

Village of Gates Mills
MINUTES OF A REGULAR MEETING OF COUNCIL
June 11, 2019

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

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

The minutes of the May 14, 2019 Council meeting were presented by the Clerk. It was moved by Councilmember Whitney, seconded by Councilmember Frankel, that the May 14, 2019 minutes be approved.

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

Pay Ordinance #1226 in the amount of \$593,808.63 was presented by the Clerk. Clarification was requested for a payment made to Rush Truck Centers in the amount of \$86,054.00. Service Director Biggert answered the payment was for a new plow truck.

It was moved by Councilmember Welsh, seconded by Councilmember Sogg, that Pay Ordinance #1226 be approved.

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

Treasurer Reynolds read his report for May 2019. General Fund revenues are running \$513,087 below this time last year due to primarily to lower real estate and municipal income tax receipts. Relative to this year's budget, real estate tax receipts are running \$340,759 ahead of expectations. This is likely a timing difference and will adjust to budget over the course of the year. Municipal income taxes are running (\$74,188) behind expectations, having caught up a bit from last month. Operating budgets are at or below budget. Total Fund Balances are \$5,536,542 versus \$6,136,456 at this time last year, reflecting budget expectations. Our capital account at Ancora stands at \$4,661,835.93 including accrued interest and a withdrawal to support operations of \$75,000. Income for the next twelve months is forecasted at \$107,906. Councilmember Turner noted that building permits are up from last year.

Mayor Schneider provided her report. Postcards were mailed for the Marston Park Opening on June 23 from noon to 4:00 p.m. Noise complaints were received over the weekend, which may have been from the Laurel Live event. Councilmember Sogg stated it was loud from 9:00 p.m. until after 11:00 p.m. It was noted the venue is moving next year. Mayor Schneider stated an interview with Tucker and Charley Marston was done with Marcia Anselmo and Anne Steele, which the Mayor videotaped. Listening to the history of the Marston family and the Village from the two brothers was interesting. Councilmember Reynolds recalled former Mayor Collister doing some interviews years ago, which are housed at the library. She suggested possible putting the interviews on our website.

The Clerk had no report.

Councilmember Turner reported Positively Gates Mills has been planning the Marston Park opening for June 23 from noon to 4:00 p.m. Councilmember Frankel noted the Police Department's bike rodeo will take place beforehand at 10:30 a.m.

Councilmember AuWerter stated the Recreation Committee had met and will be meeting next week to finalized Marston Park activities for the opening day. Two bocce experts are on the Committee. They are researching leagues and looking to possibly form a team. Councilmember Sogg asked if there is a way to reserve the courts. At this time, there is not. Councilmember Turner added that a giant Jenga game will be provided as well.

Councilmember AuWerter stated the Selection Committee for the Master Plan project will be meeting on Saturday, June 22.

Councilmember Reynolds mentioned that the third Sunday of July is the Summer Band Concert and Picnic. She encouraged residents in the audience to come to the concert on Sunday, July 21 from 5:30 – 7:30 p.m. The band is Red Light Roxy.

Councilmember AuWerter added that for the fourth of July parade, Ed Mejac, from the Post Office, will be the honorary guest marshall in recognition of his upcoming retirement.

Councilmember Welsh asked if there is any update on additional land for the cemetery. Mayor Schneider answered there is not.

Councilmember Whitney reported on the May 23 public event to educate residents on streambank management. She noted it was a sparse turnout, but an excellent presentation by Chagrin River Watershed Partners (CRWP). She is recommending that CRWP work on an ordinance tailored to our community. Once an ordinance is drafted, there would be discussions and a 30-day public comment period available with the draft legislation available on our website and in The Pink Sheet. After the public comment period, council can decide if another meeting is necessary or if a letter to villagers would be done. Councilmember Sogg stated that by saying streamside management instead of riparian setback management in the invitation may have caused the lack of attendance. Councilmember Whitney noted other municipalities have a comment period and this may be a good way to address concerns. It was agreed to have CRWP start working on a draft. We are not unique in this situation and neighboring communities are already doing the work and passing legislation. Councilmember AuWerter added the Village could eventually be forced to have this legislation and creating our own legislation would be better than what the EPA would require. Councilmember Whitney mentioned that CRWP has video on their website with many familiar faces from the Village. Councilmember Reynolds stated this is good to do prior to the master plan being completed. Mayor Schneider suggested the CRWP video be a link on our website. Councilmember Welsh recalled an uproar in the Village the last time the riparian setback topic was discussed. Councilmember Whitney replied that it would have been good if Councilmember Welsh had been able to attend the meeting. Councilmember Frankel stated the legislation is set up to help a homeowner to do what they like while protecting the streambank. Village Engineer Courtney referred to a map of all communities with ordinances already adopted and there are very few bad stories resulting from the passage of such legislation. It helps one use property in an intelligent way and protects the

environment. Councilmember Welsh asked if Hunting Valley has adopted legislation. Councilmember Whitney responded they have and it is very rigid legislation.

