

Village of Shawnee Hills Council Meeting Minutes

November 23, 2015

Mayor Monahan called the meeting to order at 7:00 p.m.

Council in Attendance: Charlie Callender, Mahesh Dalvi, James Gauldin, Dan Mathews, Mike McVan and Josh Vidor

Also Present: Fiscal Officer Shirley Roskoski and Solicitor Brian Zets

Minutes

It was moved by Callender, seconded by McVan to approve the minutes from November 9, 2015. Following vote on the motion is recorded: yea, 5; Callender, Gauldin, Mathews, McVan and Vidor. Nay, none. Abstain, one; Dalvi. Chair declared the motion passed by a 6-0 vote.

Agenda

It was moved by Gauldin, seconded by McVan to approve the agenda. Following vote on the motion is recorded: Yea, 6; Callender, Dalvi, Gauldin, Mathews, McVan and Vidor. Nay, none. Chair declared the motion passed by a 6-0 vote.

Solicitor

Brian said they had Mayor's Court on the 18th and that went well and as planned. Worked on the two pieces of legislation that are before Council tonight.

Village Administrator

Mayor Monahan said that Ed is still out sick.

Police Chief Report

Acting Chief Baron said they are working on special duty with the Zoo and they are working with Delaware County trying to mitigate the heavier traffic days.

A couple of things they are doing for the holiday season. Tie One on for Safety. He said he wanted to thank Steve Smith, Realtor here in town for purchasing some bows for a program called Safe Delaware where we take information about taxi cabs and Uber and ride shares and take that to the bars. Another thing we decided to do after listening to some people in the community, this holiday season, if you get a verbal traffic warning from one of our officers, you are going to get a candy cane with a traffic safety message on it.

One of the items on the bills tonight is the affidavit maker for the PD. This has been a couple of years in the works. This will help us in common pleas court by having the proper wording on the citations and everything properly written.

We are still working on the server. All of our videos, case files, forms and policy and procedures are going to be stored on a server at the PD.

We did hire Tasha Bryant as an auxiliary officer. She works full time as a corrections officer at the Delaware County Sheriff's office.

Visitors

David Raber, an attorney from Columbus Ohio, said he represents CVS. He said that CVS has been in line for a beer and wine license for well over five years. He said since the quota is met in Shawnee Hills there is a process called a Trex transfer license. What that entails is CVS has a location down in Montgomery County and what they would like to do is trex that permit to the store on Glick Road. The reason they want to do that is that it comes at no cost to CVS and they can apply for a new license in Montgomery County because there is an opening. As part of the trex process, it requires an endorsement from the local authority and it has to be a part of an economic development project. He said CVS easily meets that because on the endorsement form the total amount of investment in the CVS there is just short of a million dollars and they employ twenty five people and they obviously pay their sales and property taxes and everything. If the council were to endorse this project then the division would improve it as an economic development area as the council has deemed that it is and it would proceed as a beer and wine transfer.

Brian Zets said council would need to do a piece of legislation for this. David gave Brian the form that needs to be completed.

Maria Shoper from Mid Ohio Regional Planning Commission presented Council with the 2016-2040 Metropolitan Transportation Plan. She went over the proposed plan for central Ohio and said it is in the public input phase. She asked everyone to review this plan online and to make any comments on the plan online.

JoAnn Kralian, 121 W Mohawk Drive, said that she attended the meeting that was held by the Police Department. She said Acting Chief Baron's presentation was interesting and very informative. She said her and her husband were able to talk to Russ after the meeting and they were very impressed with his credentials and knowledge and most of all his care and concern for the residents of the village. She said they think he would make a wonderful and permanent Chief of Police and hope that he would be offered that position soon.

Kevin Kralian, 121 W. Mohawk Drive said the following:

Mayor & Council,

The entire Council knows the topic of the Westview development is of utmost importance and interest to the residents of Shawnee Hills - the previous Planning & Zoning meeting was a standing-room only event. The Mayor and others repeatedly said they welcomed the community participation, and encouraged us to continue to attend meetings, to be involved and be heard. So you can understand my surprise and frustration when I learned that a secretive and private follow up meeting occurred with the developer on November 17.

To make matters worse - the Planning & Zoning meeting scheduled for the night before was cancelled due to "nothing being on the agenda". This developer meeting should have been on that agenda. Just like before - Planning & Zoning is the most appropriate venue for such discussions. It's hard to believe that the P&Z meeting was cancelled while, simultaneously, a private meeting was scheduled for the next day.

Not only was the meeting private, the scheduling of the meeting was secretive. Because this wasn't mentioned to your fellow council and P&Z members, they didn't get a chance to intervene and correct the situation. I'm sure if they had heard, somebody would have pointed out that a private meeting was totally

inappropriate. And for those few people who were aware - shame on you for allowing it to happen in this manner.

