

Village of Gates Mills
MINUTES OF A REGULAR MEETING OF COUNCIL
August 9, 2016

A regular meeting of the Council of the Village of Gates Mills, Ohio was held on Tuesday, August 9 at 6:00 p.m. in the Village Hall.

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

It was moved by Councilmember Reynolds, seconded by Councilmember Sogg, that Janet M. Mulh be appointed Clerk Pro Tem.

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

The minutes of the July 12, 2016 Council meeting were presented by the Clerk. It was moved by Councilmember AuWerter, seconded by Councilmember Sogg, that the minutes be approved.

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

The minutes of the special July 27, 2016 Council meeting were presented by the Clerk. It was moved by Councilmember Reynolds, seconded by Councilmember Turner, that the minutes be approved.

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

Pay Ordinance #1192 in the amount of \$839,595.70 was presented by the Clerk.

It was moved by Councilmember Welsh, seconded by Councilmember Whitney, that Pay Ordinance #1192 be approved.

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

The financial statement for the period ending July 31, 2016 was presented by Treasurer Reynolds. Treasurer Reynolds highlighted the following:

- Surplus in the General Fund of \$100,402 through July;
- Revenues are below last year by \$232,000 due to lower real estate taxes (\$92,000) and lower municipal income tax receipts (\$138,000);
- Operating expenses are within budget. Total operating expenses 2016 YTD are \$607,000 higher than 2015 YTD. Treasurer Reynolds explained that money was transferred from the General Fund to other Funds, per the Budget, in one transfer at the beginning of the year which amounted to \$1,135,500. Last year, transfers were done monthly. Excluding the effect of this change, Operating Expenses are \$145,000 under 2015 YTD.
- Current Balance of all funds is \$5.4 M which is \$202,000 lower than this time last year.
- About 75% of expenditures in funds other than the General Fund occurred in the Water (\$654,000) and Wastewater (\$322,000) accounts.

Councilmember AuWerter expressed his understanding that municipal taxes vary year by year. He then questioned the variations in real estate taxes. Treasurer Reynolds highlighted that timing is an issue. Councilmember Frankel asked if real estate taxes would increase based on higher home values. Treasurer Reynolds explained that it would not and remarked on levies being for specific purposes and that the fall levies are renewals with values established at the time the levy was originally approved.

Mayor Schneider read a thank you letter from Walter Topp, Administrator of the Republican National Convention, expressing gratitude for Fire Chief Robinson and Capt. Rob Jamison for volunteering during the convention. Mayor Schneider also highlighted Chief Minichello's participation as a RNC volunteer.

Mayor Schneider then noted that a working session for Council is scheduled for Tuesday, August 23 at 5:30 p.m. to discuss the recommendations and findings of the Long Range Planning Committee.

Mayor Schneider then provided a reminder that two renewals will be on the November 8 ballot (3.5 mill renewal for current expenses and 1 mill levy for conservation).

Due to the desire to accommodate the different school calendars next year, Mayor Schneider reported that the Gates Mills Nature Camp would like to run the camp next year for 8 weeks rather than the usual 6 weeks. Finance Administrator Mulh shared that the Nature Camp was complimentary of the Service Department and the Community Building Staff.

Clerk's report: none.

Councilmember Turner reported that the Positively Gates Mills Committee created a "tool kit" for realtors and home buyers which includes a cover letter and information about the

schools and the Village. She requested Councilmembers sign the cover letter and noted that the Committee will start to distribute the same.

