

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

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

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

Councilmember absent: None

Mayor Riley presided.

The minutes of the March 18, 2015 Council meeting were presented by the Clerk. It was moved by Councilmember Welsh, seconded by Councilmember Schneider, that the minutes, with noted corrections to pages 3 and 5, be approved.

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

Pay Ordinance #1176 in the amount of \$384,411.33 was presented by the Clerk.

It was moved by Councilmember Sogg, seconded by Councilmember Welsh, that Pay Ordinance #1176 be approved.

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

The financial statement for the period ending March 31, 2015 was presented by Treasurer Reynolds. He highlighted the following:

- Revenues are approximately \$68,000 under last year.
- Real estate taxes are lagging behind last year's figures although he noted anticipated catch up.
- Municipal income taxes are approximately \$100,000 more than last year.
- Other sources are down largely due to lower rental income. Finance Administrator Lechman responded to Mayor Riley's inquiry that the decrease in rental income is mostly attributed to timing. She noted the rent payment for the cell tower in the amount of \$79,000 was received in April.
- Operating expenses were reviewed and certain legal expenses were highlighted.
- Operating surplus is \$325,000 less than last year.

Councilmember Reynolds asked if this was a trend. Treasurer Reynolds noted that real estate taxes will likely catch up and the municipal income taxes are up due to economic health reasons. He shared his view that it is generally positive news on the tax side. The expense side included a number of unanticipated items for the budget. He opined it is more like a bump in road with regard to expenses. Councilmember Frankel questioned the line item for transfers to other funds and why there was an approximate \$100,000 increase this year. Treasurer Reynolds explained that transfers to other funds are generally to cover capital improvements. Councilmember Sogg provided the reminder that with the loss of inheritance tax, transfers are made from the general fund.

Mayor Riley reported that the State Treasurer asked if the Village would be interested in participating in the Ohio Checkbook Program which allows residents and taxpayers the ability to review the Village's spending. Mayor Riley suggested that if it does not cause an administrative burden, to consider doing so for more transparency. He mentioned that he will be addressing later in the meeting a proposal to participate in a study regarding the Transportation for Livable Communities.

The clerk had nothing to report.

On behalf of the Records Committee, Councilmember Welsh reported, in light of storage and security concerns, the Committee would like to scan records for electronic storage and then destroy documents. He shared that a quote in the amount of \$20,000 has been received. Councilmember Welsh advised that the Village would first need approval from the State.

Councilmember Welsh reported that the Cemetery Committee has not yet met. He advised that the Village is out of usable lots. He shared that he hopes to hear news soon on a potential purchase of adjacent land. Councilmember Reynolds addressing record scanning, raised the issue of whether there is potential for any state or grant money to offset the cost. She then asked if consideration of any other property the Village owns has ever been given for a possible third cemetery. Mayor Riley responded that the scanning quote was the maximum amount estimated and preliminary focus would be on certain documents with the intent to spread the process over a few years. In response to alternative Village property available, Councilmember Welsh stated that Feller Field is an open space but believes it would not be a suitable option as it is heavily used by many residents. He then stated the only other open space would be the Bird Sanctuary on Carpenter Road. Resident Jan Carlisle stressed the importance to keep such property as a sanctuary. Councilmember Welsh emphasized that he was responding to Councilmember Reynolds' question regarding available Village-owned property and stated his belief that neither would be appropriate to consider.

Councilmember Turner reported that the Mayfield School Liaison Committee had a presentation at its last meeting from the Finance Director regarding possible State cutbacks. Councilmember Turner shared that the elementary school had over 25 new registrations for kindergarten. She commented that other Village Committees are making efforts to promote the school as well.

On behalf of the Regional Commission to Study and Address Oil and Gas Well Drilling and Exploration, Councilmember Turner reported that Tom Slavin is an appointee to serve on the

Science, Technology and Environmental Committee and Susan Sabetta, an appointee by Mayor DiCicco of Mayfield Heights, would serve on the Political Outreach Committee. It was also noted that Charley Marston resigned. Councilmember Welsh expressed his congratulations on Mr. Slavin noting he is very Village-oriented.

Councilmember Reynolds moved, Councilmember Frankel seconded, to approve the appointments of Mr. Slavin and Ms. Sabetta to the Regional Commission to Study and Address Oil and Gas Well Drilling and Exploration.

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

Police Chief Minichello provided a written report. Councilmember Turner asked about prohibited turnarounds. Chief Minichello explained that is for no turns on red. He reported that the two new police vehicles should be in service by mid-May. He announced that the Safety Town program, in partnership with Gilmour Academy, is scheduled for June 15 through June 19. He advised that Coffee with Cops is scheduled for Friday at 9:00 a.m. He explained such event is an effort to allow residents the opportunity to get to know Village police officers.