By having an unofficial meeting, you allowed the developer and his attorney to speak on their behalf, while Shawnee Hills had zero legal representation. The developer showing up with an attorney should have been a wake-up call that the meeting needed to be taken more seriously, and it should have been stopped and rescheduled in a proper forum. To let the meeting continue at that point, with no legal counsel, and no official record of the meeting, puts the village in a vulnerable legal position and shows a serious lack of judgement.

The only reason we know anything about this is because somebody walked in and noticed a meeting of 10 people, including the developer and his attorney, talking about Westview. His gut instinct reaction was that such a meeting was improper. Days later, as he asked other people - including other council and committee members - he found that they too were completely unaware of what had happened behind their backs.

This private meeting denied the other council members, planning & zoning members, and the public their rights to be involved in this established public business. Not only does this reek of impropriety, but it is probably illegal as well.

The Ohio Sunshine Laws and the Ohio Open Meetings Act make it clear in their overview:

The Open Meetings Act requires public bodies in Ohio to take official action and conduct all deliberations upon official business only in open meetings where the public may attend and observe. Public bodies must provide advance notice to the public indicating when and where each meeting will take place and, in the case of special meetings, the specific topics that the public body will discuss. The public body must take full and accurate minutes of all meetings and make these minutes available to the public

[...]

Like the Public Records Act, the Open Meetings Act is intended to be read broadly in favor of openness. (*)

While there are some debatable details about the law, such as requiring a majority of members to be in attendance to be considered a "meeting", several Ohio Supreme court rulings have further clarified things. First, that one cannot circumvent the clear intent of the law by intentionally having a minority of members present. Second,

[...] the Ohio Supreme Court has found that the Open Meeting Law does not permit the deliberation of public business to be conducted during private one-on-one conversations where, in total, the matter has been discussed by a majority of the members of the public body. (**)

Discussions about the PUD, discussions about Westview, and discussions with this developer are clearly established public business matters with extreme public interest. There should not be any private meetings on these topics. Moving these discussions from the appropriate public arena to a private meeting was inappropriate and unethical.

The only reason I can think of for someone to hold a private, exclusive meeting without other Council or committee members, was to try and circumvent the obligations under the Ohio Open Meetings Act.

Whether you think you have successfully maneuvered around the Open Meeting Laws or not - the point is that there shouldn't be any doubts or questions - you shouldn't be tiptoeing on that line of legality, or doing things that sidestep or circumvent the openness of this process.

I also ask if our Council members are aware of the mandatory Sunshine Law training? Ohio law requires every elected official to attend a Sunshine Laws training session at least once during every term in office. The Attorney General's office provides training to ensure public officials know how to comply with the law and that accountability and transparency is present when they conduct public business. If you have not received the training, I strongly urge you all to complete it. Members of the public can take the training too.

In conclusion, I feel the community deserves an apology, and a promise that no further meetings will be conducted in private under any circumstances. Secrecy breeds mistrust. Actions speak louder than words.

Thank you for your attention and consideration,
Kevin Kralian

Council member Mathews said that the builder could not make the scheduled P& Z meeting and he was supposed to meet with us the Friday before that but he cancelled, that was why the P&Z meeting was cancelled. He said that the builder was coming to us so we could see what he was doing on his side. It was a ten minute meeting. We were seeing if he was going back to the drawing board. We wanted to know if he heard our concerns.

Council member Mathews said this information was needed to set up the next P&Z meeting. Brian Zets said this was not a meeting that was subject to the open meetings act.

Council member Mathews said we do not have contact with the developer. The realtor is the builder's representative. The realtor contacted us to set up the meeting. They have not done any other plans and they are going back to the drawing board.

Erin Hatcher said her question is about the same topic. Why would the other committee members not be notified of this meeting with the developer. Dan said at the time of cancelling the P&Z meeting on Friday there was no other meeting scheduled. Erin said she often gives the benefit of the doubt to council but this reeks of impropriety. When I know that you have had people standing up here for the past two weeks asking you to get a community group together to discuss what we would like to see over there on Westview and we were repeatedly told that the developer has not gotten back to you.

Mayor Monahan said I think it was important to know where they are and now I think it's appropriate for the P&Z meeting on the 21st that we get together and we talk about what we want to do. We need to have a meeting where they come with their next steps.

Bella Awad just wanted to know why the agendas have not been posted on the village website. She also asked about having an A frame sign outside the building reminding the residents about the meetings.