Police Chief Minichello had provided a written report in the Council packet. Sergeant Savage reported that signs on Gates Mills Boulevard were installed for public safety and public awareness. Drivers may pass with safety, but if they cause an accident, they can be cited. Mayor Schneider noted there have been near misses and it was necessary to note it is one lane. Councilmember Reynolds added that as one lane, bike riders and walkers are protected. Service Director Biggert advised that the road is not striped, so it is one lane.

Service Director Biggert asked for any questions relating to his written report. Councilmember AuWerter asked if there are any open violations. Service Director Biggert noted there is one on Gates Mills Estates. Councilmember Frankel inquired about the outlook for getting ODOT funding for the Chagrin River Road at Mayfield Road project. Service Director Biggert noted there were some changes to the plan for turning lanes and new signals. Village Engineer Courtney noted all projects were submitted, and the Village has the 3rd highest ranked project. If awarded the funding, the project would begin after July 1, 2020. Village Engineer Courtney noted Cedar Road is progressing and they are working at the SOM end right now.

Fire Chief Robinson is out of town but provided a written report in the Council packets. Council recognized Trevor Murfello for 29 years of service with the Fire Department.-

Councilmember AuWerter moved to advertise for bids for the 2019 Road Program. Village Engineer Courtney added this is a line item contract for repairs with map and quantities for the road work to be completed. Councilmember Reynolds seconded the motion.

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

Resolution No. 2019-17 "A Resolution Declaring it Necessary to Renew an Existing 3.5 Mill Tax Levy for the Purpose of Current Expenses Pursuant to Ohio Revised Code Sections 5705.19(A) and 5705.191, and Requesting the County Fiscal Officer to Certify the Total Current Tax Valuation of the Village and Dollar Amount of Revenue that would be Generated by that Renewal Levy, and Declaring an Emergency" was introduced by Councilmember Whitney.

Councilmember Whitney moved that the rules requiring ordinances to be read on three different days be suspended and that Resolution No. 2019-17 be placed upon its final passage.

Councilmember Frankel inquired about the valuation and dollar amount for a renewal levy being from when the levy was first approved. It was decided to ask the County Fiscal Officer the dollar amounts for renewal and for replacement/new levies. Treasurer Reynolds noted the Village has structural issues to address one way or another in the future. Our experience is that a renewal could be voted down. The last renewal had many no votes, and we recognize there must be efforts to educate and note the need for the renewal. Councilmember Sogg added the Village would have difficulties if we do not get the renewal approved. When the figures are received from the County, we will consider the difference in a renewal or replacement levy in dollars and also look at the municipal income tax. Councilmember Turner asked if the

information the County provides is aggregate or by home. It was noted the numbers are aggregate.

Councilmember Frankel seconded the motion to suspend the rules.

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

It was moved by Councilmember Whitney, seconded by Councilmember Frankel, that Resolution No. 2019-17 be approved.

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

Ordinance No. 2019-18 "An Ordinance to Amend the Annual Appropriation Ordinance No. 2019-02 to Increase Certain Appropriations and Other Expenditures of the Village of Gates Mills, Ohio for the Fiscal Year Ending December 31, 2019" was introduced by Councilmember Whitney.

It was moved by Councilmember Whitney, seconded by Councilmember Sogg, that the rules requiring ordinances to be read on three different days be suspended and that Ordinance No. 2019-18 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 AuWerter, that Ordinance No. 2019-18 be approved. Councilmember Turner asked if there was a transfer of funds. It was noted the funds were donations to the Park and Recreation Fund.

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

Resolution No. 2019-19 "A Resolution Authorizing All Actions Necessary to Accept Northeast Ohio Public Energy Council (NOPEC) Energized Community Grant(s) and Declaring an Emergency" was introduced by Councilmember Sogg.

It was moved by Councilmember Sogg that the rules requiring ordinances to be read on three different days be suspended and that Resolution No. 2019-19 be placed upon its final passage. The amount of the grant is \$9,668.00 and we are considering storm windows or air conditioning. In the past, grants have provided a new boiler for the Mills Building and a new commercial dishwasher for the Community House. Councilmember AuWerter seconded the motion to suspend.

Roll call: Ayes: AuWerter, Frankel, Reynolds, Sogg, Turner, Welsh, Whitney.

