

**RECORD OF PROCEEDINGS
REGULAR COUNCIL MEETING
MONDAY, SEPTEMBER 13, 2021 – 7:30 P.M.
MAYOR WILLIAM G. KOONS PRESIDING**

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

OFFICIALS PRESENT: Fiscal Officer Romanowski, Police Chief Rizzo, Street Commissioner Alder, Solicitor Matheney, Engineer Haibach

VISITORS: Lief Nielsen, Fairfax Dr.; Taki and Avery Shinkawa, Greenbrier Dr.; N.D. Howard, Manor Brook; Ruth Cavanagh, Paw Paw Lake Dr.; Greg Heilman, Chillicothe Rd.

The Mayor called the Regular Council meeting to order. The Mayor asked for a moment of silence to remember the police officers, fireman, and citizens who were killed in attacks on our country 20 years ago on September 11th. The Mayor led the Pledge of Allegiance. The Fiscal Officer read the roll. **Carroll made a motion to approve the minutes of the August 9, 2021, seconded by Nairn. Voice vote – ayes, all. Motion carried. Carroll made a motion to approve the minutes of the August 24, 2021 Special Council meeting, seconded by Canton. Voice vote – ayes, all. Motion carried. Nairn made a motion to approve the minutes from the stormwater work session Special Council meeting of August 30, 2021, seconded by Carroll. Voice vote – ayes, all. Carroll made a motion to approve the minutes of the September 8, 2021, long-term planning Special Council meeting, seconded by Nairn. Voice vote – ayes, Berger, Canton, Carroll, Galicki, Nairn. Porter abstained. Motion carried**

VISITORS: Avery Shinkawa distributed the material that will be displayed in the South Russell Village Park describing his Eagle Scout bat house project. He explained that there are six total houses, and their locations are indicated on the map that will be displayed.

Regarding the annual Turkey Trot, the Chief introduced Lief Nielson, Chagrin Falls Booster Club, to request permission from Council to allow the Turkey Trot 5K to be held in South Russell. The Chief added that the Village would love to have it back and it presents no problems from the Police Department perspective. Nielson distributed a handout to Council that illustrated the mission of the Booster Club. He described that the Turkey Trot is a tremendous fund raiser and community event. It will be held November 25, 2021, at 9:00 a.m. The route will remain the same, and the residents along the route will be notified of the event.

Porter made a motion to approve hosting the Chagrin Falls Booster Club Turkey Trot, seconded by Nairn. Voice vote – ayes, all. Motion carried.

The Mayor indicated that Charles Hart of the United States Geological Survey (USGS) was scheduled to speak to Council but would not be doing so until later in the year by Zoom.

ENGINEER: The Mayor indicated that Geauga County Commissioner Jim Dvorak, a member of the Northeast Ohio Area Coordinating Agency (NOACA) Bike and Recreation Committee, will forward the Village's thoughts of including a bike path as part of the Bell Rd. east project.

The Mayor added that Patrick Holtz, formerly an attorney for NOACA, would try to get the NOACA Executive Director to look at Bell Rd. The Mayor did not think this would happen.

The Engineer reported that he is currently working on awarding design for two related projects which will be done concurrently. One project is the retention pond south of Village Hall and the other is the replacement of the culverts under Chillicothe Rd. The timetable for both projects is to have a preliminary design by the end of October and to have both projects ready to bid by the end of November. It would then be possible to proceed with the retention pond, which would have an anticipated award date of December. Clearing of the site would be in February and March to comply with the Environmental Protection Agency (EPA) deadline for the bats. The culverts would lag because of the Ohio Public Works Commission (OPWC) funding, which requires the Village to wait to award the project until after July 2022. Construction would then start around September 2022. The retention pond should be completed by then.

The Engineer advised that he had put together work agreements for cleaning out the swale in Country Estates where the 21-inch culvert discharges off Anglers Dr. Two of the property owners are on each side of the easement and the third is the Homeowners' Association (HOA). He asked the Mayor if he had received feedback on these work agreements. The Mayor stated he delivered the paperwork and the one family had signed it. He did not expect any issue with the other two. He also verbally contacted them. The Mayor added that a Zoom meeting was held on September 9th to address questions, and no one attended. The Engineer asked the Mayor to contact him when he had the signed paperwork so that he could arrange for the survey. The Engineer would then develop a scope of work. This was a high priority because the project could be done quickly and easily and would have a noticeable impact.

The Engineer relayed that the Streets Committee had been working with a contractor to clean out the big ditch that goes from Bel Meadow over to Chillicothe Rd. where the elliptical culvert crosses. He and the Street Commission viewed the project and reported that a lot of work had been done and the contractor was doing a fantastic job. The residents were appreciative and cooperative. This had been a long time coming. The Engineer said it was completely choked with vegetation. Clearing it should make a noticeable difference to all the residents adjacent to it, which included the residents along Chillicothe Rd. He added that there were also several small channels that ran laterally into this ditch that would not have flowed well with the ditch being clogged. Carroll advised that the Street Committee discussed maintaining this ditch regularly.

