

REGULAR COUNCIL MEETING

August 5, 2020

MINUTES

The Regular Council Meeting of the Village of Moreland Hills was called to order by Mayor Fritz at 7:07pm, 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; Chief Kevin Wyant; Prashant Shah, Treasurer; Jeff Filarski, Village Engineer; Ted DeWater, Service Director; Sherri Arrietta, Clerk of Council

Mayor Fritz asked if anyone had any corrections to last month's meeting minutes. Mr. Stanard stated that on page 3, the last paragraph in the Engineer's Report where it refers to the SR 87 Slope Repair Project, it should actually be the Willey Creek Bridge Repair project.

Mr. Stanard made a motion seconded by Mr. Richman to approve the minutes of the Regular Council Meeting of July 8, 2020, as amended.

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 Fritz gave a CARES funding update; he stated that nothing has changed. There is still 800 million dollars left for the state to distribute to local municipalities. There is still no guidance as to what we can use after we document direct COVID related expenses. He reported that we continue to follow ODH guidelines at the Village campus (wearing masks, limiting visitors, social distancing) and it is working well and compliance is very good.

We did draft a plan for the Community Kids Fishing Day in September, which does not include food, an awards ceremony, or gathering/speakers at a tent. There will be 15-20 feet between each fishing station and those wishing to participate will be required to pre-registering for this event, which will be split up into two different times on that day allowing for 35 participants in each group. The Cuyahoga County Board of Health did approve that plan based on their assessment of public gatherings; however, the state would supersede that approval. We are expecting some different guidelines coming from the state. In the meantime, we are moving forward with the event until and unless we hear otherwise.

Mayor Fritz stated they had a lengthy Planning Commission meeting on Monday discussing the proposed Addison Farms project, a new development off Miles Road, which Mr. Stanard will update Council on later tonight.

Mayor Fritz reported that the House on the Hill was demolished. Mrs. Arrietta's son, Nick, put together a wonderful video showing the various stages of the demolition of the house, which has been posted on our Facebook page. He stated that Nick has a lot of talent and has aspirations for working in video and film in the future. We appreciate his efforts. We are going to wait for the land to settle before we move forward and use the rest of the \$150,000 that we have from the Clean Ohio fund.

The Moreland Hills Historical Society has a great video from 1931 showing the placing of the stone with the plaque marking the James A. Garfield birthplace, which is the one that still sits there today. It is currently on their Facebook page *President James A. Garfield Birthplace* and we will be posting it to our Facebook page tomorrow for Throwback Thursday.

Mayor Fritz thanked all who have already donated to the Clambake. He stated that it has been our goal to still hold this event and we have been discussing since early summer how to do so in a healthy and safe manner. Unfortunately, it is appearing that it may be more and more difficult as time goes on. All indications are showing that we will be postponing it until next year and we will keep the funds donated this year in the clambake fund to use toward our event next year. It is sad because it is a great tradition, but this event would be too difficult to navigate in a safe way.

A few improvements have taken shape around the Village Campus. The Service Department has installed new steps near the Mayor's parking space with granite. They look great and they are a good correction to the bricks that were falling down. Recently, our summer help also

power washed the entire brick walkway making the names more legible. They will also fill in that area with some screening making the path look much nicer. Kudos to the Service Department for helping to make the Garfield experience better for those visitors who came to see the cabin and birth site.

Mr. Richman asked Mayor Fritz about the procedures a resident would take if they saw someone without a mask and asked for a summary of the plan for the police department once they would get upon the scene if someone were refusing to wear a mask. Mayor Fritz deferred to Chief Wyant to answer and instructed him to give his report after that. Chief Wyant stated that it has been discussed with the prosecutor and Mr. Hanna how to handle calls of that nature. He stated that they will not issue citations under state code for not wearing a mask but they will ask that they comply. If they do not comply, and are asked to leave but do not, then it becomes a criminal trespass issue, in which case they will be charged with trespassing if they still do not comply after our officers have a discussion with them first. Related to that, if there were any other issues upon making that arrest, then it could lead to additional charges. He stated that they are not looking to cite people for not wearing a mask: they will just ask them to comply or leave.

Police

Chief Wyant stated that the Mayor already thoroughly went over the information for the Community Kids Fishing day, so he does not have anything else to report. He stated that he is still waiting for information to proceed regarding the grant that we were approved for regarding COVID items in the amount of \$17,022.00.

