

## REGULAR COUNCIL MEETING

August 4, 2021

### MINUTES

The Regular Council Meeting of the Village of Moreland Hills was called to order by Mayor Fritz at 7:00pm, in the Village Council Chambers.

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

ABSENT: Mr. Emerman

Also Present: William Hanna, Law Director; Sherri Arrietta, Clerk of Council; Jeff Davis, President Davis Development Group; Lisa Minnillo, owner Flour Restaurant; Joe Saccone, owner ML Tavern

Mr. Richman stated that he had one correction to last month's meeting minutes. On Page 3, third paragraph, the sentence that begins with "He suggested things such as a display board..." should have the following added to the end of the sentence "...and its history."

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

ROLL CALL:

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

NAYS: None

MOTION CARRIED

### **Resident Comments**

There were no residents wishing to speak.

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

Mayor Fritz welcomed everyone and apologized for the last minute text about masking tonight. He stated that he is just as unhappy about the state of affairs right now as everyone else, but the numbers in Ohio are going up again with the Delta variant. There is certainly justification from the CDC, enough so that the county has adopted their recommendations. At this point, they are only recommendations and not public health orders. With that change, he felt that it was best to default to where people feel safest, especially considering everyone's differing levels of concern.

He stated that he realizes that there are some who may not be as concerned as others, and he respects that, however he has to look at making the collective feel safe. Mayor Fritz stated that he would be reaching out to the Northeast Ohio Mayors and Managers Association to see what they are doing, however he feels that the information received today is explicit enough that we should wear masks tonight. He stated that we do have cross ventilation with a few windows open, the air purifying machine is on, masks are being worn, and we are social distancing, so he feels that we are doing everything we can to be safe tonight. He will be amending the campus protocols based on input received from Mr. Hanna, the Northeast Ohio Cuyahoga Mayor's and Managers Association, the Cuyahoga County Board of Health, and the Governors Office.

Mayor Fritz proudly announced the start of the improvements at Village Park. He thanked Council for working with him administratively to add to that project once it was brought to his attention that the Village would be saving some money on the 2021 Road Program. We had initially staged out the improvements to Village Park so that some of that paving would have been done next year as part of the road program. Mr. Shah, being the outstanding Treasurer that he is, likes us to save money when we can, so he was convinced that this was the way to go as far as doing it this year, because of the savings from the 2021 Road Program. He thanked Council for their support of this decision and informed them that it will require a change order in the near future.

The Community Garden access has been shut down for now while the paving is taking place, but it will be open again by the end of the week. He stated that the pavement looks better at Forest Ridge giving it a more polished look.

Mayor Fritz reminded Council of a few upcoming dates. Our Head for Hills event is October 9. He asked that they please encourage people to register for this event. There are currently 20 people signed up now but we still have plenty of time to continue to message our residents. He stated that they are working with the Service and Police Departments as far as the logistics of shutting the streets down. The race will start at Village Park, head south down River Road, and turn around at Jackson Field and come back.

The Employee Clambake will be on October 23. We have had a decent amount of donations so far. Mayor Fritz stated that we were hoping to have it at the new pavilion but since we may be cutting it too close with the construction schedule; we will be having it at Hiram House Camp instead. Courtney Guzy was nice enough to let us have it there again, as we used to in past years.

The Open House for the new pavilion is October 30, which is still on target as of now, but the date can fluctuate. We will keep everyone posted as the project progress if that date will change.

Mayor Fritz reported that the Village received the first round of ARPA funds this morning, in the amount of \$172,996.00, which is half the amount we are to receive. We should expect the second half to come a year from now. As far as what we are planning on using those funds for, Council seems to be aligned with the administration to spend it on something that would be a savings; on items that are anticipated costs that were in the budget. Like the CARES money, the guidelines may change and evolve over time, so Mr. Shah is recommending that we take the distribution received today, and hold onto it until we get the second half of it a year from now, when we may have more clear guidance on what we can use it for.

Mayor Fritz stated that he and Mr. Spencer met recently. They shared the desire to update Council on the use of body cams and flock cameras. He is happy to report that we are moving forward with flock cameras using the money we have from the drug task force. As far as the body cams, he has reached out to Senator Dolan's office. We are tapping breaks on it a little bit to see if we can get some of that free money from the state. That budget was passed so they will send information on amounts and the parameters on spending it, the timeframe, etc. If it is something that is going to be a year or more down the road, he stated that he thinks they are all in agreement that we will budget for these cameras. Chief Wyant, who was initially cautious about body cams, is now supportive of them and we are all looking at it as a positive thing for our officers. We recently had some accusations made against one of our officers by a resident and the dash cam proved to be very beneficial as it recorded all the audio, proving that the officer did not say any of the things he was being accused of. It was a great example of how technology can be helpful.

