

Village of Gates Mills  
MINUTES OF A REGULAR MEETING OF COUNCIL  
June 14, 2016

A regular meeting of the Council of the Village of Gates Mills, Ohio was held on Tuesday, June 14 at 6:00 p.m. in the Village Hall.

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

The minutes of the May 10, 2016 Council meeting were presented by the Clerk. Councilmember Whitney had a correction on page 6, last line to change "state" to "start." It was moved by Councilmember Turner, seconded by Councilmember Sogg, that the minutes, as amended, be approved.

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

Pay Ordinance #1190 in the amount of \$305,015.90 was presented by the Clerk.

It was moved by Councilmember Welsh, seconded by Councilmember Sogg, that Pay Ordinance #1190 be approved.

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

In Treasurer Reynolds' absence, the financial statement for the period ending May 31, 2016 was presented and read by Councilmember Whitney (attached). Finance Administrator Mulh responded to Councilmember Sogg's question that lower revenues were not due to a seasonal issue. Councilmember Frankel asked about the lower rental income for the Mills Building. Finance Administrator Mulh explained that payment by one of the tenants for the entire 2016 year was received in December 2015.

Mayor Schneider read thank you notes from Ron Whitmer, Marlene Renner as well as from Jim & Kate Brown. Mayor Schneider then referred to an article from the *Chagrin Valley Times* regarding e-mails being considered open/public meetings. Councilmember AuWerter asked about the rules. Law Director Hunt explained that when a majority of Council is involved in an e-mail discussion regarding Village business, that is seen as a public meeting and is a violation of the Sunshine Laws. He committed to provide a detailed memorandum to Council regarding the same.

Mayor Schneider commented that the recent Community Leader luncheon was well received and participants look forward having other luncheons in the future.

Law Director Hunt provided an update on the recent tree cutting on Gates Mills Boulevard. He said that the property is owned by a LLC that fixes up properties and flips them and that a Geauga County tree company leveled the trees including four significant trees which were in the public right away. He indicated that the prosecutor and police department became involved in the investigation. Service Director Biggert added that charges have been drawn up by the Police Department. Law Director Hunt expects prosecuting in the Lyndhurst court on about four different counts and hopes for restitution for the trees as well as a requirement for replanting. Councilmember AuWerter spoke on the issue of tree value. Councilmember Sogg highlighted the need for a brochure to distribute information about the historic districts and certain ordinances. Mayor Schneider remarked that Councilmember Reynolds is working on that.

Mayor Schneider indicated that a public hearing is necessary with regard to the Tax Budget. Such meeting will be held before the start of the July Council meeting.

It was moved by Councilmember Reynolds, seconded by Councilmember Turner, for the advertising of a public hearing.

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

Mayor Schneider announced the need to appoint Audrey Knight Ells and Paul Neundorfer to the Beautification Committee.

Councilmember Whitney moved, seconded by Councilmember AuWerter, to appoint Audrey Knight Ells and Paul Neundorfer to the Beautification Committee.

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

Clerk's report: none.

Councilmember Welsh noted there was nothing new to report on behalf of the Cemetery Committee.

Councilmember AuWerter said the subcommittees of the Long Range Planning Committee (Tax, Shared Services and Fees, Fines and Other Revenue) are looking at a variety of options. He advised that the third meeting of the Fees, Fines and Other Revenue subcommittee is scheduled for tomorrow night.

On behalf of Planning & Zoning, Councilmember Sogg discussed two upcoming ordinances. The first regards lighting. Councilmember AuWerter remarked on the topic of lighting ordinances and highlighted an ordinance reviewed by the Regional Gas Well Commission. Councilmember Sogg thanked Councilmember AuWerter and stated that the Committee also has some examples of lighting ordinances from other communities. She then

stated the second ordinance concerns vegetation and nuisances. She said there has been some issues with excessive vegetation such as unkempt properties, etc. She explained that the Village currently has to use state law because it does not have its own. Councilmember Frankel recommended the need for ordinances to be specific in order to make the same enforceable. Councilmember AuWerter asked if existing lighting would be grandfathered in at the time of a new ordinance. Councilmember Sogg confirmed. She added that the existing ordinance regarding lighting is too vague.

