

REGULAR COUNCIL MEETING

December 9, 2020

MINUTES

The Regular Council Meeting of the Village of Moreland Hills was called to order by Mayor Fritz at 7:02pm, via Zoom.

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

Also Present: William Hanna, Law Director; R. Todd Hunt, Legal Counsel; Chief Kevin Wyant; Prashant Shah, Treasurer; Jeff Filarski, Village Engineer; Ted DeWater, Service Director; Sherri Arrietta, Clerk of Council; Sandy Cutler, Owner Cru Uncorked; Henry Meyer, Resident; Dick Kawalek, Architect; Steve Byron, Attorney

Mr. Richman made a motion seconded by Mr. Stanard to approve the minutes of the Regular Council Meeting of November 11, 2020.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Resident Comments

There were no residents present wishing to speak.

Reports from the Mayor and Other Municipal Officials

Mayor

Mayor Fritz stated that he would make his remarks brief because they have a heavy agenda. He stated that he distributed an updated COVID policy today to employees, specific to known positives in the home of an employee. The guidelines from the CDC and the Cuyahoga County Board of Health were followed as well as consulting with local Mayors and Managers and professionals at University Hospitals, to draft this policy. Mrs. Arrietta has a copy of this policy that she will share with you. The Department heads received a copy today as well, which lays out various scenarios for when it is safe to return to work, when you have a known

COVID positive person living in the house.

He reported on the NRAC meeting that was discussed at the Committee of the Whole Meeting last week. He attended the meeting in partnership with the WRLC and stated that he spoke on behalf of Village residents and Council, in favor of the preservation of the former DeRocco property. Mayor Fritz stated that he feels a solid argument was made on our behalf. This property is part of the beautiful corridor along Chagrin River Road, which has many privately protected properties through legal instruments (easements, in perpetuity donations, etc.) with the WRLC. The corridor is ripe with a lot of preservation efforts so we made a good, strong case for preserving this property and making it a passive park with access to Hogsback Hill Cemetery. He stated that we were up against some stiff competition, but we will keep our figures crossed and he will keep Council up to date on this situation.

As Council knows, we made a Capital Budget request, and he reported that the Capital Budget did advance to the House. He is unsure if anything is going to be rewarded with any type of certainty, but he will keep Council posted.

Mayor Fritz complimented Mr. DeWater and the Service Department for their great effort during the recent snowstorm. Mr. DeWater will report on the specifics in his report. He stated that Chief Wyant and the Police Department also deserve praise for their efforts as well. Mayor Fritz informed Council that he heard from a resident that one of our officers took the time to get out of his cruiser, since the street was blocked by a tree that fell, to walk down the street, through the snow to check on an elderly resident. Overwhelmingly, the input received was positive and thankful for our efforts.

The storm did bring forth some concerns, which generally were focused on AT&T, Spectrum, and First Energy. Residents tend to get angry at the frequency of certain outages we have, whether related to a storm of significance or not. He stated that he did reach out to Dean Hayne, our Governmental Affairs Representative from First Energy and asked him to attend our February COW Meeting and he agreed. Council will have a chance to ask him questions and voice any concerns that they or their neighbors may have. Mayor Fritz stated that he also plans to ask our representative from Spectrum to attend our March COW Meeting.

Mayor Fritz stated that he hears quite a bit that Moreland Hills does not have a lot of options for internet providers. The reality is that we do have three; AT&T, Spectrum, and Dish, however from a realistic standpoint and the bandwidth required to work from home, some of these options are not so great. He feels that there is merit in moving forward and having a discussion with our residents who are unhappy with their internet provider options. Mayor Fritz stated that he had been working with a resident, pre-COVID, and they were going to go to the City of Brunswick, who has their own internet network system, which is serviced by one of their employees. They provide a high-speed option for their residents that is controlled locally. He stated that this is not something that he was thinking that Moreland Hills would administer alone, but he stated that he wanted to get educated on it so perhaps we could start the ball rolling down the road and include other municipalities to create a conglomerate and discuss options. Mayor Fritz informed Council that their message to neighbors and residents who are unhappy with the internet speed is that we are looking at other options and we will get a representative to attend a meeting so that questions can be asked and concerns can be voiced.

Mayor Fritz stated that at the last COW meeting, Mr. Spencer brought up potentially using our CERT contacts during a heavy snow fall/snowstorm like the one we had recently. He stated that he has reached out to Sgt. Tackla after speaking with Chief Wyant and she will be coordinating and effort with Mrs. Arrietta where we will have a “storm in a box” so to speak. It will include lists of those residents that may be in need of help that can be split up between CERT members to have them contact these residents in the event of another storm. Mayor Fritz thanked Mr. Spencer for looking out for our residents with this idea.

Service

Mr. DeWater stated that as Mayor Fritz mentioned, we had the severe snowstorm last week. We received 18 + inches of snow in a 24-hour period. The Service Department crews rotated throughout the storm and the majority of the time, they had every piece of equipment that could push snow on the roadway. He stated that they had minimal equipment breakdowns, so overall they fared very well. The clearing of the snow was hampered with all the downed trees, which the Service Department will be picking up next week using the excavator that we share with Orange to load branches/limbs onto a dump truck. In the spring we will have a small hazardous tree program and will grind them all into mulch to sell to residents. He stated that there was one minor incident where a young motorist ran into the back of the new Dodge pick-up truck. They are getting estimates to have the minor damage repaired. Mr. DeWater stated that his employees did a great job keeping up with the storm where they could but there were some issues with residents parking on side streets preventing them from plowing. He stated that we

need to get the word out to them about not parking on the streets.

Mayor Fritz stated that a CodeRed was sent out to residents about the Service Departments pick-up of storm related brush and branches. It has proven to be a good tool for us, but we do not want to overuse it. Please let him know if anyone feels that this service is over or under used; he would appreciate the feedback on it.

Police

Chief Wyant thanked Mayor Fritz for his kind words with respect to the job his officers did during the storm. He stated that he did receive several calls of praise for the terrific job they were doing, which he passed along to the officers.

Engineer

Mr. Filarski reported that the Moreland Commons project will be finishing up with the west bound widening of Chagrin Blvd. Asphalt is being placed in it tomorrow and Friday. The other side will be done in the spring.

Finance

Mr. Shah reported that we are 3% (\$150,000) below last year's income tax collections. We received a \$245,000 dividend check from the BWC. He stated that he is working on the budget for next year and once the year is closed out, the process will start in full swing. Mr. Stanard stated that Mr. Shah mentioned at the last meeting about the audit and that the state will do the legwork to find a private company to do the audit. He asked if the Village contracts for and pays for it. Mr. Shah answered yes, we will pay for it but the state will control the bidding process and give us a list of potential companies. It will ultimately be their choice but they will take our input as well. He explained that we pay the state for the audit every year as well, and the price is comparable.

Mayor Fritz informed Council that the Village would also be receiving a refund from Medical Mutual of Ohio. They are giving back 50% of one month's premium. RITA has also given some refunds as well. Mayor Fritz gave kudos to Mr. Shah, Mrs. Bossart, and Council for it as has been a difficult year as far as finances and it has been a roller coaster ride for income tax collections. Collectively as a team, we have worked together with strict attention to conservative practices, which has postured as to be as well as we can be financially, under the circumstances. He stated that he is very proud of that fact and stated that they should keep up the good work because 2021 is potentially going to bring some challenges as well.

