

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, Herdman, Lutz, Muscenti, Newell, Patton, Subel
Members absent: None
Officials present: Mayor Brick, Bloom, Zupan, Dacek, Byron, Lannon

APPROVAL OF MINUTES

Moved by Mr. Newell, seconded by Mrs. Evans that the minutes of the meeting held April 27, 2015 be approved. Carried. Ayes: Evans, Herdman, Lutz, Muscenti, Newell, Patton, Subel. Nays: None.

REPORT OF THE MAYOR

Mayor Brick introduced Judge Jeffrey Dean of the Bedford Municipal Court who updated everyone on the court system.

Mayor Brick said I have been advised that Heinen's is seriously negotiating to open up a grocery store in the village plaza but that they still are very concerned about parking issues outside of the plaza parking lot. I would like to ask the Parking Commission to meet as soon as possible to begin to look at options to improve parking in the village. And, I would just say that the addition of M Italian and the reopening of Jekyll's are just two other events that make trying to take some action in the parking area more important than ever.

Mayor Brick said, and of course, I hope to see you all at Blossom Time starting on Thursday, May 21, 2015 and also at the Historic Home and Garden Tour on May 29th and 30th. And remember, our Sunday morning Farmer's Market will start June 7, 2015.

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.

AUTHORIZATION TO ENTER INTO AN AGREEMENT WITH ODOT

Mrs. Evans introduced Ordinance No. 2015-14 entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN

AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION
AND TAKE ANY OTHER ACTION NECESSARY TO PARTICIPATE IN
THE BULK PURCHASING OF ROAD SALT FOR THE 2015/2016 WINTER
SEASON 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: Evans, Herdman, Lutz, Muscenti, Newell, Patton, Subel. Nays: None. Moved by Mrs. Evans, seconded by Mrs. Lutz that the ordinance be adopted. Carried. Ayes: Evans, Herdman, Lutz, Muscenti, Newell, Patton, Subel. Nays: None. Mrs. Evans said I think we have been with the State of Ohio for about four years now. We used to buy it individually and we went to group buying through the Ohio Department of Transportation. It did cut our salt cost so I would recommend that we do this again. It is housekeeping; we do it every year.

AUTHORIZATION TO ENTER INTO AN AGREEMENT WITH RIVERWALK

Mr. Herdman introduced Ordinance NO. 2015-15 entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN
AMENDMENT TO THE LICENSE AGREEMENT WITH RIVERWALK AT
CHAGRIN FALLS, LLC ENTERED INTO ON OR ABOUT MARCH 18,
2013.

Moved by Mr. Herdman, seconded by Mrs. Lutz that the requirement for reading an ordinance three times be suspended. Carried. Ayes: Evans, Herdman, Lutz, Muscenti, Newell, Patton, Subel. Nays: None. Moved by Mr. Patton, seconded by Mrs. Lutz that the ordinance be adopted.

Mr. Byron said in 2013 the village granted a license agreement to Mr. Vitt to put a portion of a cul-de-sac in the right-of-way. If somebody is going to be using the village right-of-way they need permission from the village. This is a reconfiguration of that area.

Mr. Vitt said if you recall, the last time I was here, you actually approved some variances to build what would have been the third building, it is still under construction now, in addition to the original six. The approval when I was before you last time was to build a third unit, unit 48. There was much discussion in the course of that meeting on the slope stability factor and it was mutually agreed by Tim Lannon and myself that the minimum criteria that we would need to achieve to be able to build that unit was 1.3. I hired a consultant again to do an analysis of that section of the hillside and he did an analysis to determine whether or not we could build that unit 48 and achieve a 1.3 on the hillside. He came back with an initial report that said the only way that we can get to a 1.3 would be to decrease mass at the top of the hill. In the previous part of my development we were able to decrease mass at the top of the hill by

removing a house and actually reducing the grade by about seven feet. I do not own the home or the parcel to the west of that so we could not achieve that goal, reducing the mass at the top of the hill. He then indicated that the option is to sufficiently increase the mass at the bottom of the hill. So, I commissioned him to do an analysis if that was achievable. He came back saying we can't get to 1.3 but by building a retaining wall in the location shown, which is a four foot encroachment into the right-of-way, we could achieve a 1.2. If you also recall in previous discussions, the consensus was that the original hillside had a slope stability factor of 1.0 so by building this retaining wall we could substantially improve that section of the hillside but not to the level that we could actually build on. I have the option of either not putting forth the money to build a retaining wall and simply adhering to the original slope stability factor, the 1.0. But, I decided to invest the money to build this retaining wall that would elevate that section of the hillside. It would not be currently buildable under the 1.3 factor that we had agreed to. The reason it is four feet over the line is the calculation that the engineers do, without being able to reduce any mass at the top of the hill, it is a function of how much mass is at the bottom of the hill. The corner of it would be considered the southeast corner at the major L and is about eleven to twelve feet above grade so it is a substantial retaining wall. As it goes westerly up the hill towards the adjacent property to the west it is about seven feet above grade. The other reason it is in this specific location is we also looked at the possibility that at a future point in time the neighbor may want to extend the wall to replace the failed retaining walls that are currently existing. This appears to be an optimum location from the standpoint of our need to increase mass at the bottom of the hill but also an alignment that would permit it to be continued along the adjacent property. It would take approximately a one hundred foot extension of this wall to totally contain the hillside on the adjacent parcel. We could probably ask for five feet instead of four feet but I wanted to align it with the previously agreed to encroachment that you approved in 2013.

