

Village of Gates Mills
MINUTES OF A REGULAR MEETING OF COUNCIL
July 14, 2015

A regular meeting of the Council of the Village of Gates Mills, Ohio was held on Tuesday, July 14, 2015 at 6:30 p.m. in the Village Hall.

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

Councilmembers absent: Schneider.

It was moved by Councilmember Reynolds, seconded by Councilmember Sogg, that Councilmember Schneider be excused from the meeting.

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

The minutes of the June 8, 2015 Council meeting were presented by the Clerk. It was moved by Councilmember Sogg, seconded by Councilmember Welsh, that the minutes be approved.

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

Pay Ordinance #1179 in the amount of \$635,231.13 was presented by the Clerk.

In response to Councilmember Frankel's inquiry regarding the Capital Improvement item for the Eclipse Company. Engineer Chris Courtney stated the repair work was for an ongoing drainage issue on Gates Mills Estates Drive. Service Director Biggert responded to Councilmember Sogg's inquiry that a set of tires was purchased from Bob Pot Landscaping. Councilmember Frankel cited the item for the Cleveland Illuminating Company and asked about NOPEC. Finance Administrator Lechman indicated that NOPEC would go into effect next month.

It was moved by Councilmember Reynolds, seconded by Councilmember Welsh, that Pay Ordinance #1179 be approved.

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

The financial statement for the period ending June 30, 2015 was presented by Treasurer Reynolds. Treasurer Reynolds noted the following:

- Operating Revenues are up approximately \$340,000 largely due to increased receipts of municipal income tax and real estate taxes.
- Operating Expenses are higher than last year with the exception of the Police Department. He advised that Administration is running ahead for professional fees and significant legal fees and also noted income tax and County Auditor expenses.
- The Police Department is approximately \$70,000 below last year entirely due to reduced personnel costs.
- The Service Department is running ahead of last year largely due to salt expenses. Treasurer Reynolds asked Service Director Biggert about the recent settlement regarding salt. Service Director Biggert indicated that the Village will receive money but the amount and timing of the same is unknown.
- General Fund surplus is better than last year by approximately \$140,000.
- Over-all fund balance is \$400,000 lower than last year.

Councilmember Frankel addressing the increase of legal fees asked Law Director Cannon if she could provide any cost projection for the rest of 2015. Law Director Cannon replied she cannot due to litigation that represents a significant portion of such costs, the unknown timing of when the judge will make his ruling and then what may be necessary based upon such ruling. Councilmember Frankel suggested reconsidering that budget line item. Councilmember Turner questioned the status of the committee that is addressing the Village's long term finances. Mayor Riley remarked that he will be reporting on the same.

Mayor Riley reported that he has spoken with Roger Rankin who chairs the long-term planning committee. He explained that Mr. Rankin is in the process of gathering additional data. Mayor Riley commented that Mr. Rankin previously presented a request that appeared to require a great deal of administrative work and that request has since been narrowed. Mr. Rankin will be scheduling a meeting within the next few weeks to set targets for spending as well as for developing potential revenue sources which would primarily be used for capital improvements. It is expected that the long-term planning will be finished by the end of the year.

The clerk had nothing to report.

On behalf of the Regional Commission, Councilmember Turner reported that there have been several Committee meetings including a recent meeting of the Committee Chairs to identify goals and set targets. She advised that there is a series of upcoming speakers and the same will be promoted to the community. Councilmember Turner noted the biggest item that the Regional Commission has been involved with is HB8. She said there has been a lot of recognition and support against it. She further shared that HB8 is currently with the Senate and advised that only a portion of it was included in the budget bill which dealt with right-of-ways for the Department of Transportation. The Commission will continue to monitor HB8. She expressed her gratitude for the effort of many including highlighting Law Director Cannon's help.

Councilmember Welsh had nothing new to report on behalf of the Cemetery Committee. Mayor Riley, mentioning that there are no more available plots, requested suggestions for the expansion of or a possible new cemetery.

