

# RECORD OF PROCEEDINGS

Minutes of

CHAGRIN FALLS VILLAGE COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10149

Held SEPTEMBER 23, 2013

The meeting of the Council of the Village of Chagrin Falls was called to order at 8:10 p.m. by Mr. Patton.

Member present: Evans, Herdman, Holdren, Lutz, Newell, Patton, Subel  
 Members absent: None  
 Officials present: Mayor Brick, Bloom, Himes, Alunni, Brosius, Byron, Lannon

**APPROVAL OF MINUTES**

Moved by Mr. Newell, seconded by Mrs. Evans that the minutes of the meeting held August 26, 2013 be approved. Carried. Ayes: Evans, Herdman, Holdren, Lutz, Newell, Patton, Subel. Nays: None.

**REPORT OF THE MAYOR**

No report.

**REPORT OF THE FINANCE DIRECTOR**

No report.

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

None.

**REPORT OF THE LAW DIRECTOR**

**AMOUNTS AND RATES ACCEPTED AS DETERMINED BY THE COMMISSION**

Mr. Patton introduced Resolution No. 2013-54 entitled:

A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE COMMISSION, WITH THE EXCEPTION OF THE GENERAL FUND, OUTSIDE 10 MILL AMOUNT AND RATE, AND AUTHORIZING THEN NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY FISCAL OFFICER.

Moved by Mr. Patton, seconded by Mrs. Evans that the resolution be adopted. Carried. Ayes: Evans, Herman, Holdren, Lutz, Newell, Patton, Subel. Nays: None. Mr. Patton said this is an annual property tax rate resolution which is sent to the county after it is adopted by Council and the rate is unchanged from the rate that we had last year. We had a .60 mill police operating levy that was passed four years ago. In the past we have decided not to institute that levy and

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this would be the fourth year that we would not collect on that levy if Council remains in agreement with that.

### AUTHORIZATION TO ENTER INTO A CONTRACT WITH MEDICAL MUTUAL

Mr. Subel introduced Ordinance No. 2013-55 entitled:

AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO A CONTRACT WITH MEDICAL MUTUAL OF OHIO FOR THE HEALTH CARD INSURANCE COVERAGE FOR THE EMPLOYEES OF THE VILLAGE OF CHAGRIN FALLS, AUTHORIZING EMPLOYEE CONTRIBUTIONS FOR PREMIUMS, AND DECLARING AN EMERGENCY.

Moved by Mr. Subel, seconded by Mrs. Lutz that the requirement for reading an ordinance three times be suspended. Carried. Ayes: Evans, Herman, Holdren, Lutz, Newell, Patton, Subel. Nays: None. Moved by Mr. Subel, seconded by Mrs. Lutz that the ordinance be adopted. Carried. Ayes: Evans, Herman, Holdren, Lutz, Newell, Patton, Subel. Nays: None. Mr. Subel said we usually renew on April 1<sup>st</sup>; we are doing it early this year. The reason we are doing this is to beat substantial price increases for next year. In addition to this premium change, there is a new tax and fees, dictated by law, that will be an additional cost to the village of 3%, approximately \$20,000 per year. The Administration and Compensation Committee feels that the legislation and the alternative that is on this legislation be approved by Council.

### REQUEST TO ADVANCE TAXES FROM THE PROCEEDS OF THE 2013 TAX LEVIES

Mr. Patton introduced Ordinance No. 2013-56 entitled:

AN EMERGENCY ORDINANCE REQUESTING THE COUNTY FISCAL OFFICER TO ADVANCE TAXES FROM THE PROCEEDS OF THE 2013 TAX LEVIES PURSUANT TO OHIO REVISED CODE SECTION 321.34.

