

**RECORD OF PROCEEDINGS
REGULAR COUNCIL HYBRID MEETING
MONDAY, APRIL 12, 2021 – 7:30 P.M.
MAYOR WILLIAM G. KOONS PRESIDING**

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

OFFICIALS PRESENT: Fiscal Officer Romanowski, Fiscal Auditor Lechman, Police Chief Rizzo, Street Commissioner Alder, Solicitor Matheney, Engineer Haibach, Fire Marshal Davis

VISITORS: Carlene Holtz, Greg Heilman, Jay Butler, Chris Bell, Kelly Kimball

The Mayor called the Regular Council meeting conducted in person and via the teleconference service Zoom to order. The Pledge of Allegiance was recited. The Fiscal Officer read the roll. Carroll made a motion to approve the March 22, 2021 Council meeting minutes, seconded by Nairn. Galicki addressed the portions of the minutes relating to the Chamber of Commerce Concerts in the Park program and movie nights and asked if these were indeed planned because there had been no discussion by Council. The Mayor stated that Molly Gebler may have planned them but she had not contacted him. Galicki noted that the Chamber of Commerce is already advertising one of the events and is requesting sponsors. Galicki advised the matter would be addressed in the Parks Committee. Voice vote – ayes, all. Motion carried.

VISITORS: The Mayor advised that the Fire Marshal had been working with the Solicitor to develop legislation pertaining to adoption of the current State Fire Code, the process to handle situations that require multiple visits to address violations, and the inspection process for food trucks. The Fire Marshal explained that it was necessary to update the Fire Code which the Village enforces, and to develop legislation that would cover State Fire Code updates for approximately three years. The Fire Marshal reported that he had inspected all the buildings in the Village, and everything is in compliance with the code.

The Fire Marshal advised that he proposed fees to recoup some of the Fire Prevention expenses for the Village. He would not be interested in charging for the first visit to businesses, but for those that involve multiple inspection visits where compliance is an issue. There would be a \$25 fee for these return visits. He also suggested that the Village charge for new acceptance tests of fire prevention and fire safety systems because these inspections can take hours and sometimes days. He would propose \$100 for this fee.

Porter asked how much the Fire Marshall was proposing, and The Fire Marshal stated that if he were required to come out excessively on a violation, after the second visit it would be \$25 per visit. For acceptance tests for new suppression systems or alarm systems it would be \$100. Carroll stated that \$25 was very reasonable and suggested that at some point the Fire Marshall would want to issue a citation for the corrections.

The Solicitor stated that part of the Village code, Chapter 240, talks about establishing a fee schedule. This is definitely in the purview of the Fire Marshal. She noted that the Fire Marshal currently charges nothing for any of the inspections because the Village has no fee schedule. She thought a \$25 fee was reasonable and something Council should consider. The Solicitor added that she, the Fire Marshal, and the Mayor were going to try to develop language for an amendment to present to Council possibly at the next meeting.

Regarding individuals who do not comply, Nairn felt the fees should be stopped and instead fines issued. She stated this was a reasonable direction to go for people who were not in compliance and know what they are supposed to be doing. For some people, \$25 will not change a thing, and perhaps the Village should move in the direction of fines.

The Fire Marshal agreed and, using language directly from the Fire Code, he would like to issue citations that range from \$250 to \$750 in fines for each of the problems. He cited section 109 from the Fire Code where the fine for an imminent hazard would be \$250, \$500 for a distinct hazard, and \$750 for a serious hazard. He added that there could be multiple citations depending on the nature of the violation. The Solicitor advised that she and the Fire Marshall would be amending the language of the 1602.99 penalty section to include these specific amounts up to \$1,000. The code currently is generic. Carroll asked if Council would be approving the Fire Code and then revisiting the matter involving the Fire Code or also the National Fire Protection Agency (NFPA). The Solicitor stated they would be looking at the NFPA as well.

Porter asked the Fire Marshal to provide examples of the three types of violations that would generate each fine. The Fire Marshal explained that according to the definition in the Fire Code, an example of an imminent hazard might be a burned out exit sign which could potentially cause someone to not get out of a building causing an injury or death. The distinct hazard would be where the Fire Marshall would not be speculating and could show the direct path where people could be hurt like a malfunctioning fire suppression system. Lastly, a serious hazard was one where the Fire Marshal could prove beyond a shadow of a doubt that without fixing a problem immediately injury could result. An example would be an improperly vented kitchen hood that was allowing poisonous gasses to remain at unacceptable levels in a kitchen.

The Fire Marshal concluded that his goal would not be to write citations. Instead, he would prefer to work with the business owners in the Village to come to an agreeable solution.

Regarding food trucks, the Fire Marshal advised the Solicitor could provide information about zoning relative to food trucks, but there has been interest in the community to have food trucks present at different events. The 2017 Fire Code is specific on how food trucks are to be operated. With the approved update, the Village would have all that is necessary to properly enforce safety with these trucks. He addressed food truck ordinances from other cities that utilize Cleveland's inspection process. He explained that Cleveland has a bureau that just conducts inspections on food trucks, and said they have a great process that ensures the trucks are operating safely and cuts down on the time individual Fire Marshals would have to spend inspecting the trucks. The Fire Marshal stated that there were not many food trucks operating in the area that did not already have a Cleveland license.

The Solicitor stated that currently, food trucks are considered a conditional use under the Zoning Code because it is the retail sale of food and beverages outside of a permitted building. If there are Food Truck Fridays going on in the Village, she was confident they were not getting conditional use permits and therefore were a Zoning Enforcement issue. The Planning Commission (PC) was looking into possibly amending the Zoning Code and putting in regulations regarding Food Trucks. She stated there was more to follow.

