

Village of Gates Mills
MINUTES OF A REGULAR MEETING OF COUNCIL
April 9, 2019

A regular meeting of the Council of the Village of Gates Mills, Ohio was held on Tuesday, April 9 at 6:00 p.m. in the Community House.

Councilmembers present: AuWerter, Frankel, Reynolds, Sogg, Turner, Welsh, Whitney.

Fire Chief Robinson presented a birthday cake to Councilmember Whitney and everyone sang Happy Birthday.

The minutes of the February 12, 2019 Council meeting were presented by the Clerk. It was moved by Councilmember Sogg, seconded by Councilmember Welsh, that the February 12, 2019 minutes be approved.

Roll call: Ayes: AuWerter, Sogg, Turner, Welsh, Whitney.
Nays: None.
Abstain: Frankel and Reynolds.
Motion carried.

Pay Ordinance #1223 (February 2019) in the amount of \$459,319.84 was presented by the Clerk.

It was moved by Councilmember Whitney, seconded by Councilmember Sogg, that Pay Ordinance #1223 be approved.

Roll call: Ayes: AuWerter, Frankel, Reynolds, Sogg, Turner, Welsh, Whitney.
Nays: None.
Motion carried.

Pay Ordinance #1224 (March 2019) in the amount of \$338,282.29 was presented by the Clerk.

It was moved by Councilmember Sogg, seconded by Councilmember AuWerter, that Pay Ordinance #1224 be approved.

Roll call: Ayes: AuWerter, Frankel, Reynolds, Sogg, Turner, Welsh, Whitney.
Nays: None.
Motion carried.

Councilmember Whitney read Treasurer Reynolds' report for the period ending March 31, 2019.

- Revenues are lower than this time last year. Municipal taxes are about half of last year's levels. This reflects a large income tax payment received in the first quarter of 2018 that is not likely to be received in 2019.
- Operating expenses are generally within budget. Administrative expenses are normally higher in the first quarter with flood insurance, property insurance and tax payments. Engineering fees are high relative to budget and we are awaiting reimbursements on a number of projects.
- Our capital account at Ancora stands at \$4,611,444 including accrued interest. Income for the next 12 months is forecasted at \$110,108.

Mayor Schneider appointed Judy Embrescia (12/31/2019) to the Architectural Board of Review. For the Historical Review Committee, Mayor Schneider appointed Sara Welsh as Chair and new members Mary Holmes and Anne Steele. She appointed Bill Childs as the alternate architect for the Historical Review Committee and David Ellison as the alternate architect for the Architectural Board of Review. Mayor Schneider also appointed Karen Long to the Safety Committee and Paul Cascio to the Real Estate Committee. Councilmember Turner stated that Jennifer Joseph is no longer on the Positively Gates Mills Committee. Councilmember Welsh moved to approve the appointments, seconded by Councilmember Turner.

Roll call: Ayes: AuWerter, Frankel, Reynolds, Sogg, Turner, Welsh, Whitney.
Nays: None.
Motion carried.

Mayor Schneider announced the regularly scheduled meeting for October has been moved to Tuesday, October 15, 2019.

Clerk's report. None.

On behalf of the Positively Gates Mills Committee, Councilmember Turner presented a newly published Relocation Guide that has advertisement and photographs of the Village's Downtown Area and the Bonfire on Christmas Eve. The Committee is planning the Grand Opening of Marston Park for Sunday, June 23. Many activities, such as bocce, pickleball, fitness challenges and meeting the hounds are being planned for the day. Councilmember Reynolds asked if dogs will be allowed in the park. If so, pet waste removal supplies will be needed. Councilmember Sogg noted there should be a leash requirement.

Councilmember Turner continued by announcing the School Liaison Committee will provide a reception at 5:30 p.m. just prior to the 6:00 p.m. Council meeting on May 14 for retiring Gates Mills Elementary School Principal Tammi Bender. The new Principal is Lauren Ravida.

Councilmember Welsh asked if there is new land for the cemetery. Mayor Schneider stated there is not.