Moved by Mr. Patton, seconded by Mrs. Evans that the requirement for reading an ordinance three times be suspended. Carried. Ayes: Evans, Herman, Holdren, Lutz, Newell, Patton, Subel. Nays: None. Moved by Mr. Patton, seconded by Mrs. Evans that the ordinance be adopted. Carried. Ayes: Evans, Herman, Holdren, Lutz, Newell, Patton, Subel. Nays: None. Mr. Patton said this requests the county to advance our property taxes to us on an accelerated schedule as opposed to the county holding all collected funds for six months before distribution.

### CHAPTER 305 OF THE CODIFIED ORDINANCES AMENDED

Mrs. Evans introduced Ordinance No. 2013-57 entitled:

AN ORDINANCE AMENDING CHAPTER 305 OF THE CODIFIED

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## ORDINANCES OF THE VILLAGE OF CHAGRIN FALLS BY AMENDING THE TRAFFIC CONTROL MAP, AND DECLARING AN EMERGENCY.

Moved by Mrs. Evans, seconded by Mrs. Lutz that the requirement for reading an ordinance three times be suspended. Carried. Ayes: Evans, Herman, Holdren, Lutz, Newell, Patton, Subel. Nays: None. Moved by Mrs. Evans, seconded by Mrs. Lutz that the ordinance be adopted. Carried. Ayes: Evans, Herman, Holdren, Lutz, Newell, Patton, Subel. Nays: None. Mrs. Evans said on the north side of Hall Street, between Church Street and Solon Road, there is currently a sign that says "no parking" and this will change it to say "no parking from here to corner", which is the way it is in most other areas of the village. There will be about two parking spaces there. The people on Solon Road all have short driveways and can't park on Solon Road. Mr. Himes said state law is no parking thirty feet from the corners of the intersection so this will change that signage to be in compliance with the state law.

### SECTION 1501.14 OF THE CODIFIED ORDINANCES ENACTED

Mrs. Lutz introduced Ordinance No. 2013-58 entitled:

AN ORDINANCE ENACTING SECTION 1501.14, FAILURE TO CORRECT  
VIOLATIONS, OF THE CODIFIED ORDINANCES IN ORDER TO DETER  
AND PUNISH THE FAILURE TO CORRECT VIOLATIONS OF THE FIRE  
CODE OF THE VILLAGE OF CHAGRIN FALLS.

Moved by Mrs. Lutz, seconded by Mr. Newell that the requirement for reading an ordinance three times be suspended. Carried. Ayes: Evans, Herman, Holdren, Lutz, Newell, Patton, Subel. Nays: None. Moved by Mrs. Lutz, seconded by Mr. Mrs. Evans that the ordinance be adopted. Carried. Ayes: Evans, Herman, Holdren, Lutz, Newell, Patton, Subel. Nays: None. Mrs. Lutz said this brings about a change in the code with regard to safety violations and the closing of the section of the building containing the violation after a period of time during which it is not brought up to code. Mr. Alunni said we issued a couple of citations and we issued them based off of the penalty sections from the Ohio Fire Code. Prosecutor Hanculak thought it would be easier if we just added a penalty section to Chapter 15 of our ordinances to make it easier for the court. It would go along with penalty sections that we have in other sections of our Codified Ordinances.

### STREETS AND SIDEWALKS COMMITTEE

No report.

### FACILITIES AND SERVICES COMMITTEE

No report.

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**PLANNING AND ZONING COMMISSION**

Mr. Herdman announced a meeting for Monday, October 21, 2013 at 7:30 p.m.

**SAFETY COMMITTEE**

No report.

**UTILITIES COMMITTEE**

Mr. Patton announced a meeting for Monday, October 14, 2013 at 7:15 p.m.

**BOARD OF ZONING APPEALS**

Mr. Holdren announced a meeting for Tuesday, September 24, 2013 at 8:00 p.m.

**ADMINISTRATION AND COMPENSATION COMMITTEE**

No report.

**FINANCE COMMITTEE**

Mr. Patton acknowledged that Council did receive the monthly expenditure report as well as the monthly statement of cash receipts and disbursements for August, 2013.

