

REGULAR COUNCIL MEETING

February 10, 2021

MINUTES

The Regular Council Meeting of the Village of Moreland Hills was called to order by Mayor Fritz at 7:02pm, via Zoom.

PRESENT AT ROLL CALL: Mr. Emerman, Mrs. Kozminski-VanderHart, Mr. Richman, Mr. Spencer, Mr. Stanard, Ms. Sturgis

Also Present: William Hanna, Law Director; Chief Kevin Wyant; Prashant Shah, Treasurer; Jeff Filarski, Village Engineer; Ted DeWater, Service Director; Sherri Arrietta, Clerk of Council

Mr. Stanard made a motion seconded by Mr. Richman to approve the minutes of the Regular Council Meeting of December 9, 2020.

ROLL CALL:

AYES: Mr. Emerman, Mrs. Kozminski-VanderHart, Mr. Richman, Mr. Spencer, Mr. Stanard, Ms. Sturgis

NAYS: None

MOTION CARRIED

Ms. Sturgis made a motion seconded by Mr. Stanard to approve the minutes of the Special Council Meeting of December 31, 2020.

ROLL CALL:

AYES: Mr. Emerman, Mrs. Kozminski-VanderHart, Mr. Richman, Mr. Spencer, Mr. Stanard, Ms. Sturgis

NAYS: None

MOTION CARRIED

Mr. Richman made a motion seconded by Mr. Spencer to approve the minutes of the Organizational Council Meeting of January 6, 2021.

ROLL CALL:

AYES: Mr. Emerman, Mrs. Kozminski-VanderHart, Mr. Richman, Mr. Spencer, Mr. Stanard, Ms. Sturgis

NAYS: None

MOTION CARRIED

### **Resident Comments**

There were no residents present wishing to speak.

### **Reports from the Mayor and Other Municipal Officials**

#### **Mayor**

Mayor Fritz reported that our COVID protocols are still in place and he has updated the policy as it relates to a known positive in an employee's house, and distributed it to all employees. Everyone is doing a wonderful job asking questions and staying in compliance with all orders.

The Village is receiving some complaints about coyotes in the Bentleyville/Skyline and Mill Hollow/Jackson Road areas mainly. One resident reporting seeing a pack of five of them. We had this issue several years ago and had someone from ODNR come out for a meeting with the residents. Using that information, we are making informational posts on social media and our website. Chief Wyant and Lt. Dietzel are working on organizing a Zoom meeting with ODNR representatives and our residents. He stated that hunting is not allowed in the Village however, if the coyote is posing a danger or threat, then we have some recourse with ODNR. If you look at social media and the Village website, you will see what we are sharing with the residents when they call.

Mayor Fritz stated that he has also received concern from residents that there are pedestrians walking in their neighborhoods who are not visible and have nearly been hit on Meadowood. He stated that the Police Department has been advised of this situation and we have messaged on social media to make residents aware that they need to wear reflective clothing when walking to avoid a possible accident, especially since it gets darker earlier.

Mayor Fritz reported that he attended a Chagrin River Watershed Partners meeting this morning, along with Mr. Filarski and resident representative Randy Nielsen. It was a very productive conversation and he stated he learned of many beneficial programs that they offer which he thinks would benefit the Village this year. Some areas of interest did come up that he will be informing Council on as they take shape a little more. As an idea, Mr. Filarski detailed some areas of concern as it relates to erosion issues. We plan to message our residents

that the CRWP does provide free consultation for those with erosion/hillside issues in their backyard, as well as riparian or streambank issues. They provide suggestions on ways they can mitigate that erosion. We are looking into a grant opportunity; Section 319 Grant program. We will be looking to see if the Village has an applicability for areas where we are suffering some significant erosion.

As mentioned at the Committee of the Whole Meeting last week, the Green Commission was researching using the composting services of Rust Belt Riders but we are also considering creating our own composting drop off location at Forest Ridge. Mr. DeWater will discuss it further in his report.

We ran out of time to discuss the possible changes to the pool ordinance at last week's meeting, so we will have that discussion tonight under the "Miscellaneous" discussion agenda item. Mayor Fritz stated that he sent the list of comments regarding the sign ordinance to Mr. Hanna, who will have some follow up on that before our next Committee of the Whole meeting. Mr. Richman did follow up with him regarding a few corrections to his comments regarding aesthetics and square footage of signs. He stated that he interpreted it incorrectly in his memo to Mr. Hanna, but has since made those corrections.

