

Village of Gates Mills
MINUTES OF A REGULAR MEETING OF COUNCIL
July 12, 2016

A regular meeting of the Council of the Village of Gates Mills, Ohio was held on Tuesday, July 12 at 6:00 p.m. in the Village Hall.

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

It was moved by Councilmember Whitney, seconded by Councilmember AuWerter, that Councilmember Welsh be excused from the meeting.

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

The minutes of the June 14, 2016 Council meeting were presented by the Clerk. It was moved by Councilmember Sogg, seconded by Councilmember Turner, that the minutes be approved.

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

Pay Ordinance #1191 in the amount of \$484,534.25 was presented by the Clerk.

It was moved by Councilmember Whitney, seconded by Councilmember Sogg, that Pay Ordinance #1191 be approved.

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

The financial statement for the period ending June 30, 2016 was presented by Treasurer Reynolds. Treasurer Reynolds highlighted the following:

- The Village is operating well within its budget;
- Revenue trends continue with real estate tax receipts starting to close the gap from last month; however, revenues are approximately \$18,000 below last year;
- Municipal income tax is \$225,000 below last year; and
- Total balance for all funds is up by \$12,000 compared to this time last year.

Treasurer Reynolds reported that the Long Range Planning Committee has completed its task. A large variety of opportunities for increasing revenues and reducing expenditures have been identified. He said the Committee broke into three subcommittees: Taxation; Shared Services; and Other Revenue. He advised that a complete report will be disseminated soon.

Treasurer Reynolds stressed that the Village is not in a fiscal crisis – noting it has ample reserves. However, because of the elimination of the inheritance tax as well as certain state and local government funding, the Village is not able to fund its capital expenditure needs which is what is generally creating the deficit. He remarked that the Village will not be able to fund capital expense needs without changes. The Long Range Planning Committee encourages Council to proceed with deliberate urgency in determining what actions can be taken immediately as well as in the future. Mayor Schneider requested Council schedule two work sessions to discuss and consider the report.

Mayor Schneider shared her impression that the Fourth of July festivities were fabulous. She added that the departments did a wonderful job and remarked how great the Village looks.

She then reported that Al Cowger, who is currently chairing the Regional Gas Commission, has spoken with Munroe Falls about joining it in the filing of an amicus brief with the hope to bring in additional communities as well. Councilmember Turner stated that the next meeting is scheduled for Tuesday, July 21 at 6:30 p.m. at the Community House. Munroe Falls' Law Director and a representative from CSU Urban Studies will be presenting at the meeting. Mayor Schneider reported a positive response for the work of the Commission.

Mayor Schneider then announced that the public meeting regarding the connector study is tomorrow from 6:30-8:00 p.m. Councilmember Turner shared that she has communicated with several people including petition signers and members of the Environmental Design Group. She expressed her understanding that the format for the public meeting will be an exhibit area with study representatives at each area to answer questions. There will be placards with four different options with the primary purpose being to allow the expression of opinions and opportunity to ask questions. Councilmember Sogg questioned the type of materials being suggested for paths. Councilmember Frankel responded that different types of trails are being considered. It was stressed that tomorrow's meeting is informational only with voting options in order to obtain a sense of the community's opinion. It was also confirmed that representatives from Environmental Design Group, not the Metroparks, would be speaking. Councilmember Turner stated that another public meeting will be scheduled. Mayor Schneider emphasized that this is a study only and that no permission has been given to anyone to do anything.

Law Director Hunt entered the meeting at 6:13 p.m. He advised that he had a copy of the contract available which evidences it is only a study.

Mayor Schneider stated the need for the appointment of Alison Phillips to the Positively Gates Mills Committee.

It was moved by Councilmember Turner, seconded by Councilmember Frankel, that Alison Phillips be appointed to the Positively Gates Mills Committee.

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

Clerk's report: none.

On behalf of Planning & Zoning, Councilmember Sogg indicated that lighting and weed control ordinances are still being worked on.

