

RECORD OF PROCEEDINGS

Minutes of

CHAGRIN FALLS VILLAGE COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10149

Held OCTOBER 8, 20 12

The meeting of the Council of the Village of Chagrin Falls was called to order at 8:08 p.m. by Mr. Patton.

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

APPROVAL OF MINUTES

Mrs. Evans said "and in future years" should be added to the end of her motion under the Streets and Sidewalks Committee report. Moved by Mr. Newell, seconded by Mr. Chess that the minutes of the meeting held September 24, 2012 be approved, as amended. Carried. Ayes: Chess, Evans, Holdren, Lutz, Newell, Patton, Subel. Nays: None.

REPORT OF THE MAYOR

Mayor Brick read a proclamation for the Safe Routes Walk to School, Walk to Town Program. He thanked Kathryn Garvey and her committee for all of the wonderful work that they have been doing on this subject.

Mayor Brick said remember the health education day and flu shot program at the Hamlet Atrium on Wednesday, October 17, 2012 from 9:00 a.m. to Noon.

Mayor Brick said Council will be holding town hall meetings to answer questions and get advice on Issue 37, the ½% income tax increase for road maintenance. They will be held on Thursday, October 11, 2012 at 7:00 p.m. in Council chambers, Wednesday, October 17, 2012 at 7:00 p.m. at the Hamlet Atrium, and on Monday, October 22, 2012 at 7:30 p.m. in Council chambers. Mayor Brick said we want to get as many people as possible to come in. We want to hear what they have to say and we want to make sure everybody has the correct information on this Issue.

Mayor Brick announced that Trick-or-Treat will be held on Wednesday, October 31, 2012 from 6:00 p.m. to 8:00 p.m.

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.

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REPORT OF THE LAW DIRECTOR

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

Mr. Byron placed on the floor 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 said this will remain on readings.

AUTHORIZATION TO PARTICIPATE IN THE OHIO PUBLIC WORKS COMMISSION PROGRAMS

Mrs. Evans introduced Resolution No. 2012-49 entitled:

A RESOLUTION AUTHORIZING THE MAYOR TO PREPARE AND SUBMIT AN APPLICATION TO PARTICIPATE IN THE OHIO PUBLIC WORKS COMMISSION STATE CAPITAL IMPROVEMENT PROGRAMS AND TO EXECUTE ALL CONTRACTS AS REQUIRED FOR THE NORTH STREET IMPROVEMENTS PROJECT, AND DECLARING AN EMERGENCY.

Moved by Mrs. Evans, seconded by Mrs. Lutz that the resolution be adopted. Carried. Ayes: Chess, Evans, Holdren, Lutz, Newell, Patton, Subel. Nays: None. Mrs. Evans said it is for the purpose of designing and constructing the North Street Improvements Project.

VARIANCE REQUEST - 52 SOUTH FRANKLIN STREET

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 to table this administrative order. Carried. Ayes: Chess, Evans, Holdren, Lutz, 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

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A VARIANCE REQUEST OF LESTER AND LAURA SCOTT FOR PROPERTY LOCATED AT 10 WEST WASHINGTON STREET.

Moved by Mr. Holdren, seconded by Mr. Patton that the administrative order be adopted. Carried. Ayes: Evans, Lutz, Newell, Patton. Nays: Holdren, Subel, Chess. Mr. Holdren explained the specifics of the variance request. He said the Board of Zoning Appeals unanimously approved the variance request for the reason being that it is an optometrist but the majority of their sales will be retail. It will be eye glasses and sunglasses so we felt that it was keeping in line with the intent of the code. And also, I wanted to point out that medical use is allowed in the central shopping district if it was on the second floor and this building does not have a second floor so, therefore, they could not have it up there so that was another reason the variance was recommended. The owner pointed out that although it is in the central shopping district, it is on the edge of it and it borders another facility, which is actually a medical use where medical use is allowed.

