

Village of Gates Mills
MINUTES OF A REGULAR MEETING OF COUNCIL
April 11, 2017

A regular meeting of the Council of the Village of Gates Mills, Ohio was held on Tuesday, April 11 at 6:00 p.m. in the Village Hall.

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

Police Chief Minichello explained that on Friday, January 6, Police Officers Mike Pollutro and Charlene Strasshofer responded to an aggravated burglary/home invasion call. On Monday, January 16, Mr. Earl Owens, an employee of Rumpke, observed a suspicious male fitting the composite description near another residence in Gates Mills and encouraged that homeowner to call the Police Department. Officer Strasshofer responded to the scene, recognized and approached the suspect who then fled on foot. Officer Strasshofer pursued while maintaining radio communication which lead to the apprehension of the suspect by Mayfield Heights police officers. Police Chief Minichello advised that on March 15 the suspect, Shaun Corrigan, pled guilty to four felony counts and will be sentenced tomorrow morning in Cuyahoga County Common Pleas Court.

Mayor Schneider expressed gratitude for Officer Strasshofer and said Earl Owens serves as the eyes and ears to the Village. She has received many compliments from residents about how caring and helpful Mr. Owens is. Mayor Schneider then presented the Outstanding Citizen Award along with a gift certificate to Earl Owens and the Outstanding Public Service Award to Officer Strasshofer.

The next Agenda item was the administration of the Oath of Office to Volunteer Fireman Zack Mlakar. Fire Chief Robinson advised that Zack Mlakar has completed all aspects of training and evaluation and that he is a second generation fire fighter. Mr. Mlakar introduced his family that was in attendance. Mayor Schneider then administered the Oath of Office to Volunteer Fireman Zack Mlakar. After the Oath, Zack Mlakar's father pinned on his badge.

Fire Chief Robinson then announced that 22 years ago to the day, Assistant Chief Tom Majeski was sworn into the Gates Mills Fire Department.

The minutes of the February 14, 2017 Council meeting were presented by the Clerk. Councilmember AuWerter referred to the discussion regarding property taxes and investigating possible tax exempt properties and asked who was following up. Finance Administrator Mulh confirmed she has looked into it and plans to work with Law Director Hunt on two possible properties – the Hayes property and a property on SOM. She noted that other properties either have special assessments from the water line project or have properties that pay rent, etc. Mayor Schneider added that after the water projects are finished those should roll off and additional properties may qualify. It was moved by Councilmember Whitney, seconded by Councilmember Sogg, that the minutes be approved.

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

Pay Ordinance #1199 in the amount of \$278,873.83 was presented by the Clerk.

It was moved by Councilmember Welsh, seconded by Councilmember Sogg, that Pay Ordinance #1199 be approved.

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

Pay Ordinance #1200 in the amount of \$306,016.67 was presented by the Clerk.

It was moved by Councilmember Welsh, seconded by Councilmember Sogg, that Pay Ordinance #1200 be approved.

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

Councilmember AuWerter questioned the Community House dishwasher purchase. Mayor Schneider advised that the dishwasher has not been replaced since the Community House was built and that the Village is being reimbursed \$5,000 from a NOPEC grant for energy conservation. Service Director Biggert highlighted the commercial requirement for the dishwasher. Councilmember Reynolds inquired how payments to architects sitting on Village boards are handled. Finance Administrator Mulh explained that Service Director Biggert completes a form for each architect present at a meeting and turns it into her to be paid.

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

Treasurer Reynolds presented the financial statement for the period ending March 31, 2017. He highlighted the following:

- Revenues are roughly within \$1,000 to this time last year.
- General Fund Expenses or transfers to Other Funds are higher by approximately \$19,000 largely due to personnel costs but are within budget. He added that expenses were partially offset by savings across other accounts.
- Ambulance/EMS expenses declined from \$25,500 to \$21,200 due to a significant increase of ambulance income. Ambulance income is up approximately \$14,700 year to date. Finance Administrator Mulh advised that Life Force Management oversees the collections on behalf of the Village.