Fire Chief Robinson provided a written report. Responding to Councilmember Reynolds' questions, he reported on recent alarm problems at Gilmour Academy as well as at a Village-owned building. In addressing Councilmember Welsh's question, Chief Robinson advised that a pump jack is being installed on the well located in the median on Gates Mills Boulevard. He provided an explanation of the same. Councilmember Frankel expressed his concern regarding noise in connection with the pump jack's operation. Chief Robinson responded that there may be additional noise but highlighted if noise becomes an issue, he will work with the operator to request that it is only functional during the day and shut off at night. He shared that he is requesting the installation of other equipment on another well in the Village to reduce the amount of gas leakage as far as how often it is coming out. He said the same falls within State regulations but is a nuisance. Councilmember Frankel asked if any residents have reached out with concerns regarding the pump jack. Councilmember Reynolds asked if any communication was made in advance to residents on Gates Mills Boulevard and, if not, suggested doing so. Chief Robinson said he has not heard from any residents yet and confirmed no advanced notice was provided. Councilmember Whitney asked if the Village would be responsible for the electricity cost at the site of the pump jack. Chief Robinson confirmed it is not. Mayor Riley indicated he would address the pump jack in the next *Pink Sheet*.

In Service Director Biggert's absence, Village Engineer Courtney reported that the contractor recently finished restoration to the drainage project completed on Mayfield Road last year. Additionally, they are currently addressing a different drainage issue. He advised that assessment for the 2015 road program is underway. He shared that the Village did not receive a grant from its application to the Ohio Public Works Commission for the Mayfield culvert project. As such, funding from ODOT for that project will be sought. In response to Resident Carlisle's request, Mayor Riley committed to find out whether the Service Department has gravel available to address the steps in the arboretum.

Mayor Riley raised the Transportation for Livable Communities initiative explaining that the Village has been approached by the Cleveland MetroParks to consider participating in a study to determine if there is a way to link the North and South Chagrin Reservations. He shared that the current idea is whether a multiuse path alongside the river would be the best option to connect the two parks. He advised that the study would cost \$75,000. The MetroParks requested 20% from the Village. They have a grant to pay 80%. Mayor Riley informed Council that he said no to a \$15,000 contribution. He then questioned if there would be interest in contributing a small amount toward the study. Discussion among Councilmembers took place including locations, residential property concerns, required foot bridges and potential liability issues. Mayor Riley highlighted it is just a study and not a commitment to do anything. Mayor Riley suggested a \$5,000 contribution toward the study. Councilmember Sogg expressed her support. Mayor Riley is meeting with the Mayor of Hunting Valley to discuss the issue. Continued discussion among Councilmembers included impact on riverbanks and alternative contribution amounts. Councilmember Welsh shared his concerns and stated that he would not be in support of a study. Mayor Riley commented that nothing was being decided today but legislation could be available at the next Council meeting. After further dialogue, Mayor Riley commented that he did not feel there was a lot of support for the study.

Second reading was held for Ordinance #2015-05 “An Ordinance Authorizing The Village To Join The Northeast Ohio Public Energy Council (“NOPEC”) And The Execution And Delivery Of The Agreement Establishing NOPEC And Approving The Bylaws Of NOPEC, And Declaring An Emergency.” Councilmember Sogg informed that two public hearings were held and did not have any attendance. She suggested moving from second reading to an emergency.

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 #2015-05 be placed upon its final passage.

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

Councilmember Sogg moved, Councilmember Welsh seconded, that Ordinance #2015-05 be approved.

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

Ordinance #2015-06 “An Ordinance Approving The Plan Of Operation And Governance For The NOPEC Gas Aggregation Program For The Purpose Of Jointly Establishing And Implementing A Gas Aggregation Program, And Declaring An Emergency” was introduced by Councilmember Sogg.

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 #2015-06 be placed upon its final passage.

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

Councilmember Sogg moved, Councilmember Welsh seconded, that Ordinance #2015-06 be approved.

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

Ordinance #2015-07 “An Ordinance Approving The Plan Of Operation And Governance For The NOPEC Gas Aggregation Program For The Purpose Of Jointly Establishing And Implementing A Gas Aggregation Program, And Declaring An Emergency” was introduced by Councilmember Sogg.

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 #2015-07 be placed upon its final passage.

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

Councilmember Sogg moved, Councilmember Welsh seconded, that Ordinance #2015-07 be approved.

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

Ordinance #2015-08 “An Ordinance Approving The Plan Of Operation And Governance For The NOPEC Electricity Aggregation Program For The Purpose Of Jointly Establishing And Implementing A Gas Aggregation Program, And Declaring An Emergency” was introduced by Councilmember Sogg.

