

REGULAR COUNCIL MEETING
May 9, 2018
MINUTES

The Regular Council Meeting of the Village of Moreland Hills was called to order by Mayor Renda at 7:01pm, 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, Chief Wyant, Sherri Arrietta, Clerk of Council

Mayor Renda asked if anyone had any additions or corrections to last months meeting minutes. Mr. Richman stated that on page 7, the sixth line down in the sentence that reads “The third phase will involve dye testing,” it should specify that it was the third phase “of the Greentree Pump Station I & I testing.” Also on page 11, second paragraph, second to last line, the amount should be \$425.00, not \$525.00.

Mr. Buczek made a motion seconded by Mr. Fritz to approve the minutes of the Regular Council Meeting of April 11, 2018, as amended.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Resident Comments

Mr. Rob Kochis stated that he wanted to discuss the tree ordinance; however he has not seen the most recent version. He wanted to reiterate that there are citizens opposed to this ordinance being changed, specifically requiring that a permit be obtained for cutting trees. He has spoken to a number of residents who are surprised that a permit is required to cut down trees on their own property. Mr. Kochis stated that he is specifically opposed to reducing the size of the trees from 24 inches to 8 inches.

Mayor Renda provided Mr. Kochis with a copy of the revised ordinance. She thanked him for the comments that he submitted last month and stated that they tried to consider his comments when they made the changes to the ordinance. Mr. Kochis stated that he appreciates this process, however he just fundamentally disagrees with these changes. He feels that this ordinance is a solution for a problem that does not exist in our community.

Mayor Renda stated that she has also heard from residents that have the opposite view. There are some people waiting for this ordinance to pass so that the Village can deal with their neighbors who have trees that are about to fall onto their property. She stated that they tried to consider everyone’s views through this process, but there is always a give and take. Mayor Renda stated, again, that she really does appreciate Mr. Kochis’s comments and stated that she and Mrs. Lane went through them all line by line when making the changes to the ordinance.

Mr. Fred Taylor stated that he also has commented previously about the tree ordinance. He stated that if Council wants citizens to participate, they should probably post the changes somewhere that people could see and comment on them. He stated that since he has not seen the most recent changes, he could not comment on them. Mr. Taylor stated that this approach to manage other people's property is not in keeping with the semi-rural nature of our community. He feels that it will encourage neighbors to fight about each other's trees and it is not helpful to the community. In going by Moreland Commons frequently, he has seen all the massive trees that have been cut down still laying on the property. If Council is trying to keep the community beautiful, why are all those trees still laying all over the lot? He stated that it is a blight on our community and asked if the Village is holding the developers accountable?

Mayor Renda informed Mr. Taylor that the trees had to be down before the Indiana bat's nesting season (by April 1), since they are an endangered species. It was also very muddy for a while so they felt that they would tear up the property more, if they were to get the trees out. She informed him that they are about ready to take down the houses and remove the trees from the property.

Mr. Taylor stated that he has one last point regarding the slide on 87. He drives by often, as he lives near it. The barrier that is set up, heading east, progressively sticks out into the road at an angle. He stated that if it were to be dark and raining, someone could potentially run into it. Mr. Filarski explained that the barrier is the only option because there is no ground behind it to place the barrier on and we cannot have a non-protected drop off area. The barrier is right against the curb and there is at least 20 feet of pavement, which leaves plenty of room to get around it. He stated that there are also reflectors on the barrier, but he will have Mr. DeWater check it for visibility in the evening. The barrier has been out there for several months, during snow and rain, and there have not been any issues. Mr. Filarski stated that there is not much that can be done about the angle and informed Mr. Taylor that it is only temporary until the slide can be repaired and the guardrail replaced.

Reports from the Mayor and Other Municipal Officials

-Engineering

Mr. Filarski described the two options for the repair of the Slide on 87. The first option would be a two-stage wall system, which consists of a series of two sheet pile retaining walls, 80 feet from the road and filling in behind it, up to another set of sheet piles. The second option, which they are looking at with ODOT's geotechnical engineer, are plug pylon walls, which consists of drilling a series of holes, 30" to 60" in diameter, with spaces in between them. Those holes are filled with steel rebar and concrete which provides retainage for the road. Currently, we requested proposals from two geotechnical firms to evaluate the options and provide a proposal for either one of those designs. Proposals are due next week and we are looking for them to contain initial cost, what the maintenance would be down the road, and constructability of one option versus the other. The sheet pile wall is much more impactful to the slope, and the other option is contained to the top of the slope.

