

RECORD OF PROCEEDINGS

Minutes of

CHAGRIN FALLS VILLAGE COUNCIL

Meeting

BEAR GRAPHICS 800-325-8094 FORM NO. SHTROP11

Held

MAY 23,

20 16

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A TOWER LEASE AGREEMENT WITH NEW PAR, A DELAWARE PARTNERSHIP, D/B/A/ VERIZON WIRELESS, CONCERNING THE USE OF A TOWER AND LAND SPACE OWNED BY THE VILLAGE OF CHAGRIN FALLS, AND DECLARING AN EMERGENCY.

Moved by Mr. Muscenti, seconded by Mrs. Lutz that the requirement for reading an ordinance three times be suspended. Carried. Ayes: Berkobein, Lutz, Maersch, Muscenti, Newell, Rogoff, Schleper. Nays: None. Moved by Mrs. Lutz, seconded by Mr. Rogoff that the ordinance be adopted. Carried. Ayes: Berkobein, Lutz, Maersch, Muscenti, Newell, Rogoff, Schleper. Nays: None. Mr. Muscenti said this will generate \$24,000 of revenue to the village per year. Mr. Markowitz explained the details of the lease agreement. Comments were heard and questions were answered.

SECTION 111.01 OF THE CODIFIED ORDINANCES AMENDED

Ms. Rogoff introduced Ordinance No. 2016-20 entitled:

AN ORDINANCE AMENDING SECTION 111.01 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF CHAGRIN FALLS.

Moved by Mr. Newell, seconded by Mr. Berkobein that the requirement for reading an ordinance three times be suspended and that we declare this ordinance an emergency by amending it so that this can take effect and we can adjust our Council times to meet at an earlier time and give it a trial period. Mr. Maersch said so you would move to amend 2016-20 and you would move to add a section 5 that declares that this is emergency legislation. Section 4 is the last section of the ordinance as drafted so section 5 would be the required declaration that it is an emergency. Article 4, section 9 requires it. Moved by Ms. Rogoff, seconded by Mr. Newell that the ordinance be adopted, as amended. Carried. Ayes: Berkobein, Lutz, Maersch, Muscenti, Newell, Rogoff, Schleper. Nays: None. Mr. Markowitz explained that the code currently requires that regular Council meetings shall be held at 8:00 p.m. and this ordinance changes that to "the time of the meetings shall be flexible". He explained the additional language that he added to the ordinance. Moved by Mr. Newell, seconded by Ms. Rogoff to set Council meetings at 7:00 p.m. on days that Council would ordinarily meet. Carried. Ayes: Berkobein, Lutz, Maersch, Muscenti, Newell, Rogoff, Schleper. Nays: None.

DELTA DENTAL RENEWAL

Mr. Schleper introduced Ordinance No. 2016-21 entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO RENEW THE VILLAGE OF CHAGRIN FALLS CONTRACT WITH DELTA DENTAL.

Moved by Mr. Schleper, seconded by Ms. Rogoff that the requirement for reading an ordinance

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times be suspended. Carried. Ayes: Berkobein, Lutz, Maersch, Muscenti, Newell, Rogoff, Schleper. Nays: None. Moved by Ms. Rogoff, seconded by Mr. Schleper to amend the first whereas clause to say "and for family coverage with no change in the rate from the current rate". Carried. Ayes: Berkobein, Lutz, Maersch, Muscenti, Newell, Rogoff, Schleper. Nays: None. Moved by Mr. Schleper, seconded by Ms. Rogoff that the ordinance be adopted, as amended. Carried. Ayes: Berkobein, Lutz, Maersch, Muscenti, Newell, Rogoff, Schleper. Nays: None. Mr. Schleper said the rates have stayed the same. It has been pretty much across the board a lateral move so I think it makes sense to approve it. Comments were heard and questions were answered.

AUTHORIZATION TO PARTICIPATE IN A CONTRACT FOR ROAD SALT

Mr. Berkobein introduced Ordinance No. 2016-22 entitled:

AN ORDINANCE AUTHORIZING THE VILLAGE'S PARTICIPATION IN THE
OHIO DEPARTMENT OF TRANSPORTATION WINTER CONTRACT (018-17)
FOR ROAD SALT AND DECLARING AN EMERGENCY.

