

REGULAR COUNCIL MEETING

May 12, 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; Lt. Todd Dietzel; Jeff Filarski, Village Engineer; Ted DeWater, Service Director; Sherri Arrietta, Clerk of Council; Jeffrey Sherwin & Susan Katz, Resident; Mark Druckenbrod, Resident; Julie Hullett, Chagrin Valley Times

Mr. Richman stated that he had one correction to last month's meeting minutes. On page 6, eleventh line from the top of the third paragraph, the sentence that starts "He also thinks that this is more restrictive because..." after the word "because" add the phrase "...no other above-ground pool exceptions are less than 100 square feet..."

Ms. Sturgis made a motion seconded by Mr. Stanard to approve the minutes of the Regular Council Meeting of April 14, 2021, as amended.

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.

Public Hearing

Mayor Fritz opened up the Public Hearing for Ordinance 2021-11 at 7:05am.

Ordinance 2021-11 is an ordinance amending various subsections of section 1171.03 of the planning and zoning code, "swimming pools," and various sections of chapter 1323 of the building code, "swimming pools," to clarify approval procedures and regulations applicable to swimming pools, hot tubs, and swim spas.

Mayor Fritz stated that this ordinance is scheduled for a third reading, which may or may not take place tonight. In an effort to streamline this process, he asked that residents raise their hands if they wish to speak, or un-mute themselves. When called upon, he would ask that they say and spell their name for the record. Everyone present will have a chance to speak this evening; however, he asked that they try to keep their comments to two minutes. He reminded everyone that a public hearing is not a question and answer format; it allows residents to raise concerns or support for proposed legislation. At this time, Mayor Fritz asked Mr. Stanard to give a recap of the relevant changes to this current ordinance and the process that has been undertaken to get it through the Planning Commission with their input.

Mr. Stanard stated he would give brief synopsis of the general understanding and a summary of the action taken by the Planning Commission with regard to this swimming pool ordinance. It was discovered that our existing code was very general in nature and only included one structure to be considered as a swimming pool. The first goal of the review was to expand the definition section to enable the Building Commissioner and other authorities to have a positive identification of the specific pool being considered. Currently, our proposed language includes specific language identifying swimming pools, plunge pools, hot tubs, swim spas, and wading pools. It is important to know that this definition section was actually the genesis of the review of the ordinance and the code section.

As the Building Commissioner and the administration became aware that there were some grey areas, or lack of clarity, in the existing language, a significant review effort was undertaken by the administration, Village Council, the Planning Commission, the Building Commissioner, Todd Hunt, Legal Counsel to the Planning Commission, and William Hanna, Village Law Director. Initial research and review performed by the Law Department provided draft legislation language, which would create the ordinance necessary to change the code and to draft text for Exhibit A *Section 1171.03 Zoning Code* and Exhibit B with proposed changes to *Chapter 1323* in the Building Code. These exhibits with the proposed Zoning and Building Codes were then sent to the Planning Commission for review. The Planning Commission regularly receives participation and support from the Village Engineer and Village Building Commissioner, and as such is familiar and comfortable with measurements, dimensions, areas, sizes, proportions, distances, etc. The review of the Planning Commission tends to focus on the metrics being considered.

After two Planning Commission meetings, one of which that included a public hearing, recommendations were made to the Village Council that the exhibits should allow wading pools up to 80 square foot surface area and 30 inches of water depth, allow hot tubs, swim spas, and plunge pools to be installed above or below ground to a maximum 100 square foot surface area

limit, after which point they are to be considered swimming pools and must be installed below grade. The exhibits should maintain the existing language, which requires all swimming pools be installed below grade. The exhibits should include new language for direction of outdoor recreational pools not listed, or not defined. The exhibits should modify the definition sections to require “swim spas” to include specific manufactured language to preclude home built current-generators, which may be incorrectly named “swim spas.” Many other aspects and details provided in the exhibits were discussed at length and general consensus was reached that affirms that the proposed code changes are appropriate and should be adopted.

Mayor Fritz asked if any resident present wished to speak about this proposed ordinance.