### **Service**

Mr. DeWater gave the details on the possible compost drop off at Forest Ridge. He stated that they have looked into purchasing two (2) barrel compost bins. The placement of the drop off location would be near the Community Garden so the compost can then be utilized in the garden. Mr. DeWater stated that we could get some guidance from the Solid Waste District on the proper way to compost and other information on how to have our own compost piles, which we can pass on to the residents as well. We also need to determine how many residents are interested in doing this before we move forward.

Mr. DeWater reported on the on-going issue at the Winterberry Pump Station. It is now back up and running. All the wiring was replaced and one pump was replaced and one was re-built. There are still a few minor repairs that need to be made but they are not pressing issues that will prevent the pump station from running properly.

Mrs. Kozminski-VanderHart stated that she has a couple of the barrel compost bins that she does not use and would be happy to donate them to the Village. She asked if there was any further information on reestablishing the Community Garden. Mayor Fritz stated that the

WRLC employees have used it the last few years, but it is something we are going to revisit. The goal this year is to get it back and find a way to section it off. More importantly, we need to have a series of procedures in place to make sure we are all on the same page with it. Mrs. Kozminski-VanderHart stated that Orange Village has one and does it well, so perhaps we can reach out to them for information. She also stated that she wanted to give accolades to a few of the Service Department workers as they kindly helped her find the proper location to drop off her cardboard the other day.

### **Police**

Chief Wyant wanted to elaborate on the safety concerns that the Mayor mentioned regarding pedestrians and inform everyone how critical it is. He stated that he has personally had surprise encounters with pedestrians who were not wearing reflective clothing. They are very hard to see during those hours. He shared that it is a requirement for those on bikes to have lights and reflectors and they have to travel with the flow of traffic, while pedestrians should travel against the flow. It is really critical that residents are informed of how important it is to have some illumination to avoid a possible accident.

Mr. Spencer stated that he just wanted to recognize the Chief for being elected President of the CCPCA and thanked him for his leadership. Mayor Fritz stated that he had the honor of swearing in the Chief and other board members. They are a good group of engaged individuals who he feels will benefit from the Chief's leadership.

### **Engineer**

Mr. Filarski did not have a report.

### **Finance**

Mr. Shah gave an update on the ordinance for the Wichert Insurance renewal. He stated that the policy expires on February 28. Normally we would have the quote by now, but stated that he did receive a tentative one this afternoon. This quote included a 10% increase in the premium, which is a 54% loss ratio. Mr. Shah stated that he has asked our agent to get a few more quotes from a couple other insurance companies. Therefore, we are hoping that we will have something to compare it with. He stated that the renewal date is March 1 and asked Mr. Hanna if it was acceptable if Council approves it retroactively at the March 10 Council meeting. Mr. Hanna stated that it appears that we would be covered until the end of this month, but the question would be whether we would be covered between March 1-10. When the quotes are received, he would recommended having some consultation with the Mayor and

Mr. Shah to look at the language of the policy and determine if we perhaps need to have a Special Meeting before March 1 to authorize that contract in advance. He does not think it would be necessary; however, he has not looked at the language of the policy yet.

Mayor Fritz stated that it might be the best idea to have a Special Meeting to prevent any lapse and avoid vulnerability, if we feel that the language is such that we need to do that. Mr. Shah stated that we generally have thirty (30) days to pay the premium once the policy is bound, so it should not be an issue but he will look into it.

### **Law**

Mr. Hanna did not have a report. Mayor Fritz informed Council that the last invoice from Walter|Haverfield did reflect the zero balance on the retainer. Moving forward, we have taken some action legislatively and administratively, to re-allocate the hours in a different manner that we hope is going to be a good fit for the Village. Mr. Hanna will keep us up to date on the hours each month and how our new model is working out.

### **Reports of Committees -**

#### **Roads & Safety Committee**

The Roads and Safety Committee met on February 2, 2021. Mr. Spencer gave a report based on the meeting minutes, which are attached. The next regularly scheduled meeting is March 2, 2021 at 8:00am.

Mr. Spencer made a motion seconded by Mr. Stanard to allow the Village Engineer and Service Director to develop specifications and solicit estimates for concrete repairs and painting of both the Bentleyville Road and Lower Giles Road retaining walls.

