

**Village of Gates Mills**  
**MINUTES OF A REGULAR MEETING OF COUNCIL**  
**July 18, 2023**

A regular meeting of the Council of the Village of Gates Mills, Ohio was held at the Community House on Tuesday, July 18, 2023, at 5:30 p.m. with Mayor Schneider presiding. The meeting was livestreamed to the internet.

1. Roll Call starts at 3:08

Councilmembers present: Atton, AuWerter, Press, Steinbrink, Turner, Welsh.

Other Village officials present were Clerk DeCapite, Service Director Biggert, Police Chief Minichello, Fire Chief Robinson, Finance Administrator Mulh, and Law Director Hunt.

Councilmember AuWerter moved to excuse Councilmember Deacon. Councilmember Steinbrink seconded the motion.

Ayes: Atton, AuWerter, Press, Steinbrink, Turner, Welsh.

Nays: None

Motion carried.

2. Minutes of the Regular Council meeting of June 20, 2023

Clerk DeCapite stated two corrections were made prior to this Council meeting. On page 2, under the Comprehensive Plan update, "17 of 25 members attended" should read "17 of 23 members attended". On Page 4, item 12-Emergency Services Resolution, fourth line down, "...reduced the initial 17% increase to a 2% increase..." should read "reduced the initial 17% increase to a 3% increase". Councilmember Press moved to approve the June 20, 2023 minutes as corrected. Councilmember Turner seconded the motion.

Ayes: Atton, Turner, Welsh.

Abstain: AuWerter, Press, Steinbrink

Nays: None

Motion failed.

3. Minutes of the Special Council meeting of June 29, 2023

Clerk DeCapite stated one correction was requested. On page 4, third full paragraph down, "Councilmember Atton stated that he rarely has seen situations where the lowest and best bid are the same" should read "...lowest and best bid are not the same". Councilmember Welsh moved to approve the June 29, 2023 minutes as corrected and Councilmember Press seconded the motion.

Ayes: Atton, Press, Steinbrink, Turner, Welsh.

Abstain: AuWerter

Nays: None

Motion carried.

4. Police Department Report attached and starts at 5:55

Notable responses by Chief Minichello to speed camera questions posed by Councilmembers Press, Atton, and Welsh:

- Eastbound vehicles traveling over 60 mph averaged 215 per day for the past 7 days, a reduction from the previous 7 days as well as the 7 days before that. 1450 warning notices have been processed in the last 9 days. We've made some remarkable progress in slowing people down.
- Lyndhurst Municipal Court's processing fee has been reduced from \$25 to \$15 per citation.

5. Service Department Report attached and starts at 15:30

Councilmember AuWerter asked for a status update of 640 Chagrin River Rd. Service Director Biggert advised little progress has been made since the last Council meeting. An updated construction schedule was requested of the homeowner with no response to date.

Councilmember AuWerter expressed his frustration with this unusual event and with our inability to enforce the building process. Should we establish fines for noncompliance? What do other communities do? Councilmember Deacon has previously volunteered to spearhead this effort as mentioned at the last one or two Council meetings (see May 9, 2023 minutes at 1:32:21 where Councilmember Deacon requested feedback on the need to do an assessment of the effectiveness of our zoning and permitting fines and penalties). Councilmember AuWerter looks for progress in early August followed by further Council discussion.

Law Director Hunt explained a potential way to pursue enforcement is if there is an unsafe condition that is a public nuisance, then a correction order can be issued. The problem with correction orders is oftentimes the correction is demolition and that is not what the Village is looking to do here. He also explained that a property owner who gets a building permit has 12 months to commence work. If there is a lull in the work for over 6 months once it's commenced, the property owner can be prompted, or they can lose their building permit and they'd have to start over.

Councilmember Press suggested the homeowner must have done something wrong considering all the little stuff like outbuildings, trees, and riparian rights. Service Director Biggert replied only the tree clearing exceeded what was approved. That action resulted in the requirement to file a storm water management plan, which the homeowner did, bringing him back into compliance.