Mr. Byron said the conclusions of fact were developed in conjunction with the Council President. The sense that he was getting, in terms of feedback, was that there had not been evidence establishing practical difficulties for this property for this variance and so, although, the BZA recommended approval of this, these conclusions support a denial of the requested variance for the reason that there is no evidence that this property could not be put to an economically viable use as a retail use and among other things it would alter the essential character of the neighborhood, which is a retail district to have professional office space on the first floor. A vote for this set of conclusions of fact would be a vote to deny the requested variance. Mr. Holdren was asked if this variance request is specifically for this tenant? Mr. Holdren said yes, the BZA recommended that it be conditioned not only unique for this tenant but unique to the plans that they submitted in which the entire layout is about 1,000 square feet and they could only use the back exam room, which is about 100 square feet. Unique to this tenant, so if it was sold no other optometrist could use it or they would need a variance again.

Mr. Subel said I have had some questions in my mind for a couple of weeks now since the last meeting. In my own mind, I am not sure this should have even been brought to BZA that it should have probably been approved without going to the Board of Zoning Appeals. I see an optometrist. I understand he has a medical degree but I buy my glasses at a place that is on the shopping plaza. You go to a shopping mall and it is all filled with retail and I think a lot of people buy glasses, prescription glasses at glass stores and not necessarily through their optometrist. I know I have done that. So I see this more as the fact that it is a retail business and belongs, although this is not what criteria that we should use, I don't think. I think it can bring a lot of business downtown, people that wouldn't come otherwise. People wear glasses and we don't have somebody down here to sell them. Mrs. Lutz and Mr. Patton said yes we do. Mr. Subel said I look around and I see other uses in the retail front store place in this town that are not necessarily what we think of as retail and you know you look at realtor on the first floor, you don't think of that as retail. I look at the building between Rick's Café and the bank

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on East Washington it is the Chagrin Arts thing that is not a retail thing. And I think this is really not off the beaten path and in fact I believe it is retail and should not have even gone to BZA. So I am going to vote against this. Mr. Patton said I have had a difficult time with this particular variance. Rick, I am not sure where you buy your glasses or what the zoning code is for that area. I do look at our code and I look at the permitted uses, which includes office use and general medical office use as permitted in office district provided that no office shall occupy a ground floor space with frontage on a public street from which that space has access. I think under our code that this is a medical office and in applying all the factors that we have mentioned tonight, and I just feel in looking at the various factors we are required to look, to really apply the Duncan Factors, in granting a variance. I think that this property would yield a reasonable return and there can be other beneficial use of the property without this variance. I do feel that the variance is substantial because it is going from retail to a medical use. I also feel that the variance is substantial because it is going from a retail to a medical use. I also feel that it would change the essential character of the neighborhood. And, I also think the spirit and intent behind the zoning requirement would not be observed if we were to grant the variance. Again, it has been a difficult decision. I have spoken to a lot of people. I think it would be an asset to the community but I feel that it is our charge to apply the code to each of these situations and it is not a personal decision but it was my conclusion in applying all the facts to the application to the facts that we are required to do in rendering our decision.

Mrs. Evans said I would like to add something. The variance, I believe, is substantial. The change is from a retail area to a medical office, which is against our central district zoning. And, it diminishes the strength of our retail district. And, quite frankly, there hasn't been any hardship shown. And, I just feel very strongly about it. It would diminish our retail area. But, I would welcome you in an area in the village that is zoned appropriately.

Mr. Newell said I would like to add a comment too. I have had a lot of discussions and have given this a lot of thought. Contrary to Councilman Subel's comment, I don't think pointing to other examples of nonconforming uses of the zoning is justification to grant more and I see this as a medical office and it does not come in compliance with the zoning for the central shopping district.

Mrs. Lutz said I echo your comments, Steve, on the lack of hardship and Craig and I had a discussion earlier today and I don't like saying no to a property owner here and I don't like saying no to a young businessman who wants to come to Chagrin, and I would love to see you come to Chagrin. But, we started an initiative probably twelve years ago to strengthen our shopping district downtown with retail, with a nice group of retail establishments, and I just don't like to see it eroded from the outer corners. It is working for us, it is working really well. We wrote the code to support that initiative and I think we just have to stick with it.