ROLL CALL:

AYES: Mr. Emerman, Mrs. Kozminski-VanderHart, Mr. Richman, Mr. Spencer, Mr. Stanard, Ms. Sturgis

NAYS: None

MOTION CARRIED

#### **Facilities Committee**

The Facilities Committee met on February 2, 2021. Mr. Emerman gave a report based on the meeting minutes, which are attached. The next regularly scheduled meeting is March 2, 2021 at 8:30am.

**BZA**

The Board of Zoning Appeals met on February 1, 2021. Mr. Stanard gave a report based on the meeting minutes, which are attached. The next meeting will be March 1, 2021.

**Planning Commission**

The Planning Commission met February 1, 2021 immediately following the BZA meeting. Mr. Stanard gave a report based on the meeting minutes, which are attached. The next meeting will be March 1, 2021.

**Green Commission**

The Green Commission met on February 3, 2021. Mayor Fritz gave a report based on the meeting minutes, which are attached. The next meeting will be April 7, 2021.

**ORDINANCES AND RESOLUTIONS**

**Ordinance 2021-01** Introduced by Mrs. Kozminski-VanderHart

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACTUAL AGREEMENT WITH THE CITY OF BEDFORD FOR JAIL SERVICES FOR VILLAGE OF MORELAND HILLS PRISONERS AND DECLARING AN EMERGENCY.

Mrs. Kozminski-VanderHart stated that this ordinance allows the Village to use this facility for Moreland Hill's prisoners. This agreement and rate is the same as it was last year.

Mrs. Kozminski-VanderHart made a motion seconded by Mr. Stanard to suspend the rules of Ordinance 2021-01.

ROLL CALL:

AYES: Mr. Emerman, Mrs. Kozminski-VanderHart, Mr. Richman, Mr. Spencer, Mr. Stanard, Ms. Sturgis

NAYS: NONE

MOTION CARRIED

Mrs. Kozminski-VanderHart made a motion seconded by Mr. Richman for passage of Ordinance 2021-01.

ROLL CALL:

AYES: Mr. Emerman, Mrs. Kozminski-VanderHart, Mr. Richman, Mr. Spencer, Mr. Stanard, Ms. Sturgis

NAYS: NONE

MOTION CARRIED

**Ordinance 2021-02 - Introduced by Ms. Sturgis**

AN ORDINANCE AUTHORIZING ALL ACTIONS NECESSARY TO ACCEPT A NORTHEAST OHIO PUBLIC ENERGY COUNCIL (NOPEC) 2021 ENERGIZED COMMUNITY GRANT, AND DECLARING AN EMERGENCY.

Ms. Sturgis stated that Moreland Hills is a member of NOPEC and therefore eligible for this grant. The Village entered into an agreement with NOPEC last year for their grant program in 2020, which renews automatically. This legislation allows us to receive additional grant funding from last year's agreement.

Ms. Sturgis made a motion seconded by Mr. Spencer to suspend the rules of Ordinance 2021-02.

ROLL CALL:

AYES: Mr. Emerman, Mrs. Kozminski-VanderHart, Mr. Richman, Mr. Spencer, Mr. Stanard, Ms. Sturgis

NAYS: NONE

MOTION CARRIED

Ms. Sturgis made a motion seconded by Mr. Stanard for passage of Ordinance 2021-02.

ROLL CALL:

AYES: Mr. Emerman, Mrs. Kozminski-VanderHart, Mr. Richman, Mr. Spencer, Mr. Stanard, Ms. Sturgis

NAYS: NONE

MOTION CARRIED

**Resolution 2021-03 - Introduced by Mr. Spencer**

A RESOLUTION AUTHORIZING THE MAYOR AND/OR HIS DESIGNEE TO ENTER INTO AN AGREEMENT WITH JULIAN & GRUBE, INC. WITH THE APPROVAL OF THE STATE OF OHIO OFFICE OF THE AUDITOR, FOR AUDIT SERVICES FOR THE FIVE FISCAL YEARS ENDING DECEMBER 31, 2020 THROUGH DECEMBER 31, 2024 AND DECLARING AN EMERGENCY.

Mr. Spencer stated that this year Moreland Hills was chosen to have an outside company perform our audit, through the state. The State chose the company, with input from the Village. Four bids were received and Julian and Grube was the lowest. This ordinance will allow for an agreement between the Village and Julian and Grub for 5 years (at the same rate) for audit services. The amount paid is comparable to what the Village pays the State Auditor for the same services.

Mr. Spencer made a motion seconded by Ms. Sturgis to suspend the rules of Resolution 2021-03.