Carroll indicated that the Street Department replaced many culverts in the Bel Meadow neighborhood but noted that there were swales on private property that lead to the culverts that were not done. Carroll asked if the Village would be doing ditching. The Street Commissioner said yes. The Engineer added that regardless of whether the culverts were replaced, the ditches would all be opened up.

The Fiscal Officer stated that the Engineer needed her to certify funds for the detention pond because he was applying for the grant. The Engineer explained that the House Bill (HB) 168 was hopefully in play, and he needed to formally submit for the grant. For it, he needed the

Fiscal Officer's formal certification that the Village had the \$305,000 in local funds that would be committed to complete the funding package for the project. The grant would be for \$175,000.

Porter made a motion that the Fiscal Officer certify to the HB 168 program personnel that the Village is in possession of \$305,000 for the purposes of doing the detention pond south of Village Hall, seconded by Carroll. Voice vote – ayes, all. Motion carried.

The Engineer addressed the Parkland Dam. At the last Streets Committee meeting, the Engineer was asked to provide recommendations for geotechnical engineers, which he provided to the committee via email. The Engineer indicated that he and the Street Commissioner examined the dam and found that there were some small holes drilled in the outlet control structure about 12-inches from the top. It would take a very long time for the water level to filter through them and he recommended the holes be increased to three 4-inch holes with the bottom of the holes one foot from the top of the structure. He suspected a ½-inch drill bit was used, and the holes were not actually visible. The Engineer reiterated that to preclude further damage to the dam, the water level needed to be lower. Carroll indicated that this information should be clearly relayed to the residents. Porter stated that Council would not want it to seem like the Village is moving the goal post. The Engineer said that if they wanted to lower it even further it would be even better. The Mayor said that Berger should address this with the Parkland Lake residents.

Carroll asked for the status of the easement for the Manor Brook project. The Engineer stated that the HOA would be taking a vote on whether to pursue the project. Carroll asked if the cost or fee for the easement had been discussed. The Engineer said this was not discussed in the meetings he attended. Carroll asked if the HOA had responded to Porter or the Mayor or anyone else who might know about this. Porter said he had seen the email exchanges about it. The one that caught his eye was the latest one whereby there had been no transfer from Whitetail to Thomas and Thomas or to Manor Brook Gardens recorded with the Geauga County Auditor or Recorder. The Solicitor concurred. If Manor Brook were to vote in favor of the project, perhaps then the Village could do something with an easement from Whitetail with Manor Brook signing off on it too, which had been discussed months ago. At this point, Whitetail still owned all four of the properties. Three of them supposedly belonged to Manor Brook. Porter had not seen any progress.

Carroll asked again if any money or dollar amounts were proposed by Manor Brook for an easement. Had there been any discussion? The Solicitor stated yes. The Mayor said yes. Carroll asked what the amount was. The Mayor said that according to the email, they asked for the discussion to be confidential. Carroll and Galicki indicated that it could not be. The Mayor stated that they asked for \$10,000 per year for every year the Village had an easement. Seven pages of revisions to the contract were provided. The Solicitor stated that some of the revisions were strong as far as if they do not own the property, it sounded like this might not happen. They were not in favor of assignment. Nairn asked for clarification. The Solicitor explained that at one point, there was an agreement with just Whitetail, but when the Village found out that the real ownership was Manor Brook and that they might claim title at some point, the Village considered entering into some sort of assignment where they assigned their rights. Manor Brook Gardens was not interested in this at all. They wanted to own the physical property and do it that

way. Carroll referred to the quote of \$10,000 and asked how long the easement would last. Galicki indicated it was in perpetuity. The Mayor stated \$10,000 for every year. Carroll concluded that it would be forever. The Solicitor wondered if this was a mistake or typo. Carroll described the offer as ludicrous. Canton stated he agreed. Porter said it sounded like the project was going down the drain.

Ruth Cavanagh, 15 Paw Paw Lake, asked when the Lake Louise Bridge replacement project would take place because they had heard it would be May and then August and there was still no action. The Engineer said the contract had been awarded. There was a snag in the project with Dominion having to remove a gas line from the bridge, which was just recently done. The Engineer further explained that the contractor had submitted an alternate work around for a temporary bridge structure, and it was being reviewed by the CT Consultants structural engineer. If approved, the project could be completed earlier. Porter asked what the projected completion date was, and the Engineer thought it was spring of 2022. Cavanagh stated that Paw Paw Lake would be watching closely for what filters down into their lake. The Engineer added that the Village would be watching as well.

The Mayor stated that a Zoom meeting would be held with the HOA to discuss the project.

STREET COMMISSIONER: The Street Commissioner submitted his month end report for August. He wanted to purchase a manhole rescue device in an amount not to exceed \$4,000. Porter indicated that this was discussed with the Streets Committee. Carroll asked the Street Commissioner if he had checked the OSHA requirements. The Street Commissioner consulted with Chagrin Falls Village and explained that they use it more with sanitary manholes where the Village would be using it with storm sewers. Carroll wanted to make sure safety was being observed and added that this was a worthwhile expense. The Street Commissioner thought he could find the money for it in his budget.

The Mayor acknowledged the Street Commissioner's efforts with lowering and raising flags and picking up trash at the park pavilion on a Saturday.

The Street Commissioner indicated that Geauga County would be coming out with the sewer jet for the northern portion of West Bel Meadow.