Mr. Patton asked, is the current line through the planters? Mr. Vitt said the current projection of the planters is four feet into the right-of-way so this is absolute alignment with the planters. The wall system we are using is the same wall system you frequently see on highway embankments. It is the type of retaining wall that you see in large residential and commercial projects and a lot of highway projects.

Mr. Patton asked, how tall is the wall going to be? Mr. Vitt said because of the grade of West Orange going up the hill it is about twelve feet above grade at the southeast corner, which would be abutting the last unit's property line. As it goes westerly along West Orange, because the grade is rising and the wall is level, about seven and a half feet of it is projecting above grade. That seven and a half feet above grade, there is a little bit of slope at the toe so that is probably about ten feet above the roadway.

Mr. Patton asked, from a visual perspective we have that one wall now by the planters? Mr. Vitt said yes. Mr. Patton asked, that is going to be extended up west? Mr. Vitt showed the

elevation.

Mr. Muscenti asked, has our engineer taken a look at this? Mr. Lannon said only the drawings.

Mrs. Evans asked, is unit 48 going to be on this section one parcel? Mr. Vitt said no, unit 48 doesn't exist anymore. I can't get to the 1.3 so we decided not to build it. Mrs. Evans asked, so there is only going to be 44 and 46? Mr. Vitt said yes, both of which the foundations have been poured.

Mr. Patton asked, is this wall going to be about four feet further out than the present wall? Mr. Vitt said it is four feet out beyond the wall but it is in line with the point of those planters. The planters actually project four feet.

Mr. Subel asked, what is the purpose of the wall if 46 is your last one? Mr. Vitt said the hillside to the west has a slope stability factor of 1.0 and in previous meetings it was agreed that I could not leave it less than 1.0. I could leave it now with no wall but the advantage to putting a wall in is I elevate that section of the hillside to 1.2 recognizing that the hillside to the east of it is at least 1.3. The benefit of doing a wall is primarily to elevate the slope of the hillside. The residents up above get that benefit and the property to the west get minimal benefit but the primary benefit is to the people that are immediately above the hill, on the top of the hill.

Mr. Muscenti asked, has there been an analysis to the impact of what it is you are doing on that piece of property just to the west? Mr. Vitt said the hillside doesn't move from west to east, it is moving north to south. We have inclinometers in the hillside immediately adjacent to that property. We have done the readings over the last two years and it has moved an eighth of an inch. Mr. Muscenti asked, does moving dirt from one location to another impact slope stability? Mr. Lannon said it can but generally not at the bottom of the hill.

Mr. Vitt said I spent \$100,000 on an engineering study and I did submit the report. Mr. Patton said there has been extensive reports done on the slope stability. Mr. Muscenti asked, has our engineer reviewed them? Mr. Lannon said yes.

Mr. Patton said this legislation is subject to the approval of the village's engineer. Mr. Byron said this is the licence to be there. The construction permit would not be issued until engineering and building approved it. This is Council's review of the property right to be in the right-of-way.

Mr. Newell said, so you are building this retaining wall without the intention of putting any buildings behind it or above it on that piece of property and it is just to create slope stability. So that will be graded and seeded and mowed or trees or something? Mr. Vitt said we will probably plant trees and some other planting at the top of the wall. On the hillside, yes, but at

the top of the wall that will give us a platform to plant.

Mr. Herdman said the last time we approved the variances there was discussion of a retaining wall. I don't recall this being the exact proposal at the time so this is a relatively new plan. Mr. Vitt said correct. There was a retaining wall, it was behind what would have been unit 48. Mr. Herdman asked, was this noticed like it would be for a BZA hearing? Did all the neighbors get notice of this proposal? Mr. Byron said not for this. This is not a variance from the code it is a license to be in the right-of-way. Mr. Herdman said this is an issue that has engendered a lot of input from the community and a lot of concern and I would be uncomfortable going forward without hearing from the residents who would be affected by this.

Mr. Patton said I think that this proposal is going to be a benefit to the residents who would be affected. Mr. Vitt said we have sent the engineer's report and the drawings to all of the residents that are impacted by this.

Mr. Herdman said I don't have any reason to doubt that but from a process standpoint it seems to me to be a little bit out of wack with respect to everything else that we have considered on this property. I do take Mr. Vitt and his word that he is doing this to improve the slope stability. I think that at the end of the day it is probably the right thing that needs to happen here. I am not in love with the idea of a ten foot retaining wall running along the street there but as with everything else on this project I don't have the benefit of having been involved at the beginning so there are a number of necessary steps that I think have to be taken to bring this thing to conclusion and this will hopefully be the last. From a personal preference standpoint this would not be ideal. Mr. Herdman said I have some concern about visibility for people who would be pulling out, particularly at unit 46, with an extension into the right-of-way of four feet.

