

RECORD OF PROCEEDINGS

Minutes of

CHAGRIN FALLS VILLAGE COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10149

Held

FEBRUARY 28,

20 10

The meeting of the Council of the Village of Chagrin Falls was called to order at 8:00 p.m. by Mr. Patton.

Member present: Evans, Jacobs, Lutz, Milko, Patton, Subel, Williams
 Members absent: None
 Officials present: Mayor Brick, Bloom, Himes, Alunni, Brosius, Schaltenbrand, Lannon

APPROVAL OF MINUTES

Moved by Mr. Williams, seconded by Mrs. Evans that the minutes of the meeting held February 14, 2011 be approved. Carried. Ayes: Evans, Lutz, Milko, Patton, Subel, Williams. Abstain: Jacobs. Nays: None.

REPORT OF THE MAYOR

Mayor Brick said I hope all of you got your copy of the Economic Development Advisory Board's 2010 report to Council. As you can see, home sales are down and commercial vacancies are up. But, fortunately, retail vacancies are down. We don't yet have the 2010 census data so I included the last census data that we have in the report but as soon as the census data is available, and it should be any time now, I'll distribute copies to everybody as soon as we get them.

Mayor Brick said I have only gotten positive feedback on the Parking Commission's recommendation to increase the hourly parking meter fee from 25 cents an hour to 50 cents an hour so I am assuming that we will proceed with that change some time in March. It is my understanding that we don't need legislation for it; it is an administrative matter.

Mayor Brick said we have a few events coming up in the next couple of weeks in the Village where I hope I will see you. The Chagrin Arts and Culture Presentation of the multi media making of My Fair Lady is this Sunday, March 6th at 3:00 p.m. at the Chagrin Falls High School Performing Arts Center. There will be an event sponsored by the Chagrin Documentary Film Fest called The Best of the Fest and that will be on the following Sunday, March 13th, starting at 12:30 p.m. and it will also be at the Chagrin Falls High School Performing Arts Center. I hope you are able to attend them.

REPORT OF THE FINANCE DIRECTOR

No report.

MEMBERS OF THE PUBLIC TO SPEAK TO AGENDA ITEMS (NOT TO EXCEED TWO (2) MINUTES PER PERSON)

Roger Cahn spoke in favor of Ordinance No. 2011-02.

RECORD OF PROCEEDINGS

Minutes of

CHAGRIN FALLS VILLAGE COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10149

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FEBRUARY 28,

20 11

Lee Thompson spoke in favor of Ordinance No. 2011-02.

Dennis Lehman, 399 North Main Street, spoke in favor of Ordinance No. 2011-02.

Brooks Spectorisky spoke in favor of Ordinance No. 2011-02.

Regarding Ordinance 2011-02, Greg Bumbu, along with Rick Siegfried, presented to Council the history of how the property was purchased, they showed slides, and they described the future as they envision it.

Tony Visconsi spoke in favor of Ordinance No. 2011-02.

REPORT OF THE LAW DIRECTOR

OUTDOOR DINING AND PASSIVE RECREATION FOUND TO BE APPROPRIATE USES

Mrs. Schaltenbrand placed on the floor Ordinance No. 2011-02 entitled:

AN ORDINANCE FINDING AND DETERMINING THAT OUTDOOR DINING AND PASSIVE RECREATION ARE APPROPRIATE USES FOR CERTAIN VILLAGE OWNED REAL PROPERTY LOCATED ON BELL STREET AND WITHIN THE PARKS AND INSTITUTIONAL DISTRICT AND AUTHORIZING THE LEASING OF SUCH PROPERTY FOR SUCH USES.

Moved by Mr. Jacobs, seconded by Mr. Milko that the ordinance be adopted. Carried. Ayes: Evans, Jacobs, Lutz, Milko, Patton, Subel, Williams. Nays: None. Mr. Jacobs said this went to the Planning and Zoning Commission for a recommendation and they recommended three to two against recommending it to Council. He said he spoke to Jack Stankus, who has been in the valley and the Village for a number of years, and he was working across the street from the cement slab some forty plus years ago and he said oh yeah, I know that slab, we used to store snow equipment there. The point of the conversation was that this slab has not been used for anything but snow equipment and parking. He said he was the minority with the Planning and Zoning Commission. He thought that this was a good use and would accrue benefits to the Village, in general, if they pass it. Comments were heard from Council and questions were answered.