Law

Mr. Hanna reported that at the last meeting it was still in question whether we could still use Zoom to hold public meetings. The state legislature has since extended public bodies to be able to do so until July 1, 2021; the original deadline was December 31, 2020.

Reports of Committees -

Roads & Safety Committee

The Roads and Safety Committee did not meet in December. Ms. Sturgis stated that she would like to echo the sentiments shared by Mayor Fritz as well as many residents about the wonderful service that was provided during the recent snowstorm. She stated that it was much appreciated and thanked Mr. DeWater and the whole Service Department.

Facilities Committee

The Facilities Committee did not meet in December.

At this time, Mr. Emerman stated that he had a motion to make.

Mr. Emerman made a motion seconded by Mr. Richman to authorize the Mayor to allow the Village Engineer and Service Director to proceed with final design and to advertise for bids on construction of a Pavilion located at 3800 Chagrin River Road, Moreland Hills, Ohio 44022.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mayor Fritz explained that Mr. DeWater and Mr. Filarski would start advancing their design phase to come to completion and get some estimates, as Mr. Emerman just mentioned. That will then go to the Facilities Committee where they will look things over. At that point, we will also allow an avenue for the Parks Commission members to either submit their comments beforehand or at that meeting on the agreed upon design. He stated that he feels it is important to get their input, as they are a very engaged group of people. Council will ultimately vote to allow this project in its completed design form to go out to bid.

BZA

The Board of Zoning Appeals met on December 7, 2020, and Mr. Stanard gave a report based on the meeting minutes, which are attached. There was a Use Variance for MacDonald Properties/Cru Uncorked on the agenda, which Council will vote on later this evening. There will not be a meeting in January; the next meeting will be February 1.

Planning Commission

The Planning Commission met December 7, 2020 immediately following the BZA meeting. Mr. Stanard gave a report based on the meeting minutes, which are attached. There were two Conditional Use Certificates for MacDonald Properties/Cru Uncorked on the agenda, which Council will vote on later this evening. There will not be a meeting in January; the next meeting will be February 1.

At this time, Mr. Richman made a motion seconded by Ms. Sturgis to approve a 2% salary increase for 2021 for the Village officers and employees.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Mr. Fritz stated that in the interest of time, they are going to go out of agenda order and do the Ordinances and Resolutions first, then the Approval of Bonds, Contracts, Plats, Etc.

ORDINANCES AND RESOLUTIONS

Ordinance 2020-68 Introduced by Mr. Emerman

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH UNITED SURVEY, INC. FOR THE 2020 SEWER INSPECTION AND CLEANING PROGRAM AND DECLARING AN EMERGENCY.

Mr. Emerman stated that five bids were received for the 2020 Sewer Inspection and Cleaning Program, with United Survey, Inc. being the lowest and best in the amount of \$122,801.00

Mr. Emerman made a motion seconded by Mr. Stanard to suspend the rules of Ordinance 2020-68.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Mr. Emerman made a motion seconded by Mr. Stanard for passage of Ordinance 2020-68.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Ordinance 2020-69 - Introduced by Mr. Emerman

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH UNITED SURVEY, INC. FOR THE 2020 SEWER REHABILITATION PROGRAM AND DECLARING AN EMERGENCY.

Mr. Emerman stated that two bids were received for the 2020 Sewer Rehabilitation Program, with United Survey being the lowest and best in the amount of \$114,415.00.

Mr. Emerman made a motion seconded by Mr. Richman to suspend the rules of Ordinance 2020-69.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Mr. Emerman made a motion seconded by Mr. Richman for passage of Ordinance 2020-69.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Ordinance 2020-70 - Introduced by Mr. Stanard

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A FIRST AMENDMENT TO THE AGREEMENT WITH WALTER|HAVERFIELD LLP FOR PROFESSIONAL LEGAL SERVICES, AND DECLARING AN EMERGENCY.

Mr. Stanard stated that this ordinance is for a reduction of our current legal service contract which equates to about 1 month of our regular retainer amount.

Mr. Stanard made a motion seconded by Mr. Emerman to suspend the rules of Ordinance 2020-70.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Mr. Stanard made a motion seconded by Ms. Sturgis for passage of Ordinance 2020-70.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Ordinance 2020-71 - Introduced by Mr. Stanard

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH WALTER|HAVERFIELD LLP FOR THE PERIOD FROM THE JANUARY 2021 ORGANIZATIONAL MEETING OF COUNCIL THROUGH THE JANUARY 2022 ORGANIZATIONAL MEETING AND DECLARING AN EMERGENCY.

Mr. Stanard stated that this ordinance would allow the Village to keep the services of Walter

Haverfield, Mr. Hanna and Mr. Hunt for another year. He is impressed and delighted with their services. They have estimated the number of hours per month supplied for 2020 and have made a reduction for 2021, which is a decrease of 18%. The hourly rate may go up a bit but ultimately the value of the contract will result in a savings to the Village. He stated that they all truly respect and value the performance of the Walter|Haverfield firm, specifically Mr. Hanna and Mr. Hunt. They are highly professional, amiable, personable, informative and agreeable. He stated that he thinks that the Village should be proud to have them with us again for another year. Mr. Richman agreed with the sentiments of Mr. Stanard.

Mr. Stanard made a motion seconded by Mrs. Kozminski-VanderHart to suspend the rules of Ordinance 2020-71.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Mr. Stanard made a motion seconded by Mr. Richman for passage of Ordinance 2020-71.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Mayor Fritz stated that he would also like to echo those sentiments. He stated that he likes to think that he tells Mr. Hanna and Mr. Hunt frequently how valuable their services are and how instrumental they have been in his first year. They are always there when he needs them and they have been doing an outstanding job for the Village. He is very proud of their efforts. Likewise regarding the professional services under contract on the agenda tonight. The message was that we have a lot of uncertainty in 2021, and both parties before you this evening worked very hard to come in either flat or with savings, and we are very appreciative of their understanding during the pandemic and the ability to negotiate and work with us in the manner that they have.

Ordinance 2020-72 - Introduced by Mrs. Kozminski-VanderHart

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH CHAGRIN VALLEY ENGINEERING, LTD. AND JEFFREY J. FILARSKI FOR VILLAGE ENGINEER SERVICES, AND DECLARING AN EMERGENCY.

Mrs. Kozminski-VanderHart stated that this contract allows for Mr. Filarski and Chagrin Valley Engineering's services for another year, and is the same amount as last year's contract. She stated that Mr. Filarski does a great job for the Village. Mr. Stanard stated that it is a great contract and a good bargain. Mr. Filarski reviews numerous documents for the BZA and Planning Commission; he finds grants for the Village, and overall does truly exemplary work. Mayor Fritz stated that Mr. Filarski is a huge help and stated that his work is valued tremendously. He thanked him for working with them on this contract and stated that he is appreciative of his efforts. Mr. Filarski thanked everyone for the kind words and stated that he appreciates working with the team.

Mrs. Kozminski-VanderHart made a motion seconded by Ms. Sturgis to suspend the rules of Ordinance 2020-72.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Mrs. Kozminski-VanderHart made a motion seconded by Mr. Stanard for passage of Ordinance 2020-72.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Ordinance 2020-73 - Introduced by Mr. Spencer

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH MEDICAL MUTUAL FOR THE PROVISION OF HEALTH CARE INSURANCE TO VILLAGE EMPLOYEES, AND DECLARING AN EMERGENCY.