Les Scott said I am the person who owns the building and I also have my business in that building for twenty-nine years. I have a hair salon there and I have had a couple of boutiques

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in there and I know how the rent goes. I have owned it since 1984 and I know what an "A" renter is and I know what a "B" renter is. Being that I have been in this business district for twenty-nine years now I have a good pulse on the downtown area because I am here every day all day. There are a lot of stores selling \$140 jeans and a lot of stores selling nice jewelry and purses and my clients tell me I consider jewelry eyeglasses from a case. I don't go to Walmart for my glasses. They want really nice eyeglasses. Seventeen percent of that space is going to be an exam room, the rest is a retail show room and my clients say there is no place to buy high-end glasses. I bought my eyeglasses at Legacy Village; couldn't buy them in Chagrin. This is a fashion store. This is not so much as a doctor's office like a dentist would have. A dentist doesn't have a showroom for toothbrushes. This is more designer eye wear; that is how we are looking at it and that is how we described it to the appeal board.

Phil Koepf said I am an architect in town and I agree with Richard that the predicament here is that this never should have gone to the Board of Zoning Appeals because I believe that Harry Edwards misinterpreted the use of that space. When we identify, as architects, the use of a building we divide up the area and we define the use for each area in the building. And, in this particular case, 80% of the building is retail and 20% of the building is medical use. His interpretation that this is a medical use and not a retail space, in my opinion, was inaccurate. It never should have gone to the Board of Zoning Appeals and the Board of Zoning Appeals really should have ruled on whether or not his interpretation of the code was correct, not whether or not there is a need. So, there has been all this discussion about how you can define the variance when there really was no variance that should have been asked for. What they should have asked for was to overturn the ruling by the zoning inspector that this was medical use and not retail space, primarily retail space.

Mr. Patton said so, why is it medical use? Is there a percentage we should be looking for? I don't understand why you are thinking it should be retail versus medical? Mr. Koepf said I will give you an example in the code and this is something I am dealing with in another place. If you take a theater and that theater has a bar in their lobby and they serve liquor in that lobby, by the code it is defined as A-1 use. If you take the same liquor and put it in a tavern and put a stage in the space and that stage is used for shows or theater or for bands that is an A-2 use. A-1 versus A-2 is based on how much square footage of space is being allocated for this use versus that use. And, in this case that is what I looked at and that is what confused me when Les first brought it up. I didn't understand why a variance request was even placed. It shouldn't have been. They should have gone to the Board of Zoning Appeals and said overturn this ruling because it is not correct.

Mr. Byron said the property owner would need to make the decision. They requested a variance. They could have made the argument that it was not medical office use. I think if you had a medical office professional practicing his trade, I think that is going to be sustained by anybody looking at it that that is medical office usage and so you are right, there could have been an appeal of the building commissioner's decision to the BZA on the legal interpretation.

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We would be in a different format here but they chose the remedy of the variance.

VARIANCE REQUEST - 105 BELL ROAD

Mr. Holdren introduced Administrative Order No. 2012-47 entitled:

FINAL ORDER OF COUNCIL AND CONCLUSION OF FACT REGARDING
A VARIANCE REQUEST OF CG II DEVELOPERS, LLC FOR PROPERTY
LOCATED AT 105 BELL ROAD.

Moved by Mr. Holdren, seconded by Mr. Newell that the administrative order be adopted. Carried. Ayes: Chess, Evans, Holdren, Lutz, Newell, Patton, Subel. Nays: None. Mr. Holdren explained the specifics of the variance requests. He said the Board of Zoning Appeals unanimously approved these variances for reasons of one, there is no garage now and they are adding a garage. The rear yard setback and adding the garage they are encroaching on the 30 feet by 5 ½ feet. They are getting rid of the driveway in the front and adding a driveway in the back. And also this lot is a pretty odd shaped lot. It is in the R1-50 district, which is the smaller lot in the village and it just barely is able to be a lot in the village. They are doing some major updates and improving the house. They are keeping it in line with all the other houses. There is already a front yard setback and they aren't doing anything to it, they aren't changing that at all. All they are doing is the rear yard setback. As you can see the other houses are even further back than what they are doing here. There were no people against it. The one neighbor here with the pool had some questions about it but there was no real objection to it. From Bell Street they are getting rid of the this driveway and adding a driveway in the back. All three of these lots are smaller. They need a variance for the coverage of 35% and you can tell this one is a smaller lot and is a bigger house so we felt it kept in line with the intent of that area.