Councilmember Atton asked if the homeowner was fined. Service Director Biggert stated he does not have the ability to fine people. He can file charges in Lyndhurst Municipal Court and the judge determines what the fines are. Councilmember Atton asked if we filed in this case. No, because the homeowner complied with filing the requested storm water management plan.

6. Fire Department Report attached and starts at 27:03

Treasurer Siemborski entered the meeting at 5:56 p.m.

Councilmember Press noted EMS runs 6 months into the year are double that of last year and asked why. Fire Chief Robinson replied an aging population with declining health calling the ambulance more often and transports that probably

shouldn't be done - Aria and Gilmour Academy are the two biggest single address users.

7. Pay Ordinance # 1275 \$424,963.54 starts at 30:52

Councilmember Steinbrink questioned two Englebrook Construction charges paid on June 7th and 29th. Finance Administrator Mulh believed the community house lower-level restrooms and new air conditioner at Burton Court and would verify via email.

Councilmember Steinbrink moved to approve Pay Ordinance #1275. Councilmember Welsh seconded the motion.

Ayes: Atton, AuWerter, Press, Steinbrink, Turner, Welsh.  
Nays: None  
Motion carried.

8. Financial Statement/Treasurer's Report attached and starts at 32:17

9. Mayor's Report starts at 43:37

- Band Concert this Sunday at 5:30 p.m.
- Addie's Cup Coffee Shop Grand Opening week of July 24th
- All Council received the Comprehensive Plan - a good reference and resource for the future. Please select from August 12, Sept 16, Sept 23, or Sept 30 at 9:00 a.m. for a Council Workshop to discuss the Plan. In reply to queries from Councilmembers Atton and Press, the workshop is open to the public and the audience will be allowed to ask questions if time allows. We might have to have a second workshop. Very thankful to Councilmembers AuWerter and Turner.

Mayor Schneider appointed Chuck Spear to the Historic Review Committee. Councilmember Welsh moved to approve the appointment with Councilmember Turner seconding the motion.

Ayes: Atton, AuWerter, Press, Steinbrink, Turner, Welsh.  
Nays: None  
Motion carried.

10. Clerk's Report - None

11. Gates Mills Land Conservancy Report/Financial Statement (Nathaniel T. Smith) attached and starts at 47:05

Council comments and questions start at 57:13

12. Committee Reports

Charter Review Committee (Councilmember AuWerter) starts at 1:08:07

- Tentative time frame for finalized report to Council is August 15

Broadband Committee (Councilmember AuWerter) starts at 1:09:09

- Consultant Report hopefully will be available for the August meeting

Cell Tower (Councilmember AuWerter) starts at 1:09:23

- Per Ron Gainar, Gilmour Academy's cell tower consultant, construction will start in August and Verizon cell service should start in October

Real Estate Committee (Councilmember AuWerter) starts at 1:10:05

- Architectural drawings of the Burton Court expansion have gone to the State with the permit application and to contractors for bidding purposes. Once bids come in, we'll see if it meshes with our framework that we first embarked on.

13. Move to Withdraw Ordinance No. 2023-18 starts at 1:12:36

Mayor Schneider requested a motion to withdraw Ordinance No. 2023-18 "An Ordinance Amending Section 1313.05 of the Codified Ordinances of the Village of Gates Mills to Change the Meeting Time of the Architectural Board of Review's Historic District Subcommittee". This withdrawn Ordinance No. 2023-18 was redrafted as Ordinance No. 2023-23, next on the agenda.

