

June 10, 2018 at 5:45 p.m.: Public hearing regarding the Tax Budget for 2019 was called to order by Mayor Schneider at 5:48 p.m. No comments from the public regarding the tax budget. Public hearing was closed at 5:50 p.m.

Village of Gates Mills
MINUTES OF A REGULAR MEETING OF COUNCIL
July 10, 2018

A regular meeting of the Council of the Village of Gates Mills, Ohio was held on Tuesday, July 10 at 6:00 p.m. in the Village Hall.

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

The minutes of the June 12, 2018 Council meeting were presented by the Clerk. It was moved by Councilmember Sogg, seconded by Councilmember Reynolds, that the minutes be approved.

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

Pay Ordinance #1215 in the amount of \$351,856.97 was presented by the Clerk.

In response to Councilmember Turner's question, Service Director Biggert confirmed that a portion of the cost for tree removal will be reimbursed.

It was moved by Councilmember Whitney, seconded by Councilmember AuWerter, that Pay Ordinance #1215 be approved.

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

Treasurer Reynolds provided the financial statement for the period ending June 30, 2018. He highlighted the following:

- Revenues continued their strong pace for the year despite no real estate tax receipts in June. The Village should expect total real estate taxes for the end of the year to be roughly equal to or slightly higher than last year.
- To date, Total Revenue is a little more than \$500,000 above last year.
- Municipal tax receipts are about \$329,000 more than last year.

- There are no notable differences in the pace of departmental expenditures from last month. The Fire Department is significantly underspent relative to the Budget; however, the budgeted purchase of the new fire truck has not yet been made.
- Overall Surplus for the year to date is \$555,000. Should the Village maintain this surplus throughout the year, there will be more than enough available to fund the fire truck purchase.
- At month end, the Village had approximately \$4.5M invested with Ancora. In addition to that money, the Village has approximately \$1.4M in unrestricted operating cash and \$265,000 in cash restricted for specific purposes. The YTD income with Ancora investments is \$7,800. Treasurer Reynolds advised that the Ancora statement is available for anyone who would like to review it.

Councilmember Reynolds asked about the timing for the purchase of the fire truck. Fire Chief Robinson responded that it would be toward the end of the year. Councilmember AuWerter inquired about the quotes. Fire Chief Robinson said that there are three companies that can meet the specifications.

Mayor Schneider advised that as no bids were received, the special council meeting was canceled for the playground bid. She then shared that one of the shovels provided by Councilmember Reynolds was presented to Les Hazlett with his name on it for his hard work on Village landscaping and the other shovel is hung and tagged with the library and playground groundbreaking dates. With respect to the archived architectural drawings, Mayor Schneider was contacted by the Cuyahoga County Archives requesting any remaining/unclaimed plans.

Clerk's report. None.

Councilmember Turner distributed a survey recap regarding the Community Awareness Day. She explained that a survey was sent to the 27 participants and 15 responses were received. Responses indicate that 60% of the participants had 6-10 guests visit, two-thirds of the survey respondents felt that the outcome was worth the time invested and suggestions on how to improve the event were provided. Councilmember Turner will summarize the results. Mayor Schneider said a thank you was included in the initial distribution of the survey. Councilmember Turner added that participants were able to respond anonymously. Councilmember Turner said she has Survey Monkey available if anyone is interested. Councilmember Reynolds said she would like to provide a survey after the upcoming band concert.

Councilmember Whitney referred to the Riparian Setback presentation by Chagrin River Watershed Partners to Council as well as recent information published in *The Pink Sheet* and noted there has not been any negative feedback. Councilmember Whitney would like to have Chagrin River Watershed Partners present to Villagers with a letter being sent to every Villager advising them of such presentation. Details would also be included in *The Pink Sheet*. Discussion among Council regarding the date for the presentation concluded to coordinate a meeting sometime in September at 7:00 p.m. in the Community Building. Councilmember AuWerter said that residents located near tributaries will also be affected in addition to those next to the river. Councilmember AuWerter opined that the Chagrin River Watershed Partners presentation was good. Mayor Schneider emphasized that residents need to understand that if the Village does not manage it, then the EPA will mandate. Mayor Schneider said it is much