AUTHORIZATION TO ENTER INTO AN AGREEMENT WITH THE CHAGRIN VALLEY DISPATCH COUNCIL

Mrs. Schaltenbrand placed on the floor Ordinance No. 2011-09 entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE CHAGRIN VALLEY DISPATCH COUNCIL ("CVD") FOR THE DISPATCH OF PUBLIC SAFETY SERVICES AND THE OPERATION OF A REGIONAL COMMUNICATIONS CENTER; APPOINTING THE MAYOR AS

RECORD OF PROCEEDINGS

Minutes of

CHAGRIN FALLS VILLAGE COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10149

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FEBRUARY 28,

20 11

THE VILLAGE REPRESENTATIVE TO THE COUNCIL; AND DECLARING AN EMERGENCY.

Moved by Mrs. Lutz, seconded by Mr. Milko that the requirement for reading an ordinance three times be suspended. Carried. Ayes: Evans, Jacobs, Lutz, Milko, Patton, Subel, Williams. Nays: None. Moved by Mrs. Lutz, seconded by Mr. Milko that the ordinance be adopted. Carried. Ayes: Evans, Jacobs, Lutz, Milko, Patton, Subel, Williams. Nays: None. Mrs. Lutz said this is a change in the relationship between the Village and the municipalities, the other towns and villages that it serves for safety services through the dispatch center. Instead of us providing the service and then paying us we are entering into a regional council of governments that will share in the responsibility and the cost. Mayor Brick said this council of governments is a form of governments that we are familiar with. Our Valley Enforcement Group operates under this type of government, our HAZMAT does as well. We have been discussing this with the seven other mayors of our partners and they are all in favor of this. It should improve and have us be a leader in regionalization and taking advantage of economies of scale and yet continuing to provide excellent service. This will no longer just be more or less informal contractual arrangement with our partners but it will be a type of government as outlined in the ordinance. I think it will be very beneficial for all the partners to participate in this council of governments and it will help insure that we have up to date and adequate dispatch services in the valley. The Mayor was congratulated on this because it has been a lot of hard work. Comments were heard from Council and questions were answered.

AUTHORIZATION TO ENTER INTO AN AGREEMENT WITH THE BOARD OF COUNTY COMMISSIONERS

Mrs. Lutz introduced Ordinance No. 2011-11 entitled:

AN EMERGENCY ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE BOARD OF COUNTY COMMISSIONERS OF CUYAHOGA COUNTY, OHIO, AND THE CUYAHOGA REGIONAL INFORMATIONAL SYSTEM BOARD OF ADVISORS (C.R.I.S.) IN ORDER TO CONTINUE THE PRESENT SERVICE AGREEMENT WITH AMENDMENTS.

Moved by Mrs. Lutz, seconded by Mrs. Evans that the requirement for reading an ordinance three times be suspended. Carried. Ayes: Evans, Jacobs, Lutz, Milko, Patton, Subel, Williams. Nays: None. Moved by Mrs. Lutz, seconded by Mr. Williams that the ordinance be adopted. Carried. Ayes: Evans, Jacobs, Lutz, Milko, Patton, Subel, Williams. Nays: None. Mrs. Lutz said this is a database to all kinds of information that is of utmost importance to the police department to do its job. The cost hasn't increased in three or four years and it didn't increase this year. It is a data system that is essential to their operation and we are just re-subscribing.

POSITION CLASSIFICATION AND SALARY SCHEDULE AMENDED

Mr. Subel introduced Ordinance No. 2011-12 entitled:

RECORD OF PROCEEDINGS

Minutes of

CHAGRIN FALLS VILLAGE COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10149

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FEBRUARY 28,

20 11

AN ORDINANCE AMENDING THE POSITION CLASSIFICATION AND SALARY SCHEDULE FOR VARIOUS POSITIONS WITHIN THE VILLAGE OF CHAGRIN FALLS, AND DECLARING AN EMERGENCY.

Mr. Subel put this on readings.

NEW SECTION 903.01, SIDEWALKS REQUIRED, ENACTED

Mr. Evans introduced Ordinance No. 2011-13 entitled:

AN ORDINANCE ENACTING NEW SECTION 903.01, SIDEWALKS REQUIRED, OF THE CODIFIED ORDINANCES OF THE VILLAGE OF CHAGRIN FALLS TO REQUIRE THE CONSTRUCTION OF SIDEWALKS ON IMPROVED LOTS, RENUMBERING CERTAIN EXISTING SECTIONS, AMENDING SUBSECTION (p), SIDEWALKS, OF SECTION 1161.06, REQUIRED CONSTRUCTION IMPROVEMENTS, AND REPEALING CERTAIN ORDINANCES.