Law Director Hunt explained that in trying to improve the process of reviewing building permit applications in the historic district, the original thinking (Ordinance No. 2023-18) was to change the meeting date of the Historic District Subcommittee (HRB). Subsequently the stakeholders involved met - including Mayor Schneider, Councilmembers Turner and Deacon, and Law Director Hunt. It was determined that ARB and HRB should keep meeting dates as they are. Building permit applications in the historic district could go directly to HRB, keeping the ARB aware of the application, and then HRB would make a recommendation to ARB. It would cut down at least a couple of weeks in processing time. That is what has been redrafted into Ordinance No. 2023-23. Councilmember Deacon has requested that Ordinance No. 2023-23 be put on first reading so that there can be more discussion between now and August regarding further coordination so the process works better. Both Chairs of ARB and HRB are okay with the redraft but there might be changes.

Councilmember AuWerter moved to withdraw Ordinance No. 2023-18 with Councilmember Steinbrink seconding the motion.

Ayes: Atton, AuWerter, Press, Steinbrink, Turner, Welsh.

Nays: None

Motion carried.

14. Ordinance No. 2023-23 (First Reading) starts at 1:16:24

Ordinance No. 2023-23 "An Ordinance Amending Section 1313.09(a) of the Codified Ordinances of the Village of Gates Mills to Specify the Procedure for the Architectural Board of Review's Historic District Subcommittee to Review and Make Recommendations to the Board on Applications for Building Permits in the Village's Historic District" was read by Mayor Schneider. Ordinance No. 2023-23 will be placed on first reading.

15. Resolution No. 2023-24 (First Reading) starts at 1:17:03

Resolution No. 2023-24 “A Resolution Approving and Adopting the Alternative Tax Budget for the Village of Gates Mills for Fiscal Year 2024; and Declaring an Emergency” was read by Councilmember AuWerter. This is an administrative requirement done at this time every year so that we can continue receiving property taxes from the County. The deadline is July 20.

Councilmember Atton asked why this is always such an urgent matter when the data has been available for a long time. Finance Administrator Mulh responded it has always been done this way and if Council prefers it to be done in April or May next year, she will do that.

Councilmember AuWerter moved that the rules requiring ordinances to be read on three different days be suspended and that Resolution No. 2023-24 be placed upon its final passage. Councilmember Welsh seconded the motion to suspend the rules.

Ayes: Atton, AuWerter, Press, Steinbrink, Turner, Welsh.  
Nays: None  
Motion carried.

Councilmember AuWerter moved to approve Resolution No. 2023-24 with Councilmember Welsh seconding the motion.

Ayes: Atton, AuWerter, Press, Steinbrink, Turner, Welsh.  
Nays: None  
Motion carried.

16. Ordinance No. 2023-25 (First Reading) starts at 1:21:12

Ordinance No. 2023-25 “An Ordinance to Amend the Annual Appropriation Ordinance No. 2022-42 to Increase Certain Appropriations and Other Expenditures of the Village of Gates Mills, Ohio for the Fiscal Year Ending December 31, 2023” was read by Councilmember AuWerter. Treasurer Siemborski explained this appropriation is approval to spend up to \$290,000 and provides two months of working capital needed to begin the process of paying Lyndhurst Municipal Court (LMC) and Gatso when speed camera citations commence in August.

Treasurer Siemborski explained the two pieces of the \$290,000 appropriation. State regulations allow LMC to be paid \$15 per citation at the time the citation is issued, not the time the citation is paid. LMC collects the fines. Using rough estimates provided by Chief Minichello of 200 tickets going over 60mph per day, 30 days, and \$15/ticket, you come up with \$90,000 to \$95,000 per month to be paid to LMC. Allowing for two months between issue of a citation and payment of the fine, the LMC portion of the calculation is \$190,000. The other \$100,000 is to pay Gatso their percentage. Gatso is not paid until the cash comes in, so we don't have the same working capital requirement as with LMC, and we used a two week float.

Councilmember AuWerter moved that the rules requiring ordinances to be read on three different days be suspended and that Ordinance No. 2023-25 be placed upon its final passage. Councilmember Steinbrink seconded the motion to suspend the rules.

Ayes: Atton, AuWerter, Press, Steinbrink, Turner, Welsh.

Nays: None

Motion carried.

Councilmember AuWerter moved to approve Ordinance No. 2023-25 with Councilmember Steinbrink seconding the motion.