On behalf of the Planning and Zoning Commission, Councilmember Sogg stated in August 2018, there was a presentation for the possible development of 781 Chagrin River Road. She noted there was discussion about the proposal and the Commission did not hear any more about it until the March 2019 meeting, where changes to the conceptual plan were discussed and no actions were taken. Law Director Todd Hunt had met with Mayor Schneider and Councilmember Sogg to discuss the possibility of an ordinance. At the April 2, 2019 Planning and Zoning Commission meeting, the Mayor gave a presentation detailing the history of cluster housing/senior housing in the Village. Law Director Hunt detailed the applicable procedure for adopting cluster development language as a text amendment to the current zoning. Nothing has been initiated as of yet other than plans presented in a public meeting. The Planning and Zoning Commission would have to make a recommendation to Council for the amendment, a draft ordinance would be introduced to Council and then referred to the Planning and Zoning Commission for study. If the Commission recommends the Ordinance to Council, a Public Hearing would be scheduled for any ordinance that changes the zoning. The Public Hearing is announced 30 days ahead of time. There is a three-reading rule for Council for an Ordinance, but the rule can be suspended. Generally, there are three readings. The Public Hearing would take place prior to any vote on the ordinance.

Mayor Schneider stated copies of her presentation from the March Planning and Zoning Commission meeting are available. She read signed statements from herself and her son, Steve Schneider. The statements are attached.

Police Chief Minichello provided a written report and noted a busy March. There was an incident on March 28 in University Heights where the motorist ended up crashing at Gilmour Academy into a telephone pole. The pet management program and updated house watch program are available on our website. Councilmember AuWerter noted the sentencing of the man found guilty of the home invasions and robbery on Berkshire and Dorchester Roads. The man was sentenced to 43 years in prison. He was arrested with the FBI's assistance within six hours of the robbery.

Service Director Biggert provided a written report. On May 17, the Mayfield at Chagrin River Road traffic project will be heard in the final round of grant requests in Columbus. Lane changes, curb work, new signals and signal options are the work being reviewed. Cedar Road work had been bid by the County and Karvo was the lowest bidder. There will be a pre-construction meeting soon with work to start in May and end in October. The work will start at the SOM Center end of Cedar Road. Discussion regarding the Ohio Building Code and its lack of requiring a registered architect to present and stamp drawings ensued. The Ohio Building Code, which the Village adopted, notes the State Licensing Board and the State Board of Building Standards can no longer require a registered architect for plans. Law Director Hunt noted this has been contested over the years with no success. Councilmember Turner recognized the work done through the Ohio EPA 319 Grant and three property owners. The riverbank has been restored and stabilized in order to stop erosion. Engineer Courtney noted the weirs were reduced to bump outs and are 3-4 feet from the bank. One can view the completed work from the pedestrian bridge.

Fire Chief Robinson provided written reports for February and March. He noted he had worked with the Finance Administrator on EMS transport billing for residents. The billing company gets the information for health insurance but residents are not to be invoiced. We developed a policy and form with them. Chief Robinson noted he is also the Emergency Coordinator for the Village. The County Board of Health has a program established for medicines to be distributed to first responders if there is a major outbreak in the area. The parameters have changed for the program and the Emergency Coordinator's discretions may include Council, Finance, and the Mayor in the program to remain intact. Mayor Schneider had Chief Robinson look into Councilmember Welsh's interest in providing ambulance services. The Chief stated Hunting Valley receives fire and ambulance services from Chagrin Falls. He looked at staffing and the equipment that would be necessary and found it to be cost prohibitive. Councilmember Welsh stated he did a study years ago and wants to approach Hunting Valley. Chief Robinson explained his research and computations. Councilmember Welsh noted there is funding available. Chief Robinson noted we look at this every few years and the Village is not eligible for the funding of which Councilmember Welsh referred.

Ordinance No. 2019-06 "An Ordinance Amending Subdivision (d), "Prohibited Uses", of Section 1157.01, "Classification of Uses", of Chapter 1157, "Zoning Uses", of the Planning and Zoning Code of the Village of Gates Mills to Remove Prohibition on Oil and Gas Activities" was read for the third time by Councilmember Frankel. It was moved by Councilmember Sogg, seconded by Councilmember AuWerter, that Ordinance No. 2019-06 be approved.

Roll call: Ayes: AuWerter, Frankel, Reynolds, Sogg, Turner, Welsh, Whitney.
Nays: None.
Motion carried.

