

The meeting of the Council of the Village of Chagrin Falls was called to order at 8:05 p.m. by Mr. Patton.

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

APPROVAL OF MINUTES

Moved by Mrs. Evans, seconded by Mr. Newell that the minutes of the meeting held September 23, 2013 be approved. Carried. Ayes: Evans, Herdman, Holdren, Lutz, Newell, Patton, Subel. Nays: None.

REPORT OF THE MAYOR

Mayor Brick reported on the upcoming 5.5 mill General Fund renewal levy that will be on the ballot November 5, 2013. He emphasized that this is a needed renewal and it will not increase property taxes. He said please vote yes for Issue 27.

Mayor Brick said we are hoping that the re-paving of Solon Road, in three layers, will be completed in the next several weeks. However, if there is a weather problem the feeling is that the final layer would certainly be completed early next year.

Mayor Brick reported that leaf collection started today and should continue through about November 22, 2013. You can get some sense of when your street pickup will be by going to the village website. They can never say exactly when because of the weather.

Mayor Brick said the Chagrin Falls Schools are having a public meeting on their strategic planning efforts Tuesday, October 22, 2013 from 7:00 p.m. to 8:00 p.m. at the performing art center.

Mayor Brick said I would just like to remind anyone who might be involved with rolling pumpkins that there is no such event sanctioned by the village or the school district or any parental group. I would urge anyone who is so inclined to get involved to be aware of their own safety, others safety, and particularly to avoid any illegal actions.

Mayor Brick announced that Trick-or-Treat will be held on Thursday, October 31, 2013 from 6:00 p.m. to 8:00 p.m. He said the Haunted Fire House will be open at the same time.

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

TRANSFER AND APPROPRIATE FUNDS

Mr. Patton introduced Ordinance No. 2013-59 entitled:

AN ORDINANCE TRANSFERRING FUNDS AND APPROPRIATING FUNDS.

Moved by Mr. Patton, seconded by Mrs. Evans that the requirement for reading an ordinance three times be suspended. Carried. Ayes: Evans, Herdman, Holdren, Lutz, Newell, Patton, Subel. Nays: None. Moved by Mr. Patton, seconded by Mr. Newell that the ordinance be adopted. Ayes: Evans, Herdman, Holdren, Lutz, Newell, Patton, Subel. Nays: None. Mr. Patton said this transfers \$124,295 in Estate Taxes, which we received on September 30, 2013, from the General Fund to the Capital Improvement Fund.

AUTHORIZATION TO ENTER INTO AN AGREEMENT WITH THE CITY OF SOLON

Mrs. Lutz introduced Ordinance No. 2013-60 entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE CITY OF SOLON FOR PRISONER HOUSING SERVICES, AND DECLARING AN EMERGENCY.

Moved by Mrs. Lutz, seconded by Mrs. Evans that the requirement for reading an ordinance three times be suspended. Carried. Ayes: Evans, Herdman, Holdren, Lutz, Newell, Patton, Subel. Nays: None. Moved by Mrs. Lutz, seconded by Mrs. Evans that the ordinance be adopted. Ayes: Evans, Herdman, Holdren, Lutz, Newell, Patton, Subel. Nays: None. Mrs. Lutz said this is the renewal of an existing agreement.

AUTHORIZATION TO ENTER INTO AN AGREEMENT WITH H&M LANDSCAPING

Mr. Patton introduced Ordinance No. 2013-61 entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENTS WITH H&M LANDSCAPING FOR THE FALLS WALKWAY IMPROVEMENTS, 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, Herdman, Holdren, Lutz, Newell, Patton, Subel. Nays: None. Moved by Mr. Patton, seconded by Mrs. Evans that the ordinance be adopted. Ayes: Evans, Herdman, Holdren, Lutz, Newell, Patton, Subel. Nays: None. Mr. Patton moved by Mr. Patton, seconded by Mrs. Evans to amend due to the fact that in the 4th paragraph of the ordinance we talk about a base bid total of \$20,297.50 when in fact that should read \$10,928.00. Carried. Ayes: Evans, Herdman, Holdren, Lutz, Newell, Patton, Subel. Nays: None. Mr. Patton said this was discussed this evening at the Facilities and Services Committee meeting. It is for certain repairs on the stairwell next to the Popcorn Shop. The repairs will include putting in new footers and then beams under the existing stairs to help support them. There will also be some stonework done at the bottom by the falls up near the corner where the Popcorn Shop is located. We received two bids and H&M Landscaping was about half of what the other bid was. They also were responsible for putting the ancillary staircase in coming off the alley. Because there may be some contingencies, the recommendation is that the amount not exceed \$12,500. Mr. Patton said the Chagrin Valley Jaycees were kind enough to donate \$11,000 towards this project. We hope to complete this by the end of November. Mayor Brick thanked the Jaycees for their donation.