Mr. Emerman asked Mr. Filarski if he anticipated risk of a subsidence to the east or the west of the current one. Mr. Filarski stated that there is always a risk. He stated that there is currently an existing retaining wall to the east. There is a bit of a plateau before the drop off on both the east and west sides. This area has always been closer to the road, so he would say that there is a low risk. Mr. Emerman asked if either option would make it harder to mitigate future subsidence on either side. Mr. Filarski stated that it would

not, because we can just continue with the same method that we decide to use. Mr. Taylor suggested that Mr. Filarski look at an area on Chagrin River Road because it is very thin on the north side, and the ground is cracking there. If there were to be water flow in that area, it would create the same problem because it is almost an immediate drop off.

Mr. Filarski updated Council on the funds for this project. ODOT has committed to \$300,000 and the Village will also get funds from the Ohio Public Works Emergency Funding but he is unsure of the amount at this time. They are expecting 3.5 million to be available statewide, and he has asked for \$660,000, of which, we will probably only get half. We are not getting anything from OEMA because one of their criteria was that there must be an inherent danger to personal property, such as a house, within 5 years and we would need to provide a statement by a geotechnical engineer stating that. He stated that he could not provide that statement because the house was not in inherent danger, only the road is and that does not count.

-Police

Chief Wyant reported that they have ordered the new police vehicle to replace vehicle #3941 and should receive it in a few months. He stated that they have also acquired an unmarked the vehicle for the task force.

-Law

Mrs. Lane advised Council that the retainer hours through March are 130.62, which seem to be on target for the year.

-Finance

There was no report from the Finance Department.

-Service

There was no report from the Service Department.

Appointments & Confirmations

Mayor Renda introduced Jessica Gift, who was one of the applicants for the open Council position. Ms. Gift comes with a lot of parks and recreation experience. She stated that she is currently looking for a Parks Commission Chair and Ms. Gift has graciously agreed to do this, and she is asking Council to confirm her appointment tonight.

Mayor Renda provided Council with a copy of Ms. Gift's resume, for those who did not see it previously. She stated that Ms. Gift works for the City of Cleveland. She is excited to have her on our Parks Commission at a time when we are going to be doing some very interesting things. Mayor Renda works with Ms. Gift on the NRAC Committee, where they approve grants for greenspace, and stated that she really enjoys working with her.

Mr. Fritz made a motion seconded by Ms. Sturgis to confirm the appointment of Jessica Gift as Park Commission Chair.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Ms. Gift stated that she is excited to work with Council and hopes that she can bring a lot to the table. She thanked everyone for the opportunity.

At this time, Mayor Renda swore in Jessica Gift as the Parks Commission Chair.

Reports of Committees

Facilities Committee

Mr. Richman reported that the Facilities Committee did not meet in May. The next regularly scheduled meeting is June 5, at 8:00am.

Roads & Safety Committee

Mr. Fritz reported that the Roads and Safety Committee did not meet in May. The next regularly scheduled meeting is June 5 at 7:30am.

BZA

Mr. Stanard reported that the BZA did not meet in May. The next meeting will be on June 4, 2018.

Planning Commission

Mr. Stanard reported that the Planning Commission met on Monday, May 7. There was a Public Hearing held for the Mancini residence, requesting a Conditional Use Certificate, which is on the Council agenda tonight. The previous month, they had applied for a new dwelling and it was determined that the affluent lines from the septic system would cross an ephemeral stream; ephemeral stream crossings are governed by our riparian setback codes, which require a Conditional Use Certificate. The Seegot Residence at 318 Bentleyville was requesting to replace their barn. They wanted to relocate it in exactly the same location, but in the process, it was determined that a portion of the structure encroached on the hillside setback area. Therefore, the owner applied to reinstate the same size structure, but they just shifted it a little to avoid the hillside, which was approved. The Fishman residence at 25 West Juniper Lane was requesting to remodel and build an addition to their home, along with a basement remodel, which was approved. Finally, there was an application for an updated garden wall, and an outdoor island with a grill at the Lyons residence at 55 Riverstone Drive. This application was looked upon very favorably because they asked for a variance for a wall that was 2.75' higher than the code allows the previous month. When they came before the Planning Commission this month, they were able to modify their design to eliminate the need for the wall variance. He stated that they also added a glass greenhouse to the project. The next meeting will be June 4, 2018.

APPROVAL OF BONDS, CONTRACTS, PLATS, ETC.

Mancini Residence

36020 Chagrin Blvd. (PP# 912-19-005)
Conditional Use Certificate –
PVC Pipe Installation Project in a Riparian Setback
Section 1173.07(e)(2)(A)

Mr. Stanard stated that the Mancini's presented an application for a new dwelling to the Planning Commission, which was approved conditioned upon the granting of a Conditional Use Certificate to allow the installation of three, 1-inch PVC force lines carrying affluent from the primary septic tanks to the secondary sediment area. This will require the crossing of an ephemeral stream.