Mr. Vitt said we were concerned about that specifically so we verified that there was plenty of visibility with a car coming down that driveway at the curb without having to put the front end of the car in the roadway.

Mr. Muscenti asked, because it is in the right-of-way, if the wall were to fail who's obligation would it be to make sure that it was maintained? Mr. Byron said structures in the right-of-way will be the Village's responsibility. Mr. Vitt said I think the license agreement has the responsibility for me to maintain it. Mr. Patton asked, we would have the right to remove the wall if we needed that right-of-way for some other reason? Mr. Byron said that is right.

Mr. Patton asked, if this wall were to be moved four feet back they could still build the wall? Mr. Byron said let me retract what I said before, this incorporated the prior license, which we don't have in front of us now, and if you are telling me that the prior license required imposed maintenance obligation on the property owners then that would carry forward because we

incorporate those terms.

Mr. Subel said I don't feel comfortable voting for this at all tonight, for a lot of reasons.

Mr. Patton said it sounds like Council needs a little more time to contemplate this.

Moved by Mr. Patton, seconded by Mr. Newell that we table this ordinance until next Monday for a special Council Meeting at 7:00 p.m. Carried. Ayes: Evans, Herdman, Lutz, Muscenti, Newell, Patton, Subel. Nays: None.

VARIANCE REQUEST - 220 SENLAC HILLS DRIVE

Mr. Herdman introduced Administrative Order No. 2015-16 entitled:

FINAL ORDER OF COUNCIL AND CONCLUSION OF FACT
REGARDING A VARIANCE REQUEST OF PATRICIA AND ANDREW
BURNIGHT FOR PROPERTY LOCATED AT 220 SENLAC HILLS DRIVE.

Moved by Mr. Herdman, seconded by Mrs. Evans that the administrative order be adopted. Carried. Ayes: Evans, Herdman, Lutz, Muscenti, Newell, Patton, Subel. Nays: None. Mr. Herdman explained the specifics of the variance request.

STREETS AND SIDEWALKS COMMITTEE

No report.

FACILITIES AND SERVICES COMMITTEE

No report.

PLANNING AND ZONING COMMISSION

Mr. Muscenti announced a meeting for Monday, May 18, 2015 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

Mr. Patton acknowledged that Council did receive the monthly expenditure reports as well as the monthly statement of cash receipts and disbursements for the month of April, 2015.

PARKS COMMISSION

Mrs. Lutz announced a meeting for Monday, June 1, 2015 at 8:30 a.m. She thanked all of the volunteers for all of the hard work that they have done and also the service department for trying to replace the Winter damage. She said I think everything looks fabulous and we have so much to thank the volunteers for.

SHADE TREE COMMISSION

Mrs. Lutz reported that they took an air knifing course at the Holden Arboretum. It has to do with the roots around the base of the tree. They are starting a new air knifing program and they have bought the equipment. They also have a new campaign against volcano mulching because it is really bad for the trees.

ARTS COMMISSION

Mrs. Evans reported that Tom Schorgl, from the Community Partnership For Arts and Culture, spoke about the cigarette tax issue, which we will be discussing further.

PARKING COMMISSION

No report.

REPORT OF THE CHIEF ADMINISTRATIVE OFFICER

No report.

REPORT OF THE ENGINEER

No report.

REPORT OF THE POLICE CHIEF

Lieutenant Dacek reported that this Saturday is the Bike Rodeo and Coffee With a Cop.

REPORT OF THE FIRE CHIEF

No report.

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

Lon Stolarsky said he is campaigning for Judge of the Bedford Municipal Court. He gave an overview of his background and qualifications.

Anne deConingh thanked Council for funding the Beautification Committee's request for plant material and supporting their effort. The Mayor and Council thanked her and the committee for doing a great job.

Mrs. deConingh asked about Riverside Park and the rumor that she heard about paving in that little area there between the Carltons and the municipal lot. Mayor Brick said there will be a lot of work done by the Parking Commission and depending upon what direction they go in we will let you know right away. Right now there is nothing firm.

Mrs. deConingh asked about Heinen's and how much parking they will need. Mayor Brick said their concern is not the parking spaces in the plaza but it is the parking situation outside of the plaza that could impact them.

A Carriage Stone resident asked what is going on with the paving of the road? Mayor Brick said right now there is no money available for any additional re-pavement other than North Street at the moment. Carriage Stone is at the top of the list of the survey of roads that need to be reconstructed. Council will be meeting next week to address the funding for roads.

MISCELLANEOUS

None.

EXECUTIVE SESSION

8:56 p.m. Moved by Mr. Newell, seconded by Mrs. Lutz to adjourn into executive session for

the purpose of discussing employee compensation. Carried. Ayes: Evans, Herdman, Lutz, Muscenti, Newell, Patton, Subel. Nays: None.

ADJOURNMENT

There was no further discussion so Mr. Patton adjourned the meeting at 9:25 p.m.

President of Council

Clerk of Council