.

Nairn referred to an email sent by the Mayor pertaining to HR creating a flow chart for the hiring process. Nairn indicated that on page IV of the Employee Handbook, there is a flowchart for the hiring process, which is very succinct in the steps that are to be taken.

The next joint meeting of Finance and HR Committees will be held Friday, April 9<sup>th</sup> in Village Hall at 7:30 a.m.

**PROPERTIES COMMITTEE:** Galicki had nothing to report.

**PUBLIC UTILITIES COMMITTEE:** Nairn stated that on February 21<sup>st</sup>, the Mayor alerted her to an interesting article on Northeast Ohio Public Energy Council (NOPEC) on page 5 of the Plain Dealer Metro Section. Nairn read that there are over 290 communities that are members of NOPEC, which does a good job finding the best prices on oil and gas for the participating communities, including South Russell. Nairn stated she receives phone calls daily from independent utility companies about switching over for all kinds of perks. The article cautioned against this because ultimately the customer ends up with rates that skyrocket after the probationary period.

Nairn stated that Berger approached her about a company that was going into La Due Reservoir to do some drilling and/or fracking but that the company had since withdrawn from the project. The League of Women Voters took a stand on the fracking and drilling. Nairn stressed the importance and responsibility of protecting water sources. Berger had been in touch with Mr. Markley in Bainbridge who said that in 2010-2011 Bainbridge encountered nightmarish issues



with drilling and fracking. Nairn asked Council if the Village wanted to discuss and consider taking a stand against fracking and drilling.

Galicki reminded Nairn that four months ago, there was discussion by Council to have the representative from NOPEC approach Council to present some NOPEC energy plans to Council for the Village, which would then require a series of three public meetings to approve those plans. Galicki asked Nairn the status of the NOPEC presentation of energy plans for the Village. Nairn deferred to the Mayor. The Mayor stated that Jeff Heinrich of NOPEC would be at the April 26<sup>th</sup> meeting. The Mayor said that NOPEC is changing and that they have an opt-out and are developing an opt-in program which the State has allowed. Galicki asked if this would be when the plans for the Village would be presented, ultimately for adoption after a series of public meetings? The Mayor stated no, that there would be no public meetings. It would be the introductory process where Heinrich would tell the Village what needed to be done. Council would figure out the process after that.

**PARK COMMITTEE:** Galicki had nothing to report.

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

Nairn introduced an ordinance amending the Annual Appropriations increasing Lake Louise expenses \$100,000 and declaring an emergency. Nairn made a motion to waive readings, seconded by Carroll. Roll call – ayes, all. Motion carried. Nairn made a motion to adopt, seconded by Carroll. Roll call – ayes, all. Motion carried. **ORD 2021-10**

The Mayor stated that the ordinances requiring second readings pertained to Manor Brook and indicated that Berger could not participate. Berger concurred.

Carroll clarified that the reason Council must redo all the ordinances was because there were two Council members who voted on the resolutions/ordinances while they were serving on Council and serving on the various boards of the HOAs involved in this project. Berger stated he did not know that this was necessarily true. Carroll stated that according to the Solicitor, this was why this was necessary. Berger stated no, that it might have just been Canton. The Solicitor stated, correct. Carroll stated he did not say who it was. Berger stated to do it.

Carroll provided a second reading of an ordinance vacating Ordinance No. 2019-69 and authorizing the Mayor to enter into a Clean Water Act Section 319(h) Grant Agreement with the Ohio Environmental Protection Agency for the Manor Brook Headwater Stream Restoration Project retroactive to December 9, 2019 and authorizing all actions necessary to accept such grant for costs associated with such project retroactive to December 9, 2019.

Porter provided a second reading of an ordinance vacating Ordinance No. 2019-73 and authorizing the Mayor to enter into an agreement on behalf of the Village of South Russell with Chagrin River Watershed Partners, Inc. for the administration of the 319(h) grant from the Ohio Environmental Protection Agency to the Village of South Russell for the Manor Brook Headwater Stream restoration project effective retroactive to December 13, 2019.

Carroll provided a second reading of an ordinance vacating Ordinance No. 2020-09 adopted February 24, 2020 and certifying amendments of funds effectively retroactively to February 24, 2020.

Porter provided a second reading of an ordinance vacating Ordinance No. 2020-10 and certifying transfer of funds effective retroactively to February 24, 2020.

Porter provided a second reading of an ordinance vacating Ordinance No. 2020-36 adopted July 13, 2020 and certifying amendments of funds effectively retroactively to July 13, 2020.

Porter provided a second reading of an ordinance vacating ordinance No. 2020-37 and certifying transfer of funds effective retroactively to July 13, 2020.

**BILLS LIST:** Berger made a motion to ratify the February 16<sup>th</sup> 2021 bills list in the amount of \$105,141.02, seconded by Carroll. Voice vote – ayes, all. Motion carried.

