

**RECORD OF PROCEEDINGS
REGULAR COUNCIL MEETING
MONDAY, APRIL 24, 2023 – 7:00 P.M.
MAYOR WILLIAM G. KOONS PRESIDING**

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

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

VISITORS: Lindsey Self, Bell Rd.; Don Rice, Metzenbaum Center

The Mayor 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 April 10, 2023, Regular Council meeting minutes, seconded by Cavanagh. Voice vote – ayes, all. Motion carried. Porter made a motion to approve the minutes of the April 18, 2023, Special Council meeting, seconded by Berger. Voice vote – ayes, all. Motion carried.**

VISITORS: Don Rice, Superintendent of the Geauga County Board of Developmental Disabilities (GCBDD) explained that the purpose of his annual visit was to inform Council and the public about what the organization does. The youngest individuals served are newborns or earlier if the diagnosis is determined prior to the birth. GCBDD provides special speech, occupational, and physical therapists to help families prepare. The hope is that by being proactive, the children will be functioning well by school age. This is the biggest area of growth with 275 clients. The remaining populations have remained stable. Once the child reaches school age, the department provides family home based services to assist families, which help pay for special therapies and interventions as well as summer camps. At age 14, the department supports transition services from school to employment. Currently, out of 570 adults, there are 182 individuals who are working in the community. In 2012, this was about 35. GCBDD takes pride in this accomplishment. The oldest individual supported by GCBDD is 94, and there are about 200 individuals who are cared for on a 24/7 basis because they have no family. In conclusion, Rice stated that he is proud of the organization and proud of the people it serves.

Cavanagh provided a listing from her property assessment of dollars received by Metzenbaum compared to other county organizations. She asked Rice to explain why Metzenbaum receives more of her tax dollars than the other entities. Although he could not account for the other departments, he advised that in many cases, there are Federal or State dollars that are going heavily into those same programs. In the Metzenbaum program, more than 80% are local levy dollars. It gets less than 10% in State dollars, most of which are transferred to the schools. The GCBDD has a budget of roughly \$16 million per year. It receives about \$1 million from the State in education and about \$1 million per year from the Federal Government. Everything else is local. Much of the State funding it used to receive has gone away. Without the local levy dollars, there is no way GCBDD could serve anyone. Furthermore, he explained the match paid by GCBDD to Medicaid in the amount of almost \$5 million each year is matched with Federal dollars. Currently, the board is paying 30%, but as of May 11th it will go back to 36% and the Federal Government will come in with 64%. GCBDD gets very little from the State or Federal Government anymore. This is why theirs is the highest on the property tax assessment.

Berger expressed his appreciation for Rice's work.

The Mayor asked Rice to discuss the group homes within the area. Rice explained that of the 200 individuals previously mentioned requiring 24/7 care, 13 live at the Metzenbaum Center and about 180

live and pay rent in the community in homes either managed by Maple Leaf Community Residences, group homes with private landlords, and some in Geauga Metropolitan Housing Authority (GMHA) housing in Chardon.

Cavanagh asked if GCBDD provides 24-hour care staff, and Rice explained the department works with private providers for this. They are not county employees. These providers follow a service plan written and managed by GCBDD staff which might include transportation, medication administering, special dietary instructions, etc.

Rice stated that GCBDD has been blessed by being in Geauga County where it has been able to provide the services it does. This includes thanking the voters for supporting GCBDD with the levies. He strives to ensure that GCBDD is a good steward of these tax dollars.

Lindsey Self, Bell Rd., requested to use the pavilion on June 2nd for a 3rd grade Chagrin Falls end of year celebration. The Mayor said this was done in the past and thought it was a great idea. Self explained the evolution of this 3rd grade party. She advised that it would be primarily 3rd grade students attending, but there may also be siblings and parents. The Mayor said there would be over 50 people attending and there will be bounce houses and catering trucks. There would be no rain date. Self raised the issue of parking, and asked for suggestions since street parking would not be permissible. The Chief said that weather permitting, parking should occur on the grass. Canton suggested having the school provide bus service, but Self explained that the event was not being run through any school group, so inquiry had not been made. The Mayor thought parking along the power lines would work. Council had no objections to the reservation.

