

Village of Gates Mills  
MINUTES OF A REGULAR MEETING OF COUNCIL  
July 8, 2014

A regular meeting of the Council of the Village of Gates Mills, Ohio was held on Tuesday, July 8, 2014 at 6:30 p.m. in the Village Hall.

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

Mayor Riley presided.

The minutes of the June 10, 2014 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: Barnes, Frankel, Reynolds, Schneider, Sogg, Turner, Welsh.  
                  Nays: None.  
                  Motion carried.

Pay Ordinance #1167 in the amount of \$494,718.82 was presented by the Clerk. In response to Councilmember Frankel's questions, Police Chief Whitmer responded that a new alarm monitoring camera had been installed at the rear service department building and signs regarding the same are not required.

It was moved by Councilmember Welsh, seconded by Councilmember Schneider, that Pay Ordinance #1167 be approved.

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

The financial statement for the period ending June 30, 2014 was presented by the Clerk. Councilmember Barnes reviewed certain YTD results, highlighting as follows:

- Revenues are \$2.5M compared to \$2.6M last year.
- Operating Expenses are just over \$2M due, in large part, to the Service Department expenses attributed to the recent winter.
- Operating Surplus is \$367,000 compared to \$559,000 last year.
- Cash and Investments is a little over \$5.8M compared to \$5.5M last year.
- Unfunded Debt is just under \$600,000.
- Capital Improvement projects are at approximately \$220,000 compared to the budget for the year of a little over \$1.6M. Based on the foregoing, Councilmember Barnes highlighted that the \$5.8M Cash and Investments will shrink significantly between now and the end of the year.

Councilmember Sogg pointed out that the municipal income tax continues to be about \$100,000 less than last year. Finance Administrator Lechman reported it is due to one person.

Mayor Riley asked if it is anticipated that the Village would spend the full budgeted amount for Capital Improvements. Councilmember Barnes stated that funds allotted for the proposed Mayfield Culvert project were removed from the Budget as that project would have only gone forward if a grant was received. Village Engineer Courtney added that certain costs depend on weather and/or any problems encountered. He advised that it is possible that, based on those variables, \$100,000-\$200,000 may be eliminated in connection with some culvert and storm repair. Mayor Riley inquired about the \$86,000 spent for the Suffolk Pump Station Force Main and noted the same is budgeted at \$275,000. Village Engineer Courtney explained that the contractor's final bill has yet to be received.

Mayor Riley reported that the Village received a clean audit for 2012-13. He stated that the tennis courts should be ready by the end of the month. Mayor Riley then questioned Council on whether a grand reopening should be considered for the tennis courts. Council affirmatively agreed. Councilmember Schneider suggested the same be coordinated with an upcoming tennis tournament. Mayor Riley opined that the July 4<sup>th</sup> parade was a fantastic event and was well attended. He extended his congratulations to the Improvement Society. In conclusion of his report, he commented that the Day Camp is going well and encouraged Councilmembers stop by the next Sleepover/Camp Out scheduled for July 18<sup>th</sup>.

Clerk DeCapite had nothing to report.

Councilmember Reynolds highlighted that the Garden Club, with its work on a property it took over, was nationally recognized and received the highest award of historical preservation at the National Garden Club's 85<sup>th</sup> Annual Convention. She acknowledged Councilmember Sogg's hard work and commitment to the project.

Councilmember Welsh suggested writing Sandy Cutler a letter of appreciation for his efforts in helping to secure the Republican National Convention in Cleveland.

Councilmember Turner voiced her appreciation to the members of the Mayfield School System Liaison Committee for their participation at the recent Community Awareness Event.

Police Chief Whitmer provided a written report. He shared that the recent Safety Town program was very successful, encouraged review of the Village's website which contains pictures from the event, and advised that another Safety Town event is planned for next year.

A written report was provided by Service Director Biggert. Mayor Riley asked for an update on the culvert repair project on Chagrin River Road. Village Engineer Courtney stated the pipe work has been finalized, additional work is to begin with the project expected to be turned over to the State at end of July. Councilmember Schneider questioned whether the culvert is big enough. Village Engineer Courtney explained that the size of the pipe is not the problem but rather debris and eroded shale. He stated that options are being considered on how to catch

debris before the same reaches the culvert. Councilmember Welsh asked when the road would open. Village Engineer Courtney responded that the road should be open by the end of August.