Mrs. Evans said this was discussed tonight at the Streets and Sidewalks Committee meeting. It is a tightening of our code sections recommended by planning and zoning in regards to our sidewalks. She said it will remain on readings.

AUTHORIZATION TO ENTER INTO AN AGREEMENT WITH H & M LANDSCAPING

Mr. Patton introduced Ordinance No. 2011-14 entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH H & M LANDSCAPING, INC., FOR CEMETERY MAINTENANCE, AND DECLARING AN EMERGENCY.

Moved by Mr. Patton, seconded by Mrs. Evans that the requirement for reading an ordinance three times be suspended. Carried. Ayes: Evans, Jacobs, Lutz, Milko, Patton, Subel, Williams. Nays: None. Moved by Mr. Patton, seconded by Mr. Williams that the ordinance be adopted. Carried. Ayes: Evans, Jacobs, Lutz, Milko, Patton, Subel, Williams. Nays: None. Mr. Patton said we recently lost one of our employees who was working up in the cemetery so we have been exploring the idea of outsourcing the lawn maintenance, which would include mowing the lawn there one time a week and then cutting around the grave stones every other week. The cost with an in-house employee is about \$82,000 a year. We received five bids ranging from a low bid of \$17,802 from H & M Landscaping up to \$51,200 from Wheeler Landscaping. He said Mr. Himes did check on some recommendations for H & M Landscaping plus we have had experience with them in the past. They do work for the Village of Stow's cemetery and they received good reviews. Also, we have the ability to review their work on a weekly basis. We figured we would try for a year and see how it works.

VARIANCE REQUEST - 2 EAST WASHINGTON STREET

Mr. Williams introduced Administrative Order No. 2011-15 entitled:

RECORD OF PROCEEDINGS

Minutes of

CHAGRIN FALLS VILLAGE COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10149

Held

FEBRUARY 28,

20 11

**FINAL ORDER OF COUNCIL AND CONCLUSION OF FACT REGARDING A
VARIANCE REQUEST OF FIRST FEDERAL OF LAKEWOOD FOR PROPERTY
LOCATED AT 2 EAST WASHINGTON STREET.**

Moved by Mr. Williams, seconded by Mrs. Evans that the administrative order be adopted. Carried. Ayes: Jacobs, Lutz, Patton, Williams. Nays: Evans, Milko, Subel. Mr. Williams explained the specifics of the variance request regarding internally illuminated signs, which are expressly prohibited by our code. Having not met any of the tests for practical difficulty, the Board of Zoning Appeals voted zero to five against recommending the variance request.

VARIANCE REQUEST - 98 NORTH MAIN STREET

Mr. Williams introduced Administrative Order No. 2011-16 entitled:

**FINAL ORDER OF COUNCIL AND CONCLUSION OF FACT REGARDING A
VARIANCE REQUEST OF HUNTINGTON BANK FOR PROPERTY LOCATED
AT 98 NORTH MAIN STREET.**

Moved by Mr. Williams, seconded by Mrs. Evans that the administrative order be adopted. Carried. Ayes: Jacobs, Lutz, Patton, Williams. Nays: Evans, Milko, Subel. Mr. Williams explained the specifics of the variance request regarding internally illuminated signs, which are expressly prohibited by our code. Having not met any of the tests for practical difficulty, the Board of Zoning Appeals voted zero to five against recommending the variance request. Mr. Milko asked what their alternatives are and Mr. Williams said they have no alternatives. It is like the other banks that you have to actually physically go up to see if it is open or closed. Phil O'Neil said I understand where the BZA is coming from. They don't like to give variances because they are afraid that it will create a precedent and I understand that. But, in this case, the illuminated sign is a directional sign, it is a traffic sign. Our sign isn't selling anything and this sign is standard. At the BZA it was commented that Key Bank does not have a sign. Well, Key does not have a teller; that is only an ATM machine. For the flow of traffic this means a lot. It gets cars off the street and moving along. I don't think that you are creating a monster. Mr. Milko asked, was there a state regulation that states that sign has to be there? Mr. Williams said we are not aware of any safety regulation on the part of the state that dictates that a sign should be there. Our interpretation was that it is signage for a commercial establishment and whether you call it a directional sign to indicate whether it is open or closed or any other commercial establishment that puts a sign up that indicates they are open or closed. What is to prohibit Charter One from putting up an open and closed sign or Key Bank or PNC? There are a number of arguments that can be made to have that kind of open/closed sign for whatever the commercial application might be. You could paint a situation where an applicant has a unique requirement for that kind of directional sign. Like I said, the Board of Zoning Appeals did not find it compelling. Mr. Patton said I went back to Phil's point about whether or not this is an exception and under Section 1146.06(d) it talks about exempt signs and it states signs indicating a direction or location to which pedestrian or vehicular traffic is requested to move as opposed to invited to move maybe in this particular situation. Also, under 1143.14, which are the general provisions, section (a) entitles signs not to constitute traffic

