

# RECORD OF PROCEEDINGS

Minutes of

CHAGRIN FALLS VILLAGE COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10149

Held

SEPTEMBER 24,

20 12

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: Chess, Evans, Holdren, Newell, Patton, Subel

Members absent: Lutz

Officials present: Mayor Brick, Bloom, Himes, Zugan, Cockrell, Byron, Lannon

Moved by Mr. Subel, seconded by Mr. Chess that the absence of Mrs. Lutz be excused. Carried. Ayes: Chess, Holdren, Newell, Patton, Subel. Nays: None.

### APPROVAL OF MINUTES

Moved by Mr. Newell, seconded by Mrs. Evans that the minutes of the meeting held September 10, 2012 be approved. Carried. Ayes: Chess, Evans, Holdren, Newell, Patton, Subel. Nays: None.

### REPORT OF THE MAYOR

Mayor Brick said I would really ask everybody to thank the Dogwood Valley Garden Club for the \$7,000 contribution that they have made to the village for flowers and flower baskets. They raised this money and I think it is just wonderful. It is so important in the appearance of the village during the summer.

Mayor Brick said, remember that we are partnering with Bentleyville to have a community shredding event this Saturday, September 29, 2012 from 9:00 a.m. to Noon at the Chagrin Falls Intermediate School on Philomethian Street.

Mayor Brick said this Friday we hope to distribute an informational letter to our residents outlining the challenges that the village is facing in maintaining our roads and discussing Issue 37, the ½ % income tax increase that is on the November ballot.

Mayor Brick said I hope I will see you all at the Chagrin Documentary Film Festival, which will be starting Wednesday, October 3, 2012 and going through October 7, 2012.

Mayor Brick said don't forget the health education day and flu shot program at the Hamlet Atrium on Wednesday, October 17, 2012 from 9:00 a.m. to Noon. The program is put on by the village and the Chagrin Senior Council.

### REPORT OF THE FINANCE DIRECTOR

No report.

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

None.

**REPORT OF THE LAW DIRECTOR**

**SOLID WASTE MANAGEMENT PLAN ADOPTED**

Mr. Byron placed on the floor Ordinance No. 2012-38 entitled:

AN ORDINANCE TO ADOPT THE SOLID WASTE MANAGEMENT PLAN  
FOR THE CUYAHOGA COUNTY SOLID WASTE MANAGEMENT  
DISTRICT.

Moved by Mr. Patton, seconded by Mrs. Evans that the requirement for reading an ordinance three times be suspended. Carried. Ayes: Chess, Evans, Holdren, Newell, Patton, Subel. Nays: None. Moved by Mr. Patton, seconded by Mrs. Evans that the ordinance be adopted. Carried. Ayes: Chess, Evans, Holdren, Newell, Patton, Subel. Nays: None. Mr. Patton said Ohio law requires that we develop a solid waste plan or at least that we participate in a solid waste plan. Every waste management district in Ohio must periodically revise and update their solid waste management plan including Cuyahoga County where we are a member. We are currently spending about a \$1.50 per ton of waste that is disposed in the landfill and the average cost is \$270 per month for an average of 180 tons of solid waste generated per month. We also use the computer round-up program that is provided as well as the household hazardous waste disposal program.

**AMOUNTS AND RATES ACCEPTED**

Mr. Patton introduced Resolution No. 2012-43 entitled:

A RESOLUTION ACCEPTING THE AMOUNTS AN RATES AS  
DETERMINED BY THE COMMISSION, WITH THE EXCEPTION OF THE  
GENERAL FUND, OUTSIDE 10 MILL AMOUNT AND RATE, AND  
AUTHORIZING THE 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: Chess, Evans, Holdren, Newell, Patton, Subel. Nays: None. Mr. Patton said this is the annual property tax rate resolution. As you will note, in looking at the document, there is a reduction based on the waste water bond issue, which is expiring, dropping us to 9.50 mills. Also, we did not include in this document the operating levy for the police station, which is .60 mills. The operating levy passed but the actual bond issue did not so we've made decisions in the past not to impose the police operating levy. Mr. Bloom said, just to remind everybody, the phrase

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“Inside Millage” means unvoted and “Outside Millage” means voted issues.

**AUTHORIZATION TO ACCEPT AN EASEMENT FROM SPILLWAY**

Mrs. Evans introduced Ordinance No. 2012-44 entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO ACCEPT A TEMPORARY CONSTRUCTION EASEMENT AND A PERMANENT EASEMENT FROM SPILLWAY, LLC, AND DECLARING AN EMERGENCY.