Mr. Mark Druckenbrod, resident on Jackson Road, stated that Moreland Hills is a remarkable place with all the natural areas and rural feel. He stated that he is familiar with pools, grew up in Shaker Heights with a pool, along with various other places he has lived. One of the most valuable things to him as a resident of Moreland Hills is the beautiful natural area and the limited streetlights and the large open spaces. He feels it is a very special area compared to other communities. He asked if there were any discussions regarding the sound and noise that travels from a group of individuals enjoying their pool, to other neighbors in either direction. He stated that he did read the various meeting minutes on this topic, but he wanted to know if there was any thought to the neighboring residents, who would have to “listen” to swimming pools throughout the summer.

Mayor Fritz stated that this is typically not a question and answer format, but he is going to take a little bit of liberty considering the small group of people here tonight. Mr. Hanna agreed that it was okay to do so. Mayor Fritz stated that from an administrative standpoint, he has had a similar concern with a larger non-residential occupancy that may be building a pool, and some residents are concerned about the noise, so it is on the radar. He stated that we do have existing noise ordinances and of course, any unruly/noise complaints can go through our Police Department. There is currently nothing in this proposed swimming pool ordinance as it relates to sound attenuation. To be clear, residents do have recourse with the existing noise ordinance and the Police Department could be called. Mr. Stanard stated that as Mayor Fritz stated there are current noise and other disturbance ordinances in place in Moreland Hills, including light pollution. If someone is disturbing the public, the Police Department can be called. When it comes to the swimming pools and noise directly related to them, we have to balance the rights of property owners to have a swimming pool and their ability to do that without disturbing their neighbors. The Planning Commission’s primary concern was the type, size, description, definitions, and the limits on the sizes of some of these structures, therefore their discussion did not include the potential increase in noise with an increase of the size of the pool.

Mayor Fritz informed Mr. Druckenbrod that he could put him in touch with Lt. Dietzel for a side conversation to elaborate on what kind of recourse the Police Department has. Mr. Druckenbrod stated that he appreciated that but he is not in need of that conversation. He stated that he just wanted Council to think about noise as a possible issue, because that is a real impact when enjoying the serenity of your property in Moreland Hills.

Mayor Fritz asked Mr. Sherwin and Ms. Katz, who were present at the meeting, if they wished to speak or if they just wanted to listen. Mr. Sherwin stated that they were just there to listen.

As no one else was present wishing to speak, Mayor Fritz declared the public hearing closed at 7:19pm.

Ordinance 2021-11 (Third Reading) - Introduced by Mrs. Kozminski-VanderHart

AN ORDINANCE AMENDING VARIOUS SUBSECTIONS OF SECTION 1171.03 OF THE PLANNING AND ZONING CODE, "SWIMMING POOLS," AND VARIOUS SECTIONS OF CHAPTER 1323 OF THE BUILDING CODE, "SWIMMING POOLS," TO CLARIFY APPROVAL PROCEDURES AND REGULATIONS APPLICABLE TO SWIMMING POOLS, HOT TUBS, AND SWIM SPAS.

Mrs. Kozminski-VanderHart stated that Mayor Fritz and Mr. Stanard gave a very comprehensive summary of this ordinance. There were no comments directly in opposition or concerning the changes in the ordinance that we have considered. There was some discussion regarding the order of the motions that needed to be made. Mr. Hanna clarified that the motion to place this ordinance on third reading should be first, followed by a motion a motion to adopt the ordinance, and finally a motion to amend the ordinance with the changes recommended by the Planning Commission.

Mrs. Kozminski-VanderHart made a motion seconded by Mr. Emerman to place Ordinance 2021-11 on Third Reading.

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. Stanard to adopt Ordinance 2021-11.

Mrs. Kozminski-VanderHart made a motion seconded by Mr. Stanard to amend Ordinance 2021-11, to update the definition of a wading pool as up to 80 square feet in surface area and 30 inches in depth.

Mr. Richman stated that based on the reasons he has stated in the last several meetings, he appreciates that everyone has worked hard and has made things less restrictive when it comes to the first draft. He believes the ordinance is still too restrictive in terms of wading pool size and in terms of disallowing above ground pools if they have the same type of requirements that the 50% portion does regarding their finish, enclosure and landscaping. He does believe there is a consensus otherwise and he is ready to vote. Mayor Fritz stated that to be clear, this is just a vote to amend the ordinance to include the upgraded requirements from 60 sq. ft. to 80 sq. ft. and from a 36 inch depth down to a 30 inch depth for wading pools. Mr. Richman stated that was correct, but that he would be in favor of further amending it to 100 sq. ft.

