

REGULAR COUNCIL MEETING  
March 8, 2017  
MINUTES

The Regular Council Meeting of the Village of Moreland Hills was called to order by Mayor Renda at 7:34 pm in the Village Council Chambers.

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

ABSENT: None

Also Present: Aimee Lane, Law Director; Prashant Shah, Treasurer; Todd Dietzel, Police Lieutenant; Theresa Dean, Assistant Clerk of Council.

Mr. Richman made a motion seconded by Mr. Stanard to approve the minutes of the Regular Council Meeting held on February 8, 2017 with the following amendments:

- Relative to the Report of Committee of the Planning Commission, the Snavelly residence lot split, clarify the number of lots resulting from the split.
- In the text of Ordinance 2017-13, verify that "Wiltshire" is spelled correctly throughout.
- In the notes regarding discussion of Ordinance 2017-09, the phrase "Mr. Richman asked about PROPERTY F, page 3, the term 'disappearing' was used" should be replaced with "Mr. Richman asked about Section 1F, page 3 of the contract, the term 'disappearing deductible' was used."

ROLL CALL:

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

NAYS: None

MOTION CARRIED

## **REPORTS FROM THE MAYOR AND OTHER MUNICIPAL OFFICIALS**

### **Mayor**

Mayor Renda did not have a separate report. However, she informed Council that Mr. Filarski, Village Engineer, had to leave for a previous commitment due to this evening's earlier Facilities Committee meeting running longer than anticipated.

### **Law**

Mrs. Lane advised Council that the Law Department recorded 47.5 hours for the month of January, 2017.

### **Finance**

Mr. Shah did not have a report.

**Police**

Lieutenant Dietzel did not have a report.

**Service**

There was no report for the Service Department.

**Engineering**

There was no report for Engineering.

**REPORTS OF COMMITTEES**

**Roads and Safety Committee**

Mr. Richman made a motion seconded by Mr. Buczek for the Village Engineer to advertise for bids for the 2017 Road Program.

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 the Village Engineer to advertise for bids for the reconstruction of Creekview Circle.

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 the Village Engineer to advertise for bids for the 2017 Culvert and Drainage Program.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

**Planning Commission**

Mr. Stanard reported that the Board of Zoning Appeals and the Planning Commission met on Monday, March 6. The BZA issued one variance of eight feet, four inches (8'4") to accommodate a minor redesign of a previously approved project at 55 Riverstone Drive. The Planning Commission approved the redesign. Also on the Planning Agenda was a proposed new dwelling at 3939 Ellendale by Key West Investment Corporation. The Village Architect, Dick Kawalek, was in attendance at that meeting and explained his concerns relating to the massing of the sides of the home and lack of windows. Following a robust conversation, the owners agreed to present new elevations showing the addition of several windows and other details to break up the massing.

The Planning Commission voted to continue the issue to a future meeting. CRU Uncorked restaurant presented an application for a Conditional Use Certificate to allow outdoor restaurant seating under Section 1179.09(1), which was favorably recommended to Council for approval. Public Hearings were held for nine ordinances, which are also being recommended back to Council this evening.

The next meeting of the Board of Zoning Appeals and Planning Commission will be April 3, 2017, the first Monday of the month.

**CRU Uncorked**  
34300 Chagrin Blvd.  
Request for Conditional Use Certificate - Restaurant Outdoor Seating  
Section 1177.09(1)

Mr. Stanard reported that an application for a Conditional Use Certificate to allow restaurant outdoor seating was presented at the March 6, 2017 Planning Commission meeting. The Commission acted to recommend approval to Village Council.

Mr. Stanard described the plan, which includes curved fencing, an overhead trellis, and a thick area of trees and landscaping between the fence and seating. Dick Kawalek, the architect for the project, and Sandy Cutler, the owner of the property, were present at the Planning Commission meeting. There will be seven tables available for dining as well as other seating areas where patrons can enjoy a glass of wine. The Planning Commission found the design to be tastefully done, and Mr. Stanard recommends that Council approve the application.

Mr. Richman asked what the approximate distance would be between the seating area and the closest residents to the east. Mr. Kawalek was in attendance and replied that the closest current residents are between 200-250 feet from the seating area. Also adjacent to the site are unoccupied lots in Moreland Mews, and the closest dwelling that could be built would be approximately 150 feet from the restaurant. Mr. Richman said that he does not anticipate problems and there are provisions in the Code to address concerns if noise becomes a nuisance. Ms. Lane added that this is not something that the Planning Commission discussed, but that the Village does have a noise ordinance. Mayor Renda commented that the concept of CRU Restaurant as a small, intimate dining experience should not invite rowdiness. Mr. Kawalek added that there is no intention to play loud music, as that does not fit with the scheme of the restaurant.