Moved by Mrs. Evans, seconded by Mr. Newell that the requirement for reading an ordinance three times be suspended. Carried. Ayes: Chess, Evans, Holdren, Newell, Patton, Subel. Nays: None. Moved by Mrs. Evans, seconded by Mr. Chess that the ordinance be adopted. Carried. Ayes: Chess, Evans, Holdren, Newell, Patton, Subel. Nays: None. Mrs. Evans said this is so that we can start the construction of the sidewalks on Cleveland Street.

**CHAPTER 953 AMENDED AND EXACTING NEW SECTION 953.01 RELATING TO A PET CEMETERY**

Mr. Patton introduced Ordinance No. 2012-45 entitled:

AN ORDINANCE AMENDING CHAPTER 953, EVERGREEN HILL CEMETERY, OF THE CODIFIED ORDINANCES OF THE VILLAGE OF CHAGRIN FALLS BY ENACTING NEW SECTION 953.01 RELATING TO A PET CEMETERY, AND DECLARING AN EMERGENCY.

Mr. Patton put this ordinance on readings.

**AUTHORIZATION TO ACCEPT AN EASEMENT FROM RICHARD AND FRIEDA BODWELL**

Mrs. Evans introduced Ordinance No. 2012-46 entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO ACCEPT AN EASEMENT FROM B. RICHARD BODWELL AND FRIEDA BODWELL, AND DECLARING AN EMERGENCY.

Moved by Mrs. Evans, seconded by Mr. Newell that the requirement for reading an ordinance three times be suspended. Carried. Ayes: Chess, Evans, Holdren, Newell, Patton, Subel. Nays: None. Moved by Mrs. Evans, seconded by Mr. Newell that the ordinance be adopted. Carried. Ayes: Chess, Evans, Holdren, Newell, Patton, Subel. Nays: None. Mrs. Evans said this is to allow the sidewalks to be built on Cleveland Street.

**VARIANCE REQUEST - 52 SOUTH FRANKLIN STREET**

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Mr. Byron placed on the floor Administrative Order No. 2012-40 entitled:

**FINAL ORDER OF COUNCIL AND CONCLUSION OF FACT REGARDING  
A VARIANCE REQUEST OF JAMES AND MELODY MCCLURG FOR  
PROPERTY LOCATED AT 52 SOUTH FRANKLIN STREET.**

Moved by Mr. Holdren, seconded by Mrs. Evans that the administrative order be adopted. Mr. Holdren explained the specifics of the variance requests. Mr. Holdren said having conversations with other Council members since the last Board of Zoning Appeals meeting, we wrote up the conclusions of fact to grant the variance for the side yard setback but did not find enough evidence or enough practical difficulty evidence to grant the sizing setback. So, in tonight's vote, a yes vote is for the side yard setback but not for the sizing set back as the order is written. For the record, the Board of Zoning Appeals approved the side yard setback unanimously four to zero and the sizing setback was approved three to one. Audience members said we have reduced it and have actually made it smaller than what was approved by the Board of Zoning Appeals.

Mr. Byron said what they will need to do is withdraw their prior application because it is not what they are asking you to vote on and it would need to go to BZA based on the new proposal. Council is not a position to make a decision on the modified request. For one thing, the BZA's recommendation doesn't relate to this project, it was a prior version of the project. What I would recommend that you do is table this. It may be that they withdraw the prior request and send a new request to BZA. That will come to you with a new recommendation. I would make a motion to table the pending request and get straightened out administratively where the application is.

Mr Byron said if the applicants are requesting you to vote on the pending application, the way to do that would be to vote on the conclusions of fact you have in front of you. If they are willing to withdraw that and start a new application I would recommend you table this and let them withdraw it and resubmit.

There was lengthy discussion.

Moved by Mr. Newell, seconded by Mr. Holdren to table this administrative order. Carried.  
Ayes: Chess, Evans, Holdren, Newell, Patton, Subel. Nays: None.

**VARIANCE REQUEST - 10 WEST WASHINGTON STREET**

Mr. Byron placed on the floor Administrative Order No. 2012-41 entitled:

**FINAL ORDER OF COUNCIL AND CONCLUSION OF FACT REGARDING  
A VARIANCE REQUEST OF LESTER AND LAURA SCOTT FOR  
PROPERTY LOCATED AT 10 WEST WASHINGTON STREET.**

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Moved by Mr. Holdren, seconded by Mr. Newell to table this administrative order. Carried.  
Ayes: Chess, Evans, Holdren, Newell, Patton, Subel. Nays: None.