- Because the Village finished paying its capital contributions, the Valley Enforcement Group (VEG) expense went down from \$14,000 to about \$7,000.
- Salt expense declined from \$54,000 to \$18,000.
- Total balance of all funds is up by approximately \$200,000.

Addressing the topic of salt, Councilmember AuWerter reminded Council that when the Village commits to an annual purchase, it can buy 90% of that commitment or up to 110%. He said it was a very low price per ton and is likely that the Village will buy 110% and store approximately 700-800 tons going into next year. He said on average the Village uses 1,300-1,400 tons.

Mayor Schneider said the Post Office lease has been pulled together and hopes that authorization will be given so that the Village can collect in May.

Mayor Schneider shared that the Village joined a cell tower lawsuit in March. Law Director Hunt stated that in December the state legislature passed a statute that took away local control over placement of micro cell wireless equipment. Law Director Hunt explained that there are minimal restrictions with regard to where such equipment could be located including being placed on city structures in the right of way. Additionally, equipment added would only have rent requirements of up to \$200 a year depending on what reasonable costs could be justified. He said that 34 municipalities around Northeast Ohio, including the Village, jointly sued to have the statute declared unconstitutional on two grounds (single subject rule and home rule). Law Director Hunt said the regulation was mixed in with at least seven other issues in the statute including pet stores/puppy mills and minimum wage issues. He said it is a classic case of “log rolling” where it was added at the last minute to a statute originally regarding pet sales and was passed very quickly. Law Director Hunt said the lawsuit was filed in Summit County. Additionally, he shared that the cities of Cleveland, Toledo, Columbus – including 48 area communities – and Cincinnati also filed lawsuits. He advised that weekly calls are held with all of the lawyers around the state to coordinate efforts. He said the judge has committed to expedite briefings on the merits of the case and will hopefully expedite the ruling on the single subject rule. He said the Cellular Telecommunication Association (made up of AT&T (who drafted bill), Verizon, Sprint and T-Mobile and affiliates) is trying to intervene as a defendant in our case and the other cases. Councilmember AuWerter asked if it will go to the Supreme Court. Law Director Hunt answered that the cases are currently in various Common Pleas Courts with the next step being to the appropriate Court of Appeals followed then by the Ohio Supreme Court. Law Director Hunt said that home rule is a difficult issue for the courts to resolve. He added that they have started working with lobbying groups as well. Councilmember Sogg asked if this has been done in other states. Law Director Hunt confirmed and shared that AT&T recently acknowledged at an out-of-state conference that it made a mistake in Ohio. Councilmember Welsh asked if this is vendor specific. Law Director Hunt said that any industry participant can put something up in a right of way. He added that Sprint and Verizon are very active with respect to the micro cell technology. Councilmember Reynolds asked if companies can move forward with constructing. Law Director Hunt said that is what the lawsuits are trying to stop. He is aware of applications being filed in three Ohio cities but none of which are our communities. He advised that the cost to the Village to participate in the court filing was \$1,500 which was based on a population sliding scale.

Mayor Schneider said that she, Councilmembers AuWerter and Sogg and Police Chief Minichello plan to attend the sentencing hearing tomorrow and welcomed others to attend.

Mayor Schneider noted Joe Joseph as an additional Land Conservancy appointment along with the following appointments:

- *Land Conservancy*: Linda Olejko;
- *Planning & Zoning*: Jim Deacon;
- *Architectural – Historical Review Committee*: Mary Reynolds, Ray Burke, Laurie Deacon, Nancy McGuinnis, Noha Ryder, Sara Welsh and architects John Brown, David Ellison and Joseph Giglio;
- *Safety Committee and Positively Gates Mills*: Jennifer Joseph.

It was moved by Councilmember Welsh, seconded by Councilmember Turner, that the appointments be approved.

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

Clerk's report. None.