Resolution No. 2019-11 "A Resolution Authorizing Participation in the ODOT Road Salt Contracts Awarded in 2019" was introduced by Councilmember AuWerter. He stated the Village had a less severe winter this year. We committed to 1,700 tons for the year and the Village used 1,400 tons this year. Historically, the lowest amount used was 1,200 tons and the high was 2,200 tons. The amount being requested this year is 1,400 tons.

It was moved by Councilmember AuWerter, seconded by Councilmember Turner, that the rules requiring ordinances to be read on three different days be suspended and that Resolution No. 2019-11 be placed upon its final passage.

Roll call: Ayes: AuWerter, Frankel, Reynolds, Sogg, Turner, Welsh, Whitney.
Nays: None.
Motion carried.

It was moved by Councilmember AuWerter, seconded by Councilmember Welsh, that Resolution No. 2019-11 be approved.

Roll call: Ayes: AuWerter, Frankel, Reynolds, Sogg, Turner, Welsh, Whitney.
Nays: None.
Motion carried.

Resolution No. 2019-12 “A Resolution Authorizing the Mayor to Execute an Agreement with ABV Contractors Co. for Labor and Materials for the Cairn Lane Drainage Project” was introduced by Councilmember AuWerter. He noted there has been a long-term problem with storm sewers. The project is not to exceed \$48,500.

It was moved by Councilmember AuWerter, seconded by Councilmember Welsh, that the rules requiring ordinances to be read on three different days be suspended and that Resolution No. 2019-12 be placed upon its final passage.

Roll call: Ayes: AuWerter, Frankel, Reynolds, Sogg, Turner, Welsh, Whitney.
Nays: None.
Motion carried.

It was moved by Councilmember AuWerter, seconded by Councilmember Welsh, Resolution No. 2019-12 be approved.

Roll call: Ayes: AuWerter, Frankel, Reynolds, Sogg, Turner, Welsh, Whitney.
Nays: None.
Motion carried.

Service Director Biggert noted the project was bid out to a few companies last year and ABV Contractors held their price.

Resolution No. 2019-13 “A Resolution Authorizing the Mayor to Enter into a Cooperative Agreement with Mayfield Village for the Resurfacing of a Section of Wilson Mills Road in the Village of Gates Mills” was introduced by Councilmember AuWerter. Village Engineer Courtney noted it is very economical as the Village will pay \$40,000 and receive \$20,000 reimbursement for materials from Cuyahoga County.

It was moved by Councilmember AuWerter, seconded by Councilmember Sogg, that the rules requiring ordinances to be read on three different days be suspended and that Resolution No. 2019-13 be placed upon its final passage. Councilmember Frankel questioned wording in the Resolution and it was noted the work is from SOM Center Road to Chagrin River Road.

Roll call: Ayes: AuWerter, Frankel, Reynolds, Sogg, Turner, Welsh, Whitney.
Nays: None.
Motion carried.

It was moved by Councilmember AuWerter, seconded by Councilmember Sogg, Resolution No. 2019-13 be approved.

Roll call: Ayes: AuWerter, Frankel, Reynolds, Sogg, Turner, Welsh, Whitney.
Nays: None.

Motion carried.

Ordinance No. 2019-14 “An Ordinance Amending Chapter 777, “Limited Tree Cutting for Economic Gain,” of the Village’s Business Regulation Code to Accommodate State of Ohio Real Estate Tax Programs; and Declaring an Emergency” was introduced by Councilmember Sogg. She explained that Council passed an ordinance in December 2018 pursuant to review by the Ohio Department of Natural Resources (ODNR), Council and Conservancy. Residents participating in Real Estate Tax and CAUV programs that encourage good forestry need to have the legislation in place. ODNR was not satisfied with the language in the December 2018 ordinance and they are now teaming up with the Village and will provide guidance, oversight, and a memorandum of understanding to supervise cuttings. Councilmember Frankel asked how many properties are applicable to the ordinance and Councilmember Sogg replied there are 5.

It was moved by Councilmember Ordinance No. 2019-14 be placed upon its final passage.

Roll call: Ayes: AuWerter, Frankel, Reynolds, Sogg, Turner, Welsh, Whitney.
Nays: None.
Motion carried.

It was moved by Councilmember Sogg, seconded by Councilmember Reynolds, Ordinance No. 2019-14 be approved.

Roll call: Ayes: AuWerter, Frankel, Reynolds, Sogg, Turner, Welsh, Whitney.
Nays: None.
Motion carried.