On behalf of the Mayfield Schools Liaison Committee, Councilmember Turner shared that she and Mayor Schneider recently met with the Superintendent and Treasurer of Mayfield Schools about plans for the levies on the fall ballot. Councilmember Turner advised of a 6.9 mill operating and permanent improvement levy and highlighted that, if passed; it would result in an additional \$246 per \$100,000 of real estate. She commented that although levies have not passed in the Village, they have generally been successful in the whole district. She emphasized that the goal is to get a representative from the Village to serve on the School Board as an elected representative. Councilmember Turner advised that the School District's report is good. She also distributed a photo of a 3-D hand that students from Mayfield School designed and presented at a Health and Tech fair in Europe. Councilmember Reynolds requested statistics of the percentage of the Gates Mills population versus the whole Mayfield School District population as well as the percentage of Gates Mills residents. Councilmember Turner confirmed there are 175 Gates Mills students but was not sure of the percentage of total population. It was highlighted that the breakdown is \$57,000/student and that 47% of property taxes in Gates Mills goes to the school district. Councilmember Welsh asked about the voucher program. Councilmember Turner replied that when Bedford Heights tried, it was defeated and it has made no progress in Hunting Valley. Mayor Schneider advised that the Village has to be part of a school system. Chip AuWerter commented that when Hunting Valley raised the issue, it was pointed out that every school district in the state has a community that has a disproportionate share and that the State must approve changing districts. Councilmember Frankel added that the School District has to agree as well.

Mayor Schneider announced that the Healthy Mayfield event is scheduled for September 14 at the Mayfield School Fitness Center. She advised it is the second year for the event.

Councilmember Welsh reported that the band concert on July 17 was successful. He expressed his gratitude for the Service Department for its assistance. Councilmember Welsh also expressed his appreciation to the Service Department and Police Department for their work at Feller Field. He concluded by sharing that there is nothing new to report with regard to the Cemetery Committee.

On behalf of Planning & Zoning, Councilmember Sogg highlighted that there are two proposed ordinances on tonight's agenda. She also announced that Evelyn Newell moved to Cleveland Heights and resigned from the Committee. The Committee is looking for someone to join.

On behalf of the Beautification Committee, Councilmember Sogg advised that all entryways into the Village now have gardens.

Police Chief Minichello provided a written report. He informed Council that Narcan kits have been distributed to all officers. Police Chief Minichello then confirmed that the portable radar sign is deployed and will be moved around the Village. He opined that it is a good tool to supplement the Department's radar trailer. In response to Councilmember Reynolds' questions, Chief Minichello said it is battery-operated and, including the software, was \$3,000 which was

included in the budget. Addressing Councilmember Frankel's inquiry, Chief Minichello confirmed that it can be programed to collect data. Councilmember Turner asked how it works. Police Chief Minichello explained it has an internal radar gun.

Service Director Biggert provided a written report. In response to a resident's concern raised at last month's Council meeting about a number of dying pine trees, Service Director Biggert conducted research and consulted with two arborists. He advised that it is Pine Wilt Disease -- a disease similar to that which affects Ash trees. He explained that it is resistant to chemical treatment and requires an infected tree be taken down. Service Director Biggert provided detail on how trees are infected and how the disease spreads including that a microscopic organism (nematode) is transported from tree to tree by the Pine Sawyer Beetle. The nematodes kill the tree by feeding on the cells surrounding the resin ducts just under the bark layer. This causes air pockets in the water transportation system, which starves the affected tree. The tree cannot move water upward and consequently wilts and dies. Service Director Biggert confirmed that he will follow up with the concerned resident. Village Engineer Courtney advised that road work will start next week beginning with Andrews Road and Village Trail.

Fire Chief Robinson provided a written report.

Third 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 Wetland 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.

It was moved by Councilmember Whitney, seconded by Councilmember Welsh, that Ordinance #2016-11 be approved.

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

Resolution #2016-20 "A Resolution Submitting The Question Of The Renewal Of A 3.5 Mill Tax Levy For The Purpose Of Current Expenses Pursuant To Ohio Revised Code Sections 5705.19(A) And 5705.191, And Declaring An Emergency" was introduced by Councilmember Whitney. Responding to Councilmember AuWerter's question, Finance Administrator Mulh explained this is to go to 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 #2016-20 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 #2016-20 be approved.