Mr. Spencer stated that the current plan renewal would be at a cost of approximately \$559,902. Mayor Fritz and Mr. Shah looked to see where we could be more efficient and save some money on our healthcare plan while at the same time, ensuring that our employees have minimal, if any, impact to the services and coverage that they get or the network that they can utilize. They have achieved that goal with this proposed plan. On the current plan, the employees pay a premium of between \$5 and \$15 a month depending on the plan they have (individual, family, etc.). They currently have a \$20 co-pay and 80/20 sharing after that, and between a \$500 and \$1,000 deductible. With the new plan, the employee premium payment will remain the same; however, the deductible will be reduced to between \$250 and \$500. There will be no change in network or any of the coverage that employees currently get. The only difference will be that a \$20 co-pay and the 80/20 sharing will be eliminated, making the employee responsible for the first \$250 as an individual or \$500 as a family. The estimated savings for the Village will be approximately \$97,000.00, based upon a 50% utilization, which is a conservative utilization percent. Even if utilization is at 100%, the Village will still save approximately \$42,000.00.

Mr. Spencer made a motion seconded by Mr. Stanard to suspend the rules of Ordinance 2020-73.

ROLL CALL:

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

NAYS: NONE

ABSTENTIONS: Ms. Sturgis

MOTION CARRIED

Mr. Spencer made a motion seconded by Mr. Richman for passage of Ordinance 2020-73.

ROLL CALL:

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

NAYS: NONE

ABSTENTIONS: Ms. Sturgis

MOTION CARRIED

Ordinance 2020-74 - Introduced by Mr. Spencer

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH METLIFE FOR THE PROVISION OF DENTAL COVERAGE TO VILLAGE EMPLOYEES AND DECLARING AN EMERGENCY.

Mr. Spencer stated that this is a renewal of dental coverage for the employees. There is no change other than the addition of orthodontia to the plan, at no additional cost to the Village or employee. The total cost is \$22,783.00 and that covers our 29 employees and their families.

Mayor Fritz asked Mr. Shah to explain how adding orthodontia will not increase our costs. Mr. Shah explained that he believes it is because since we are such a small entity, we are rated as part of a pool, so adding orthodontia for 30 employees is not going to change the pool cost that much and will not be reflected in our premiums. Mr. Spencer stated that he has also heard that there has been significant reduction in usage this past year, so he thinks some of the insurance companies know that there will not be the level of reduction that there was earlier this year when dental offices were shut down because of COVID, but given that usage has been down, there has been hesitancy to raise any rates.

Mr. Spencer made a motion seconded by Mr. Stanard to suspend the rules of Ordinance 2020-74.

ROLL CALL:

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

NAYS: NONE

ABSTENTIONS: Ms. Sturgis

MOTION CARRIED

Mr. Spencer made a motion seconded by Mr. Stanard for passage of Ordinance 2020-74.

ROLL CALL:

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

NAYS: NONE

ABSTENTIONS: Ms. Sturgis

MOTION CARRIED

Ordinance 2020-75 - Introduced by Mr. Spencer

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH GUARDIAN LIFE INSURANCE COMPANY OF AMERICA FOR THE PROVISION OF LIFE INSURANCE AND ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE TO VILLAGE EMPLOYEES AND DECLARING AN EMERGENCY.

Mr. Spencer stated that this is a renewal for life and accidental death and dismemberment insurance for Village employees. Each employees receives \$25,000 coverage for each benefit. He stated that the cost per \$1,000 of coverage per person is \$.31 for life insurance. The original quote that we received and is reflected in this ordinance was an increase to \$.33 but Guardian has informed us recently that they have decided to hold the rate flat at \$.31. There is no increase to the accidental death and dismemberment insurance and will remain \$.04 per \$1,000.

Mr. Spencer made a motion seconded by Mr. Richman to amend Ordinance 2020-75 to substitute the language of “\$.033/\$1,000” with “\$.031/\$1,000.”

ROLL CALL:

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

NAYS: NONE

ABSTENTIONS: Ms. Sturgis

MOTION CARRIED

Steve Byron entered the meeting at 8:03pm

Mr. Spencer made a motion seconded by Mr. Stanard to suspend the rules of Ordinance 2020-75.

ROLL CALL:

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

NAYS: NONE

ABSTENTIONS: Ms. Sturgis

MOTION CARRIED

Mr. Spencer made a motion seconded by Mr. Emerman for passage of Ordinance 2020-75 as amended.

ROLL CALL:

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

NAYS: NONE

ABSTENTIONS: Ms. Sturgis

MOTION CARRIED

Resolution 2020-76 - Introduced by Mrs. Kozminski-VanderHart

A RESOLUTION AMENDING THE VILLAGE'S POLICY REGARDING THE PROVISION OF REFRESHMENTS FOR EMPLOYEES AND OTHERS AT APPROPRIATE OCCASIONS.

Mrs. Kozminski-VanderHart stated that this is an amendment to an existing ordinance, adopted in 2003, to add a specific section allowing the Village to provide a holiday luncheon or meal within the budgeted amount. It was indicated that this is good for morale amongst the employees.

Mrs. Kozminski-VanderHart made a motion seconded by Mr. Stanard to suspend the rules of Resolution 2020-76.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Mrs. Kozminski-VanderHart made a motion seconded by Ms. Sturgis for passage of Resolution 2020-76.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Mr. Hunt entered the meeting at 8:08pm.

Resolution 2020-77 - Introduced by Mr. Emerman

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE CUYAHOGA SOIL AND WATER CONSERVATION DISTRICT AND THE NORTHEAST OHIO REGIONAL SEWER DISTRICT FOR THE PROVISION OF TECHNICAL ASSISTANCE IN IMPLEMENTING SOIL AND WATER CONSERVATION MEASURES; AND DECLARING AN EMERGENCY.

Mr. Emerman stated that the Village's storm water sewer system is separate from our sanitary system, which means that the stormwater does not go into the treatment plants. It is instead discharged into our ponds, streams, and rivers. Our sanitary water goes to either NEORSD or to our one treatment plant. We are considered a "Municipal Separate Storm Sewer System" (MS4) and we operate under an MS4 discharge permit called NPDES (National Pollutant Discharge Elimination System). One requirement of that permit is that we perform certain conservation education, stewardship, and public involvement activities. The Village receives a grant from the NEORSD that we pay to the Cuyahoga County Soil and Water Conservation District to perform those services for us.

Mr. Emerman made a motion seconded by Mr. Richman to suspend the rules of Resolution 2020-77.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Mr. Emerman made a motion seconded by Mr. Stanard for passage of Resolution 2020-77.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Resolution 2020-78 - Introduced by Mr. Richman

A RESOLUTION DETERMINING THAT ALL PAYROLL COSTS FOR THE POLICE DEPARTMENT OF THE VILLAGE OF MORELAND HILLS FOR THE PERIOD OF MARCH 1 2020 THROUGH DECEMBER 31, 2020 ARE ELIGIBLE FOR THE REIMBURSEMENT FROM CARES ACT FUNDS CONSISTENT WITH THE REQUIREMENTS OF SECTION 5001 OF THE CARES ACT AS DESCRIBED IN 42 U.S.C. 601(D) AND DECLARING AN EMERGENCY.

Mr. Richman stated that the CARES Act has provided some relief to us this year and this ordinance will allow the next round of funds to further defray costs by covering some public safety expenses for March through December. The determination of eligibility to allow these funds to be utilized for our safety forces payroll has been reviewed by Mayor Fritz, Mr. Hanna, and Mr. Shah, and they have relied on the Ohio Office of Budget and Management and the Federal Treasury's Coronavirus Relief Fund guidance.