Moved by Mr. Newell, seconded by Mr. Berkobein that the requirement for reading an ordinance three times be suspended. Carried. Ayes: Berkobein, Lutz, Maersch, Muscenti, Newell, Rogoff, Schleper. Nays: None. Moved by Mr. Newell, seconded by Mr. Berkobein that the ordinance be adopted. Carried. Ayes: Berkobein, Lutz, Maersch, Muscenti, Newell, Rogoff, Schleper. Nays: None. Mr. Markowitz explained that this is a program that most of the municipalities are participating in and it saves us some money. We are not going to get a better price than this. Mr. Berkobein said the decrease from 1,600 tons to 1,100 tons is the plan. Granted we have 600 tons waiting at the mine that we still have to take and our bins are full, which I believe we decided that it is somewhere in the range of 800 tons. Mr. Maersch said I thought it was 1,000. Mayor Tomko said it is full and we will have 1,600 tons to start the year with. Assuming we have a normal Winter we use somewhere between 1,800 and 2,000 tons so the 1,100 in the contract is a reduction from what we ordered this year. Effectively what you have to do is predict what the Winter is going to be like. The contracts with the state have tightened up considerably. We used to have a 20% leeway and they have cut that back to 10%. There used to be a deminimis storage charge for the tonnage you didn't take and now it is up to \$10.00 per ton and we have 600 tons which we will store on-site to avoid that \$6,000 expense.

AUTHORIZATION TO ENTER INTO AN AGREEMENT WITH SENIOR TRANSPORTATION CONNECTION

Mr. Muscenti introduced Ordinance No. 2016-23 entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN
AGREEMENT WITH SENIOR TRANSPORTATION CONNECTION, AN OHIO
NOT FOR PROFIT CORPORATION, TO PROVIDE CERTAIN
TRANSPORTATION SERVICES FOR THE RESIDENTS OF THE VILLAGE OF
CHAGRIN FALLS AND DECLARING AN EMERGENCY.

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Moved by Mr. Schleper, seconded by Mr. Muscenti that the requirement for reading an ordinance three times be suspended. Carried. Ayes: Berkobein, Lutz, Maersch, Muscenti, Newell, Rogoff, Schleper. Nays: None. Moved by Mr. Muscenti, seconded by Mr. Schleper that the ordinance be adopted. Carried. Ayes: Berkobein, Lutz, Maersch, Muscenti, Newell, Rogoff, Schleper. Nays: None. Mr. Markowitz said we had a contract with them that expired in December. This new contract will be effective June 1, 2016. We have made a number of changes to the contract so it is in good form. The village right now is providing the service without a contract so we want to have the contract put into place right away. Mr. Muscenti said the significant change was moving the termination of the contract from ninety days to thirty days. The contract and services is really between Senior Transportation Service and the rider. The village isn't directly involved for a couple of reasons, one is the liability exposure. I think it is an important thing that we do for our seniors. Those people that need this service are people that truly need the service. The cost to the village, the balance bill is \$9,000 and I just happen to think it is \$9,000 well spent. Mr. Maersch said this service takes them to doctors appointments, etc. Mayor Tomko said if you are temporally disabled, like you have a broken leg and you couldn't drive, you can use this service also. So it is more than just seniors although seniors are the ones that are overwhelmingly using it. Mr. Maersch said the costs are very reasonable. There is a twenty-five mile limitation so we are not taking people to Toledo. I really think it is an important piece of legislation.

AUTHORIZATION TO ENTER INTO A CONTRACT WITH NEXTERA ENERGY

Mr. Newell introduced Ordinance No. 2016-24 entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A
COMPETITIVE RETAIL ELECTRIC SERVICE CONTRACT WITH NEXTERA
ENERGY SERVICES OHIO, LLC AND DECLARING AN EMERGENCY.

Moved by Mr. Newell, seconded by Mrs. Lutz that the requirement for reading an ordinance three times be suspended. Carried. Ayes: Berkobein, Lutz, Maersch, Muscenti, Newell, Rogoff, Schleper. Nays: None. Moved by Mr. Newell, seconded by Mrs. Lutz that the ordinance be adopted. Carried. Ayes: Berkobein, Lutz, Maersch, Muscenti, Newell, Rogoff, Schleper. Nays: None. Mr. Markowitz said this is for competitive electrical service for the waste water treatment plant under the terms and conditions of the agreement. There is really no change that we can make to the contract; it is based on requirements that they have with the PUCO so we can take it or leave it. Mayor Tomko said based on what the rate was when Ben negotiated it, it perhaps may save us as much as \$73,000 over the contract term. Mr. Newell said this is a three-year contract so it is a significant savings but what is nice is we lock in these lower rates for three years irregardless of what the energy rates do. It was agreed by everybody at the Utilities Committee meeting that we make the recommendation that Council approve this as emergency legislation.

