

REGULAR COUNCIL MEETING

July 13, 2016

MINUTES

The Regular Council Meeting of the Village of Moreland Hills was called to order by Mayor Renda at 6:05pm, in the Village Council Chambers.

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

Mr. Richman made a motion seconded by Ms. Sturgis go into Executive Session at 6:07pm for the purpose of discussing personnel, specifically Building Department staffing and compensation, and to meet with legal counsel regarding pending or imminent litigation.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mr. Sherck left the meeting at 6:20pm.

Ms. Sturgis made a motion seconded by Mr. Fritz to come out of Executive Session at 7:15pm and go into regular session.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mr. Sherck returned to the meeting.

The Regular Council Meeting of the Village of Moreland Hills was called to order by Mayor Renda at 7:19pm, in the Village Council Chambers.

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

Mr. Richman made a motion seconded by Mr. Buczek to approve the minutes of the Council Public Hearing of June 28, 2016.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Resident Comments

Mrs. Eileen Stork, Moreland Hills resident, stated that she has lived in Moreland Hills for 29.5 years. She was in dismay and shock to find out that her property was on the “chopping block” without receiving any notification from the Village or from a developer. Mrs. Stork stated that her neighbors did not know about it either and that she found out in May when a neighbor called to inform her that they are planning to build condos and cluster homes in her backyard. Sometime prior to the June meeting, which she attended, someone had put a Chagrin Valley Times article about this in her mailbox. She stated that she also discovered that there had been several articles; however, she does not get the Chagrin Valley Times. Mrs. Stork stated that she would have attended the meetings if she had known about them. She stated that she would invite Council to come to her driveway to the tranquil, treed homes that cannot be seen from Chagrin Blvd. and tell her that those homes are not worthy of Moreland Hills and everything that Moreland Hills stands for. Mrs. Stork stated that she does not understand and certainly cannot believe that this Council would choose to do this, because she always thought they were responsible and she has always been impressed with their environmental responsibility based on what she has read in the mailings. The extra 20 acres added to the original proposal involves some very nice homes and some beautifully developed property, and that is why she would like to retire there. Mrs. Stork stated that she is flabbergasted that there was no notification by any involved.

Mayor Renda informed Mrs. Stork that the underlying 2-acre zoning remains and that there is no push for her to join any planned development unit so if she wants to stay in her house as it is, she can. There will be a buffer between the new community and the community that exists. The additional 20 acres were added as a potential re-zoning, at the request of one resident.

Dr. Andreas Alexopoulos, Moreland Hills resident, stated that the Village should have had at least a moral obligation to inform them directly. He stated that he does not understand why the Village is hiding behind the idea that there are only 14 owners; the rest of the owners were not informed.

Mayor Renda agreed with Dr. Alexopoulos and stated that she believed that the Village did make that attempt but that we must have failed at it. She stated that it was not deliberate. Dr. Alexopoulos stated that Council should admit that they made a mistake; it is not about the attempt. He stated that he read the minutes where Mayor Renda clearly stated that she would contact people in July after it was on the ballot. Mayor Renda explained that what Dr. Alexopoulos is referring to is once the chapter was defined, then she planned to write a letter to every resident to inform them of exactly what it consists of. This chapter has been going through a process and has been changing so she stated that she had planned to inform the residents of exactly what it was once it was finalized. She stated that what they tried to do all along is inform the residents about it by putting it on the website, in our newsletters, and by contacting people.

Dr. Sophia Pachydaki, Dr. Alexopoulos' wife, stated that she was pregnant, had a one-year old baby at home, and was not working, but they still invested money into their house to fix it up. She stated that no one had the human courtesy to tell them about this. Dr. Pachydaki stated that they are not just a parcel; they are a family with kids in the school district. She stated that her future and her children's future was affected.

Dr. John Stork, Moreland Hills resident, asked since the 20 acres was added based upon one resident, why can't they be removed based upon the request of five residents.

Mr. Tony Vacanti, with Buckingham, Doolittle, and Burroughs, LLC and attorney for Dr. Alexopoulos and Dr. Pachydaki, provided Council members with a letter. He stated that his clients bought the property located at 33755 Chagrin in 2012 because of the low density rural character of Moreland Hills. The Village fought to protect the 2-acre zoning in the Jaylin case; the Village is departing from that because there is developer in the background. Mr. Vacanti stated that the Village cited environmental reasons to uphold the 2-acre zoning which is now a contradiction. 80% of respondents to the survey stated that the rural characteristic is the most favorable thing about the Village. He stated that the Village should protect the residents and not a developer. Mr. Vacanti read some of the primary objections from his letter (see attached). He stated that he is pleading that Council deny this, and if not, Council has a duty to take time and look at it closely, analyze it, do a traffic study, and involve the community.