ROLL CALL:

AYES: Mr. Emerman, Mrs. Kozminski-VanderHart, Mr. Richman, Mr. Spencer, Mr. Stanard, Ms. Sturgis

NAYS: NONE

MOTION CARRIED

Mr. Spencer made a motion seconded by Mr. Stanard for passage of Resolution 2021-03.

ROLL CALL:

AYES: Mr. Emerman, Mrs. Kozminski-VanderHart, Mr. Richman, Mr. Spencer, Mr. Stanard, Ms. Sturgis

NAYS: NONE

MOTION CARRIED

**Ordinance 2021-04 - Introduced by Mr. Stanard**

AN ORDINANCE AMENDING ORDINANCE 2020-53 TO CORRECT A TYPOGRAPHICAL ERROR.

Mr. Stanard stated that Ordinance 2020-53, which Council approved in order to clarify the front setback for properties on South Woodland to be 150ft. There had been a typo with the wrong setback number. At that time, we attempted to modify Section 1151.07(f), but it should have been 1151.07(e), which is what this ordinance will allow us to correct.

Mr. Stanard made a motion seconded by Mr. Emerman to suspend the rules of Ordinance 2021-04.

ROLL CALL:

AYES: Mr. Emerman, Mrs. Kozminski-VanderHart, Mr. Richman, Mr. Spencer, Mr. Stanard, Ms. Sturgis



NAYS: NONE  
MOTION CARRIED

Mr. Stanard made a motion seconded by Mr. Richman for passage of Ordinance 2021-04.

ROLL CALL:

AYES: Mr. Emerman, Mrs. Kozminski-VanderHart, Mr. Richman, Mr. Spencer, Mr. Stanard, Ms. Sturgis

NAYS: NONE

MOTION CARRIED

**Ordinance 2021-05 - Introduced by Mr. Emerman**

AN ORDINANCE PROVIDING ADDITIONAL APPROPRIATIONS, TRANSFERRING ITEMS ALREADY APPROPRIATED AND DECLARING AN EMERGENCY.

Mr. Emerman stated that there are three items in this transfer ordinance this month. One is the normal transfer to the police pension fund from the general fund. The other two are advances from the general fund. One is to the water maintenance and repair fund for \$5,000 and the other to the sanitary sewer maintenance fund for \$20,000. The reason is that both funds are funded by direct revenues/assessments to property, and so at this time of year, there has not been sufficient revenue collected to fund repairs that would be drawn from these funds. Later in the year, as we have seen before, there will be a return of advances from these two funds back to the general fund. The \$5,000 for the water maintenance and repair fund is to pay Cleveland Water a fee that we pay each year for their hydrants. The \$20,000 is not currently tied to any specific repairs or maintenance projects at this time.

Mr. Emerman made a motion seconded by Mrs. Kozminski-VanderHart to suspend the rules of Ordinance 2021-05.

ROLL CALL:

AYES: Mr. Emerman, Mrs. Kozminski-VanderHart, Mr. Richman, Mr. Spencer, Mr. Stanard, Ms. Sturgis

NAYS: NONE

MOTION CARRIED

Mr. Emerman made a motion seconded by Mr. Stanard for passage of Ordinance 2021-05.

ROLL CALL:

AYES: Mr. Emerman, Mrs. Kozminski-VanderHart, Mr. Richman, Mr. Spencer, Mr. Stanard, Ms. Sturgis

NAYS: NONE

MOTION CARRIED

**MISCELLANEOUS**

Ms. Sturgis informed Council that she participated in the Chagrin Falls Schools Focus Group for the new superintendent. The application deadline is March 12 and the selection date is April 15. She stated that it was a very robust process with a lot of input from the community.

Mrs. Kozminski-VanderHart asked Chief Wyant how often the Village uses the Bedford jail. Chief Wyant stated that he does not know the numbers off hand, but they have used it several times already between the end of last year and the beginning of this year. He stated that it is really beneficial and they handle everything which makes it more convenient for his officers. Mayor Fritz asked Chief Wyant to follow up with Council with the actual numbers via email.

**-Pool Ordinance Update Discussion**

Mayor Fritz provided a timeline regarding the pool related issue. COVID presented everyone with challenges last year, therefore some residents were looking for some alternative activities for their families. As such, they put up temporary pools, which are different from the permanent above-ground pools, even though they look similar in appearance. They are defined by our Code as a “structure.” We have examples of these pools in side yards which is not a permitted use for a structure, including a very visible one on Miles Road, which is the one that brought this issue to light with concerns from residents. That led to an analysis of our existing Code, which showed that our temporary pool ordinance is a grey area. A determination was made to reevaluate it, with Council input of course, and look at our overall permitted uses.