AUTHORIZATION TO SUBMIT AN APPLICATION FOR FUNDING

Mrs. Lutz introduced Resolution No. 2016-25 entitled:

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A RESOLUTION AUTHORIZING THE MAYOR TO SUBMIT AN APPLICATION WITH THE OHIO DEPARTMENT OF NATURAL RESOURCES FOR FUNDING ASSISTANCE PURSUANT TO THE NATURE WORKS GRANT PROGRAM AND DECLARING AN EMERGENCY.

Moved by Mrs. Lutz, seconded by Mr. Schleper that the requirement for reading a resolution three times be suspended. Carried. Ayes: Berkobein, Lutz, Maersch, Muscenti, Newell, Rogoff, Schleper. Nays: None. Moved by Mrs. Lutz, seconded by Ms. Rogoff that the resolution be adopted. Carried. Ayes: Berkobein, Lutz, Maersch, Muscenti, Newell, Rogoff, Schleper. Nays: None. Mr. Markowitz said the plan is to seek a grant to create a walk between the Riverside Walkway, the downtown area, and the Library. Mayor Tomko said basically make it so that women with strollers can use it, which they can't currently. We have applied in the past for this; all the engineering is done. If we get the grant it would pay for 75% of the cost, which is estimated around \$50,000. If we do not receive the grant we are not going to do that this year and we have to submit the application by June 1, 2016 so that is why it is an emergency resolution. Mrs. Lutz said it is a measure that we have been looking at for quite a few years. I think we first applied for it six years ago. People all know that the stairway from the Library to Riverside Park is dangerous and very hard to navigate. Elderly people and women with strollers are the people that really want to use that path. The new path will be somewhat like a serpentine walkway.

INITIATIVE PETITION

Mr. Markowitz said we have that ballot issue that is coming up in November and the Board of Elections has asked us if we are going to take that off the ballot or leave it on. Mr. Maersch said the prior Council committed with a group of citizens who have placed a matter on the ballot pursuant to the initiative petition to not count the results of that item in exchange for agreeing to place a correctly worded ordinance or correctly worded language on the ballot in November of 2016 essentially binding us to put language on the ballot that would vote essentially yes, the village could use the former mower property as parking or no, the village can not use the former mower property as parking.

Mr. Markowitz said to the extent that we have been able to ascertain it and I know the Mayor has had some discussions and I have had some with their lawyer they don't see a need for that to be on the ballot. They don't see this Council as moving ahead with that plan of parking. The Board of Elections is asking us to either approve the ballot language or adopt some legislation withdrawing that from being placed on the ballot.

Mr. Maersch said I would propose that we draft an ordinance that removes the language from the ballot and I think this is something that we would put on three readings so that at least the folks that proceeded according to the initiative petition could come in and comment on it.

Mr. Newell asked if it is an ordinance or a resolution? Mr. Markowitz said it could be either one.

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Mr. Maersch said that sort of depends on what it was in 2015. Mr. Newell said it was a resolution in 2015.

Mrs. Lutz asked if we are only having one meeting a month? Mayor Tomko said traditionally Council had one meeting a month in the Summer but I am pretty sure you are going to have multiple meetings on this Finance issue and I would request at least one town meeting after we determine where we come out so we can discuss it with the residents. With that and the deadline on getting things on the ballot I do not see one meeting only in June and probably not in July. August is another matter; we could probably get by with one meeting.

Ms. Rogoff said I would urge that that be just a simple ordinance or resolution but not a lot of extraneous conversation in it. I don't think it should be an emergency because philosophically this is the whole point is having people come. Especially in this situation I personally want to make sure that they are satisfied with doing this and that we don't have big dust up over it again and have them carrying on. Mayor Tomko said I believe the Parking Commission is going to come forth in the next couple of weeks or in a month or two with an integrated overall parking plan that would be considered. And I agree with you on a resolution to take this off the ballot now and let's look at the whole overall parking plan that the Parking Commission is coming up with instead of bits and pieces like an ala cart menu. Ms. Rogoff said I agree with that too but this is actually a separate issue because of the circumstances under which it came up.