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

Ordinance #2016-21 “An Ordinance Approving A Lot Split And Consolidation Plat To Accommodate A Land Swap Between The Village Of Gates Mills And A Private Property Owner For The Parcels Known As Permanent Parcel Nos. 842-17-003 And 842-20-010” was introduced by Councilmember Sogg. Councilmember Sogg explained that this was presented about a year ago and has been discussed many times. She advised that it is a swap of land between the Muellers and the Village to improve the shape of the lots. She recommended the suspension of rules as the plat is ready for filing. Councilmember Sogg expressed her opinion that the Muellers did a very nice job with landscaping. She noted that the land the Village is receiving is about the same acreage. Councilmember Sogg confirmed that Mr. Mueller is paying all of the fees associated with the swap.

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 Ordinance #2016-21 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 Sogg, seconded by Councilmember Whitney, that Ordinance #2016-21 be approved.

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

Ordinance #2016-22 “An Ordinance Amending Chapter 1367 Of The Building And Housing Code To Change The Title Of The Chapter To “Unsafe Structures And Outdoor Maintenance Of Grounds” And To Amend Sections 1367.01 And 1367.02 To Include Provisions For The Outdoor Maintenance Of Property Grounds; And Declaring An Emergency” was introduced by Councilmember Sogg. Councilmember Sogg shared that there has been a number of issues over the years with properties having substantial weed growth. She reported of unanimous approval by Planning and Zoning of this proposed Ordinance. She highlighted the desire to have this in place to allow the Service Director the ability to address such issues this summer. Councilmember Sogg explained that Service Director Biggert will follow up on requests made by other property owners and also check on foreclosed properties. She confirmed

that the Village has a right to collect on associated expenses. Councilmember AuWerter asked about existing language as well as what other communities do. Councilmember Sogg responded that over 200 communities have similar ordinances. Councilmember Turner suggested putting this on first reading to allow more opportunity to consider. Resident Judy Eakin asked if weeds are subject to neighbors' disapproval. Councilmember Sogg responded that if a possible problem is reported, it will be looked into but that the Service Director will not be actively going around inspecting. She added that the intent is not to have people do anything unreasonable. The Ordinance was put on first reading.

First reading was held for Ordinance #2016-23 "An Ordinance Amending The Planning And Zoning Code To Add New Chapter 1165, "Exterior Lighting," To Regulate Outdoor Lighting In The Village" was introduced by Councilmember Sogg. Councilmember Sogg explained that this has been discussed with Planning & Zoning for a very long time. An ordinance of Hunting Valley was used with many amendments having been made. It has received unanimous approval from Planning & Zoning. She noted that this requires new construction plans to be provided so that the Service Director and Engineer can measure the amount of lumens on the property. She further commented that the current ordinance is ineffective in its enforcement and needed more detail. It was shared that Mayor Schneider received a letter forwarded by Clara Rankin which provided details of a lights out campaign from the Audubon Society. It was confirmed this is the first reading. Councilmember Reynolds inquired about a time for lights out. Chip AuWerter responded that it would be 11 p.m. on Saturdays and 10 p.m. on other nights. Mayor Schneider remarked that brightness is an issue. Councilmember Frankel asked if this just addressed exterior lighting. Service Director Biggert confirmed. Councilmember Frankel then raised the concerns that ordinances are often not easily enforced, that residents may not be aware of the ordinance and of the time and equipment to enforce the same. Mayor Schneider advised that existing lighting is grandfathered in, but that new construction will be prominent in this area. Councilmember Sogg said that residents will be notified when this is enacted. Councilmember Frankel addressed making people aware of this and allowing the opportunity for residents to voice their concerns. Councilmember Reynolds asked who the alternate body to consider an issue is. Councilmember Sogg responded that the Service Director and Village Engineer would review a reported issue and then go to Planning & Zoning. Councilmember AuWerter expressed his view that this is a very clear Ordinance. Councilmember Sogg advised of numerous complaints about lighting and intrusive lighting and opined that there are big issues regarding the same in the Village. Councilmember Turner agreed and acknowledged the great effort on behalf of Planning & Zoning. Councilmember Sogg stated that the current Ordinance is not enforceable so when people complain, the Village has no measurable standards. Resident Judy Eakin referring to the issue regarding weeds, asked why, in this situation, neighbors cannot decide if their property is being invaded. Law Director Hunt explained that this Ordinance is enforced by the Village – not by neighbors. He further stated that there are not enough enforcement people and that the Village's enforcement people need to rely on complaints by neighbors. Then it is on the enforcement person to determine if it is a violation of an Ordinance. If the enforcement officer sees something, they can enforce it. Councilmember Reynolds added that enforcement officials are not on the road at night when lights may be an issue so there is a need to rely on complaints of neighbors. Mayor Schneider voiced her hope that this will allow a measurement to control it. With regard to properties grandfathered in, Service Director Biggert said at the time a light is replaced, it would then fall under this Ordinance. Resident Tom Liederbach shared his belief that neighbors should not