STREET COMMITTEE: Regarding the unauthorized Lake Louise local storm collector which the Village inadvertently cut off during a culvert replacement, Carroll verified that the Village had received no response from the Geauga County Health Department. The Engineer concurred. A call needed to be made because the contaminant levels in the water running from it were problematic. The Mayor said he would call Dave Sage. The Engineer explained that the Village wanted the water retested because since the last test, a resident with a failing septic system had it replaced and the issue may no longer exist. If there still is a problem, it would need to be investigated by the Health Department.

Carroll asked if the restrictor in the Village Park had been adjusted to retain the maximum amount of water and indicated that this action could have a positive impact on The Preserve. The Mayor stated that the wetland level would be increased so that the water in Pond 1 in Country Estates would be less so the Village could work on the catch basin. Then, they would

have to let the water out to allow for brush hogging the wetlands after the Fall Festival. The Street Commissioner agreed.

The Mayor asked if the Street Committee developed a five-year plan. Carroll said this was discussed and by the time of the Budget Hearing, it would be completed.

The Mayor acknowledged the efforts of the Street Commissioner, Street Committee, and the Engineer in preparing Bel Meadow for repaving. He described the efforts as a well-coordinated two-year process in which the Village put \$140,000 into Bel Meadow just to get it to the point of repaving. 24 culverts, two new catch basins, jetting, and ditching occurred. Compliments had been received and the residents were looking forward to the repaving.

The Mayor invited the other visitors in attendance to speak. Ruth Cavanagh said she was not up to speed on the Parkland Dam and asked the Mayor to explain it. The Mayor stated that the mistake that was made was in using the word, "loan." If Parkland Dam were done, it would be a bond issue and the 11 residents would pay the Village about \$1,800 per year for 20 years which would come to about \$400,000. This figure was the high estimate provided by their volunteer engineer to repair the dam. The Mayor described the issue with the deterioration of the dam and said that the residents came to the Village 10 months ago asking for help by raising their taxes. One realtor said that there would be a \$40,000 to \$50,000 decline in the property values if the lake were to be eliminated.

N.D. Howard, Manor Brook Dr., asked South Russell Village to recognize the First Responders more so than in the past. He stressed the first responders involved with the World Trade Center Towers should be recognized in South Russell and throughout the whole United States. Nairn agreed. He said there was no reason not to fly the First Responder Flags, blue and red, in the Village. He wanted Council to do this by motion to see what Council would do about it. He added that he had already been through an appeal concerning the POW MIA flag, which was not flown the same way as other surrounding communities. Howard stated he is a veteran and lost friends over there. He asked when there would be an answer on this. The Mayor stated it would take a motion from Council.

MAYOR'S REPORT: The Mayor reported the status of a former employee who was now a senior in college and seeking an internship with the FBI.

The Mayor reported that he provided the proclamation signed by Mayor and Council before COVID hit for Joan Demirjian, former Chagrin Valley Times reporter.

The Mayor stated that in reviewing the contents of the Council packets, there were 86 pages of minutes, 8 other pieces of information, 13 pages from the county. This totalled 107 pages. He suggested having a summary page for the packets because he felt it was unfair to ask Council to read through 107 pages of material. He questioned whether all the material provided was necessary.

The Mayor stated that in the meeting with the Budget Commission, Council learned how reserve funds could be used to set aside money and how other communities provided information to the Budget Commission a month ahead of time. This should be kept in mind for next year.

The Mayor provided copies of notes from the long-range planning meeting. These would be discussed at the September 27th Council meeting.

Also provided to Council was the June letter asking for a donation from the Chagrin Valley Fire Department's building expansion. A copy of the non-binding resolution of the support for the donation and a copy of the Mayor's notes from the recent meeting of the six community leaders who employ the Fire Department were provided to Council.

FISCAL OFFICER'S REPORT: The Fiscal Officer distributed her monthly report to Mayor and Council. In her report, she relayed that there was an individual who wished to put a plaque at the park for her son who passed away. With more and more of these requests, the Fiscal Officer questioned where they would be placed. There were benches and trees with plaques, but the individual was under the impression she could just pay for the plaque, and it would be attached to an existing bench. The Fiscal Officer asked which committee would handle this. Carroll said that this had been discussed by the Street Committee and memorial pavers were suggested as an option to the benches and trees. The matter would be referred to the Parks Committee to develop a plan.

The Fiscal Officer asked if there were some dates determined to conduct the one free hour meeting with Bond Counsel. Berger said it was discussed but dates and times were not determined. The Mayor directed Berger to pick some dates.

The Mayor stated that it was possible to go see what was being done with the Briar Hill Dam in Solon. This is a \$1.5 million project. They will provide the Village with a copy of the agreement done with the Briar Hill residents. The Mayor clarified it was \$1.5 million over 40 years. Carroll added that this involved a Class 1 rated dam. The Mayor added that there are 300 homes involved.