Mr. Richman made a motion seconded by Mr. Spencer to suspend the rules of Resolution 2020-78.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Mr. Richman made a motion seconded by Mr. Emerman for passage of Resolution 2020-78.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Ordinance 2020-79 - Introduced by Mr. Spencer

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

Mr. Spencer stated that given that it is the end of the year, this transfer ordinance is quite lengthy. This ordinance has a number of adjustments to finalize the year and true everything

up. He stated that he would point out some of the larger items. When COVID hit, we reduced our spending on street construction so we are moving \$400,000 back from that fund; the House on the Hill contract that was not spent this year resulting in another \$300,000 being moved. One related to the ordinance that Mr. Richman just presented, is the moving of funds from the coronavirus expenses line item to the coronavirus salaries and benefits to cover some of the police department salaries. A few other larger ones include money being moved from the general fund to the equipment replacement fund (\$60,000 for Service \$40,000 for PD) to set aside money to replace vehicles over time.

Mr. Spencer made a motion seconded by Mr. Stanard to suspend the rules of Ordinance 2020-79.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Mr. Spencer made a motion seconded by Mr. Emerman for passage of Ordinance 2020-79.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Ordinance 2020-80- Introduced by Mr. Spencer

AN ORDINANCE ESTABLISHING THE TEMPORARY APPROPRIATIONS FOR THE FIRST QUARTER OF THE FISCAL YEAR 2021 FOR THE VILLAGE OF MORELAND HILLS, AND DECLARING AN EMERGENCY.

Mr. Spencer stated that we do not have an established budget for 2021 yet, but it will be finalized at the March 2021 Council Meeting. Council must give authorization for the Village to spend funds and continue operation in that interim period, which is the purpose of this ordinance.

Mr. Spencer made a motion seconded by Mr. Stanard to suspend the rules of Ordinance 2020-80.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Mr. Spencer made a motion seconded by Mr. Emerman for passage of Ordinance 2020-80.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Mayor Fritz stated that they would now go back to Item 8 on the agenda. This would allow some of our professional staff and department heads to leave the meeting if they so choose.

Mr. Shah, Mr. DeWater, and Chief Wyant left the meeting at 8:21pm.

APPROVAL OF BONDS, CONTRACTS, PLATS, ETC.

Mr. Stanard started by introducing the topic and then opening it up for discussion by all the meeting participants and Council members. He gave a brief synopsis of the proposed project.

At the November BZA Meeting, the owners of Cru Uncorked came before the board for a preliminary discussion. They informed the members that they had purchased the property to their east, which is owned by MacDonald Properties LLC. Due to the COVID mandates for restaurants, it has decreased Cru's allowable business by 27%. However, at the same time, it is a restaurant that is experiencing a very positive growth because of the nature of their business, the nature of their clientele, and the quality of their good service. The combination of the COVID pandemic and the purchase of the property next door, lead to some ideas. The owners thought the parcel next door could be used to install a greenhouse and garden to grow food and flowers and use those products for the newly popular "farm to table" movement. They also need additional storage for wine, and if they are able to expand, additional storage for their outside dining, which is essentially more allowable and more desirable in light of the pandemic. In summary, with the purchase of the additional parcel of land, it made sense to expand the restaurant, including a wine tasting pavilion and an expanded outdoor patio area to

dine, some of which would take up some of the existing parking spaces at the restaurant location currently. Adding the second lot to the right would make up for the loss in spaces. The Board of Zoning Appeals thought it was a beautiful plan that is also very “green.” There would also be a small kitchen shed with a venue space that may, at some point, be used for cooking classes and wine tasting events. The diners from the restaurant could walk around the garden area and enjoy the natural setting of the “farm to table” garden.

The difficulty is that the restaurant sits on a U-2 commercial parcel and the parcel to the east is currently zoned U-1, which is a residential district. Mr. Stanard reminded Council that that parcel does have a history where it was at one point a commercial property and the owner petitioned the Village to convert it to a U-1 use, such that he could build a residential home on it, which was granted. It is now being asked to be used in support of a commercial property next door. The applicant does have the ability to put it on the ballot to change the zoning from a U-1 to a U-2, but in doing so, it would then become a U-2 parcel in perpetuity. The Village administration and Board of Zoning Appeals members, and our Legal Counsel were unanimous in their opinion that it would be better for this parcel to remain a U-1. If that is the case, the question is how do we allow this unusual relationship between this U-1 parcel and the U-2 parcel.

After our Building Official, Village Engineer, and our Legal Counsel studied it and our Code, they came up with a list of variances that would be required to allow this to be done. The most significant of the variances required and considered to be the “threshold issue,” is the Use Variance. The language of the variance, listed on the agenda, is straight to the point. If approved, area variances would be required for the following: to allow a greenhouse to sit on a location that would not normally be allowed with the setback on the parcel if it were a normal residential lot. The greenhouse is bigger than an accessory structure normally allowed on a typical residential lot, and the kitchen shed, in addition to the greenhouse, would also require a variance because it would exceed the total allowable square footage for accessory structures on residential lots.

After the BZA looked at and discussed it, we recommended the Use Variance to Council, and approved the area variances, which are contingent upon the approval of the Use Variance tonight. The Planning Commission also approved the structures themselves. The Planning Commission also looked at two conditional use certificate requests. One is for additional seating for outdoor dining, modifying an existing conditional use permit and the other would be a new one to allow outdoor dining on the U-1 parcel that is currently owned by the

MacDonald Properties LLC, both of which were recommended to Council.

Mr. Stanard stated that it is an impressive project in terms of the quality that it will bring to the Village from various aspects. Cru has been operating in the Village for four years, and they continue to gain in popularity and recognition for their quality and are on track to attract a lot of businesses to have their quarterly/yearly meetings there. It has been wonderful for the Village to have this establishment here and to see it succeed.

At this time, Mr. Sandy Cutler, owner of Cru Uncorked, thanked Mr. Stanard for the wonderful description of the project. He stated that they feel that restaurant spacing will continue until at least the end of 2021, requiring the need for the additional outside space. Regarding the wine cellar, he stated that Cru is trying to become a “Wine Spectator Global Triple Bottle Award Winner,” they are currently a double bottle award winner. That would make them a real destination spot here in Moreland Hills. Mr. Cutler stated that they have people come from New York and Chicago for their wine events and they have really gained quite a reputation. They currently have three wine sommeliers making them a different type of establishment that he thinks is a great name for Moreland Hills. There is a restaurant in California that has led in the national recognition of the garden and the greenhouse facilities that they are proposing. He stated that the plan was executed by Architect, Dick Kawalek and his associates and they will have the same builders and use the same materials used for the restaurant. Mr. Cutler stated that he really appreciates the support from the Village professionals over the last two months because they are on a fast track in order to be able to open the new portion of the patio and the wine cellar by May 15 and the new covered wine pavilion by fall. They also hope to be in parallel on this to get moving on the garden and the greenhouse. The kitchen that was referred to is probably a year to a year and half behind this first portion of the project.

Mr. Kawalek stated that he is thrilled to be able to work on this project and is honored to bring it to his community. As previously mentioned, this is going to be a world-class restaurant and so they are not taking any shortcuts. They have requested a Use Variance, which commits them to a substantial investment and long-term development in a very prescribed way that the Village is allowing them to proceed with, as opposed to some other entity purchasing this property and converting it to a U-2 district and putting up a fast food restaurant or strip center. He stated that he believes that this is a real amenity to the Village. Mr. Kawalek stated that the plans Mr. Cutler referred to were only Phase 1a, there are still three or four more phases to go.