ROLL CALL:

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

NAYS: Mr. Richman

MOTION CARRIED

Mrs. Kozminski-VanderHart made a motion seconded by Mr. Stanard to adopt Ordinance 2021-11, as amended.

ROLL CALL:

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

NAYS: Mr. Richman

MOTION CARRIED

Reports from the Mayor and Other Municipal Officials

Mayor

Mayor Fritz reported that as of June 2, all health orders would be lifted in Ohio; masking, gathering, social distancing, etc. Ohio did not reach the metric of 50 or less cases per 100,000; however, he thinks we are at 123 and dropping a couple points each day, making us pretty close to that metric by June 2. The overriding sentiment is that the mass vaccinations are nearly 100% effective, per Governor DeWine, in helping to combat the spread. The Governor also feels that

based on the advice he has had and the fact that compared to neighboring states, Ohio is doing much better, he is comfortable lifting those orders on June 2. Mayor Fritz stated that he would have to have a discussion on what that means for the campus. The Governor did caution residents of Ohio that just because these orders are being lifted like other states already have done, that we should expect to see businesses still employing some of those restrictions.

Mayor Fritz stated that he has seen some garbage and debris along Chagrin Blvd. corridor and has also heard concerns about it from residents. Most of it appears to be construction debris from the Addison Lane construction project. Mr. Kowalczyk was sent out to inform the contractors that they need to clean up all the debris on the hill that is blowing down into the right-of-way and across to the other side of the street. Additionally, the Service Department is cleaning up some of the debris from the right-of-way on both sides of the street. Mr. DeWater has also reached out to the county to put that area on attention for the prisoner pick-up program. If Council should hear from residents about it, just know that it is being addressed and he would expect immediate action from the contractors, but if we do not get it, we can step things up through Mr. Kowalczyk.

There have been no real updates on the Smith Property on Miles Road. The current plans are stagnant and several developers and the Smiths are currently trying to work out terms on the purchase of that property. Mayor Fritz stated that he is staying in touch with one of the developers who is interested in purchasing it, as well as one of the adjacent property owners, so Council will be updated as soon as he hears anything significant regarding this property.

Reminder that Greening the Hills is this Saturday from 9:00am to Noon. Some Council and Green Commission members will be present. Council has been great in the past and are always eager to help. Since we are lifting the COVID restrictions that limited the number of volunteers last year, everyone is welcome to come if they choose. The Green Commission members will be wearing sandwich boards that Ms. Tesar has been working on with Mrs. Arrietta's help. The message on the boards will show residents proper curbside recycling techniques. The Green Commission continues to be good ambassadors on behalf of the Village to continue to support our "number one" designation at Cuyahoga County for recycling.

Mayor Fritz congratulated Mr. Spencer on the graduation of his daughter from college.

Hunting Valley has reached out to meet with members of Village administration and our Green Commission. Word has gotten out that we have a very engaged commission and they are very eager to hear about it. They also heard that we are doing good things with the use of video on our website and social media as well as informing residents on recycling via our newsletter. They are

hoping to partner with us so that we can help to get a consistent message flowing through the Chagrin Valley on proper recycling efforts, as well as possibly partnering up on some informational public events. It is great that communities are reaching out to work in tandem with us and he feels it is a great testament to the members of our Green Commission, who are an engaged group and are very committed to what they do. He stated that he is very proud of their efforts and was very proud to get that call from Hunting Valley today.

Mayor Fritz reported that he met with the Metroparks recently on one of the properties adjacent to the Metroparks in our Village. There is a newer invasive species called the Fig Buttercup, which is prominent in the spring and dies away pretty rapidly in June. The underground tubers are the network that become the invasive species, so most of the damage is underground spreading quickly. While this species may look pretty blanketing a forest floor, the damage is done via the tubers that act as a vine network underground, robbing the area of essential nutrients, so it does affect native species, including trees. It is not a plant that local animals eat and it spreads rather quickly. It is also not easy to eradicate like Garlic Mustard. This new species poses more of a significant threat so the Metroparks and the Village are going to be working together to encourage residents to attempt to eradicate it. However, currently one of the only ways to do so is to use chemicals. This is going to be difficult to message because we have many residents that greatly care about the environment and are very anti-chemical. We are going to try to work on something that is more palatable to the residents. Mayor Fritz stated that he will send Council a link that will provide a further explanation of this issue.