Police Chief Minichello provided a written report. In addressing Councilmember AuWerter's inquiry of the increased amount of speeding tickets, Chief Minichello responded that there are varying factors that impact the same, such as the mild winter. Councilmember Frankel commented on the larger presence of officers using radar. Responding to Councilmember Welsh's question, Chief Minichello confirmed there are no restrictions to U-turns on Mayfield so long as the same is done safely. He then advised that a patrol officer will be participating in bike training for the recently purchased bicycle. He said the bike will be used for community-wide events such as the Fourth of July and church festivals as well as for residential patrol. Chief Minichello also shared his belief that having the same will serve as a building block with the bicycle community. Mayor Schneider opined it would be helpful for the July 4th parade. In response to Councilmember Frankel's question, Chief Minichello said Officer Kimball is going through the training. He then shared that in January the Department hired Peter Starr as a part-time officer and advised that he has since resigned. Chief Minichello said the Department is pursuing another candidate, Eric Pavlick, and hopes to have him hired on by the end of the month. He noted a good relationship with Mr. Pavlick. Chief Minichello confirmed that Mr. Starr reimbursed the Village for the cost of his uniforms.

Service Director Biggert provided a written report. He reported that last week the Village was served with papers for a civil lawsuit regarding the alleged road condition from a motor vehicle accident in October 2015. It was confirmed that the Village's insurance company is handling the matter and has assigned a defense attorney for the case. Service Director Biggert has spoken with the attorney and will be meeting with him soon to provide information that the Village has to supply along with a list of questions. Law Director Hunt is aware of the lawsuit and will monitor the same. It was confirmed the alleged road defect was on Sherman Road.

Fire Chief Robinson provided a written report. Chief Robinson noted a large number of storms that resulted in a record number of calls in March. Councilmember Frankel asked about the March 11 vehicle crash. Chief Robinson responded that he did not have that report with him but would follow up. He then described a call for a large house on Beverly Lane. He said the house has two or three furnaces and three different boilers. One of the motors dislodged and heated up resulting in the room filling up with smoke. He said the following departments also responded to the scene: Lyndhurst, Willoughby Hills, Chesterland, Pepper Pike and Mayfield Heights. Except for the odor of smoke, there was no other damage and the mutual aid was quickly released. He stated that the resident is having all of the duct work cleaned as a result of the smoke.

Councilmember Turner shared that she is aware of a Village resident who may run for the Mayfield School Board. She noted that there are three positions up this year and all of the incumbents are running.

Councilmember Turner then reported that the Positively Gates Mills Committee will be holding a series of "Wonderful Wednesdays" events to residents on services that are available.

The topic of home for sale signs was raised. Service Director Biggert informed Council that signs can be put up for two separate 90-day periods per year. He addresses specific complaints and noted a large billboard sized sign on County Line just north of Mayfield wherein he sent a letter regarding the respective Ordinance. Councilmember AuWerter reported that the Service Committee is scheduled to meet and four of the five members provided their assessments for the roads that they were assigned. He also expects to receive an assessment from the fifth member. He advised that the intent is to speak with Service Director Biggert and Village Engineer Courtney to develop a priority list of roads. He noted that there may be another Service Committee meeting in July. Councilmember Reynolds requested photos be included along with the priority list. Mayor Schneider welcomed the attendance of Councilmembers to the meetings.

Councilmember Welsh said he had no information to report with regard to the cemeteries. Mayor Schneider commented on some clean up and improvements being done at the cemeteries. She specifically highlighted the removal of an unsightly fence and noted the upcoming installation of a split rail fence. Finance Administrator Mulh confirmed that no lots have been donated, however, she did discover that May Allison, a 1920s silent movie actress, is buried in the South Cemetery.

Councilmember AuWerter asked about items that were held as first reading at the February Council meeting and how they are considered for this meeting as there was not a meeting held in March. Councilmember Sogg responded they would be considered second readings. Law Director Hunt said the three reading rule could be waived. Councilmember Sogg said that waiving the three readings rule is different than passing as an emergency. She further clarified that it gets enacted immediately.