Mr. Stanard made a motion seconded by Mr. Buczek to approve the Conditional Use Certificate for restaurant outdoor dining at the CRU Uncorked Restaurant.

**ROLL CALL:**

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

**NAYS:** None

**MOTION CARRIED**

Mr. Buczek asked when the restaurant was scheduled to open. Mr. Kawalek answered that the planned opening date is Saturday, April 29. Mr. Buczek also commented that the east driveway

at the CRU construction site may have some drainage issues that need to be addressed; Mr. Kawalek said he would look into it.

### **Facilities Committee**

Ms. Sturgis said there was no Facilities report. However, a Facilities Committee meeting was held immediately before this evening's Council meeting to allow residents a second opportunity to address the proposed sewer project in the WEB district. Several Council members were in the audience for that meeting and wished to share their observations.

Mr. Fritz commented that the Village is doing a good job of getting information out, but he is concerned that residents are not understanding the potential costs of voting to keep septic systems. He feels that many residents assume their septic systems will pass inspection. However, due to the ages of many systems in the WEB area, there is a good chance they will not. He also mentioned that testing vaults are now required on all systems, and those alone can cost between \$1500 - \$2000 to install. Residents may be paying for those installations only to learn their systems have failed.

Mayor Renda replied that she agrees, but, when this is brought to the attention of residents, they are assuming there are only one or two problem homes.

Mr. Fritz noted that residents may face a more severe financial hardship if they opt to retain septic systems rather than install sewers, since septic systems must be paid for up front rather than being financed over 20 years.

Mayor Renda said that she and Mr. Filarski have discussed whether there are any options to assist low-income residents but that there are legal and financial considerations that may prevent this. Mrs. Lane said she would need to investigate the possibilities, but she has concerns that doing so could violate lending aid laws and credit restrictions.

Mr. Fritz commented on one resident's suggestion that the Village spend its \$800K Capital Improvement budget on this project. Mr. Fritz said these funds are intended to be used for sewer infrastructure throughout the Village, and spending all \$800K for a capital improvement in one neighborhood is not the intent of having the budget. Mayor Renda said that these funds come from a fee that not every resident has paid into, and that residents in the WEB area have not paid into that fund at all. Mr. Buczek felt this would set a problematic precedent.

Mr. Buczek said his take-away from an earlier informational meeting at Orange High School was that residents have only a vague idea of how many systems need to be replaced. They are assuming it is only a few. Mr. Buczek has spoken with Domenica McClintock with the Cuyahoga County Board of Health, and she feels there is a good possibility that at least 50% of the existing systems will need to be replaced. Mr. Fritz said that, based on existing records, at least 30% of existing systems would need to be replaced and for another 63%, there is a 50/50 chance that replacement will be required.

Mayor Renda said she has repeatedly shared this information with residents, but they are not accepting it. Some residents are assuming the Village is trying to force sewer installation on these

neighborhoods. The Village has done due diligence to inform residents via public meetings, a newspaper article, four letters and a postcard mailing, in addition to the information sent with the ballot. It is now the responsibility of residents to assimilate the information and decide how to proceed.

Mr. Sherck noted that there are just over 120 lots impacted by this issue and only ten to fifteen residents have been very outspoken. His sense from the first public meeting was that several residents were very much in favor of installing sewers. Mr. Sherck also asked if there was any legal way for residents who have recently installed septic systems to delay tying in to sewers if they are built; the Mayor replied that there is not.

Mayor Renda said that, prior to the Facilities Committee meeting earlier this evening, she was presented with a petition containing two pages of signatures from people who do not want the sewers. She has told residents that they need to vote via ballot and that the Village will not be working off petitions; however, she feels the sewer proposal will be rejected. This was an issue in the WEB area 20 years ago and will continue to be an issue, as the lots are too small for septic systems.

Mr. Buczek, Mr. Fritz, and Ms. Sturgis all commented that residents need to understand that, if their systems fail, they will need to be replaced. EPA standards have changed, and "state of the art" systems that were installed several decades ago are no longer viable. Mr. Fritz also added, however, that the residents' failure to grasp the situation is not due to a lack of effort on the Village's part.

Mr. Buczek feels that many residents are not opposed to installing sewers in theory, but they say they cannot afford to do so. Mr. Fritz commented that the financial implications of financing sewers over twenty years versus paying for a mandated septic replacement up front has been brought up and explained multiple times.

Mayor Renda added that one of the main objections she has heard is to the on-going operating costs that would be due to the Northeast Ohio Regional Sewer District and Moreland Hills after sewers are installed. However, Mr. Fritz added that he asked one resident about her yearly cost to properly maintain her septic system, and she estimated that it ran about \$1200 per year when taking into account the cost of chemicals, electric, a service contract, and testing.

