

Village of Gates Mills
MINUTES OF A REGULAR MEETING OF COUNCIL
November 13, 2012

A regular meeting of the Council of the Village of Gates Mills, Ohio was held on Tuesday, November 13, 2012 at 6:30 P.M. in the Village Hall.

Councilmembers present: Bletcher, Reynolds, Schneider, Sogg, Turner, Welsh.

Councilmembers absent: Barnes.

Mayor Riley presided.

It was moved by Councilmember Schneider, seconded by Councilmember Reynolds, that Councilmember Barnes be excused from the meeting.

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

The minutes of the meeting of October 9, 2012 were presented by the Clerk. It was moved by Councilmember Schneider, seconded by Councilmember Reynolds, that the minutes be approved.

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

Pay Ordinance #1147 in the amount of \$360,928.93 was presented by the Clerk. Councilmember Bletcher asked Service Director Biggert how much is paid to Ken's Window Cleaning in a year. Finance Administrator said she would check. Councilmember Bletcher asked if the window cleaning of the Restaurant, Burton Court, and Mills Building could be done by the Service Department. If the Service Department washed them, part of the savings could be used as a wage increase for the Service Department. Service Director Biggert said there is a time factor in that there are many panes, not solid glass windows. The employees are not window cleaners so there will probably be complaints. Councilmember Schneider asked who cleans the Town Hall windows. Service Director Biggert said the employees clean the Town Hall, Community Building, and the Service Garages. Councilmember Bletcher said there was a bill that will be on the December Pay Ordinance that was about \$500. Service Director Biggert said the building had been power washed. Debris got stuck on the windows which had to be cleaned with steel wool. Councilmember Bletcher said we must find ways to cut cost because the compensation to the employees will be party to it. It was moved by Councilmember Sogg, seconded by Councilmember Welsh, that Pay Ordinance #1147 be approved.

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

The financial statement for the period ending October 31, 2012 was presented by the Clerk.

Mayor Riley reported that Mayfield Road is now opened. It will close west bound in the spring. There have been complaints about traffic backup on Wilson Mills' hill. There have been requests to have police officers direct traffic in certain areas. This is not cost effective so he is looking for a volunteer group that would direct traffic during peak hours. This concept has been approved by Law Director Riehl and Police Chief Szeredy. Village Engineer Courtney said the village would be reimbursed for all expenses, even the training of the volunteers. Connie White said the wait for traffic problems on Wilson Mills is not long. Councilmember Schneider asked when the project was going to restart. Engineer Courtney said April. Mayor Riley said if the winter is mild, it may start in March. Councilmember Welsh suggested paying the volunteer firemen to direct traffic. Mayor Riley said we will wait to see who volunteers.

Mayor Riley said in the Pink Sheet he asked for volunteers to help raise money for the tennis courts. He has been told the Community Club has an interest in helping. They are going to have a fund raising dinner. Councilmember Schneider said it is going to be called "Meatballs for Tennis balls". Mayor Riley said the U.S. Tennis Association could provide some funds. Councilmember Schneider asked if there would be more appeal if instead of a tennis court it would be a sport court which would include basketball and volleyball. Mayor Riley asked Service Director Biggert to check into options. Councilmember Sogg said we should keep in mind that maybe the U.S. Tennis Association would provide funds only for a tennis court. Councilmember Bletcher said this is the kind of project where we should work hard to find funding.

The Clerk had no report.

Councilmember Schneider reported that Positively Gates Mills is looking at other websites to see what we need and want for our website. She asked if anyone has something they like that is on another website to let her know. Mayor Riley said he received an email from a college student who as part of his project wants to design a website and will do it for free.

Councilmember Sogg reported on the Beautification Committee. One member, Paul Neundorfer, has designed a Gates Mills entryway and has volunteered to install one. The committee is trying to raise funds. MaryAnn Kish has put an article in the Pink Sheet. The Committee has preliminary ideas about the property across the street from the Town Hall.

Councilmember Sogg said the Legal Committee has published ads for a law director. To save money the ad was small, telling interested persons to email Finance Administrator Lechman for a request for proposal. November 30 is the deadline.