Service

Mr. DeWater reported that as the Mayor mentioned, the House on the Hills is gone and is 95% complete by the contractor. They were finishing the removal of footers today from the patio and concrete. The hole was filled and once done, their landscape crew will grade, seed, and straw as required by our specs and let it settle until next year when we can start building on that site.

Another thing the Service Department has been working on are pavement repairs on River Road, beyond what Barbicas did. He stated that they are repairing the centerline before road striping takes place. We anticipate having that done by this Friday.

Engineer

Mr. Filarski reported that the Route 87 Slope Repair Project should be complete and open by next Friday, August 14. This week they are finishing the pavement and guardrail and next week they will do all the landscape restoration. As long as it is dry enough next week, they will finish and open up the road.

Finance

Mr. Shah reported that the income tax collection for this month through the end of July (first collection was on August 1 and the second one will be on August 15) is up by 640% (\$860,000). This shows that were many people waiting to file their taxes until the July deadline. There may still be more extensions that were filed that still need to come through. Year to date, we are only down by about 1% (\$30,000). He stated that we have to think about reality for the following year. As he and the Mayor have talked about, we are currently looking at taxes being collected for 2019, and taxes for 2020 are obviously going to be a different story. When taxes are filed in 2021 for 2020, our projections will be a little different. The good thing is that we managed to cut some of our budget this year and so we could potentially try to save that money for next year by putting it in the reserve, unless an emergency comes up.

Mr. Shah informed Council that the auditors sent him a copy of the audit report this afternoon along with a draft management letter. He stated that he and Mayor Fritz discussed it and it will be sent out to Council, but because it is a draft, it cannot be discussed in a public session; it must be discussed in executive session. Council can feel free to call him or Mayor Fritz with any questions. There are very minor comments in the draft; some of which have already been addressed and the auditors do recognize that. Once Council has the opportunity to go over the report and ask questions, they will determine if they want to have a meeting with the auditors to go over the report or to waive the audit meeting and have the report supplied directly to their emails. In the past, we have always waived the audit because there were no issues to discuss with the auditors, but he stated that he would leave that up to the Mayor and Council to decide.

Mr. Shah spoke about the cybercrime policy issues. He stated that Council had given him and Mayor Fritz the authority to bind the Village with a cybercrime policy, which he has done. We have this insurance policy already in place and in the meantime, we have many resources at our disposal. Mayor Fritz has approached Wichert Insurance, our insurance carrier. Their representative, Janie Geis was able to inform us of many online resources for webinars to train our employees. The Auditor of State also has many resources; they give webinars across the state and have provided many links to him for webinars to train our employees. Mayor Fritz

has reached out to CVD to see what type of protocols they have to protect our servers and if they have any training for our employees.

Mr. Emerman asked Mr. Shah if there were any issues with the amount put in the reserve exceeding the threshold, since we have more revenue than expected. Mr. Shah stated that we could put up to 5% of the previous year's revenues in reserves, so he thinks we will be right at that number, but he will not know until the end of the year. In the past, we have always stayed with 5% of the preceding years revenues, so we will attempt to transfer that into the reserves, and if there is anything else left over, then it will just stay in the unencumbered balance that gets carried over to the 2021 budget. Mr. Emerman asked if there is any disadvantages with carrying over the cash that way. Mr. Shah stated that there was not. Mr. Richman asked if those who file extensions were supposed to pay what they owe by July 15, how would something else still come in later. Mr. Shah stated that people generally pay an estimate of what they think they owe, but when the return gets finalized, the amount could be varied. It does happen in Moreland Hills because there are things that happen after a return is filed (stock options, for example, which do not get finalized until the filings are done). As long as they pay an estimate of taxes they paid in the previous year, they are not penalized, but there still could be a good amount that could come in later. Mayor Fritz asked if he is correct that some people could have asked for another extension once they got to the filing date of July 15, which would also account for more payments coming in later. Mr. Shah stated that it would be for whenever the federal extension expires (September he believes) but they would still have to pay the estimate that Mr. Richman mentioned.

Law

Mr. Hanna stated that as Mayor Fritz indicated earlier with respect to the CARES Act and the Local Coronavirus Relief Fund issues discussed yesterday and on an ongoing basis, he stated that they are continuing to try to pull together the best information that is out there, which to date, is incomplete. He is hoping to get some certainty and definiteness on the uses to which those monies can be put and all of the related processes to ensure that the Village is in a position to make maximum use. Mr. Hanna informed Council that he would be working on legislation to clean up the credit card policy. He reported that year to date, the retainer hours are at 260, which puts us slightly under where we normally are at this time.