different than it was in the past. Councilmember Welsh said he feels very negative about this and that he is against it. Councilmember Whitney shared that they have plans to add onto their house and incorporated the setback in their plans. She said she is happy to draft the letter to the residents and will work with Chagrin River Watershed Partners on a date for the presentation. She requested suggestions for the content of the letter. Councilmember Welsh asked if anyone has spoken with Ross Haffey. Councilmember Turner said it should be noted that legislation is planned and that it is not just an educational event. Councilmember Whitney confirmed she would mention anticipated legislation in the letter. Village Engineer Courtney advised that other communities have adopted it. Mayor Schneider suggested, in addition to Chagrin River Watershed Partners, to also ask someone from another community to speak as how it has been in their community. Councilmember Frankel suggested asking other communities how they presented it and inquire about resident feedback. Mayor Schneider requested that Village Engineer Courtney provide Councilmember Whitney with the names of communities where it has been successful. Councilmember Welsh said he expects an uprising. Councilmember Whitney said that Planning & Zoning and Chagrin River Watershed Partners would work with a homeowner to accomplish what they would like to do with good stewardship in mind. Service Director Biggert expressed his belief that it was a misunderstanding regarding the use of land the last time. Councilmember AuWerter supports having a meeting to share why it is a good thing and not a bad thing. Councilmember Whitney opined that residents were not properly informed in the past when this issue was presented.

Councilmember Sogg said Planning & Zoning approved a variance and lot split on County Line Road that may create the ability to do a conservation development that possibly could include five homes.

Councilmember Sogg shared that she has received positive feedback for Council adopting the Property Maintenance Code.

Councilmember AuWerter said that he, Service Director Biggert and Village Engineer Courtney have spent time together including driving around the Village in an effort to update the road plans. He indicated that the Village will be going out for bids for asphalt work. Councilmember AuWerter said the budget this year is \$210,000 and expects to stay within that figure. He highlighted that the Brigham culvert was not budgeted and will cost approximately \$175,000. He added that residual expenses from the 2017 program were not anticipated and/or properly budgeted. Councilmember AuWerter anticipates the capital expenditure budget to come in around \$200,000 to \$225,000 over budget; however, he said the Village is running ahead on revenue. Councilmember AuWerter noted the possible need to revisit the issue of roads more formally at Council's next meeting. Treasurer Reynolds said to consider what is expected for next year as well. Councilmember AuWerter noted the approval for Cedar Road which will cost the Village approximately \$150,000 next year. He added that the estimate for ongoing road programs is roughly \$200,000-\$250,000 for roads and then highlighted items such as culverts. Councilmember AuWerter said that if you look at the prior three years, the Village's capital expenditures for roads/culverts averaged \$600,000-\$700,000 a year. We anticipated \$330,000 this year but then the repair for Brigham hit. He suggested consideration for unforeseen expenses. Councilmember AuWerter stated that with Cedar Road next year and \$200,000-\$250,000 for roads it would not leave room for a lot more. Further, Councilmember AuWerter shared that the Village was approached by Geauga County with regard to County Line

Road, primarily from Mayfield going north to the end. Geauga County believes there is some state funding available. Councilmember AuWerter explained that the Village has the west side of County Line Road and Geauga County has the east side. It appears the amount of work on the east side is about 10 to 1 on what needs to be done compared to the west side. The conservative estimate is \$50,000-\$75,000. Geauga County is talking about going for approval in 2020. Commenting on next year, he said in addition to \$150,000 for Cedar Road he anticipates the need for another \$200,000-\$250,000. He said we could try and reduce anticipated costs/repairs by \$25,000-\$50,000 now but would be facing such costs next year. Councilmember AuWerter said he initially thought we could lower this year's numbers but after reviewing the priorities and with the surprise of the Brigham culvert, he believes we need to stay within that range. Councilmember Welsh raised the issue of three aging traffic lights. Village Engineer Courtney said that typically how the road program has been awarded in the past, is once we get the unit costs, then Council decides how much money it wants to spend and then awards a not-to-exceed contract for that amount of money and we use our unit costs to work up to that amount to not go over it. Councilmember AuWerter said this can be presented at the August Council meeting. Councilmember Sogg said the residents really notice the roads. She said as long as we are being responsible, she would like to avoid cutting back. Treasurer Reynolds said we need to pay attention to public safety, fire, police and roads. Councilmember Sogg expressed her support in what is trying to be done with the roads. Councilmember Turner said she would like to look at it at next month's Council meeting since it is big numbers. Councilmember AuWerter said he would circulate data to Council regarding the roads. He commented that Cedar Road is the worst and Berkshire is the second worst. Councilmember Turner asked about the amount over budget. Councilmember AuWerter said depending on how per unit costs come in, the Village can stay within budget for what we budgeted for roads but it is Brigham Road that was not budgeted.