Mr. Fritz explained to Mr. Vacanti that the process that the Master Plan Review Committee, which he chaired, went through had been going on for one year and included meetings, surveys, phone interviews, and face to face interviews. He stated that at the Council Public Hearing, there were residents in attendance on the street behind your client's property that were for it. Mr. Fritz explained that there is not anyone on Council saying that they want that area rezoned, but what we are saying is that after a year of studying it and hearing input from residents and others, and after considering all other aspects, including environmental ones, it was determined that it was in the best interest for the residents to be able to make that decision. He stated that the accusation that Council is trying to ram this rezoning down their throats is not an accurate one. Mr. Fritz explained that the PUD concept will give the Village a strong position in discussions with a developer. It includes a long list of criteria that if and when they wanted to use it, that negotiation would include adhering to that criteria and nothing would be approved by Council without input from our engineer, building department, legal counsel, etc. He stated that a lot of options and considerations were weighed and it has been decided to ultimately let the voters decide.

Mrs. Lane stated that in the Jaylin case the Ohio Supreme Court did call out that each of these zoning cases turns on their own facts and circumstances. The Jaylin case involved a property elsewhere in the Village that contained significantly different topographical conditions and other differing situations as far as public utilities. She stated that it calls out the fact that these cases are very different; Jaylin is not necessarily a one size fits all in Moreland Hills or any community.

Mr. Stanard thanked everyone and stated that their feedback is important and that he was glad that they were here tonight. He apologized that they were not informed and stated that the policy would be to mail a letter inviting you to attend the public hearings, however if you did not receive those letters, it was not our intent. Mr. Stanard stated that the Village is not sneaking around or being deceitful or deceptive. He stated that it would have been exceedingly valuable if all of you had been in attendance from the beginning. Mr. Stanard stated that he did not want them to go home tonight and think that Council did not care or that we were so callous as to make decisions on their behalf without informing you of the public hearings.

Reports from the Mayor and Other Municipal Officials

Engineering

Mr. Filarski reported that the 2016 pavement program is completed. The Culvert and Drainage Program will be starting soon; there are three easements on the agenda tonight related to that program.

Finance

Mr. Shah did not have a report.

Service

Mr. DeWater did not have a report.

Law

Mrs. Lane informed Council that 273.7 hours have been spent on the retainer.

REPORTS OF COMMITTEES

BZA

Mr. Stanard reported that the BZA met on June 27, 2016. There was a use variance request for a lighted development sign located at 551 Chagrin Blvd. The Board discussed it and took into account that it is located in a dark and curvy part of the road, therefore it was decided that subtle lighting may be considered appropriate. BZA recommend it to Council for approval. The Garcia Residence at 429 Bentleyville Road requested and was granted a 23.3 ft. variance for a side yard setback for an addition, because of their unique property. The next regular meeting will be on July 25, 2016.

Planning Commission

Mr. Stanard reported that the Planning Commission met on June 27, 2016, immediately after the BZA meeting. The addition of a new garage for 429 Bentleyville Road was approved. Cru Cuisine requested a temporary construction sign at the corner of SOM and Chagrin. The sign is 4x8 feet in size which is compliant with our Code and will depict the construction site; it was approved. The Cunningham Residence at 33845 Chagrin was granted approval for a renovation. The Gonzales Residence at 15 Cableknoll was granted approval for a new canopy, trim, windows, and siding.

The Planning Commission also held a Public Hearing for three ordinances that are on second reading tonight (2016-25, 2016-26, &2016-27) one regarding the height of fences & walls in the rear yard, one for open space conservation development which requires that a third party can hold the conservation easement and not the Village or the applicant, and the last one will adjust the building height requirement in the U2 retail district to make it conform with that of the residential district. There was no one present in objection to these ordinances. The next regular meeting will be on July 25, 2016.

Mrs. Lane stated that she wanted to mention that when the Planning Commission reviewed Ordinance 2016-25 Fences and Walls in Rear Yards; there was discussion about adding a phrase that the height of the decorative walls shall be measured from the natural grade. There was a lengthy discussion about the fact that sometimes there are raised patios or decks and seating is placed at the perimeter, once you get to a certain height there is a Building Code requirement that restraints are required to prevent anyone from falling. She stated that therefore, the recommendation from the Planning Commission would be to include that this phrase be added and anticipates having an "as amended" Ordinance 2016-25 for Council's approval at the August Council meeting.

APPROVAL OF BONDS, CONTRACTS, PLATS, ETC.

Chagrin Blvd. River Development
551 Chagrin Blvd.
Use Variance -- Section 1325.08
Lighting of Subdivision Sign

Mr. Stanard stated that an application was presented to the BZA last month for a use variance for a lighted sign; currently lighted signs are only allowed in the commercial district. The applicant presented the picture of a sign which was very tastefully done and made of stone and wood. The applicant is only requesting low-level or subdued lighting. The area the sign will be located in is very dark and on a curvy portion of road. After much discussion, the BZA decided that it was an appropriate request in this area for safety reasons because of the curved road and the darkness. The lighting is not only subtle, but is also variable (4 settings), therefore the applicant would have some responsibility to the Village if the light is considered to be obtrusive to any neighbors. Mr. Richman asked if there was also vegetation requirements around the sign. Mr. Stanard stated that the lower portion of the sign is also a planter.