VARIANCE REQUEST - 52 SOUTH FRANKLIN STREET

Mr. Holdren introduced Administrative Order No. 2013-62 entitled:

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

Moved by Holdren, seconded by Mrs. Lutz that the administrative order be adopted. Carried. Ayes: Evans, Herdman, Holdren, Lutz, Newell, Patton, Subel. Nays: None. Mr. Herdman explained the specifics of the variance requests. He said the Board of Zoning Appeals unanimously approved the variance requests and the Architectural Review Board approved the height.

VARIANCE REQUEST - 218 CLEVELAND STREET

Mr. Holdren introduced Administrative Order No. 2013-63 entitled:

FINAL ORDER OF COUNCIL AND CONCLUSION OF FACT
REGARDING A VARIANCE REQUEST OF SPILLWAY, LLC FOR
PROPERTY LOCATED AT 218 CLEVELAND STREET.

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

- (1) Section 1139.04(b) requires a five foot (5') buffer between parking areas and the public right-of-way. The Applicant is seeking a variance from this provision because the parking area in front of "Building 2" extends into the public right-of-way.
- (2) Section 1133.03 requires the Low Street parking lot to have a twenty foot (20') setback from the public right-of-way and a ten foot (10') setback from the adjacent residential parcel. The Applicant is seeking a fifteen foot (15') variance resulting in a five foot (5') setback from the public right-of-way and a ten foot (10') variance resulting in no setback from the adjacent residential parcel.
- (3) Section 1142.05(b) requires parking areas with fifty or more spaces to have a least five percent (5%) of its parking area for landscaping. The Applicant is seeking a variance of .9% resulting in 4.1% of its parking area being landscaped.
- (4) Section 1151.03 limits the use of land within one hundred twenty feet (120') of the low water level of the Chagrin River to passive recreation. The Applicant is seeking a variance from this provision because a substantial portion of the project, including existing structures, is located in this river buffer.
- (5) Section 1139.02(a)(6)(b)(2) sets 250 seats as the maximum number for restaurant seating. The Applicant is seeking 460 seats, which would require a variance of 210 seats.
- (6) 1353.06(a)(5) prohibits the deposit of fill, including sand, gravel or other materials of any composition in the Special Flood Hazard Zone (SFHZ). The Applicant is seeking a variance from this provision to permit it to add about two to three feet of fill in a small area to reach the required grade.
- (7) 1353.06(b)(2) requires certification of flood proof construction for any buildings with floor elevations below the base flood elevation. The Applicant is seeking a variance from this provision to permit portions of "Building 2" to continue to have floor elevations below the base flood elevations.

Mr. Holdren said the BZA approved all of the variances except for #5, the seating variance. Bob Darden and Darren Wyville spoke about the requested variances as they did at the Board of Zoning Appeals meetings on September 24, 2013 and October 8, 2013. Mr. Darden said we want to propose reducing our request from the 210 seat variance by almost fifty percent and ask for a variance of 119 seats, which would now give us a total of 369 seats on-site. We would end up having a 235 seat restaurant, a 95 seat restaurant, a 20 seat tap room, and a 14 seat coffee shop. There was lengthy discussion; comments were heard and questions were answered. Mr. Newell asked, what are our options? Mr. Byron said you have the authority to vote on the recommendation of the BZA, you have the authority to consider the modified request and modify and reverse the recommendation of the BZA in accordance with what they are requesting, or you could take an intermediate action and have language drafted up that does one thing or the other depending on your policy choice and come back next time and look at the proposed language as to what that would look like or some other choice would look like other than straight up following what the BZA has recommended. Mrs. Evans asked, can we

then ask them to withdraw the request for the seating and pass all the other variances tonight? Mr. Byron said we would have to make some changes to the conclusions of fact, but the answer to that question is yes. If you dispose of the conclusions of fact that are in front of you, deal with the case that is in front of you, they would have to reapply for the seating as a separate variance request. It would be the equivalent of them just withdrawing the request right now and having to come back at a later time. That would have to go through the BZA again.

Megan Sullivan, 118 Miles Road, spoke in favor of the variances. Jeff Wood, 313 Bell Road, spoke in favor of the variances. John Bourisseau, 508 Miles Road, spoke in favor of the variances. Amy Johnson spoke in favor of the variances. An audience member Carrie, spoke in favor of the variances. Mr. Patton said we are all in favor of Spillway also. We are supportive, we are just trying to deal with these specific issues as far as the increase in the seating and the variance for the parking on Low Street. Mark Evans spoke in favor of the variances. Karen Wise, North Street resident, spoke in favor of the variances.

Jim Black, 188 Low Street, spoke in opposition to the variances. Ron Bomback, 174 Low Street, spoke in opposition to the variances. Larry Murray, 243 High Street, spoke in opposition to the variances. Wendy Bomback, 174 Low Street, spoke in opposition to the variances. Kim Dobeck, 276 High Street, spoke in opposition to the variances.