Councilmember Reynolds encouraged attendance at the Summer Concert being held on Sunday, July 22 from 5:30-7:30 p.m.

Police Chief Minichello provided a written report. Police Chief Minichello informed Council that there is an ongoing investigation from an incident that occurred at Gilmour Academy. An individual is incarcerated on several charges and there is a good possibility of additional charges coming from the investigation.

Chief Minichello said that there was an accident on Mayfield Road on the same day as the Gilmour incident. The accident resulted in five people being taken to the hospital and the road being closed for several hours. Police Chief Minichello requested the help of the State Highway Patrol and confirmed that they will be assisting with commercial vehicle enforcement on Mayfield Road this Thursday and next Thursday. Councilmember Sogg shared that she heard from individuals who witnessed the accident that the driver of the cement truck did not make any type of warning and slammed into the rear of a SUV. Finance Administrator Mulh said she saw the accident and confirmed there was not any warning from the driver. Mayor Schneider asked if the driver was cited. Police Chief Minichello confirmed the driver was cited and was at fault but advised of some mechanical issues with the vehicle and has spoken with Law Director Hunt about potential responsibility of the company and possible recourse, if any. Law Director Hunt added that the driver did not have the proper license to operate the vehicle. Councilmember Frankel asked if Police Chief Minichello has consulted with the prosecutor. Police Chief Minichello said he has not and just recently spoke with Law Director Hunt. Addressing

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Councilmember Turner's question about the trucking company, Police Chief Minichello responded Osborne is the trucking company and Don Green Trucking, the subcontractor. Councilmember Turner said she has seen more police presence at that intersection. She added that there is not a speed limit sign heading eastbound from West Hill to River Road. Police Chief Minichello said he would look into that.

Treasurer Reynolds said he noticed that fines are up about 25% although offenses are down about 25%. Finance Administrator Mulh confirmed the increase is from extra court costs the Village is collecting through Mayor's Court.

Councilmember Reynolds expressed her concerns of the deteriorated lane markers and arrows for making right and left turns on the west end/top of Old Mill Hill and requested the arrows be repainted.

Councilmember Frankel, referring to the accident, asked if alcohol or drugs were involved. Police Chief Minichello advised that testing was done and results take a while to come back. He expressed his opinion that he does not believe alcohol or drugs were a factor.

Village Engineer Courtney shared that ODOT District 12 will perform a safety study on Mayfield Road. ODOT is pulling information and will move forward with the study. The study ranks the dangerousness of intersections state-wide and may provide for the increased ability to get funding for safety upgrades. He stated that anything the Village does with respect to traffic control must be consistent with published standards to avoid liability issues. He hopes that after the ODOT study, it will allow the Village to request funding from ODOT for safety upgrades.

Service Director Biggert provided a written report. Councilmember Turner asked about the settlement for the Sherman Road motorcycle accident. Service Director Biggert confirmed the settlement of \$60,000 was determined by the insurance company.

Councilmember AuWerter inquired about the number of 30-day violation notices. Service Director Biggert said there is currently one and there may be one or two outstanding at a time. In response to Councilmember AuWerter's comment about the recycling rate seeming low, discussion took place including an explanation by Service Director Biggert that it is measured compared to the tonnage of waste. Service Director Biggert said under a recycling grant the Village received, educational postcards about recycling were created and will be mailed out likely sometime in August.

With regard to the playground area, Service Director Biggert advised that all of the playground equipment has been ordered. The equipment is expected in six to eight weeks. He said that the majority of the large tree clearing has been done. With regard to the concrete work, Village Engineer Courtney anticipates distributing information along with a recommendation. Service Director Biggert noted that more work is being done internally within the department and/or will handle directly with subcontractor(s). He said that we are further behind than we had hoped but that the project is moving forward.

