

Village of Gates Mills  
MINUTES OF A REGULAR MEETING OF COUNCIL  
December 9, 2014

A regular meeting of the Council of the Village of Gates Mills, Ohio was held on Tuesday, December 9, 2014 at 6:30 p.m. in the Village Hall.

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

Councilmembers absent: Welsh.

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

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

Mayor Riley presided.

The minutes of the November 18, 2014 Council meeting were presented by the Clerk. Councilmember Reynolds requested clarification be included in the Minutes that the statement, "30% of Villagers voted for it" be clarified as it was actually 30% of the Village residents who voted. Councilmembers agreed it was appropriate to note such clarification. It was moved by Councilmember Reynolds, seconded by Councilmember Turner, that the minutes be approved as amended.

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

Pay Ordinance #1172 in the amount of \$427,352.03 was presented by the Clerk.

It was moved by Councilmember Sogg, seconded by Councilmember Schneider, that Pay Ordinance #1172 be approved.

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

The financial statement for the period ending November 30, 2014 was presented by the Clerk. Councilmember Barnes noted the following:

- Real estate tax revenue is running roughly \$160,000 ahead of last year. The increase is likely due to timing.
- Municipal income tax is \$150,000 below last year.

- Other sources are up \$60,000 over last year primarily due to building permit revenue.
- Police Department expenses are below last year. Reduction in expenses continue from the transition to Chagrin Valley Dispatch.
- Service Department expenses are \$200,000 above last year mostly attributed to the severe winter.
- Operating Surplus, YTD, of \$580,000 vs. \$700,000 last year. A year-end figure has not yet been projected.
- Councilmember Barnes commented that the Old Mill Slope project has yet to be paid. Additionally, he highlighted that there were a number of projects budgeted but not completed. Capital Improvement is estimated to be between \$1.1 M and \$1.2 M versus the budgeted amount of \$1.635 M at year end.

Councilmember Frankel questioned the amount of \$160,000 for EMS and if that amount included money paid back to the Village. Finance Administrator Lechman affirmatively confirmed. Councilmember Frankel also inquired as to the increase of legal expenses noting \$75,000 has been spent YTD compared to the budgeted amount of \$45,000. Law Director Cannon replied that a large portion of the increase was due to work related to Issue 51 as well as a significant number of zoning issues. Finance Administrator Lechman also stated the ambulance expense this year was at the high end of the contract. Service Director Biggert, in response to Councilmember Frankel's question with regard to increased number of ditches and drains, cited residents' requests.

Mayor Riley provided reminders that the Menorah Lighting is scheduled for December 16 and the annual holiday bonfire is scheduled for December 24. He stated he would be making new appointments to committees at the January Council meeting; a draft would be circulated in advance, and welcomed Councilmember participation and/or suggestions for resident appointments. Mayor Riley shared that Resident Mary Ann Kish passed away and shared a note from her husband to Council. He made the request that people keep former Councilmember Doug Bletcher in their thoughts and prayers as both his wife and mother-in-law are in the hospital.

On behalf of the Mayfield School Liaison Committee and in response to previous inquiries posed by Councilmember Frankel regarding the collection of outstanding delinquent real estate taxes, Councilmember Turner reported that she spoke with the Treasurer of Mayfield School District and advised that Mayfield Schools, along with the County Auditor, monitor property valuations and are notified of tax appeals. She stated that in 2007 there were so many appeals that tax revenue went down approximately 10%. Additionally, there were a lot of delinquent property taxes. Over time, if there are outstanding delinquencies, they bundle and sell to a third party collector for cents on the dollar. She highlighted that the revenue valuations are back up to nearly what they were in 2007. She also noted that they tend not to go after individual resident reevaluations but will pursue commercial properties. She received and distributed a copy of the tax rate analysis for 2013.

Police Chief Minichello provided a written report. Police Chief Minichello confirmed his satisfaction when Councilmember Frankel raised the issue of billable calls. Mayor Riley noted

that Chagrin Valley Dispatch continues to expand which will reduce the Village's costs. Police Chief Minichello advised that the City of Euclid will be joining Chagrin Valley Dispatch in March. Finance Administrator Lechman asked when the cost to the Village would be adjusted. Mayor Riley answered in early 2015.

A written report was provided by Service Director Biggert. He confirmed that work is underway for the repair of the traffic light at the intersection of Mayfield Road and Chagrin River Road. Councilmember Sogg questioned possible cost savings in transitioning to LED lighting. Service Director Biggert stated that a few years ago, using grant money, an energy audit was performed. Such audit revealed doing so would not result in significant savings.

Fire Chief Robinson provided a written report. Councilmember Turner raised the issue of recent loud noises. Fire Chief Robinson said the Department is trying to determine the source of the same.