**NEW/OTHER:** Berger had no new business.

Nairn requested that Council seriously consider recording all committee meetings. She thought that more and more, this has become very important in terms of transparency and keeping Council on the same page. Council started to do this during the summer of 2019, with making a recording of the committee meetings. The practice fell by the wayside, and she wanted to see Council this time take a hard look at recording the committee meetings. She felt it was smart to do so.

The Mayor stated that he had to leave last Thursday's Building Committee meeting early and returned at 10:30 a.m. As he was shutting down the Zoom, he realized he had not been recording it. There were eight people on the Building Committee meeting, and it was on Zoom and in person. The Mayor admitted he missed this one.

Regarding the 319 grant for Manor Brook, Porter asked if there was feedback from Manor Brook Gardens HOA or Whitetail HOA about the revised agreement that the Village was proposing along with Ohio EPA for the project. The Solicitor stated they have the unrevised landowner contract from January. The more recently revised one from after the last Council meeting had not been circulated to them. It was just circulated to the four Council members because it was work product and a draft and she did not know whether it would be discussed at the current meeting. She thought the goal was for the four Council members who were eligible to vote to discuss it and then share the revised agreement with Whitetail and/or Manor Brook. Carroll felt that a consensus had been reached by Council at the last Council meeting about the easement fee for the project. In the interest of keeping the project moving forward, he asked if a motion to go forward would suffice. The Solicitor said Council could do this but thought it should be discussed and voted on to authorize the Solicitor to send it off as a counter proposal. She reminded Council that the drainage easement would be broken off into two separate documents. Carroll was concerned that the total easement fee would appear on both agreements, essentially doubling the fee the Village was willing to pay. The Solicitor stated it would be just a payment for the easement and the environmental covenant would be separate. Carroll asked Nairn, Galicki, and Porter if they were willing to move forward on the agreement with the fee previously discussed. Galicki and Porter agreed. Carroll made a motion to present the

counterproposal for an easement agreement for the Manor Brook stormwater headwater project of \$1,000 total for easement for all four parcels for the project and maintenance of the project moving forward, seconded by Porter. Roll call – ayes, Nairn, Porter, Carroll, Galicki. Berger abstained. Motion carried.

The Mayor stated he would notify the Manor Brook HOA. The Solicitor asked if the HOA was still using Kaman and Cusimano. She said she would provide the Mayor with the finalized agreement with a caveat with respect to the drainage easement and the combined environmental covenant to say that they would be separated. The Solicitor wanted to make sure the Mayor had the clean copy and not the comments or red lined version before he sent it off to the HOA President. The Solicitor stated that if they were still using Kaman and Cusimano, she could send it off to Rachel Kuhn. The Solicitor stated she could not send it directly to Peter Dougherty. The Mayor said he was unaware of any change in the legal firm. The Solicitor reiterated that she would finalize it and send it to the Mayor, who could forward it to the HOA President.

Carroll addressed the Special Planning Commission/Building Committee meeting on February 11, 2021. He stated that there were some concerning issues. There were 19 cases that were discussed at the Special Building Committee meeting on February 18<sup>th</sup> regarding what occurred in the Building Department and some of the mistakes and/or process issues. Carroll pointed out that this was just an audit of the past two years of commercial only. Additionally, the scope of the investigation did not include residential, so it was not known if there were issues with the residential permit fees and things of that nature. What concerned Carroll was that it was not the responsibility of the Solicitor to look at technically the financial part of it. He referenced the situation in Chagrin Falls where there was a recent arrest for theft in office over a 20-year period. He clarified that he was not saying there was anything wrong in the Village's Building Department, but he did think it important to look at the financial side very seriously. There were funds that were either collected incorrectly or not documented in the computer. Some of this was discussed at the Building Committee meeting, that some of it may have been an error of entry and how it was accounted for. Nonetheless, there were still concerns. There was one fee collected for \$320 when it should have been \$400, and he did not know what happened in this instance. From a fiscal auditing standpoint, it was something the Village should probably look at. He supposed that in Chagrin, no one thought anything was going on, but over a 20-year period, unfortunately, it was approximately \$200,000 that was stolen. Not collecting fees and/or waiving fees without even having Council or Planning Commission weigh in on it was not right and not appropriate. From Council's standpoint, this matter should be examined. Carroll thought it was not something Council should let lie. Planning Commission's scope is commercial and somewhat narrow. Carroll reiterated that Council needed to look at this more closely to ensure that there were no other improprieties or any issues on the residential and monetary side.

Carroll asked the Mayor and Berger when he could expect the public records that he requested. Berger said he would provide them the following day. The Mayor stated he had not learned or found out how to transfer all his emails from himself and Berger to Carroll. The Mayor asked Berger if he had transferred emails to Carroll. Berger stated he printed them out and he would submit them the following day. The Mayor stated this would take care of his emails from him to

Berger. Berger said he could not answer that question. The Solicitor stated no. The Mayor said he should print them all out. He added that he would send Carroll his entire Manor Brook file and about five text messages. Carroll explained he was asking about the timeline.