Fire Chief Robinson provided a written report. Fire Chief Robinson referred to the back page of his report sharing that the Department completed a recent ISO inspection/survey which is done every five years. He detailed the process of the inspection wherein every aspect of the Fire Department is reviewed. Fire Chief Robinson said the Department's score has improved and the Department is in the top 3.5% of fire departments in the United States. Councilmember Welsh asked about volunteers living in the Village. Fire Chief Robinson responded that of the 23 volunteers, three live in the Village. He said all of the volunteers are very involved, coming in for all of the calls and training. Councilmember Sogg commented on the July 4th accident. Fire Chief Robinson said the Department was first to respond and that two engines were still onsite for the parade activities that day. Councilmember Welsh questioned about generating more volunteers from the Village and drawing the restrictions down. Fire Chief Robinson noted the difference in requirements and highlighted that the cost of schooling would be paid on behalf of any resident wishing to join. He added that volunteerism is down across the United States.

Second Reading of Ordinance No. 2018-16 "An Ordinance Amending Part Nine, "Streets, Utilities And Public Services Code" Of The Codified Ordinances, To Add New Chapter 915 To Regulate Small Cell Facilities and Wireless Support Structures In Public Ways; And Declaring An Emergency" was introduced by Councilmember Sogg. The reason to suspend is due to the 90 days provided to incorporate into the Village's Codes upon the governor's signing.

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 #2018-16 be placed upon its final passage.

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

Councilmember Turner referred to page 3, #8, and asked about the language "substantial change." Law Director Hunt said it defines what a substantial change would be. He said this provision is governed from federal law which we cannot preempt. Discussion among Council regarding clarifying language took place. Councilmember Welsh asked if this would affect the AT&T boxes. Law Director Hunt said it would not. Councilmember Turner then referred to page 6 and the application fee. Law Director Hunt clarified it was not about reapplying every five years but rather the cost for application increases every five years. He added that this is State law. Next, Councilmember Turner referred to page 8 and asked what "toll" means. Law Director Hunt explained it is the tolling of the view of the applications because the statute requires they be processed within a certain period of time. Law Director Hunt noted that this is as strict as the Village can be under State and Federal law.

It was moved by Councilmember Sogg, seconded by Councilmember Whitney, that Ordinance #2018-16 be approved.

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

Second reading was held for Ordinance #2018-17 “An Ordinance Amending Part Nine, “Streets, Utilities And Public Services Code” Of The Codified Ordinances, To Add New Chapter 917 Adopting Design Guidelines For Small Cell Facilities And Their Support Structures In Public Ways; And Declaring An Emergency” was introduced by Councilmember Sogg.

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 Ordinance #2018-17 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 Ordinance #2018-17 be approved.

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

Second reading was held for Ordinance #2018-18 (as revised 7/10/18) “An Ordinance Amending Chapter 1317, “Certificate Of Inspection” And Chapter 1321, “Certificate Of Authorized Occupancy” Of The Building And Housing Code And Declaring An Emergency” was introduced by Councilmember Sogg. Law Director Hunt confirmed he addressed areas of concern in the document. He clarified that it was never intended that Service Director Biggert would perform an inspection when a tenant changes. He further confirmed that registrations are every year; however, after the initial inspection then inspections are every three years. Councilmember Frankel commented on the low amount of registrations and expressed his concern of putting in an Ordinance that is not enforceable and his belief that it is not fair to those that have registered when so many have not. Responding to Councilmember Welsh’s inquiry, Law Director Hunt said the Ordinance does not apply when no money is exchanged for occupancy. Mayor Schneider remarked that this issue initially came up due to safety concerns. Councilmember Reynolds added that when a fire occurred at a rental property, the Village had no way to know who was occupying the rental or how to contact the owner. Councilmember Frankel raising the issue of the number of rental properties compared to the few registrations opined it does not make sense to have the Ordinance. Councilmember Sogg suggested considering a better way to encourage registrations. Mayor Schneider emphasized the safety issues. Councilmember Sogg highlighted inspection issues as well. Councilmember Turner said it is a good Ordinance but if people are not signing up, then the Village stills does not have relevant information regarding the same. Law Director Hunt said it protects tenants and renters. Councilmember AuWerter asked about the right for Service Director Biggert to inspect and the timing of the same. It was confirmed that Service Director Biggert may not know about the property if it is not registered. However, he could inspect under the Property Maintenance Code. Councilmember Turner said if inspections are covered under the Property Maintenance Code then why should the Village have this Ordinance. Councilmember AuWerter said the registration process only allows the Village to understand if a property is a rental unit. He further stated that if the Village is aware, without registration, that a property is a rental, then