The applicant had provided a letter to the Village with some conditions that they would adhere to in the process of crossing the stream and they are as follows:

- A 10 foot wide path of temporary disturbance through the riparian setback, however it was determined that a 15 foot disturbance area might be required to carry materials back and forth across the stream;
- No trees larger than 3 inches would be cut in the riparian setback area;
- The materials for the construction of the approved septic system would be delivered through the conditional use area;
- (3) 1" PVC schedule 40 conductors installed in an 8" wide x 3' deep cut, backfilled with existing soil;
- The area will be restored and replanted with native plants.

It was noted on the plans that the disturbed area was 20' wide; the Village Engineer recommended that 15' wide would be the maximum needed for the disturbed area. The applicant agreed and the Planning Commission's recommendation to Council was to approve the Conditional Use Certificate pursuant to the area of disturbance and restoration methods in the letter from Payne and Payne Builders dated April 19, 2018 (see attached Exhibit A).

Mr. Stanard made a motion seconded by Mr. Buczek to approve the Conditional Use Certificate for a PVC pipe installation project in a riparian setback to cross an ephemeral stream at 36020 Chagrin Blvd. (PP# 912-19-005).

Mr. Emerman asked if it would require a permit from the Army Corp of Engineers and/or the Ohio EPA. He would suggest that it is made clear to the applicant that they will need to look into that. Mr. Filarski stated that we can make it contingent upon that, but he thinks that the only one required would be from the Army Corps of Engineers. Mr. Emerman stated that he thinks they should make the motion contingent upon the applicant obtaining all other necessary permits from state and federal agencies.

Mr. Stanard amended the motion seconded by Mr. Buczek to add that the approval of the Conditional Use Certificate be contingent upon the applicant obtaining all other necessary permits from state and federal agencies.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

ORDINANCES AND RESOLUTIONS

Ordinance 2018-10 As Amended (Third 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 that this ordinance has been discussed several times and they have heard comments from residents, which has helped amend this ordinance dramatically. It has been combed over and considered numerous times. He stated that it was mentioned that this was a “solution without a problem,” and to that, he wanted to say that Council is not in the habit of writing ordinances for solutions without problems. There have been issues that have been brought to their attention and in their estimation, this is the best way to deal with the issues and provide the staff (Building Commissioner and Service Director) with the tools to do their jobs. There are two parts to this ordinance with the first part being a new section to eliminate the need for our hazardous tree program, which the Village has been funding. The second part amends two sections of the code that have been in existence for quite some time, without any negative feedback.

At this time, Mr. Stanard went over the changes that were made to the ordinance from the last iteration, which include some Council members’ comments as well as resident comments (See attached Exhibit B).

Mr. Stanard stated that he wanted to reiterate that the Village is not looking to infringe upon the rights of the citizens, however, in our neighborhoods, sometimes if more than four trees are taken down, it can create a dramatic effect on the landscape and the aesthetic value of that particular neighborhood. We just feel that it is appropriate that the Village is notified prior to the removal of trees.

Mr. Stanard made a motion seconded by Mr. Buczek to place Ordinance 2018-10 (as amended) on third reading and for passage. Mayor Renda asked if there were any questions.

Mr. Richman stated that he appreciates the consideration of his and the resident’s comments as well as the work that was done to modify this ordinance; however, he would like to suggest another change to the ordinance. He stated that Section 521.15(3)i should end after “the tree is located in a wooded area” and not distinguish whether it is on a parcel larger than 87,000 sq. ft. He does not believe that the size of the property should matter if the tree is in a non-landscaped area.

After much discussion, Council agreed to make the change that Mr. Richman suggested.

Mr. Richman made a motion seconded by Mr. Buczek to amend the motion to place Ordinance 2018-10 (as amended) on third reading and for passage, with the amendment to have Section 521.15(3)i read as follows: “the tree is located in a wooded area.”

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Ordinance 2018-15 (Second Reading) - Introduced by Mr. Fritz

AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF THE VILLAGE OF MORELAND HILLS OF A PROPOSED AMENDMENT TO ARTICLE IX, SECTION 4 OF THE CHARTER OF THE VILLAGE OF MORELAND HILLS, AND DECLARING AN EMERGENCY.

Mr. Fritz stated that this ordinance will be on second reading tonight and contains the language that will be provided to the voters for a 3 mill increase of our safety levy.

Mr. Fritz made a motion seconded by Ms. Sturgis to place Ordinance 2018-15 on second reading.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Resolution 2018-19 - Introduced by Mr. Richman

A RESOLUTION AUTHORIZING THE VILLAGE OF MORELAND HILLS TO EXECUTE AND FILE AN APPLICATION WITH THE OHIO DEPARTMENT OF NATURAL RESOURCES FOR FINANCIAL ASSISTANCE UNDER THE STATE OF OHIO NATUREWORKS GRANT PROGRAM.