Mr. Newell said I am going to vote in favor of these three ordinances. I think the percentages of the setbacks and lot coverage are minimal. It is a unique piece of property in the village. The way I see the improvements to the property would make it a much more desirable residence in this modern time and I like the fact that it is taking turning movements off of Bell Street, which has too many already. And, Vincent is a much easier and safer access for the resident.

Mr. Byron said I believe there is a fourth variance, a nonconforming use variance. Mr. Holdren said yes.

Mr. Patton said Jim I would echo your comments and I find that the variances aren't substantial in nature.

Mr. Holdren said the plans were favorably reviewed by the historical consultant, Ted Sande.

VARIANCE REQUEST - PERMANENT PARCEL NO. 932-25-007

Mr. Holdren introduced Administrative Order No. 2012-48 entitled:

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FINAL ORDER OF COUNCIL AND CONCLUSION OF FACT REGARDING A VARIANCE REQUEST OF ROBERT GRODIN FOR THE PROPERTY KNOWN AS PERMANENT PARCEL NO. 932-25-007.

Moved by Mr. Holdren, seconded by Mrs. Evans that the administrative order be adopted. Carried. Ayes: Chess, Evans, Holdren, Lutz, Newell, Patton, Subel. Nays: None. Mr. Holdren explained the specifics of the variance request. He said the Board of Zoning Appeals unanimously were not in favor of it because the variances are pretty substantial leaving 26.72 feet in a district that requires 100 feet.

Mr. Byron said the recommendation of the BZA is to deny the variance and an affirmative vote affirms the BZA's denial. So, voting yes is voting no.

STREETS AND SIDEWALKS COMMITTEE

No report.

FACILITIES AND SERVICES COMMITTEE

Mr. Patton reported that the committee discussed a potential pet cemetery, public art, and a request by the CAA to reconfigure the playing fields at Founders Field. He said the CAA has volunteered to pay for the reconfiguration.

Moved by Mr. Patton, seconded by Mr. Newell that we permit the CAA to reconfigure the present fields at Founders Field in order to move the Lacrosse field from the center of the property to the south end of the property and also permitting the CAA to remove the baseball field. Carried. Ayes: Chess, Evans, Holdren, Lutz, Newell, Patton, Subel. Nays: None.

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

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Mr. Holdren announced a meeting for Tuesday, October 30, 2012 at 8:00 p.m.

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 September, 2012.

PARKS COMMISSION

No report.

SHADE TREE COMMISSION

No report.

ARTS COMMISSION

Mrs. Evans reported that the commission discussed television and movie filming in the village and having a community "Arts" day.

PARKING COMMISSION

No report.

REPORT OF THE CHIEF ADMINISTRATIVE OFFICER

Mr. Himes reported that leaf pickup begins on Monday, October 15, 2012.

REPORT OF THE ENGINEER

No report.

REPORT OF THE POLICE CHIEF

Chief Brosius reported that they received a Homeland Security Grant and they purchased upgraded radios.

REPORT OF THE FIRE CHIEF

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Chief Zugan 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)

None.

MISCELLANEOUS

Mayor Brick said I would like to ask Rick Subel a question. Rick, I think your statement that the proposed increase will make the Chagrin income tax rate almost double the average of surrounding communities is not only wrong but I think it is a bit deceptive. As you know, we have a 75% credit and very few of our residents would pay the proposed base rate of 2%. Around 90% to 95% of our residents, who pay the tax at all, pay a net rate that is below the average net rate of surrounding communities, not double it. For example, the net rate for most working Chagrin residents would be ½%. Moreland Hills has a base rate of 1% but no tax credit so that their resident's net rate is 1%, double ours. Rick, I have researched this and I would truly like to know where you got your figures.

