

REGULAR COUNCIL MEETING  
May 11, 2016  
MINUTES

The Regular Council Meeting of the Village of Moreland Hills was called to order by Mayor Renda at 8:18pm, in the Village Council Chambers.

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

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

Mayor Renda asked if there were any additions or corrections to last month's meeting minutes. Mr. Stanard stated that on page 3, the Ordinance number should be 2016-19, not 2016-14.

Mr. Richman made a motion seconded by Mr. Buczek to approve the minutes of the Regular Council Meeting of April 13, 2016 as amended.

ROLL CALL:

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

NAYS: None

ABSTENTIONS:

MOTION CARRIED

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

**Mayor**

Mayor Renda stated that she received an email about some young kids on Deepwood Lane who took it upon themselves to pick up litter from the end of their cul-de-sac all the way up to 87. They ended up with a significant bag of litter. She stated that this was all self directed and stated that she has written them all letters. Mayor Renda read the names of the Deepwood Lane kids; Anna Kirsch, Antoinette Wright, Nev Grimm, Malena Galvez, Lucy Grimm, Peter Bradshaw, Max Galvez, Jack Bradshaw, and David Kirsch. Mayor Renda extended her congratulations to them and stated that they are now part of the official record of the Village of Moreland Hills.

**Police**

Chief Wyant reported that two officers completed the two-week training and acquired their motorcycle certifications, so the Police motorcycle is now on the street. On May 18 there is a "Click-it-or-Ticket" event at Orange High School at 7:00am. Officer Bennett and Pepper Pike officers will be in attendance. Students pulling into the parking lot who are wearing their seatbelt will get a "ticket" that they can turn in for a free candy bar and an entry to win a \$118.00 gift card. He stated that he is looking to put an officer into HIDA to take a drug task force class, as discussed at the Roads and Safety Meeting. This will not occur until after the Republican

National Convention (RNC). It will be beneficial, as the police department has had to deal with several drug related incidents in a short period of time. Mayor Renda stated that she thinks this is great idea and commends the Chief for being pro-active on this issue. She stated that a few years ago, we all thought that we were insulated in the Valley and that these were other people's problems. Within the last few months, we have had two very serious over dose situations so anything that we can do to bring this to our consciousness, try to help people that need it and to stop the drug deals is very important.

### **Finance**

Mr. Shah reported that it is time to renew the Workers Compensation premium. The Bureau has changed the way they charge and it is very complex. Ultimately, when we pay our premium for 2015 and 2016, we will end up paying the same amount as we have in the past (\$48,000-\$49,000). He stated that it is time to renew our group program with the Ohio Municipal League, but unfortunately we were not invited back to the group because of our high claims, but by belonging to the program, we can save by having additional programs in place, which we do. The total amount with premiums and fees will be about \$50,000.

Mayor Renda reported that she received a call from a resident regarding Mr. Shah's finance report in the last Newsletter. This resident was very complimentary of what the Village has done, especially in this environment when we are losing so much income. She complimented Mr. Shah on his stewardship and guidance and complimented Council as well.

### **Engineer**

Mr. Filarski did not have a report.

### **Service**

Mr. DeWater stated the road salt ordinance is on the agenda again tonight, which will be discussed further. He reported that the Service Department is currently out patching the pavement.

### **Law**

Mrs. Lane stated that she wanted to briefly summarize the recent Supreme Court decision regarding Open Meeting Law, as discussed at the Committee of the Whole Meeting last week. She stated that this case involved a school board where a member of the board did a private investigation into what they thought were some improprieties by employees of the school district. The other board members were not pleased with him doing that, so they tried to pass a policy where communications between board members and staff had to be run through the superintendent. That policy change was voted on and passed, however the board member that conducted the investigation, did not vote in favor of this policy and in fact after the vote took place, an editorial was published praising him for not being supportive of that policy change. When the article was published, the president of the school board sought out the other board members and staff members to collectively prepare a response to that editorial article. That response was brought about through a series of emails between a majority of the board members, minus the one member, and they submitted their final response to the paper and it was published.

Sometime thereafter, the board member that was not involved in the response sued the board for violating the Open Meeting Act because of their email exchanges. Interestingly, once the lawsuit was filed, the board actually took formal action to ratify the response that they had published in the paper. Both the trial court and the court of appeals found that this email exchange that involved the majority of the board members and some staff members, did not violate the Open Meeting Law, finding that the statute does not expressly apply to email communications, and additionally saying that a mere discussion of an issue of public concern does not mean that there were deliberations under the Open Meeting statute.