infringe on the enjoyment of one's property and disrupt the spirit of the Village. He noted that language is included in the *Pink Sheet* about Christmas lights not infringing on neighbors. Further remarks noted that the source of light does not make any difference and the example of the lighting restrictions regarding the tennis courts was provided.

Council Discussion Regarding Chagrin Valley Connectors TLCI Study:

Mayor Schneider advised that a second public meeting was held since the last Council meeting. She said that it was clear that the proposed plans are not wanted in Gates Mills. Mayor Schneider said that she has heard from numerous residents. She advised that the Law Director has been looking into different issues. She advised that Hunting Valley is not interested and is also researching issues. She further stated that many people requested a 30-day termination. Mayor Schneider stated that there would be a dollar amount involved with regard to termination.

Law Director Hunt explained that there are three (3) contracts that govern the study: (i) ODOT and NOACA; (ii) Metroparks (for funding the study); and (iii) with the consultant, Environmental Design Group (for performing this study). Law Director Hunt further explained that the issue with respect to termination is that under the first two agreements, there are provisions for repayment if the study is not finished or if ODOT does not deem it is essentially finished. He stated that the study is 2/3^{rds} complete. He emphasized the language is clear that the discretion is upon ODOT to determine whether the study is essentially complete. He then stated that the language with the Metroparks is clearer. Such language states that if the study is terminated that repayment must be paid to the Metroparks for what has been expended on their part. They have a 20% match to ODOT's match. He said money from ODOT is coming from the federal government. Law Director Hunt expressed his belief that there is a significant risk upon termination that there would be some repayment of funding up to \$41,000.

Mayor Schneider indicated that Finance Administrator Mulh pulled the payment information together. The Metroparks paid one lump sum of its 20% share of their contract. It was confirmed that NOACA is making payments.

Councilmember AuWerter stressed the need to remember that it would be another 30 days.

Law Director Hunt said that if the decision was made to terminate, the Village could tell them to cease their work. He further commented that there is no 30-day termination with Environmental Design Group as there is with ODOT/NOACA and the Metroparks.

Councilmember Frankel opined that some of the discontent has come from the terminology of project versus study and emphasized this is a study. He remarked that although it may not have been the best contract, Council went into it in good faith. He further shared that no one wants to see paths in the middle of the Village and emphasized that Council ultimately can say yes or no if it ever got to a project phase. Considering the fact of repayment along with legal fees, Councilmember Frankel expressed his position that he did not see why the Village should not allow the study to proceed and finish. He again highlighted this is a study and not an endorsement.

Law Director Hunt confirmed that “project” means the study project.

Councilmember AuWerter asked that if the goal is to widen River Road to accommodate bike paths, would the Village’s approval be needed. Law Director Hunt confirmed. Councilmember AuWerter said one of the plans seemed to take into account a trail along the river and asked if that would require ODNR authorization. Law Director Hunt explained that the Metroparks do not have authority to exercise eminent domain on municipal-owned property but can exercise authority on private property. Per the Ohio Revised Code, ODNR has authority to appropriate property for trails and they can contract with another entity to exercise that authority through an agreement for another entity to own and maintain those trails at some point. There is no specific authority with respect to a limitation upon ODNR for exercising eminent domain on municipal property. Law Director Hunt advised that there is a balancing test the courts use to weigh which entity has superior public interest.

Councilmember AuWerter asked Law Director Hunt, from a legal prospective, if there is anything in the three different agreements – if continued to its completion versus stopping today – that particularly changes anything. Councilmember AuWerter requested confirmation that there is nothing that says it has to go forward on that basis.

