

**RECORD OF PROCEEDINGS
REGULAR COUNCIL MEETING
MONDAY, MARCH 27, 2023 – 7:00 P.M.
PRESIDENT PRO TEM MARK PORTER PRESIDING**

MEMBERS PRESENT: Bell, Berger, Canton, Cavanagh, Galicki, Porter

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

VISITORS: Melissa Nykulak, Bell Rd.; Ray Schloss, Mapleridge Rd.

In the absence of Mayor Koons, President Pro Tem Porter called the Regular Council meeting to order and led the Pledge of Allegiance. The Fiscal Officer read the roll. **Canton made a motion to approve the minutes of the March 13, 2023, Regular Council meeting, seconded by Galicki. Voice vote – ayes, Canton, Cavanagh, Galicki, Bell, and Berger. Motion carried. Canton made a motion to approve the minutes of the Special Council meeting of March 17, 2023, seconded by Galicki. Voice vote – ayes, Canton, Cavanagh, Galicki, and Bell. Berger abstained. Motion carried.**

VISITORS: Melissa Nykulak, 1580 Bell Rd., explained she is rebuilding her home that burned down in July 2022 on the same foundation. She was charged the builder's permit fee of \$3,100 twice. She was hoping to get this waived and returned. Porter asked if this was within Council's province. The Solicitor said it was, but referred Council to the information that was provided in their Council packets regarding what constitutes the builder's fee and what gets taken out. Inspections will still be required. Nykulak said she was not asking for any other fee but the builder's permit, because it was the same foundation and same house. Bell explained, the committee's stance at the moment was that a lot of inspections were done on the first property before it burned. A few inspections had been conducted on the second property, but it was not done yet. If the committee were to consider any kind of refund, it is necessary to wait until the resident receives the certificate of occupancy and all inspections are complete, so the Village knows what its expenses were. He felt it was premature to make a recommendation, because there were expenses associated with the permitting fee. Bell cited Ordinance 1440.04(d) which states there are no refunds for permit fees. He asked if this would require an ordinance change? The Solicitor said Council could explore amending an ordinance or say that it would suspend the application of it with respect to this particular circumstance. Porter asked if this would be by motion and the Solicitor said yes. Canton advised that he had asked Nykulak to have a conversation with the builder and the insurance company about this issue. Nykulak said the builder did not believe it was his fee to pay, nor did the insurance company. Galicki referenced a previous Council discussion of this matter, whereby it was explained that most of the fees are based on compensation of Village employees for the time they are engaged in the inspection process. Bell concurred and added, there are administrative costs, but the largest portion of it is inspection fees. Galicki asked if there was some redundancy, and Bell said yes, that the foundation was the same and approved. No reinspection was needed for this which would reduce some of the costs, but at this point, the remaining costs are unknown. Bell advised that the committee was trying to be cautious with the taxpayers' money. He understood Nykulak's position and would ask the same question if he were in her position. Porter asked Nykulak if she was hoping for a decision of Council at the present meeting, and she said yes. Porter asked when the home would be finished, and Nykulak said tentatively by the end of August. Bell proposed maintaining communication between Nykulak and the Building Committee about the progress and associated inspections. Porter added that through contact with the Building Inspector over time, the committee can determine whether there is a basis for a refund.

Nykulak relayed the details of the fire which destroyed her first newly constructed home just before the family moved into it.

Ray Schloss, 114 Mapleridge Dr., referred to a previous presentation by a resident, Ralph Richards, about the installation of pickleball courts and inquired about the status. Cavanagh stated that to date there had only been discussion. No one had contacted her, but she thought there was some interest for it. Schloss said there are many people his age and younger who are getting into pickleball, and they would like to see something happen. A lot of communities in the area have something and he thought the Village had the land to do it. He wanted to know if the Village could go forward and continue discussions. Cavanagh agreed and said she would see what they could do. The next Park Committee meeting will be at the end of April. Porter suggested Schloss bring a proposal forward to the committee.