To date, we have contacted other communities regarding their policies on these pools, asked our legal counsel to research and draft a memo detailing the related issues associated with these types of pools, and have shared that information with Council and the Planning Commission. A discussion was held with the Planning Commission. The Planning Commission's comments were related to Council at the Committee of the Whole meeting. He also forwarded an email from Mr. Bolek, Planning Commission member, that highlights his point of view, as he was unable to attend tonight's meeting.

Mayor Fritz stated that he wanted to have a discussion on the key components to give Mr. Hanna further guidance to be able to draft the amendments. He encourages questions, but would like to keep the conversation tight and reeled in.

Council has all had a chance to review this memo and additionally, he invited members of Council to meet with him in an effort to discuss this topic as well as the Sign ordinance issue. Several members took him up on this offer and he stated that he was careful to avoid any “round robin” discussion that would violate the Sunshine Laws.

The goal tonight is to have a discussion on three key points, which he would then like Council to weigh in on, and they are as follows:

- Permanent above ground pools prohibition and whether to keep that as is. The Planning Commission agrees to keep it the way it is.
- Prohibited use of temporary pools – do we want to consider allowing above-ground temporary pools? If so, what are the limitations? The Planning Commission does not think we should allow them as they consider them to be “above-ground” pools.
- Wading pools are not currently subject to restrictions; do we want to create limitations?

Mr. Emerman asked if hot tubs are included in that list or if they are considered something different. Mayor Fritz stated that they are different and will have to be written into the language when we amend this ordinance, which has been flagged with Mr. Hunt as something that needs to be defined. Ms. Sturgis asked about plunge pools/lap pools/resistance pools that appear to be above-ground pools. Mayor Fritz stated that if it is a structure and it is permanent, than it would be subject to our existing Code. He stated that not all hot tubs are below grade but the size limitation is something that would probably have to be carved out, as we currently do not define hot tubs in our code. This would be a good time to do so. It is also a good time to define the lap pools that Ms. Sturgis brought up, which were also brought up by Ms. Dean when discussing this ordinance with the Building Department. That will be addressed as we move forward but not tonight, as we do not have enough information at this time.

Mayor Fritz stated that before Council comments on those three areas, he would ask that Mr. Hanna give a quick synopsis on his goals moving forward and a quick recap of what to expect coming forward on the signage issue.

Mr. Hanna stated that he has had an opportunity to review the lists of questions and concerns regarding the sign ordinance that were providing to him last week. Most are issues that he can

readily address in an expanded memo to provide information for Council to understand what the parameters are, such as restrictions on total square footage versus square footage for an individual temporary sign. Another subject to be addressed in this memo would be the impact of the restrictions against content discrimination on questions of profanity or inappropriate language, the difference between profanity and obscenity, which can be banned. It does get a little complicated though, so the memo would be provided for Council's review prior to the next Committee of the Whole meeting.

Regarding the above-ground swimming pool discussion, he had the opportunity to talk to Mr. Hunt and view the minutes from last week's Planning Commission meeting. Mr. Hanna stated that his principal goal from Council's discussion tonight would be to hear the responses and the comments to the three areas that were identified by Mayor Fritz. This will help him think through how to define different types of structures in order to try to accomplish Council's goals. There were a lot of terms that just came up in the last 5 minutes that will require some careful definitions; infinity pools versus resistance pools. The current definition for what is called an "in-ground pool" talks about being "constructed within an excavation in the ground and substantially conforming to the natural grade of the surrounding land with no part thereof, other than the diving board or similar equipment or fence being higher than grade." He stated that he feels that some of the examples there were just discussed, even pools that may appear on a hillside or that architects/engineers are interested in installing in those locations, can challenge drafters of legislation to come up with definitions that will accomplish Council's objectives for regulating these structures.

At this time, Mayor Fritz asked that each Council member to provide their questions/comments on the three areas previously discussed.

Mr. Emerman stated that he has been thinking about this a lot and stated that he does not necessarily have strong opinions. He has gone back and forth on whether to keep the ban on above-ground pools, and did some research regarding the difference in safety for above-ground pools as opposed to in-ground pools. He did not find anything that could not be mitigated with the right regulations, so he asked if he could go last after listening to the rest of Council's thoughts.