FINANCE COMMITTEE: Berger indicated that minutes from the August 12th committee meeting were distributed to Council, but not the minutes from the September 7th meeting. He further advised that the Fiscal Auditor's report was distributed to Council. **Berger made a motion to approve the balances as presented, seconded by Carroll. Voice vote – ayes, all. Motion carried.**

Berger indicated that the Credit Card Report was distributed to Council. **Berger made a motion to approve the Credit Card Report, seconded by Carroll. Voice vote – ayes, all. Motion carried.**

SOLICITOR: The Solicitor addressed the question of how the One Ohio Opioid Settlement funds could be used and said it was wide open. The money could be used for a specific treatment or recovery program, education awareness, prevention, and many other options. More guidelines would be coming out.

The Solicitor indicated that later in the Council meeting, there would be a second reading concerning fencing along the property line. The Solicitor reported that Planning Commission (PC) had withdrawn this amendment. She reviewed the history of the proposed legislation which ultimately was withdrawn by PC.

The Solicitor advised that any meeting of the public body of Council, Committee, etc. must be in person, even the presentation by the USGS representative.

The Mayor asked if the Board of Zoning Appeals (BZA) and PC meetings could be streamed on the Village's YouTube channel, and the Solicitor stated they could but the Chairmen should first be consulted. The Fiscal Officer advised that she had notified the Chairmen, and the Chair of PC was going to consult with the other members. She had not heard from the other two.

Porter asked if the Opioid Settlement money could be given to the Chagrin Falls Fire Department for use in the building renovations., and the Solicitor stated yes. The Fiscal Officer advised that receipt of the funds would occur over many years.

BUILDING COMMITTEE: Berger stated that the minutes from the two Building Committee meetings were distributed to Council as well as the Building Department report of August activity.

POLICE CHIEF: The Chief distributed his month end report which included a Traffic Light project update. He should have a preliminary design to the Engineer by the end of the week of September 20th.

The Mayor recognized Sgt. Kimball for removing nine bags of trash from the park pavilion on a Sunday.

He said that he echoed Mr. Howard's support of the Police Department and they also know his feelings about the different kinds of flags. He thought it was a no-win situation.

The Mayor indicated that the VeloSano ride had come through South Russell. Carroll asked if bicyclists are supposed to ride single file or abreast. The Mayor stated it is the State law that riders are allowed to ride two abreast. Carroll stated that Hunting Valley has it as single file, so an ordinance could be passed to make it single file in the Village. The Chief and Carroll discussed that riders need to abide by the laws if they are operating on the road.

SAFETY COMMITTEE: Porter stated that the Safety Committee met Thursday, September 2, 2021, and the minutes were distributed to Council.

HR COMMITTEE: Nairn stated that the HR Committee met August 13, 2021, and also in a Joint/HR Committee meeting on Friday, September 3, 2021, and minutes were distributed. At the August 13th meeting, the committee discussed making the Village a non-smoking entity. Through research, it was determined the Village had an ordinance, but it was archaic. Nairn indicated that vaping, e-cigarettes, etc. needed to be included.

The Committee also discussed hiring a part-time Zoning Inspector. **Nairn made a motion to reinstate the ad A.S.A.P. for a part-time Zoning Inspector, seconded by Carroll.** She added that the Building Department personnel are swamped and there are issues through the Village that need to be addressed. The Mayor said that this was discussed two weeks ago in the Building Committee meeting. At that time, he suggested hiring a four hour per week, \$30 per hour, 30-week Zoning Inspector to start working about mid-March and finish in mid-October. Zoning issues seemed to decline in fall and winter. Nairn asked if this were the preference of the

candidate the Mayor had in mind. The Mayor said he did not know and had not talked to him. Galicki added that there should be no candidate in mind prior to posting the position. The Mayor stated he was going to write the job description and then get candidates. He did not think the Village needed a Zoning Inspector now. Carroll indicated that there were zoning issues all year long. There may be less during the winter, but they still exist. It was necessary to have someone to do zoning. Porter clarified that the Mayor was suggesting a seasonal part-time employee. The committee discussed that part-time would be the way to go, not just seasonal. He thought the Mayor was right and that there were fewer zoning violations in the winter because the grass was not growing. However, there were other issues popping up. For the investment, it would provide a good way to monitor zoning in the Village.

Voice vote – ayes, all. Motion carried.

Nairn reminded Department Heads that job evaluations will be due for 2021 before the end of the year. A couple of Department Heads had been good about this, but she knew it was a new process and wanted to provide a reminder.

Nairn advised that her biggest concern from an HR perspective was the workload for the Fiscal Officer's Department. She referenced the size of the Council packets as an example. Nairn explained that the Fiscal Officer needed more help and Nairn asked Council to consider giving the Administrative Assistant more hours. Rather than specifying the number of hours, Nairn stated it should be left to the Fiscal Officer to manage the hours. Porter added that the hours should be capped. Porter indicated that the committee discussed increasing the hours from 24 to 28 per week. Carroll thought it was 30, and the Fiscal Officer concurred. Porter said capping it at 30 made sense because Council would not want the individual to qualify for full-time without having been appointed full-time. The Fiscal Officer reminded Council that full-time started at 40 hours per week. Carroll concurred. He suggested capping it at 32 so it would be an even 8 hours. Carroll added that the additional hours could allow for cross training. Porter suggested getting the Mayor's view. The Mayor stated he thought the Administrative Assistant was already at 30 hours, and was told it was 24 by the Fiscal Officer. The Mayor suggested looking at 10 communities with a \$3.5 annual budget to see how many people they had. Carroll thought that there were many other factors other than budget amount. The Mayor did not think the Village was overstaffed. Porter asked the Mayor if the 8 additional hours per week seemed useful from his point of view, and the Mayor agreed. He considered the quantity of work, and the Fiscal Officer indicated that the increase in work was the result of grants, loans, big projects, additional meetings, and cleaning up instead of planning ahead. The Mayor added that in 2022 there could be \$1 million in projects. The Mayor stated he would kick it up to 32 hours and look around to see what other people are doing.