Mr. Spencer asked if the Council Packets that Council receives prior to a meeting are public record and if they are not, when do they become a matter of public record. Mr. Hanna stated that typically they are public record. He cannot speak to whether we have ever included a part

of the packet or an item that would be confidential, since he has only been in this position for 7 months. Mr. Spencer stated that he understands that the agenda is published prior to the meeting, which includes a summary of each ordinance, but not the back up information for each ordinance. He stated that he was just curious whether it would be problematic to do that or if there are considerations to do it or not. Mr. Hanna stated with respect to the administrative burden, he would need to discuss that with Mayor Fritz and Mrs. Arrietta, but from a legal standpoint, in the vast majority of situations, it would be a public record.

Reports of Committees -

Roads & Safety Committee

The Roads and Safety Committee met on July 30, 2020 and Ms. Sturgis gave a report based on the meeting minutes, which are attached. The next regularly scheduled meeting is September 1 at 8:00am.

Ms. Sturgis made a motion seconded by Mr. Spencer to allow the Village Engineer to develop specs and advertise for bids for the 2020 Culvert and Drainage Program.

ROLL CALL:

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

NAYS: None

MOTION CARRIED

Facilities Committee

The Facilities Committee met on July 30, 2020. Mr. Emerman gave a report based on the meeting minutes, which are attached. The next regularly scheduled meeting is September 1 at 8:30am.

BZA

The Board of Zoning Appeals did not meet on August 3, 2020. The next meeting will be on August 31, 2020 at 6:00pm (a week earlier because of Labor Day).

Planning Commission

The Planning Commission met August 3, 2020 and Mr. Stanard gave a report based on the meeting minutes, which are attached. The next regularly scheduled meeting is August 31, 2020 (a week earlier because of Labor Day) immediately following the BZA meeting.

ORDINANCES AND RESOLUTIONS

Ordinance 2020-47- Introduced by Mrs. Kozminski-VanderHart

AN ORDINANCE AMENDING CHAPTER 159, “GREEN COMMISSION” OF THE ADMINISTRATIVE CODE, AND DECLARING AN EMERGENCY.

Mrs. Kozminski-VanderHart stated that the specific change being made to this ordinance is in Section 159.05 and will change the responsibility of the secretary to the commission from the Clerk of Council to the Commission Chair or their designee. The purpose of this change is to provide extra time for the Clerk of Council to perform other duties. The current Chair of this commission has been informed of this proposed change and does not have any objections to it.

Mrs. Kozminski-VanderHart made a motion seconded by Mr. Stanard to suspend the rules for Ordinance 2020-47.

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. Spencer for passage of Ordinance 2020-47.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Ordinance 2020-48-Introduced by Mrs. Kozminski-VanderHart

AN ORDINANCE AMENDING CHAPTER 157, “PARKS COMMISSION” OF THE ADMINISTRATIVE CODE, AND DECLARING AN EMERGENCY.

Mrs. Kozminski-VanderHart stated that this ordinance is making the same change to the Parks Commission as Ordinance 2020-47, by changing the responsibility of the secretary to the

commission from the Clerk of Council to the Commission Chair or their designee. The current Chair of this commission has been informed of this proposed change and does not have any objections to it.

Mrs. Kozminski-VanderHart made a motion seconded by Mr. Stanard to suspend the rules for Ordinance 2020-48.

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. Richman for passage of Ordinance 2020-48.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Ordinance 2020-49 - Introduced by Mr. Stanard

AN ORDINANCE CREATING THE VILLAGE PARKS DONATIONS AND IMPROVEMENT FUND WITHIN THE FINANCIAL RECORDS OF THE VILLAGE OF MORELAND HILLS, AND DECLARING AN EMERGENCY.

Mr. Stanard stated that the genesis of this ordinance was discussed at a Parks Commission meeting at the end of 2019. It was decided that for the benefit of efficiency of the Parks Commission that they would split into two sub-committees; one concentrating on the park sites themselves and the second on finance and fundraising. After discussions at that fundraising committee and then at the Parks Commission meetings, it was decided that there were two options they could go with to take donations and handle those funds to make park improvements; establish a 501c3 non-profit or use Village's existing financial structure and add a fund to it for keeping track of and spending those funds. There was much discussion about which one was better, and it was ultimately decided to create a fund within the Village's

financial structure, which is what this ordinance is for. Mr. Spencer asked if there would be an option to create a 501c3 in the future should the commission see the need for it. Mr. Stanard stated that it was determined that this was the best and most simple first step, but it is always a fall back that later they could decide to establish the non-profit. Mr. Shah informed Council that once this ordinance is approved, he has to send it to the Auditor of State who will need to approve it so that we can officially create the fund. The fund will be created once that approval is given, which will probably take a few weeks. Mayor Fritz pointed out that the advantages of tax deductibility exist in both the 501c3 and by using this fund as well.