Mr. Subel said I got my figures from a sheet that you passed out about three months ago and it was the average. And what I did was go to the surrounding communities and it has their tax rate and I added them up and divided by the number of things and came up with an average tax rate of 1.06%. Mr. Patton said that is the tax rate though. Mr. Subel said yes. Mayor Brick said the base tax rate. Mr. Subel said ours is 1.5% so that is about 42% higher than a 1.06%. So, if we take ours up to 2% that will be almost double. The credit is, depends on where you work and you can't make a blanket statement about the credit. For example, we give a 75%, or .75 credit, for somebody that is living in Chagrin Falls and working in Bainbridge, for example, or South Russell. Their tax will go up, if it does somebody making \$50,000 a year, their tax would go up \$250. Virtually it will go up to \$150 with no credit. You can't apply those credit figures and draw any conclusion at all. It depends on the other community. The only thing you can say for ceratin is what I said and that is if you add up the tax rate of these communities and divide by the number it is 1.06%. Mr. Subel said I did, although it doesn't make any sense logically, I did do the credit amount for the same communities and it comes to .73, on the average, where ours is .75. So, it is virtually the same but it doesn't make any difference anyhow. But, as long as we are correcting things, you know the literature that has gone out by the proponents has said that only W-2 income is going to be subject to the tax increase, which is wholly false, I believe. And also where the comment is said that the increase on somebody making \$250,000 would go up \$250 but they'd get a credit so it would only cost \$63 is not true either. A perfect example down the street again, Bainbridge, if somebody is working in Bainbridge and living in Chagrin Falls and we increase our tax by ½% their income

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tax will go up \$250 with zero credit. So there is two untruths that went out on the proponents and I think that needs to be corrected as well.

Mayor Brick said one was not an untruth but it was not as clear as it could be that is the W-2 and that is actually being changed on that letter and is on our website. Mr. Subel asked, has it gone out in literature? Mayor Brick said we haven't made another mailing, we've put it on our website and I would just say to you that you did pick out a couple and I didn't say everybody gets the tax credit but most of the people get the tax credit, not just two or three people who work in Bainbridge and that is what I think is deceptive. Most of our residents will pay less than the average of what other communities net rate is.

Mr. Patton said, you said in your letter to the editor that "if the village could cut a mere 7 percent from its operating budget that we wouldn't need any tax increase whatsoever". In coming up with that particular figure, it is my understanding that you were indicating that over the last five years we've only received \$420,000 in estate taxes. Would you agree that over the last twenty years we've gotten \$950,000 in taxes? Mr. Subel said yeah. Mr. Patton said and would you agree that over the last ten years we've gotten \$825,000? Mr. Subel said yeah. Mr. Patton said and would you also agree that we've had to reduce our road program due to the fact that our estate tax revenues have decreased? Mr. Subel said right. Mr. Subel said Steve I would also agree that times are a lot different today than they were twenty years ago and ten years ago and I think going back twenty years to come up with an average is not. Mr. Patton said that is fine but you agree that based on the fact we've only been getting \$420,000 a year over the last five years that we've had to reduce our road budget. Mr. Subel said that is not the entire reason, we've chosen to do it that way. Mr. Patton said the other thing too is that we've been on Council together for five or six budget reviews and I think we can all agree that we are very conservative with our budgets and we sit in here for at least a night or two, we have all the department heads coming in, we've known all along that this particular time was going to be coming and yet we've all approved the budget for the last five or six years. And so I have a problem with all of a sudden an indication that a mere 7 percent, a mere 7 percent, which sounds like it is really easy to do, that that is going to rectify the situation when in fact even if we could come up with a 7 percent reduction in the budget that is only going to generate \$420,000. So, if we need the \$845,000, which we are hoping that the income tax will produce, then we are going to have to cut the budget by 14 percent. I am just kind of curious how all of a sudden we are being so fiscally conservative up here and then all of a sudden you are making these assertions in the paper that a mere 7 percent cut from the budget and everything is going to be okay.