Nairn said she was fine with 32 hours, but it was not coming from the Fiscal Officer. She would bet her life that there was nobody on this planet more fiscally responsible than the Fiscal Officer who would never take advantage. She was overly frugal and careful. Nairn acknowledged that some weeks were worse than others and the Fiscal Officer might need 37 hours to get things done, and then the following week nothing.

The Mayor stated it was the same flexibility they ran into with the Street Department. There was a chance to get work done, but they had to leave at 3:30. Porter acknowledged that situation was a matter of overtime. The Mayor stated that they pinch themselves.

Porter stated that the Fiscal Officer requested another four hours per week. The Fiscal Officer stated she did not particularly like the hourly limit per week. She explained that in the past, she had a budget line-item for the year, and it was entirely up to her to manage it. In the last few years when there were questions with the Building Department, restrictions were put on the number of hours. This had now led to her having 456 flex hours for this year and four remaining weeks of vacation. She loses two to three weeks' vacation every year and never uses her flex hours because she cannot get the work done. The audit had not been completed with the State because she had other things that must get done with real deadlines, so she had to put it on hold. The Fiscal Officer further stated that she would not abuse the time because when she had a full-time employee and did not have the work, she was the one who said it was time to rotate that employee to another department. The Fiscal Officer needed to be able to manage the hours. The Street Department and Police Department manage their part-time workers on a schedule when they need them. They are not told that their employees can only work 10 hours per week. She is appreciative of anything she can get but stressed that she was behind and could not catch up.

Carroll asked if working one 40-hour week would qualify an employee as full-time, and the Fiscal Officer explained it had to be on a regular basis. Berger said it was on a 9 month per year basis. Carroll acknowledged that the Fiscal Officer underestimates her need to her own detriment, but if Council authorized up to 40 hours, it must be monitored so it would not trigger benefits. The Fiscal Officer questioned whether it was not the Department Head's job to manage the hours. Carroll was comfortable with allowing up to 40 hours with the Fiscal Officer managing the time. He addressed the need to have someone in the office if the Fiscal Officer wanted to take time off.

Canton stated that it seemed that the workload of every department had increased. The Fiscal Officer explained that the State requires more and more. Nairn said that perhaps the Village is understaffed. Canton agreed. Berger suggested framing the increase as not exceeding 166 hours per month for the position being discussed. Carroll agreed. Berger said if the work could not get done with these hours, then Council would need to further discuss it.

Nairn made a motion to allow the Administrative Assistant to work up to 166 hours per month with the Fiscal Officer monitoring the hours as the Department Head, seconded by Berger. Carroll questioned the math but supported the idea of the Administrative Assistant being allowed up to 40 hours per week. **Roll call – ayes, Berger, Canton, Carroll, Nairn, and Porter. Galicki recused himself. Motion carried.**

The Mayor stated that on Monday, November 8, 2021 at 11:30 a.m., there would be a luncheon at the Sleepy Rooster to honor veterans. It would be tentative based on COVID. Invited guests include Michele Pemberton, Geauga County Veterans Services Commission; Ryan Griffin, Ohio Department of Veterans Services; and Congressman Dave Joyce. The Mayor stated he had 35 veterans so far from three different requests that had been sent. It would be a simple luncheon at the Sleepy Rooster and last about an hour.

PROPERTY COMMITTEE: Galicki had nothing to report. Nairn joined the Mayor on a walk of the South Russell Village Park with Pete McDonald, Western Reserve Land Conservancy (WRLC). McDonald was pleased with what had been done in the park. They looked at the bat houses. She reported that the presence of invasive weed species was observed. They discussed the need to utilize controlled burns to address this, and how to introduce this concept to the public.

Davey Tree inspected the 319 grant project. Recommendations were given to control the growth of cattails.

Nairn indicated that the Harvey Family Butterfly Garden had been installed and it was beautiful. A central obelisk will be installed and there are currently 15 varieties of plants. The garden will be dedicated Saturday, September 18th at 10:00 a.m. The Service Department is utilizing 125 gallons of water on the garden. The Mayor said there will be two benches incorporated in the garden, so there is the opening for one bench at the playground.