**PARKS COMMISSION**

Mrs. Lutz announced a meeting for Tuesday, September 24, 2013 at 8:30 a.m.

**SHADE TREE COMMISSION**

No report.

**ARTS COMMISSION**

No report.

**PARKING COMMISSION**

No report.

**REPORT OF THE CHIEF ADMINISTRATIVE OFFICER**

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Mr. Himes reported that Phase II of River Walk has been under design for quite some time. Engineering reports have been submitted and are under review by our engineer. I believe we are getting close to issuing permits. The site plan has been modified to some degree. The new site plan would have two rather than three structures. Two single-family structures rather than three reduces the need for three of the variances. There is no need for the lot width variance, the front yard setback variance, and the side yard setback variance that were previously granted. They will be using the height, shared driveway, and drive coverage variances that were previously granted. It was driven largely by some of the engineering comments that came back to them to reduce embedment depth of the soldier piles that are going to create the retaining wall. Based on the reduction in variances and the fact that they would be using the variances that have already been granted on three separate occasions over the years, it is my opinion that the changes to the site plan are not substantial and do not require them to go back to obtain those variances again.

Mr. Patton asked, what about the integrity of the retaining wall? Mr. Himes said they've responded to engineering comments from our geo-technical engineer. Those responses are under review right now.

Mr. Holdren asked if there is a time line? If everything goes okay with the engineering review do they estimate that it will all go in before Winter? Mr. Himes said Mr. Vitt has a window of opportunity here with the weather and with his contractors to install that wall.

## **REPORT OF THE ENGINEER**

Mr. Lannon reported that their most recent waste water discharge permit from the EPA required that the village develop a plan and schedule to eliminate discharge of untreated waste water to the river, which we do on a semi-annual basis or more. He said we are wrapping up a report now and we have until November 1<sup>st</sup> to submit that to the EPA.

## **REPORT OF THE POLICE CHIEF**

Chief Brosius reported that they have had three home break ins in the last couple of weeks. The burglaries took place late morning early afternoon. He said they have passed what information they have onto the media. He said he would like to remind everyone to be aware of what is going on around them and report any unusual or suspicious activity.

Chief Brosius said our thoughts go out to Officer Robert Pealer's wife, who was in a horrible bus accident, and Officer Michael Baldwin's wife who they are holding a benefit for.

## **REPORT OF THE FIRE CHIEF**

No report.

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

Mary Mudler, 316 Miles Road, asked Council to revisit the storm water management utility rate study that was presented to Council in March of 2007. She said they need to address the antiquated and insufficient capacity storm sewers. Mr. Patton said, as I mentioned, we are having a meeting at 7:15 p.m. before the next Council meeting to address the storm water issues.

Mark Puianno said 58 West Orange Street is something I bought thirteen years ago and it is next to that construction site. I heard Ben mention a little bit about this retaining wall. I even told my wife before I came here tonight. I am going to honest with you people, I don't want to come down here and waste any more of time but this isn't a waste of my time because noone else is going to fight for my retirement. On September 22, 2009 I went to the Board of Zoning with Fricke and Wade, and I told these guys hey, did you guys dig next to my property, remove some of the slope? There is going to be damage over there. Well, you let the guy dig in 2010. On October 13, 2009 I told the Board of Zoning, I said hey, there are going to be problems if you guys dig over there without doing the proper slope stability study and all this stuff. You are going to cause me problems. Nothing was done. On July 27, 2010 I go to the Board of Zoning and said hey, you let this guy dig. I said you are going to hurt my property. You guys told me we would not dig without a wall, which is fine. So 2010, 2011, and 2012 go by and I had my building repaired in the extent of \$30,000 out of my own pocket and it hurt my investment considerably. None of these problems were going on for the nine and a half years before you guys let that guy come into town. I had a tenant and he will tell you, yeah, I lived in that building for five years before he dug in the Summer of 2010. He is an eighty-six year old man and he will tell you none of these problems, my doors didn't need to be planed, his kitchen now is cracking, and all this stuff. On August seventh, a few weeks ago, Mr. Himes sent me the attached engineering summary on the retention system. I've had technical people at the tune of \$3,500 take a look over all this stuff because it is so technical and I have had engineering people look at my property. The fact still remains that this stuff is so technical. I don't see a wall up. I don't see it going up now until next May, June, or July. If you drive up to the top of the hill, because I have been charting this since 2010, and this is fact and truth and I will show you pictures and I will prove everything, whatever, I am not here to lie. The wall that holds the top of these bungalows that is split and now it is splitting worse and those people are trying to sell their property. And, what I am telling you is whether you put a wall in next April or whatever, the Mitchells, the Weingarts, and the Puiannos you got damage to property. This board and this Council let that guy dig without doing all this crazy stuff, without studying the earth and the technicality and the geo-technical stuff. The point being is we put piling on our building a year ago to stop the problem and we were told by an engineer that your problems aren't going to continue to happen any more and if it does now you know 100% for sure that your building is moving laterally, not towards the street. It is moving towards his construction site which you guys let him do to remove the toe of the slope which the review that you guys got in December of 2010 to cover your butts if there is an email saying hey, my building is slipping. Your review