MAYOR'S REPORT: Porter advised that the Mayor distributed his report to Council and it included a number of motions the Mayor was seeking to have entertained by Council. Porter was advised, however, that the Mayor would prefer to be present to discuss them at the next Council meeting. Cavanagh concurred, but interjected, when she was running for election, she said regardless of the outcome, she would do the 100th Anniversary. She was envisioning what she did 25 years ago with a big tent behind Village Hall and 150 people in attendance. There was cake and punch, and this was the extent of it other than putting together a pamphlet questionnaire for older residents, most of whom were grandchildren of the founders. These people are all gone and there is really no one left to ask. Cavanagh continued to say that the Mayor has expanded this into a lot of stuff including some really good ideas. They all could bear fruit, to include, she believed, an invitation for the Mayor to be the Grand Marshall of the Blossom Time Parade, which is coveted and a wonderful thing. That being said, it was acceptable to hold off on the Mayor's list of motions. Porter suggested, in the Mayor's absence that it would be the perfect time for Council to make him the Grand Marshall by motion. Bell replied, it was the Village of South Russell which was nominated. Berger questioned whether it was more appropriately the decision of Chagrin Falls, and Galicki said it was the Jaycee's call. Furthermore, the Mayor indicated it was the Village that was proposed. Berger said, from a Finance Committee perspective, Council was being asked, through the list of motions, to support budget considerations without any documentation as to what those budgets included. Yes, the Mayor had been asked to be Grand Marshall, but he was also asked for a \$500 check from the Jaycees for the privilege of being Grand Marshall. Berger asked if this was really what the Village wanted to spend its money on. Berger acknowledged there were a lot of ideas in terms of having an antique car in the parade, etc., but what are the costs behind it? They are great ideas, but there needs to be some substance to it so Council can approve a budget based on expected expenses that have something more than an estimation. Galicki added, even with the proposed Garden Club luncheon, there were 35 people the Mayor invited at a cost of about \$22 per person, which amounted to \$770, but the Mayor's estimate was \$500 to \$600. With stronger numbers, Council could decide which activities to support. Rather than approving a slate of activities that might cost the Village \$45,000, the committee would like to know what it will cost and then prioritize the list. Galicki again questioned the invitation to be Grand Marshall with a fee of \$500 and added, there is a question of the cost to have other vehicles in the parade potentially costing \$500 each. It could rapidly exceed what Council anticipated the cost would be in very short order. Canton added, this was like the flagpole. Porter suggested using the verbiage, 'not to exceed' in the motion. In the past the overage came from the Mayor's discretionary fund. Galicki suggested there may not be enough in this fund. The Fiscal Officer advised, if there are plans to have food at an event, there is legislation that identifies what is covered, and the Mayor's proposed luncheon is not. Cavanagh asked for clarification and the Fiscal Officer explained that in reference to the Mayor's proposed Parks Appreciation luncheon at Augie's, the Village cannot spend money on

food - that is not permitted by the State. Council previously passed legislation listing the events that are permissible, but this is not one of the events listed on that legislation so Council would need to take action.

Schloss stated, former Mayor Young had passed away recently and asked if the Village would be doing a proclamation. Cavanagh said she did a recap of how she worked with him and his service with the Village and county. She did not think it was a bad idea to do a proclamation. Schloss thought it would be a nice thing to do for the family. The Fiscal Officer said that she was sure one had been done when he left office but said one could be drafted for the next meeting.

FISCAL OFFICER: The Fiscal Officer had nothing further to report beyond the information she provided at the earlier Special Council meeting. She hoped her presentation gave Council insight and understanding into how the government finances work and the importance of keeping her in the loop beforehand.