Councilmember Bletcher commended Police Chief Szeredy for getting signatures of all 6 mayors and chiefs in the SPAN communities on a request asking the county at the county's expense to do a study of how we might work together to provide dispatching and other communication services. He asked the Mayor and Police Chief Szeredy if they knew anything about the county having some generalized plan on how the communities might work together. Chief Szeredy said the county is working with some cities on the west side where the cities have begun a consolidation with the backing of the county. Councilmember Bletcher asked the Mayor when the county study would commence. Chief Szeredy said the county has identified that the SPAN group has been accepted. The launch date has not been announced. He feels it will start before the end of this year and take about six months. Councilmember Bletcher suggested while the study is going on we continue to have discussions with Lyndhurst with the goal of finding funding. He doesn't want to pass up sources of funding while the

county is working on the study. Since Chief Szeredy and the Mayor of Lyndhurst are on the 911 committee it might make sense to continue the research. Also, identify communities to join us.

Mayor Riley said that possible funding and large consolidation is not a council function. It has been delegated to the Safety Committee. He feels that committee should do the research and report to Council. Councilmember Bletcher suggested the Village's Safety Committee meet with Lyndhurst's Safety Committee. Chief Szeredy feels that some of this will be covered under the feasibility study so the work would be duplicated. Councilmember Bletcher feels if we wait six months we could miss some opportunities.

Councilmember Reynolds said Jennifer Decker, President of the Gates Mills Elementary School PTO, thanked her for council's support of their fund raiser. The students raised \$5500.

Councilmember Turner reported that the Gas Well Committee met. There is concern about deep well drilling which could be done in the Village. Even the village property could be used by pooling. The Committee is updating their brochures to cover the deep well drilling. The drilling companies need about 100 acres for one of these wells. Only 65% need to be pooled, and the remaining 35% could be mandatorily pooled. Mayor Riley said it might be prudent to deliver the land to a pooler and drill the well in a convenient place. This drilling is going to happen. There is no way this is going to be stopped. Law Director Riehl said the Village has enacted some local rules on a safety basis. Council may want to consider doing something for the deep wells, also. Councilmember Schneider asked if the deep well drilling can be done directionally. Councilmember Turner said they could be. Councilmember Bletcher said they all are. Mayor Riley said if a well was drilled in Chesterland and goes under Gates Mills (particularly village property), the village could reap royalties. If the drilling does not go under Gates Mills, the gas hauling trucks will go up and down Mayfield Road. Eventually it will have to be repaired, and the village will not receive royalties.

Mayor Riley announced the appointment of Paul Neundorfer to the Cemetery Committee.

It was moved by Councilmember Schneider, seconded by Councilmember Sogg, that the Mayor's appointment be approved and confirmed.

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

Councilmember Welsh reported that the hedge at the North Cemetery had been removed. Mayor Riley explained that the bushes had been destroyed by the deer. They were cut down with the idea that they would be replaced. The Cemetery Committee has been charged with what should replace them. Councilmember Welsh said there have been two Cemetery Committee meetings. Long and short-term plans were discussed. The short-term plan is to replace the bushes. Vic Mastrangelo recommends that 5 foot tall *viburnum burkwoods* be installed at the North Cemetery. They are deer resistant and Vic can get them immediately. Councilmember Reynolds explained they are not evergreens but when the leaves are off they still provide screening. She said they smell good and would be outstanding looking in the Spring. Mayor Riley said he understood that the Purcell Fund money could be used for the expense.

Councilmember Welsh said the long-term plan is to expand the North Cemetery. There are about 68 lots available but only 34 lots are usable because of the terrain. In 2011, 38 lots were sold and 14

have been sold so far this year. A solution would be to buy the property to the south of the Village's property. It is owned by Nick Glynos. Another possibility is to purchase a strip of property from Myers and create a driveway off River Oaks Trail that would go to the back of the Village owned property south of the cemetery property. The front of that parcel is an unusable gully. Councilmember Welsh said having 2 entrances/exits would help when there is a funeral procession. The Cemetery Committee's recommendation is to pursue the purchase of the property owned by Glynos which is directly south of the village's property. Councilmember Bletcher suggested looking at the Clark's property, which is south of the Glynos property, even though it is not contiguous. Councilmember Welsh asked if it is for sale. He said that the Clark's are a very civic minded.