### **Amendment to Building Department Fee Schedule**

#### Architectural Review Fees

At this time, Mr. Stanard made a motion to amend the Building Department's fee schedule to add a \$100 fee per architect in cases where additional architectural review is requested by a homeowner. Homeowners sometimes wish to have their plans reviewed by additional architects if their original design is not approved by the Village Architect. Although the Village has previously requested this fee to cover expenses when additional architects are consulted, it is not currently listed on the fee schedule and, therefore, cannot be mandated.

Mrs. Lane noted that this fee would not apply to the preliminary review that is done prior to a plan being presented to the Planning Commission; a fifty-dollar (\$50) architectural review fee is already collected as part of that process. Mrs. Lane also mentioned that the Building Secretary had suggested an architectural review deposit as an option in those cases where review is ongoing. However, amending the fee scheduled would address the issue and eliminate the need to estimate a deposit amount.

Mr. Buczek asked if the fee schedule can be amended by simple motion. Mrs. Lane replied that it can, and that the Codified Ordinances were previously amended to indicate that the current fee schedule is on file with the Building Department.

Mr. Stanard made a motion seconded by Mr. Fritz to amend the Building Department fee schedule as it relates to Architectural Review Fees.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

## **ORDINANCES AND RESOLUTIONS**

Mayor Renda said that Ordinances 2017-11 through 2017-19 are being considered to be placed on second reading and recommended that all discussion be held during the Public Hearing phase of review.

### **Ordinance 2017-11 (Second Reading) - 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 OPEN FENCING IN REAR YARDS.

Mr. Stanard made a motion seconded by Mr. Buczek to place Ordinance 2017-11 on second reading.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

### **Ordinance 2017-12 (Second Reading) - Introduced by Mr. Buczek**

AN ORDINANCE AMENDING SECTION 1183.09 "SIGNS IN RESIDENTIAL DISTRICTS," AND SECTION 1325.08, "SUBDIVISION DEVELOPMENT SIGNS," OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MORELAND HILLS, OHIO TO REMOVE THE PROHIBITION ON ILLUMINATED SIGNS.

Mr. Buczek made a motion seconded by Mr. Stanard to place Ordinance 2017-12 on second reading.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

**Ordinance 2017-13 (Second Reading) - Introduced by Mr. Stanard**

AN ORDINANCE AMENDING CHAPTER 1151, "U-1 DWELLING HOUSE DISTRICT REGULATIONS" OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MORELAND HILLS, OHIO TO PROHIBIT FRONT FACING, ATTACHED GARAGES AND PROVIDING AN EXCEPTION FOR ATTACHED GARAGES LOCATED ON WILTSHIRE ROAD, ELLENDALE ROAD, AND BERKELEY AVENUE.

Mr. Stanard commented that, contrary to what is commonly assumed, the Zoning Code currently allows front-facing, detached garages throughout the Village. This amendment would prohibit such garages except for properties located on Wiltshire Road, Ellendale Road, and Berkeley Avenue, where the lots are too narrow to allow for turns into garages at the sides of homes.

Mr. Stanard made a motion seconded by Mr. Buczek to place Ordinance 2017-13 on second reading.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

**Ordinance 2017-14 (Second Reading) - Introduced by Mr. Buczek**

AN ORDINANCE AMENDING SECTION 1173.07(F)(1), "USES PROHIBITED IN RIPARIAN SETBACKS," OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MORELAND HILLS TO PERMIT CONSTRUCTION OF SMALL STRUCTURES IN THE RIPARIAN SETBACK.

Mr. Buczek commented that this ordinance would allow for structures such as a shed to be constructed in riparian set-backs without obtaining a variance; such construction would still require review and approval to ensure there are no other viable options for placement and that no damage would occur to the riparian area.

Mr. Buczek made a motion seconded by Mr. Stanard to place Ordinance 2017-14 on second reading.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

**Ordinance 2017-15 (Second Reading) - Introduced by Mr. Stanard**

AN ORDINANCE AMENDING SECTION 1151.07(F), "SCHEDULE 1151.07 MINIMUM SETBACK REQUIREMENTS," OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MORELAND HILLS.

Mr. Stanard said this Ordinance is to address Footnote C in Schedule 1151.07. Footnote C is designed to ensure that a structure of large mass is set back further from a neighboring property than would normally be required; the larger the mass, the larger the required setback from the property line. This Ordinance clarifies the means of measuring irregularly shaped structures to determine the required setback.

Mr. Stanard made a motion seconded by Mr. Buczek to place Ordinance 2017-15 on second reading.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

**Ordinance 2017-16 (Second Reading) - Introduced by Mr. Buczek**

AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MORELAND HILLS TO ESTABLISH A MAXIMUM GRADIENT FOR DRIVEWAYS IN THE U-1, U-4, AND U-5 RESIDENTIAL ZONING DISTRICTS.