Law Director Hunt confirmed that it is simply a study that is looking at the feasibility of three different routes and estimated costs of three different alternatives.

Councilmember Reynolds addressed Councilmember AuWerter, asking that aside from the financial position the Village might find itself in if it breaks the contract, if his question was if there is any real tangible benefit to trying to break the contract versus letting the study be completed.

Councilmember AuWerter questioned if the study is complete does it give ODOT and the Metroparks the ability to proceed.

Law Director Hunt expressed his opinion that they will most likely complete the study regardless of contract termination.

Councilmember Reynolds summarized that the study would be completed regardless if the Village pulls out or not and the Village could possibly lose \$41,000 for termination.

Councilmember Turner shared her concern that the amount could be much larger than \$41,000 should there be possible future litigation.

Law Director Hunt addressed Councilmember Turner’s concerns stating that he does not believe there is significant risk for litigation. He advised the cost is likely limited to \$41,000.

Councilmember AuWerter addressing the opinion of the community asked if there would be merit in Council voicing its opinion with regard to the study.

Mayor Schneider proposed having an up/down vote of Council based on what is known today.

Councilmember Sogg believes that Environmental Design Group is aware that the Village is against it, however, at the last public meeting, Ms. Johnson (EDG) stated regional issues surpass what the landowners want. Councilmember Sogg does not know whether the termination would have any effect but it would send a strong message.

Mayor Schneider raised the possibility of a Resolution in opposition to this study versus a termination.

Councilmember Reynolds opined that Environmental Design Group left the meeting very sobered due to comments, preference votes and the displeasure for the format of the meeting by attendees. She suggested not breaking the contract and incurring a lot of expenses but rather some kind of summary of conversations should be sent.

Councilmember Turner suggested the option of adding pressure by becoming more of an active party in managing the contract with ODOT and NOACA versus communications just with Environmental Design Group and the Metroparks. Councilmember AuWerter questioned if there would be more stakeholder meetings. Mayor Schneider confirmed there are three stakeholder and three community meetings. Councilmember AuWerter asked about the stakeholders. Mayor Schneider responded that representatives from the Village, ODOT, Metroparks, the Land Conservancy and a variety of different people are considered stakeholders.

Councilmember Whitney questioned if a Resolution that the Village is not in favor would be beneficial.

Councilmember Sogg explained that this began as a safety issue as it is unsafe to ride on River Road and the suggestion was made of tougher bicycle ordinances.

Mayor Schneider confirmed that this was brought to Council as a safety issue. Her understanding is the bicyclists prefer the road rather than a bike lane. She requested Police Chief Minichello discuss the current Ordinance.

Police Chief Minichello advised that he has been in contact with the prosecutor should the department start to issue more violations with regard to the Village's Ordinance that bicycles must ride single file. He said that per state law, however, you can ride two abreast so the question is who is liable per our prosecutor. Not many of these cases have been in court and it is unclear on the best way to handle. He further expressed his concern that it may bring a lot of negative attention to the Village if citations are issued. He advised that there have been no bicycle accidents on River Road in last five years. He expressed his belief that it is the large groups of bikers that create driver frustration and suggested that a course of action might be to draft letter to biking clubs with the goal being voluntary compliance. He opined it is a challenging issue. He added that if the department starts issuing citations, we may lose in court due to the state law.

Members of the audience joined the conversation. Resident Dan Collister stated that he believes he could collect the money needed from donations. He also remarked on the history of the Metroparks' efforts to link these two reservations.

Resident Doug Horner said he does not understand the funding part of it and asked if the Village was paying for this. He also asked why the Village would be liable for funds fronted to this project if it was decided not to participate. Mayor Schneider responded that there are two contracts. She confirmed that the Village did not spend money and that the 20% was paid by the Metroparks on behalf of the Village via a lump sum payment. As invoices go to NOACA and are paid, then the remainder of the bill comes and is paid by the Village out of the Metroparks' funds. Mr. Horner asked who authorized the money from Gates Mills. Mayor Schneider explained that the money from Gates Mills actually came from the Metroparks. The Metroparks gave the Village a check in the amount of \$14,000 to cover all of the 20% in one lump sum payment.