Galicki referenced the Solicitor's invoice which reflected charges associated with the selling of property at Kensington Green. He was wondering why the Village is being charged for potential sale of the property of a private community. The Solicitor stated, they raised the question with the Building Department of whether they are able to sell their green space. Porter clarified whether the Solicitor was referring to Fox Run or Kensington Green, and the Solicitor said Kensington Green. She added, this was not the only subdivision that has asked. Cavanagh asked if the green space is usually a set aside, and the Solicitor said it depends. Kensington Green is a residential neighborhood with specific acreage they must have for green space. There is another subdivision asking a similar question that is not a residential neighborhood but multifamily and it is very confusing. The Building Inspector has been looking into this matter and she would be surprised if it was not also reflected on his bills. Galicki asked if the Solicitor was approached by the Homeowners' Association (HOA). The Solicitor said no, she was approached by the Building Department about the matter. It is a normal question relating subdivision regulation. That is also a zoning and plat issue which falls under Planning Commission and Building Department. Porter said it was 25%, unless otherwise specified. The Solicitor said this was the confusion and there was a lot more to it with respect to the multifamily residential subdivision. They are all private and have been deeded as green space. There is a lot that would have to be undone and it is a giant undertaking. Porter's recollection was, with most of the HOAs, the individual members had an interest in the common area personal to them. The Solicitor said that is usually how it works, but some were done in phases and have sub associations. The undertaking is mostly on the proposer, the homeowner, the property owners, the Condo Owners' Association (COA), and HOA, etc. She was answering the legal question asked of the Village. Galicki thanked the Solicitor and explained, being a resident of Kensington Green, he was unaware the topic was up for discussion to sell any of the property. Bell added that he was surprised to see this on the bill as well. Galicki added that he was surprised because there had been no discussion among the members of the HOA about this topic.

As a follow-up to the question, Berger asked whether the Solicitor would be involved in the process should the HOA decide to pursue the matter. The Solicitor said she would be involved in advising the Village. He concluded there could be a significant cost to the Village without recompense from the HOA to undo all of the necessary steps. Berger wondered if this cost could be put on the HOA, and the Solicitor said the HOA would have a gigantic cost because they have to come up with the actual plan. They were asking the Village if it was at all doable. Berger asked if, in the event the HOA decided to go forward, the Village could charge the HOA the legal costs. The Solicitor said absolutely. The matter would have to go before Planning Commission and might even involve the Geauga County

Planning Commission. Cavanagh reiterated, often the property is an offset for whatever the acreage amounts are. The Solicitor said it usually has to do with lot coverage, density, etc. and because of the multifamily part of it, it is difficult. Additionally, there were a series of Planning Commission meetings and she is not completely sure the meeting minutes followed the code completely. In other words, did they approve certain things and allow certain things with conditions that are not necessarily a plat. It is not to this point, but could get to this because it is not as clear with Kensington Green which is a residential neighborhood and very specific as to the exact amount of green space they must have. With Manor Brook, the other subdivision, it is not clear in the Village's code. What is clear is they are multifamily, and the Building Inspector is determining acreage percentages. They need to bring a proposal and right now they are asking some questions. Cavanagh said, when developers come, they know what they are asking for and they know what the lot requirements are. Having a set aside is one way around extremely large lots. It seems wrong to even consider getting rid of it. Porter added, the other way where there is a limited number of houses on a certain acreage rather than like Cleveland Heights or University Heights houses that are five feet away from each other. He likes it in the middle.

Galicki said, this answered his question and said he just had no idea what was going on with this matter, and it appeared the other two Council members who reside in Kensington Green were not aware either. He thanked the Solicitor for her clarification.

FINANCE COMMITTEE: Berger reported, the Finance Committee met on Friday, March 24th. The minutes would be forthcoming. The report by the Fiscal Officer at the earlier Special Council meeting was essentially the meeting discussion. The committee reviewed the bank account, bank reconciliation, and Credit Card Report.

Berger made a motion to approve having the Fiscal Officer make a payment to Pavement Technology for \$20,234.23, seconded by Galicki. Voice vote – ayes, Canton, Cavanagh, Galicki, Bell, and Berger. Motion carried.

SOLICITOR: The Solicitor said she was going to report about the Supreme Court hearing arguments in the tax case, but also requested a brief Executive Session for the purchase of property and/or pending or imminent litigation conferring with the Solicitor.