Mayor Fritz updated Council on the status of the Chagrin Valley Fire Department resolution. He stated that they had a very productive meeting at Committee of the Whole with Chief Zupan and Assistant Chief Catani. He thanked Council for their support. Mayor Spremulli has finished drafting the resolution. The Mayors of the six participating communities have that draft and are reviewing it, as are Mr. Shah and Mr. Hanna. It is non-binding and is contingent upon the agreement of how the escrow account is to be set up for distribution of overages, should there be any. We are hoping to have it on our Council agenda in September or October.

Mayor Fritz provided an update on the Inclusion Commission. Mr. Hanna received feedback from Roseville, Minnesota and has circled back to Ms. Sturgis, whose idea it was to create this commission. Ms. Sturgis has added a few other suggestions. It is ready to go but he would like to discuss it at Committee of the Whole first.

Mr. Richman informed Council of the volunteer opportunities at the Head for the Hills event which will be on October 9.

There were no reports from other municipal officials as no Department Heads were present.

## **Reports of Committees**

### **Roads & Safety Committee**

The Roads and Safety Committee met on July 27, 2021. Mr. Spencer gave a report based on the meeting minutes, which are attached. The next regularly scheduled meeting will be on August 31, 2021.

### **Facilities Committee**

The Facilities Committee did not meet on July 27, 2021. The next regularly scheduled meeting will be on August 31, 2021.

### **BZA**

The Board of Zoning Appeals met on August 2, 2021. Mr. Stanard gave a report based on the meeting minutes, which are attached. The next regularly scheduled meeting will be on August 30, 2021.

### **Planning Commission**

The Planning Commission met after the BZA on August 2, 2021. Mr. Stanard gave a report based on the meeting minutes, which are attached. The next regularly scheduled meeting will be on August 30, 2021.

### **Parks Commission**

The Parks Commission met on July 19, 2021. Mr. Stanard gave a report on the meeting minutes, which are attached. The next regularly scheduled meeting will be on August 16, 2021.

## **Approval of Bonds, Contracts, Plats, Etc.**

### **ML Tavern**

34105 Chagrin Blvd. – Moreland Towne Centre  
Conditional Use Certificate  
Modification for Restaurant Outdoor Seating

### **Flour Restaurant**

34205 Chagrin Blvd. – Moreland Towne Centre  
Conditional Use Certificate  
Modification for Restaurant Outdoor Dining

Mr. Stanard stated that these are two separate items but are very similar. The applicants are asking to continue and slightly increase the outdoor dining allowance that has been granted at Moreland Town Centre. He reminded Council of the approval process for conditional uses and stated that both requests were recommended for approval to Council, from the Planning Commission. Council can then refer it back to the Planning Commission for additional information, confirm their recommendation with changes, or approve it as recommended.

Per the Code, outdoor dining at a restaurant has 10 criteria that needs to be met. The Planning Commission was satisfied that all items were met. Mr. Stanard stated that the discussion at the Planning Commission centered on parking spaces and how many parking spaces are required. Chapter 1179.07 of the Codified Ordinances has a schedule that lists, by the type of business, how many parking spaces have to be provided per the activity in that establishment. A retail establishment requires one space per 250 square feet and a restaurant is either one space per 50 square feet or one space for every two seats. Typically, the latter is the one that the Village Council and Planning Commission have observed. The business owners are required to provide a parking assessment per that Code section, by analyzing each of the businesses and determining what their primary use is and how many spaces are required. There are 205 parking spaces required and 174 available. There were four major factors that the Planning Commission considered while analyzing, discussing, and making the recommendation. There is currently a lease between the Heritage Corporation (business to the east of Moreland Towne Centre) that up to 30 spaces are to be made available for employees of Flour and ML Tavern. By doing so, Moreland Town Centre has obviated the need for 30 spaces in their lot. In addition, some of the parking spaces are available after 3:00pm during the week and some are available after 5:00pm during the week. They are all available all weekend long. The Planning Commission thought it was important enough to include that lease as a condition in the motion for the conditional use certificate, for both applications.

Another consideration was the daytime versus the nighttime. Luna Bakery is closed by 5:00pm, J3 is only open until 6:00-7:00pm, and the Young Realty business, which has a low use for parking spaces, closes at 6:00pm. Whereas, ML Tavern and Flour are nighttime establishments and meet their maximum needs at dinnertime. The daytime and nighttime needs are flexible and help to enable for a lower number of spaces. Summer versus winter was also considered as winter will not be as busy. Finally, the facility is currently operating in the proposed model, with the exception of the request to add 14 seats at ML Tavern. The COVID-19 Pandemic has changed many things, one of which would be the restaurant dining experience, for now and into the future.

Mr. Stanard stated that the Planning Commission recommended approval of both conditional use

certificates, the new and the modified, with one condition, which was to require the continued lease agreement with Heritage Corporation to alleviate the parking space requirements.