The Ohio Supreme Court took a different view, specifically saying that there is nothing in the statute that expressly mandates that meetings occur face to face, that any prearranged discussion could qualify as a meeting, and the fact that the discussion, in this case, occurred through a series of email communications did not remove it from the scope of the Open Meeting Act. It actually cites a really important case where a city council held a series of back-to-back meetings where at no time was a majority present. The court determined collectively that it was a public meeting and that it should have been held publicly.

Mrs. Lane stated that the reason that she thinks this case is important is because there are some court of appeals decisions that say that emails do not apply. She stated that her firm always cautions public officials not to engage in emails back and forth, but they were not quite sure that was true; Public Record law clearly applies to email communications. No one was really comfortable telling their clients that they can hang their hat on these court of appeals decisions that the statute does not speak to email communications. Mrs. Lane stated that she was happy about this decision because she felt as though finally the Ohio Supreme Court is acknowledging that these email exchanges are under the purview of the Open Meeting Act. She emphasized to become a meeting; it has to be more than an unsolicited email. If a member of Council sent an email to the group about an issue of public business and no one responds, that is not a violation of the Public Meeting Law; there would need to be an engagement between the members to rise to the level of a violation. While the statute should be liberally construed, it should be reasonably construed as well.

Mayor Renda stated she is also happy about the Ohio Supreme Court decision but when she first heard about this decision she did not understand how the issue became public business. Mrs. Lane explained that it became public business because the board took an action at a public meeting to formally approve the response, which was being published in the paper as a position by the board. Mayor Renda stated that their flaw was making it public business as opposed to just talking about it. Mrs. Lane stated that it does leave open whether or not if they had not taken that action, if it would have been a violation or not. She stated that she has always advised clients that whenever they are talking to each other, it is best not to do so through email because something could be construed as a violation.

Mr. Richman stated that both the Mayor and Mrs. Cannon had mentioned that to Council last year, which is why he brought it up at Committee of the Whole. He stated that it is better to err on the safe side because in this case, it was something that was not public businesses when it was

occurring, but became so later. Mrs. Lane agreed with Mr. Richman and stated that there are communications that down the road could be part of a formal action that is taken. She informed Council that they should contact her if they ever have a question.

## **REPORTS OF COMMITTEES**

### **BZA**

Mr. Stanard reported that the BZA met on April 25. He stated that Cru Restaurant applied for and was granted a 3 ft. variance for cupola at the top of the building. A garage addition at 195 Meadowhill required an area variance because a portion of the addition would encroach into the front setback (7 ft.), which was approved. A decorative wall/back patio at 195 Sterncrest required an 8 inch variance for a 26 inch wall; 18 inch walls are the allowed maximum height; the variance was approved. The next regular meeting will be on May 23, 2016.

### **Planning Commission**

Mr. Stanard reported that the Planning Commission met on April 25, immediately after the BZA meeting. The decorative wall/patio was approved at 195 Sterncrest. The garage addition at 195 Meadowhill was also approved. A front entry addition at 275 Springdale was presented and was approved. There was a discussion about the Comprehensive Land Use Plan. Master Plan Review Committee member Jen Burke presented the plan and the commission had a robust discussion about it. The Planning Commission recommended the adoption of the plan to Council, which is on the agenda tonight. There was also a discussion about proposed Chapter 1159. The next regular meeting will be on May 23, 2016.

### **Special Public Hearing Planning Commission**

Mr. Stanard reported that the Planning Commission met earlier tonight at 6:00pm for the purpose of a Public Hearing for Ordinance 2016-19. It was very well attended. At the meeting on April 25, the Planning Commission went chapter by chapter and worked with Mr. Majewski to refine language to make Chapter 1159 suitable to the Village. The members were afforded the opportunity to review Chapter 1159 again, at the next meeting. The Planning Commission recommended the adoption of Chapter 1159, with conditions, to Council.

Ms. Sturgis asked what other opportunities would we have to hear from residents in light of the additions/corrections. Mayor Renda stated that Council will have their public hearing, which Council will be setting the date for tonight, and we will make sure that we advertise appropriately. She stated that she and Mr. Fritz have discussed having a “meet with Mayor Renda and Councilman Fritz” session on several nights, later in the summer, so that residents can meet with us and ask questions. Mayor Renda suggested to Council that they join them for these meetings if they are interested in what the residents have to say. She will pass the dates along to Council once they are set. Ms. Sturgis stated that she appreciates the Mayor and Mr. Fritz doing that as well as the work done by the Committee and the input from the residents, which was well considered. She stated that the plan is a working document, and now we have the opportunity to hear the response about that document and she stated that she does not want to feel like we rushed the residents where that is concerned. Ms. Sturgis stated that she wants to make sure the residents have ample time to voice any changes they may have and give them equal amounts of