Mrs. Kozminski-VanderHart stated that she feels the same as Mr. Emerman and stated that she has thought about it quite a bit on top of having discussions about it at the Planning Commission meeting. She stated that she feels that the current code, which prohibits permanent above-ground pools, should remain. We live in a community that does value the appearance of our land and our neighborhoods, and there is a Planning Commission dedicated to doing that in some respects. In

regard to the “kiddie” pools (wading pools), she stated that she had a small one in her backyard this summer and would hope that if she needed to move it to her side yard, there would not be an issue with her neighbors. Mrs. Kozminski-VanderHart stated that what she questions is the temporary above-ground pools and she feels Mr. Bolek’s comments adequately summarized what he thought. When it comes to eliminating ambiguity, the easy answer is yes versus no. However, there is personal experience and desire that comes in to play with it and she stated that she was not comfortable with sending her children to public pools this summer. There are a fair number of people that think the mental and physical health benefits of getting their kids out this summer was beneficial, but she is not sure how to best draft that into an ordinance. Her questions are if they should limit the amount time they can be up, the size, location, etc. Mrs. Kozminski-VanderHart stated that she would like to see the Village give residents who are just trying to do their best, the opportunity to do so. We are a Village that supports our residents and allowing those pools last summer was a way to do so, however it may be more of a grey area this summer and of course moving forward. She would like to see more discussion on that point, instead of just saying no because they are considered above-ground pools.

Mayor Fritz stated that to Mrs. Kozminski-VanderHart’s point, we did employ some leniency last year, in particular with one family that had the above-ground temporary pool. This can become an enforcement issue and informed Mr. Hanna that we would need some guidance from him on this, but stated that he feels that unique times call for unique efforts and actions. Perhaps, if Council agrees with Planning and wants to consider a prohibited use to include temporary above-ground pools, that we employ leniency again this year due to COVID. It may not be ideal, but these are not ideal times. Mr. Hanna stated that this type of issue has been popping up over the past 11 months, including expanding outdoor dining permissions for entertainment facilities and restaurants. Different communities have taken different approaches, and he thinks some of those approaches could be employed here to help manage the legislation. Mayor Fritz asked Council to keep in mind that if they agree with the Planning Commission that a temporary above-ground pool is an above-ground pool, from an enforcement standpoint, he feels that it would be prudent to employ a leniency period for another year, for all the reasons Mrs. Kozminski-VanderHart just stated.

Mr. Richman stated that his general thought is that while he thinks the temporary COVID nature of things drew us to think about this, he feels that this is more than a temporary COVID issue. He is hearing that the future may have other strains or pandemics, so what is important to him is that people want to feel safe and how they want to exercise their property rights. Mr. Richman stated that he spent some time researching some aesthetic zoning principals, what other communities

are doing, and safety issues in general. He stated that he would like to get general guidance on the importance and the need of balancing individual property rights with those of the municipality's exercise of its' powers to regulate health, safety and welfare, particularly when talking about aesthetic issues. His understanding that a lot of courts have generally stated that if there are ordinances that are partly based on aesthetic considerations, our power is not totally unlimited and we have to make sure we do not exceed reasonable bounds trying to pursue aesthetically pleasing locality as being an unreasonable exercise of those powers. He thinks it is a balance between property rights and the Village's rights.

Mr. Richman stated that it is time to revisit the above-ground pool prohibition, because he feels they have changed over the years and look a lot different than they once did. He has seen some that look better than in-ground pools. He has also seen some that are fenced in and partially incased in a wood deck that look beautiful. In his research, he found that 60% of pool accidents are from in-ground pools, 14% portable pools, and 9% from wading pools (they did not provide an explanation for the missing 14%). He thinks it would border on arbitrary to not consider this. He stated that we could have homeowners provide a plan to show that it will be in a preferred location, including a deck, with beautiful landscaping. As far as portable above-ground pools, he is fine with them being allowed. In looking at the examples sent by the Mayor, when looking at 176 square feet surface area and 3 foot depth, the following sized pools would all be under the 144 square feet which was mentioned in the memo; from 6 foot to 14 foot. A 15-foot pool would be over that size and therefore not considered portable. Beyond that size, in his mind, it is too big and reasonable to say that we will not go beyond that. He stated that the 3 foot depth would cover most of these pools. A 2 foot depth pool is the best choice for toddlers, but 3 feet and beyond is what is recommended for children older than toddlers and up, with adult supervision which is safer.