Mr. Cutler thanked Council for allowing them to say a few words about the project tonight and he is hoping that with their support, they can then submit the drawings to the Village Engineer for his review, such that they can be in a position to obtain a building permit by the end of the month so that they can start the project in early January.

Mr. Stanard thanked Mr. Cutler and Mr. Kawalek. He stated that he wanted to point out to Council that the Board of Zoning Appeals did study this at length and in great detail. As soon as members started looking into it, questions came up; “What about lighting?” “What about noise?” “How can we keep the adjacent properties comfortable and not create a disturbance?” “What about outdoor fires and pyrotechnics?” Mr. Stanard stated that all these items were captured because the BZA likes to be able to recommend to Council, a list of conditions that we think is important and would help Council consider granting the Use Variance because we feel that we thought of everything that would be a threat in any regard.

Council has a list of 12 conditions that the BZA recommended would be “attached” to this Use Variance, making the approval of the Use Variance, conditional upon these 12 items. The most important one is the first one, which states that if we allow this, they cannot substitute, expand it, or change it in any significant way without coming back to the BZA and ultimately Council for another approval. Second, all the buildings, structures, and uses that are being proposed have to be those as drawn on the site plan; they cannot add or remove something from that plan. Mr. Stanard stated that the BZA was able to work with the applicant and owner to limit the number of people on the combination of those two parcels; 145 would be the maximum number of patrons on the two lots at any given time. Outdoor seating on the new parcel would be limited to 50 people including tables and chairs for no more than 50 people, which would satisfy their request and requirement for dining and small events such as kitchen classes, wine tastings, small wedding, etc. Outdoor events would be limited to March 1 through November 30, weather permitting, within the hours of 9:00am to 10:00pm from Sunday through Thursday, and 9:00am to 11:00pm on Friday and Saturday. The applicant has asked if it could be extended until midnight on Friday and Saturday. There was a brief discussion about it at the BZA meeting and everyone seemed to agree that it was a reasonable request, but the language has not yet been changed in the conditions as it will be up to Council to make that determination. Another condition is that there would be no amplified sounds so no microphones or amplifiers are allowed. Mr. Stanard thought it was important to point out that the restaurant has been in the Village for four years and there has not been a single complaint made to the Village. Pyrotechnics would not be allowed but any recreational fires/fire pits would have to comply with the State of Ohio Fire Codes. A lighting plan would

need to be approved, subject to the conditions of Village Code. We have had good success with our lighting code, which was recently revised taking into account everything that has been encountered over the years making it thorough. A landscaping plan will be required to be installed and maintained, and the plan will include a buffer from the parking area to the existing residential lots that are to the south and the west.

Mr. Stanard stated that the owner of those properties to the south and the west is in attendance tonight and he has requested of the owner that the 10-foot buffer zone that is existing be extended to a 20-foot buffer zone. He stated that issue will need to be resolved tonight before Council would feel comfortable in accepting that the landscaping plan is complete and thorough with regard to consideration for the adjacent neighbors. Finally, the last condition would require that the owners would have the legal right to access the property, in a secondary fashion, from Lancaster Lane, which is essentially controlled by the homeowner's association of those that live to the south and the west. Their approval would be required.

That list of conditions contain items that the BZA, Legal Counsel, Village Engineer, and Building Official thought were relevant, reasonable and pertinent to Council's ability to accept this Use Variance in order to allow this unique project to proceed.

If Council approves the Use Variance with the two items that need to be resolved, then the Area Variances (approved conditionally by the BZA) will allow the owner to construct it in the fashion that it was drawn and the next step would be to consider the two Conditional Use Certificates to allow the expansion of the outdoor seating, both on the current restaurant area and on the additional area on the second parcel to the east.

At this time, Mr. Richman stated that he will call on each Council member to take their turn asking any questions that they may have.

Mr. Emerman stated that Cru has interesting architecture and that both the bar and patio are very beautiful, and feels that the proposed plans will also be beautiful. He asked Mr. Hanna if he foresees any issues setting a precedent with granting these types of uses on a U-1 parcel. Mr. Hanna stated that in a strict legal way he would say that there would not be a precedent set such that a future applicant may point to Council having acting in this way in this case, but he thinks that it is an argument that can be made. Mr. Hunt stated that it was his initial concern as well but there are no other parcels in the Village where this particular situation would arise. It is a unique situation where this adjacent property was zoned for commercial use at one time,

was going to be used for a much more intense use, and where that zoning was approved by the voters of the Village. Once the owner decided not to use that parcel for commercial use, he asked Council to re-zone it as residential, only to never build a house on it, which he thinks speaks volumes of the issue of economic viability with respect to using it for a single family residence. Mr. Hunt stated that he would also like to emphasize that this is for accessory uses to this restaurant only, and not a principle use, which provides extreme control by the Village over the use of that parcel in the future. That along with the twelve conditions recommended by the BZA, certainly will protect the Village's and the neighbor's interests, and to some extent the owner's interest going forward. He stated that he just cannot see this as a precedence going forward. Only if any other owner of commercial property wants to rezone an adjoining piece of residential property, that would set a precedence. It is extremely difficult to apply all the approvals given to one property to another property.

Mrs. Kozminski-VanderHart stated that she was present at the BZA meeting so she was able to listen to the whole discussion and ask questions at that time. Her main concern was if something were to happen to the restaurant, that the Use Variance carries with the land, and wanted to make sure that the Village was protecting itself against future owners of the property that may have different values or thoughts on how to use the property. She stated that she is confident that the conditions that were written were thorough and written by those who were experienced and so she is very comfortable with it and how it would limit future owners from being able to use it the same way. She feels that it protects the Village but allows us to move forward with this project that will be beneficial to Moreland Hills.

Mr. Richman stated that he is impressed by the project and the thoroughness of the owners, architects, our BZA members and professional staff. He asked if the conditions that the BZA members recommended for the Use Variance should also be placed on the two Conditional Use Certificates being considered tonight. Mr. Hunt answered that those conditions apply only to the Use Variance, but the outdoor dining on the residentially zoned parcel will be subject to those conditions, so they do fit together without separation of the two. He stated that he is very comfortable that any of the twelve conditions that reference outdoor dining would also apply to that conditional use for outdoor dining on that parcel. Obviously, those conditions do not apply to the increase in outdoor dining on the restaurant parcel as it exists. Mr. Richman asked about condition #2, which refers to being in conformance with the site plan submitted by the applicant, and asked if there would be an issue with adding the words "and approved by the Village" after "submitted by the applicant."

Regarding the time change (increasing it if from 11:00pm to midnight on Friday and Saturday) and the south border buffer being 20 feet as opposed to 10 feet, Mr. Richman stated that it would be helpful to get a sense of how important it is to the project from the owner's perspective, and also how potentially troublesome it would be to the neighboring properties. He stated that he would like to hear from Mr. Henry Meyer about that. Mr. Cutler stated that both those issues were discussed at the BZA Meeting. He stated that they currently have a 10-foot buffer that runs the entire length of the current property, which is the standard for the Village and there have been no issues with it. Mr. Cutler stated that it is not meant to be a sound barrier, but a light barrier from car headlights that may shine onto a property next door. He stated that they have the same 10-foot buffer shown on the proposed plans for the new parking lot. The challenge with extending it to a 20-foot buffer is that it would cause them to have to cut down mature trees. Mr. Kawalek's drawings show plantings that go back to the Moreland Mews development so if they are strict about the 20-foot buffer, they would have to pull out some of those existing plants on Mr. Meyer's property. He stated that he thought they were being generous in observing the current setback requirement of 10 feet and since they have not had one complaint, he feels that the same treatment would be the proper way to handle the new portion.