Moved by Mrs. Evans to approve, tonight, the endorsement of the BZA on numbers one, three, four, six, and seven leaving out number two, which is the Low Street parking, and number five, which is the seating, for further study. Mr. Byron said we would have to redraft this but we could put it together so that it looks exactly like this with those things removed for next time. Mr. Newell said the other option would be to table this. Mr. Subel said he would like more information on the below the flood line thing. Mr. Patton said they will table everything until the next meeting.

Moved by Mr. Newell, seconded by Mr. Patton to table this ordinance until the next Council meeting and in such time we ask the law director to write it up with the modifications offered by the Spillway Group for the number of seating that they are requesting for their variance. Carried. Ayes: Evans, Herdman, Holdren, Lutz, Newell, Patton, Subel. Nays: None.

VARIANCE REQUEST - 33 EAST ORANGE STREET

Mr. Holdren introduced Administrative Order No. 2013-64 entitled:

FINAL ORDER OF COUNCIL AND CONCLUSION OF FACT
REGARDING A VARIANCE REQUEST OF JOYCE POPLAR FOR
PROPERTY LOCATED AT 33 EAST ORANGE STREET.

Mr. Patton said I am going to recuse myself from this piece of legislation. Mr. Himes said the

applicant has asked to defer action by Council until the next meeting because their architect is out of town. Mrs. Evans said we will table it.

STREETS AND SIDEWALKS COMMITTEE

No report.

FACILITIES AND SERVICES COMMITTEE

No report.

PLANNING AND ZONING COMMISSION

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

SAFETY COMMITTEE

Mr. Lutz announced a meeting for Monday, October 28, 2013 at 7:30 p.m.

UTILITIES COMMITTEE

Mr. Patton reported that earlier this evening they addressed the Storm Water Program. There will be further discussion. Mr. Patton announced a meeting for Monday, October 28, 2013 at 7:00 p.m.

BOARD OF ZONING APPEALS

Mr. Holdren announced a meeting for Tuesday, October 22, 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 September, 2013.

PARKS COMMISSION

Regarding the falls walkway improvements, Mrs. Lutz thanked the Parks Commission because

it was because of their planning to rehabilitate that area that it was discovered and they got the Jaycees involved. It has been a great group effort to improve the iconic view for which our village is so famous.

SHADE TREE COMMISSION

No report.

ARTS COMMISSION

No report.

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

No report.

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

Jim Weingart said a couple of months ago I suggested changing the speed limit to 25 mph on East Washington Street from the BP Station to Hunan. Mrs. Evans said we have not discussed that in Streets and Sidewalks. Mr. Himes said we have to follow the uniform manual for traffic control devices, which is basically state law for everything other than stop signs. To change the speed limit would require an engineering study. The speed limits are basically set at the speed that the average driver feels comfortable driving at. I would guess that it would be

unlikely that a traffic study would show that the speed limit should be set lower than 35 mph. We have done some speed counts and the base speed is in the vicinity of 35 mph so that shows what the average speed is. Mrs. Evans asked, is there a process to go to the state to change it? Mrs. Lutz asked, how much does it cost to go the state to change it? Mr. Himes said we would have to perform the study. I can do some research on what that study would cost. Mrs. Evans said it is very complex to have it changed because we don't control that street; it is controlled by the state. Mr. Himes said you don't want to set speed limits so low that the average driver is now speeding. People generally drive at the speed they feel is a safe speed regardless of what you set the speed limits to. Mrs. Evans said I think the only thing we can do is look into how much a traffic study would cost and then what the procedure would be to go to the state to see if they would consider changing it. Mr. Byron said the default speed limit is set by state law. You have the authority to prove conditions that are different than what the state law would ordinarily dictate for that location. If you did the study you would be bound by what the study showed. If the study did not warrant a reduction in the speed limit you would be bound by that.

MISCELLANEOUS

Mr. Newell said I am wondering if anybody has ever asked or investigated options of doing some visual aid devices in this room for public meetings for a television screen that would show plans and different things that are discussed not only at Council but BZA and Planning and Zoning. A few times I have attended meetings that were well attended and everybody in the audience is in the dark essentially. I don't know what it would cost but I think it would be worth looking into. It might reduce some of the exasperation and frustration of people coming to meetings and everybody is huddled around the chairs up here and no one can see what is going on. Mr. Himes said we can do some research.

EXECUTIVE SESSION

9:45 p.m. Moved by Mrs. Evans, seconded by Mr. Holdren to adjourn into executive session for the purpose of discussion of eminent or pending litigation. Carried. Ayes: Evans, Herdman, Holdren, Lutz, Newell, Patton, Subel. Nays: None.

Mr. Patton said I would like to advise the audience that we will come back and adjourn; we will have no further public comment.

ADJOURNMENT

Mr. Patton adjourned the meeting at 10:24 p.m.

President of Council

Clerk of Council