The Mayor indicated that an artist associated with MC ART wanted to know if she could have a display at the Fall Festival. He liked the idea of her showing off her goods, but no sales. Galicki said he deferred to the Solicitor. The Solicitor stated that the Village has allowed no one to put up signs, campaign, solicit, or show goods at the Fall Festival. She cautioned that doing this would open the Village to issues. The Village could not discriminate and just accept one business and not another. Galicki advised that the sole purpose would appear to be advertising for future sale. The Solicitor agreed. Carroll noted that Chagrin Pet and Garden had all their vehicles displayed. She asked if they were advertising. Porter answered that it was in a silent manner. Carroll added that there was also the kettle corn seller, and the Mayor said he sells kettle corn and also that ice cream was sold. The Solicitor thought there were contracts with these vendors. Carroll stated that the Village pays for the kettle corn vender to come and then he sells. Galicki asked if there was a quid pro quo because Chagrin Pet and Garden provides tractors for the hayrides. He did not know what the agreement had been with the business. There might be a legal issue because the owner of Chagrin Pet and Garden serves on the Park Committee. Canton stated that when he was Chair of the committee, there were never any conversations verbally or written about anything like that. Galicki indicated that the issue preceded Canton. Galicki asked if there were any long serving members of Council who may know. Porter was on Parks Committee in 2006 or 2007 and the Chagrin Pet and Garden display was there the year before he was on the committee. It had been going on a long time and he suggested the current committee could weigh in on it.

The Fiscal Officer stated there was never a discussion about the sign being there. She also questioned whether, in terms of the food truck legislation, the popcorn truck was considered a food truck. Galicki pointed out that no one contracted with the popcorn truck this year. The Fiscal Officer stated that they just show up. Galicki asked if there is a tacit agreement. Before serving on the Park Committee, he was not aware that the Village had no contractual obligation or had basically allowed in a public way this vendor to just show up. The Solicitor had no idea. Porter recalled having some kind of arrangement with him, some kind of contract years ago that he would come with his kettle corn. Porter thought it was the Popcorn Shop that first did this.

The Fiscal Officer explained that Council paid the Popcorn Shop to come and sell popcorn. Council discussed that in the past, Chagrin River Watershed Partnership (CRWP), Northeast Ohio Public Energy Council (NOPEC), the Chagrin Recreation Department, and even the South Russell Village Cemetery had been present at the Fall Festivals over the years. The Solicitor stated that as long as the Village did not discriminate then it was totally up to Park Committee and Council.

Galicki asked what Council was going to do, allow it to happen? The Solicitor asked what the Parks Committee wanted to do. Galicki would ask them at the September 16th meeting.

PUBLIC UTILITIES: Nairn stated that the Public Utilities Committee will meet on Wednesday, September 15, 2021, at 8:30 a.m. The Mayor will speak about the NOPEC sustainability program. The Mayor stated he invited a NOPEC representative to attend the October 25th Council meeting to address the topic.

PARK COMMITTEE: The Park Committee will meet Thursday, September 16, 2021, at 6:30 p.m. at the park pavilion.

ORDINANCES/RESOLUTIONS:

Porter provided a third reading of an ordinance amending Section 648.05 of the codified ordinances of the Village of South Russell, (regarding disturbing the peace), and declaring an emergency. Porter made a motion to adopt, seconded by Carroll. Roll call – ayes, all. Motion carried. **ORD 2021-57**

Berger provided a third reading on an ordinance amending Zoning Map of the Village of South Russell and declaring an emergency. Berger made a motion to adopt, seconded by Carroll. Roll call – ayes, all. Motion carried. **ORD 2021-58**

Berger made a motion to withdraw an ordinance amending Section 4.01(b)(4) of the Zoning Code, (regarding split rail fences along the boundary line of a property), of the Village of South Russell, seconded by Galicki. Voice vote – ayes, all. Motion withdrawn.

Berger introduced an ordinance authorizing the Mayor and Fiscal Officer of the Village of South Russell to contract for annual codification supplements with American Legal Publishing Corp. Berger made a motion to waive readings and declaring an emergency, seconded by Carroll. Roll call – ayes, all. Motion carried. Berger made a motion to adopt, seconded by Porter. Roll call – ayes, all. Motion carried. **ORD 2021-59**

Berger introduced a resolution accepting the Amounts and Rates as determined by the Budget Commission and authorizing the necessary tax levies and certifying them to the County Auditor. Berger made a motion to waive readings and declaring an emergency, seconded by Carroll. Roll call – ayes, all. Motion carried. Berger made a motion to adopt, seconded by Carroll. Roll call – ayes, all. Motion carried. **RES 2021-60**

Nairn introduced an ordinance amending Section 660.21 of the Codified Ordinances of the Village of South Russell 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 2021-61**

Regarding the Municipal Funding Plan for the Chagrin Valley Fire Department, Carroll asked if instead of declaring an emergency, Council could do the three readings. The Mayor stated that Hunting Valley, Chagrin Falls Township, and everyone except South Russell and Bentleyville had approved it. Carroll acknowledged that it was nonbinding, but they were not looking for the money until 2022 and it would not delay anything.

Berger introduced a resolution in support of the Municipal Funding Plan for the Chagrin Valley Fire Department as a nonbinding resolution.

BILLS LIST

Carroll made a motion to ratify the bills list dated 8/13/21 in the amount of \$86,861.24, the 8/30/21 bills list in the amount of \$26,574.92, and the 9/7/21 bills list in the amount of \$28,121.74, seconded by Porter. Roll call – ayes, Carroll, Galicki, Nairn, Porter. Berger and Canton abstained. Motion carried.