Mr. Byron stated that in looking at the GIS map, it looks like a park-like setting in the southeast corner of the new property that was planted by Moreland Mews. They technically did not have the right to plant all of that, but it is nice that it is there. He stated that he feels that a consistent treatment of the Cru side of the property line with the existing parking that is behind the restaurant, will add to the feel of the entire property being a cohesive whole. If we start doing things different, the parking lot will be moved in the garden area making it no longer functional. Mr. Byron stated that they would respectfully request that the 10-foot setback that is in the Village Code be applied in this circumstance because it is being applied immediately adjacent in the U-2 district.

Mayor Fritz stated that he agrees that is what is in our Code and part of this process is unique. As such, the Village is required to make legal notification to adjacent property owners for a reason. The Village wants to make sure that their concerns are adhered to. He stated that to Mr. Richman's point, we would like to hear from Mr. Meyer as to why he feels that it is important that the buffer is 20 feet.

Mr. Henry Meyer, adjacent property owner, stated that he wanted to begin by saying that he thinks what Cru is doing is a wonderful addition to the neighborhood. He stated that he has no

objections to the variances, except as it relates to the parking and the buffer along the westerly line. In their application, they indicate that “Cru Uncorked will enhance and maintain the landscaping that will be south of the new parking so that the residential property to the south of the property has a permanent buffer from the new parking area.” He stated that they also go on to say that they “will increase the density of the understory shrubs between the parking area and the adjacent residential properties to block light and sound of employee cars entering and exiting the parking area.” Mr. Meyer stated that he would like to point out that the setback from the rear property yard to the homes is 30 feet and the area is used as an outdoor patio area for the residents that will reside there. With the 20 feet, it would allow for an additional buffer. He stated that he would like to bring to everyone’s attention to, Section 1175.11 *Buffering and Screening Between Districts and Uses* of the Village Code. This is a U-1 use and the current use at Cru is a U-2, which does require 10 feet, however, under 1175.11(a) *Intent*, it is the intent of that Section to “establish provisions for a visual screening or buffer between incompatible uses and to reduce the effects of glare from automobile headlights, noise, and other objectionable activities conducted on a given lot.” Section 1175.11(b) *Screening* states “Screening, as required by the provisions of this Code, shall be of such nature and density that it will screen the activities on the lot from view from the normal level of a first story window on an abutting lot.” 1175.11 (c) *When Required* states “a buffer yard shall be required when: (4) Mandated by a Conditional Use Regulation in Chapter 1177...” Mr. Meyer stated that Section 1177.07 shows that the minimum parking side yard setback is 20 feet. This being a unique situation, the Code does not specifically address the Cru situation, however, every other setback listed in Section 1177.07 does require a 20-foot buffer for parking. This will allow residents that live on the adjacent properties to still enjoy the outside and if Cru is going to be open to 11:00pm or midnight, it gives them some screening and noise abatement. He stated that they would also like the buffer to continue along the westerly property line as indicated in Section 1175.11 that there shall be a buffer yard. Mr. Meyer stated that he did indicate to Mr. Cutler that he is prepared to go beyond what this says as it relates to the area beyond the parking, because according to Mr. Cutler, there will be no activity back there and it will be natural. He stated that he feels that the 20-foot buffer will enable the residents to maintain their economic value on their properties without having any direct impact on the variances requested by Cru Uncorked/MacDonald Properties LLC.

Mr. Richman asked if a compromise of a 15-foot buffer would be workable to both parties. Mr. Meyer stated that he would like it to be greater than 20 feet but he is trying to be reasonable and responsive because of the noise and the lights to enable the people in the homes to have a little bit of privacy, especially near the parking area. Mr. Kawalek stated that they intend to

provide the buffer as required per Code and it would be substantial arborvitae that will block the view of any cars and lighting, as they have in the past. Adding any more space behind that would not make any difference in terms of blocking noise or view; it would be the same tree buffer. The only thing that is anywhere near that property line is a parking lot, which would only be used by employees, at the beginning of the evening and at the end of the evening only. Moving that parking lot 10 feet for example, is going to endanger other trees that are on the other side of it. He stated that there is a tree with a 30-inch diameter trunk that is just to the east of the parking lot, that he would hate to lose. Mr. Kawalek stated that he does not see that it would make a difference because they would still provide that buffer right along the property line. Mr. Meyer stated that that buffer is in a U-1 district and he is just trying to be consistent with what the Code says, which is a 20-foot side yard setback from the parking area under 1177.07. Mr. Byron stated that this is a variance request and the screening from the U-2 to the U-1 is the 10-foot buffer that is currently in existence behind the restaurant. He stated that they are just requesting that this variance for this property, which is the accessory to the U-2 use, be treated as the existing use of the U-2 property. Mr. Meyer stated that as he reads it, under the Conditional Use regulations, there is a specific utilization in a U-1 Conditional Use Certificate. Mr. Byron stated that they are not seeking a U-1 Conditional Use Certificate. Mr. Meyer stated that they are seeking conditional variances. He stated that they have no problem with the buildings and think it is a wonderful addition to the community, but he is concerned about the economic value of the property; he has five lots that abut that property on the westerly side.

Mr. Richman suggested putting this issue aside for the moment and allow the rest of Council to ask questions or make comments.

Mr. Spencer stated that he was disappointed that he was unable to attend the meeting on Monday, however, he was able to review the entire meeting recording yesterday. He stated that he feels that he has a good understanding of the issues and restrictions. Mr. Spencer stated that he only has three, which have already been addressed tonight; noise, light, and long-term implications of the property. He stated that he thinks Cru has been a tremendous asset to Moreland Hills and this is a beautiful addition and stated that we are very fortunate to have such a high-end operation in the Village that has very little commercial use. He thanked Mr. Cutler for the investment in the Village and Mr. Kawalek for the tremendous architectural plans. Mr. Spencer stated that given the low level of lighting that has been experienced and is expected to be experienced, he does not see an issue with having midnight be the end of hours of operation on Friday and Saturday, however he asked if other restaurants in the Village have

restrictions on hours of operation that are any different and asked if there should be some consistency across all the restaurants in the Village. Mr. Stanard stated that he does not know if there are specific requirements for the outdoor dining, but typically, it follows the hours of the establishment. Mr. Cutler stated that currently the restaurant is open until midnight, or until the last guests leave, and the hours are currently dictated by their liquor license, which would probably be the case for other restaurants in the Village as well. He stated that they are closed well before that time on many evenings, but if they have guests that come in for a 9:00pm reservation, it is not unusual for those guests to leave at 11:30pm-12:00am on a Friday or Saturday. Currently that is not the case as we all have a 10:00pm curfew because of COVID.