Councilmember Welsh announced that the Gates Mills' Post Office has a new postmistress. It was confirmed that the lease for the post office will expire in 2019 (should be 2017). Mayor Riley recommended that Councilmember Welsh make note of the same to ensure that the lease is renewed.

Police Chief Minichello provided a written report. In response to the comment made by Councilmember Welsh regarding recent news reports, Police Chief Minichello confirmed that the driver from the recent fatal accident on County Line Road faces three total charges: two counts of vehicular homicide and one count of failure to control. Police Chief Minichello reported that the appropriate paperwork was issued, the driver posted bond and the first court date is July 23, 2015. Chief Minichello advised that three trees from the accident site are being removed. He responded to Councilmember Welsh's query that the tire tracks left at the scene were from the car involved.

Service Director Biggert provided a written report. Councilmember Frankel asked how many people have registered their rental properties. Service Director Biggert responded 10-12 and mentioned he would put forth greater effort regarding the same when the mandatory registration requirement goes into effect in August.

Mayor Riley noted that Fire Chief Robinson was not in attendance as he is currently participating in a rescue event and, therefore, there will be no Fire Department report.

Mayor Riley advised that he asked Finance Administrator Lechman and Janet Mulh to compile figures regarding the Regional Commission. He reported that to date, the Regional Commission has spent \$12,000. He suggested having a budget set for the balance of this year as well as a budget for next year. He remarked that none of the expenses seemed extraordinary. He also highlighted that part of the increase for the Village's legal fees is associated with the Regional Commission.

Resolution #2015-18 "An Ordinance Authorizing The Mayor And The Clerk To Enter Into A Revised Amended And Restated Indenture Of Lease With Gavi's River, LLC, And Declaring An Emergency" was introduced by Councilmember Sogg. Councilmember Sogg indicated that the latest version of the lease is attached to the proposed ordinance. She shared that changes to the original lease include that the Village is no longer going to finance the equipment. Mayor Riley interjected that the Village was not going to finance but rather was going to roll such costs into the rental payments. He explained that Dave Gromelski will be paying for the same as he wanted greater control over what and how it was done. It was confirmed that the Village would not be spending the estimated \$200,000, however, the Village will continue to be responsible for work to the common area. Councilmember Sogg noted improvements to Burton Court, include adding a bathroom and soundproofing. Law Director Cannon added that Mr. Gromelski wanted very specific equipment and furnishing. In response to Councilmember Frankel's question, Mayor Riley confirmed that the Village will spend up to \$50,000. Councilmember Sogg remarked that the Village's Service Department would do the majority of the work to assist with costs. Law Director Cannon stated that other changes to the lease included finalizing insurance amounts. Councilmember Reynolds stated that Key Man insurance, which she raised at the last Council meeting, would no longer be required given that

the Village is not lending the \$200,000. It was explained to Councilmember Whitney that the patio at Burton Court as well as the patio that Sara's uses represents the North and South patios. Councilmember Turner citing the lease term of 10 years asked if other tenants have similar lease terms. Councilmember Sogg explained that Howard Hanna had a preexisting lease and was grandfathered in. She further commented that all of the tenants are very different. She noted that Dave Gromelski is investing a lot of money. Councilmember Turner requested that Mary Gromelski's name be added in the right to renewal section regarding 20% total ownership. Councilmember Frankel asked why the percentage for ownership to renew the lease was 20%. Mayor Riley replied that the idea was as long as Dave Gromelski was actively involved, 20% seemed to be the right threshold. Councilmember Turner asked about Exhibit D-3. Law Director Cannon said that should be Exhibit D-2 and such correction would be made. Councilmember Frankel made the suggestion that in the future for contracts that a summary of basic terms be provided for Council's convenience in considering the same. Councilmember Frankel highlighted that the language addressing emergency measures and suspensions regards matters of public health, safety and welfare. He added it would be helpful to have the necessary time to consider. Mayor Riley agreed his point was fair in light of the magnitude of this document. Mayor Riley noted, however, a term sheet was provided in March and that for this revised lease, only the allocation of payment for the improvements changed. Councilmember Sogg said some improvements in the lease relate to health and safety.