Business from the audience: Mayor Schneider noted Law Director Hunt has been named one of the best lawyers in America for Land Use & Zoning Law in the State of Ohio.

Members of the public were then afforded the opportunity to speak. Residents were in attendance to address a cluster development that had been discussed for 781 Chagrin River Road.

Brent Stewart, 7520 River Oaks Trail: Mr. Stewart asked for a dialogue to begin to decide what we want in Gates Mills and noted residents want to be heard. Councilmember Sogg stated the Village has heard from both sides. Councilmember AuWerter commented that he doesn’t know if there is a way to do it, but for now the cart is before the horse as this is very early in the process. Councilmember Frankel stated he received many emails against the concept and the density of the homes. Many are afraid that this means there will be cluster homes all over.

Andy Decker, 865 Chagrin River Road: Mr. Decker asked if 5 acres is to be deeded from the Village to the developer. Mayor Schneider stated that has not happened but it has been said to many developers and there have been no offers or negotiations.

Les Jacobs, 1710 Woodstock: Mr. Jacobs asked the Law Director if it is possible to craft an ordinance for only this property and not other properties. Councilmember Welsh stated he would like to see the land purchased or taken via eminent domain for the cemetery. Village Engineer Courtney noted drainage channels and flooding limit the ability for the property to serve as a cemetery. Law Director Hunt stated it would be a very restrictive ordinance for this property and a few others.

Holly Matthews, 7469 Sherman Road: Ms. Matthews stated she bought 13 acres and does not want 16 homes next to her. She would not have a buffer from the development.

Dorothy Shillman, 6739 Gates Mills Boulevard: Ms. Shillman discussed the school board property that the Village arranged to buy instead of developing many years ago. There needs to be land studies, sewer studies, research of the impact of cluster homes and it should be on the ballot if it moves forward.

Donna Nusrala, 1021 Chestnut Run: Ms. Nusrala wants to know the motive behind the cluster development. She asked if anyone on council said they would buy one of the homes. Councilmember Sogg stated she has discussed living in a cluster home. Mayor Schneider commented that anyone can propose a concept for their property. This is not a new subject in the Village and has been talked about since the 90s. Many residents want to stay in the Village. The concept was brought to the Village and we listen until there is a yea or a nay. Ms. Nusrala asked about tax revenue. The Mayor noted tax revenue could come from slow, controlled growth. She added the Village only receives 14% of one's property tax.

Andre Polsinelli, 1785 SOM Center Road: Mr. Polsinelli stated he has great concerns and does not want to see changes that will impact the character and integrity of the Village.

Barb Sommer, 360 Timberidge Trail: Ms. Sommer asked about the control of the sales of the homes. Councilmember Sogg replied the developer has offered to make the homes available to Gates Mills residents preferentially. Ms. Sommer noted this was tried in Detroit and no one bought the homes. Councilmember Sogg noted this would be a 55 and older area.

Jennifer Decker, 865 Chagrin River Road: Ms. Decker stated if it has been discussed as a 55 and older area that it has been discussed for a while. Councilmember Sogg stated the conceptual drawing was at the August 2018 meeting and then in March 2019 when the Mayor presented the history of cluster development housing/55 and older housing in the Village. Councilmember Turner thanked everyone for being there. She stated there has been vague discussion and no ordinance presented on the issue. She noted a consensus of current residents should be acknowledged. Mayor Schneider noted the last time the issue came up it was tabled after several meetings. Councilmember Reynolds suggested that, as Planning and Zoning Commission members, Councilmembers Sogg and Turner tell the property owner the concept is being strongly resisted. Councilmember Sogg noted she has met with several people that have asked how they can help. The option should be explored if it makes sense for the Village as a whole.

David Atton, 901 Chagrin River Road: Mr. Atton stated the Village is a precious resource. A long-range plan or master plan should be developed to determine sustainable, qualitative and aesthetic attributes for the future of the Village.

Matt DiVita, 790 Chagrin River Road: Mr. DiVita noted communication is vital. He said the Mayor heard from the neighbors and it seems that the Village is way deeper in the weeds than it is letting on. Service Director Biggert noted that agendas are posted prior to meetings.