Mr. Stanard made a motion seconded by Mr. Buczek to approve the use variance of Section 1325.08 to allow a low-level lighted subdivision sign located at 551 Chagrin Blvd, Chagrin Bluffs Subdivision.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Facilities Committee

Mr. Buczek reported that the Facilities Committee did not meet in June. The next meeting is scheduled for July 27, 2016.

Roads & Safety Committee

Ms. Sturgis reported that the Roads & Safety Committee did not meet in June. The next meeting is scheduled for July 27, 2016.

ORDINANCES AND RESOLUTIONS

Mayor Renda stated that the first Ordinance is 2016-19. She stated that if some of these residents had been appropriately notified, they would have come to an earlier meeting and would have made their objections known about having their properties included. Mayor Renda stated that the comment that we did not put a lot of time and thought into this PUD, is not correct. She stated that they researched it and put a lot of time, effort and thought into the first 20 acres, and because of a resident's concerns, they added the extra acres. Mayor Renda asked Council if at this point, they want to go back to the original 20 acres and leave the other 18 acres out of it.

Mr. Fritz stated that it is smart and the right thing to do. All members were in agreement.

Mr. Richman gave a synopsis of the process this proposed Chapter went through. It was recommended by the Master Plan Review Committee, Council, the Planning Commission, the Law Director, the Village Engineer, and the Administration both before and after input in the form of surveys, newspapers articles, newsletters, and Public Hearings. All Council and Committee members, administration, as well as residents had the opportunity to review and suggest modifications from first draft, which we all did. These additions/revisions included additional environmental protections, a prohibition of commercial use, tree study requirements, language for the Planning Commission's right to require a diversity of configuration, architectural design and other modifications. He stated that we still have residents that are for and against, however, if this Council approves this Ordinance, the residents themselves will be able to choose whether this proposed zoning district is allowed by casting their votes.

Mrs. Lane stated that we have discussed that the Ordinance will be amended to remove the additional properties. The motion can be to adopt the ordinance subject to that modification and she will update Exhibit A (Chapter 1159) to remove those parcel numbers, after which it will be submitted to the Board of Elections.

Ordinance 2016-19 as amended (Third Reading)– Introduced by Mr. Fritz

AN ORDINANCE SUBMITTING THE QUESTION TO THE ELECTORS OF WHETHER THE PLANNING AND ZONING CODE OF THE VILLAGE OF MORELAND HILLS SHOULD BE AMENDED TO ENACT NEW CHAPTER 1159, "CHAGRIN NORTHWEST RESIDENTIAL & PLANNED DEVELOPMENT CONSERVATION DISTRICT," AND THE ZONING MAP OF THE VILLAGE OF MORELAND HILLS AMENDED TO CHANGE THE ZONING

CLASSIFICATION OF CERTAIN PARCELS FROM U-1 DWELLING HOUSE DISTRICT TO U-5, CHAGRIN NORTHWEST RESIDENTIAL & PLANNED DEVELOPMENT CONSERVATION DISTRICT, AND DECLARING AN EMERGENCY.

Mr. Fritz stated that Mr. Richman's summary of the lengthy process was an excellent one. He stated that he believes that the consensus among the Mayor and Council is the need to readdress and amend the ordinance by removing the additional acreage that was added. In addition to that, there are a few other minor changes to be made to the ordinance; adding Chagrin Blvd. as a reference in Section 2, and adding new Section 3 that provides a summary of the ordinance, which will help give a synopsis to the voters.

Mr. Fritz made a motion seconded by Mr. Buczek to place Ordinance 2016-19 on third reading and for passage of Ordinance 2016-19 as amended with the following changes; adding Chagrin Blvd. as a reference in Section 2, adding new Section 3 which provides a summary, and the removal of the additional 18 acres (7 parcels).

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mayor Renda apologized to the residents that were inadvertently offended. She stated that while we send out these types of letters regularly, we somehow had a failure in our procedures and they did not get to them, but she stated that she is glad that the residents showed up tonight.

The residents thanked Mayor Renda and Council for listening to them.

Ms. Pachydaki asked how it can be justified that there is a possible threat that a developer can take the Village to court and that the court would then allow a subdivision to be built when there are other areas available in neighboring communities. Mr. Fritz informed her that it has happened before; Moreland Mews and Heathermore are examples of the result of a lawsuit from a developer which the Village lost.

Mayor Renda stated that she appreciated all the residents coming tonight. She offered to meet with them individually if they had further questions.

Ordinance 2016-20 as amended (Third Reading) – Introduced by Mr. Fritz

AN ORDINANCE ADOPTING THE 2016 COMPREHENSIVE LAND USE PLAN AND DECLARING AN EMERGENCY.