MAYOR'S REPORT: The Mayor addressed the creation of a Centennial Celebration Planning ad hoc committee. He and Cavanagh will be holding two meetings, on May 1st and May 15th. People are being invited to come and give their opinions. He hoped for 10 to 15 volunteers with great ideas. **Cavanagh made a motion to create the Centennial Celebration Planning Ad Hoc Committee, seconded by Canton. Voice vote – ayes, all. Motion carried.**

The Mayor reviewed applications for use of the pavilion. One was a private party with bounce houses on Tuesday, May 9th for two hours by a religious organization. The second reservation was for Sunday, May 21st from noon to 5:00 p.m. with over 50 people attending and catering. The event is being put on by a private group for the Police and Fire Departments. The next reservation is for Saturday, June 17th, and there will be 40 people, catering, and alcohol. They will work with the Chief for coverage. There will be a remembrance party on August 25th with 25 people and alcohol. The Solicitor verified these individuals with alcohol will also make arrangements with the Chief. The Mayor concurred. There were no objections by Council for any of the pavilion reservations.

In response to issues with dog waste in the park, the Mayor posted flyers in both of the kiosks to address dog owners and the use of the park.

An inspection will be conducted of the playground by Tab Gordon, a licensed playground inspector who works for Bainbridge Township and who has done it before.

The Mayor requested a motion to spend money from the Mayor's Discretionary Fund for the Park Appreciation Luncheon which will occur June 16th at Augie's. It will be for anyone who has done something that has helped the park to include Boy Scouts, the Cats Den Garden Club who planted the 1,000 daffodils, Ike and Anne Tripp, etc. **Canton made a motion to use the money for the luncheon, seconded by Cavanagh.** Galicki asked the Fiscal Officer how much money is in the

Mayor's Discretionary Fund, and she said the budget was \$5,000 for the year less a little that has been used for the yard sale advertising. There may be \$4,500 left. Berger verified this would cover the luncheon, and the Mayor said yes. Galicki verified that the Mayor did not anticipate any further expenditures from his discretionary fund for the year. The Mayor said \$100 would go to Susan Brownstein, the Garden Editor of the Plain Dealer, who is charging \$100 to speak. Otherwise, he did not know, but added that the Veterans' Luncheon came out of it. Galicki surmised there would not be money for this, and Porter added that when it is gone it is gone. The Mayor thought the Park Appreciation Luncheon would cost a maximum of \$1,000. **Voice vote – ayes, all. Motion carried.**

Bell observed that there was some kind of disconnect between the Mayor and the Chagrin Lakes Homeowners' Association (HOA) regarding the Chillicothe Rd. Culvert project. He asked the Mayor to expand on what their expectations are. The Mayor explained that he, the contractor, Engineer, and Street Commissioner met last week regarding the culvert project. In the meeting, the contractor warned that he would be within inches of the Chagrin Lakes sign. According to the Mayor, the Engineer said the contractor would remove it, put down the new landscaping, and put the sign back and hopefully the sign would hold together. The Mayor sent an email to the HOA President saying that this matter was coming his way which created a little bit of a flurry because there are probably a few other issues there. That was basically it. Bell verified they were worried their sign would not stay intact. The Mayor said that looking at it, the sign looks pretty good, but it also has flowers around it. He reiterated that the contractor stated he would be within inches of it, so it would have to go.