Mr. Stanard stated that no complaints have been registered to the Village as it relates to noise or disturbances for the four years Cru has been open. Essentially, they have been allowed to operate until midnight on Friday and Saturday for years and it has not been an issue. Mayor Fritz stated that ML Tavern also has some outdoor seating, which is based on a Conditional Use because of COVID, which is temporary, however the Planning Commission recently voted to extend that. In theory, that will go away and they will not have that outdoor dining that you see now at ML Tavern. Luna Bakery has limited hours, and Flour has no outdoor dining. In terms of consistency, post COVID, there will not be any outside sidewalk dining so it is like comparing apples and oranges. Mr. Spencer asked if the parking study supported the near-term outdoor dining expansion to show that there is adequate parking to handle that and if it will not require additional changes to the parking later if it is expanded outside. Mr. Cutler stated that was correct. The parking study reflects not only the portion that will get done by next spring, but also the additional wine pavilion which will probably be completed in early fall. The overall parking plan actually accounts for little less uses than the total they are building for. The reason that they have about 10 extra spaces is to account for instances where a couple may drive separately, so they allowed for a little wiggle room.

Mr. Stanard stated that he does not have any specific questions but he stated that he wanted to make some comments. To Mr. Cutler's point that he thought that at the conclusion of the BZA Meeting that item #6 would include the allowance of the hours until midnight on Friday and Saturday, he concurs with that after reviewing his notes completely from the meeting. He had crossed out 11:00pm and wrote in 12:00am and in his opinion, there was no dissension among the BZA members when it was brought up for discussion. Mr. Stanard stated that decision was made because they have a proven track record with the Village. However, the list of conditions that were made still state 11:00pm, so they need to be amended before going any further. As far as the consideration of the buffer zone, it sounded to him that Mr. Meyer was not concerned

with the area away from the parking lot, just the parking lot area itself. From looking at the plans, it appears that there are eleven parking spaces immediately adjacent, and each parking space is approximately 8 feet, therefore we are looking at an 88-foot dimension. He stated that if it needed to be, he would hope that it could be bumped a little bit to the northeast, but he is hearing that large existing trees would need to be removed if that was done. His notes from the BZA meeting mention that the landscape designer/engineer/architect would meet with Mr. Meyer and they could look at it and walk the property together and discuss what details would satisfy both parties. Mr. Stanard stated that perhaps language could be added to condition item #11, which would allow the landscaping plan to be done at a later time with the agreement of the owners and the adjacent property owners to say “with adjacent owner’s agreement/input/consideration. We could also allow this to be the framework by which our Village Engineer and/or Building Official could establish the rules specifically at a later time.

Ms. Sturgis stated that she would like to thank the property owner, Mr. Cutler, and the designer, Mr. Kawalek, on the work they have done in presenting information to Council and also being mindful about our ordinances. Through her years on Council, this property has been discussed many times and Council has taken great consciousness to make sure they are respectful and mindful of the needs of the residents as well as making this commercial property a viable part of the community. She stated that she is happy about what they have done, to date, at the restaurant and what it will continue to add to Northeast Ohio and Moreland Hills. Ms. Sturgis thanked Mr. Stanard for the job he did at the BZA meeting and that he had the same thought she had as it relates to ensuring that there is a partnership/collaboration between the owners and the adjacent neighbors regarding the implementation of the sound/light buffers. She asked how they can ensure that residents who own property adjacent to the restaurant will have “good neighbors” and that we, as Council, do not put a barrier in that process. Ms. Sturgis asked if the maximum number of outside seating had been determined. Mr. Cutler stated that the combination of the outdoor seating on the new and old property would be 102. Ms. Sturgis asked what the indoor seating maximum is. Mr. Cutler stated that it is 124, not including the wine pavilion.

Mayor Fritz asked if Mr. Cutler could explain the maximum number on both parcels and how that shifts. Mr. Cutler stated that in the Use Variance it mentions “maximum number of people at one time” and that language is important because as people come in for a 5:00pm reservation, they are probably gone by 8:00pm and we may seat that again, so there will be more people than 145 on the site, but never more than that at one time. It could shift back and forth between the two properties, but if we have more people on the new property, we will have less people

on the old property. The parking is really the final determination and caps what we do if we do not have enough spaces. Mr. Cutler stated that their servers go through 4 weeks of training before they let them wait on a client, so as a result, they do not hire temporary employees. Therefore, they would not be bringing in extra temporary workers for an event, like a country club would for a big wedding, for example.

Mr. Richman stated that based on everyone's comments tonight and the fact that it was the recommendation of the Board of Zoning Appeals, he thinks everyone is in agreement on the time change to midnight on Friday and Saturday. Regarding the potential noise issue, we do also have a noise ordinance and it does speak to "shouting and crying" so there are regulations in the ordinances, so if it were to become an issue, it could be dealt with per ordinance.

Mr. Richman asked if it was feasible to have a reconsideration clause as it relates to the landscaping plan, where they can look at it after a year, for example, to make sure both parties are satisfied with it. Mr. Byron stated that he does not think that is lawful and stated that there is going to be a significant investment of capital. There is going to be construction and things located permanently once it is constructed, which includes a parking lot with a water retention plan that is very expensive, therefore, he does not know how they would go back and change it after the fact. It would have a very significant impact. He stated that their three main goals are to preserve the tree canopy, honor the buffer that they currently have which they have not had any problems with or complaints for, and to be able to put in a permanent parking lot with a water retention plan. They all tie together and so it would be difficult to move the buffer, which would require the removal of trees and to be located on top of the garden, which will knock the whole symmetry of the plan off. He stated that he understands the appeal for a compromise but they have looked at this very hard. Mr. Richman stated that he was suggesting additional buffering, not necessarily to move the buffer back 10 feet as it relates to a reconsideration clause.

Mr. Richman asked if there is a consensus of approval with the conditions as stated or if Council wanted to consider modifying condition #11 along the lines of what Mr. Stanard suggested, that the landscape plan would be in accordance with consideration from neighboring property owners. He also asked if council wanted to look at some type of reconsideration clause, by looking at modifications later if there were to be any issues.

Mr. Stanard stated that he would like to ask Mr. Meyer a few questions. He stated that Mr. Meyer has stated that since the existing restaurant is on a U-2 parcel, that they were only

required to have a 10-foot buffer zone from their parking lot to his parcels. There are at least double the amount of parking spaces that will be on the east. He asked Mr. Meyer if in the years they have been operating if there have been any issues that can be demonstrated with that parking lot and buffer. Mr. Meyer stated that he was never consulted about the 10-foot buffer initially; it was just installed by Cru in conjunction with the Code. It impacts 1.5 lots closes to SOM Center Road and stated that they have had no issues with Cru. He stated that like he said before, he thinks they are a wonderful operation. He stated that now they will be dealing with the balance of the lots that are on their westerly property line and that could impact the economic value of the lots, as well as the decision to buy the lot by some. Mr. Meyer stated that there are very expensive homes back there and he would like to retain that. Mr. Stanard stated that he respects his comments about the economic impact and stated that on two occasions, the BZA was very much in favor of keeping that parcel a U-1, because it is very much in the owner's rights to petition the electors of the Village to change it back to a U-2 and then the Village would lose all twelve conditions imposed by the BZA. They would have a lot more leeway in that case. He asked if Mr. Meyer is a member of the HOA that would be required to negotiate the access along Lancaster Drive. Mr. Meyer said he was. Mr. Stanard stated that he does not want Mr. Meyer's properties to suffer economic harm nor the residents who may be there some day to be disturbed by either light or noise, but he also does not want to see this property revert to a U-2 such that the owner could then do basically what they are already planning to do, but with a lot less input from the Village. We would lose a lot of rights if that would occur. He stated that he is hoping that the owners of all properties are able to come to an agreement at some point, because there are two things at play; one being the buffer zone and the other would be the access along Lancaster Drive, and he stated that he does not want to see a large 30" diameter tree removed because we are not able to do that. It is up to the Village Council to approve or deny the recommendation from the BZA after due and careful consideration, discussion, and deliberation so he would suggest that the time should be allowed to be midnight on Friday and Saturday, add the phrase "and approved by the Village" to condition number #2," and he is not opposed to adding language to condition #11 stating that "a Village approved landscaping plan given due consideration to the adjacent owner."