Mrs. Lane stated that Councilman Sherck has become involved in an effort to pursue the rezoning of a property at the corner of Hiram and SOM. She stated that she believes that the position that Mr. Sherck has taken publicly was in an effort that is not currently being pursued, however he was part of an initiative petition to rezone that property and he has clearly taken a position in favor of that. That position that he decided to take is in direct contradiction to the principles, goals, and

recommendations in the 2016 Comprehensive Land Use Plan, which specifically calls out that the property at Hiram and SOM is not being promoted or considered for rezoning at this time. Mrs. Lane stated that on this basis, it is her legal opinion that Mr. Sherck has a conflict of interest in participating in any discussion or a vote on Ordinance 2016-20 and she stated that she would request that he recuse himself from this matter.

Mr. Sherck acknowledged that he would recuse himself from this matter.

Mr. Fritz asked whether the reference to the PUD in the Comprehensive Land Use Plan will need to be changed since the PUD ordinance was amended. Mayor Renda stated that the reference to the PUD was not specific, and the number of parcels was expanded after the fact, therefore removing them has no effect.

Mr. Fritz stated that this plan originated out of the Master Plan Review Committee. This ordinance will be on third reading tonight as amended because the Balanced Growth Map will be added to it.

Mr. Fritz made a motion seconded by Mr. Stanard to place Ordinance 2016-20 on third reading and for passage of Ordinance 2016-20 as amended with the following changes; the addition of the Balanced Growth Map to the plan.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Ordinance 2016-25– Introduced by Mr. Stanard

AN ORDINANCE AMENDING SECTION 1151.13(P)(2) “FENCES AND WALLS IN REAR YARDS,” AND SECTION 1345.02, “FENCES AND WALLS IN REAR YARDS,” OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MORELAND HILLS, OHIO REGARDING THE MAXIMUM HEIGHT OF DECORATIVE WALLS IN REAR YARDS.

Mr. Stanard stated that this ordinance was placed on first reading at the last Council Meeting, was discussed at a Planning Commission Public Hearing, and will be addressed at a Council Public Hearing soon, as well. This ordinance will increase the decorative wall height in rear yards from 18 inches to 24 inches to allow for comfortable seating, which a number of applicants have been requesting at BZA recently.

Mr. Stanard made a motion seconded by Mr. Buczek to placed Ordinance 2016-25 on second reading.

ROLL CALL:

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

NAYS: None
MOTION CARRIED

Ordinance 2016-26– Introduced by Mr. Stanard

AN ORDINANCE AMENDING SECTION 1153.19(B) “OPEN SPACE REQUIREMENTS,” OF CHAPTER 1153, “OPEN SPACE CONSERVATION DISTRICT,” OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MORELAND HILLS, OHIO.

Mr. Stanard stated that this ordinance was placed on first reading at the last Council Meeting, was discussed at a Planning Commission Public Hearing, and will be addressed at a Council Public Hearing soon. This ordinance will adjust the requirements so that a land trust or a third party will hold the easement and not the Village or the land owner, so that it will appropriately appoint an entity that is capable of accepting and protecting it.

Mr. Stanard made a motion seconded by Mr. Buczek to place Ordinance 2016-26 on second reading.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Ordinance 2016-27– Introduced by Mr. Stanard

AN ORDINANCE AMENDING SECTION 1157.07, “HEIGHT REQUIREMENTS,” OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MORELAND HILLS, OHIO REGARDING THE MAXIMUM PRINCIPAL BUILDING HEIGHT IN THE U-2 RETAIL BUSINESS DISTRICT.

Mr. Stanard stated that this ordinance was placed on first reading at the last Council Meeting, was discussed at a Planning Commission Public Hearing, and will be addressed at a Council Public Hearing soon, as well. This ordinance will align the maximum building height requirement in the retail business district with that of the residential district.

Mr. Stanard made a motion seconded by Mr. Buczek to place Ordinance 2016-27 on second reading.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Ordinance 2016-29– Introduced by Mr. Stanard

AN ORDINANCE AMENDING SECTION 1179.13(H) "ACCESS DRIVES," OF CHAPTER 1179, "OFF-STREET PARKING REGULATIONS," OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MORELAND HILLS, OHIO.

Mr. Stanard stated that this ordinance will amend this chapter by removing the requirement that the access line of a driveway be 40 feet from the right-of-way line of the nearest intersecting street and adding the requirement in its place that the access drive be located where there is adequate sight distance to the intersection. This ordinance will also require a Public Hearing by both the Planning Commission and Council.

Mr. Stanard made a motion seconded by Mr. Buczek to place Ordinance 2016-29 on first reading and refer it to the Planning Commission.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Ordinance 2016-30– Introduced by Mr. Fritz

AN ORDINANCE AMENDING SECTION 1129.07, "CONDITIONAL USE CERTIFICATES," SECTION 1133.09, "PUBLIC HEARING AND NOTICE BY PLANNING COMMISSION," AND SECTION 1173.01, "CHANGING LAND CONTOUR REGULATIONS," OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MORELAND HILLS REGARDING THE MAILING OF NOTICES OF PUBLIC HEARINGS.