On behalf of the Mayfield School Liaison Committee, Councilmember Turner announced that the Mayfield Board of Education is meeting next Wednesday to recommend a levy be put on the ballot. She and Treasurer Reynolds plan to attend. Councilmember Turner opined this is a concern for the Village as Villagers contribute approximately \$9.4M a year via property taxes. Councilmember Turner said the district's budget is \$70M. She further expressed her concern that the Village has no seat on the board. Councilmember Welsh asked about school vouchers. Councilmember Turner clarified he was asking about open enrollment and responded that open enrollment is no longer available. In response to Councilmember Frankel's question, Councilmember Turner answered that there are 175 students from the Village attending Mayfield schools.

Councilmember Turner said the group regarding the Connector Study originally planned to have a booth at the Village's Fourth of July event; however, they are no longer invited to attend. She then announced that the next public meeting regarding the Connector Study is scheduled for July 13<sup>th</sup> at the Community House from 6:30 p.m. to 8:00 p.m. She will note the same in the *Pink Sheet*. She anticipates the survey results will be presented at the July 13<sup>th</sup> meeting. Councilmember Whitney asked how Villagers can obtain information on proposed paths. Councilmember Turner stated that information will be presented at the public meeting and opportunities will be given for input on those options. Service Director Biggert said the group is taking the results of the survey and combining the results into draft routes. Councilmember Welsh asked who is sponsoring the meeting. Councilmember Turner answered the Metroparks. Councilmember Turner advised that 300 surveys were received including 56 from the potentially affected area.

In Chief Minichello's absence, Sgt. Randy Savage provided a written report. Sgt. Randy Savage advised that the new cruiser is in service and the Gilmour Safety Town started on Monday. Additionally, he advised that the St. Francis festival concluded on Sunday without any problems. Councilmember Reynolds asked if St. Francis pays the Police Department for the hours. Sgt. Savage affirmatively confirmed.

Service Director Biggert provided a written report. Service Director Biggert stated that there are currently 13 certificates issued for rental properties for 2016. Per census information, there may be 90 rental units. Councilmember AuWerter asked if information regarding rental properties should be provided to Service Director Biggert. Service Director Biggert said yes and that he would confirm certificates. Mayor Schneider remarked that the Village has letters and forms available to send out. Mayor Schneider added that the program is based on similar programs in other communities. Councilmember Sogg asked if signs and posts will continue to be painted. Service Director Biggert said the department is gradually replacing the same.

Fire Chief Robinson provided a written report. Councilmember Reynolds asked about the May 7<sup>th</sup> event involving sparklers on a cake. Chief Robinson was not present at that incident but believes it was a large amount of sparklers that set off the smoke detector.

First reading was held for Ordinance #2016-11 “An Ordinance Providing For The Submission To The Electors Of The Village Of Gates Mills A Proposed Amendment To The Charter Of The Village Of Gates Mills To Renew For A Period Of Five Years The Existing One Mill Tax Levy For The Public Purpose Of Conserving, Retaining, Protecting And Preserving Land, Water, Forest, Open, Natural Or Westland Areas In This Municipality Predominantly In Their Natural, Scenic, Open Or Wooded Condition Or As Suitable Habitat For Fish, Plants Or Wildlife, Including The Acquisition Of Such Real Property Or Interests Therein As May Be Necessary To Carry Out That Purpose; And Declaring An Emergency” was introduced by Councilmember Whitney. In response to Councilmember Welsh’s question, it was confirmed that nothing is different and this is just a renewal. Councilmember Whitney advised there is enough time to allow for three readings. Responding to Councilmember AuWerter, Law Director Hunt explained that every piece of legislation is supposed to be read on three separate occasions; however, that can be waived by a majority of Councilmembers. He stated that the emergency language, when it is adopted, goes immediately into effect. Councilmember AuWerter shared that the Taxation subcommittee of the Long Range Planning Committee has spent time reviewing this ordinance including if the Village may be able to benefit from some of the levy proceeds.