STREET COMMITTEE: The Streets Committee will meet on Friday, April 7, 2023, at 7:30 a.m. in the Street Department office. Bell stated, by April 1st every year, Council must approve the two service flags displayed at the corners of Bell Rd. and Chillicothe Rd. **Bell made a motion to present the flags of the United States Army and Space Force at the corner of Bell and Chillicothe Roads as permitted by existing ordinance for 2023, seconded by Berger. Voice vote – ayes, Canton, Cavanagh, Galicki, Bell, and Berger. Porter abstained. Motion carried.**

Bell made a motion to amend the 2023 Roads Program giving the Mayor, Fiscal Officer, and Solicitor authority to go out to bid for the Village road base repairs with Alternate A, being Woodside Rd. and Alternate B, being Maple Springs Dr., seconded by Berger. Voice vote – ayes, Canton, Cavanagh, Galicki, Bell, and Berger. Motion carried.

BUILDING COMMITTEE: Bell reported, the Building Committee held a special meeting on March 16, 2023, for the Mayor to introduce three potential alternates to Planning Commission. The Mayor wants to discuss a change to the ordinance that would allow for three alternates to the Planning

Commission with no more than two serving at one meeting at one time. Per the Mayor, this is similar to Bainbridge.

POLICE CHIEF: The Chief reported the status of power restoration on the west end of the Village after the weekend storm.

Regarding HB 84, proposes the minimum age of Police Officers be lowered from 21 to 18 years of age to widen the pool of candidates.

With power outages lasting multiple days, Bell asked if the Village had the authority or ability to provide shelter for citizens. The Fiscal Officer advised, in the past, residents were notified via eblast there was water available, and they could come to Village Hall during office hours if they needed to warm up. The Chief added, if the Village does not receive any requests, Village Hall is not opened for this purpose, but it has been publicized as an option. He is not aware of anyone who has taken advantage of this. Gurney School can also be utilized in an extreme emergency. The Chief further explained that the current outage effects 55 homes on the west end of the Village.

SAFETY COMMITTEE: Canton reported, the committee will be meeting on April 6th at 9:00 a.m. in the Police Department. The Chief advised that a candidate was interviewed for a part-time patrol officer position and the background investigation is currently being conducted. He would anticipate being ready to swear the new officer in at the April 24th meeting.

HR COMMITTEE: Cavanagh stated, the HR Committee will be meeting on April 6, 2023, at 1:00 p.m.

PROPERTIES COMMITTEE: Cavanagh said the committee will meet on April 6, 2023, at 10:00 a.m. in Village Hall.

Cavanagh motioned the celebration of the 100th on July 23rd have a backup rain date of Sunday, July 30th, seconded by Canton. Voice vote – ayes, Canton, Cavanagh, Galicki, Bell, and Berger. Porter abstained. Motion carried.

PUBLIC UTILITIES: Berger reported, the committee met on Friday, March 24th and the minutes will be forthcoming. The committee discussed possibilities of the Fox Run detention pond. Through a discussion with the HOA president, Porter did not receive a negative response, nor did he receive an extremely positive one. The committee also had a discussion with the Streets Commissioner about the boring project proposed to eliminate two of the flagpole meters. He hoped to get better quotes because the \$14,000 quote was excessive. Berger added, the second quote the Street Commissioner received was \$22,000. Porter added, the Public Utilities Committee is likely to recommend a proposal for a Fox Run detention pond be drafted by the Solicitor as an easement to the one acre parcel closest to Bell Rd. where the gazebo is. The HOA president indicated they were willing to entertain a proposal from the Village for this purpose. He made no guarantees about how it would be received. Porter let him know it would not help Fox Run at all but would help Sugar Bush and everyone downstream. He asked the draft to be prepared by the next Council meeting. The idea would be, the Village would construct, establish, maintain, and be responsible for a detention pond not to exceed one acre in width and four to five feet deep for the purposes of stormwater retainage. Galicki said that Porter was being very specific as to the dimensions and depth, but would an engineering study be needed to determine what the detention/retention pond should be? Berger said this discussion had occurred with the Engineer who had definite ideas about location, depth, etc. Before proceeding, the committee will present a