Mr. Fritz stated that this ordinance takes the various different time frames for the mailing of notices and makes them all ten (10) days, in order to keep things consistent.

Mr. Richman asked Mrs. Lane why there is still a seven (7) day time requirement in there. Mrs. Lane stated that she left that one as seven (7) days because it pertains to the posting of the agenda for that meeting and not the mailings, however, it could be something to be considered and discussed if Council chooses.

Mr. Fritz made a motion seconded by Mr. Stanard to place Ordinance 2016-30 on first reading and refer it to the Planning Commission.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Ordinance 2016-31– Introduced by Mr. Fritz

AN ORDINANCE AMENDING SECTION 1125.03, "BUILDING INSPECTOR," AND SECTION 1311.01, "BUILDING INSPECTOR; APPOINTMENT, COMPENSATION AND BOND," OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MORELAND HILLS, OHIO.

Mr. Fritz stated that since becoming a Certified Building Department, the Village wants to make sure we use the terminology that is accurate and reflects with that of the state, therefore we want the term “Building Inspector” to be interchangeable with “Building Commissioner” and “Building Official.”

Mr. Fritz made a motion seconded by Mr. Buczek to place Ordinance 2016-31 on first reading and refer it to the Planning Commission.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Ordinance 2016-32– Introduced by Mr. Fritz

AN ORDINANCE AMENDING SECTION 1313.29, “ROOF LINES,” OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MORELAND HILLS, OHIO AND DECLARING AN EMERGENCY.

Mr. Fritz explained that the issue of roof pitches comes up often at Planning Commission. Currently our Code only allows for two (2) roof pitches, which does not include a flat roof as a pitch. This ordinance will clarify that a pitch of 2:12 or less is considered to be a flat roof.

Mr. Fritz made a motion seconded by Mr. Buczek to suspend the rules for Ordinance 2016-32.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mr. Fritz made a motion seconded by Mr. Stanard for passage of Ordinance 2016-32.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Ordinance 2016-33– Introduced by Ms. Sturgis

AN ORDINANCE AMENDING SECTION 153.04, “VACATIONS,” OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MORELAND HILLS AND DECLARING AN EMERGENCY.

Ms. Sturgis stated that this will make a slight amendment to the ordinance that was approved at the March 9, 2016 meeting, to allow the Mayor to approve the use of vacation within the first year of employment based upon hardship.

Ms. Sturgis made a motion seconded by Mr. Stanard to suspend the rules for Ordinance 2016-33.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Ms. Sturgis asked if there have been situations that have occurred which brought about this ordinance. Mayor Renda explained that when police officers are hired, they are usually hired from another department and bring along vacation time, therefore the original modification was to prevent someone from coming in near the end of the year and taking 5 weeks of vacation in a few months' time, for example. She stated that it is sometimes difficult for those in other departments that hire employees that do not have all that time built up and are unable to take any vacation within the first year. Mayor Renda stated that also in her negotiations with Mr. Kowalczyk, he had asked what his ability to take vacation would be over the next year, which would be zero. So this will now enable the Mayor to say that someone has a special circumstance and allow them to take some vacation within the first year of employment.

Ms. Sturgis made a motion seconded by Mr. Richman for passage of Ordinance 2016-33.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Ordinance 2016-34– Introduced by Mr. Richman

AN ORDINANCE FIXING THE COMPENSATION OF VARIOUS OFFICERS AND EMPLOYEES OF THE VILLAGE OF MORELAND HILLS AND DECLARING AN EMERGENCY.

Mr. Richman stated that this will make a change to the ordinance that was passed in January. The range for the Building Commissioner has been changed to \$105,000-\$125,000. Since Mr. Loconti and Mr. Kavaras have decided to leave the Village, we are hiring a new Building Commissioner, Paul Kowalczyk from South Euclid, who comes highly recommended and has an extensive architectural and plans examiner background. The total amount of what was being paid to both Mr. Loconti and Mr. Kavaras is more than the total being paid to Mr. Kowalczyk. Also, Moreland Hills pays 40% of the total while Pepper Pike pays 60%.

Mr. Richman made a motion seconded by Mr. Fritz to suspend the rules for Ordinance 2016-34.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mr. Richman made a motion seconded by Mr. Buczek for passage of Ordinance 2016-34.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Ordinance 2016-35– Introduced by Ms. Sturgis

AN ORDINANCE AUTHORIZING THE MAYOR TO ACCEPT A PERMANENT DRAINAGE EASEMENT FROM JEFFREY C. AND WENDY Z. DAVIDSON FOR THE INSTALLATION, MAINTENANCE AND REPAIR OF A STORM SEWER AND APPURTENANCES UPON THE PROPERTY KNOWN AS SUBLLOT #15, HUNTING TRAIL, AND DECLARING AN EMERGENCY.