Police Chief Minichello provided a written report. Chief Minichello stated that Narcan kits will be issued to officers via a free grant through the county. He said the kits include a nasal spray for emergency use in the event of an overdose. He further stated that the Hillcrest medical director is reviewing the Village's policy on using the kits and that an online training course will be required. Chief Minichello also shared that the kits have a 2-year shelf life. Councilmember AuWerter, referring to the written report, inquired as to the difference in the number of warnings YTD (231) versus last year (31). Chief Minichello said he would look into the discrepancy but believes it is a typo.

In response to Councilmember Frankel's question, Chief Minichello confirmed that the Village Police Department is not participating in a heroin task force; however, he reported that at a recent meeting including area police chiefs, the idea of forming a task force was discussed. Pursuant to Mayor Schneider's suggestion, Police Chief Minichello confirmed he would place notification in the *Pink Sheet* that Narcan kits are available for purchase at CVS.

Service Director Biggert provided a written report. Councilmember AuWerter remarked on the favorable price of salt (\$29.23/ton). Councilmember Frankel asked if the amount listed for building permits was due to remodeling/additions or new homes. Service Director Biggert answered it is a combination although he noted that one new home was a significant contributor to the dollar amount.

Councilmember Sogg agreed with Mayor Schneider's earlier comment adding that the Village looks fantastic. Service Director Biggert indicated he would share the same with his department and highlighted that the addition of Les Hazlett has made a significant difference.

Fire Chief Robinson provided a written report. Councilmember Turner asked about the recent bike accident with injuries on Gates Mills Boulevard. Chief Robinson explained that a cyclist turned onto Gates Mills Boulevard just after an individual had parked and exited his vehicle in order to get his mail. The bicyclist crashed into the parked car wherein his head went through the rear window. After a lengthy discussion with the cyclist, who is a doctor for University Hospital, he eventually agreed to receive medical attention and was transported to University Hospital.

Fire Chief Robinson explained the need to declare a 1999 Chevrolet Blazer as surplus equipment. A picture and information of the vehicle was included in Councilmember's packets. He explained the vehicle is not currently in running condition and a battery may be purchased to attempt to get the vehicle in running condition to avoid the need to have it towed. He noted that it may only be worth scrap value due to its mileage and condition. He explained that it first must be declared surplus equipment. He further advised that the vehicle was initially bought when it was two years old with 91,000 miles. It was used as a service vehicle but was replaced with the vehicle purchased from the police department in 2012.

It was moved by Councilmember Reynolds, seconded by Councilmember AuWerter, to declare the vehicle as surplus equipment.

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

Second 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 Cary Out That Purpose; And Declaring An Emergency” was introduced by Councilmember Whitney.

Resolution #2016-13 “A Resolution Approving And Adopting The Tax Budget For The Village Of Gates Mills For Fiscal Year 2017; And Declaring An Emergency” was introduced by Councilmember Whitney. Councilmember Whitney explained this is to provide the county with Village budget information.

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 Resolution #2016-13 be placed upon its final passage.

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

It was moved by Councilmember Whitney, seconded by Councilmember Sogg, that Resolution #2016-13 be approved. In response to Councilmember AuWerter’s question, Finance Administrator Mulh said the budget is based on 2017 projections.

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

Ordinance #2016-14 “An Ordinance Designating KeyBank National Association And JPMorgan Chase Bank, N.A. As Public Depositories For The Funds Of The Village Of Gates Mills” was introduced by Councilmember Whitney. Councilmember Whitney noted a 5-year requirement to go on record. She further explained the need for suspension is to use the depositories immediately. In response to Councilmember Frankel’s inquiry, Finance Administrator Mulh said this does not restrict the addition of other depositories. Treasurer Reynolds indicated that JP Morgan Chase is now being added.

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 #2016-14 be placed upon its final passage.

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

It was moved by Councilmember Whitney, seconded by Councilmember AuWerter, that Ordinance #2016-14 be approved.

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

Ordinance #2016-15 "An Ordinance To Amend The Annual Appropriation Ordinance No. 2016-05 To Increase Certain Appropriations And Other Expenditures Of The Village Of Gates Mills, Ohio For The Fiscal Year Ending December 31, 2016" was introduced by Councilmember Whitney. Councilmember Whitney said this is a housekeeping measure which allows for the allocation/movement of funds. Suspension of the rules is necessary to allow the Village to pay bills.