Mr. Richman stated that the materials provided to Council were comprehensive and he appreciated that. He stated that the request is logical to him and asked if there have been any issues between the tenants as far as parking. His second question is if the option to renew the lease agreement to 2031 was exercised.

Mr. Davis stated that he discussed two more lease extensions to go until 2041, with the Heritage Corporation. He stated that there have been no issues. As it relates to parking, with the different times of day and with the restaurants not at full capacity all the time, they have had no issues. Mayor Fritz stated that the Village has had no concerns or complaints and they really are operating under the model currently, absent a few tables. He stated that the Planning Commission was convinced with the current conditions and additional seating, it would not be a hardship.

Mr. Spencer asked for a point of clarification. Since Luna Bakery is also a restaurant, could they desire to stay open later in the evening in the future? If so, how might that be handled? Mr. Davis answered that he has been very careful with occupancies in Moreland Towne Centre. It is in Luna's lease that they have to close at 5:00pm. While ML Tavern could open during the day if they chose to, he does not think it would be a huge problem. Mr. Davis stated that he can understand the concern, but from a business perspective, he can say that people would not want to lease from him if there were any problems.

Mayor Fritz stated that the Planning Commission was convinced that Mr. Davis and his goals with this plan at Moreland Towne Centre does work. He stated that the commission did also bring up the question about what happens if one of the spaces becomes vacant and another restaurant wants to come into that space. The commission was very clear that it would be problematic and so Mr. Davis is aware of that and should that happen, we would have to navigate around the issues, parking being one of them. Mayor Fritz stated that after that discussion the commission and Mr. Davis are all on the same page.

Mr. Stanard stated that it is important to note that Codified Ordinance Chapter 1177 states that this conditional use certificate is granted with this set of operating conditions, so if any of them change, the applicant would have to reapply.

**ML Tavern –**

Mr. Stanard made a motion to amend the motion seconded by Mr. Richman to approve the

application for the modification of the Conditional Use Certificate for ML Tavern to include the lease agreement with Moreland Town Centre and the Heritage Corporation as a condition.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

**Flour –**

Mr. Stanard made a motion seconded by Mr. Richman to approve the Conditional Use Certificate modification for restaurant outdoor dining for Flour Restaurant, with the inclusion of the lease agreement with Moreland Town Centre and the Heritage Corporation as a condition.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

**ORDINANCES AND RESOLUTIONS**

**Ordinance 2021-32- Introduced by Mr. Stanard**

AN ORDINANCE AUTHORIZING CHANGE ORDER NO. 1 WITH CARRON ASPHALT PAVING, INC. FOR THE FOREST RIDGE PRESERVE PAVILION – CONTRACT B SITE WORK AND DECLARING AN EMERGENCY.

Mr. Stanard stated that unsuitable soil was found, which is not soil suitable for building on. This requires digging it out, putting stone down and a geotech grid so that you can then build on it. The cost to do this is an increase to the contract in the amount of \$3,654.00.

Mr. Stanard made a motion seconded by Mr. Spencer to suspend the rules for Ordinance 2021-32.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Mr. Stanard made a motion seconded by Mr. Spencer for passage of Ordinance 2021-32.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

**Ordinance 2021-33-Introduced by Mrs. Kozminski-VanderHart**

AN ORDINANCE AUTHORIZING CHANGE ORDER NO. 2 WITH WOODFORD EXCAVATING FOR THE 2020 CULVERT AND DRAINAGE PROGRAM AND DECLARING AN EMERGENCY.

Mrs. Kozminski-VanderHart stated that this change order will close out the contract for the 2020 Drainage Program, and is for an additional net increase of \$5,223.61.00. Council approved Change Order No. 1 in April for \$3,650.00. The original contract amount was \$111,929.00 and these two change orders bring the contract total to \$121,787.08.

Mrs. Kozminski-VanderHart made a motion seconded by Mr. Stanard to suspend the rules for Ordinance 2021-33.

ROLL CALL:

AYES: 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 for passage of Ordinance 2021-33.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

**Ordinance 2021-34 - Introduced by Mr. Spencer**

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

Mr. Spencer stated there are three amendments to the appropriations this month. An additional \$1,000 was allocated for Capital for the Police Department because an additional \$1,000 over what was appropriated for was needed for a new hot water tank for the PD. This will ensure that the

additional funds will be available for that. For the next two items, the net for the House on the Hill is zero because the budget was in the Contractual Services line and it has been determined that some of the hardware (bathroom structure, etc.) should actually be under Capital. Therefore, \$120,000 was transferred from Contractual Services to Capital. There was one advance from the General Fund to the House on the Hill fund for \$52,000, which is an advance to the House on the Hill budget because most of that budget is going to be paid for by grants. Since they are reimbursements grants, the General Fund will fund the House on the Hill, and then as the reimbursement money is received, it will be transferred back to the General Fund.