Ms. Sturgis stated that the 2016 Drainage & Culvert program will start next week. The Village Engineer has made recommendations regarding storm sewer and appurtenances to be constructed at this property as part of the program, to which an easement is required in order for this work to be done on their property; the homeowners have agreed to grant the easement.

Ms. Sturgis made a motion seconded by Mr. Buczek to suspend the rules for Ordinance 2016-35.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Ms. Sturgis made a motion seconded by Mr. Buczek for passage of Ordinance 2016-35.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Ordinance 2016-36– Introduced by Ms. Sturgis

AN ORDINANCE AUTHORIZING THE MAYOR TO ACCEPT A PERMANENT DRAINAGE EASEMENT FROM MARILYN R. ANDERSON FOR THE INSTALLATION, MAINTENANCE AND REPAIR OF A STORM SEWER AND APPURTENANCES UPON THE PROPERTY KNOWN AS 55 HEMLOCK LANE, AND DECLARING AN EMERGENCY.

Ms. Sturgis stated that the 2016 Drainage & Culvert program will star next week. The Village Engineer has made recommendations regarding storm sewer and appurtenances to be constructed at this property as part of the program, to which an easement is required in order for this work to be done on their property; the homeowners have agreed to grant the easement.

Ms. Sturgis made a motion seconded by Mr. Fritz to suspend the rules for Ordinance 2016-36.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Ms. Sturgis made a motion seconded by Mr. Fritz for passage of Ordinance 2016-36.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Ordinance 2016-37– Introduced by Ms. Sturgis

AN ORDINANCE AUTHORIZING THE MAYOR TO ACCEPT A PERMANENT DRAINAGE EASEMENT FROM THEODORE C. AND BERTIE L. WILLIAMS FOR THE INSTALLATION, MAINTENANCE AND REPAIR OF A STORM SEWER AND APPURTENANCES UPON THE PROPERTY KNOWN AS 10 HOPEWELL TRAIL, AND DECLARING AN EMERGENCY.

Ms. Sturgis stated that the 2016 Drainage & Culvert program will start next week. The Village Engineer has made recommendations regarding storm sewer and appurtenances to be constructed at this property as part of the program, to which an easement is required in order for this work to be done on their property; the homeowners have agreed to grant the easement.

Ms. Sturgis made a motion seconded by Mr. Fritz to suspend the rules for Ordinance 2016-37.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Ms. Sturgis made a motion seconded by Mr. Richman for passage of Ordinance 2016-37.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mr. Stanard asked Mr. Filarski if the Village pays for these easements. Mr. Filarski stated that we pay \$1.00 and are responsible for the maintenance of the drainage structure and appurtenances. Mr. Stanard asked Mr. Filarski if he thinks any of these will cause the Village any problems as some have in the past. Mr. Filarski stated that he does not and explained that these three properties should have already had easements when the subdivision was built.

Ordinance 2016-38– Introduced by Mr. Buczek

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

Mr. Buczek explained the appropriations for this month's ordinance. The property improvement fund in the amount \$6,200 was for consultant costs relating to the Comprehensive Land Use Plan.

Mr. Buczek made a motion seconded by Mr. Stanard to suspend the rules for Ordinance 2016-38.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mr. Buczek made a motion seconded by Mr. Stanard for passage of Ordinance 2016-38.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Resolution 2016-39– Introduced by Mr. Buczek

A RESOLUTION ADOPTING THE ALTERNATIVE TAX BUDGET OF THE VILLAGE OF MORELAND HILLS FOR THE FISCAL YEAR 2017 AND DECLARING AN EMERGENCY.

Mr. Buczek stated that this is the annual tax budget ordinance for 2017, indicating what our needs are in relation to what we collect in taxes.

Mr. Buczek made a motion seconded by Mr. Stanard to suspend the rules for Resolution 2016-39.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mr. Buczek made a motion seconded by Ms. Sturgis for passage of Resolution 2016-39.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mr. Stanard asked if there was anything unusual about this particular budget. Mr. Shah stated that the only thing different this year is on Schedule 1, there is a “zero” in the General Bond Retirement line. Every year they ask for our general obligation money, but as of December 31, 2016, our debt will be paid off.

Miscellaneous

Mr. Fritz inquired about the status of the gift for Stan Sirk and whether it had been given to him. Mr. Richman stated that it was given to Mr. Sirk and that he was very appreciative.

Mayor Renda thanked everyone for getting through this long and difficult meeting and she appreciates how well they all handle business together. Mr. Buczek stated that he was impressed by how the Mayor handled this meeting.

Mr. Buczek made a motion seconded by Mr. Stanard to adjourn the Regular Council Meeting at 8:52pm.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

The meeting was adjourned at 8:52pm.