Mayor Riley advised that a request by the Gates Mills Historical Society to waive a technical violation of their deed was received. Mayor Riley provided a summary of the request including that the Deed prohibits the Historical Society from leasing the building or any part of it. The Historical Society has been leasing space to the Gates Mills Land Conservancy. Mayor Riley prepared a letter on behalf of the Village and distributed it among Council which would authorize Mayor Riley to consent to the lease with the Land Conservancy but not any other technical violation of the Deed. Councilmember Turner inquired as to the language of the Deed. Mayor Riley circulated a copy of the lease and reiterated this is only to consent to the lease with the Land Conservancy.

It was moved by Councilmember Schneider, seconded by Councilmember Sogg, that such authority be given.

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

Councilmember Sogg requested approval of the License Agreement allowing the Nooks to build a wall which would extend into the right away. Councilmember Schneider noted it takes liability away from the Village. It was confirmed that Planning and Zoning approved the structure. Councilmember Frankel highlighted a typo in the first paragraph of the License Agreement. Councilmember Frankel questioned when a lease such as this is done, if the fees are paid by the resident. Law Director Cannon responded that in this case, payment of fees were not part of the original discussion and added that it is not a significant amount of money. Councilmember Reynolds opined that if legal work is performed to accommodate a resident's request, it would be fair to ask them to assume the cost of legal fees. Service Director Biggert stated that the Planning and Zoning Code allows for that. After a brief discussion, it was decided to send an invoice to the Nooks.

It was moved by Councilmember Reynolds, seconded by Councilmember Turner, that the License Agreement be approved.

Roll call: Ayes: Barnes, Frankel, Reynolds, Schneider, Sogg, Turner.

Nays: None.  
Motion carried.

Resolution No. 2014-31 “A Resolution Authorizing The Mayor And The Clerk To Enter Into A Change Order With Guinto Shirack LLC For The Old Mill Road Slope Repair Project And Declaring An Emergency” was introduced by Councilmember Barnes. Councilmember Barnes explained this Capital Improvement project took longer to complete due to unexpected issues and problems encountered.

It was moved by Councilmember Barnes, seconded by Councilmember Schneider, that the rules requiring ordinances to be read on three different days be suspended and that Resolution No. 2014-31 be placed upon its final passage.

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

It was moved by Councilmember Barnes, seconded by Councilmember Reynolds, that Resolution No. 2014-31 be approved.

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

Mayor Riley announced the requested appointment of two Councilmembers, Mary Reynolds and Ed Welsh, to the Volunteer Fire Fighters Dependents Fund Board.

It was moved by Councilmember Barnes, seconded by Councilmember Schneider, that the appointments be approved.

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

Ordinance No. 2014-32 “An Ordinance Authorizing A Contract With Aetna Health Care To Furnish And Provide Hospitalization And Health Care Coverage For Village Employees And Declaring An Emergency”, was introduced by Councilmember Barnes and read by the Clerk. Councilmember Barnes stated that bids were solicited and then reviewed by the Wage and Fringe Benefit Committee. It was decided to stay with the existing provider Aetna Health Care.

It was moved by Councilmember Barnes, seconded by Councilmember Sogg, that the rules requiring ordinances to be read on three different days be suspended and that Ordinance No. 2014-32 be placed upon its final passage.

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

It was moved by Councilmember Barnes, seconded by Councilmember Schneider, that Ordinance No. 2014-32 be approved.

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

Mayor Riley inquired as to the amount of the health coverage increase. Councilmember Barnes stated the monthly increase was approximately \$1,500.

Ordinance No. 2014-33 “An Ordinance Declaring The Village’s Intention To Enter Into A Tax-Qualified Medical Reimbursement Plan For 2015”, was introduced by Councilmember Barnes and read by the Clerk. He explained that the Village would share the cost of out-of-pocket expenses up to \$1,375 for a single plan and up to \$2,750 for a two person or family plan. Mayor Riley questioned if these figures were different from last year. Finance Administrator Lechman stated the figures increased by \$250. She also noted that last year the Village paid out nothing, however, the year before, \$11,000 was paid out.

It was moved by Councilmember Barnes, seconded by Councilmember Schneider, that the rules requiring ordinances to be read on three different days be suspended and that Ordinance No. 2014-33 be placed upon its final passage.

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

It was moved by Councilmember Barnes, seconded by Councilmember Reynolds, that Ordinance No. 2014-33 be approved.

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

Ordinance No. 2014-34 “An Ordinance To Increase The Compensation Of Certain Village Employees”, was introduced by Councilmember Barnes and read by the Clerk. Finance Administrator Lechman explained that the pay grade for Labor Second Class has not been adjusted in 15-20 years as there was not anyone in such pay grade. As there is now a person in that pay grade, this will provide an increase adjustment. Councilmember Barnes added that based on a survey of surrounding communities, a pay increase for all Village employees would be 1.5% which is the same increase amount as last year. Mayor Riley added that at a recent Cuyahoga County Mayors and City Managers Association meeting, pay increases ranged from 1.0 to 2.5%. Councilmember Frankel shared that he attended the meeting regarding compensation and that a lot of thought was put into the same.

