

COUNCIL TRAINING SESSION
March 14, 2018
MINUTES

The Council Training Session was called to order by Mayor Renda at 6:30pm, in the Village Council Chambers.

PRESENT AT ROLL CALL: Mr. Buczek, Mr. Emerman, Mr. Fritz, Mr. Richman, Mr. Stanard, Ms. Sturgis

Also Present: Aimee Lane, Law Director, William Janke, Planning Commission Member, Sherri Arrietta, Clerk of Council

Mrs. Lane conducted a municipal officials training session for Council members and new Planning Commission member, William Janke (see attached outline).

The training session was adjourned at 7:22pm.

ALL IN FAVOR: ALL AYES

REGULAR COUNCIL MEETING
March 14, 2018
MINUTES

The Regular Council Meeting of the Village of Moreland Hills was called to order by Mayor Renda at 7:23pm, in the Village Council Chambers.

PRESENT AT ROLL CALL: Mr. Buczek, Mr. Emerman, Mr. Fritz, Mr. Richman, Mr. Stanard, Ms. Sturgis

Also Present: Aimee Lane, Law Director, Jeff Filarski, Village Engineer, Ted DeWater, Service Director, Chief Wyant, Sherri Arrietta, Clerk of Council

Mr. Richman made a motion seconded by Mr. Buczek to approve the minutes of the Regular Council Meeting of February 14, 2018.

ROLL CALL:

AYES: Mr. Buczek, Mr. Emerman, Mr. Fritz, Mr. Richman, Mr. Stanard, Ms. Sturgis

NAYS: None

MOTION CARRIED

Resident Comments

Mr. Fred Taylor (So. Woodland) wanted to comment on the proposed tree ordinance. He stated that he

lives on a wooded lot and has 100 trees over 8 inches in caliber on his property. He cuts down problematic, dead and nuisance trees on his property and burns wood in his fireplace. Mr. Taylor stated that he loves trees and has no desire to clear-cut his land, but he is still offended by this proposal. He feels that it reduces his freedom to take care of his property the way he wants to. Mr. Taylor stated that he would like a government with limited regulations and control on citizens. He stated that the amount of trees that can be covered under the “nuisance” tree clause is immense and it can get costly to the resident if they are being forced to get rid of them. He also feels that the timing is ironic since Moreland Commons is currently in the process of clearing trees, but now Moreland Hills wants to take away the residents rights to deal with trees the way they want to. Why now and why on every tree on every property? Limiting what people can do seems crazy and he wants to know how the Village is going to enforce it. Mr. Taylor asked if the Village is going to remove its’ nuisance trees on Village property. He stated that he feels like the ordinance is overkill and thinks the Village should just leave the residents alone.

Mr. Rob Kochis (Giles Road) also wanted to speak against the proposed tree ordinance. He stated that he lives on eleven (11) acres and has a thousand trees. He stated that he loves trees, however he cuts down nuisance trees on his property all the time. He has some trees that are over 300 years old that are registered with the Ohio Department of Nature Resources. Mr. Kochis stated that he has a few issues with the proposed ordinance; the first one being that he does not feel that it was very well drafted and it does not state how the resident is supposed to comply. It is also not clear who decides what trees can be cut down nor does it answer what the dispute resolution is if a resident wants to remove a tree and the arborist and building inspector say they cannot. He stated that there are many standards missing from this ordinance. The second issue he has with it is that it sounds like the Village is trying to impose a conservation easement by dictate. The Village is taking the value of residents’ land and removing it by regulation. Will the Village then compensate the residents for harvesting trees that they want to cut down or not allow him to clear the land to make a baseball field for his kids on his own property? Some of the standards are onerous and would cost him thousands of dollars or hours and hours of time to do the tree inventory. One provision states that it is a misdemeanor if the ordinance is violated and he feels that to tell a property owner that he/she can be in violation of the law for cutting a tree on his or her own property is very onerous. Mr. Kochis stated that he does not feel that there is a problem with cutting trees in Moreland Hills. He feels that most residents do a good job taking care of their own property. He stated that for all these reasons, he is opposed to this ordinance and agrees with Mr. Taylor.

Reports from the Mayor and Other Municipal Officials

Mayor

Mayor Renda did not have a report.

Police

Chief Wyant reported that Lt. Dietzel and Ptl. Bennett from Pepper Pike taught the A.L.I.C.E. Program at the school for two full days. He reported that there were three officers at the schools (Brady Middle and Orange High School) this morning for the national school walk out; there were no incidents.