STREETS AND SIDEWALKS COMMITTEE

No report.

FACILITIES AND SERVICES COMMITTEE

No report.

PLANNING AND ZONING COMMISSION

Ms. Rogoff announced a meeting for Tuesday, June 20, 2016 at 7:30 p.m.

SAFETY COMMITTEE

No report.

UTILITIES COMMITTEE

No report.

BOARD OF ZONING APPEALS

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No report.

ADMINISTRATION AND COMPENSATION COMMITTEE

No report.

FINANCE COMMITTEE

Mr. Maersch announced a Committee of the Whole meeting for Tuesday, May 31, 2016 at 7:00 p.m.

PARKS COMMISSION

Mrs. Lutz announced a meeting for Tuesday, May 24, 2016 at 8:30 a.m. at Riverside Park.

SHADE TREE COMMISSION

Mrs. Lutz reported that Chagrin Falls was designated Tree City USA for the 31st year. The Shade Tree Commission planted 68 trees and 19 different cultivars are represented. While Boy Scout Troop 241 and village residents were cleaning up the Ben King Arboretum on Vincent Street they found a number of very interesting items that had been tossed and stashed there. Troop 241 will be putting in paths and a bench in the arboretum. The Mayor is working with them on wild flowers as well.

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

Chief Brosius reported that their annual golf outing fund raiser will be held on June 15, 2016.

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Diana von Loewe, owner of Ladybug Ranch Horse & Carriage Rides, expressed concerns about the village authorizing Kellie Rettinger, Whispery Pines Carriage Rides, to also provide horse & carriage rides in the village. She has a good track record here and the competition will affect her business in a negative way. She was hoping to add a second horse & carriage to her services in the village and she is wondering how many horse & carriages they are going to allow.

Mr. Maersch said we don't have any legislation that covers any of this and so what I think we are going to do is refer to this to the Safety Committee because ultimately the franchise gets approved by the police department and that is the committee of Council that the police department works with most closely. I think we are going to call a Safety Committee meeting in the next few weeks and we would love to have you there. I don't know if there will be an opportunity to speak. It might take us a couple of meetings to get this worked out but I think we need to have a plan to regulate this type of thing because we just don't have anything right now.

Mr. Newell said you bring up some good points and I think we need to do a little more investigating.

Mrs. Lutz said if you read the minutes you will see that I said "do we really want more than one?".

Mr. Markowitz said the answer is we can't stop a second franchise. We can't grant an exclusive franchise to one company. It would be creating a monopoly and we are not allowed to do that. If ten different companies wanted to come in as long as we couldn't show that now it became a safety concern you would have to let all ten in. We have no evidence that there would be any safety issues by allowing a second company in so we had to approve it. The chief and I did look at some legislation from another community that specifically was geared towards horse carriage taxi rides and it is something that we could put together relatively quickly after the Safety Committee looks at it.

Mr. Maersch said I think we should do that because I think this in an issue that is time to deal with.

Ms. Rogoff said we don't have rules governing any of this? Mr. Markowitz said we have been following the regular taxi rules but they don't all work for a horse & carriage. Ms. Rogoff said, just for an example, I was turning left off of Main Street onto River Street and the traffic had passed and I started to make a left turn and the horse came out. I had no way of knowing that the horse was going to start moving at that point. I stopped to let the horse go but if I hadn't I would be very upset about it. There was no signal to me, that I noticed anyway, that they were just going to start moving.

Chief Brosius said we have not issued Whispering Pines a permit because they have to comply with the regulations and they have not responded with any of the information. Ladybug Ranch also has to comply with the regulations.

Ms. von Loewe asked if the village could put flashing yellow lights at the walkway where she is

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parked because she sees people almost get hit all the time. Mr. Maersch said we have applied for a grant to put the flashing lights along the walkway at the crosswalks in town.

Ms. von Loewe asked if there is a regulation on how high hedges can be? Ms. Rogoff said there is; I think it is 3' in the front yard. Mayor Tomko said across the street from where I live it is on the south/west corner of Maple and Walnut and I am familiar with them; they are high. It is very limited visibility there.

REPORT OF THE FIRE CHIEF

No report.

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


None.

MISCELLANEOUS

None.

ADJOURNMENT

Mr. Maersch adjourned the meeting at 9:07 p.m.



 President of Council



 Clerk of Council