time for consideration for those voices to come before a public setting. She question whether in a room that holds 49 people, if the majority of people that would be impacted in that potential change would be given the opportunity to be heard. Mayor Renda stated that we advertised in the paper and in our newsletter, so she believes that they were given ample notice to have come here tonight. She stated that if we think that we need more room for the meeting, we can hold the public hearing at Orange High School, however, there was ample space tonight with plenty of available seats. Mayor Renda stated that she feels that we try, in the best way that we can, to reach out to our residents and give them opportunity for input. We have several residents who have reached out in terms of email, which she stated she responded to promptly. She stated that she has asked people to come to her open door day; three people showed up at the last one. We are inviting people to give their input and to let us educate them about what it is that we are trying to do and what we are not trying to do. It becomes a two way street; we can ask that they come and inform them that we have things to say to them, but if they do not come, then that is their decision. We cannot compel them to come; all we can do is offer ample opportunities to them to have their say.

Mrs. Lane wanted Council to know that according to our Code, when there is rezoning, notice letters need to be given to the impacted and adjacent property owners, but only when the rezoning affects 10 or fewer parcels. In this case, we are dealing with 14 parcels, therefore the letters were not required to be sent by Code, however, Mayor Renda wanted to send letters out because she felt that it was the right thing to do. She stated that we will do same for the Council Public hearing meeting as well. Ms. Sturgis stated that she appreciates that they did that and appreciates that there were other opportunities for residents to be heard; she was only questioning if there were opportunities to be heard after the working document came out. Mayor Renda stated that we did discuss writing a letter explaining the zoning issue, outlining what we are proposing and sending it to every resident. She stated that she would prefer to wait until after the Council Public Hearing to do that, in case we decide to incorporate any changes coming out of the public hearing. Mayor Renda stated that July would be a good time to do it, while people are thinking about the election, but before they actually start voting. She stated that we will take that into consideration and also include the times that she and Mr. Fritz will be available in that letter. This is just one more avenue of reaching out to the residents and asking them to get back to us. Mayor stated that she appreciates it when people talk to us and let us know how they are feeling, even when they are opposed to something, at least we hear it first hand and not behind our backs.

Mr. Sherck asked when Cru Restaurant will break ground. Mayor Renda stated that Mr. Filarski has not approved the plans yet, but they have started cleaning up the corner. Mr. Filarski stated that he is sure they will break ground as soon as they receive his approval, however he has not received the revised plans yet. Mr. Sherck stated that he just wanted to say that they did a great job on the waterline in Chagrin Falls; it went in quick and the police controlled traffic well. Mr. Filarski stated that it was a significant improvement for fire safety because the old line did not go all the way to the new subdivision. He stated that the water flow to those houses was under the minimum amount, so this will create a significant water flow increase for those residents as well as Moreland Hills residents on that side of the street.

### **Roads & Safety Committee**

Mr. Richman reported that the Service Department repaired one of their pick up trucks in house, which saved \$1500. They have also started doing in house pavement and patching work, which will also save the Village money. He stated that Mr. Filarski mentioned that 5 locations will be added to our 2016 Drainage and Culvert Program; one on Hemlock, one on Jackson, one on Park Lane, and two on Hunting Trail. The next meeting is scheduled for May 25, 2016.

Mr. Richman made a motion seconded by Mr. Stanard to advertise for bids for the 2016 Drainage and Culvert Program.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mr. Stanard asked who did the Chagrin Falls waterline work that Mr. Sherck mentioned previously. Mr. Filarski stated that it was the developer that performed the work and that Chagrin Falls performed the inspections. Mayor Renda stated that Moreland Hills was responsible for a lot of the traffic control.

### **Facilities Committee**

Mr. Sherck reported that the Facilities Committee met on April 27, 2016. Mr. DeWater is continuing to work with Pat Thornton on the foyer entrance for Village Hall and he is also working on the roof specs. The Service Department installed conduit for the telemetry system, and they also replaced some old air lines outside the building. He stated that Mr. Filarski reported on NEORS D for the Heights Hilltop interceptor local sanitary sewer survey. Except for Greentree treatment plant, all pump stations enter into Pepper Pike and then into the interceptor. The study will put in flow meters to see how sewage is flowing through the pipes. They might add more locations or take one away on Winterberry Lane. Mr. Filarski gave an update that that they will also be doing some smoke and dye testing and they will notify the residents in that area.