Mr. Richman stated that when looking at the ordinance currently, if we were to add a "kiddie pool" or "wading pool" to Section 1323.01(e), which will then define those smaller, inflatable pools, we should make them exempt from the permit, time limit, fence and location in yard requirements. Mr. Richman summarized by saying that he is for above-ground pools with the ability of having the homeowners show why they can be justified with screening, deck, and fencing; he is for portable above-ground pools with the sizes as mentioned; and he is also in favor of adding a kidding/wading pool definition with exceptions of the permit, time limitations, locations, and fencing requirements.

Mr. Spencer stated that he would be hesitant to change the long-standing prohibition of permanent above-ground pools. It would take more evidence and data around the desire for the residents to

want to make that change, as it has been in place for a long time and his sense is that the vast majority of residents would be opposed to changing it. He feels that they should not change that hastily, and if they were to change it, it should be done through a long process to really vet it out. As far as the temporary above-ground pools, he stated that he is less strong about that although Mr. Bolek's email did sway him a bit, regarding the enforcement issues. He stated that there could be exceptions for times like this (COVID), as Mr. Hanna suggested a "temporary ordinance" that would allow it during a pandemic or other extreme circumstances, as we are doing with the outdoor seating for some of our restaurants. Mayor Fritz stated that we are doing that for ML Tavern, so it is a relevant point. They have come before us three times to extend their permission, but moving forward they know that it is going to require more formal legislative action. There are checks and balances that would be a safety measure if we did consider that route. Mr. Spencer stated that he would advocate that same approach here and stated that he would be hesitant to allow these temporary pools as a quick decision because of what we are going through now, which he feels everyone would agree is a highly unusual circumstance. Mr. Spencer stated that as Mr. Richman stated regarding the wading pools, he would agree that they should look at the size and the depth of them. He has looked at a lot of different requirements and saw that 75 centimeters (2.5 feet) as a depth commonly used, and stated that he would be open to the 3 foot, but we just have to consider safety there. He feels we need to work to define what the size is and he would be open to any other data from communities that are similar to ours.

Mr. Stanard stated that the definitions section of the ordinance would need to include more terms than it currently does, such as "temporary" and "portable." Having these words well defined will help when writing the technical aspects of this ordinance. He stated that he wanted to mention to his colleagues that the Planning Commission minutes from the meeting last Monday, were included in their Council packet. Mr. Stanard stated that pages 6-9 are valuable for them to read because a number of the Planning Commission members have been around for a while and so their experience is such that they have seen things change over time and therefore have their thumb on the pulse of the community. He stated that he does not feel that the prohibition on permanent above-ground pools needs to be changed. It could dramatically change the neighborhood and he has not seen any reason for it at this time. Mr. Stanard stated that he is on the fence regarding temporary above-ground pools, but stated that this is where the importance of the definitions come into play. As he said, we need to define what "temporary" is (seasonal, monthly, a day, etc.) and what "Portable" means. His idea of a portable pool are the ones that can be bought at Walmart or Target that you use the hose to fill up and drain each night. A "portable" pool that ends up being a 14-foot diameter pool that needs 10,000 gallons of water is not a "portable" pool to him, which is why he feels that definition is critical. He is unsure about allowing temporary above-ground

pools, even for the short-term during a pandemic. If they are going to be allowed, it should require that a permit be obtained, because otherwise we will have a hard time enforcing the rules and regulations if we do not know where they are. He feels they should be located in the rear yard only, no exceptions. We may want to limit the season, months, duration they can be up. It can become problematic very quickly, because we already have residents that do what they want without contacting the Village/getting permits, so if they are allowed to do it one year, they are going to continue to want to do it. It can open us up to a lot of enforcement issues. Mr. Stanard stated that wading pools to him are kiddie/doggie pools and he feels should be hands off; the Village should have no business telling residents what to do with these small pools. To him, that is the homeowner's right because it is a daily/seasonal thing, but again we need definitions of all these terms. Mayor Fritz stated that Mr. Stanard brought up some good points and stated that it sounds like he has a transitional opinion when it comes to the definition of "temporary" and "portable" if we are talking about something that is small and can be dragged out into the yard as opposed to something that needs 10,000 gallons of water. Definition is key, which is the consensus he is hearing.