Berger asked if this was really Chagrin Lakes' only issue. It seemed from the public records request the Village received that there is a whole lot more to it than just the sign. Galicki suggested it may be an issue with the size of the culvert and whether more water will be pushed to Chagrin Lakes. Berger added that it involves the size of the culvert, how much water is going through, the studies, etc. The Mayor responded that there is water, and it is a culvert. The Central Retention Basin was created to stop the water from going right to Chagrin Lakes and to slow it. Berger understood this and reiterated that the question is whether Chagrin Lakes HOA understands all the steps taken to retain the water on the east side and to move it in an orderly fashion through their neighborhood. The Mayor explained that over the years, the Village has been meeting with them and talking to them. He sent three different emails to their HOA President during the month of April explaining different activities that would be going on, and he and the Chief go to their HOA meetings each year. This is the only HOA meeting where they have been told not to attend. Berger said that from the documentation received by the Village, his opinion is that it seems there is a disconnect and somehow that information has not been properly received in Chagrin Lakes. He wondered if the Village needed to do anything else to assuage their fears. The Mayor proposed two items. First, three emails were never forwarded to the residents, so he proposed sending a letter to everyone in Chagrin Lakes inviting them to come to a public meeting on May 8th at 6:30 p.m. before the regular Council meeting and have the Street Commissioner and Engineer present to answer any questions. Berger wondered if a half hour was sufficient and if it should happen sooner than May 8th. He thought it important to have Chagrin Lakes on board with the project, and it currently appears the HOA President is not. The Fiscal Officer advised that Chagrin Lakes reserved Village Hall for May 7th for their HOA meeting, but it is a closed meeting to their association.

The Mayor proposed putting a notice in every Chagrin Lakes mailbox the following day telling them there will be a meeting on Monday, May 1st at 6:00 p.m. depending on the availability of the Engineer. The Chief advised against putting letters in the residents' mailboxes. The Solicitor added that the Mayor has an ad hoc committee meeting at 7:00 p.m. Berger suggested that an hour may not be enough time, and Galicki asked whether with this time limitation the Mayor would then just force them

to stop conversation. The Mayor said he would work it out with the Engineer, and would consider the first week in May.

The Mayor said that judging by the other questions in the public records request, he did not know why anyone would want to see the blueprints, insurance, and all that stuff. He does not have access and the Engineer is taking care of all of that.

Porter said that his impression from the public records request was that the culvert project was coming as a complete surprise to Chagrin Lakes, which he found hard to imagine. Council has been talking about the need to upsize the culverts for 15 years. Perhaps the surprise was that it was actually going to happen and that the culvert would be upsized leading to the perception that water would be flowing at a higher rate into Chagrin Lakes. Galicki advised that prior to building the Central Retention Basin, the plan was to upsize the culvert specifically to push water in their direction. During Council discussions about the Central Retention Basin, there was opposition to it being built and a desire instead to increase the size of the culvert to push more water to Chagrin Lakes. He thought the request to see the engineering drawings of the Central Retention Basin vis a vie the upsized culvert, the anticipated water flow, etc. was reasonable. Furthermore, perhaps there was a perception that with the creation of the Central Retention Basin that upsizing the culvert would not be necessary. He concurred that it would be beneficial to have a public meeting to answer their questions and allow them the opportunity to review plans to see how it will affect their neighborhood. Porter agreed and added that the documents requested are public records. He said, however, that the request indicated that if the Mayor was just willing to meet with the HOA President, the public records request would be withdrawn. The Mayor said he did not approach him about just having a meeting with him, but he could try that. Cavanagh thought it would alleviate the administrative work, but the Fiscal Officer advised that records from her department and from some Council members had already been gathered as required and would be forwarded to the requester the following day.

FISCAL OFFICER: Dates for the Centennial Celebration Ad Hoc Committee meetings were discussed in relation to the publication of the newsletter and what had already been published in the Plain Dealer.

The Fiscal Officer advised that phone calls had been received about the correspondence sent by the Northeast Ohio Public Energy Council (NOPEC) regarding switching its customers from the default provider back to NOPEC. The callers were directed to information provided on the Village website which included meetings being held in neighboring communities. Some of the callers raised more detailed questions about opting out and rates that would go into effect after December 2023. One or two residents asked whether the Village would consider holding an informational session with NOPEC in South Russell to explain the details of the current changes. The Mayor said he would see if a NOPEC representative could attend the May 8th Council meeting.

The Mayor commented on the meeting with the Public Entities Pool (PEP) Risk Services consultant who suggested additional mulch on the playground and an updated handicap sign indicating the \$250 fine. He noted that the Street Commissioner did not attend the meeting and the Fiscal Officer explained that per Council, she and the Chief are the listed contacts for the insurance company. She verified that the Street Commissioner was aware and was working on the two issues. She added that the consultant was complimentary about the framing around the playground, the Village website, and the fact that he only found two items to improve. He was impressed with the Village. Cavanagh asked about the dual inspections of the playground, and the Fiscal Officer shared that the risk consultant

advised the independent playground inspection was not required but was a good thing that the Village did. This assessment is done every couple of years.