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

Although Carroll appreciated Mr. Howard's desire for the Village to display the First Responder Flag, he stated it was not just the First Responders involved with 9/11. It was also the military and everyone else who sacrificed that day, including the 3,000 citizens who died in the different locations.

Canton stated that the Royers promote First Responders as do members of the community who display the various flags. Berger suggested putting up red, white, and blue lights on the Village campus. The Mayor added that the Royers had May 24th declared as the day to honor First Responders in the State of Ohio, but that date was swallowed up by Blossom Time. The Chief advised that Feed the Force was being done, so during this week, different people are bringing lunches and dinners to the Police Department.

Regarding the flag issue, Galicki recalled that when the blue line flag was donated to the Police Department, a complaint was received by the Chief from a veteran in the community who believed it was a desecration of the flag. Galicki advised that the Flag Code is very specific about the uses for the flag and modifications to the flag, which include it not being used for clothing, furniture, towels, modifying the looks of the flag, etc. There is no issue of a question of support for First Responders, but there is some sensitivity with respect to those flags. The Chief relayed that it was an altered American Flag, which was the primary issue.

The second issue Galicki wanted to address concerned clarification on the counteroffer from the Manor Brook HOA on the fee for the easement. Galicki understood that the Mayor said he received something, but asked if others received it as well. The Solicitor stated yes, and Porter stated he too received it. The Mayor stated it went to Porter, the Engineer, the Solicitor, and the Fiscal Officer. Galicki asked the two elected officials who received the correspondence why they felt it was privileged communication that should not be shared with the members of Council. Porter stated that it was not privileged and thought it would come up and be discussed at the present meeting. Galicki recalled that when questioned about whether the Village had received a counteroffer, Porter did not indicate that one was received. Porter said that he did not know that this was actually a counteroffer. He had no problem sending it out to all of Council

because it seemed to be a non-starter if they want \$10,000 per year, unless it was a typo. The Fiscal Officer did not think it was, and added that it said, "with inflation." Porter further explained that if it were and they wanted \$10,000 flat, he did not know if he was inclined to do that. Galicki was incensed that the information was not shared with the members of the Elected Body. It seemed like it smacked of a lack of transparency of at least two public officials who received the information. Porter disagreed. He did not see it as a lack of transparency at all. The Solicitor, Fiscal Officer, and Mayor all had it. Council designated him as the person to be the point person for Council. Furthermore, Porter stated that the email just came that day or the day before. The Solicitor stated it came the previous Sunday.

Canton asked if the initial amount they wanted for the property was \$10,000. The Solicitor stated she did not know. Carroll stated that the initial amount was \$18,000. What was being discussed in backchannels was \$10,000 for the trees and \$8,000 for reimbursement for legal fees. There were backchannel discussions which were not privy to Council until a public records request was done to ascertain some of this information. It was in a document shared in the Manor Brook neighborhood. Carroll stated that it would have been nice if Porter had forwarded the most recent information to the three other members of Council who were able to discuss the matter. Canton clarified that they were up to \$18,000. Porter thought this was Whitetail. The Mayor said no. Galicki suggested that perhaps this was an effort to say that they will give the Village an exorbitant cost but might settle for the \$18,000. He was not sure but added that it did not appear to be good practice to keep information about the expenditure of public funds from elected members of Council. Porter stated that there was no expenditure of public funds. Galicki clarified that it was a proposal to expend. Porter stated it was a proposal and since he was designated as the point person for Council, he supposed it properly came to him. Galicki said he was not debating this. However, he indicated that Porter chose to remain silent in terms of sharing that information with Council. He was in receipt and was the agent of Council. Porter did not see it this way at all. Galicki asked how Porter saw it, and Porter explained that he was appointed as the point person for it and just saw the information that day, and it came out the day before. Galicki said it had been in the queue since a week ago. Nairn clarified that it came over Labor Day Weekend, and the Solicitor concurred. Porter questioned this, and the Solicitor confirmed it. Porter said he was behind the power curve.

Carroll wanted to clarify the \$18,000 that had come from the Whitetail side. \$10,000 had been discussed for reimbursement for trees that had been taken down in Manor Brook. At the time, about 18 months ago, Carroll explained that the Mayor said that the Village usually takes care of the trees and had done it in the past. The Whitetail discussion then launched with \$18,000 because of the trees and the attorney fees. The point Carroll was making was that he would appreciate Porter sharing correspondence he received regarding this matter with Galicki, Nairn and him. Porter added that it should not go to Berger or Canton.

Carroll expressed to Porter as the point person that \$10,000 per year forever was unimaginable. Nairn stated it was almost borderline insulting. Porter said they could demand \$12 million a year and would not get it. Carroll indicated that the Village was getting to the point where something must be done. With this type of offer, indications are that they did not want the project. If they did not, the Village should end the project and figure out something else. Porter added that aside

from this, the property was still in Whitetail's name and this transfer must happen first in his view. Carroll started that spinning wheels did not resolve the issue and there is a deadline. If the Village cannot obtain an easement, it should kill the project.