RECORD OF PROCEEDINGS

Minutes of

CHAGRIN FALLS VILLAGE COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10149

Held

FEBRUARY 28,

20 11

hazard. No sign may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device. It goes on to say or which also uses the words stop, look, drive-in, which may be somewhat similar to this or danger, or any other word, phrase, symbol, or character. I am not sure that we can really use the argument that it is exempt or directional as opposed to just being a sign that is prohibited. Mr. Milko said when you are walking down the side of that building the fact that it says open tells me something as far as walking there and when that is not illuminated it tells me something else. I am concerned about it from the perspective of that we made allowances for Huntington Bank to have that driveway. We know it is very tight there; no doubt. They spent a lot to create that and we passed that. I was looking always from the aspect of whether that was to tell the pedestrians and cars whether or not it was open. I think it is appropriate. Mr. Himes said just to be clear, they are not prohibited from having a sign there. They are prohibited from having the illumination. They could either go the externally illuminated or the halo type of illumination where the letters are opaque. If the letters are translucent that is internally illuminated. Mr. Williams said they requested other variances as well when they were considering the renovations that they undertook and the police department did look at the safety of the entrance and egress to that and they found it to be adequate. So, I don't see how the addition or subtraction of an internally illuminated sign is going to degrade that original determination. Mr. Subel said I think this Village makes exceptions a lot of times. During the Summer time you see a lot of the sandwich signs that are there all day long. I saw the one sign and I thought it was a nice sign and I think it will also help with the traffic. I didn't see it as necessarily being in opposition to our practice for signs. Mr. Patton said just because people put sandwich boards outside doesn't mean it is permissible. Mr. Williams said it is probably also important to know that we've had these similar kind of requests over the last ten years that I have been on the BZA as well, and we have never had an approval for in internally illuminated sign for any purpose whether it is for a bank teller or ATM machine or some other commercial application. Mrs. Evans said one of my concerns is the fact that there has been all the time I have been going to Huntington Bank where is at First Federal, now it is First Federal, there was an external sign that was illuminated and I have been using it for four or five years and now because it is next to, it is now Huntington by Huntington it is no longer acceptable to use and I think it is a safety issue. I really do because I've used it because I use the bank and I would point out that there are stores in town that have illuminated signs that are inside their windows, which seem to be in violation and I really think it is a safety issue here. I personally do. Mr. Williams said all I can say is the Board of Zoning Appeals is appointed to make a technical assessment on a variance request and they failed to meet not a single requirement under the list of eight potential tests. They didn't meet one; neither applicant. The code specifically states no internally illuminated sign. Mr. Patton said the issue we have is that we have a code that prohibits this unless we can find through the Duncan Factors that a variance should be granted. So, we need to determine that there are specific reasons why we should grant a variance not just because we like the idea that these are nice people, we like our neighbors, let's give them a sign. Mr. Himes said if you want to look at changing the code it should go to the planning commission.

VARIANCE REQUEST - 269 BENTLEYVILLE ROAD AND WEST ORANGE STREET

Mr. Williams introduced Administrative Order No. 2011-17 entitled:

RECORD OF PROCEEDINGS

Minutes of

CHAGRIN FALLS VILLAGE COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10149

Held FEBRUARY 28, 20 11**FINAL ORDER OF COUNCIL AND CONCLUSION OF FACT REGARDING A VARIANCE REQUEST OF THE FLESHER HOLDING CO. FOR PROPERTY LOCATED AT 269 BENTLEYVILLE ROAD AND WEST ORANGE STREET.**

Moved by Mr. Williams, seconded by Mrs. Evans that the administrative order be adopted. Carried. Ayes: Evans, Jacobs, Lutz, Milko, Patton, Subel, Williams. Nays: None. Mr. Williams explained the specifics of the appeal and the variance request. He said the BZA upheld the decision of the Chief Administrative Officer regarding the appeal and they found, in a vote of zero to five, against the variance request by the applicant saying that they did not prove practical difficulty in this situation and that the spirit and intent of our Village zoning code would not be upheld in the approval of that variance request. Comments were heard and questions were answered.