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 #2016-15 be placed upon its final passage.

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

It was moved by Councilmember Whitney, seconded by Councilmember Reynolds, that Ordinance #2016-15 be approved.

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

Resolution #2016-16 "A Resolution Awarding The Contract For The Lower Berkshire Streambank Stabilization Project To Platform Contracting And Declaring An Emergency" was introduced by Councilmember AuWerter. Councilmember AuWerter indicated that there will be three Resolutions for items included in the Budget and each coming in under budget. The need to pass as an emergency is that bids are typically only good for 30 days. He explained this is for the continuation of work done last year. The budget was originally \$120,000 and, including the related engineering costs, the total is approximately \$100,000. Village Engineer Courtney remarked this is just excavation and stone work along the edge of the stream. Councilmember Sogg asked if the road would be fixed. Councilmember AuWerter responded that falls under a different Resolution.

It was moved by Councilmember AuWerter, seconded by Councilmember Turner, that the rules requiring ordinances to be read on three different days be suspended and that Resolution #2016-16 be placed upon its final passage.

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

It was moved by Councilmember AuWerter, seconded by Councilmember Whitney, that Resolution #2016-16 be approved.

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

Resolution #2016-17 “A Resolution Awarding The Contract For Sections 4 And 4A Of The Bid Specifications For The Repair And Resurfacing Of Various Roads To Specialized Construction, Inc., And Declaring An Emergency” was introduced by Councilmember AuWerter. Councilmember AuWerter explained that the work is being broken up based on best bids received.

It was moved by Councilmember AuWerter, seconded by Councilmember Sogg, that the rules requiring ordinances to be read on three different days be suspended and that Resolution #2016-17 be placed upon its final passage.

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

It was moved by Councilmember AuWerter, seconded by Councilmember Turner, that Resolution #2016-17 be approved.

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

Resolution #2016-18 “A Resolution Awarding The Contract For Sections 1, 1A, 2, 2A, 3 And 3A Of The Bid Specifications For The Repair And Resurfacing Of Various Roads To Carron Asphalt Paving And Declaring An Emergency” was introduced by Councilmember AuWerter. Councilmember AuWerter commented that this represents the bulk of the road work. Councilmember Frankel asked if the workmanship of a contractor is ever evaluated. Village Engineer Courtney stated that there is a 1-year maintenance bond requirement at the end of every construction project. He added that work is generally reviewed prior to the conclusion of the bond period. He further stated that the Village typically has repeat contractors that it has worked with extensively.

It was moved by Councilmember AuWerter, seconded by Councilmember Sogg, that the rules requiring ordinances to be read on three different days be suspended and that Resolution #2016-18 be placed upon its final passage.

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

It was moved by Councilmember AuWerter, seconded by Councilmember Frankel, that Resolution #2016-18 be approved.

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

Village Engineer Courtney added that of the total cost, \$80,000 will come back to the Village from the County via a grant under the County's road program. Additionally, he stated that by splitting the road work, the Village will realize another \$8,000 in savings.

Business from the audience:

Marcia Anselmo, a Gates Mills resident and member of the Historical Society, summarized the history of park studies in the Village highlighting the 1917 study and case that went to the supreme court. She said the Gates Mills Improvement Society, which was the governing board of the Village at that time, won the case over the Park Board to keep the parks from taking Village property. She stated that the maps shown at the last meeting evidence that Gates Mills land must be used. Pursuant to the 1917 case, she explained that the park system is not supposed to ask for Village land. She then noted a historical editorial from the *Plain Dealer* which sympathized with the Village at that time. She asked for Council to take a position on the study. Further, she voiced that the plan presented at the last meeting would require removing trees, eliminating habitat and adding paths, parking lots, shelters and bathrooms. She concluded voicing her opinion that she is unsure of any resulting benefit to the Village.

Councilmember Turner asked about that legal case and how it impacts the current issue of eminent domain.