Canton asked if eminent domain played a roll. The Solicitor stated Council had discussed this previously, and Council's flavor was not to do this. It may not have been brought to the full Council but discussed in committee. However, it is not South Russell's way of doing things.

The Mayor stated that in 2018, the attorney for Thomas and Thomas sat in Council Chambers and said it would cost the Village \$10,000 to \$15,000 and the Village could take the land from Thomas and Thomas. He did not want to be a part of it, but the Village should make an offer. Tommy Thomas was in the Mayor's office and said he would take \$2,000 and the HOA gave him \$3,000. Canton and the Mayor took Bruce Thomas to lunch and all he wanted was some money for his brother. From the other point of view, if they want to play hardball, the Village can play hardball. Next summer, there will be a 30-inch culvert coming right across Chillicothe Rd. and it is going to send water there. We have a ditch that has been cleaned out, but it will send water there. The appraisal value of the three properties is less than \$10,000. The Solicitor asked if the Mayor meant the tax value or the appraisal value. The Mayor did not know, and Porter and the Solicitor stated it was the tax value. Porter said the tax value for all three was \$2,000. The Mayor stated that they pay \$60 per year in taxes. The Mayor explained that the Village could say that it was coming to get them and take it. It was seven pages long, and he did not even read it. After the Solicitor alerted him that it was \$10,000 per year, he did not read that far. He noted that the document said that the only way the Village could work on the project was off Chillicothe Rd. The Mayor asked how this could be done? He added that some of the things were utterly ridiculous. Next summer, they will get this water, and then the Village will come take the land. The land is worthless.

Porter said that the project had certain things that had to happen before discussions could begin to talk about easements. The Mayor stated that the other thing they do not realize or comprehend is that Whitetail owns the portion the Village needs on the north side of Manor Brook. The stuff on the south side is no big deal. The project can be done without Manor Brook HOA involvement. Nairn stated that it is set in stone that Whitetail owns the property. Porter verified they are the proper owners.

Carroll suggested just doing this, and the Solicitor reminded Council that this was discussed. She asked how the Village could sign a contract when it knew that someone was claiming a legal interest in three of the four parcels. Carroll explained that Whitetail owns one parcel, and it is the other three parcels, and the Solicitor stated that these were still part of the project. This was the first she had heard that the Village did not need the other three parcels. Carroll wondered if the project could be reworked to only involve Whitetail's property, and Whitetail had indicated it would agree to a reasonable easement. Porter indicated that the Engineer might want all four parcels to make it easier to build the project. Carroll suggested killing the project and referred to the Mayor's proposal of putting in the culverts, and if there is a problem, they can approach the Village with a request to obtain a 319 grant. At the end of the day, the Village needs to do the work it must do. The Fiscal Officer advised that the grant expires in September 2022, and there

are time limitations with construction activities. Carroll concurred and said this should be conveyed to Manor Brook.

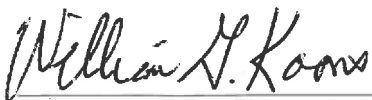
The Mayor said it had been agreed that no more money would be spent on the project with the Solicitor and the Engineer until the property was transferred. He said that on his calendar, he had October 2 as the groundbreaking ceremony because he thought the project would be well on its way. There is \$10,000 in the grant set aside for easements and land acquisitions. The seven-page document was well done legally, but the requirements were daunting. Carroll concluded that Manor Brook did not want the project. Porter concluded the same.

The Solicitor verified that the email received was one of the last, and Manor Brook would probably vote to not move forward. Porter summarized the current issues with the project. The Mayor stated that the Kaman and Cusimano lawyers were calling in and saying come on, come on, but nothing is getting done. Nairn asked the Mayor to clarify who was being called. The Mayor stated that Peter Dougherty and Bob Royer both called Kaman and Cusimano, and told them to get this done. He expected a phone call right after Labor Day.

Galicki indicated that when the issue first came up and the question was raised on the floor of Council about the counteroffer, the Mayor initially alluded to the fact that he did not want to share the information because of the fact that it was confidential. He asked the Solicitor to explain from a public servant perspective whether this was in error or whether the retention of information from elected members of Council is considered confidential in this case. The Solicitor explained that what Manor Brook was asking for was not for confidentiality. It was shared with the Engineer and Kim Brewster, CRWP. The Solicitor stated that she never saw it as being confidential. Galicki indicated that it could be interpreted that it was widely shared except for certain members of Council. She reiterated that it was not confidential or privileged information, but she thought Manor Brook wanted to keep the negotiations out of the public. She was uncertain this was the proposal from the HOA board, but rather from the HOA President.

The Mayor stated that for a year, every Friday at 10:00, there would be a Zoom meeting that included Brewster, the Engineer, the Fiscal Officer, the Solicitor, and himself. The email came with a request of confidentiality about two weeks ago, and Porter was included. Nothing will be done until properties are transferred. Galicki stated these were nice words, but actions always speak louder. He thanked the Mayor and Solicitor for the clarification.

ADJOURNMENT: Being that there was no further business before Council, **Carroll made a motion to adjourn at 9:39 p.m., seconded by Canton. Voice vote – ayes, all. Motion carried.**



William G. Koons, Mayor



Danielle Romanowski, Fiscal Officer

Prepared by Leslie Galicki