Mr. Subel said I don't think we have been conservative on our budgets. Mr. Patton said, but you voted for the budgets. Mr. Subel of course I did. The village can't not go to work. If we don't have an approved budget no one goes to work. We also have, in this income tax increase, the fact that we won't be taking \$300,000 a year out of the general fund and putting it in the street fund. So in a sense it is a back door way of increasing the general fund, the way I look at it.

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Mayor Brick said that is not true, period. Mr. Subel said I asked that question at a meeting specifically and the answer was "you are right Rick, it is \$300,000 we won't have to take out of the general fund". Mayor Brick said not true. Mr. Patton said we have been having to take the \$300,000 out in order to supplement the road fund but we haven't been wanting to make that transfer. Mr. Subel said the general fund will get a windfall.

Mr. Newell said the error in the math as I see it, and I think it is done intentionally to be a little bit misleading, it costs more than \$420,000 a year to maintain the streets. There are three different cost breakdowns as it has been explained numerous times in our many meetings that we have had by the city engineer and the chief administrator. There is the annual road maintenance program of resurfacing, there is the major capital improvement projects of major construction that are up over one million dollars typically for a project, and then there are the potholes, the manpower for snow removal, salt, and all that stuff. That fits within the road maintenance program. That does not come up to the \$420,000. We have a utility bill that we pay quarterly and some of that money goes into a capital improvement fund to pay for replacing water lines, sewer lines, and major upgrades to the facilities. We do not have a source of funds to do major construction of roads when their life span has expired and we need to have money to do it. We have been very fortunate to rely on the funds, somewhat unreliable but sufficient some years, from the inheritance tax to cover those expenses. And I have heard you agree that you understand those funds are being gone. We need adequate funding for the capital improvement projects and it is not a mere \$420,000.

Mr. Subel said we have a 6 million dollar budget between the general fund and the street fund so I think we have enough to do what we want.

Mayor Brick said it would help if you could outline some of these savings that you would think are so easy to do. Mr. Subel said I could do them but I think me putting down a list probably wouldn't lead anyplace. Mayor Brick said I think it would be very important. Mr. Subel said I would be willing to chair a committee of say five people, myself, two other Councilmen I would choose, and two other citizens. Somebody has to look out for the taxpayer. We are all talking about spending money. Mayor Brick said as a Council person you have been doing a good job. I commend the Council because we've reduced increases and expenses by over \$800,000 a year in the last four to five years. If we hadn't made those reductions we would have an \$800,000 higher general fund and street fund. So you, along with the other Council members, have been every year addressing these inexorable increases and we have been keeping them much lower than they could have been and they are many other places.

Mr. Subel said again, I will volunteer to chair a committee. Mr. Patton said Rick, why do you need a committee to support your own argument? Mr. Subel said well, my intent is not to win an argument. My intent is not to support my position. Mayor Brick said that is not what you said in the letter. Your letter said we don't need this. That is your position. Mr. Subel said right, and my concern is the income tax will be defeated and we are going to have to do

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something. We can't not spend money. We can't spend money we won't get. That is why I say I will volunteer to chair a committee, I will pick two Councilmen and two residents and include Ben and Dave. Mr. Patton asked, why would you fear that this isn't going to pass when you are publicly telling people it shouldn't pass? So what are you fearful of? Mr. Subel said well, what I am afraid of, if you will, is that it won't pass and then we will be caught short. Mr. Patton said we are all afraid of that Rick. Mayor Brick said, but you are saying we don't need it. You have pointed out that we don't need it. Mr. Subel said well, there are other things you could do besides.

Mrs. Lutz said we are asking you to support your position by telling us all the things that we don't need. Mr. Subel said it won't do any good Janna unless Council is willing to make some changes.