Law Director Hunt responded that he believes the Village is in a good position. He added that the statute that case is based on has continued on in the Ohio Revised Code.

Mayor Schneider again emphasized that no permission has been given to any entity.

Marcia Anselmo asked if Council will take a stand.

Mayor Schneider responded that she believes Council should take a stand. She further commented that Council should have a better understanding after tomorrow's public meeting.

Marcia Anselmo expressed her feeling that the survey that was completed was not a good survey and that giving land to the conservancy goes against the wishes of those that gave their land in order to conserve the same.

Councilmember AuWerter shared information about a bike enthusiast website that is actively encouraging non-residents to attend the meeting and represent themselves as residents. Councilmember AuWerter suggested that anyone that speaks be required to provide their address.

Councilmember Turner said the meeting is from 6:30 p.m. to 8:00 p.m. and confirmed it will be set up with exhibits displaying different options allowing for an opportunity for attendees to ask questions and vote on different proposals.

Mayor Schneider suggested having a sign-in requiring people provide their name and address.

Councilmember Sogg shared that she has received communications from riding and hiking clubs expressing that they are not in support. She further commented on the opposition to asphalt paths.

Councilmember Turner noted that equestrians made up the majority in attendance at the first meeting.

Councilmember AuWerter requested Law Director Hunt confirm if discussions regarding Village property could be held in executive session.

Resident Diane Hladky expressed her gratitude for the flyers that were delivered to the homes along the proposed trail. Referring to the comments made that no permission has been given, asked – when it comes time to give permission – if the decision will go to Council or to the public.

Mayor Schneider responded that her thought is that hopefully Council will hear what the Village says and will take that into consideration.

Councilmember Frankel said that Council represents the community.

Councilmember AuWerter said if he is asked to vote on eminent domain, he must consider the individuals that would be impacted by the same.

Mayor Schneider stated that Council represents the electorate and must listen to all opinions. She further stated that the process takes time and it is all being taken in.

Councilmember Turner advised that she has been told that when the study is completed, it goes to the MetroParks for consideration of whether or not they want to do anything with it. Her understanding is that it would likely not be considered by the MetroParks until its next bi-annual budget. She added that a decision by the Village may not come for an extended period of time.

Mayor Schneider confirmed that Gates Mills has not funded the study.

Councilmember Sogg remarked that there are options, including suggested routes, that do not go through the Village to connect the North and South Chagrin Reservations.

Resident Diane Hladky asked if environmental impact is included in the overall study. Councilmember Reynolds suggested that Ms. Hladky ask that question at the public meeting. Village Engineer Courtney said that this part of the study would not include that but it would be included further down in the process – if it goes that far. It was confirmed, in response to Ms. Hladky’s question that there will be four exhibit options, including a “none of the above option.” Mayor Schneider said there will be revised maps for the meeting.

Councilmember Turner shared that there was a Stakeholders meeting on June 23 that she and a number of individuals attended including, Councilmember Reynolds, Mayor Schneider, and Service Director Biggert, in order to hear options and discuss maps/presentation.

Mayor Schneider advised that there would be a total of three stakeholder and three public meetings.

Charles Belson, resident of Gates Mills, stated that he sent two questions earlier to Mayor Schneider regarding the conservation charter amendment.

1) Should land conservation tax levy funds be used to purchase properties that have existing gas wells or mineral leases allowing future deep horizontal gas wells?

2) How will council modify the ballot language of the conservation Charter Amendment tax levy renewal to help reduce voter confusion about whether they are voting “for” or “against” the use of conservation tax levy funds for the purpose of acquiring properties with existing gas wells or mineral leases allowing future deep horizontal gas wells?

Mr. Belson said it is important to remember that the language has been unchanged since 1991. That every five years, there is a renewal but in 2006 gas wells came about. He continued by saying that the language for this charter amendment has always been about conservation, preservation and nothing about how it relates to gas wells. He raised his concern of the Hayes property purchase which includes a gas well and the need for different language.