Law Director Hunt stated that the remaining 80% of the cost came from ODOT through federal funds funneled through NOACA and that, under the guidelines, they needed a local agency to serve as a sponsor. Gates Mills is the sponsor.

Law Director Hunt noted that both the Feds and the Metroparks would be out money if the study is not completed. In response to Mr. Collister's question, Law Director Hunt confirmed that Council authorized the Mayor to sign the contracts.

Councilmember Reynolds stated that in the Mayor's and Council's defense, no Village funds were to be spent on the study and the concept was to study bike traffic as a safety issue. She further stated that if there was going to be a study done by a prestigious group in an effort to make bike traffic safer, Council would have been irresponsible to say no.

Resident Connie Lincoln said that history shows that the idea has been voted down before.

Councilmember Sogg advised that it was proposed to Council as a multi-purpose path not a paved bike path as is being contemplated. She shared that her vote stemmed from safety and that if a non-paved path could be determined to walk a dog, person or horse then it would be an asset. Councilmember Sogg reiterated that Council only authorized a study.

Mayor Schneider added that it manifested itself from a safety issue to what it is now.

Councilmember Sogg said that hindsight is 20/20 and opined that no one would have contemplated paths through private property.

Resident Debbie Bass asked if the study was a misrepresentation. Councilmember Sogg answered that it is possible and noted available meeting minutes.

Mayor Schneider said it was discussed numerous times because we did not want to spend any money on it.

Resident Doug Horner asked if it was represented in good faith as a safety study.

Resident Audrey Knight said she bought a large piece of property and would never have made such purchase if she knew a bike path was part of the plan. She fears the entire project is possible. She said the benefit to stopping the study is to allow the opportunity to determine how to protect the Village. She further stated that at the second public meeting, a clear message was sent that Villagers are not happy but believes that is irrelevant. No matter how much the residents do not want it – she believes it is the Metroparks’ goal to connect the North and South Chagrin Reservations no matter what. She feels the opinion poll was merely part of a contractual checklist and is not relevant to whether they do the project or not. Ms. Knight informed Council that 121 signatures were collected to terminate the contract. She believes that the Villagers are not being heard. Ms. Knight asked if it is possible that the cost to the Village would be less. Law Director Hunt answered that the Village could try and negotiate. Resident Knight said she would be happy to contribute. She wants to preserve the property and not increase the density of the Village. She expressed her view that if the study is finished, it will be difficult to stop the project. She raised potential resulting cost to the Village from such project including the need for additional parking.

Councilmember AuWerter asked about the need for a local public entity to sponsor it. Law Director Hunt explained that the local sponsor was a way to get funding. Councilmember AuWerter stated that if the Village terminates, then there would no longer be a public entity. Law Director Hunt replied that the Metroparks, ODOT or NOACA would likely come up with remaining necessary funds or Moreland Hills, who is in favor of study, could become the sponsor.

Mayor Schneider confirmed that Moreland Hills is in favor of it.

Resident Richard Hunter voiced that the community message is loud and clear. He remarked that the Village residents do not want any of these things to happen and are frustrated that the elected officials do not seem to hear that and do not seem to be willing to have a Resolution against this.

Mayor Schneider suggested that it could be put on the ballot.

Councilmember Welsh highlighted that he and Councilmember Whitney voted against the study. Councilmember Welsh moved for a motion to cancel this study no matter the cost of it and use all legal capability to stop payment because we cannot stop the implication.

Resident Beth Rankin suggested pursuing the breach of contract point. She also recommended being proactive with regard to the next meeting.

Resident Dan Collister asked about Councilmember Welsh’s motion.

Councilmember Sogg asked if there were any other comments from audience.