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Service Director Biggert has the right to inspect every three years. Councilmember Sogg asked if notification was made to those rental owners that the Village is aware of. Mayor Schneider said registration has been voluntary. Service Director Biggert said information regarding the same was included in *The Pink Sheet*. Councilmember Welsh asked if this is an invasion of privacy to the renter. It was confirmed that it is not. Councilmember Sogg suggested keeping the Ordinance and seeing if it can be improved. If later, we feel it is not working, it can be repealed. Councilmember Frankel expressed his concern for those who have registered. It was stated that the Ordinance was originated as a way to protect the safety of renters but that is not being done with the majority not registering. He added that the Ordinance is redundant and not enforceable. Mayor Schneider said the Village has not figured out how to handle it. She also noted an upcoming census in 2020.

Ordinance #2018-20 “An Ordinance Requesting The Cooperation Of The County Of Cuyahoga, Ohio, In The Resurfacing Of Cedar Road From SOM Center Road To Woodstock Road, Authorizing The Mayor To Enter Into An Agreement With The County Therefor, And Declaring An Emergency” was introduced by Councilmember Whitney. Councilmember Whitney explained the reason to suspend was because highway improvements and promoting highway safety should be done in expedited matter.

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 #2018-20 be placed upon its final passage.

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

Councilmember Frankel asked for explanation of the County tax reimbursement. Service Director Biggert said the County is raising a portion of the license fees for license plates and setting that money aside for projects such as this.

It was moved by Councilmember Whitney, seconded by Councilmember AuWerter, that Ordinance #2018-20 be approved.

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

Resolution #2018-21 “A Resolution Submitting The Question Of The Renewal Of A 3 Mill Tax Levy For The Purpose Of Current Expenses Pursuant To Ohio Revised Code Section 5705.19(A) and 5705.191, And Declaring An Emergency” was introduced by Councilmember Whitney. Councilmember Whitney explained the need to suspend the rules was because it would allow the Village to make necessary arrangements in sufficient time before the election and due to the timing for filing of this Resolution with the Board of Elections.

It was moved by Councilmember Whitney, seconded by Councilmember Welsh, that the rules requiring ordinances to be read on three different days be suspended and that Resolution #2018-21 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 Welsh, that Ordinance #2018-21 be approved.

Councilmember Frankel asked about the valuation for the Village. Law Director Hunt said it may be a little higher. Finance Administrator Mulh said the amount collected is based on what the amount was when it was first approved. In response to Councilmember Turner's suggestion of a letter from the Improvement Society on this issue, Councilmember AuWerter said he will speak with Bob Reitman.

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

Resolution #2018-22 "A Resolution Approving And Adopting The Tax Budget For The Village Of Gates Mills For Fiscal Year 2019; And Declaring An Emergency" was introduced by Councilmember Whitney. Councilmember Whitney said the reason to suspend the rules is it benefits the residents to get the budget certified.

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 #2018-22 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 Welsh, that Resolution #2018-22 be approved.

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

Resolution #2018-23 "A Resolution Authorizing The Mayor To Enter Into An Agreement With Davey Resource Group, Inc. For Restoration And Stabilization Of Certain Areas Of The Chagrin River Bank In The Village Under The Ohio EPA's 319 Grant Program; And Declaring An Emergency" was introduced by Councilmember Turner. Service Director Biggert explained that the Village is required by the grant to administer the grant and contract.

It was moved by Councilmember Turner, seconded by Councilmember Sogg, that the rules requiring ordinances to be read on three different days be suspended and that Resolution #2018-23 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 Turner, seconded by Councilmember Sogg, that Resolution #2018-23 be approved.

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

Service Director Biggert shared that after bids were received and scored, they met with the property owners with a recommendation. He shared his opinion that there is a good comfort level among the property owners and they agreed with the recommendation.

Business from the audience: None.

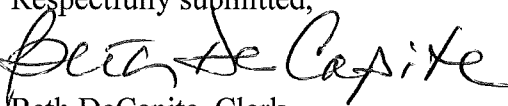
It was moved by Councilmember Reynolds, seconded by Councilmember AuWerter, to adjourn to Executive Session to Discuss Compensation of a Public Employee.

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


Mayor Schneider reconvened the Council meeting at 7:53 p.m. from Executive Session.

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,

Beth DeCapite, Clerk

Approved:


Karen Schneider, Mayor