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

49. 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 2020-49.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Ordinance 2020-50- Introduced by Ms. Sturgis

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT FOR SOLID WASTE DISPOSAL AND RECYCLING PROCESSING SERVICES BETWEEN THE VILLAGE OF MORELAND HILLS AND KIMBLE COMPANY AND DECLARING AN EMERGENCY.

Ms. Sturgis stated that the Village participates in a consortium organized by the Cuyahoga County Solid Waste District. As discussed in the Roads & Safety Committee, this year's contract will combine both the rubbish and recycling for the Village's usage as well as for the other communities involved in the consortium.

Mr. Richman asked Mr. Hanna about Article 6, Sections 1 and 2, where the contractor is indemnifying the Village. He asked why the general indemnity indemnifies the Village for the

contractor's negligence while the environmental indemnity indemnifies us for not only the contractor's negligence, but also for their willful misconduct. Mr. Hanna stated that while he does not know precisely why it was drafted this way, he thinks the end result is the same. He stated that with negligence being a lower standard would presume that willful acts would be covered as well. Negligence is simply the act or omission that fails to recognize a duty that the contractor has toward the Village or the other indemnitees under their provision.

Mr. Richman asked Mr. DeWater if it has been the norm for a while that the cost per ton was higher for recycling than that of solid waste. Mr. DeWater stated that this is a direct result of residents in the county not following proper recycling procedures, which in turn cause contamination that costs the recycling processor time and money to sort out. That is why those fees have started in this contract. He stated that the fee is actually not as high compared to some surrounding communities that are under contract by themselves and not part of this consortium. A discussion ensued regarding contamination in recycling and plans to further prevent that, including a video the Mayor and Green Commission are working on.

Ms. Sturgis made a motion seconded by Mr. Spencer to suspend the rules for Ordinance 2020-50.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Ms. Sturgis made a motion seconded by Mr. Stanard for passage of Ordinance 2020-50.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Ordinance 2020-51- Introduced by Mr. Emerman

AN ORDINANCE AUTHORIZING CHANGE ORDER NO. 1 WITH NERONE AND SONS, INC. FOR THE PROJECT REQUIRING MODIFICATION TO PIPING AND VALVES AT VARIOUS PUMP STATIONS AND DECLARING AN EMERGENCY.

Mr. Emerman stated that the work on the modifications to the pump stations to be able to accept the emergency pumps was completed and this ordinance is for a change order to reconcile the contract with a reduction of \$8,400 for work that was not needed, causing it to come in under budget.

Mr. Richman referred to Exhibit A, which shows the \$8,400.00 decrease and stated that it is listed on the line that shows a \$6,000.00 price, and asked if it is just not reflecting all the deductions. Mr. Emerman stated that the \$6,000.00 is reflective of the final quantity (5) times the unit price (\$1,200.00) and if you look at the difference between the \$6,000.00 and the total of the contract quantity (12) times the unit price, it equals \$8,400.00.

Mr. Emerman made a motion seconded by Mr. Stanard to suspend the rules for Ordinance 2020-51.

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 2020-51.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

Ordinance 2020-52- Introduced by Mr. Spencer

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

Mr. Spencer stated that there were four amendments to appropriations, which was an overall net deduction. There was a \$15,000 increase to the Land and Buildings Fund due to some additional work; a \$65,000 reduction to the SCM&R Fund due to a change of scope of some intended projects; a \$35,000 increase to the WWTP Fund due to additional scope of work for the sewer lateral project; and a \$500 reduction to the Service Facility Fund due to adjusting the

scope of maintenance. There was one transfer, which is our normal transfer from the General Fund to the Police and Fire Levey Fund.

Mr. Spencer made a motion seconded by Mr. Stanard to suspend the rules for Ordinance 2020-52.

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 Mrs. Kozminski-VanderHart for passage of Ordinance 2020-52.

ROLL CALL:

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

NAYS: NONE

MOTION CARRIED

MISCELLANEOUS

There were no items for discussion.

Mr. Richman made a motion seconded by Mr. Emerman to adjourn the Regular Council Meeting at 8:30pm

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 8:30pm.

Attest:

Sherri Arrietta, Clerk of Council

Steve Richman, Council President