Councilmember Sogg, referencing the report, noted the finalization of the Village becoming a Certified Local Government. She posed consideration of which committee(s) should be asked to contemplate possible projects to apply for grants. After discussion among Council, focus for possible brochure outlining information relevant to Planning & Zoning, Historic and Architectural Ordinances, involving input from several Committees, be considered for possible grant request. Mayor Riley suggested such project first be given to the Planning & Zoning Committee then to others.

Fire Chief Robinson provided a written report. He addressed a recent car fire in the Village as well as a call to assist with regard to a fire in Chesterland at the Oak and Embers Restaurant. He commented that the fire at the restaurant was put out quickly. Councilmember Turner inquired as to a June 16<sup>th</sup> report of contamination in the creek. Fire Chief Robinson stated that after investigating, he determined the suspected contamination was actually a natural occurring bacteria that causes bright orange scum to appear on the water's surface.

A presentation was given by Charles Ramer, a representative from Northeast Ohio Public Energy Council "NOPEC." Mr. Ramer stated that NOPEC is a non-profit government entity and represents 174 different communities in 10 counties in Ohio. Mr. Ramer explained that due to the large volume, NOPEC is able to buy electricity and natural gas at a discount. He also advised that this would be a ballot issue asking residents if they want to consider the idea to allow the Village to aggregate. He advised that it is an opt-out program. He explained that if residents wanted to participate, they would do nothing, and if they wanted to opt-out of the program, residents need only to return a reply card. In response to questions posed, Mr. Ramer described the timing parameters for residents to be able to opt-out of the gas and electric programs. Councilmember Schneider asked if a resident can opt-in after opting-out. Mr. Ramer affirmatively responded noting that residents should be sensitive to other suppliers' possible cancellation fees. Law Director Cannon explained the upcoming process starts with getting the issue on the ballot. If passed, a notice and public hearing is required; then, Council adopts the actual program. Based on the foregoing, Law Director Cannon opined the earliest Council could adopt the program would most likely be January. Councilmember Turner questioned if there are other aggregator options. Treasurer Reynolds replied that there are other aggregators but that NOPEC is the largest. Councilmember Reynolds and Councilmember Turner emphasized the need for education. Charles Ramer said NOPEC will pay for education and for ballot costs. Councilmember Welsh expressed his opinion that the NOPEC program would be good for residents. Mayor Riley highlighted that the proposed Ordinances specifically state NOPEC and suggested language be changed to NOPEC or a similar aggregator. Law Director Cannon recommended amending the wording for both Ordinances.

Ordinance #2014-15 entitled "An Ordinance Authorizing All Actions Necessary To Effect An Opt-Out Electric Aggregation Program Pursuant To Section 4928.20, Ohio Revised Code, Directing The County Board of Elections To Submit A Ballot Question To The Electors, And Declaring An Emergency" was introduced by Councilmember Sogg and read by the Clerk.

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 #2014-15 be placed upon its final passage.

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

A motion to amend Ordinance #2014-15 was brought by Councilmember Sogg; seconded by Councilmember Reynolds.

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

It was moved by Councilmember Sogg, seconded by Councilmember Welsh, to pass Ordinance #2014-15.

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

Ordinance No. 2014-16 entitled "An Ordinance Authorizing All Actions Necessary To Effect An Opt-Out Natural Gas Aggregation Program Pursuant To Section 4929.26, Ohio Revised Code, Directing The County Board Of Elections to Submit A Ballot, Question To The Electors And Declaring An Emergency" was introduced by Councilmember Sogg and read by the Clerk.

It was moved by Councilmember Sogg, seconded by Councilmember Schneider, that the rules requiring ordinances to be read on three different days be suspended and that ordinance #2014-16 be placed upon final passage.

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

A motion to amend Ordinance #2014-16 was brought by Councilmember Sogg; seconded by Councilmember Turner.

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

It was moved by Councilmember Sogg, seconded by Councilmember Welsh, to pass Ordinance #2014-16.