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 #2015-18 be placed upon its final passage.

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

Councilmember Reynolds expressed her belief that Council is sensitive to approving things by an emergency basis. Addressing the language that Councilmember Frankel brought up of health and safety, Councilmember Reynolds asked if there was another way to pass items without this angst and yet not having to give items the three months in which to hold three separate readings. Law Director Cannon responded that in suspending the rules, Council does away with the three separate readings. She explained that the emergency clause deals with when it goes into effect after passing. If there is no emergency clause, then it does not go into effect until 30 days after. She further reiterated that suspension shortens the time before legislation is adopted and the emergency clause shortens the time after you pass legislation. She emphasized the desire of the Gromelskis to proceed with respective parts of the project. Councilmember Welsh commented that Council passed this lease once already. Law Director Cannon explained that Council did pass the lease but not in the current form as attached to the ordinance. She stated this revised lease has substantial changes to what the Village is spending and how the improvements are to be done. Councilmember Welsh asked whether there were any changes to what improvements would be made. Law Director Cannon answered that there are no changes to the improvements. The Village's and the Gromelski's cost allocation changed. Councilmember Reynolds asked what changes in 30 days would make Councilmembers Frankel and Turner more comfortable. Councilmember Sogg stated that in light of this discussion if the vote on the

motion to suspend could be reconsidered. Law Director Cannon advised that the appropriate motion to consider could be made by one of the abstaining members to reconsider.

Councilmember Frankel moved, Councilmember Turner seconded, to reconsider the motion to suspend.

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

It was moved by Councilmember Sogg, seconded by Councilmember Reynolds, that the rules requiring ordinances to be read on three different days be suspended and that Ordinance #2015-18 be placed upon its final passage.

Councilmember Frankel requested more time be provided in the future or for alternative language in the suspensions.

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

It was moved by Councilmember Sogg, seconded by Councilmember Welsh, that Ordinance #2015-18 be approved.

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

Resolution #2015-17 “A Resolution Accepting The Bid Of Southeastern Equipment Co., Inc. For The Purchase Of A Case Model 580 Super N Tier Iv Final Loader Backhoe” was introduced by Councilmember Sogg. Councilmember Sogg advised that this purchase was included in this year’s budget. Service Director Biggert circulated information regarding the same in advance. Service Director Biggert explained that the Village currently owns a 1996 backhoe and to invest money for repairs including new tires and work on its hydraulic pump would cost approximately \$18,000. Councilmember Sogg, in response to Councilmember Turner’s question, confirmed that the Village would trade-in the current backhoe. Finance Administrator Lechman asked how long a new one would last. Service Director Biggert believed it will last longer than the current equipment which lasted almost 20 years.

It was moved by Councilmember Sogg, seconded by Councilmember Whitney, that the rules requiring ordinances to be read on three different days be suspended and that Resolution #2015-17 be placed upon its final passage.

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

Councilmember Frankel expressed his gratitude to Service Director Biggert for circulating information regarding this purchase in advance of the Council meeting.

Councilmember Sogg moved, Councilmember Frankel seconded, that Resolution #2015-17 be approved.

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

Service Director Biggert noted that other market options were explored including a Caterpillar which was about \$4,000 more.