much more detailed plan. Porter added, the committee recommended the pond be suitable for a 100-year storm like the central retention basin. He thought it would take time to negotiate and was aware the HOA could say no. It is being pursued, however, because it is one of the last items from the 2004 Stormwater Study. Porter envisioned the process would take a while. The Solicitor said, in a typical easement, the easement area is described by legal description and a map and wondered if they would be waiting on it. Porter said he would include this with the proposal because it tells them what they need to know; where it will be, what it will look like, and how much property they will be granting to the Village for access. This may be money out the window, but if the Village does not ask, it will not be happening. Porter continued, the Village wants Manor Brook II to go through if possible and this would be the last big piece of stormwater and then maybe the Village would not have run-offs next year and the year after. Cavanagh requested a copy of the stormwater study.

ORDINANCES/RESOLUTIONS:

Berger provided a second reading of a resolution declaring it necessary to levy a tax in excess of the ten-mill-limitation.

Bell introduced an ordinance approving the agreement with Grade Line, Inc. for the construction of the Village of South Russell's Chillicothe Road Culvert Replacement Project, authorizing the Mayor to execute the agreement on behalf of the Village of South Russell, and declaring an emergency. Bell made a motion to waive readings, seconded by Cavanagh. Roll call – ayes, Canton, Cavanagh, Galicki, Bell, Berger. Porter abstained. Porter explained, when the President Pro Tem is sitting as the Mayor, he has to do what the Mayor does which means that he does not have a vote unless there is a tie. This is a restrictive reading of the Ohio Revised Code, but he would rather do it that way than vote in favor of something which later turns out he should not have voted on or against. The Solicitor thought he was still a Council member, and Porter did not think he could exercise both powers at the same time. Bell made a motion to adopt, seconded by Berger. Roll call – ayes, Canton, Cavanagh, Galicki, Bell, Berger. Porter abstained. Motion carried. **ORD 2023-17**

Berger introduced an ordinance amending Appendix D - Job descriptions of the Village's Employee Handbook and declaring an emergency. He explained it was for the part-time Administrative Assistant position. Berger made a motion to waive readings and declaring an emergency, seconded by Cavanagh. Berger said this was a technical issue where Council previously amended the part-time Administrative Assistant's job description to make it full-time and then there was a previous document used which was incorrect and did not reflect the actual duties of the part-time Administrative Assistant. This is correcting the record and putting in the proper job description. Roll call – ayes, Canton, Cavanagh, Galicki, Bell, and Berger. Porter abstained. Berger made a motion to adopt, seconded by Cavanagh. Roll call – ayes, Canton, Cavanagh, Galicki, Bell, and Berger. Porter abstained. Motion carried. **ORD 2023-18**

BILLS LIST:

Berger indicated, there were not enough people to pass the bills list if Porter was going to abstain. It would be considered at the April 10th Council meeting.

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

Cavanagh asked about the schedule of the part-time Administrative Assistant, and the Fiscal Officer indicated she would make arrangements for her to come in when Cavanagh had work for her. Cavanagh said this would be by Monday.

EXECUTIVE SESSION: Canton made a motion to enter into Executive Session at 7:53 p.m. for the purposes of discussing the possible purchase of property and conferring with the Solicitor regarding pending or imminent litigation pursuant to Sections 121.22(G)(2) and (3) of the Ohio Revised Code and to invite the Fiscal Officer, Solicitor, Police Chief, and President Pro Tem, seconded by Cavanagh. Roll call – ayes, Canton, Cavanagh, Galicki, Bell, and Berger. Porter abstained. Motion carried.

Council reconvened at 8:06 p.m.

ADJOURNMENT: Being that there was no further business before Council, Cavanagh made a motion to adjourn at 8:07 p.m. seconded by Bell. Voice vote – ayes, all. Motion carried.


William G. Koons, Mayor


Danielle Romanowski, Fiscal Officer

Prepared by Leslie Galicki