Mr. Newell said when I first was sworn in and became a member of Council you approached me and we had many talks. As a matter of fact, we had a discussion on this just a week ago; we had breakfast. Some of the points that you brought up in my naivete I was quite shocked and concerned about if they were valid and I went and looked at the numbers and I could not see any support for your claims. I have asked you repeatedly to sit down with the numbers and let's go through it so that you can show me what you are talking about and you have consistently refused to do that. I want to ask you why. Mr. Subel said I am willing to do it publicly. I said let's form a committee. I will chair it and we will have a lot of public discussion and with a lot of transparencies. Not behind the closed doors or a couple of people getting together. Mr. Newell said I take offense to that because I think that we are a transparent government. Mr. Subel said I didn't say we weren't. I said I will have a committee that is transparent. Mr. Newell said I think we can do that without going through the formalities of a committee because we have state auditing people coming in here, county audits, we have everything on paper. You are the only member that brings up issues that don't support what we discussed in these meetings and some of these, quite frankly, are my own interpretation could be, intended to be scare factors. The fact that the threat that the state is going to start taxing non-W-2 people income. Mr. Subel said it is true. Mayor Brick said absolutely not. Where did you get that? Mr. Subel said out of the Plain Dealer and out of Crain's. Mayor Brick said no. Mr. Subel said I did, I am telling you that is where I got it. Mayor Brick said I think you misread it. Mr. Newell said let's not get into an argument on it. Quite frankly I question your source of information on this. I can't think of any politician, particularly in a major election year, that would be even making statements about taxing other sources of income. Mr. Subel said I didn't say that. Mr. Newell said our finance director, Dave Bloom, actually did a little research on it and I am going to ask him to elaborate a little bit on what he found as a result of the statement you made in your letter to the editor.

Mr. Bloom said I will just mention that the people from R.I.T.A. say there are no plans that they are aware of. They are working with the state on all the changes the state wants to make on uniformity and getting things in line statewide but there is no discussion that they are aware of at all that changed what taxable income is.

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Mayor Brick said Rick, I have another piece of information for you. I go to Northeast Ohio Mayors meetings and the Cuyahoga County Mayors meetings and one of the most important subjects for the last year have been the changes that the state legislators are talking about making in the income tax. And when it comes down to it the Ohio Municipal League and the Mayors groups are all in favor of making the tax reports consistent throughout the state, which is the big effort. But, the real problem that all the Mayors Associations and the OML, have is that the state wants to reduce the income tax paid to municipalities so that the state can be a more favorable economic climate. Not increase it, reduce it, and I have never at any of these meetings ever heard one person either a legislator or a mayor that is on the committee talk about these raises. And if you would just provide us with the source of this that would be helpful. Mr. Subel said it is the Plain Dealer and Crain's both. But I didn't say that anybody was going to increase taxes. I said the power to define income tax, define local income taxes is being worked on right now by our state legislator so that they define it, not us. That is what I said in my letter to the editor. Mr. Patton said "senior citizen and retirees could very likely be taxed on most of their income". Mr. Subel said right. Mr. Patton said "very likely". Mayor Brick said absolutely inconsistent with anything I have ever heard in any meeting. Mr. Newell said that is not a true statement; that is absolutely false. Mayor Brick said I would like to see that article. Mr. Newell said we know what you said, it is not a true statement. Mr. Patton said "senior citizens and retirees could very likely be taxed on most of their income for the first time ever with state legislation that is expected to be passed by the end of this year". "This legislation mandates that the State of Ohio, not your village Council would define income tax". Mayor Brick said it would help us all if you would provide that article.

Mrs. Evans said I would like to add something in regards to the Mill Street and Cleveland Street sidewalks. All of the improvements will be paid for by the Safe Routes to School grants and money received from Congressman Latourette. The need for these sidewalks has been a long standing goal of the village residents. The voters overwhelming approved the spillway project and this street is the only other access across the river in the village. The lack of sidewalks presents a real danger and safety hazard for walkers, bikers, and our vehicles. Most of our residents want to walk and want sidewalks. It is our obligation to finish this project. Mayor Brick said, and it is not coming out of this income tax, it is paid for by grants.