### STREETS AND SIDEWALKS COMMITTEE

Moved by Mrs. Evans, seconded by Mr. Newell to approve a banner for the Safe Routes to School announcing their safety program "Walk to School, Walk to Town" on Friday, October 19, 2012. Carried. Ayes: Chess, Evans, Holdren, Newell, Patton, Subel. Nays: None.

### FACILITIES AND SERVICES COMMITTEE

Mr. Patton announced a meeting for Monday, October 8, 2012 at 7:30 p.m.

### PLANNING AND ZONING COMMISSION

Mr. Chess announced a meeting for Monday, October 15, 2012 at 7:30 p.m.

### SAFETY COMMITTEE

No report.

### UTILITIES COMMITTEE

No report.

### BOARD OF ZONING APPEALS

No report.

### ADMINISTRATION AND COMPENSATION COMMITTEE

No report.

### FINANCE COMMITTEE

No report.

### PARKS COMMISSION

On behalf of Mrs. Lutz, Mr. Himes announced a meeting for Tuesday, September 25, 2012 at 8:30 a.m.

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## SHADE TREE COMMISSION

On behalf of Mrs. Lutz, Mr. Himes reported that the Commission has selected trees for the Fall planting and that will begin in the middle of October.

## ARTS COMMISSION

Mrs. Evans announced a meeting for Monday, October 1, 2012 at 6:00 p.m., but it may be changed.

## PARKING COMMISSION

No report.

## REPORT OF THE CHIEF ADMINISTRATIVE OFFICER

No report.

## REPORT OF THE ENGINEER

No report. .

## REPORT OF THE POLICE CHIEF

No report.

## REPORT OF THE FIRE CHIEF

Chief Zugan reported that the Fire Department's 66<sup>th</sup> annual clam bake will be held on Saturday, October 6, 2012 and tickets are selling fast.

Chief Zugan also reported that on Saturday, October 13, 2012 from 9:00 a.m. to Noon, in conjunction with Fire Prevention week, they will be hosting their annual fire extinguisher service day where residents can have their fire extinguishers serviced and refilled.

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

George White, 77 West Cottage Street, said Ben sent me the geotech study, thank you. Mr. White asked if anybody got the chance to read the geotechnical study regarding the Vitt project? The answer was no. Mr. White said this is hypothetical, if the study were to conclude that the hillside is moving more than it should be moving and Vitt decides not to go ahead with phase

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2, what does the village do? Mr. Byron said they would probably consult with the engineer before making a determination. Mr. Byron said where is the conclusion coming from that it is moving more than it should; what does that mean? Does that mean from a natural condition or an unnatural condition? Was there a cause of relationship? There are a number of factors that they would need to consult with them and it would be irresponsible to talk about it in a public session. Mr. White asked, as far as the current geotechnical study, do we not think it would be prudent to read that and have some knowledge or some expert opinion? Mr. Byron said it is certainly on the administration's radar as something that they need to pay attention to. Mr. White asked, who is going to read that study for Chagrin Falls and determine, based on that study, that something should be acted upon? Mr. Byron said the village engineer and the building commissioner. Mr. Himes said it was also submitted to our geotech consultant who has reviewed it and provided comment back. Mr. Byron said the engineering team will be reviewing it. Mr. White said, so, your consultant has reviewed it and has commented on it. Can you share the comments with us? Mr. Byron asked, do you have comments back? Mr. Himes said I have copies of them. Mr. Byron said those are public record. Mr. White asked if he doesn't proceed with phase 2, is he required to build a slope retention system? Mr. Byron said we don't know the answer to that question. If he has created a safety condition that would require attention the village would look at that. But, his building permit doesn't require him to build a retention system until he is pulling a permit for construction.

## MISCELLANEOUS

Craig Smargiasso asked why the variance request for 10 West Washington Street has been tabled twice by Council? Mr. Patton said we are diligently addressing the situation and we are still reviewing it.

## EXECUTIVE SESSION

Moved by Mrs. Evans, seconded by Mr. Newell to adjourn into executive session for the purpose of discussing pending or imminent litigation. Carried. Ayes: Chess, Evans, Holdren, Newell, Patton, Subel. Nays: None. (8:40 p.m.)

Mr. Patton said he does not anticipate that there is any going to be any further comment following the executive session other than to reconvene and adjourn.

## ADJOURNMENT

Mr. Patton adjourned the meeting at 9:35 p.m.

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President of Council

  
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Clerk of Council