Mayor Schneider read a letter from the Gates Mills Land Conservancy which included language that it would report annually to Council at its June meeting and will provide annual written reports in December.

With regard to the Resolution language, Councilmember Reynolds suggested using only the word “similar” versus replacing “virtually identical” with “substantially similar.”

Resolution #2017-05 “A Resolution Authorizing The Mayor And The Clerk To Enter Into An Agreement With The Gates Mills Land Conservancy To Provide Funds To The Conservancy From The 1 Mill Charter Land Conservation Fund” was introduced by Councilmember Reynolds.

It was moved by Councilmember Reynolds, seconded by Councilmember Turner, that the rules requiring ordinances to be read on three different days be suspended and that Resolution #2017-05 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 Reynolds, seconded by Councilmember Frankel, that Resolution #2017-05 be approved.

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

Law Director Hunt exited the meeting at 6:53 p.m.

Ordinance #2017-06 “An Ordinance Amending Section 155.04, “Investment Policy” In The Codified Ordinance Of The Village Of Gates Mills, And Declaring An Emergency” was introduced by Councilmember Whitney. Councilmember Whitney said that first reading was held at the February Council meeting. It was agreed to suspend the rules. In response to Councilmember Frankel’s question, Finance Administrator Mulh confirmed she would submit the approved version to the State.

It was moved by Councilmember Whitney, seconded by Councilmember AuWerter, that the rules requiring ordinances to be read on three different days be suspended and that Ordinance #2017-06 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 Whitney, seconded by Councilmember Turner, that Ordinance #2017-06 be approved.

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

Treasurer Reynolds expressed hope that a recommendation for an investment counselor will be available by the next Council meeting.

Ordinance #2017-08 "An Ordinance Amending Chapter 1157, "Zoning Uses," Of The Codified Ordinances By Enaction New Section 1157.09, "Medical Marijuana" was introduced by Councilmember Sogg.

It was moved by Councilmember Sogg, seconded by Councilmember Whitney, that the rules requiring ordinances to be read on three different days be suspended and that Ordinance #2017-08 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 Turner, that Ordinance #2017-08 be approved.

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

Ordinance #2017-09 "An Ordinance Amending Section 191.04 Of The Codified Ordinances Of The Village Of Gates Mills To Set Forth A Schedule Of Fines And Costs For Waiverable Offenses For The Village's Violations Bureau" was introduced by Councilmember Sogg.

It was moved by Councilmember Sogg, seconded by Councilmember Welsh, that the rules requiring ordinances to be read on three different days be suspended and that Ordinance #2017-09 be placed upon its final passage.

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

Councilmember Turner asked about the fees. Chief Minichello said that some fines are increasing but administrative costs will go down. Councilmember Welsh asked if the Village would hire someone to manage the program. Chief Minichello responded that it can be handled in house. It was confirmed that once the schedule is approved it allows for the authority to

purchase software. Chief Minichello commented that he anticipates mid-May with regard to timing.

It was moved by Councilmember Sogg, seconded by Councilmember Welsh, that Ordinance #2017-09 be approved.

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

Resolution #2017-10 "A Resolution Authorizing And Directing The Transfer Of Certain Sums From The General Fund To The Wastewater Fund And To The Police Pension Fund" was introduced by Councilmember Whitney. Councilmember Frankel requested explanation regarding the Wastewater Fund. Finance Administrator Mulh said that amount is to pay for county inspections and that she anticipates receiving a bill soon. It was confirmed the need to suspend the rules is to allow Finance Administrator Mulh to process payments.

It was moved by Councilmember Whitney, seconded by Councilmember AuWerter, that the rules requiring ordinances to be read on three different days be suspended and that Resolution #2017-10 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 Whitney, seconded by Councilmember Turner, that Resolution #2017-10 be approved.