Engineering

Mr. Filarski passed out information to Council regarding the current road conditions. He stated that he has worked up the numbers and has given them to Mr. Shah, however they do not include the Route 87 slide repairs. He stated that he still needs to talk to ODOT about that project because there is some money available in their geotechnical slide repair program (approximately \$500,000). Mr. Fritz asked if he is going to use the same concrete process on Twin Acre Court that was used on Creekview Circle last year. Mr. Filarski stated that he is and that he feels that it went well. Mr. Emerman asked if ODOT is required to address the slide at any point. Mr. Filarski stated that he is not sure if it is required 100%, but that it would be based on safety. If that slide were to extend resulting in the road needing to be closed, then we would be looking at a safety issue that would need to be addressed.

Service

Mr. DeWater updated Council on the salt situation and stated that they continue to have delivery problems with Cargill, as do all the other communities. He and Mrs. Murfello have been on phone with ODOT the last few days. Cargill is trying to get deliveries to them, but fortunately the Village has not been in a crisis yet and the Service Department is still conserving salt. The crews are doing an excellent job with that, and have received minimal complaints. He stated that he intends to keep this approach even after the salt situation is remedied. Mr. DeWater stated that there are other avenues to get salt, if they were to run into any problems. Mayor Renda informed Council that she received an email today complimenting the Service Department for keeping the roads clear.

Law

Mrs. Lane informed Council that retainer hours for 2017 totaled 523.6. Her retainer is capped at 500 hours, and beyond that, there is an hourly rate for each hour over the 500. She stated that they have been staying right around the 500 mark every year. Mrs. Lane informed Council that she will not charge for the additional hours over the 500 for 2017. As of January 2018, they are at 37.8 hours, which seems to be the standard amount per month.

Mrs. Lane updated Council on the lawsuit in conjunction with several RITA Communities that the Village is part of, challenging House Bill 49 (measure to challenge the central collection for net profit taxes). The case was heard at a preliminary injunction hearing; the court denied the preliminary injunction, found that the measure is constitutional and dismissed the entire case. They have not filed a notice of appeal yet, but the other communities represented by a firm in Columbus have.

Mrs. Lane also gave an update on Senate Bill 331 involving the lawsuit where hundreds of municipalities sued the state regarding the placement of small cell facilities along the public right of way. The court rendered a ruling on the one subject rule. There was a claim that Senate Bill 331 violated the one subject rule because it did not just address local control of the public rights of way regarding small cell facilities, but also addressed things like regulating puppy mills, minimum wage provisions, and a prohibition of bestiality. The judge found that it did not violate the one subject rule because all the items in the bill were geared toward limiting municipal home rule power. That decision has been appealed, briefed, and argued, and the parties are awaiting a decision. While the case has been in appeal, there have been a couple of other decisions out of other courts finding that the law is completely unconstitutional. In the intervening months, the wireless cable and electrical industries have been working with a group of representatives of Ohio municipalities to craft a bill, which has been approved by the House, and would significantly amend what was instituted under Senate Bill 331. This bill would give local communities more control over things like, aesthetics, height, ability to have more time to process applications, greater flexibility on

charging application fees and pole attachment fees, and being able to ask for alternate locations. She stated that both sides are optimistic that this measure will be adopted and all litigation dismissed.

Mayor Renda thanked Mr. Taylor and Mr. Kochis for giving their opinions. She informed them that there will be a Council Public Hearing next month on the issue where they can come back and present their point of view again. She informed them that Council will take their comments into consideration and look at the ordinance again.

Reports of Committees

BZA

Mr. Stanard reported that the BZA met on March 5, 2018. There was one item on the agenda, which had been continued from a previous meeting. The Strazzanti residence was requesting a variance to place an accessory structure in the side yard. They presented a lot of new information, which included a tree survey and screening of the structure from the roadway. The variance was approved. The next meeting will be on April 2, 2018.

Planning Commission

Mr. Stanard reported that the Planning Commission met on March 5, 2018, immediately following the BZA Meeting. The accessory structure for the Strazzanti residence was on the agenda. The structure is 24 x 20 and will be used as a gym. It was designed to match the house and will be screened from the roadway. It was approved. The Halpern residence located at 30 Falls Creek Circle had 14 acres of land transferred to them from the Smith residence located 36205 Miles, which was approved. There was an application for an addition at 20 North Strawberry Lane. The Planning Commission did not think that the addition was well suited for the existing structure. The applicant was given the option to and agreed to continue the matter at the next meeting. Luna Bakery applied for a sign at Moreland Town Square. The sign was well within the size limits and was approved. A Public Hearing was held for Ordinance 2018-03; setback requirements for corner lots, and for Ordinance 2018-10; tree ordinance. Those two ordinances were placed on first reading at Council in February and referred to the Planning Commission. The Planning Commission held a Public Hearing at which, there were some residents in favor of it and some that were not. There was a lengthy discussion, and ultimately, the Planning Commission recommended both ordinances back to Council for the April meeting. No changes were suggested to Ordinance 2018-03, but there were some language issues with Ordinance 2018-10, which were revised before this meeting. The next meeting will be on April 2, 2018.