Attest:

Sherri Arrietta, Clerk of Council

Steve Richman, Council President



Anthony R. Vacanti
avacanti@bdblaw.com
d: 216.453.4286 • df: 330.252.5241

July 13, 2016

VIA HAND DELIVERY

Village of Moreland Hills, Ohio
City Council
c/o Sherri Arrietta, Clerk of Council
4350 Som Center Rd.
Moreland Hills, Ohio 44022

Re: Objection to Proposed Ordinance No. 2016-19

Dear Council Members:

I am writing on behalf of Sophia Pachydaki and Andreas Alexopoulos, who are the owners of 33755 Chagrin Blvd., Moreland Hills, Ohio 44022, known as Cuyahoga County Parcel No. 912-02-008 (the "Property"). My clients strongly object to the proposed Planned Unit Development ("PUD") rezoning, known as Ordinance No. 2016-19. It is our understanding that the proposed rezoning is to allow for a developer to squeeze condominiums and higher density residential units on the properties. This proposal threatens to destroy the use, enjoyment, and value of my clients' Property, is inconsistent with the purpose and intent of the Village's Zoning Code, is inconsistent with the current Master Plan, and is premature.

Despite being one of the properties that are being rezoned, my clients never received direct notice of the proposed rezoning and only recently became aware of it. They have made a substantial investment in their Property in reliance on the single-family 2 acre lot size zoning in place, and this proposed rezoning will destroy their reasonable investment-backed expectations. My clients' Property enjoys a driveway and pond easement across the properties fronting on Chagrin Boulevard, which are also proposed to be rezoned. By allowing the development of condominium and higher density residential development to surrounding my clients' Property and encompass its entire frontage, the Village is in essence destroying my clients' Property.

Again, my clients only recently became aware of the proposed rezoning, so they are in the process of acquiring more information. But my clients do have some serious initial concerns, which may be added to upon further review of the proposal. That being said, we want to bring these initial concerns to Council's attention immediately.

Zoning Code Section 1133.13 lists multiple items Council must consider when an amendment, such as Ordinance No. 2016-19, will change the zoning classification of property. The proposed rezoning does not satisfy these criteria, or at the very least is premature as additional information is necessary to properly review the criteria.

First and foremost, under Zoning Code Section 1133.13, Council must review whether the change in classification is “consistent with the adopted plans and policies of the Village” and “consistent with the intent and purposes of this Planning and Zoning Code.” Zoning Code Section 1133.13(a)-(b). Here, Ordinance 2016-19 is not consistent with the adopted plans and policies of the Village or the Village’s Zoning Code. The Property is currently zoned U-1, which requires the Village’s well known and revered two (2) acre lot size. Zoning Code Section 1151.05(c)(1). When my clients purchased their home in 2012, they relied on the wooded “semi-rural” area in making their substantial investment.

Additionally, the Village’s current Comprehensive Plan specifically listed the Property as residential (*see* Figure 2 to 2003 Plan) and also stated that the number one Community Goal for the Village was to “[p]reserve and protect the value of residential properties,” with the corresponding Objective listed as “[d]iscourag[ing] land uses which conflict with existing uses and residential community character.” *See* 2003 Comprehensive Plan p. 3. Although the Comprehensive Plan is currently in the process of being revised, the April 2016 Draft Comprehensive Plan (“Draft Comprehensive Plan”) specifically states that a PUD “is a departure from the Village’s zoning code.” April 2016 Draft Comprehensive Plan p. 50. These factors indicate that Ordinance 2016-19 is simply not consistent with the policies, plans, and zoning code of the Village. To the extent the Comprehensive Plan is being revised to include the PUD, such revisions have not been finalized and this proposed rezoning is premature. Moreover, it would be improper because as the community surveys included in the proposed Comprehensive Plan demonstrate an overwhelming majority of the community supports keeping the existing single-family 2-acre lot zoning in place, as further explained below. The imposition of this PUD on my clients’ Property and surrounding properties for the benefit of a private developer is suspect and should not be condoned by Council.

Another consideration Council is to consider under the Zoning Code is whether the rezoning is “necessary because of changed or changing conditions in the area affected.” Zoning Code Section 1133.13(c). In the May 11, 2016, Council Minutes, it was noted that a reason for the rezoning was because “[t]he study done for the Comprehensive Land Use Plan does show an interest in smaller homes and lots.” May 11, 2016, City Council Meetings p. 5. The Draft Comprehensive Plan also claims the PUD rezoning is to “address some residents’ desires for additional housing types in the Village, particularly as they downsize.” April 2016 Draft Comprehensive Plan p. 51. However, in the Online Survey Results published in the Draft Comprehensive Plan, an overwhelming 80.1% of the Village population voted that the “rural / private character” of the Village is the “most positive aspect of living in Moreland Hills.” *Id.* at p. 56. Furthermore, when asked what the Village could improve, only 17% of residents

indicated a need for smaller / bungalow housing types. *Id.* p. 60. Interestingly, more residents indicated a need for better transportation (35.2%), better road maintenance (27.7%), and a better sense of community (25.2%). *Id.* Moreover, an overwhelming majority of residents indicated that they did **not** see a need for more duplexes (66.4%), condos (55.6%), apartments (82.3%), independent senior living facilities (58.1%) or assisted living senior facilities (61.0%). *Id.* at 62. A simple review of the data shows there is not a changing condition whereby residents are actually requesting smaller homes.