Nairn asked if the food truck safety inspection comes from Cuyahoga County. She asked about Geauga County, and the Solicitor thought the Health District does some sort of inspection, but she deferred to the Fire Marshal. The Fire Marshal said that Geauga County does not have a food truck inspection program from the Fire perspective and has put that on the Fire Marshals in each jurisdiction. The Health Department would address the health side of it. He reiterated that Cleveland has a fantastic inspection process to which the majority of the food trucks have submitted. Most municipalities that belong to the Northeast Ohio Fire Prevention Association utilize this inspection process. All that is necessary then is to verify the trucks have their current year sticker for their food truck inspection. If the Village did not follow this process, it would be an arduous, extensive, and time-consuming process for the Fire Marshall to inspect all food trucks. He added that it would come at a great expense to the Village.

Nairn thanked the Fire Marshal, Mayor, and Solicitor for all that they are doing to keep the business owners and residents safe, along with the wonderful Police Department. She acknowledged that they are being proactive rather than reactive and thanked them.

The Fire Marshal acknowledged the importance of being proactive and added that he found the business owners to be cooperative. He wanted them to be safe, happy, and successful.

Carroll asked if ice cream trucks fell into the food truck category, and the Fire Marshal said only if they involved cooking.

The Mayor asked about the kettle corn vendor at the Fall Festival and asked if he were considered a food truck. The Fire Marshal explained that kettle corn is actually quite a dangerous process and had concerns.

The Mayor addressed pool fencing, and stated that in the Village's Zoning Code, it states that Council is to approve all pool fences. The Mayor also stated that fences, according to the code, must be three feet from the property line. He explained that property owners are complaining that they are losing three feet of yard and want to put the fence on property line.

The Solicitor stated that it was necessary to keep the fencing issues separate. The pool fence is addressed in the Codified Ordinances under 1464. Regular fences are addressed in section 4.01 of the Zoning Code which states that fences must be placed three feet from the actual boundary line. There had been discussion of changing this, which would be a Zoning Code amendment, which is a separate process.

Regarding pool fences, there is a 1966 Codified Ordinance which states that pools must have fences and those fences must be approved by Council. The Solicitor did not know if this had

ever happened. She thought it was an unnecessary and additional step. It is the responsibility of the Building Inspector to make sure the fence criteria addressed in the code are met.

The Solicitor explained that Council would consider an ordinance to amend that section of the Codified Ordinances which would take away Council approval of a fence next to a pool.

Nairn referred to a previous explanation provided by Carroll about the pool fencing requirement relative to the back of the house. Carroll explained that the house would not count as the fourth side of the fence because most drownings occur from the house to the pool. Proper protection of the pool is fencing on all four sides, self-locking gate, etc. It would be good to include these as an addition to the code. The Solicitor stated that 1454.02 addresses the fence being around the entire pool.

The Mayor asked the Solicitor if she had more information about the issue of the three feet off the property line rule for fences. The Solicitor stated that the PC discussed it briefly and there were concerns about the need for the three feet for access and maintenance so that the resident would not be trespassing on a neighbor's property. Other communities have fences right on the property line, but that does not mean that this is what the Village should do.

The Mayor stated that he asked Carlene Holtz, MC Art Studio, to attend the Council meeting to discuss her request for a fence on the east side of her building. This is the side near the Building Department parking area. The Mayor stated that on April 9th, Holtz put up a couple of sticks and yellow caution tape to let people know where she would like to put the fence. The Mayor stated that a part of the Holtz's south building sits on South Russell property. He suggested getting the area surveyed so the Village would know how much of the building sits on Village property and what to do about it. Holtz would like to use some of the land and is already using some of it. The Mayor stated that last year, Holtz handled everything with the insurance company relating to her business activities. She is getting to the point where she would like to start on the fence. Since the fence is removable, the Mayor asked if it was considered a fence. The Solicitor did not know and would need to look at the code. She added that it is still a structure and would need to ask the Building Inspector.

The Mayor added that the traffic pattern had been examined and said the worst offenders seemed to come up Chillicothe Rd. and cut through the Village property to avoid the light. He suggested putting up a small barricade that says, "stop" so that Village vehicles can get in and out, but vehicles that use it to avoid the light would be slowed. He added that even with kids and fences, stuff could happen.

The Mayor thanked Holtz for being a good neighbor and for putting up the fence last week.

Holtz described the area she wanted to fence as an outdoor play space. According to State Law, it must be an enclosed area. She came up with an idea for the fence and explained that the portion of the fence on Village property would have removable posts. The receptacle for the posts could be capped off. This was the easiest solution she could develop that would not be a permanent structure. She has 13 preschoolers, and the business is growing. The absence of a fence prohibits her from having any more than a half day program or other extended day

programs. She wants the children to be able to be outside. Holtz spoke to DRY Insurance about the issue and was asked if she had the conditional use for the property that states as long as they are in the building, they are able to use that property. She advised she had this document. The agent told her that no matter what, the business is covered insurance wise. The agent would provide her with a document she would give to the Village which would confirm that the business would be covered if anything were to happen, even on Village property. The Solicitor asked if the Village was an additional insured on the insurance, and Holtz stated yes. She clarified that this would not be just for a day, but for a period of time. An additional insurance document would be drafted with regard to the Art Market and her activities with the Farmers Market to ensure coverage.

The Mayor stated there were three issues to consider: survey of the property, consideration of selling property to MC Art, and erection of a fence. He said the fence would be easiest and would be addressed by the Building Inspector to get the regulations on the fence. The Mayor stated that it would be the same type of removable fence the Village has at the park. He explained there were some touchy issues with the Village property being used for years. The Mayor stated he would get back to Holtz very quickly.

The Solicitor asked if Holtz had considered an agreement with the Village instead of an outright purchase of the property. Purchasing the property would entail going through a statutory process that would involve putting it up for sale for the highest bidder, not necessarily Holtz. Holtz stated that she just wanted to put it out there that she would be willing to do this so that all the concerns would not be necessary. Her discussions with the insurance agent, however, revealed that the rezoning, surveys, etc. would entail a lot of work and effort and questioned whether it was necessary to go through this instead of obtaining a permit to use the space with parameters.