FINANCE COMMITTEE: Berger advised that the Finance Committee will be meeting May 12, 2023, at 9:00 a.m.

SOLICITOR: The Solicitor had nothing to report other than the Mayor's request that she provide a synopsis of a portion of the guide for elected officials, focusing on meetings and public records. She distributed a sheet with relevant case law on the Public Records Act and Open Meetings Act. The way that the law defines meeting is a "prearranged gathering of a majority of the members of a public body to discuss or conduct public business." Regarding the question of what constitutes a public body, she advised that clearly Council is a public body as are all the committees. There are typically two members of a committee other than the ad hoc committee and others. One on one conversations of Council members outside of committee that are not on a committee together are fine and would not violate the Open Meetings Act even if discussing public business. However, if Council members are on a committee and are discussing with another committee member, two is a majority. Therefore, the Supreme Court and Ohio law which includes all the courts of appeal have said it is a public body. Any discussion requires notice and must be open to the public. Recently, the Supreme Court said that any email communications between majority members of a public body are considered a meeting typically. If there is an email sent soliciting responses and responses are made, it is considered discussion/deliberation of public business. It does not matter if it is on a public device, or a device provided to Council. It does not matter if it is on Facebook, Instagram, or Twitter. It all counts towards the Open Meetings Act and requires the notice of being open to the public to attend, which is difficult with it being email. If there is any question, it is best to refrain from emailing fellow committee or Council members unless it is a one-on-one conversation. There are consequences for violations of the Open Meetings Act which can be severe to include civil and criminal penalties, injunctions, action taken by Council, and if there is a violation of the Open Meetings Act, any actions will be void. This also applies to subcommittees/ad hoc committees. It does not matter that such a committee has any decision-making authority. It is what they are doing with respect to public business. This would mean even if they were just offering ideas for the Centennial Celebration. It is considered a public body that has to follow the Open Meetings Act. The same applies to public records. Anything that the committee does whereby some sort of record is created and discussed, this is a public record and must follow the law.

She thought a lot of confusion surrounded electronic communication since so much of today's communication is email, text, etc. These are public records and can be subject to the Open Meetings Act. She also reminded Council that the Village has a Record Retention Policy. Even though something is being sent from a personal phone, home computer, etc., those records are to be retained. If someone were to ask the Village for it and the Village does not have it, there can be an issue. Canton provided the example of a committee chair asking a committee member to review and provide feedback about meeting minutes via email, and the Solicitor said this was not permissible. Canton commented that this is ridiculous. The Solicitor agreed and urged Council to talk to their legislators. She offered that if minutes were typically approved at the next meeting, this was where discussion could take place about them. Porter asked about committee members emailing each other to establish a meeting date. The Solicitor said this would technically be a violation of the Open Meetings Act. It would be permissible for the committee member to ask the Fiscal Officer to send the email to each committee member to establish the date. If there was a discussion in a public meeting about a meeting date, Council members may individually email the Mayor to advise of their availability. Cavanagh thought that what the 11th District Court was saying is that Council should go back to telephoning everybody separately. The Fiscal Officer said that calling your committee member is a Sunshine

Violation. The Solicitor said that it is also not permissible to have a series of meetings which are a round robin where everyone is talking about the exact same thing. It is not fun, but she encouraged Council to look at the 2023 Ohio Sunshine Manual. Discussion about the absurdity of some of the rules ensued. However, to illustrate the Solicitor's point, Galicki described the Sunshine violation filed against the Geauga County Health District for proceedings held which resulted in a decision to disestablish the Board of Health and go with Lake County. Bell asked about the instance where two committee members discuss Village business unrelated to their committee. The Solicitor said this was allowed because it was not their committee nor was it four members of Council. The Fiscal Officer added that it is not permissible to go to one person at a time to get consensus because this is a round robin.