Ordinance #2015-19 “An Ordinance Authorizing The Mayor To Purchase A Portion Of Property Located On Mayfield Road, And Known As Permanent Parcel No. 842-11-004, And Declaring An Emergency” was introduced by Councilmember Sogg. Councilmember Sogg explained that with regard to the Hayes property, the Land Conservancy, a private owner as well as the Village would have the opportunity to purchase a part of the property. She advised that the Village would purchase 1.6 acres for use for a new pump station. She explained that doing so would convert the sewage treatment plant to a pump station and avoid the associated substantial costs. Along with the purchase, the Village would obtain the mineral rights for a gas well located on the property. Currently, the well proceeds are estimated to be \$3,800 a year. She stated that the Land Conservancy does not want to own the well. Councilmember Sogg explained that the proceeds would help offset the cost of the purchase. Councilmember Welsh remarked on the potential significant cost savings associated with the elimination of the sewage treatment plant. Councilmember Welsh asked what the sewage treatment plant costs the Village. Finance Administrator Lechman answered approximately \$80,000 a year. Councilmember Whitney asked where the \$42,000 for the purchase would come from. Mayor Riley extended accolades to Finance Administrator Lechman explaining that she identified money available in the Village’s Conservation Fund. He said the property will be deeded with certain conservation related restrictions and that it can only be used for a pump station. He noted that the Village does not have to add the pump station until it is ready to do so. Mayor Riley stated that with a conservation easement on it, it allows for the use of conservation money. Finance Administrator Lechman said the Village should have about \$42,000 by the end of the year. Councilmember Welsh raised concerns about residents wanting to tap into the proposed sewer system. Engineer Chris Courtney said the pump station will not allow the opportunity for it to be tied into. Councilmember Whitney asked who put the gas well on the property. It was confirmed the Hayes did. Mayor Riley noted the property is being preserved with the Land Conservancy, putting a pump station will help the Village in the long run, and will offer proceeds to the Village from the gas well. Finance Administrator Lechman asked if the Village will receive a copy of the gas well contract. Law Director Cannon answered affirmatively. Councilmember Whitney asked if this would force the need for a turning lane to accommodate for any trucks. Mayor Riley responded no. Councilmember Frankel asked if there is a property sketch for the private owner’s portion. Service Director Biggert explained that is not included but advised that it is a very small portion adjacent to their current land.

It was moved by Councilmember Sogg, seconded by Councilmember Turner, that the rules requiring ordinances to be read on three different days be suspended and that Ordinance #2015-19 be placed upon its final passage.

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

Councilmember Sogg moved, Councilmember Reynolds seconded, that Ordinance #2015-19 be approved.

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

Councilmember Turner requested an update regarding the NOACA application. Mayor Riley had nothing new to report. Councilmember Turner asked if there will be a citizen's advisory committee and noted she was aware of residents interested in the issue. Mayor Riley requested that she forward the names of interested individuals to him.

Business from the audience: Charles Belson referred to Ordinance #2015-19 and questioned if the lease would restrict any future horizontal drilling and suggested Council investigate the same. Mayor Riley said it is a good deal for the Village and noted that the Land Conservancy does not want to own the well. Law Director Cannon advised that the Village would be subject to the existing lease terms until it expires. He further commented that such well is subject to horizontal drilling rights no matter if the Village owns it or not.

Mr. Belson then shared with Council that on June 29, 2015 he submitted a certified amendment to the charter which would provide that the Village and residents would have to approve any renewed leases. He requested a receipt for the same. Mr. Belson indicated that collection of signatures began on July 4, 2015. Mayor Riley shared his understanding that the process is to collect signatures then to present to Council and did not believe anything had to be submitted before the collection of signatures but deferred to Law Director Cannon. Law Director Cannon advised that there is case law that states if there is a difference in the Constitution and statute, that the Constitution controls. Based upon the Constitution there is not a requirement to first file with the clerk. She further explained the process is to collect a sufficient number of signatures, present to Council to submit to the Board of Elections to determinate if the signatures are adequate and, if so, then Council certifies the same to the Board of Elections. Mayor Riley asked if the proposed amendment was being circulated now. Mayor Riley then pointed to the Regional Commission which is spending a great deal of time and effort on the matter of deep well drilling. Charles Belson remarked that the amendment is supplementary to the work of the Regional Commission and is also in response to current events. Mayor Riley opined that it is possible that should something like this get passed, it may be ineffective. Mayor Riley recommended that Mr. Belson wait for the Regional Commission to weigh in on their suggestions and allow the process to play out by way of a comprehensive approach versus rushing to particular actions. Mr. Belson shared his concerns of the unknown views of future Village Councils.

Councilmember Welsh provided a reminder for the band concert taking place on Sunday at 5:30 p.m.

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

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

Respectfully submitted,

Beth DeCapite, Clerk

Approved:

Shawn M. Riley, Mayor