The Solicitor addressed the in-ground portion of the removable fence and questioned whether this was considered a structure. Because Holtz is in the B2 District, she might have to go before PC for a review. Carroll asked if the plan would be to have the fence up all summer long and then take it down for the winter only, or just when needed. Holtz said it would be nice to have it up throughout the school year. Carroll said it would appear to be more of a permanent nature, even if it is temporary, because it would be up for a length of time. Porter suggested it could be an easement of the Village for that side of the building and it would only last as long as the building was there. Berger questioned whether it should be as long as the business is in the location. He suggested that if the business were no longer there, it would be beneficial to be able to reevaluate the usefulness of the easement. Carroll clarified that if a new business were to occupy the buildings, it might be necessary to reevaluate the easement. He thought an easement was a better option to selling the property with the easement expiring when the business moves.

The Mayor asked if the Village could do a survey even if Council were considering an easement. The Solicitor said it could be done but noted that surveys can be expensive. She wondered if the Engineer could do this. She thought perhaps the Village could split the cost of a survey with MC Art Studio. The Mayor stated the cost of the survey would be determined and the Village would be in touch. He was not in favor of selling six feet of a building and thought it seemed crazy. Carroll supported having a survey. Nairn agreed.

The Mayor stated he would meet with Holtz on April 14th to let her know the cost of the survey. She would also bring the Building Inspector over to discuss what qualifies as a fence.

MAYOR'S REPORT: The Mayor stated he was invited by Zack Helm to look at what his company is doing with Reclamite in the City of Cleveland.

The Mayor addressed a Northeast Ohio Areawide Coordinating Agency (NOACA) webinar about cooperation and regionalism. He stated that Council may have noticed that the trees on MC Art property were removed by the Orange Village truck. It would cost the Village rib dinners for the use of the truck.

Geauga Parks has started its burning program. The Mayor stated that Pete MacDonald of the Western Reserve Land Conservancy (WRLC) recommended that it should be done in the South Russell Village Park. Burning occurs at Frohring Meadows. He suggested watching this for one or two years and then determining if it were something the Village wanted to do.

The Mayor set out his goals and plans for the rest of the year. He included a meeting on Tuesday, April 27th at 9:00 a.m. to look at the Village website.

The Mayor referred to the 2004 CT Consultants Storm Water Report that listed everything the Village should do for storm water. He created a summary of what the Village had and had not done of this list and would have the Engineer address this topic.

The Zoom meeting scheduled for Tuesday, April 13th is with the Alderwood residents and is not the dams and dredging meeting, which would be April 27th. This will be an informative meeting and probably the first thing the Mayor would say at this meeting would be that he was not there offering help or money. The Mayor stated that three or four calls had been received asking what could be done, including a resident on Southwyck about Southwyck Lake which is 4" deep now. A lot of people are having a lot of issues.

The Alderwood issue is one the Engineer has worked on to get cooperation between neighbors and has determined a possible solution.

Carroll asked if the Mayor could provide an update on Fox Run relative to a potential detention/retention pond. He saw great potential and wanted to ascertain the impact it might have. The Mayor stated this was the second item on the 2004 CT Consultants Stormwater Report. Carroll asked if the Mayor was having conversations with Fox Run, or if the Village Engineer could get involved. Carroll advised that some promising stormwater solutions had been identified and he wanted to stay on top of it. The Mayor stated that Fox Run had come to the Village last fall and said they would like to get rid of the land on their corner. All they do is mow it and it would be a great way for the Village to divert the water. This has since slowed down and recently they did a request with the Engineer with a 45-page report on the whole Manor Brook scheme. They are concerned with what will happen after the Manor Brook project. Carroll stated that depending on what happens with Manor Brook, he would really want to concentrate on Fox Run. Carroll asked the Mayor whether the Engineer or the Street Committee could get involved so that a dialogue could be initiated. He thought the Engineer would address

this. The Mayor said the last he heard from Chris Smith, the President of the Homeowners Association (HOA), was that it would not be discussed now.

FISCAL OFFICER'S REPORT: The Fiscal Officer distributed her monthly report. The Fiscal Officer clarified with the Mayor that there would be a meeting about the website on April 27th and asked who would be attending. The Mayor said anybody who wanted. The Mayor relayed that the Fiscal Officer had asked if anyone wanted to take on this project. The Fiscal Officer clarified that she was asking what committee would be responsible. The Mayor asked for a volunteer. The Fiscal Officer explained that she and the Police Chief had full plates and were hoping a committee could possibly take it on with their assistance. The Mayor did not think sending a request for help from the community would result in finding anyone good enough to help. He did not want to spend a ton of money because some of these people cost \$100 per phone call. The Fiscal Officer said she had obtained quotes from a couple of companies. There was also the option of using the county's program. Carroll thought this was what the Village would be doing. The Fiscal Officer stated the project was budgeted but has been sitting on her desk. Galicki stated that the Properties Committee would help her. The meeting date would be determined instead of the proposed April 27th meeting.

The Mayor thanked the Fiscal Officer for her work thus far and understood she had been in contact with a couple of reputable people whom the Mayor had heard good things, but he did not know much about this. The Fiscal Officer stated that the last time the website was updated was in 2014. She said the county had revamped its website and it might be cost effective to use this program.

Berger asked if there was new information on the American Rescue Plan. The Fiscal Officer said there would be more information on April 27th when a webinar will be held. She encouraged Council members to attend. The Mayor stated that the Village would receive half the money, \$360,000 by May 11th. The Fiscal Officer stated she did not know the exact date.