Mr. Spencer made a motion seconded by Mr. Stanard to suspend the rules for Ordinance 2021-34.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Mr. Spencer made a motion seconded by Mrs. Kozminski-VanderHart for passage of Ordinance 2021-34.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

**Ordinance 2021-35- Introduced by Mayor Fritz**

AN ORDINANCE CREATING THE AMERICAN RESCUE PLAN ACT (ARPA) FUND WITHIN THE FINANCIAL RECORDS OF THE VILLAGE OF MORELAND HILLS, AND DECLARING AN EMERGENCY.

Mayor Fritz asked Mr. Hanna to explain this ordinance. Mr. Hanna explained that this ordinance is similar to the CARES Act last year, where the Village created a special fund, which allows us to track and demonstrate that funds were used for the qualifying purposes.

Mayor Fritz made a motion seconded by Ms. Sturgis to suspend the rules for Ordinance 2021-35.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Mayor Fritz made a motion seconded by Mr. Richman for passage of Ordinance 2021-35.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

**Ordinance 2021-36- Introduced by Mayor Fritz**

AN ORDINANCE AUTHORIZING THE VILLAGE OF MORELAND HILLS TO ACCEPT THE MATERIAL TERMS OF THE ONE OHIO SUBDIVISION SETTLEMENT PURSUANT TO THE ONE OHIO MEMORANDUM OF UNDERSTANDING AND CONSISTENT WITH THE TERMS OF THE JULY 21, 2021 NATIONAL OPIOID SETTLEMENT AGREEMENT; AUTHORIZING THE MAYOR TO EXECUTE THE PARTICIPATION FORM FOR THE ONE OHIO SUBDIVISION SETTLEMENT AND DECLARING AN EMERGENCY.

Mayor Fritz stated that this ordinance was borne out of a discussion last week regarding a settlement with opioid monies to the county. They gave a very short window for passage, such that some communities will probably be unable to do it. The deadline is July 13.

Mayor Fritz asked Mr. Hanna to explain this further. Mr. Hanna stated that this has been developing through litigation over a period of time, but the announcement of the settlement for 26 billion dollars is involved with three major distributors, each chipping in seven billion dollars, and Johnson & Johnson chipping in another five billion dollars. This will result in payments over a period of 18 years to state and local governments. In Ohio, the expectation is that over 800 million dollars should go to state and local governments. There is an allocation formula that seems to have to do primarily with the incidences of opioid overdoses and problems, but it does not tract real well with population. For Moreland Hills, the direct payment to the Village would be between \$5,000 and \$9,000 but there is a substantial percentage of the monies that are coming to the State of Ohio that will be put into a trust and redistributed back out to local governments, on an as needed bases.

The reason it is beneficial for as many local governments as possible to support and opt-in to the settlement, is because the more that opt-in, the greater the amount of money will be that flows to the state for incentive payments based upon percentage of local governments that decide to participate. There were certain local governments that were involved in litigation against the opioid distributors and industry, and the participation of those governments is even more valuable and more valid to the state.

Mayor Fritz stated that this ordinance allows the Village to participate in this program and to get

these reimbursements. Mr. Hanna stated that the money could be used for opioid abatement, treatment, NARCAN, intervention, education, and recovery. There is also an injunctive element that requires the distributors to track and report suspiciously large orders. It will also involve J&J agreeing that it will not manufacture or lobby for opioid products, for a period of time.

Mr. Richman asked if the settlement agreement memorializes the memo of understanding. Mr. Hanna stated that it is consistent with it, but the MOU has to do with internal State of Ohio local government procedures for allocating the funds and how it plays out over a period of time. The specific document that is being authorized by this legislation is the participation form to indicate that the Village will be a participating local government, resulting in the state receiving more money.

Ms. Sturgis asked if there was a specific date the fund has to be exhausted. Mr. Hanna stated that he is not aware of that, and since the payments are going to flow over a period of 18 years, there will be bigger payments the first two years while they figure out how many people are participating.

Mayor Fritz made a motion seconded by Mr. Richman to suspend the rules for Ordinance 2021-36.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Mayor Fritz made a motion seconded by Mr. Richman for passage of Ordinance 2021-36.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

### **Miscellaneous**

Mayor Fritz stated that the Change Order for the additional paving at Forest Ridge would be around \$27,000 which is equivalent to or less than the amount of money that will be saved on the road program this year. If any drastic changes are made to that number, he will let them know. He thanked Council again for their support on this. The Change Order will be on the agenda next month.

**Adjournment**

Mr. Spencer made a motion seconded by Mr. Stanard to adjourn the Regular Council Meeting at 8:11pm.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

The meeting was adjourned at 8:11pm.

Attest:

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Sherri Arrietta, Clerk of Council

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Steve Richman, Council President