Facilities Committee

Mr. Richman reported that the Facilities Committee did not meet this month. The next regularly scheduled meeting is April 3, 2018.

Roads & Safety Committee

Mr. Fritz reported that the Roads and Safety Committee did not meet this month. The next regularly scheduled meeting is April 3, 2018.

ORDINANCES AND RESOLUTIONS

Ordinance 2018-03 (Second Reading)-Introduced by Mr. Stanard

AN ORDINANCE AMENDING SECTIONS 1151.07, "SETBACK REQUIREMENTS," AND 1123.03, "DEFINITIONS," OF THE PLANNING AND ZONING CODE OF THE VILLAGE OF MORELAND HILLS REGARDING CORNER LOTS AND DECLARING AN EMERGENCY.

Mr. Stanard stated that this ordinance was put on first reading on February 14 and referred to the Planning Commission. Planning Commission held a Public Hearing on March 5. This ordinance is regarding the requirement for setbacks for corner lots. The current requirement is one that was made for a neighborhood with square lots but the Village is not comprised that way. It requires the side yard setback to be the same as the front yard setback, which makes it difficult to properly position a structure within those setbacks, ultimately making it necessary for a variance request.

Mr. Emerman stated that as it relates to Page 2, Subpart (b) "Front Setback on Through Lots," it was his understanding that the definition of "through lots" was going to be removed. He also suggested striking Subsection (b) altogether. Mrs. Lane stated that the Planning Commission's recommendation was to retain the definition of "through lot."

Mr. Stanard made a motion seconded by Ms. Sturgis to place Ordinance 2018-03 on Second Reading.

ROLL CALL:

AYES: Mr. Buczek, Mr. Emerman, Mr. Fritz, Mr. Richman, Mr. Stanard, Ms. Sturgis

NAYS: None

MOTION CARRIED

Ordinance 2018-10 (Second Reading)-Introduced by Mr. Stanard

AN ORDINANCE ENACTING NEW SECTION 521.15, "NUISANCES IN CONNECTION WITH TREES," OF THE GENERAL OFFENSES CODE AND AMENDING SECTION 1173.05 AND CHAPTER 1353, BOTH TITLED "CUTTING OF TREES" OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MORELAND HILLS, OHIO.

Mr. Stanard stated this ordinance was placed on first reading and referred to Planning Commission at the February Council meeting. Planning Commission held a Public Hearing on March 5 where there were residents in attendance who were both for and against it. There will be a Council Public Hearing in April. He stated that he wanted to address a few of the comments that were made tonight from residents. Mr. Stanard explained the genesis of the ordinance so that it was understood why it is being considered. Every year the Service Department marks the unsafe trees in the Village and puts that package out to bid for tree removal and essentially pays a lot of money to have that work done. The Village's budget has changed, and we can no longer afford that type of service. He stated that instead, what we can do is identify the unsafe trees and then ask the residents to remove them if it happens to be on their property. This is drafted so that the Village has a mechanism to enforce the removal of those trees for the safety and general welfare of the Village. There is no intention for us to be the "tree police."

The second reason it was drafted is that our Building Commissioner was noticing that people would take down a number of very sizable trees without a permit. The Village is not saying that you cannot take

down trees in your yard, however, we are just requiring that a permit be obtained to do so and by doing that, a conversation as to why the tree is coming down will be had, which can prevent a less prudent resident in clear cutting his lot. Mr. Stanard stated that nuisances trees, which should perhaps be more clarified in the ordinance, can be removed without a permit, but the Village is not going to force you to do it unless it can be unsafe for others. He explained that these types of ordinances do not just come out of nowhere, but instead are usually complaint based and this is how Council has to try deal with the issue.

Mr. Taylor voiced his concern that this is a law that is being passed and it could give a different (more strict) administration down the road the right to force them to cut down trees on their property.

Mayor Renda explained that this ordinance has actually been in effect since 2005 and they are just making a few changes to it. The changes will shift the burden to the homeowner to take down a dead or diseased tree that is a safety issue (i.e. by falling on someone's house). Currently, the Village has no ability to require a resident to take down a tree that is a potential hazard. We are also changing the diameter of the tree that can be cut down without a permit, from 24 inches to 8 inches, because when you see the amount of wood that can come out of a property by just taking down trees of that size (24 inches in diameter) it is staggering. She stated that perhaps what we did not consider is that people with large lots have different needs than people that live in a neighborhood. Mayor Renda stated that on her street, many trees were taken down at a property and it has changed the look of the neighborhood. She stated that many times people move in to the Village and do not realize that there is a common ethos that we do appreciate our trees nor do they realize that the ordinance exists and will cut down many trees, prompting neighbors to call the Building Department. The last thing we want to do is be "big brother" because that is not Moreland Hills and never has been. What we want to do is keep one person on a street from changing the look of the entire neighborhood. This ordinance has been on the books for at least a decade, without most people knowing it is there. Yes, we are changing it a little bit, but it has not harmed anyone. The reason it was passed in the first place was that someone bought a lot on Hiram Trail, not with the intention to live there, but only with the intention to clear-cut it. Mayor Renda stated that this ordinance can absolutely be tweaked and Council will seriously consider their comments as well as all others received.