FISCAL AUDITOR: The Fiscal Auditor distributed his report for the month ending March 31, 2021. The fund balances, arrived at independently, match the Fiscal Officer's fund balances to the penny. The total funds at the end of March were just over \$3.5 million. In March, the overall balances decreased by \$83,700. The Village is still up year to date \$274,000. Notable revenues include the quarterly Cable Franchise Fee and Cemetery fees. Income taxes continue to come in more or less according to plan. Overall, things are looking good across the board with the exception of interest income.

Porter stated that he was surprised by being ahead with Income Tax since it is basically Income Tax from last year and it is coming in steadily at 1% above what was expected. He asked if this trend would continue. The Fiscal Auditor said it was hard to say because a lot of it was timing since there was always a lag. He asked the Fiscal Officer if she had received information from the Central Collection Agency (CCA). The Fiscal Officer advised that the income tax deadline had been extended, but residents still must get their estimates in by April 15th. She addressed the issue of the employers withholding by work city during the pandemic. This was being debated in court by employees who believed they should be paying tax to their home cities since they worked from home and requesting return of funds withheld by the employer city. The Solicitor

stated none of these cases had been decided and there was also a pending House Bill to repeal the temporary provision which allowed the employers to continue withholding during the pandemic. Many of the cities were against repealing that temporary provision. She explained that as the code is written, employees should not be taxed by a city in which they do not work. Porter stated that the Ohio Supreme Court currently had such a case and was expected to issue an opinion in the next few months. Ultimately, the results could be devastating to some large cities because refunds would have to be issued. The Fiscal Officer stated that with people continuing to work from home, it would be necessary to look at the whole structure of local income taxes.

FINANCE COMMITTEE: Berger made a motion to approve the Fiscal Auditor and Fiscal Officer's March 2021 month end cash balances as reported, seconded by Carroll. Voice vote – ayes, all. Motion carried.

The Finance Committee met on April 6th and in a joint session with HR on April 9th. Berger confirmed to Council that there was further discussion of the Parkland dam project and the committee was confirming that in order for the Village to finance the project, the Village must assume control and run the project.

Regarding the American Rescue Plan, there would be more details to come on April 27th. The total that is being thrown about is \$734,000 for the Village, half in 2021 and half in 2022 to be spent by 2024. It is to make the Village whole, and would include infrastructure, economic development, and almost anything else.

The minutes were submitted to Council.

SOLICITOR: The Solicitor had nothing to report.

ENGINEER: The Engineer addressed the meeting regarding the Royal Oak/Parkland pond and dam. The previous week, the Engineer met with the individuals of the Street Committee on site to show the dam and area of concern. The large earthen dam structure at the west end of the lake had some erosion issues, scouring, and failing at the two edges of the dam. Specifically, toward the south end of the dam where it keys into the solid land, there is extensive erosion caused exclusively by water that flows over the emergency outfall of the dam. The outlet control structure for the lake is rather small and easily inundated. Additionally, the elevation at which it sets the water level is only inches from the elevation of the emergency overflow. A moderate to severe rain event causes the emergency overflow structure to actuate which results in water rushing over the dam. This is a really erosive and scouring force and is damaging the dam. Whether or not the Village intends to assist the property owners with repair of the dam via a loan and managing the project, something needs to be done there. The dam itself, if it continues in the fashion in which it currently operates, will fail. He did not believe the failure of the dam would cause immediate life and property damage downstream since the ravine on the downstream end is sufficiently large enough to conduct the flow. If the residents want to continue to have a lake, they will need to address the dam issue.

The Engineer stated that the problem itself is fairly simple. Either they must lower the level of the lake so that it puts less stress on the dam and provides more space between the outlet control and the emergency overflow or they could keep the level of the water the same and raise the dam

level. That would put a couple of the lower lying properties adjacent to the lake in peril. In any case, the residents face a difficult decision about which repair solution to choose. The repair in either case would be really expensive. The Engineer had heard a quote of \$450,000, which he thought was pretty excessive. If it were a matter of repairing the damage that had been sustained on either end of the dam where it is keyed into the solid earth, he thought the estimate would be more like \$150,000 to \$200,000 in repair costs, which would include reconfiguring the outlet control structure.

Carroll stated that when the committee members met with the Engineer, the Engineer addressed how someone had raised the level of the dam, which led to the current problems. The Engineer stated that a contractor was hired to replace the outlet control structure. The water surface elevation of the new outlet control structure was about 10 inches higher than the old outlet control structure. While it made the pond look appealing visually, it was what caused the high frequency of activation of the emergency overflow which caused a lot of the erosion.

Carroll further explained that the two culverts going under Maple Springs are a third full of water because of the raising of the water level, whereas the water should normally be at the bottom of the culvert or not even in the culvert. This has also contributed to erosion in that area. The Engineer concurred. He added that the headwall supporting the culvert has begun to lean over toward the pond due the foundation soil being under water. The raised level of the water in the dam is also having a negative impact on the upstream headwall. Carroll concluded that ultimately, the residents will need to lower it back to the original level, and the Engineer agreed. The Engineer stated that if the Village were to take control of the project, that would be one of the mandates.

Porter stated that if a couple of holes were drilled at the bottom of the inlet, 12 inches below the surface, over time, this would lower the lake level and stop the erosion problem. The Engineer said this was correct. The Engineer stated one of the residents already attempted to do this.

Carroll concluded that ultimately the lake must be lowered to its original level, which would not take away from the necessity to do some erosion repair on the back side of the earthen structure. Furthermore, if the dam were to fail, the water would bypass Chelsea Court and discharge to McFarland Creek.

The Mayor stated he was taking Berger with him to meet with the two guys they met with the previous year to say, 'we're not going to do anything, but we suggest you lower your water level a foot.' The Mayor added that he would tell them that if they were to keep the water level a foot down, they could come back to the Village to talk about the dam. Until that time, the Village would not do anything. Carroll stated that they would have to definitely lower the level and then eventually entertain a discussion. This was not to say the Village would do it. As the Engineer discussed, it was unclear how the \$450,000 quote was determined. Carroll verified that lowering the level would buy the residents time, and the Engineer concurred.