Ms. Sturgis stated she joins everyone's sentiments around the need to preserve the character of the Village. She stated that reading the Planning Commission minutes were very helpful. After serving on Council and living in the Village for a while now, she has noticed that the definition of "temporary" has changed with what has been available on the market. For her, it comes down to two things; the definitions and the technical aspect of how we define or categorize "temporary" "above-ground" "above grade" as well as the definitions for the different types of pools. She stated that in some parts of the country, different companies come in and set up the pool and remove it for the homeowner. They have not come into our area yet, but they are very common in the south. She stated that she does not know how all of that fits into this but she definitely knows that preserving the character of the Village is very important and having these structures that can be placed in areas they are not zoned for, does not fit the direction she feels they should go. Ms. Sturgis welcomes the interpretation of all these different types of pools. Mayor Fritz stated that he concurs with her on wanting more definitions and asked if she is still favoring the prohibition of the permanent above-ground pools. Ms. Sturgis stated that is correct, but she is open to understanding what the temporary above ground pool can look like now. She has seen some "plunge" pools in neighboring communities that she would consider to be "above-ground" pools. So depending on the definitions of things, that will determine how she feels on the temporary above-ground pool situation. She stated that perhaps they could look at combining those two, as they overlap in some regard. The wading pool situation is something she thinks they should consider, but again, it depends on how they will be defined.



Mayor Fritz stated that he has given this a lot of thought and stated that he is for the continued prohibition of above-ground pools, which is based on several issues. Mr. Richman makes a good argument about aesthetics and landscaping around an above-ground pool, however, it takes one storm to wipe some of that out and for the homeowner not to repair/replace it for it to look awful. So policing the continued up keeping of aesthetics could be an issue. He also based his opinions on the overwhelming input from residents that they are against removing that prohibited use. He agrees with the rest of Council that when it comes to his decision on temporary/portable pools, it is going to come down to definition. Mayor Fritz stated that it sounds like most of Council is in agreement that the wading pools are not an area they want to get into. We can define what they are and leave it at that. He is also a big advocate for allowing the portable pools during COVID, with good messaging, of course, that we are allowing leniency this year but informing them that they are going to be a prohibited use in the future. He will get guidance on legal counsel regarding that however he does value that option and would like to consider it when we are weighing out the temporary above-ground pools as a permitted use.

Mr. Emerman gave his thanks for allowing him to hear everyone's thoughts before he weighed in. He stated that he went back and forth quite a bit. He stated that he generally leans toward less regulation but he agrees with the prohibition of the above-ground pools, other than in a few circumstances. He feels it should remain because that has been in place for years and we have not gotten complaints, so it would appear the residents would want to keep that. The one reason he would shift the other way, as Mr. Richman mentioned, is that there could be a circumstance where an above-ground pool is completely encompassed by a deck and a fence would be installed in the yard, which would satisfy the aesthetic and safety issues. However, that may be a rare enough circumstance that it is not worth carving it out in the ordinance. Mr. Emerman stated that as far as the temporary portable pools, his biggest concern would be safety. If it stays up the whole season, he does not feel that it would be considered "temporary" and so he feels that a time frame would have to be defined. The fact that they would not require fencing makes him feel as though they would need to be emptied every day for safety reasons. He stated that he agrees with everyone else regarding not regulating the wading pools.

Mayor Fritz stated that he feels that they have gotten great input from all Council members. Mr. Hanna has some guidance now to try to take a first crack at the legislation.

Mayor Fritz thanked everyone for the patience and stated that there are some Staff members that will need to stay for an executive session.

Mr. Richman made a motion seconded by Mr. Stanard to go into Executive Session to discuss imminent litigation at 9:02pm.

ROLL CALL:

AYES: Mr. Emerman, Mrs. Kozminski-VanderHart, Mr. Richman, Mr. Spencer, Mr. Stanard, Ms. Sturgis

NAYS: NONE

MOTION CARRIED

Chief Wyant and Mrs. Arrietta left the meeting at 9:03pm.

Ms. Sturgis made a motion seconded by Mr. Richman to come out of Executive Session and adjourn the meeting at 9:39pm

ROLL CALL:

AYES: Mr. Emerman, Mrs. Kozminski-VanderHart, Mr. Richman, Mr. Spencer, Mr. Stanard, Ms. Sturgis

NAYS: NONE

MOTION CARRIED

The meeting was adjourned at 9:39pm.

Attest:

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Sherri Arrietta, Clerk of Council

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Steve Richman, Council President