Nays: None.
Motion carried.

It was moved by Councilmember Sogg, seconded by Councilmember Welsh, that Resolution No. 2019-19 be approved.

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

It was moved by Councilmember Whitney, seconded by Councilmember AuWerter, to advertise a Public Hearing for July 9, 2019 at 5:55 p.m. to hear comments on the 2020 Tax Budget.

Roll call: Ayes: AuWerter, Frankel, Reynolds, Sogg, Turner, Welsh, Whitney.

Mayor Schneider announced the Gates Mills Land Conservancy will give a presentation during July's Council meeting.

A discussion pertaining to the Village's Conservation Development District Zoning ensued. Councilmember Frankel has heard concerns from Villagers regarding cluster homes and how acreage is accounted where unbuildable/unusable land is involved. Law Director Hunt, referencing the current ordinance, stated a conservation development districts' density is the lessor of 1 unit per 5 acres or the number of units possible for a traditional development plan that takes into consideration all other code sections in place. This restricts environmentally challenged parcels to less than the 1 unit per 5 acres. A yield plan must consider all code regulations. Village Engineer Courtney stated that, whether a traditional or a conservation development district plan, at no point would the Village approve a plan that does not take into account undevelopable land. Law Director Hunt noted the purpose of conservation development district is to protect environmentally sensitive areas and give the property owner some rights to develop the property. Units can be clustered so as to not affect environmentally sensitive areas. Village Engineer distributed two flow charts. One chart shows a standard subdivision approval process and the other shows the conservation subdivision approval process. Both charts are attached.

Resident Nat Smith stated the conservation development district was supported by the Gates Mills Land Conservancy in order to maintain 5-acre zoning and keep that density in place. Density cannot be more than that.

Village Engineer mentioned some benefits of a conservation development district. These benefits included a minimum 50% restricted open space which is permanently conserved, impervious surface maximum of 12%, no density increases, overall development has 10% impervious cover, no units are closer than 200 feet to the street or right of way, not a public street, no units closer than 100 feet to the boundary of a development, and a cohesive architectural style throughout the development.

Business from the audience:

Mike Press: He generally agrees with the discussion pertaining to conservation development district zoning. Next door to his property is 18 acres, and he stated the regulation is

being looked at differently. He stated the Planning and Zoning Commission looked at the area a year ago and approved a plan. Law Director Hunt replied that isn't how the process works. The property owners had ideas, but all they received was a lot split and no development was approved. Mr. Press said they discussed cluster homes as a possibility. Law Director Hunt noted the applicants brought up the issue at the meeting, but that doesn't mean they are approved. Village Engineer Courtney added he remembered the parcel and a development wouldn't work there with the amount of ecologically sensitive areas. It was a discussion only. There is a frontage variance for the driveway that goes back to the house and only a lot split was approved. Councilmember AuWerter asked if Mr. Press could send information to the Village as it seems there are two different issues.

Village Engineer Courtney noted the Village does not have a cluster ordinance currently. Law Director Hunt added that any conservation development district has to go through the Planning and Zoning Commission and Council.

Councilmember Turner thanked everyone for a great discussion. There has been confusion and differences of opinion. This conversation was good for clarity.

David Atton: He asked a question regarding density in a conservation development. It would be the lessor of 1 unit per 5 acres or a traditional development yield plan.

Councilmember Sogg noted there is history from the old master planning process that talks about ways to do development. Property owners have rights. We restrict them and try to work with community and property owners for the best outcome.

Celeste McClung: She also had a question regarding density and how it is calculated. Village Engineer stated it is a design exercise that is presented to the Village in two ways. It is shown as a conservation development district, if there are 25 acres, and as a traditional development that follows all Village regulations.

Dick Whitney: He asked it is correct that one could never have more houses than one per five acres. Law Director Hunt replied that is correct.

Brent Stewart: While the Mayor provided an update in Pink Sheet about cluster development, have there been any further discussions with developer? Mayor Schneider replied there has not. Mr. Stewart asked how a conservation development district would apply to the property. The property wouldn't fall under the conservation development district zoning as it is not 25 acres. Conservation development district zoning has been in the Village Ordinances since 2007.

Councilmember Whitney added that gas wells are on many properties and there are setbacks to deal with regarding them as well.

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

A handwritten signature in cursive script that reads "Beth DeCapite". The signature is fluid and elegant, with a prominent initial 'B'.

Beth DeCapite, Clerk

Approved:

A handwritten signature in cursive script that reads "Karen E. Schneider". The signature is clear and legible, with a distinct initial 'K'.

Karen E. Schneider, Mayor