STREETS AND SIDEWALKS COMMITTEE

Mrs. Evans announced a meeting for Monday, March 14, 2011 at 7:00 p.m.

FACILITIES AND SERVICES COMMITTEE

No report.

PLANNING AND ZONING COMMISSION

Mr. Jacobs reported that the Commission is continuing discussion on sidewalks required and regulating PODS.

SAFETY COMMITTEE

Mrs. Lutz reported that the Committee has been discussing issues regarding the police department's dispatch center.

UTILITIES COMMITTEE

No report.

BOARD OF ZONING APPEALS

No report.

ADMINISTRATION AND COMPENSATION COMMITTEE

Mr. Subel announced a meeting for Monday, March 14, 2011 at 7:30 p.m.

RECORD OF PROCEEDINGS

Minutes of

CHAGRIN FALLS VILLAGE COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10149

Held

FEBRUARY 28,

20 11

FINANCE COMMITTEE

Mr. Patton announced a meeting for Tuesday, March 1, 2011 at 6:00 p.m.

PARKS COMMISSION

Mrs. Lutz reported that the Commission went over their goals for the coming year as well as plants for the coming planting season.

SHADE TREE COMMISSION

No report.

ARTS COMMISSION

No report.

PARKING COMMISSION

Mr. Milko reported that the commission has been discussing putting in parking meters in the downtown area. He also reported that the Commission recommended a change in the hourly meter rate from 25 cents to 50 cents.

Moved by Mr. Milko, seconded by Mr. Patton to increase the parking fare for the meters from 25 cents an hour to 50 cents an hour. Carried. Ayes: Evans, Jacobs, Lutz, Milko, Patton, Subel, Williams. Nays: None.

REPORT OF THE CHIEF ADMINISTRATIVE OFFICER

Mr. Himes reported that the service and utility departments were rather busy today. We had 1.8 inches of rain last night on top of ten inches of snow so there were a number of basement floodings and various nuisance floodings. Solon Road was closed for most of the day. We will follow up on those and see if there is anything we can do to mitigate it in the future.

REPORT OF THE ENGINEER

No report.

REPORT OF THE POLICE CHIEF

No report.

RECORD OF PROCEEDINGS

Minutes of

CHAGRIN FALLS VILLAGE COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10149

Held FEBRUARY 28, 20 11

REPORT OF THE FIRE CHIEF

No report.

MEMBERS OF THE PUBLIC TO SPEAK TO ANY MATTER (NOT TO EXCEED FIVE (5) MINUTES)

Steve Thompson, Superintendent of the school district, reported that they are not going to be on the ballot in May of 2011 in recognition of the economic times that we are in and the pressure that it puts on the property owners. He said by December they were broke and they had to take out a \$500,000 cash advance on next year's tax collections in order to pay their employees. They are at the end of a four-year levy cycle and they have made a lot of cuts. They project to finish this year at 6.8 million so that puts them in a lot different financial position and allows them to postpone that levy cycle. They will reevaluate their cash position in the Fall. He said they will be doing a House Bill 264 project which is 1.3 million dollars in renovations to their schools that focus on energy conservation. It is a fifteen-year bond at zero percent interest. Mr. Thompson mentioned a few new courses that they are adding next year.

Maria Zeleznik, President of the Citadel Chagrin Valley, spoke about the on-going flooding problems on Solon Road and Monticello Road. She said because there are no sewers it is eating away at her property and creating a sink hole. She said she needs some sort of assistance from the Village and she asked how to get onto the agenda for this discussion to take place. Mr. Himes said they can take it up with the Streets and Sidewalks Committee. He said storm sewers, there is nothing for them to connect into on Solon Road. The storm sewers were put in when the road was constructed but there is no outlet for them at Solon Road so the pipe that is on the Citadel's property is what handles all the stream flow that used to run through the stream that cut diagonally across their property. It was really rerouted into this culvert.

MISCELLANEOUS

None.

ADJOURNMENT

Mr. Patton adjourned the meeting at 9:46 p.m.



 President of Council

RECORD OF PROCEEDINGS

Minutes of

CHAGRIN FALLS VILLAGE COUNCIL

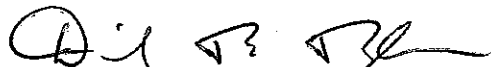
Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10149

Held

FEBRUARY 28,

20 11



Clerk of Council