Councilmember Welsh said the Committee recommends the Glynos property, so he would like to pursue it first. Councilmember Schneider asked if the Glynos property should be bought in conjunction with the Gates Mills Land Conservancy. Law Director Riehl suggested that a study be made on the topography and how many lots would be available. Councilmember Welsh said the Paul Neundorfer has drawn the topography. Mayor Riley said we should check on the cost. Finance Administrator said it is advertised as \$33,333 per acre; there are 16.5 acres. Councilmember Schneider said the property was in filing when the Village considered a property swap. She suggested contacting Tom Quintrell. Mayor Riley said Engineer Courtney and Service Director Biggert should look at the property lines, he will talk to Tom Quintrell, and the topic will be discussed again at the next Council meeting. He asked Connie White if the Clark property is hilly. She said it was.

Councilmember Reynolds asked if we knew there was a demand for more lots. Does Council feel an obligation to expand the cemetery property? Councilmember Turner said there is an issue about vacancies that are in family plots. Councilmember Welsh said it is a "touchy situation" for a family to be asked about giving up their lots. Councilmember Sogg said we have tried to talk to some of the families and they just say "no". Mayor Riley said Councilmember Reynolds has a good point. It depends upon the cost. Councilmember Schneider said Hunting Valley just did something with this topic setting aside Route 87 and Chagrin River Road. She didn't know if they asked the villagers or put the issue on the ballot. Councilmember Sogg said she doesn't think the villagers are informed about the village's cemetery. It is much more cost effective than being buried at Lakeview Cemetery. Councilmember Bletcher said that is because we chose to charge too little. If we expand the cemetery would the plan be to charge enough to offset the cost. Councilmember Sogg felt that was a worthy question. Councilmember Welsh said he had no problem putting the issue on the ballot.

Police Chief Szeredy presented a written report for the Police Department for the preceding period. There were more calls than usual, probably due to the weather. SPAN is presenting a Public Records seminar on December 13, hosted by Highland Heights. It is free for those in the SPAN communities.

Service Director Biggert submitted a written report for his department for the preceding period. There was a household hazard waste collection today. It was successful.

Fire Chief Robinson presented a written report for the Fire Department for the preceding period. Eleven runs were due to the storm. He has heard many compliments about the police, fire, and service department's services. The CERT team was on standby for the storm. Two houses were significantly damaged. We loaned smoke and CO detectors.

Ordinance #2012-38 entitled "An Emergency Ordinance Setting Forth The Rate Of Compensation For Engineering Services For The Village," was introduced by Councilmember Turner and given its second reading by the Clerk. Councilmember Turner explained the different components of the

agreement. She explained that the agreement proposes that Chris Courtney be a part-time employee with benefits paid by the Village. If the Village paid him as a contractor, his rate would be greater. The total cost would be the same to the Village. She asked Law Director Riehl about Fees - Schedule 3(b) and page 4. He explained it means that it is discretionary whether Chris' firm is hired to be the engineer for special projects such as water lines, etc.; Council could hire another firm for other projects.

Councilmember Bletcher, referring to Section 6 (b) on page 6 which says Courtney is an independent contractor. Finance Administrator Lechman said it was referring to C.W. Courtney as a company, not Chris as an employee. Councilmember Bletcher said he has reservations about having an outside consultant who is a principal of his own engineer firm also being paid as an employee with all the accompanying obligations such as payroll taxes, including workers' compensation, being paid for him. It doesn't make sense to him. He feels the engineer is truly an Independent Contractor. Mayor Riley said we have an option. Different communities do it different ways. Some hire an engineer and some treat him as employee. The same applies to the way some hire a Law Director as an Independent Contractor and some treat the Law Director as an employee. The point is, the cost in this case will be the same to us. Councilmember Bletcher said ultimately the village sets his rates if he is an employee. Finance Administrator Lechman explained that having him on the payroll he will get the same increases all the employees get. Councilmember Bletcher said that is assuming the same percentage increase is given to all the employees, which is a situation about which he has continuously objected.