Police

Lt. Dietzel reported that he began working on a project in December to upgrade and overhaul the Village campus video system. He stated that he received three quotes; Gilmore Security, Guardian, and Chagrin Valley Dispatch (our IT providers). In discussions with Mayor Fritz and Mr. Shah, they would like to go with Gilmore, who submitted a very comprehensive quote. The Village also currently has some of their equipment on the campus, making them already networked in with the Police Department and Village Hall. They also have a good working relationship with our IT providers. The logistics still need to be worked out.

Lt. Dietzel reminded Council that the Community Kids Fishing Day is June 12. Posts for the event have been made on both the Police Department and Administration Facebook pages. The event will be broken into two sessions, like last year, and they are asking that people register ahead of time. Any questions can be directed to Chief Wyant. They are looking forward to having a fun day and they appreciate everyone's support and assistance with this event.

Service

Mr. DeWater reported that the mechanic was in touch with Cleveland Mack today, and they were wrapping up the repair on the rubbish truck, so barring any problems, they are anticipating getting that truck back at 11:00am tomorrow morning. They are still waiting on one part for the recycling truck, which is on back order. They do not have any idea when it will be delivered, but they are calling everyday to keep them informed after shipments are received.

He stated that pick-ups will be back on track with or without the truck arriving tomorrow, because one employee has volunteered to work two, ten-hour days per week so the automated truck can pick up rubbish in the morning, bring it to the dump and unload it, then come back and pick up the recycling in the afternoon. This employee will get a half-day off on Fridays so that no overtime is incurred and to allow the rest of the Service Department to get back to some of the duties they have fallen behind on because of these truck issues.

Engineer

Mr. Filarski reported that the bid opening for the pavilion is this Friday. There are two contracts for this project; one for the pavilion and the other for the site improvements, which includes the parking lot.

Finance

Mr. Shah was not present at the meeting.

Law

Mr. Hanna did not have a report.

Mr. Richman asked when the allowance for the Zoom meetings expires. Mr. Hanna stated that it expires on July 1, 2021. He stated that he has not heard anything new recently but he is not aware that it has changed as of yet. Mayor Fritz stated that at the last Mayor's and Managers meeting, one Mayor stated that he had "heard" that they were going to extend those orders through the end of the year, but nothing has been verified. He feels that with the announcement that all health orders will be lifted as of June 2, he would be surprised if they extended the virtual meeting allowance. Mayor Fritz stated that he would let Council know as soon as he knows anything.

Appointments and Confirmations

Mayor Fritz stated that there were some vacancies on the Parks Commission and so he has three appointments to make tonight, all of whom were recommended by other members of the Parks

Commission. His first is to appoint Ursula Freundlich for a two-year term, ending on December 31, 2022.

Mr. Richman made a motion seconded by Mr. Stanard to confirm the appointment by the Mayor, of Ursula Freundlich to the Parks Commission for a two-year term ending on December 31, 2022.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mayor Fritz stated that next member he would like to appoint and who was his recommendation, is Alex Czayka, who works at the WRLC. He stated that he believes that Mr. Czayka will be a tremendous asset to the Parks Commission.

Mr. Richman made a motion seconded by Mrs. Kozminski-VanderHart to confirm the appointment by the Mayor, of Alexa Czayka to the Parks Commission for a three-year term ending on December 31, 2023, finishing the term of Susan Renda.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Lastly, Mayor Fritz stated that he would like to appoint Carolyn Hardin-Levine to the Parks Commission for a term of two-years, ending on December 31, 2022.

Mr. Spencer made a motion seconded by Mr. Stanard to confirm the appointment by the Mayor, of Carolyn Hardin-Levine to the Parks Commission for a two-year term ending on December 31, 2022, finishing the term of Heather Prendergast.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mayor Fritz informed Council that they would all be sworn in on Friday at 1:00pm at Village Hall if anyone were interested in attending.