Galicki asked the Engineer if there was merit in having him attend the meeting with the Mayor

and Berger to address technical questions that may arise. The Engineer said he would be happy to do so. The Mayor asked Berger to set it up.

The Mayor asked the Solicitor if the Village had any obligation to tell a resident with four children who lives on the pond to put up a fence or do anything. He was concerned about the depth of the water when the pond flooded. He clarified that it was all private property. The Solicitor did not think this was the Village's responsibility.

Nairn clarified that the problem with the dam was due to modifications, and the Engineer agreed. The Mayor offered to take Nairn to show her, and she agreed.

The Engineer addressed the inadvertent blocking of a privately installed 10-inch collector pipe in Lake Louise during a culvert replacement. Village personnel were told by residents that the Village had blocked the end of the pipe. They advised that the pipe collects stormwater runoff and is connected to a handful of homes which discharge their footer drains into it. It also picks up septic tank tailings. The water coming from the pipe was tested and it had six to seven times the maximum allowable discharge concentration for e-coli and fecal coliform. He advised that the Village is responsible for restoring the outlet of the pipe but will have to get Geauga County Health Department involved in more testing to see which homes had failing septic tanks that were discharging e-coli and fecal coliform into the stormwater ditch through this pipe. He suspected this would cause consternation among some of the residents because there was remedial work that must be done to one or more septic tanks. Carroll asked the Engineer if he could contact the Health Department the following morning to get the ball rolling, and the Engineer said he would. Porter stated it was a health and safety issue.

The Mayor contacted the president of the Lake Louise HOA and set up something for Wednesday, April 14, 2021 at 5:00 p.m. to let them know what needed to be done. Porter asked which houses were potentially effected, and the Engineer stated the Village had no record of the pipe or which homes it serviced. The homeowners would need to supply this information. If it was unknown, more testing would be required to determine this information.

Porter asked if it was plastic or clay pipe, and the Engineer stated it is plastic and that residents say it may have been installed 10 years ago. Carroll encouraged the Engineer to contact the Health Department and emphasized that the Village should not delay in addressing this. The Engineer agreed and advised that he would also let them know of the April 14th meeting. Porter asked if this flowed into Paw Paw Lake, and the Engineer stated it does. Porter stated that the Village broke the pipe, so it is its responsibility in part to fix the pipe. The Engineer stated that had the Village not broken the pipe, the issue would not have been discovered. The Engineer agreed and said it was fortuitous from an environmental and health perspective.

Berger asked if this pipe would require a permit to install, and the Engineer said yes and added that it was installed in the public right of way. The Building Department researched the matter and could not find a record of the project. Berger asked if the Village should fix the pipe or demand that it be taken out and find another solution since it was not a permitted pipe. The Engineer said that it was in the ground and functioned in draining stormwater in addition to septic. If the pipe were blocked off, homes could be flooded. He thought it would be more

beneficial to restore the free-flowing outlet pipe but then address remediation with the Health Department. Carroll stated that if the residents were to continue to use the pipe, they should pull a permit and make sure everything is properly done and documented. Berger reiterated that the Village should fix the problem from a paperwork standpoint in addition to everything else.

Carroll made a motion to direct the Engineer to contact the Health Department first thing Tuesday morning to get the process going on that side of things, seconded by Galicki. Voice vote – ayes, all. Motion carried. Berger made a motion to remediate the process of pulling a permit and documenting where the pipe is and any other pipes in the area and what they are connected to in accordance with the Village Ordinances, seconded by Carroll. Voice vote – ayes, all. Motion carried.

Galicki observed that the main purpose of the pipe was for stormwater mitigation but somehow there was sewage intrusion into the same line. He asked if there was a potential for a backup of the pipe into the basements of the connected houses. The Engineer stated that without knowing how each house is connected to the collection line, he would say there was a chance. Galicki stated there were big issues with this.

The Engineer advised that a motion was required for the Village to go out to bid for the 2021 Road Program. Carroll made a motion to get the 2021 Road program out to bid with the base bid to include Bel Meadow Lanes, miscellaneous curb repair in the Fox Run subdivision, and miscellaneous full depth repair and surfacing in areas throughout the Village and estimated at \$303,000. Depending on the bids, the alternates would be Chelsea Court at \$67,000 and/or Fernwood at \$138,000, seconded by Porter. Voice vote, ayes, all. Motion carried.

Porter asked the Engineer for the status of the updated Stormwater Report. The Engineer stated that he was working on updating the 2004 Stormwater Study and adding additional scenarios as requested by members of Council and Street Committee. The additional scenarios include the purchase of the red ranch to mitigate that issue, all possible stormwater retention opportunities on Village owned properties, and to concurrently put together an initial kick off project from the Stormwater Study refresh of retention in the vicinity of Village Hall. He is currently looking favorably at the southernmost parcel of land owned by the Village on the east side of Chillicothe Rd. to mitigate water overtopping Chillicothe Rd., flooding the dental office, and ultimately flooding the Chagrin Lakes swim lake. Carroll asked when the Village would have this study. He asked that the Engineer include Village property but also Fox Run. Carroll stated he would like the updated report so that the Village could have a kick-off project this year.

STREET COMMISSIONER: The Street Commissioner submitted his month end report. He reported that the tea house was moved to the southern part of park for installation later this week.

Canton stated that over the past weekend he was at the South Russell Village Park and he noticed people taking walks into the woods. He wondered when the Street Commissioner expected to have the porta potties returned to the park. The Street Commissioner advised this would occur the last day of April/first day of May.

The Mayor indicated that a tree was planted for Mayor Harvey outside Village Hall and one was planted near the park playground for Sally Butz Voss.