Mr. Newell said, the statement you made about the "sidewalk to nowhere", I am really flabbergasted and I am a little frustrated. You have sat in these same meetings as all of us and we passed a resolution ordinance to authorize CT Consultants to do the design for sidewalks on North Street and we passed it. We intend to put in sidewalks. Sidewalks are an important issue to the citizens. I get told that all the time and you are making an opinion and a judgement and you are confusing it with being wasteful spending and making it necessary for an income tax. Part of my frustration is that you know that we will not have the money available to even do the projects we have on the books for the next two years with the grant money that has been applied to them and you are okay with that. And every year after that it gets worse and it gets worse. We are going to have to climb out of a very deep financial hole if this income tax

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increase is not passed on November 6th. And you know that and you have agreed to that and you acknowledged that. And you have used erroneous misleading scare tactic comments to get people to vote against it and I don't understand why you would take that action, totally against what the rest of the government demonstrates.

Mr. Subel said I haven't heard one erroneous statement. Everything I wrote was true. Mr. Newell said no. Mayor Brick said no. Mrs. Lutz said I can point out one. Mr. Subel said okay. Mrs. Lutz said you say here "the tax increase won't cover the specter of the new police dispatch center". Mrs. Lutz said we won't be paying for any new police dispatch center. It is regional and we won't be paying up front \$700,000 for the fire truck because it is going to be leased over decades. Mr. Subel said leasing is just borrowing money. Mrs. Lutz said we don't have to come up with \$700,000. Mr. Subel said you still have to come up with \$700,000. Mayor Brick said over twenty years. Mr. Subel said that is \$50,000 a year. Mayor Brick said yes, we can handle that. Mr. Subel said okay. Mayor Brick said, to say that we won't be able to handle that is what you are suggesting then.

Mr. Newell said the reason we have to borrow the money is because we don't have a vehicle replacement fund because we have been cutting funds so much and we have not been getting as big a check from the inheritance tax as we have in previous years. And you are suggesting that we don't need to have an additional source of revenue to replace the money that we are going to lose permanently after the end of this year and I don't understand your logic.

Mr. Subel said I think the logic is you have to, you can only spend money you got and I think people have taxed themselves enough and I think by us not cutting our normal budgets is going to, we are going to run into a brick wall. Mr. Newell said budgets that you have approved the last seven years. Mr. Subel said well, it is either that or shut down the village. Mr. Newell said that is not true. Mr. Subel said I couldn't stop a budget from going forward. Mayor Brick said people should make an informed decision. I absolutely agree with that and Rick, honestly, I think you have so tainted and been deceptive in the things. That is the word I use because I look at this and it just simply isn't the whole truth. You have a lot of facts that are true but you've cherry picked them and it is all just like "it is the sidewalk to nowhere" and we know what that means. That means this is a senseless, stupid expenditure. Mr. Subel said I think it is. Mayor Brick said yes, thank you.

Mr. Newell said fortunately, a lot of the residents that I have talked to see the nonsense in this letter to the editor and I hope we are going to make our effort to answer questions accurately, honestly, and with integrity if they bring up any topics in this letter to the editor. At least I will personally. I will speak for myself.

Mrs. Lutz said I think your course of action is hurtful and I think writing a letter to the editor of this sort is very confusing and you are not really giving the people the facts. Mr. Subel asked what in there is not a fact? Mr. Patton said Rick, a lot of it is the way that you phrase it. You

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say "a new \$700,000 fire truck scheduled for replacement in 2014". If you want to know who will be asked to pay for those, look in the mirror." Well anybody in the community reading that is going to think we have to come up with \$700,000 cash in 2014. That is deceitful. Mr. Subel said well, we can borrow. Mr. Patton said I don't think that is the message you are trying to get across. Mr. Subel said we should pay cash for it. If you elect to borrow then you borrow a lot of money.

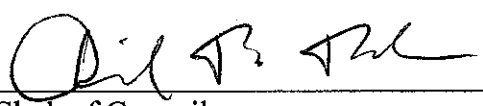
Mr. Newell said I would like to support Janna's comments. I think the letter to the editor is deceitful. It is an insult to the integrity of this community, and it is an insult to the hard working staff, the administration, and the elected officials of this community and I would be ashamed of it if it had my name attached to it and I would be the first one to apologize for it.

ADJOURNMENT

Mr. Patton adjourned the meeting at 9:12 p.m.



President of Council



Clerk of Council