An additional consideration Council is to deliberate under the Zoning Code is whether “[t]he uses that would be permitted on the [reclassified] property . . . would be compatible with the uses permitted on other property in the immediate vicinity.” Zoning Code Section 1133.13(d). Here, the reclassified areas would mostly be surrounded with property zoned residential U-1 – single family residential on large lots - with the exception of a small pocket of commercial property on the corner of Chagrin Blvd. and Som Center Rd. Additionally, my clients currently are only able to access their Property from a shared drive on Chagrin Blvd., which will be directly impacted by any development, forcing them to drive through a higher-density development whenever they wish to enter or leave their Property. Moreover, my clients enjoy a pond easement on the properties fronting Chagrin, and their use and enjoyment of the pond will be severely impacted by high-density residential development. My client is unsure how any proposed condominium or higher density residential development is possible on the properties as such development would undoubtedly impact their easement rights.

Furthermore, there are multiple schools, including Orange City School, Pepper Pike Elementary School, and Moreland Hills Elementary School, right across the street from the proposed PUD area. Notably, the Draft Comprehensive Plan even recognizes that “[t]he area is located in the highest travelled area of the Village. . .” and “has high traffic volumes. . .” April 2016 Draft Comprehensive Plan p. 50. Considering no traffic study has been conducted or produced, this is incredibly worrisome to parents of students and the community alike. Moreover, logic dictates that the more residential units squeezed onto properties, the more traffic. Yet, no traffic study has been done or reviewed. Once the rezoning passes to permit condominium and higher density residential development, Ohio law makes it difficult for the Village to address any resulting traffic issues.

Moreover, Council is required to consider if “[t]he uses that would be permitted on the property, if it were reclassified, would have an adverse environmental or health impact on the immediate surrounding area in terms of acceptable air, noise, light, or water quality standards.” Zoning Code Section 1133.13(e). Here, squeezing condominiums and higher density residential development in this area, which is already subject to high traffic, is going to have dire consequences, including air, noise and light pollution. Again, no traffic study has been performed. For the interests of the community and its residents, at the very least a traffic study should be performed. If the rezoning passes, and higher-density residential development is permitted as a matter of right, then it would be difficult if not impossible to undo the negative consequences if there are traffic and safety issues.

Village of Moreland Hills, Ohio
City Council
July 13, 2016

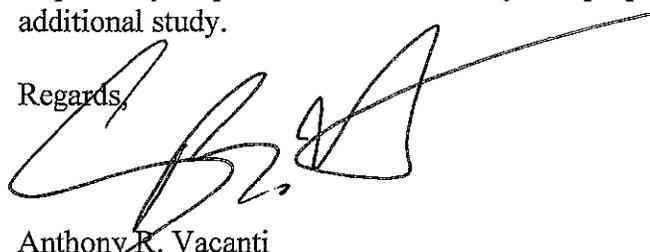
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Finally, Council is to consider whether “[a]dequate utility, wastewater, and water facilities, and all other needed public services exist or can be provided.” Zoning Code Section 1133.13(f). However, the Draft Comprehensive Plan states that the area “currently do[es] not have sewer service.” April 2016 Draft Comprehensive Plan p. 51. Additionally, no storm water management plan has been provided to ensure that the proposed PUD would not have adverse effects on the existing homes, properties, lakes, and waterways.

Based on the foregoing, and this Council’s duties as imposed by Zoning Code Section 1133.13, Ordinance No. 2016-19 should not be passed. This rezoning is premature, a traffic study should be required, and additional time and community input is needed before taking such an extreme measure. The purpose of quickly proceeding is suspect, as it is our understanding a proposed developer is seeking to commence development.

The Village has historically vigorously defended its two-acre lot size requirement. Indeed, the Village defended the two-acre lot requirement, and the associated public benefits including but not limited to environmental protection and controlling density, all the way to the Ohio Supreme Court in *Jaylin Investments, Inc. v. Moreland Hills*, 107 Ohio St.3d 339 (2006), which upheld such zoning. To now suddenly depart from that which the Village once vigorously defended is arbitrary and capricious. That being said, Council should take a very close look at the proposed rezoning, its severe impact on my clients’ Property value and use, and its destruction of the character of the area. In the event the rezoning proceeds, my clients will be forced to legally protect their substantial investment and the character of the area. That being said, my clients respectfully request this Council deny the proposed rezoning, or postpone action thereon for additional study.

Regards,



Anthony R. Vacanti

cc: Sophia Pachydaki and Andreas Alexopoulos