STREET COMMITTEE: Carroll reported that the Street Committee met on March 26th and the minutes were distributed to Council. Carroll spoke with Bainbridge Trustee Markley who contacted him in response to a comment Carroll made in the local paper about the Mutual Aid agreements. Markley explained his Township's position, and Carroll felt there had been a misunderstanding. Bainbridge wanted a basic agreement with the Service Departments and there was nothing about the Police. He did not know how that even was thrown in and understood that the Police and Fire had their own agreements. Carroll stated that what had been put in the paper may have contributed to some of the misunderstandings, but he assured Markley that from a Street Committee standpoint, they were fully in favor of an agreement. There was nothing to do with any of the other services. They want only the agreement with the Service Department. Carroll thought it was a good conversation and for Council's purpose, it did not include anything but streets. The Solicitor asked if Carroll had specified with Markley that it was for emergency and non-emergency situations. Carroll stated yes and explained that the Village already uses Russell Township employees for Trash Day. Markley was totally on board with all of this.

Berger stated that he knows Markley on a personal basis and that Markley had called him as well. Berger confirmed the conversation Carroll had with Markley. Carroll encouraged Council to be supportive of the agreement.

Regarding Reclamite, Carroll thought the Village should use the Reclamite per the recommendation of the salesman. He also suggested the possibility of trying it on half of a street for comparison purposes. The Street Committee would recommend using the Reclamite, but with following the recommended best practice for proper installation.

Carroll stated that the Village has a small stretch of East Washington Street and it would make sense to include it in the 2022 Road Program for \$115,000. The portions on either side would be done in the same timeframe by Ohio Department of Transportation (ODOT) and Chagrin Falls respectively.

BUILDING COMMITTEE: Berger reported the Building Committee met April 1, 2021. The committee developed a five-year capital replacement plan which was circulated to the Building Department and Fiscal Officer as part of the Mayor's request for a five-year plan.

On April 9th, a demonstration was presented by City Force, which provides Building Department Software. The software currently used by the Building Department was developed by Franklin which had been purchased by City Force. The Franklin software is antiquated and probably would not be supported for more than a couple of years. City Force is making a strong push to migrate Franklin users over to their product. Berger described the benefits of the new software. The Building Department Administrative Assistant/Board Clerk/Assistant Zoning Inspector is arranging presentations by other companies that provide similar software. Berger expressed his concern that the new software the committee would elect to present to Council would be compatible with new Village website software.

Berger made a motion to amend Section 4.10(b)(4) to allow fences on property borders to eliminate the three-foot setback and that in compliance with Section 3.06 that the Village immediately refer the matter to the Planning Commission (PC) for their recommendation, seconded by Canton. Berger referenced the Solicitor's statement that the matter had been discussed by PC on April 8th, but Council should formally request their opinion of the matter before Council considers it. The Solicitor explained that this was like Council initiating a Zoning amendment. Language for the amendment would be developed and then it would go to PC. PC would have a hearing and had a certain amount of time to either recommend, approve, disapprove, or put conditions on it. Then it would go back to Council. Council would then set up the hearing of the amendment. Berger was trying to get Council's support to initiate the amendment to PC and have PC do a recommendation. Porter reiterated the process and the Solicitor verified that any zoning amendment could be initiated by Council, a property owner, or the PC. The Mayor asked if this were a three-month process, and the Solicitor said it depends, but that it would take some time. Galicki advised that there was discussion by members of PC that it should not necessarily recommend changes to Zoning for fences because a few residents might want to have their fences right on the property line. The Village had large lots and three feet in the gross order of magnitude did not seem like much. The illustrative example was if maintenance were required on a hard surface fence, then it would involve intruding on a neighbor's property to do so if it were on the property line. The statement was made that the Village was not one of the inner ring suburbs, but South Russell, which is a little bit different with more room on the lots. Galicki advised that there was a lot more discussion that needed to be done by PC. The Solicitor clarified that the discussion would continue. Roll call – Ayes, Canton, Carroll, Nairn, Porter, and Berger. Nay – Galicki. Motion carried.

POLICE CHIEF: The Mayor complimented the Chief for assisting with the teleconference equipment for the meeting. The Police Chief stated he submitted a report for February and March. He advised that he made presentations to the Safety, HR, and Finance Committees for consideration of an additional officer in order to implement a detective's position.

SAFETY COMMITTEE: Porter stated that the Safety Committee met April 1, 2021. He stated that the Chief was recommending that the detective position become a daytime position and also include clerk duties, which had been on the rise over the last couple of years for the Police Department. The matter was discussed in the joint HR/Finance Committee meeting, and the three committees agreed. Porter asked that the job description be forwarded to the Safety Committee.

Carroll asked about the timeline, and Porter said that by the next Council meeting the committee would be prepared to move forward with finding the 10th patrol officer and promoting the detective to assume the clerk duties within the Police Department. He thought the process could be complete by May 1st or May 15th.

The Mayor asked the Fiscal Officer if this gave her enough time to amend the budget. The Fiscal Officer agreed and explained that there were a few items which necessitated amendment of the budget. She added that the Chief had written the job description, which would need to be

converted to the new style job description. It would also be necessary to set up a pay range for this position which was going to be the same range as the full-time Patrol Officer.

HUMAN RESOURCES COMMITTEE: Nairn stated there was a special HR Committee meeting held on Friday, March 19th. The minutes were distributed to Council. There was also a joint meeting of HR and Finance held Friday, April 9th to continue discussion of the mechanic's position, tiered salary system, and additional staffing at the Police Department. The next HR meeting will be a joint HR/Finance meeting to be held May 7th at 8:00 a.m. in Village Hall.

PROPERTIES COMMITTEE: Galicki stated that Properties Committee met at 9:30 a.m. on April 7th in Village Hall. The minutes were distributed to Council. The next Properties Committee meeting is scheduled for April 21st at 9:30 a.m. in Village Hall.