The Mayor said that he would give an example of something that was allowed. With regard to the Park Appreciation luncheon, Canton and Cavanagh would attend but could not talk about the Fall Festival. The Solicitor agreed and added that they may not discuss anything to do with the park. On that topic, the Solicitor asked if the luncheon was going to be a special meeting of the Park Committee. The Mayor thought it may as well be. The Fiscal Officer advised that Cavanagh is on the Park Committee and she and Canton are on Properties, so it should be a Properties Committee meeting. The Solicitor asked if there would be a majority of Council members attending. The Mayor thought it would be easiest to do it as a Special Council meeting.

There was further discussion about the potential for damages and consequences from violating the Open Meeting Act.

The Solicitor stated that a response was received from the Holtz's and they have signed off on the agreement. She thought there should be a discussion during Ordinances and Resolutions about the legislation.

STREET COMMITTEE: Bell reported that the minutes from the April committee meeting were distributed. The next meeting is on May 5th at 7:30 a.m. in the Service Director's office. Saturday, April 29th from 8:00 a.m. until 2:00 p.m. is the annual Trash Day and noted the residency requirement as well as the items that will and will not be accepted.

Bell made a motion to approve payment of Application 1 for the Culvert Replacement Project, seconded by Porter. Voice vote – ayes, all. Motion carried.

Porter asked if the committee would be getting together for the bid opening for the 2023 Road Program. The Fiscal Officer concurred and said it was at noon on April 28th in Village Hall.

Galicki advised a resident emailed him and reported that there is a resident at 1417 Bell Rd. that filled in the ditches on Bell Rd. There has been construction of a house and outbuildings on that site. In passing this property, Galicki assumed there was a culvert pipe that ran where the flow of water was but then observed there was no culvert throughway for the water. He further described that the apron into the driveway has no culvert, and a gravel parking area was created on either side of the access to the house which was filled in as well. With all the issues with water, he was concerned about filling in a ditch and restricting water. Bell said Galicki was correct that there is no culvert pipe there. He explained that in past communication with the Engineer, it was discussed that the property is on a crest line where it is slightly sloped to the west and to the east it is significantly sloped. He thought perhaps the Engineer should look at it after the apron has been adjusted. Galicki wondered if this might lead to other residents who might be on elevated land to decide to eliminate culvert pipes. He just thought it should be assessed by the Engineer. Bell concurred. Cavanagh said that when this was done, she

called the Street Commissioner, who told her there was not a culvert there and that the water drains from the opposite side of the street, but she agreed that the Engineer should look at it.

The Mayor distributed a flyer about the Geauga Trumbull Solid Waste Management District location in Geauga County. He thought they would eventually cut into the Village's Trash Day volume. The Mayor plans to distribute the flyers to residents on Trash Day.

BUILDING COMMITTEE: Bell reported that the committee met, and the April minutes were distributed. The next meeting is on May 4, 2023, at 8:00 a.m. in the Building Department.

Bell referred to two proposed ordinances that appear on the agenda and advised that they would not be addressed in Council until the committee had the opportunity to review the language and changes provided by the Solicitor. The committee also wants to hear the feedback of the Planning Commission regarding the suggested change to have alternates.

POLICE CHIEF: The Chief had no report.

SAFETY COMMITTEE: Canton stated that the Safety Committee will meet on Thursday, May 4, 2023, at 9:00 a.m. in the Police Department. Canton asked the Chief if Council would be voting for a part-time officer in the near future. The Chief advised that this process has been completed and the individual will be sworn in at the May 8th meeting. There is another candidate, and the Chief would be requesting a joint HR and Safety Committee meeting.

HR COMMITTEE: Cavanagh reported that the HR Committee will meet on May 4th at 1:00 p.m.

PROPERTIES COMMITTEE: Cavanagh said the committee will meet May 4, 2023, at 10:00 a.m.

The release date for the Brown's schedule was discussed, and the Mayor suggested that at the Park Committee meeting, they should have a heart to heart with Ted Kruse to say that they were going to pick a day in January for the Fall Festival. Cavanagh agreed and added that it is difficult to get the popular vendors later in the year.