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

Ordinance #2017-11 "An Ordinance Authorizing And Directing The Mayor To File An Application With The Ohio Department Of Natural Resources For Financial Assistance For Public Recreation Purposes Through The State Of Ohio NatureWorks Grant Program." Mayor Schneider explained that recently Orange, Mayfield Heights and Mayfield Village received in connection with their applications, \$90,000, \$50,000 and \$55,000 respectively. This is to allow for the application to help finish the area by the tennis courts similar to the master plan. She noted the deadline is May 1. She requested authorization and highlighted there is a 25% match and highlighted the need for community involvement. She noted that funds are available and that she intends to solicit funds including from the Community Club, the Improvement Society and has already spoken with Clark Langmack. Finance Administrator Mulh said the Village has to pay up front and then get reimbursed. Councilmember Turner asked how much the Village would apply for. Mayor Schneider responded that all of the figures have not been determined yet. Finance Administrator Mulh reiterated the May 1 deadline and said the award would be some time in the fall.

It was moved by Councilmember Welsh, seconded by Councilmember Sogg, that the rules requiring ordinances to be read on three different days be suspended and that Ordinance #2017-11 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 Welsh, seconded by Councilmember Reynolds, that Ordinance #2017-11 be approved.

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

Resolution #2017-12 "A Resolution Awarding The Contract For The Sudbury Channel Stabilization Project To Set In Stone Contracting, LLC And Declaring An Emergency" was introduced by Councilmember AuWerter.

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 #2017-12 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, that Resolution #2017-12 be approved.

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

First Reading was held for Ordinance #2017-13 "An Ordinance Adopting New Chapter 1377 Of The Codified Ordinances To Adopt The International Property Maintenance Code" was introduced by Councilmember Sogg. Councilmember Whitney mentioned that she has not seen a copy of the International Property Maintenance Code and was not comfortable in passing the Ordinance. In response, Councilmember Sogg advised the Ordinance will be placed on first reading.

Resolution #2017-14 "A Resolution Awarding The Contract For The Village Service Department Sanitary Sewer Project To ABV Contractors, Inc. And Declaring An Emergency" was introduced by Councilmember AuWerter. Councilmember Frankel asked what the budget was for this project. It was confirmed that the project was budgeted for \$145,000 but the low bid was \$158,000. Service Director Biggert said that there is approximately \$20,000 available in contingent funds in the budget to cover the excess cost.

It was moved by Councilmember AuWerter, seconded by Councilmember Reynolds, that the rules requiring ordinances to be read on three different days be suspended and that Resolution #2017-14 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 AuWerter, seconded by Councilmember Reynolds, that Resolution #2017-14 be approved.

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

Councilmember AuWerter moved, seconded by Councilmember Sogg, to advertise for bids for the 2017 Road Program.

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

Resolution #2017-15 "A Resolution Authorizing The Mayor And The Clerk To Enter Into A Lease Agreement With The United States Postal Service" was introduced by Councilmember Sogg. Councilmember Sogg advised that former mayor Shawn Riley, who is the head of the Real Estate Committee, along with Mayor Schneider and Law Director Hunt negotiated and worked on the new lease which is for the same amount of rent for a 5-year term. She added that the Village is responsible for building maintenance, including the roof and heating and that the Post Office is responsible for the utilities. Finance Administrator Mulh noted the original lease was for a 25-year term with an added addendum. Discussion among Council expressed concerns regarding the Post Office staying open and/or limiting its hours of operation. Councilmember Sogg highlighted that per the lease, the Post Office has to pay rent whether it is open or not. Finance Administrator Mulh, addressing Councilmember Frankel's question, said the price per square foot is \$16.

It was moved by Councilmember Sogg, seconded by Councilmember AuWerter, that the rules requiring ordinances to be read on three different days be suspended and that Resolution #2017-15 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 AuWerter, that Resolution #2017-15 be approved.

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

Business from the audience: none.


There being no further business, it was moved by Councilmember Reynolds, seconded by Councilmember Welsh, 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