PUBLIC UTILITIES COMMITTEE: Nairn advised that the Street Commissioner is still getting quotes for replacing the entire roof on the Service Department for the Northeast Ohio Public Energy Council (NOPEC) grant.

The Mayor stated that Jeff Heinrick of NOPEC would attend the next Council meeting. The Mayor would arrange for Nairn to meet him ahead of time. The Mayor stated that there was a formality and then the Village had to hold two public hearings.

PARK COMMITTEE: Galicki stated that the Park Committee is scheduled to meet on April 28th at 6:30 p.m. in Village Hall. Galicki addressed the Mayor's proposal that there be a couple of concerts and movies in the park. With the park not being open in terms of pavilion rentals, he was somewhat dismayed to see that the Chamber of Commerce was already advertising at least one of the events. He would reach out to Molly Gebler to determine how she got the perception that this was a done deal. This was one item for discussion by the Park Committee. The Mayor asked what the date was for the concert, according to Gebler. Galicki said it was the August date. Nairn stated it would be the first and second Tuesdays in August. The Mayor stated he had one phone call with Gebler, but he would check with her to find out what was up.

Canton stated that at the last meeting, there was discussion of whether to have a Fall Festival. While at the park the previous weekend, Canton asked 11 adults who all live in South Russell and 8 of the 11 thought the Fall Festival should be a go. He asked if the Village should send out a questionnaire to determine if residents feel the Village should have a festival.

Galicki stated that the Park Committee had no issue with having the event. A topic of discussion for the meeting was what format it would take. They will also discuss what social distancing practices would be in effect, and who would the volunteers would be. Another topic of discussion would involve whether there could be food service. He reiterated that there was no issue with having it, just what it would look like. Galicki welcomed resident comments on this.

Canton asked if the Governor gave permission for County Fairs, and Porter thought he did but with strings attached. Galicki stated that some counties have elected to go forward with the county fair while others will not. The Fiscal Officer stated that the State will have its fair with only the animals. Canton thought most people would understand the need to modify the event.

Porter asked if the bouncy house must be sanitized between children.

Galicki addressed the food issue, indicating that it must be prepared. He questioned whether the food would come from a vendor or food truck. Galicki stated these were all matters to be discussed by the committee. He planned to defer to the committee for their thoughts. Galicki said it was important for Council to understand what it was signing up for. The Fiscal Officer indicated that the Village might not get its money back once vendor contracts were signed. Galicki added that hayrides may have to contain fewer people and line spacing between patrons must be observed. There would be work to be done if the Village was going to have the festival.

The Mayor addressed the installation of the Eagle Scout project in the park. The Street Commissioner said there was an issue with it collecting water. Nairn stated she was aware that there was some back and forth about where it was to be installed. This conversation pertained to the perception that when entering the park from the Bell Street side, the park was beginning to look busy. She did not feel that another big object planted right there near the parking lot would look terrific. In the display's location by the playground, she observed that it gives the adults accompanying children something to read that is interesting. She was sorry to hear it was leaking.

ORDINANCES/RESOLUTIONS:

Berger provided a third reading on an ordinance requesting the County Auditor to certify to the taxing authority the total tax valuation of the subdivision and the dollar amount of revenue that would be generated by a specific number of mills. Berger made a motion to adopt, seconded by Carroll. Roll call – ayes, all. Motion carried. **ORD 2021-20**

Berger provided a third reading on an ordinance requesting the County Auditor to certify to the taxing authority the total tax valuation of the subdivision and the dollar amount of revenue that would be generated by a specific number of mills. Berger made a motion to adopt, seconded by Carroll. Roll call – ayes, all. Motion carried. **ORD 2021-21**

Nairn introduced an ordinance authorizing all actions necessary to accept the Northeast Ohio Public Energy Council (NOPEC) 2021 Energized Community grant funds and declaring an emergency. Nairn made a motion to waive readings, seconded by Porter. Roll call – ayes, all. Motion carried. Nairn made a motion to adopt, seconded by Porter. Roll call – ayes, all. Motion carried. **ORD 2021-22**

Berger introduced an ordinance amending section 1464.02 of the Codified Ordinances of the Village of South Russell and declaring an emergency. Berger clarified this pertained to the pool fencing. Berger made a motion to waive readings, seconded by Carroll. Roll call – ayes, all. Motion carried. Berger made a motion to adopt, seconded by Carroll. Roll call – ayes, all. Motion carried. **ORD 2021-23**

Berger introduced an ordinance amending portions of Chapter 1602 of the Codified Ordinances of the Village of South Russell and declaring an emergency. Berger clarified that this was to follow the Ohio Fire code. Berger made a motion to waive further readings, seconded by

Carroll. Roll call – ayes, all. Motion carried. Berger made a motion to adopt, seconded by Carroll. Roll call – ayes, all. Motion carried. **ORD 2021-24**

Berger introduced an ordinance designating the Public Depositories for the Village of South Russell for a five-year period and authorizing the Fiscal Auditor to contract therefore and declaring an emergency. Berger made a motion to waive readings, seconded by Carroll. Roll call – ayes, all. Motion carried. Berger made a motion to adopt, seconded by Nairn. Roll call – ayes, all. Motion carried. **ORD 2021-25**

BILLS LIST: Berger made a motion to ratify the March 30, 2021 bills list in the amount of \$78,240.26, seconded by Carroll. Roll call – ayes, ayes, all. Motion carried.