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says, hey removing the toe of the slope is greatly an advantage to some properties. I had meetings with Ben and the Mayor and me and my brother were promised lots of temporary measurements, we are going to help you out. I am at my building on Saturday because I go there three or four times a week. I have been going there for thirteen years. I bought it when I was a young kid. Noone gave me nothing. I made all my money sanding kitchens. I am a blue collar guy. I will show you pictures if you want to walk up there. Here is the new damage right here. There was the original crack that split apart. A month after you guys let him dig I watched it split apart and then I had to replace it and put all this steel underneath it for \$30,000 and now it is splitting again. Here is the second crack I found. It is going towards this construction site so now I have to hire another engineering company and I got to get some guy and more money and kill my company and kill my dream. You guys did it to me. You guys hurt me and my company, like a small little blue collar middle class just trying to have an investment place and pay the bank. I have been down here for three, four years begging you to help me. You don't know what I do for a living. I communicate all day to engineers at Chrysler. I work with steel and I do crazy stuff and I am a pretty good communicator. And they still say they are doing something to help me and my brother but the point is my building is cracking again and I don't see a wall. I know it is in review. As far as I am concerned, it is all BS and all my point is this, I asked you not to dig in 2010 and I told you in 2009 not to do it. You guys let him do it and you never did your homework and now that you are doing your homework and you are covering your butt, oh my god, it is all technical. It is almost too much and you let him in the meantime build a house that has a 40,000 pound piece of concrete underneath it. Bob Vitt, whatever he wants to do is fine.

Mr. Byron said the village is obligated to both hear complaints by neighbors and to honor the rights of property owners who are making a request under village ordinances and in conformance with village ordinances. If there is an allegation of harm that is caused by neighbor action this is not the place that that can be remedied and the village acted in a accordance with its laws and the allegation that the village caused an occurrence is not accurate.

Mr. Puinno asked what the time line is? Mr. Himes said Mr. Vitt advises that he would like to begin as soon as possible. His engineer has replied to the comments made by our geo-technical engineer. I can't tell you whether he is going to accept all those comments or if there will be any other comments from our engineer but assuming that we accept those responses to our comments I would think we could give them permits probably relatively quickly. He advises us that he has a window of opportunity with the weather and with his contractor.

## MISCELLANEOUS

Mrs. Evans asked for an update on Solon Road. Mr. Himes said the county has installed curbing and they are working mainly on curb drainage now. Mrs. Evans asked about the swale part from the Ohio EPA? Mr. Lannon said that is separate and originally it was to wait until the county is done.

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## ADJOURNMENT

Mr. Patton adjourned the meeting at 8:47 p.m.

  
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President of Council

  
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Clerk of Council