PUBLIC UTILITIES: Berger stated that after the Storm Water Special Council meeting, he suggested holding a Special Public Utilities Committee meeting on Wednesday, April 26th at 7:00 p.m. to discuss the Paw Paw Lake silt pond and adjacent swim lake.

Porter noted that the Mayor is part of the committee, and asked if the Engineer would be invited. Berger said he had been invited but did not know if he would attend. The Fiscal Officer stated that if four members of Council planned to be present, it would need to be Sunshined as a Special Council meeting. Canton and Bell indicated they planned to attend. Porter asked if the Solicitor should be present for it, and Berger said it was asked of him and his initial thought was that this was just an exploratory meeting. Rather than get very technical, they should get some ideas out on the table and then once they clarify the direction to go, then the Solicitor would be brought in. Canton commended Berger and Porter for being proactive in calling the meeting.

The Mayor said that Wednesday, May 3rd at 11:30 a.m., he and two representatives of the Chagrin River Watershed Partners (CRWP) will meet with Tom McQueen, the individual who maintains Congressman Joyce's office in Ravenna. They will be meeting in Kent and looking at any possible way to obtain money for the Village. The Mayor invited Jenny Brown, the CT Consultants grant person. The Mayor wanted people to know that the Village is looking under every rock for money.

The Mayor added that he had been texting the Engineer who said he was available Wednesday, May 3rd at 7:00 p.m., so there will be a Special Council meeting at that time for storm water for Chagrin Lakes culvert only. A notice will be sent to the Chagrin Lakes residents on Wednesday, April 26th.

ORDINANCES/RESOLUTIONS:

Galicki provided a third reading of an ordinance amending the Annual Appropriations increasing Manor Brook Fund expenses \$19,000. Galicki made a motion to adopt, seconded by Porter. Roll call - ayes, Porter, Bell, Cavanagh, Galicki. Berger and Canton abstained. Motion carried. **ORD 2023-26**

Cavanagh introduced a resolution authorizing the Mayor to execute and file an application with the Ohio Department of Natural Resources for a NatureWorks grant for the restrooms at the Village Park and declaring an emergency. Cavanagh made a motion to waive readings, seconded by Porter. Roll call – ayes, all. Motion carried. Cavanagh made a motion to adopt, seconded by Porter. Roll call – ayes, all. Motion carried. **ORD 2023-27**

Canton introduced an ordinance approving the settlement agreement and mutual release among Dr. Gary and Carole Holtz, MC Art Studio, LLC, Carlene and Patrick Holtz, and the Village of South Russell, approving as consideration for the settlement agreement and mutual release the purchase of property located at 1208 Bell Road for the purchase price of \$450,000, authorizing the Mayor to execute the settlement agreement and mutual release and purchase agreement on behalf of the Village, authorizing the Mayor and/or Fiscal Officer to perform such other acts as necessary or appropriate in order to effectuate the purchase of the property, and declaring an emergency. Canton made a motion to waive readings, seconded by Berger. Roll call – ayes, all. Canton made a motion to adopt, seconded by Cavanagh. Roll call – ayes, all. Motion carried. **ORD 2023-28**

BILLS LIST: Galicki made a motion to ratify the bills list of April 14, 2023, in the amount of \$144,336.02, seconded by Porter. Roll call – ayes, Porter, Bell, Cavanagh, Galicki. Canton and Berger abstained.

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

Cavanagh asked to meet with the Fiscal Officer regarding the 100th Celebration pamphlet.

The Mayor reviewed that there would be Special Council meetings on April 26th at 7:00 p.m., May 3rd at 7:00 p.m. to discuss Chagrin Lakes Culvert, and on June 16th for the Park Appreciation luncheon at 11:30 a.m. There will also be two ad hoc committee meetings on Monday May 1st and Monday May 15th at 7:00 p.m. in Village Hall.

ADJOURNMENT: Being that there was no further business before Council, **Porter made a motion to adjourn at 8:16 p.m. seconded by Bell. Voice vote – ayes, all. Motion carried.**



William G. Koons, Mayor



Danielle Romanowski, Fiscal Officer

Prepared by Leslie Galicki