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

Carroll asked for an update on the status of the easement on the Manor Brook project. The Mayor stated that the Village is out of it as far as discussion goes. Everything has been put on hold until some of the issues that are resolved between Manor Brook and Whitetail as far as the taxes that had been paid over the years. Everything is being handled now through a legal firm hired by the Manor Brook Gardens Condominium Association which is dealing with the Solicitor. Carroll asked if there was merit in trying to figure out the easement since the Village knows it is dealing with Manor Brook. The Solicitor stated that the Village would be dealing with Manor Brook Gardens Condo Association and Whitetail because Whitetail has one of the four parcels. The other three parcels will be owned at some point by Manor Brook Gardens Condo Association. The Solicitor received a note from Steve Byron, the attorney, that said “we are on hold” until resolution of the issue with the county taxes. She said the Village could continue with Whitetail. Carroll said that if the Village wants the project to get moving at some point in time, it would be nice to figure out some of the issues instead of spinning its wheels forever. He suggested that there would be merit in discussing the one parcel with Whitetail unless Whitetail wanted to have some sort of group effort. Carroll expressed the need to get movement on the project in either direction. He explained that if they come back with a request for \$18,000, this would be a deal killer for him. Carroll felt there was discussion that needed to occur with these groups.

Porter stated that previously, the Village proposed that Whitetail give the Village the easement and Manor Brook agreed that any easement that was granted by Whitetail would continue with Manor Brook. However, this has gone nowhere. Porter asked if they were trying to undo the transfers. The Solicitor reminded Council that Whitetail received the three parcels that had been in Thomas and Thomas’ name. As she understood it, it would be quit claimed from Whitetail to Manor Brook Condo Association. She thought there was a tax liability issue with the County Auditor that was being resolved. She added that she would be happy to reach out to Byron, but again, he said to put everything on hold. If anything, any inroads or conversations would probably be between a point person from Council talking to the association’s president and/or Whitetail. Carroll asked the contact information for Manor Brook, and the Solicitor did not know. She noted that on the emails from Byron, Nancy Moran was included, but the Solicitor did not know if she was an officer. Carroll thought Moran had been part of a lot of the

discussions and was the one who sent the letter expressing concern about flooding and the project's impact on Manor Brook Gardens. Carroll asked if the point of contact for Manor Brook Gardens could be determined. He reiterated that the Village offer had been \$1,000, which was \$250 per parcel. One parcel would definitively be in Whitetail and there were no issues with waiting for that parcel. Carroll thought there was merit in asking Whitetail what their flavor was for an easement on this parcel.

Galicki referenced an email sent by the Solicitor about a tentative May 5th meeting to discuss the merits of the project to all hands including the HOAs, downstream and upstream communities, and the Village. Based on the most recent iteration from Manor Brook Gardens, it seemed they did not even want to have this explanation until sometime later. Galicki asked if the Solicitor knew how far this matter had been put on hold. The Solicitor did not know. She was just guessing as to what was happening. Her thought was that it was just a quitclaim, but there was another issue involving taxes. Carroll asked if the Solicitor would obtain an update.

Carroll advised that the Village could not spin its wheels forever. Porter stated the project must be finished by fall of next year. The Mayor stated the Village had until September of 2022. He stated the "go date" is now October 1st. The bids will go out, and a contractor will be hired in September to start October 1st. Porter stated that the issue must be resolved before anything else. Carroll stated that if construction is to begin in October, Council must sit down and reevaluate everything, including the Fox Run possibility. This was why Carroll wanted the Engineer to be aggressive with Fox Run to see if the Village had an option there.

Galicki added that Council also made a commitment to the Sugar Bush residents about their pond, but it was predicated on waiting until the Village finished the Manor Brook project. Galicki asked how the decision to go forward or not with the Manor Brook project fit into the commitment made to Sugar Bush to address their pond. Porter stated Galicki was right, and he had forgotten about Sugar Bush. Galicki advised this was contingent on Manor Brook as well. Everything has all stopped and he was not sure it had been communicated to the Sugar Bush residents who may have concerns. Galicki reminded Council that the timeframe for the Sugar Bush pond was fall of 2021. At that time, Council thought the project with Manor Brook was going to go forward. In February, there was a news article in Chagrin Valley Times that basically said the Village was going forward with the Manor Brook project and gave the impression that the Village was turning ground the next day. Now 10 weeks later, the Village did not even know who owned the property. Porter stated that Council just knows that the wrong person owns it, and the Village cannot deal with them until the right person owns it. Galicki agreed and said it was confounding because the HOAs had the same property management company and same legal firm which were trying to support all of this. Then at the eleventh hour there were issues.


Carroll concluded that this was why Council would want the Engineer to look at Fox Run as a viable backup option that could be done this year. He said that there were two solutions that would have definitive impact on stormwater mitigation downstream that ultimately the Village must consider. Porter added that this would be on property owned by the Village which would make it easy.

Porter stated that the ordinance pertaining to flags at the intersections required a decision by April 1st as to what flags would be flown. Last year the Village flew the Air Force and Merchant Marine flags, and it is now time for the Army and Navy flags to go up for this year. The Street Commissioner clarified that this would be in the Cemetery, and Porter stated yes. Porter further stated that the State of Ohio and the U.S. flags would be flown at the Chillicothe Rd. and Bell Rd. intersection. Porter made a motion that these flags be flown for 2021 per the ordinance, seconded by all. Voice vote – ayes, all. Motion carried.

At 9:55 p.m. Nairn made a motion to go into Executive Session to discuss employee compensation, seconded by Porter. Roll call – ayes, all. Motion carried.

Nairn made a motion to exit Executive Session at 10:30 p.m., seconded by Porter. Voice vote – ayes, all. Nairn made a motion that Thad Blair will be receiving a \$.68 per hour increment to begin May 1st and that Ruth Griswold will be receiving a \$.75 per hour increment beginning May 1st, seconded by Porter. Voice vote – ayes, Porter, Carroll, Canton, Nairn, and Berger. Nay - Galicki. Motion carried.

ADJOURNMENT: Being that there was no further business before Council, Carroll made a motion to adjourn at 10:32 p.m., seconded by Galicki. Voice vote – ayes, all. Motion carried.



William G. Koons, Mayor



Danielle Romanowski, Fiscal Officer

Prepared by Leslie Galicki