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

Business from the audience:

Resident DeAnn Dominish requested an update on the proposed land trust. Mayor Riley responded that there is nothing new and confirmed the same is on hold. Ms. Dominish stated she is a concerned citizen and asked why there is not more support for a better solution. She added that she does not want fracking.

Resident Susan Stephens introduced herself. Dr. Stephens said when she found out about the fracking issue, she made efforts to find out more about it including attending a community meeting. She expressed her concern and stated she does not want fracking. She then questioned why take the chance of fracking and noted that she believes it can be stopped. Mayor Riley, referencing that there have been several meetings and appreciating Councilmembers' time, offered to spend time with Dr. Stephens after the meeting to discuss the issue. In response to Dr. Stephens' request for five minutes, Mayor Riley stated he does not believe anyone in the room actively supports the idea of drilling in the Village. He explained that the Village attempted to use education and moral suasion to prevent drilling and the same did not work and highlighted that there are now 47 wells in the Village. In anticipation of the possibility of horizontal wells, he stated he went for an idea that would be more effective and opined he believes the idea of land owners joining together will work and that the proposed land trust is an attempt to try to stop or at least limit drilling. Mayor Riley voiced that he is willing to listen to suggestions on how to minimize the chance of fracking. Dr. Stephens asked what the position of the proposed trust is as to whether it is for or against fracking. Mayor Riley clarified that the trust does not exist – that it is an idea. He further explained that it would ultimately be up to the Trustees and participants of such trust to decide. He added that, ideally if you bring large land owners into the trust with the idea that if we cannot stop it, we could at least control it may be a reasonable compromise. If residents can, however, convince all of the residents of the Village to decide there will be no wells; it would be a good result. Dr. Stephens shared that it seems most residents do not want fracking and asked whether there is any other way to stop fracking. Mayor Riley replied that the Village and voters cannot stop drilling.

Resident Michael Kennedy shared that it is possible to prevent drilling via deed restrictions and added that his family has fought wells. He noted that fear of lack of economic benefit is a dissuader. With regard to the proposed land trust, he asked if Villagers are advocating their mineral rights to the trust and why the trust could not be structured in a way as to not allow the decision to be included as to whether to allow drilling or not. Mayor Riley responded that he does not think enough large land owners would participate. He stated it will be difficult to persuade people through education not to do it. Mayor Riley shared his belief that by pulling resources and time, we can more effectively control it. Mr. Kennedy expressed his view that most people individually will not take the time or spend the money to fight drilling. He also opined when offered, most residents will sign a lease although they may not fully understand it. He commented that he would not be averse to attempting a format in which fracking was not an option, otherwise, he feels uncomfortable with allowing others to make a

decision. He would rather fight himself than to advocate a group to decide. Mayor Riley, indicating he was not speaking for Council, shared his view that if Council had the ability to prevent drilling, it would. He said that the State of Ohio has determined, notwithstanding the dangers and risks, that drilling can occur in municipal areas. With that in mind, he does not want to take a wait-and-see approach. Mr. Kennedy stated he supports forward thinking but has concerns with a vehicle that has lack of control.

Resident Ron Holmon shared that he recently became aware of the issue involving fracking and is very concerned. He encouraged Council to take a very close look at the issue so Council makes the best decision. Mr. Holman asked who the members serving on the trust would be. Mayor Riley replied that is completely open and it has not been decided. Mayor Riley continued by stating that in various meetings, people have suggested Council appoint two, the Land Conservancy appoint one or two and the residents select the remaining. Resident Holman questioned where it stands. Mayor Riley indicated the proposal is on the table and comments and suggestions are being accepted. He further advised that the land trust proposal is on the website and conveyed that he is happy to talk about it. In response to Mr. Holman's question when it will be considered, Mayor Riley responded that nothing has been scheduled. He added that there have been some public meetings as well as meetings with the organized group and expects more public meetings. Mr. Holman requested Mayor Riley's personal thoughts on timing. Mayor Riley said we have time and he would like to wrap up the issue in the first half of 2015.

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

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

Respectfully submitted,

Beth DeCapite, Clerk

Approved:

Shawn M. Riley, Mayor