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 #2015-08 be placed upon its final passage.

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

Councilmember Sogg moved, Councilmember Welsh seconded, that Ordinance #2015-08 be approved.

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

Charles Ramer, from NOPEC, advised that the process would begin in May with the first set of electric opt out letters. The timing would allow residents to capture the rates in advance of the upcoming cooling season. He advised that the gas opt out letters would be delayed until around July. Mayor Riley and Councilmember Sogg thanked Mr. Ramer for his help and patience during the aggregation evaluation process.

Third reading was held for Ordinance #2014-28 “An Ordinance Enacting New Chapter 1321 Of The Codified Ordinances Of The Village Of Gates Mills “Certificate Of Authorized Occupancy,” To Be Applied To All Residential Rental Dwelling Units In The Village.” Law Director Cannon suggested that any Councilmember who owns rental property abstain from voting on or discussing this legislation. Councilmember Frankel said he understands why renters should register but expressed his discomfort with the inspection component and the time for the building official to do inspections. He shared that it should be the renters’ responsibility to make sure the property is suitable. He said that after an inspection, if there is a problem, it seems like there could be legal obligations. Councilmember Welsh shared that their children use their property and believes this is an intrusion of privacy. Law Director Cannon stated that a number of inspection functions are already performed and, per State law, the Village is immune from liability. She stated that the intent is to make sure rental properties are being maintained to the same standard as non-rental properties. Councilmember Turner asked if the requirement would apply in the case of a family situation. Law Director Cannon confirmed that it is based on payment or any other valuable consideration, not on who is doing the paying. Councilmember Turner expressed her view that the inspection language is not detailed. Councilmember Schneider said the rental property inspection would be similar to a point of sale inspection and that Service Director Biggert would follow the International Property Maintenance Code. Councilmember Turner noted that she is not necessarily in favor of government oversight; however, she drew attention to the numerous issues that the Planning and Zoning Committee has dealt with regard to rental properties. Councilmember Sogg confirmed that the Planning and Zoning Committee is in favor of this legislation. Councilmember Welsh asked if the request to abstain in voting applies if there is no monetary consideration. Law Director Cannon reiterated that if you receive money or any valuable consideration then it is a rental property and would have to register. She advised that individual owners need to determine if they have an interest in the outcome of this legislation. Councilmember Frankel asked Law Director Cannon if she were aware of other communities that have a registration process without inspection. Law Director Cannon replied she was not aware of any and explained that when the registration process was voluntary, there was very minimal participation. She added that another function of the registration is to assist the school district.

Resident Belson provided an example of a personal instance with regard to his property and questioned whether this Ordinance would apply in that situation. It was confirmed it did not.

Councilmember Schneider moved, Councilmember Sogg seconded, that Ordinance #2014-28 be approved.

Roll call:       Ayes: Reynolds, Schneider, Sogg, Turner.  
                  Nays: Frankel, Welsh.  
                  Abstain: Whitney.  
                  Motion carried.

Business from the audience: Charles Belson addressing Councilmember Turner stated that members of Council recuse themselves from voting on a motion when they perceive they have a conflict of interest and that no one decides for them if they have a conflict of interest or if they are allowed to vote. He stated that the Legal Committee of the Regional Commission approved a bylaw motion regarding conflict of interest. He commented the provision allows Committee Chairs to judge whether a Committee member has a conflict of interest. As Chair, he questioned if Councilmember Turner supported the Legal Committee's bylaw to allow one Committee member to compel another member from voting. Karen Schneider referencing the recent Regional Commission meeting stated there was a question posed to whether there was a conflict not a request for a ruling on a conflict. Councilmember Turner responded that this is the first time she has been to a Council meeting where conflict of interest has come up. She shared her understanding that the recommendation is an amendment to a bylaw proposed by the Legal Committee that will be considered and voted upon at the next Commission meeting. She explained it requests that individuals self-identify. She provided the example that whether someone is for or against fracking is not a conflict of interest. However, if someone was an officer of a group to ban fracking then that would be a conflict. Further, Councilmember Turner stated that if you are not sure whether you have a conflict or not, then the Committee Chair or the Chairs of the Regional Commission would weigh in to make a determination. Resident Belson expressed his belief that the language of the bylaw would allow someone to compel someone to abstain from voting. Mayor Riley advised that it is up to the Commission members to vote in favor of or against the proposed bylaw. Mr. Belson expressed his concern about setting a precedent and referred to Council. Mayor Riley responded in the case of Village Council, it would require a charter amendment.

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

Roll call:       Ayes:  
                  Nays: None.  
                  Motion carried.

Respectfully submitted,

Beth DeCapite, Clerk

Approved:

Shawn M. Riley, Mayor