Mr. Emerman asked about the water retention plan that was mentioned because he did not see it in any of the plans provided. Mr. Filarski shared the plan with him on screen and Mr. Kawalek explained the water retention plans to Mr. Emerman, who was satisfied with the explanation.

Mr. Spencer stated that he agrees with Mr. Stanard that he is concerned that the proper

screening is done and that the property owners of the lots abutting this area do not suffer harm from this. At the same time, it is difficult for him not being an engineer, to think that changing it from 10 feet to 20 feet would solve a problem. He stated that there is a requirement that it is properly screened, and asked if the wording could be strengthened to ensure that the arborvitae or other screening material used is functionally sufficient to keep the car lights from spilling over into a person's lot or backyard. Mr. Stanard stated that this has been discussed not only on this application but others as well. He stated that the Code is very thorough regarding the restriction against light pollution. Condition #10 of the BZA conditions, specifically references conform to the Village Code for that very reason. This is true for all other Village ordinances as well; noise, light pollution, disturbances, etc. He stated that is why they took an extensive amount of time to go over these conditions so that everyone is protected in that regard.

Mayor Fritz stated that this is a legislative decision but he feels compelled to offer some of his insight and thoughts. He stated that they have a situation with an outstanding tenant of the Village and an engaged member of the community, Mr. Cutler, who has a wonderful project that we all agree is amazing and is a wonderful addition to the Village, including Mr. Meyer. It is under a time constraint, especially because of COVID, and a lot of people have worked very hard to get us to this point in an expeditious manner. On the other side of the coin, we have a concerned property owner, Mr. Meyer, who has also been a gentleman and very civil in his engagement on this issue. Council's challenge is to weigh those two issues together. Looking at the drawings, he would concede that it does appear to be difficult to move that parking area 20 feet without doing two things; removing some significant growth trees, which the Village has always taken a strong stance against, and infringing upon the garden area which is located for optimum light and cannot be backed up too much further toward the existing greenhouse without being affected. Mayor Fritz stated that the way he sees it regarding the forms of compromise discussed tonight, the one that is relevant to him, is the willingness to share the landscape architect, come up with a plan agreed upon by both parties within that existing buffer on the current site plan that will ultimately get Mr. Meyer to the point that he would feel comfortable. Perhaps that would include a wood fence on his border behind some of the screening. This is included in an area where the existing 10 feet at Cru, is adjacent to several of the lots that are developed and have not had any concerns expressed. Mayor Fritz stated that he sees the willingness to work on the buffer on the existing site plan with some civil and productive back and forth between Mr. Cutler and Mr. Meyer, with an extension of this vote that Council should consider as a solution.

MacDonald Properties LLC

34550 Chagrin Blvd.

Use Variance –

Sections 1151.03 “Use Regulations” and 1151.13 “Accessory Uses and Structures” to allow the use of a residential lot for an accessory use to the principal restaurant structure located on Parcel 912-10-040 (34300 Chagrin Blvd.) for the purpose of an agricultural use (greenhouse), a garden kitchen building, small events and parking and to allow an accessory building(s) on a lot without an established principal building.

Mr. Stanard made a motion seconded by Ms. Sturgis to approve the Use Variance for the property located at 34550 Chagrin Blvd., which covers Section 1151.03 “Use Regulations” and Section 1151.13 “Accessory Uses and Structures” to allow the use of the residential lot for an accessory use to the principle building restaurant structure located at Parcel 912-10-040, recorded as 34300 Chagrin Blvd. for the purpose of an agriculture use, green house, garden kitchen building, small events and parking, and to allow accessory buildings on a lot without an established principle building, with the twelve conditions recommended by the BZA (see attached) with modifications to three of them: Condition #2 – add “and approved by the Village,” Condition #6 – strike “11:00pm” and replace it with “12:00 Midnight,” and Condition #11 – after “Village approved landscape plan” add “having given due consideration to abutting southeast property parcels owner.”

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

CRU Restaurant

34300 Chagrin Boulevard

Conditional Use for Restaurant Outdoor Seating – Modification of Existing Conditional Use Certificate -

A modification to the original Conditional Use Certificate for outdoor restaurant seating that permitted a total of forty-four (44) outdoor seats. The modification would add an additional fifty-eight (58) seats, bringing the outdoor seating total to one-hundred two (102)

Mr. Stanard made a motion seconded by Mr. Spencer to approve a Conditional Use Certificate for restaurant outdoor seating to modify an existing Conditional Use Certificate at 34300 Chagrin

Blvd., to increase the outdoor seating to a total of one-hundred two (102).

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

MacDonald Properties LLC

34550 Chagrin Blvd.

Conditional Use Certificate for Outdoor Seating –

An application for a Conditional Use Certificate for outdoor restaurant seating at a proposed garden kitchen patio. The proposal is for a maximum of fifty (50) outdoor seats.

Mr. Stanard made a motion seconded by Ms. Sturgis to approve a Conditional Use Certificate for restaurant outdoor seating at the MacDonald property, known as 34550 Chagrin Blvd. to allow outdoor restaurant seating at a proposed garden kitchen patio for fifty (50) outdoor seats.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Mr. Richman thanked Council for their input and congratulated Cru Uncorked and its affiliates and wished them luck. Mr. Cutler thanked everyone for their support and stated that he looks forward to getting this project moving. Mr. Stanard thanked the members of the Board of Zoning Appeals as they put a lot of work into this and managed it very professionally, as did Council members. A lot of that also has to do with the fact that the owner and applicant did a very thorough job. He respects the input from the neighbors as well and is hopeful that they will come to some agreement regarding the landscaping.

Mr. Cutler, Mr. Kawalek, Mr. Byron, Mr. Meyer, and Mr. Hunt left the meeting at 10:12pm.

MISCELLANEOUS

Mr. Richman stated that a revised Council Committees and Terms for 2021 document was put in

the Dropbox for Council's review. The changes made to it clarify that at the Organizational Council meeting, there will be three positions available. One would be Council President; all members of Council are eligible to run for that position. The second will be for a Planning Commission member for a two-year term from the 2019 election cycle; Mrs. Kozminski-VanderHart, Mr. Richman, and Mr. Spencer. The third position will be for a Planning Commission Chair, which would be either Mr. Stanard, who will begin his second year of his two-year term, or whoever is appointed to the two-year term on Planning Commission at the meeting.

He stated that the Council President usually hosts a holiday party after the December meeting every year, but since we cannot do that this year, he wanted to let everyone know that he will be donating the money he would have spent on the party, to the Cleveland Food Bank as a small token of appreciate for everyone's hard work. Mr. Richman wished everyone a safe, happy, and sanitary holiday season.

Mayor Fritz thanked everyone for their hard work as this was a long evening, but they all did a great job navigating the issues in an expeditious manner.

Mr. Spencer made a motion seconded by Mr. Stanard adjourn the meeting at 10:16pm

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

The meeting was adjourned at 10:16pm.

Attest:

Sherri Arrietta, Clerk of Council

Steve Richman, Council President