Resident Shawn Riley said the Metroparks have tried for decades to connect the two reservations. He further stated that the study sold to Council as to determine feasibility and cost effective options now appears to be something being pushed down the Village’s throat. Resident Riley made the suggestion instead of rejecting the contract tonight, to authorize the Mayor to (i)

meet directly with the Metroparks and ask for commitment from it that it will not proceed with any plan unless the Village supports the plan and, if the Metroparks does not agree, then (ii) the Mayor should immediately terminate the contract. Then the Village can say it no longer supports it. If the Village does that, then tonight or tomorrow, it can tell the consultant to stop work immediately. If the Mayor meets with the Metroparks within the next 10 days, it can try to negotiate with the Metroparks without losing \$41,000. Mr. Riley suggested that those not in favor of the study, reach out to the Metroparks, NOACA and state representatives. He advised that the Clerk can provide the names of the Metroparks' Commissioners.

Resident Doug Horner described a connector project that occurred in Cincinnati. He said this is a revenue-based model noting concessions, etc. He believes the long range plan includes that there would be a next phase to the proposed project. He opined that this is Dan Moore's pet project. Mr. Horner respects the legal opinion but believes that Mr. Moore will not easily let go. He recommended that Council make a Resolution that the Village is firmly against it and to enter into discussion to extricate the Village. He suggested going on public record and reaching out to the press.

Councilmember Sogg said that at the first public meeting it was suggested that less than \$15 was going to come in per visitor. Another point for the Village being involved in this process is it allows for the Village to be aware of what is going on. She continued stating that if the Village were not a party to the contract, the study would have happened anyway. She noted that there is a lot of interest because we are aware of the issue. If, however, it would have been Moreland Hills, the Village may not have known what was going on at the meetings.

Resident Debbie Bass asked if there are any other precedents of overcoming this type of obstacle.

Resident Dan Collister responded the Ohio Supreme Court case in 1945.

Law Director Hunt said that in the Common Pleas Court, the Village prevailed and the Supreme Court did not take the appeal case from the Metroparks. He noted it was the exact same issue. Its precedent binds the Metroparks from taking property from the Village but it does not prevent them from private property. Law Director Hunt said there is a covenant in the law with respect to ODNR and that there is no precedent with respect to the same.

Treasurer Reynolds said he would like to kill the issue before it goes to court.

Resident Jeff Eakin pointed to a similar issue with Shaker Heights and I-480 and the creation of Shaker Lakes Nature Center to balance the question of civic benefit.

Councilmember Turner said that Shawn Riley's suggestion appeals to her in that it provides the Mayor the opportunity to take a step and begin negotiation and discussion with the Metroparks and then follows it up with strong action if that does not get the result the Village is looking for. It makes a strong stand but takes it step-by-step versus just ending the contract.

Councilmember Frankel referring to Moreland Hills opined that the study would likely be finished. He reiterated that no matter what the Village does with the contract, it will not stop the study. He believes that negotiation now with the Metroparks along with strong editorials in the paper and calls to the Metroparks' representatives would go a long way.

Councilmember Reynolds stressed that she likes the idea of Mayor Schneider meeting with the Metroparks and describing the sentiment of Council and residents.

Councilmember AuWerter voiced that the realization is that the study will not be stopped. He expressed his appreciation of the 121 signatures included on the petition but also highlighted the possible \$41,000 cost.

Mayor Schneider shared that after the community meeting, the negative feedback got back to Bryan Zimmerman and he has called a meeting with Hunting Valley, Moreland Hills and Gates Mills scheduled for August 18.

It was confirmed, in response to the question if Hunting Valley would split the cost, that it would not.

Resident Doug Horner urged building a legal battle. He said that having things in the press and in print and having documented public opinion would be most effective.

Resident Ann Hunter opined that Gates Mills is such a small part of the Metroparks universe that it is unlikely they would care about what we have to say.

Resident Doug Horner suggested using the Chagrin River Valley communities not just Gates Mills.

Councilmember Reynolds agreed with Mr. Horner's suggestion.

Resident Audrey Knight asked if the Metroparks and/or ODOT have the authority to take Gates Mills Land Conservancy land under eminent domain. Councilmember Sogg confirmed and said the same goes against what the Community pays via levies to preserve lands.