Mr. Buczek stated that this ordinance came about at the recommendation of the Fire Chief, as driveways with a grade greater than ten percent (10%) can be difficult to traverse with fire and emergency vehicles.

Mr. Buczek made a motion seconded by Ms. Sturgis to place Ordinance 2017-16 on second reading.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

**Ordinance 2017-17 (Second Reading) - Introduced by Mr. Stanard**

AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MORELAND HILLS TO ESTABLISH SETBACKS AND OTHER REGULATIONS FOR AIR CONDITIONING AND AIR HANDLING EQUIPMENT AND POOL EQUIPMENT.

Mr. Stanard commented that the Village's Code already includes setback requirements for generators; this ordinance will provide consistency by extending those requirements to air conditioning, air handling, and pool equipment.

Mr. Stanard made a motion seconded by Mr. Buczek to place Ordinance 2017-17 on second reading.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

**Ordinance 2017-18 (Second Reading) - Introduced by Mr. Richman**

AN ORDINANCE AMENDING SECTION 1149.01 "ESTABLISHMENT OF DISTRICTS," OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MORELAND HILLS, OHIO.

Mr. Richmond said that this Ordinance will add the newly established U-5 Chagrin Northwest Residential and Planned Development Conservation District, approved by the voters at the November 2016 elections, to the table of the Village's zoning districts.

Mr. Richman made a motion seconded by Mr. Buczek to place Ordinance 2017-19 on second reading.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

**Ordinance 2017-19 (Second Reading) - Introduced by Mr. Fritz**

AN ORDINANCE AMENDING SECTION 1173.05, "REGULATIONS FOR THE CUTTING OF TREES," AND SECTION 1353.06 "CONDITIONS OF PERMIT; BOND," OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MORELAND HILLS. (SECOND READING)

Mayor Renda noted that the Planning Commission recommended the Ordinance to Council but asked for changes in the language. Mrs. Lane will provide the new language prior to the next Council meeting, at which time the changes can be discussed. Mr. Fritz asked if the recommended changes are substantive, and Mrs. Lane replied that they are.

Mr. Fritz made a motion seconded by Mr. Stanard to place Ordinance 2017-19 on second reading.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

**Ordinance 2017-20 - Introduced by Mr. Sherck**

AN ORDINANCE ESTABLISHING THE PERMANENT APPROPRIATIONS FOR THE FISCAL YEAR 2017 FOR THE VILLAGE OF MORELAND HILLS, AND DECLARING AN EMERGENCY.

Mr. Sherck made a motion seconded by Ms. Sturgis to suspend the rules for Ordinance 2017-20.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mr. Sherck said this is a motion to establish the appropriations for Fiscal Year 2017 for the Village. At the Council meeting of the Whole, Prashant Shah, Treasurer, provided a detailed analysis of the 2017 revenue and expenses, including a detailed summary of appropriations for 2017 in Exhibit A to the Ordinance. The total on the revised amount is \$10,028,156.37.

Mr. Shah confirmed that he had provided a revised Exhibit A to include the expense for Chagrin Valley Dispatch. The budget includes approximately \$1.3M for infrastructure improvements and \$330K for capital equipment. There are other capital items amounting to roughly \$360K which are not now in the budget. Those items will be brought to Council for discussion once the exact costs are known.

Mr. Stanard thanked Mr. Shah for his thorough budget presentation and for providing the tools needed to understand the Village's financial position going forward. He also reminded Council that just because funds are set aside in the budget does not mandate they be spent.

Mr. Richman mentioned a report from the Service Director that included Moreland Hills #9 dump truck in the budget but did not recall what else was in the Service budget. Mr. Shah replied that only that one large vehicle is in the budget, at a cost of \$190K; the remainder is for smaller items and equipment. Mr. Richman asked about the possibility of leasing, but Mr. Shah said he shies away from it. Rather than paying interest on a lease, it is better to put cash aside and fund a purchase.

Mr. Sherck made a motion seconded by Ms. Sturgis to approve Ordinance 2017-20.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

**Miscellaneous**

Mr. Richman asked if all members of Council can receive agendas for the Board of Zoning Appeals and Planning Commission meetings. The Assistant Clerk replied that she will add the Council members to the distribution list for future meetings.

Mayor Renda told the Council that Omni Group Development Company has secured all properties for their potential development and have requested a preliminary meeting with the Building Official, Village Engineer, and Law Director. It is currently scheduled for March 22, 2017.

Mr. Fritz made a motion seconded by Mr. Buczek to enter into Executive Session for imminent legal action at 8:32 pm.

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 to come out of Executive Session and adjourn the Regular Council Meeting at 8:55 pm.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Attest:

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Theresa Dean, Assistant Clerk

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Dan Fritz, Council President