Resolution #2016-12 “A Resolution Authorizing The Mayor And The Clerk To Enter Into A “Pass-Through Sale-Purchase And Development Agreement” With The Cuyahoga County Land Reutilization Corporation For Vacant Property Known As Permanent Tax Parcel No. 843-02-007; And Declaring An Emergency” was introduced by Councilmember Sogg. Councilmember Sogg stated that information on the location has been distributed. She explained that the property went into foreclosure but was not sold. Mayor Schneider indicated that she and Law Director Hunt have been following sheriff’s sales for Gates Mills and explained that the State has taken some properties and given them to the Cleveland Land Bank. She further stated the Village is paying approximately \$500 for the transfer in order for the Village to obtain the land. The land is believed to have been a private right-of-way from the inner urban.

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 Resolution #2016-12 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 Sogg, seconded by Councilmember Welsh, that Resolution #2016-12 be approved.

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

Business from the audience:

Mayor Schneider highlighted a letter with a presentation was included in Council's packet.

William Oeflein introduced himself as an architect and real estate agent and was attending on behalf of Charles and Kay Mlakar as well as real estate developer Russell Berzin. He referred to the letter and presentation that was provided and summarized the same. Mr. Oeflein shared with Council that the Mlakars are long-term residents who raised their family in the Village. He then highlighted the significant need for cluster homes in the Village. Initially, the Mlakars made land purchases with the consideration of building large homes on the property but, in light of current economics, would like to use the land for cluster home development. He spoke of similar past efforts by the Mlakars approximately five years ago to work with Planning & Zoning and the Land Conservancy; however, those efforts were stopped due to a deed restriction that exists. He explained that at the time additional property was purchased by the Mlakars, a deed restriction was put into place. Additionally, he noted that Mr. Mlakar, in the past, assisted with the purchase of property wherein such land was subsequently used to put in a sanitary station. The Mlakars are now seeking support from Council for a cluster home development.

Mayor Schneider remarked that instead of building four large homes, it is her understanding the Mlakars wish to work with the Land Conservancy for development that will allow for a larger area of conserved land.

William Oeflein confirmed and stated that it would be the development of 19 cluster homes on approximately five acres with the remaining property being donated to the Land Conservancy with a conservation easement.

Councilmember Turner requested clarification on the deed restriction.

Mr. Oeflein advised there is approximately 22 acres with a deed restriction.

Councilmember AuWerter added that the deed restriction limits the building to only four homes on the entire parcel.

Mayor Schneider stated that when this was raised years ago, there were problems including the septic fields and the layout of the property. She noted, however, that you disturb less land with a cluster development than the building of four houses.

It was confirmed, in response to Councilmember Whitney question, that the plans include using the Gates Mills sanitary station.

Councilmember Reynolds referred to previous cluster home proposals and stated that clustering does not necessary mean high density but that it could mean three homes so that a larger green space is preserved. She emphasized that cluster should not be assumed to be

multiple/large number buildings. She further remarked that if you are able to build four homes, you could still cluster them.

Mayor Schneider commented that you still have to have individual sanitary sewers. She then asked how many acres are required under the Village code.

Village Engineer Courtney responded that 35 acres are needed for a conservation development. He informed that the Village does not have a conservation cluster ordinance.

Councilmember Frankel asked about the reference to only using five acres.

Village Engineer Courtney responded that it would be taking a number of properties and reconfiguring in a way that land is conserved. He noted that a cluster conservation ordinance was considered.

Mayor Schneider reiterated the need to connect to sewers.

Village Engineer Courtney highlighted that the economics of such requirement has prevented certain proposals. He further stated that some properties might work because they have access to utilities.

Councilmember Sogg said the Land Conservancy has some flexibility on where conservations are.