Law Director Riehl said it may for the purposes of workers' compensation be beneficial to have him classified as an employee in case he is injured while in the field. Councilmember Bletcher asked why we would want an extra person covered by workers' compensation. Law Director Riehl said in case there is an injury and a claim. Councilmember Turner asked if the rates would go up if he had a claim. Finance Administrator Lechman said they could, but his medical would be covered. Councilmember Bletcher said he would be covered under C.W. Courtney because he is a principal. Mayor Riley explained that if he is an Independent Contractor he could sue the Village if he feels the Village is responsible. If he is an employee he would only have workers' compensation coverage. Councilmember Bletcher asked Law Director Riehl if Chris were an Independent Contractor what would happen if he were injured. Law Director Riehl said he is not sure that workers' compensation is bound by the contractual definition of Independent Contractor. Conceptually if there is a claim they will decide under their rules if he is an employee or not. Councilmember Bletcher said he has to be included in the Village's workers' compensation report with a description of his job. Finance Administrator Lechman said the Village has only 2 categories on the report – volunteer firemen and other. No job breakdown and no names. Councilmember Bletcher said there needs to be more clarity in the ordinance. He said on page 6 it says Chris is an Independent Contractor. Mayor Riley explained that the term refers to C.W. Courtney firm which cannot bind the Village in a contractual relationship. The firm would carry workers' compensation for its employees.

It was agreed the language in the Ordinance should be clearer. Councilmember Bletcher said he would like to know all the ramifications of having a principal of his own engineering firm as a Village employee versus his being an Independent Contractor. What are the cost implications. Councilmember Schneider said the language needs to be clear showing the difference between "C.W. Courtney" and "Chris Courtney". Councilmember Bletcher said a couple years ago he had a conversation with Hunting Valley about this topic. Without hesitation they felt he should be an Independent Contractor. Law Director Riehl said he will check the Charter. Councilmember Turner said the committee looked at the cost which is the same either way his retainer is paid, but clarification

of other points would be great. She also pointed out that in the contract Chris' retainer would go up 3% each year. As an employee the increase would be dependent on what the other employees get which will probably be less than 3%. It was moved by Councilmember Turner that Ordinance #2012-38 be placed upon second reading.

Resolution #2012-39 entitled "A Resolution Authorizing The Mayor And The Clerk To Enter Into An Agreement With The Village Of Mayfield For The Provision Of EMS And Ambulance Services And Declaring An Emergency," was introduced by Councilmember Bletcher and read by the Clerk. Councilmember Bletcher explained the Village had for several years a relationship with Mayfield Village where they supplied EMS in exchange for use of the village's jail. That ended 3 years ago, at their request. We have been paying the last 3 years. This year we are paying \$300,000. We get insurance proceeds which are collected, roughly \$30,000. We have had some discussions with Mayfield Village because we believed that \$300,000 is not in line with prevailing costs. With Councilmember Reynolds, Fire Chief Robinson, and other members of the committee, we produced evidence that some private ambulances could do the service for about \$800 per run. Mayfield Heights charges Gates Mills \$650 per run. However, we were paying Mayfield Village \$2,150 per run. With Mayor Riley's help we negotiated a yearly rate with a minimum of \$125,000 and a maximum rate of \$175,000. The rate is still based on the number of runs but we do not expect the number of runs to fluctuate very much. They are about 125 to 130 runs per year. The one thing that is different is on page 2 of the Agreement where it says that capital expenditures will be contributed to by Gates Mills based upon its proportionate share, details of which will be discussed prior to the time such equipment is needed. He asked if we know what the projected capital cost might be over the terms of the agreement. Finance Administrator Lechman said when the villages exchanged services, Mayfield Village would purchase an ambulance every 3 years. Gates Mills would pay half. Under this agreement Gates Mills will pay a proportionate share which based on previous years' runs. This is between 13% and 16%. Mayor Riley said he estimates \$40,000 over 3 years. Councilmember Bletcher said the cost would go from \$270,000 (\$300,000 cost less \$30,000 insurance proceeds) to \$136,000 net per year.

Councilmember Welsh said the charges submitted to insurance companies and patients are very low. There is no rate schedule listed. The language should state mileage, extra manpower, bariatric cots, c-pap and other normal charges. Finance Administrator Lechman said Life Force bills the insurance companies and patients based on Mayfield Village's guidelines. Councilmember Welsh said these are things Life Force should bill. This should be included in the contract with Mayfield Village. Councilmember Bletcher said if certain services are listed appropriately by Mayfield Village that would enable Life Force to collect from the insurance companies. We should certainly ask for that. It does not need to be part of the Agreement.