Carroll next addressed transparency and the Mayor's suggestion that the Village should have someone come in to better understand where some transparency issues may lie. Carroll offered to provide a couple of examples that occurred since the last meeting. At the last Planning Commission meeting, Dave Hocevar was supposed to attend to answer questions from the Planning Commission. The Mayor admitted sending Hocevar home so that he would not have to answer those questions. To Carroll, this was a lack of transparency because he never gave Hocevar a chance to do this. In listening to the PC meeting or looking at the minutes, it was apparent that PC as a whole was not happy with this. Additionally, the Special Building Committee meeting was not recorded, although the Mayor said this had been forgotten. In discussing the 19 cases that were raised through the audit, the Building Committee was going to go through each one of those. The record of this will consist of minutes put together by Berger, but how accurate will they be? There are also minutes of a recorded meeting where the written minutes were not accurate in reflecting what was actually stated in the meeting. There again was a lack of transparency until it was caught and will be corrected at the next Finance Committee meeting. Carroll thought that Council would want to be open and honest in its meetings. Carroll agreed with Nairn about recording the meetings. He added that in June or July of 2019, the Mayor stated that all meetings would be recorded. He thought this was good. He understood minutes could get askew without doing them verbatim and/or by recollection. This is the reason for the audio of the meetings and Zoom meetings, so it is possible to go through the recording to see exactly what happened. Carroll asked that Council try to be transparent and try to record the meetings and document things accordingly. Then Council will not have these issues and questions raised. It is disconcerting when the topic was addressed at the last Council meeting, and then there was an issue at the Planning Commission meeting a day or two later.

Galicki stated that in the late spring/early summer timeframe of 2019, the Mayor is on record at a Council meeting saying that all committee meetings and Council meetings would be recorded in the future from that day on. Galicki said he did not know where Council strayed from this guidance, but in the matter of true transparency, there was no business which should be conducted by a public body which needed to be edited for public consumption. Council should be open about all committee, Council, Commission meetings, etc.

The Mayor acknowledged that Council heard from Carroll, Galicki, and Nairn about transparency. He stated we have some issues. There have been some times where he has forgotten to turn the recorder back on after exiting Executive Session. As far as individual committee meetings, he did not attend them all and did not record them all. He records all the Council meetings. As for the Planning Commission meeting two Thursdays ago, yes, he sent Hocevar home because back in September, one of the Village's Building Department employees was basically ambushed and badgered at the Planning Commission meeting. She was unprepared for that and had no idea it was coming. It was not on the agenda. He was not going to have another person like Dave Hocevar, who was unprepared to answer the 19 items, be treated the same way. Carroll stated this was not factual. The Mayor stated that the Building Committee was not ready and had not gone through those items with Hocevar to any extent, so

he was not going to have that. The Mayor added that the committee said that it would address the Planning Commission when it was ready. The Building Committee was now ready to answer the issues brought up by the Planning Commission.


Carroll asked the Mayor if the Planning Commission asked Hocevar to attend the Planning Commission meeting. The Mayor said he did not know. He had Hocevar come to the PC meeting. Carroll stated he believed the PC had asked Hocevar to come because the purpose of the meeting was to discuss what was found in the Solicitor's report. The Solicitor released the report, and it was not discussed right away so that everyone could review it, including Council. Carroll stressed that PC is independent of the Building Committee. They had very good questions, and Carroll encouraged everyone to read or listen to the audio of that meeting. Carroll thought Hocevar knew what was going to occur and could have answered some of the questions. He answered the questions for the Building Committee. This was the purpose of the Planning Commission meeting. The Chairman and a member of the PC were adamant about the purpose of the meeting and the reason Hocevar was there was to address those issues. Hocevar was not going to be blindsided and could have handled himself well. In Carroll's opinion, this was another example of the lack of transparency and of just being forthcoming. If there was a mistake made and Hocevar made a mistake, it was ok to own it and move on. To not allow Hocevar to offer explanations just leads to more questions. There are financial questions that Council needs to examine. Carroll did not want anyone coming back to the Village in five years and saying, 'oh my gosh, I can't believe you guys did not look into this.' If for nothing else, it would clear the air if there were no issues at all. The PC only looked at two years and there were 19 issues found in two years. Carroll did not want to belabor the point and said he would have to agree to disagree.

The Mayor stated Carroll would have to listen now because on March 11, they would be able to prepare all the information for the PC and Carroll would find that things were handled very well. There were a couple of little glitches that he would be able to hear like everybody else on March 11.

The Mayor referred to the Executive Session noted on the agenda, and the Fiscal Officer explained it was on there in the event Council needed to discuss Manor Brook.

**ADJOURNMENT:** Being that there was no further business before Council, Carroll made a motion to adjourn at 9:29 p.m., seconded by Galicki. Voice vote – ayes, all. Motion carried.

  
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William G. Koons, Mayor

  
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Danielle Romanowski, Fiscal Officer

Prepared by Leslie Galicki