Resident Dick Whitney referring to the petition noted that there are over 2,000 residents in Gates Mills and that the signatures represent less than 10% of population. Mr. Whitney asked if it was put on the ballot if that would help Council. He expressed reservation on canceling the agreement based on 10% of the people. He noted that there is the mandate to complete the contract but supports Council having a Resolution which states a strong opposition and to look for a way to terminate.

Resident Doug Horner said the percentage of stakeholders along the proposed route is high.

Councilmember Turner suggested pulling land conservancies together in advance of this meeting to lend more support.

Mayor Schneider believes she may be able to get letters of support. She noted Hunting Valley's Mayor is very concerned about their conserved land.

Councilmember Turner recommended a continued public effort.

Councilmember Welsh said that the Metroparks have never lost a levy because they appeal to the people. He believes the Village should draw a line in the sand and attack now.

Councilmember Whitney suggested the Gates Mills Land Conservancy consult with the Land Trust Alliance.

Mayor Schneider requested letters of support from all people involved including from residents and conservancies. She has letters from the Hunt Club and its separate entities.

Resident Doug Horner opined the Metroparks has high initiative and would go down the eminent domain path. He believes their millennial plan is to increase their area by three or four times their current acreage.

In response to Mayor Schneider's question, Law Director Hunt explained that a Resolution provides authority to the Mayor. With respect to repayment, Council authorizes repayment terms. Mayor Schneider, responding to Councilmember Welsh, said it is a starting point and that the other option is what Shawn Riley suggested. Law Director Hunt said that in terms of a motion as an alternative it would authorize the Mayor to (i) meet with the Metroparks' Board to discuss termination of the contracts, (ii) present a demand that the Board will not move forward with the Connector project until Village agrees; and (iii) if not, make the commitment, that the Village will terminate the three contracts. He advised that the Resolution the Mayor requested he draft could do the same thing.

Mayor Schneider would like the sentence added about needing to commit.

Councilmember Welsh withdrew his previous motion.

It was moved by Councilmember Welsh, seconded by Councilmember Reynolds, that the rules requiring ordinances to be read on three different days be suspended and that Resolution #2016-24 "A Resolution Authorizing The Mayor To Terminate An Agreement With The Ohio Department Of Transportation And The Northeast Ohio Areawide Coordinating Agency, An Agreement With The Cleveland Metropolitan Park District, And An Agreement With Environmental Design Group Related To A Feasibility Study For A Bike And Hike Trail System" be placed upon its final passage.

Councilmember AuWerter noted that the study is 2/3rds finished but has not seen any evidence that this is a safety issue.

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

Councilmember Welsh moved, seconded by Councilmember Turner, that Resolution #2016-24 be approved.

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

(Audience applauded)

Mayor Schneider thanked everyone for their input.

Mayor Schneider again requested letters in support of termination and opposed to the project from entities including those along the route be submitted to her by August 17.

Resident Diane Hladky referring to the petition, said the signatures were accumulated over a short time by a small group and believes with more time, the number would likely increase.

Resident Debbie Bass asked if an email of a form letter could be sent to residents.

Councilmember Welsh offered to send an email but declined to share his email list.

Resident Dick Bass said that the Metroparks needs to guarantee that safety will be controlled by them.

Mayor Schneider said she does not want to proceed that way as paths are not wanted.

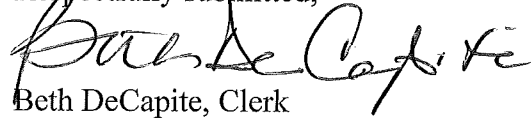
Business from the audience:

Charles Belson addressing the ordinance for the conservation levy renewal said that it is possible to change language until September 9. He noted that at the last Council meeting, Council raised potential problems with changing the language specifically with regard to the 12.5% state rollback. Mr. Belson said that calls made to the Ohio Dept. of Taxation found that the continuance of the rollback is done on a case by case basis. Therefore, he advised that Council has the ability to change language to address the issue of deep horizontal fracking in the Village as it relates to land owned or purchased by the Land Conservancy.


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