Ayes: Atton, AuWerter, Press, Steinbrink, Turner, Welsh.

Nays: None

Motion carried.

17. Resolution No. 2023-26 (First Reading) starts at 1:28:12

Resolution No, 2023-26 “A Resolution Authorizing Additional Funds for Professional Services Rendered by CT Consultants Under an Agreement for the Village’s Comprehensive Plan” was read by Councilmember AuWerter. After final negotiations with CT, we have a final invoice amount and \$7500 of additional money is needed to close out this project.

Councilmember Press asked for more details and Councilmember AuWerter provided that the amount of hours spent by CT significantly exceeded what CT anticipated. CT alerted us to this through preliminary invoices and we asked to have that broken down into what was in scope versus out of scope with reasons - these are the unforeseen services cited in the Resolution. The numbers submitted by CT were three times the number and we negotiated 1/3 of that. The hours CT spent greatly exceeded what they billed us and even so, the Consultant stuck with this right through the end, and we never lost any of her attention. Councilmembers Turner and AuWerter feel this is a very fair settlement and certainly recommend approval.

Councilmember Atton suggested that CT underbid the job since their original bid was \$57,500, lower than the other two bidders by \$20,000 and exactly the same as the invoice now being suggested. We would have realized that if we had stuck rigorously to monthly billing as the contract stipulated. Councilmember Turner stated the delayed billing was a frustration for her and Councilmember AuWerter as well and they constantly brought it up with our Consultant **Kris Hopkins**. There were a lot of things we asked for which increased the cost - 23 more interviews than scheduled, Advisory Committee input that increased the length of the survey and required more analysis, the request to distinguish among neighborhoods and the additional analysis, and a change to the postcard mailed out. Councilmember AuWerter added that given the nuances and nature of how this unfolded, we probably would have had a significant overrun with either of the other bidders as well.

Treasurer Siemborski asked if this final amount had been approved - not just by our Consultant **Kris Hopkins**, but by her organization, CT Consultants - so that if Council approves this we are complete. Councilmember AuWerter stated we have an email confirming that.

Councilmember AuWerter moved that the rules requiring ordinances to be read on three different days be suspended and that Resolution No. 2023-26 be placed upon its final passage. Councilmember Steinbrink seconded the motion to suspend the rules.

Ayes: AuWerter, Steinbrink, Turner.

Nays: Atton, Press, Welsh.

Abstain: None

Motion failed.

Ordinance No. 2023-26 will be placed upon first reading.

At 1:38:43 Law Director Hunt explained it takes five votes to suspend the rules and there are only three votes, so this Resolution will be on the agenda next month.

Councilmember Atton's desire to bring this up again at the next meeting is the people who are concerned about the level of expenditure being committed to this process ought to be invited to make public comment. This was a contentious issue. Councilmember Turner asked what was his standing on the Resolution and he replied he didn't want to vote on this until hearing the opinions of other people, more than are sitting here tonight. Councilmember Steinbrink recalled that Councilmembers Atton and Press wanted more meetings and public input to make this a better process in the end. You can't ask for more and then when the bill comes say I don't want to pay for all that stuff.

18. Council Matters starts at 1:43:15 - None

19. Business from the Audience starts at 1:43:23

Resident Mark Shoag, Brigham Road, stated \$80,000 is a lot of money for the Comprehensive Plan. He knows a couple seniors in this town who are hurting because of inflation who could benefit from a little extra money. The idea that we're just going to fork over another \$20,000 - I don't know, it's a lot of money.

Resident Charlie Baker said the speed camera brochure sent out was exceptionally well done.

Treasurer Siemborski stated the money for the Comprehensive Plan came from ARPA funds from the federal government, not taxes that our local residents are paying. And Councilmember Atton replied it could have been spent on other things.


20. Adjourn

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

Respectfully submitted,

  
Beth DeCapite, Clerk

Approved:

  
Karen E. Schneider, Mayor