Mr. Sherck reported that the Service Department employees have been working at Forest Ridge at least twice a week clearing trails. He stated that Service Department also did repairs to the Garfield Park walkway back to the first rock as well as to the sidewalk by the flagpole. The Historical Society is having the Cabin Open House on Saturday, June 4 from 10:00am-1:00pm. The next meeting is scheduled for May 25, 2016.

Mayor Renda stated that talking about Forest Ridge reminded her to inform Council about the Garlic Mustard Pull which was held after Greening the Hills. Several people, including Mr. Stanard and Ms. Sturgis, met to pull the invasive species in Forest Ridge. She stated that they pulled 12 bags, which beat last year's record. She stated that the Village also had a record amount of paper shredding at Greening the Hills; 10,800 pounds that we kept out of landfills. Mr. DeWater will have the final numbers next week. Both events were very successful.

## **ORDINANCES AND RESOLUTIONS**

Mayor Renda stated that given the importance of the Comprehensive Land Use Plan and Ms. Sturgis' concerns that we give residents the opportunity to weigh in on important things we are doing, she suggested that Council put the ordinance for the Comprehensive Land Use Plan on first reading. There was no objection to that.

### **Ordinance 2016-19 (Second 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 this ordinance was put on first reading and referred to the Planning Commission last month, where they discussed the draft with Mr. Majewski. At the Planning Commission Public Hearing earlier this evening, some of those changes were discussed further. Some of those changes have been made and some still need to be made. They should be finalized at the next Regular Planning Commission Meeting in two weeks.

Mr. Fritz made a motion seconded by Mr. Stanard to place Ordinance 2016-19 on second reading.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mayor Renda stated that Council will now need to set their public hearing. Mrs. Lane was concerned that the Planning Commission will not have their final changes until after their May 23 meeting, which will need to be available thirty days in advance, based on the Code. She stated that sometime week of June 27 would work better to give ample time to give the 30 day notice and to have the materials available. There will be modifications coming out of the Planning Commission in two weeks and they should have a recommendation by then. If any Council Member should have any specific questions about this, they should ask Mrs. Lane and copy Mr. Stanard on it. Council agreed to have the Public Hearing on Tuesday, June 28, at 7:00pm.

### **Ordinance 2016-20 – Introduced by Mr. Fritz**

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

Mr. Fritz stated that the plan was discussed at length at the last Committee of the Whole meeting. As Mayor Renda suggested earlier, he stated that he believes it is a good idea to put it on first reading. Mr. Stanard stated that since Ms. Sturgis suggested getting it out to the public so it can

be talked about, could putting it on first reading hold that up. Mayor Renda stated that we are not holding it up and in fact the document is already available on our website and anyone can come to Village Hall and request a copy. She stated that it is tradition for an ordinance that is very meaningful to the Village and one that people may want to have input on, be placed on three readings.

Mr. Fritz made a motion seconded by Ms. Sturgis to place Ordinance 2016-20 on first reading.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

**Ordinance 2016-21 – Introduced by Ms. Sturgis**

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) TO PARTICIPATE IN THE ODOT WINTER CONTRACT (018-17) FOR ROAD SALT; WAIVING COMPETITIVE BIDDING AND DECLARING AN EMERGENCY.

Ms. Sturgis stated that Council passed an ordinance on February 10, 2016 regarding the salt contract. This ordinance will supersede that one because ODOT made some amendments to it.

Ms. Sturgis made a motion seconded by Mr. Buczek to suspend the rules for Ordinance 2016-21.

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 2016-21.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

**Ordinance 2016-22 – Introduced by Mr. Stanard**

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

Mr. Stanard went over the following line items; Capital: Skyline Drive received a new fire hydrant; Contractual Services: North Star and McKenna which have to do with our Comprehensive Land Use Plan and the drafting of Chapter 1159; WWTP Salaries: an amendment of \$15,000 which used to be paid for out of the Service Department budget, however it is more appropriate that it comes out of this account; Transfers were made from the General Fund to support the Police and Fire Levy and the Police Pension for both March and April; One



advance was made for the operations and maintenance of hydrants that were repaired; this money will be recouped.

Mr. Stanard made a motion seconded by Ms. Sturgis to suspend the rules for Ordinance 2016-22.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mr. Stanard made a motion seconded by Mr. Buczek for passage of Ordinance 2016-22.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

**Miscellaneous**

Mr. Buczek informed Council that he received calls from residents saying they were impressed with the work that was done regarding the water main repairs on Berkeley and stated that he was impressed as well.

Mr. Buczek made a motion seconded by Mr. Richman to adjourn the Regular Council Meeting at 9:16pm.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

The meeting was adjourned at 9:16pm.

Attest:

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Sherri Arrietta, Clerk of Council

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Steve Richman, Council President