Reports of Committees -

Roads & Safety Committee

The Roads and Safety Committee met on May 4, 2021. Mr. Spencer gave a report based on the meeting minutes, which are attached. The next regularly scheduled meeting is June 1, 2021 at 8:00am.

Facilities Committee

The Facilities Committee met on May 4, 2021. Ms. Sturgis gave a report based on the meeting minutes, which are attached. The next regularly scheduled meeting is June 1, 2021 at 8:30am.

BZA

The Board of Zoning Appeals met on May 3, 2021. Mr. Stanard gave a report based on the meeting minutes, which are attached. The next meeting will be June 7, 2021.

Planning Commission

The Planning Commission met on May 3, 2021. Mr. Stanard gave a report based on the meeting minutes, which are attached. The next meeting will be June 7, 2021.

Parks Commission

The Parks Commission met on April 19, 2021. Mr. Stanard gave a report based on the meeting minutes, which are attached. The next meeting will be May 17, 2021.

ORDINANCES AND RESOLUTIONS

Ordinance 2021-19 Introduced by Mr. Richman

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN THE CUYAHOGA COUNTY JUVENILE COURT, CUYAHOGA COUNTY AND THE VILLAGE OF MORELAND HILLS FOR PARTICIPATION IN THE JUVENILE COURT COMMUNITY DIVERSION PROGRAM FOR 2021 AND DECLARING AN EMERGENCY.

Mr. Richman stated that he is extremely proud to introduced this ordinance and is also proud to be serving as one of the Village's juvenile magistrates for 17 years. This ordinance allows us to continue the program, which diverts juveniles who commit misdemeanors away from the

Cuyahoga County Juvenile Court system, as 2/3 of juveniles who appear in juvenile court for a first offense, end up coming back. To prevent that from happening, an informal hearing is held with one of the magistrates, Officer Scott Bennett, the juvenile and their parents, resulting in community service, apology letters, essays, etc. This program is over 90% successful and therefore we would like to continue this program.

Mr. Richman made a motion seconded by Mrs. Kozminski-VanderHart to suspend the rules of Ordinance 2021-19.

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. Stanard for passage of Ordinance 2021-19.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Ordinance 2021-20 - Introduced by Mr. Spencer

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH CHAGRIN VALLEY PAVING, INC. FOR THE 2021 ASPHALT PAVEMENT PROGRAM AND DECLARING AN EMERGENCY.

Mr. Spencer stated that six bids were received with the lowest and best from Chagrin Valley Paving in the amount of \$714,584.71, which was approximately \$32,000 less than the second lowest bid. This program is consistent and in line with what was discussed and passed as part of our fiscal budget. The Roads and Safety Committee recommended approval of Chagrin Valley Paving to complete this program, which is expected to begin in mid-June.

Mr. Spencer made a motion seconded by Mr. Stanard to suspend the rules of Ordinance 2021-20.

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. Richman for passage of Ordinance 2021-20.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Ordinance 2021-21 - Introduced by Mr. Emerman

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

Mr. Emerman stated that there are four items this month; two appropriations amendments and two transfers. The first appropriations amendment is for the Law Enforcement Trust in the amount of \$5,000 for drug enforcement related expenditures. The second is for Police Department Capital which was a donation of \$5,000 for new ballistic helmets. This will allow use of those funds to purchase those helmets. The typical transfer to the Police Pension fund for \$15,000 was made as well as a transfer to the General Bond Retirement fund. This is for the bonds for the Village Campus upgrades made a few years back. This payment in June is interest only, but the payment at the end of the year will be both principle and interest.

Mr. Emerman made a motion seconded by Mr. Richman to suspend the rules of Ordinance 2021-21.

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. Spencer for passage of Ordinance 2021-21.

ROLL CALL:

AYES: Mr. Emerman, Mrs. Kozminski-VanderHart, Mr. Richman, Mr. Spencer, Mr. Stanard, Ms. Sturgis
NAYS: NONE
MOTION CARRIED

Miscellaneous

Mr. Richman informed Council that he made a donation to Fire Marshal Jim Finley's Go Fund Me account for \$250.00 on behalf of the Mayor and Council.

Adjournment

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

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 8:21pm.

Attest:

Sherri Arrietta, Clerk of Council

Steve Richman, Council President