John Kramer of the Gates Mills Land Conservancy said the Conservancy is not in favor of any change in the language. He voiced that not being able to negotiate is counter productive. He added that the Village has a lot of wells. Mr. Kramer further stated that changing the language to exclude the purchase of property for conservation if there is a well or mineral lease on the property ties the Conservancy’s hands.

Mayor Schneider explained that the Hayes property purchase included the renegotiation of the lease for no deep horizontal drilling. She also said that when the well is depleted, it will go away, which is in the Village’s best interest.

John Kramer highlighted that the Village also put a conservation easement on that property.

Charles Belson requested answers to his questions.

Mayor Schneider responded that the questions are not that simple to answer.

Councilmember Reynolds voiced that the question is being asked in an unfair way. She addressed Mr. Belson directing that his question needs to be reframed as it is not an accurate presentation of obtaining land for preservation which happens to have a gas well on it.

Mr. Belson said the original language says preserve and conserve and urged for the language to change or an explanation be provided to voters. He said that conservation is the preservation of land and that oil and gas is about the development of land.

Councilmembers Sogg and Reynolds stated that the gas wells are already here.

Treasurer Reynolds asked Mr. Belson if his suggestion is that conservation levy funds be used for new wells.

Mr. Belson expressed his concern about adjusting existing leases and less protection for residents with regard to deep horizontal wells. He added that funds are being spent with no effort to change a lease.

Councilmember AuWerter believes Mr. Belson is chasing a non-issue and will kill it.

Charles Belson said it can go on the ballot again next year if it fails.

Councilmember Whitney presented the example that if there is a 20-acre minimum for a gas well and the conservancy could buy and conserve the 20 acres, the one acre with the well would prevent the purchase.

Mayor Schneider expressed her opinion that the Land Conservancy has done an outstanding job of conserving their properties. She opined that Mr. Belson is trying to tie its hands so they cannot preserve and get rid of those existing wells.

Diane Hladky asked what a land pass-through means. Law Director Hunt explained a recent piece of legislation that referenced land pass-through was for a small sliver of land that had gone through foreclosure, went to the State of Ohio and subsequently to the Land Bank. The Land Bank agreed to pass it through to the Village. Mayor Schneider added that she hopes to do that with another piece of property.

Resident Dorothy Shillman expressed her concern that road chemicals are killing trees. She advised that there are several long-needle pine trees on Gates Mills Boulevard that are dead and need to come down. She said that Service Director Biggert should be evaluating the same. She added that there is also a tree dying on Mayfield Road on St. Francis Church property. Service Director Biggert asked Ms. Shillman why she believes it is due to chemicals.

Ms. Shillman responded because of the large number of trees. Councilmember Sogg raised the issue of a disease that has been impacting the pine trees and does not believe it is the road salt. Service Director Biggert said he would investigate.

Resident Andre Polsinelli addressed Council inquiring if the Bylaws of the Village have changed. He noted that years ago he was told he could not put his used car up for sale in his driveway. He highlighted, however, that there are several commercial trucks parked at the first home located north of the circle on S.O.M. Service Director Biggert believes there may be extensive remodeling being done at the home but confirmed he would look into it.

Dorothy Shillman voiced her concerns over group homes in the Village referencing a home on a piece of property that was preserved. She commented on the home's communal bathrooms. Mayor Schneider responded that ADA and Fair Housing guidelines were a factor in that home. Ms. Shillman stated that rooms should have their own bathroom versus a communal bathroom. She is concerned about two other group homes in Gates Mills and is concerned about zoning. She expressed her worry that any house could be made into a group home. Law Director Hunt highlighted the involvement of Fair Housing and ADA. He noted the plan went through the Village building process and was approved with a lot of conditions but that the same did not set a precedent. Dorothy Shillman remarked on possible sewer issues.

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

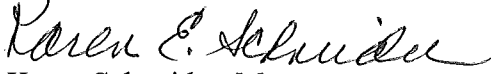
Roll call: Ayes: AuWerter, Frankel, Reynolds, Sogg, Turner, Whitney.
 Nays: None.
 Motion carried.

Respectfully submitted,



Beth DeCapite, Clerk

Approved:



Karen Schneider, Mayor