It was moved by Councilmember Barnes, seconded by Councilmember Schneider, that the rules requiring ordinances to be read on three different days be suspended and that Ordinance No. 2014-34 be placed upon its final passage.

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

It was moved by Councilmember Barnes, seconded by Councilmember Frankel, that Ordinance No. 2014-34 be approved.

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

Ordinance No. 2014-35 “An Ordinance Authorizing A Contract With Wichert Insurance Services, Inc. To Furnish and Provide Liability And Property Insurance Coverages For The Village Of Gates Mills, Its Officials And Employees And Declaring An Emergency”, was introduced by Councilmember Schneider and read by the Clerk. Councilmember Schneider expressed satisfaction with Wichert Insurance. She indicated due to an extra truck as well as some higher appraisals, there is an increase of \$1,000 this year.

It was moved by Councilmember Schneider, seconded by Councilmember Barnes, that the rules requiring ordinances to be read on three different days be suspended and that Ordinance No. 2014-35 be placed upon its final passage.

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

It was moved by Councilmember Schneider, seconded by Councilmember Turner, that Ordinance No. 2014-35 be approved.

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

Ordinance No. 2014-36 “An Ordinance To Amend The Annual Appropriation Ordinance No. 2014-02 To Increase Certain Appropriations And Other Expenditures Of The Village Of Gates Mills, Ohio For The Fiscal Year Ending December 31, 2014”, was introduced by Councilmember Barnes and read by the Clerk. He explained this Resolution is in response to a requirement by the County for an amended report at year end.

It was moved by Councilmember Barnes, seconded by Councilmember Sogg, that the rules requiring ordinances to be read on three different days be suspended and that Ordinance No. 2014-36 be placed upon its final passage.

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

It was moved by Councilmember Barnes, seconded by Councilmember Frankel, that Ordinance No. 2014-36 be approved.

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

Councilmember Sogg replied to Councilmember Frankel's question, stating that NOPEC will be presented at the January Council meeting due to the receipt of a second proposal and time to consider the same.

Business from the audience:

Resident Charles Belson extended thanks to Law Director Cannon for responding to his question regarding the October Emergency Resolution. He stated that he has a follow up question in reference to the October Emergency Resolution which is now discussed as the Regional Commission as something to prevent, control and/or limit hydrocarbon drilling. Resident Belson stated it was proposed based on Charter Article 3, Section 9 which says no resolution related to amending or repealing any zoning ordinance shall be enacted as an emergency ordinance. He commented that reference ties into Section 1157 of the Zoning Ordinance that says basically gas and oil drilling is prohibited. Mr. Belson stated that Law Director Cannon answered his question in terms of amending the zoning ordinance. He further stated that Resolution does not specifically deal with amending the zoning ordinance. He shared his belief that there is a difference between a discussion that deals with amending specifically. He stated this Resolution does not specifically say we need to amend the current zoning ordinance which prohibits drilling to amend that to allow control and/or limiting which then would include a trust or unitized trust or some other type of limiting. He added those all indirectly deal with amendments or relating to amending the zoning ordinance. He requested Law Director Cannon elaborate between the word amending and how that is different from the more broader view that the people who wrote Charter Article 3 had in mind when they said relating to amending. Mayor Riley referred to the beginning of Mr. Belson's statement, that the Resolution was introduced as pursuant to the zoning part of the Charter and clarified that the Resolution was introduced pursuant to Article 1 of the Charter which deals with executive powers and the Mayor's ability to appoint committees which can occur based on an emergency resolution. Law Director Cannon commented on Article 3, Section 9 stating there are four separate things that may not be passed as an emergency. First, is an Ordinance or Resolution relating to a change in the boundaries of the municipality. Second, is an Ordinance or Resolution providing for the surrender of joint exercise of the powers. Third, is an Ordinance or Resolution enacting, amending or repealing a zoning ordinance. Fourth, is an Ordinance or Resolution granting a franchise. Unless and until Council, in terms of hydrocarbon extraction or something else proposes to enact, amend or repeal a zoning ordinance, this clause does not apply. Law Director Cannon provided examples of legislation that could and could not be passed by emergency measure. She then stated that the legislation which Council adopted as an emergency makes no change whatsoever to the zoning code. Law Director Cannon emphasized that it does not enact, it does not amend and it does not repeal it but that it addresses the appointment of regional committee which might or might not ultimately conclude to change the zoning code. She added that what the Village might do or not do to the zoning code could also be impacted by a variety of other things in this area including the decision of the Supreme Court of the Munroe

Falls case. Law Director Cannon stated it needs to be clear that the Resolution which was adopted by emergency does not in any way enact, amend or repeal a zoning ordinance. It does not relate to amending the zoning code. It relates to creating a committee to address the issue.

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

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

Respectfully submitted,

Beth DeCapite, Clerk

Approved:

Shawn M. Riley, Mayor