Councilmember Schneider said the liability insurance required under the agreement is low. Finance Administrator Lechman said when the insurance portion of the agreement was initially established we copied Macedonia's and Chagrin Falls' agreements. We then had our insurance agent, who is also the agent for Mayfield Village, review it. The agent felt the amount was appropriate. Councilmember Bletcher asked if Gates Mills Village had umbrella coverage. He was told yes. He then stated Mayfield Village probably has umbrella coverage, also. Councilmember Sogg said when a claim is made, having a low amount listed lowers the expectation.

Councilmember Bletcher suggested that Councilmember Welsh get together with Fire Chief Robinson and document the additional suggestions.

It was moved by Councilmember Reynolds, seconded by Councilmember Schneider, the rules requiring resolutions to be read on three different days be suspended and that Resolution #2012-39 be placed upon its final passage.

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

It was then moved by Councilmember Bletcher, seconded by Councilmember Reynolds, that Resolution #2012-39 be approved.

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

Ordinance #2012-40 entitled "An Ordinance To Provide For Temporary Appropriations For The First Quarter of 2013," was introduced by Councilmember Sogg and read by 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 #2011-30 be placed upon its final passage.

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

It was then moved by Councilmember Sogg, seconded by Councilmember Turner, that Ordinance #2012-40 be approved.

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

Ordinance #2012-41 entitled "An Ordinance Establishing A Sanitary Sewer Surcharge Reduction And Elimination Policy And Declaring An Emergency," was introduced by Councilmember Turner and read by Clerk. Councilmember Turner explained the ordinance was requested by the Cuyahoga County Department of Public Works. It is an attempt to codify the Village's procedures. It sets a limit to what the Village would reimburse a property owner to \$1500 for repairs needed because of sewer backup. She recommends it not be approved. Engineer Courtney said this ordinance is to provide a mechanism where the home owner could put in a device to stop sanitary sewer backup during wet weather flow. The Village would reimburse the property owner up to \$1500, then be reimbursed by the County. It would be cost neutral to the Village and provide the residents a way to protect their basements. What we do now is put back up prevention in the right of way. This will pay for residents to put it in their homes. Neither the County nor the Village can go into the property owner's house. To be reimbursed the owner must go through all the testing which is done one time, at the time of installation. Councilmember Reynolds asked why the home owner couldn't go directly to the County for reimbursement. Engineer Courtney said the County is not comfortable doing that because they would have to do it county wide. Councilmember Bletcher asked if there is any written commitment by the County. Engineer Courtney said only emails and conversation. The Village is not obligated to do this. Councilmember Sogg feels it is a win-win for the villagers. Councilmember

Bletcher said the ordinance says that on a case-by-case basis Council has the authority to in advance verify with the County that we are going to get reimbursement before agreeing to pay for the installations. Law Director said under the County rules reimbursement will be made only if the County rules are met by the home owner. He does not think the Village has any contractual obligation. Councilmember Bletcher asked if the ordinance requires Council to reimburse the owner or does it give an option. Engineer Courtney said it gives the option if certain standards are met. Councilmember Reynolds asked if Council could reject an application and not reimburse the owner. Councilmember Turner said she feels the ordinance is very confusing. It is a procedure we are already following. Councilmember Schneider said this ordinance gives the County a place to put the money, and a place from which to reimburse a owner. Engineer Courtney said it only applies to residents on the western part of the Village. Richmond Heights has adopted the ordinance. Law Director Riehl said he will talk to their Law Director to make sure there is no obligation for the Village outside of reimbursement to the owner. It was moved by Councilmember Turner that Ordinance #2012-41 be placed upon first reading.

Business from the audience:

MaryAnn Kish announced the Charles Broome had died. His service is tomorrow from 4-8 p.m. and his burial is Thursday.

Connie White said the old dump on Chagrin River Road looks very bad. Mayor Riley asked Service Director Biggert to speak to the contractor and have it cleaned.

At 7:50 it was moved by Councilmember Bletcher, seconded by Councilmember Reynolds, that Council go into executive session to discuss personnel matters and real estate matters.

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

At 8:05 Council returned from Executive Session.

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

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

Respectfully submitted,

Beth DeCapite, Clerk

Approved:

Shawn M. Riley, Mayor