Mr. Richman suggested striking the language "which has fallen" and add, "if persons, improvements or the village right of way is likely to be in danger" to the end of the phrase "including the property upon which its situated," in Section 521.53. He also suggested including an exemptions list of what you do not need to get a permit for.

Mayor Renda addressed Mr. Taylor's comment about the Village removing trees on their property; she stated that when a tree falls in Forest Ridge it is not a nuisance to anyone and letting it go back to nature is a good thing. When a tree is diseased and it has the potentiality of falling on SOM Center Road into wires and/or into the roadway, it is a hazard. The Village actually has some trees that are slated to be taken out along SOM because they are diseased Ash trees. Mayor Renda reiterated that the Village is not trying to be overly regulatory with this ordinance and that all resident comments will be taken into consideration.

Mr. Fritz stated that he remembers when this ordinance was first discussed years ago because the clear cutting on the Hiram Trail property caused an uproar since it changed the look of the neighborhood dramatically. He also remembers the number of people that attended those Council meetings, some in favor and some against. He stated that the ones that were against it had similar arguments to the ones raised tonight. Mr. Fritz stated that in his experience, the reason this comes up for discussion, is because someone is not adhering to it (mostly a new resident that moves in and starts clear cutting their property), not because someone is complaining about the Village administering this ordinance.

Mrs. Lane spoke to one of Mr. Richman's suggestions and stated that both Sections 1173.05g and Chapter 1353 have a list of exemptions for things that do not require a permit, and it includes the removal of trees as necessary to develop, in accordance with an approved development plan. Therefore, if someone wanted to put an outdoor sport court or anything of that nature in his or her yard, as long as it is approved by the Planning Commission, it does not fall under this ordinance.

Mr. Stanard made a motion seconded by Ms. Sturgis to place Ordinance 2018-10 on Second Reading.

ROLL CALL:

AYES: Mr. Buczek, Mr. Emerman, Mr. Fritz, Mr. Richman, Mr. Stanard, Ms. Sturgis

NAYS: None

MOTION CARRIED

Ordinance 2018-12 (As Amended)-Introduced by Ms. Sturgis

AN ORDINANCE AMENDING SECTION 931.06, "CONNECTION CHARGES," OF CHAPTER 931, "SEWERS," OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MORELAND HILLS AND DECLARING AN EMERGENCY.

Ms. Sturgis stated that Council passed Ordinance 2009-71, in August 2009 where NEORS D agreed to accept and treat wastewater flow from the users of the Creekside Waste Water Treatment Plant located between SOM and Creekside Drive in Pepper Pike, if the plant was replaced with a wastewater pump station and force main. Moreland Hills pumps its effluent to Creekside which ultimately goes to NEORS D for treatment. The change in this agreement is related to connection charges, and reflects a change in that amount. Also included are the cost splits for operation and maintenance as well as the cost for new tap-ins and the amount of reserve capacity available for future connections.

Ms. Sturgis made a motion seconded by Mr. Stanard to suspend the rules for Ordinance 2018-12, as amended.

ROLL CALL:

AYES: Mr. Buczek, Mr. Emerman, Mr. Fritz, Mr. Richman, Mr. Stanard, Ms. Sturgis

NAYS: None

MOTION CARRIED

Mr. Richman asked Mr. Filarski if at some point they won't need the 5% increase. Mr. Filarski stated that it depends on how the fund grows. These usually have an increase every year but the intent is to have enough money to do replacements and upgrades in the future to that facility. It will all depend on how many connections come in and how much is available. There will be an amendment to the agreement with Pepper Pike next month.

Ms. Sturgis made a motion seconded by Mr. Buczek for passage of Ordinance 2018-12.

ROLL CALL:

AYES: Mr. Buczek, Mr. Emerman, Mr. Fritz, Mr. Richman, Mr. Stanard, Ms. Sturgis

NAYS: None

MOTION CARRIED

Mr. Buczek made a motion seconded by Mr. Stanard to adjourn the Regular Council Meeting at 8:21pm.

ROLL CALL:

AYES: Mr. Buczek, Mr. Emerman, Mr. Fritz, Mr. Richman, Mr. Stanard, Ms. Sturgis

NAYS: None

MOTION CARRIED

The meeting was adjourned at 8:21pm.

Attest:

Sherri Arrietta, Clerk of Council

Dan Fritz, Council President