Russ Berzin introduced himself as a long-time resident and that he has worked with the Mlakars over the past few months. He opined the property is desirable because of the trees and setting as well as its proximity to Mayfield, the Village and the freeway. He stated the need for density to make it economical. He opined that as a community, Gates Mills needs to encourage new construction and offer residents a place with zero to low maintenance housing for the aging. He added that there are not many places within the boundaries of the Village that would allow for the same. Mr. Berzin remarked that the Mlakars are looking for Council's support in working with the Gates Mills Land Conservancy.

Village Engineer Courtney saw the same plan five years ago, at that point in time, the conservation cluster ordinance was considered but the property owner had to work out with the deed restriction with the Land Conservancy and obtain permission to get access to the treatment plant which requires crossing Land Conservancy property. He said that if those two issues had been worked out, it would have been taken to the next level.

Councilmember AuWerter said Council would have to decide to change the ordinance to allow this magnitude of cluster housing. He opined that Gates Mills is losing competitive ground as the demand is clearly there and other communities are looking to add cluster developments. He emphasized that if Council is in favor, it needs to put weight behind it. Councilmember AuWerter highlighted that it would be a legal agreement between the Land Conservancy and the Mlakars.

Councilmember Sogg asked if there is any adjacent land that is not owned by the Land Conservancy. Mayor Schneider answered that the Village owns property behind it.

Councilmember Sogg raised the possibility of the Village selling that property.

Village Engineer Courtney said that would not be helpful as there needs to be access to the waste water treatment plant.

Councilmember AuWerter commented that selling the property is a possibility.

Mayor Schneider said the single biggest request she has received from a variety of residents is the need for this type of development.

Councilmember Sogg opined that Council should explore the idea further.

Councilmember AuWerter inquired as to the economics.

Chuck Mlakar responded that the homes would be 2,000 to 2,500 square feet and priced at \$500,000 to \$750,000. He said the proposed community would reproduce the look of the downtown Gates Mills area. Mr. Mlakar then provided a visual example.

Councilmember AuWerter addressing Mr. Berzin questioned if there were many areas in the Village to accommodate similar development.

Mr. Berzin advised that the Gilmour property is still in play but that there may be a total of three properties that would offer access to public sanitary.

Councilmember Whitney asked Mr. Mlakar if, in 1999 when he purchased the extra two acres, if he received financial benefit for the deed restriction.

Mr. Mlakar confirmed he did not. He raised the possibility of also obtaining and cleaning up a nearby property of approximately four acres.

Mayor Schneider asked if the intention is to build houses on the plateau and leave the other areas more natural.

Chuck Mlakar confirmed and welcomed Councilmembers to visit the property.

Councilmember AuWerter asked about exploring the economics in bringing additional property into the plan.

Mr. Mlakar stated it increases efficiency.

Councilmember Turner asked about the status of the gas well on the property.

Mr. Mlakar believes that Bass Energy would like to cap the well.

Councilmember Whitney clarified for the record that the Land Conservancy had no control over the decision regarding putting in the waste treatment plant.

Chuck Mlakar highlighted the desire for Gates Mills to serve as a model for other communities should a cluster home development come to the Chagrin Valley. He stressed the need for the Land Conservancy, Village and homeowners to come together.

Mayor Schneider stated further thought would be given.

Village Engineer Courtney said it could be done but highlighted the series of things that would need to be done including addressing the deed restriction; crossing the property for access to the waste water treatment plant; permission from the EPA to connect to the waste water treatment plant; having a new chapter in the code in order to allow for this type of development along with architectural standards and any adjacent property needed would need to be added to the master plan.

Mayor Schneider asked if there was any other business from the audience.

Councilmember Sogg asked if there were further proposals. Mayor Schneider advised to just provide thought on the possibility. She then questioned if the homeowner plans to talk to the Land Conservancy.

Mr. Mlakar stated he would like to go hand and hand with Council.

Councilmember Sogg suggested he highlight to the Land Conservancy the possibility of adding neighboring properties that might be conserved in his proposals.


Mr. Mlakar thanked Councilmember Sogg for her suggestion.

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