Mr. Richman stated that this ordinance would continue the legacy to preserve natural resources at Forest Ridge by providing shelter and ADA accessible restrooms at the House on the Hill to make it open for public use. This resolution calls for Council to approve the filing of an application for a grant through the NatureWorks grant program to help fund those changes to the house.

Mr. Richman made a motion seconded by Mr. Emerman for passage of Resolution 2018-19.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Ordinance 2018-20 - Introduced by Ms. Sturgis

AN ORDINANCE AUTHORIZING PARTICIPATION BY THE VILLAGE OF MORELAND HILLS IN THE OHIO DEPARTMENT OF TRANSPORTATION WINTER CONTRACT (018-19) FOR ROAD SALT, AND DECLARING AN EMERGENCY.

Ms. Sturgis stated that the Service Director requested that we purchase salt for the 2018-2019 winter season. The minimum purchase requirement is 90% of the estimated salt tonnage requirements, which would be 3200 tons of salt.

Ms. Sturgis made a motion seconded by Mr. Buczek to suspend the rules for Ordinance 2018-20.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Ms. Sturgis made a motion seconded by Mr. Stanard for passage of Ordinance 2018-20.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Ordinance 2018-21 - Introduced by Mr. Emerman

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

Mr. Emerman stated that there are three appropriations this month. The transfer of \$200,000 was made to obligate funds for the House on the Hill, which was necessary before seeking the funds through the state. It does not mean we are required to spend the funds; however we are required to obligate them for the application to the state. A transfer of \$20,000 obligates funds to the drug trafficking fund to purchase a new vehicle and the \$600 transfer was for the replacement of a part on the mini excavator. Along with those three appropriations, there were three transfers from the General Fund to the Drug Traffic Fund, Police Pension Fund, and the Police and Fire Levy. The two transfers to the Police Pension Fund and the Police and Fire Levy are regular transfers because the safety levy currently does not fully support the operations of the safety services. The transfer to the Drug Traffic Fund is for the vehicle that was purchased along with other payroll items.

Mr. Stanard asked about the vehicle purchased out of the drug trafficking fund. Chief Wyant explained that the vehicle is for the officer assigned to the drug task force. The task force provides the full payment for the vehicle, however, it had to be purchased up front and they will then pay it back over a 3-year period.

Mayor Renda pointed out that we are appropriating the \$200,000 for the House on the Hill renovations but only because we are required to do so in order to apply for the grant. Whatever shortage there is between the grant and the amount we spend on the House on the Hill, will be made up from the fundraising that we will do. No money will come out of the General Fund; it has only been appropriated temporarily, but we will not actually spend any money on the House on the Hill. She stated that people have donated to Forest Ridge, in the past, in honor of someone who has died, or during the clam bake solicitation, so we have almost \$10,000 in the fund right now and we will continue to build on that. The architect and the builder are meeting tomorrow at the House on the Hill to come up with firm estimates and the grant will be submitted by June 1. Mayor Renda will continue to update Council as this process moves along.

Mr. Emerman made a motion seconded by Mr. Fritz to suspend the rules for Ordinance 2018-21.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mr. Emerman made a motion seconded by Mr. Buczek for passage of Ordinance 2018-21.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Miscellaneous

Mr. Fred Taylor, resident, stated that he feels that every citizen is going to be in violation of the tree ordinance. Under Section 521.15 (2) "Nuisances In Connection With Trees," it states "any tree, plant or

shrub, wherever located within the Village, infected with any parasite, insect, fungus, or pest which may be communicated to any other tree, plant or shrub.” He feels that every property in Moreland Hills, including Village property, will be in violation of this because it is part of nature.

Mr. Taylor stated that he was at the last meeting when they discussed the safety levy increase and wanted to know what the process is from the public’s standpoint to discuss it. Mayor Renda informed him that since our Treasurer, Mr. Shah, was not here tonight, we do not yet have the projections that he has created. We have a five-year capital improvement plan, which is in the process of being updated. She stated that they will hold a meeting in the summer, outside of their regular Council meeting, to talk to the residents. Mr. Taylor asked if Council will meet separately first. Mayor Renda explained that Council cannot meet privately because the State of Ohio dictates that every meeting we have has to be an open public meeting. We cannot talk about business of the Village privately, nor can three or four members get together and decide on any Village business. Everything that Council does is done in public, at one meeting or another. That is state law and we are very specific about following that law.

Chief Wyant stated that he wanted to provide some additional information about the task force. As arrests are made, the assets obtained through these arrests (physical property, cash, etc.) are disbursed to agencies, once they are adjudicated. It benefits the Village because that money can be used for purchasing equipment for the Police Department.

Mr. Buczek made a motion seconded by Mr. Richman to adjourn the Regular Council Meeting at 8:19pm.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

The meeting was adjourned at 8:19pm.

Attest:

Sherri Arrietta, Clerk of Council

Dan Fritz, Council President