Bob Gelbach, 7490 Foxboro: Mr. Gelbach noted this is the fifth time this issue has come before us. Mayor Marston couldn't get it to go through. He stated we went from 2.5-acre zoning to 5-acre zoning and asked why Planning and Zoning doesn't do a mass mailing to the Villagers and set a precedent in the Village. He commented that it is not appropriate to not get the temperature of the Village and the issue should be on the ballot. Councilmember Turner responded that this is not a Village Council or Planning and Zoning movement. A conceptual presentation was made and it does not conform to current zoning. The March Planning and Zoning Commission meeting agenda was incorrect in stating a draft ordinance was being considered. Mr. Gelbach replied that it is a slippery slope and the 2,500 residents need to be heard as the integrity of the Village is changing.

Jennifer Decker, 865 Chagrin River Road: Ms. Decker stated they could have bought a home elsewhere, but Gates Mills has a precedent of tough zoning, which is a great precedent. This helps keep the riff-raff buildings out as they are not characteristic of Gates Mills.

Jerry Bohinc, 7659 Cairn Lane: Mr. Bohinc stated this is a terrific meeting with great citizen participation. He discussed a riding arena and barn that had been built previously and the neighbors did not know it was happening. Service Director Biggert responded there are clear instructions in the Village's Ordinances of how and when to notify neighbors. Mr. Bohinc noted the proposed concept would have one house per one acre versus the current zoning of one house per five acres.

Doug Freer, 471 Chagrin River Road: Mr. Freer asked if this room could be used for the Planning and Zoning Commission meetings. Councilmember Sogg stated that if the cluster development/zoning is not on the agenda, meetings will be held in the Council Chambers.

Councilmember Reynolds reminded attendees that no variance is accepted without a majority of votes from committee members. Equally no new or modified ordinance is accepted without a majority vote from Council.

Bill Donahue, 1876 Chartley Road: Mr. Donahue stated he appreciates the civility of the meeting. He asked if the Village has a Master Plan and how one is established. There was one done in 1997. Where does input come in? Mayor Schneider replied it may be time to update the master/growth plan. She recently attended a session on master planning and it was stated that master plans are good for about 10 years. Cuyahoga County has some funding available as well. Mr. Donahue asked if this issue could be tabled until the plan is updated.

Bob Gelbach, 7490 Foxboro: Mr. Gelbach asked about meeting notifications. Finance Administrator Mulh noted that meeting notices and agendas are posted on the Village's website and in the Town Hall vestibule.

Marci Hovancsek: Ms. Hovancsek asked if business from the audience can be part of the Planning and Zoning Commission meetings.

Holly Mathews, 7469 Sherman Road: Ms. Matthews stated Town Hall meetings would be good.

There being no further business, it was moved by Councilmember Frankel, seconded by Councilmember Whitney, and unanimously carried, that the council meeting be adjourned.


Roll call: Ayes: AuWerter, Frankel, Reynolds, Sogg, Turner, Welsh, Whitney.
 Nays: None.
 Motion carried.

Respectfully submitted,



Beth DeCapite, Clerk

Approved:



Karen Schneider, Mayor

Statement by Mayor Karen Schneider:

Questions have arisen regarding my advocacy for the proposed 781 Chagrin River Rd. project and my son's job as a Realtor. I want to be crystal clear: My son is not going to profit from the development of this property. The developer has guaranteed that my son will not be asked to participate in any part of the project including sale of the properties after development. If I thought my son would benefit personally in any way, I would have already recused myself from all participation in any related discussions.

I support, and will always support, smart development of the property. Period.

Karen E. Schneider

Statement by Steve Schneider:

I am a Realtor with Howard Hanna with offices in Pepper Pike, Ohio, and as a Realtor I sell properties all over Northeast Ohio. My participation in the proposed development consisted of selling vacant land to a developer with whom I had no previous relationship. That developer has since submitted proposals to turn the vacant land into multiple single-family "cluster-style" homes. I do not have any current interest in the property that is the subject of the proposed 781 Chagrin River Rd. project, nor will I participate in any sale of homes built on the property.

It's important that people understand this because some have questioned my mother's motives in advocating for the project. Frankly, I find that offensive. My mother has made clear her motivation is to see this property developed. I will not allow my work as a Realtor to interfere with that – in fact or perception.

A handwritten signature in black ink, appearing to be 'SS', followed by a long horizontal line extending to the right.