Kristen Bennett asked if there have been other meetings that we haven't known about regarding the Westview development. Mayor Monahan said there are no other meetings. Kristen asked if we could ask that if there are meetings that are not on the P&Z agenda that there are always minutes at those. Mayor Monahan said the meeting was just to say where are you. In hindsight

maybe it should have been just a phone call. My fear all along has been that if they get the hair up on the back of their neck what they are going to end up doing is say we are just going to build one house at a time.

Mayor Monahan suggested having a meeting where we could sit down and maybe have a requirements gathering thing to say what do we want to say to them. Kevin Kralian asked if we could have meeting to talk about the PUD legislation. Mayor Monahan said we could.

Kathy Ragsdale said she wanted to make sure this was not a select group of people invited, that it was the whole community.

JoAnn Kralian said she would like to have the PUD discussion and she had questions about our PUD versus other PUDs that we used as reference material.

Communications

Mayor Monahan gave the following report:

From: Pat Monahan [<mailto:pmonahan@columbus.rr.com>]

Sent: Tuesday, November 10, 2015 7:41 AM

To: Chris Tebbe

Cc: dan.mathews@shawneehillsoh.org; 'James Gauldin'; 'Mark Katzenbach'

Subject: Drainage issues

Hi Chris I need a couple of things:

Please give me an update on the detention pond issue behind The Morgan House and what Dublin can do to help.

At last night's Council mtg. Carol Kender came and stated that we had a number of drainage issues around the Village. Please contact her and get the specifics and send me a proposed fix (not detailed) to see what they are and what could be done. Carol Kender = cjkender@hotmail.com

Thanks Chris!

Pat

From: Chris Tebbe [<mailto:CTebbe@pomeroyassoc.com>]

Sent: Thursday, November 12, 2015 9:32 AM

To: cjkender@hotmail.com

Cc: Pat Monahan; 'Mark Katzenbach'; 'Swanson Ed'

Subject: 2300 Phase 64 - Miscellaneous Drainage Issues within Shawnee Hills

Carol,

Pat Monahan contacted me and stated that you have identified a number of drainage issues around the Village. Pat suggested that I meet with you so that I could take a look at the various areas that you have identified.

I am available next week if you would like to meet to discuss the various drainage issues.

If we could spend an hour or two looking at the locations that would help me determine the best approach to handle the drainage issues. We could meet at the Village Hall and you can show me on the map the various areas that you have identified, then we can go look at them together, so I can get pictures and a good idea of what the issues are.

Since I don't live in the Village and I am used on a task-by-task basis (to save on cost) I do not get to see all parts of the Village. So any additional insight or areas of concern are appreciated. I appreciate your thorough knowledge of the entire Village and look forward to the opportunity to find out first hand the issues that exist.

Please let me know what times you are available to meet next week (between 7:30 and 4:30).

Regards,

Christopher M. Tebbe, P.E.
Project Manager / Associate
Pomeroy & Associates, Ltd.

From: Chris Tebbe [mailto:CTebbe@pomeroyassoc.com]

Sent: Wednesday, November 18, 2015 7:51 AM

To: James Gauldin

Cc: Ed Swanson; Pat Monahan; Dan Mathews; Mark Katzenbach; Charlie Callender; Mike McVan

Subject: RE: 2300 - RE: Drainage issues

Jim,

Thanks. Anytime someone has a question feel free to ask.

I sent an e-mail to Carol last week and had not heard anything back from her. I will try to reach out to her again to see if she is interested in sharing her observations with me.

Regards, Christopher M. Tebbe, P.E. Project Manager / Associate
Pomeroy & Associates, Ltd.

On Nov 20, 2015, Pat Monahan <pmonahan@columbus.rr.com> wrote:

Hi Chris please let me know on Monday if you have heard back from Carol Kender on the drainage issues she mentioned in our last Council mtg. so Dan and I can report on it.

Thanks Chris!

Pat

Pat Monahan

Mayor Shawnee Hills, OH.

From: Chris Tebbe [mailto:CTebbe@pomeroyassoc.com]

Sent: Friday, November 20, 2015 12:55 PM

To: cjkender@hotmail.com

Cc: Pat Monahan; Mark Katzenbach; Swanson Ed

Subject: Re: 2300 Phase 64 - Miscellaneous Drainage Issues within Shawnee Hills

Carol,

Do you have any time available to meet in the next couple of weeks?

Chris

From: Chris Tebbe [mailto:CTebbe@pomeroyassoc.com]

Sent: Friday, November 20, 2015 12:57 PM

To: Pat Monahan

Cc: dan.mathews@shawneehillsoh.org

Subject: Re: let me know on Monday

I haven't heard anything from her.

I just sent the email again.
I'll let you know if I hear anything.
Chris

Carol Kender was present at the meeting and said she did not receive these emails. She checked her spam folder and they were in there. She said she would respond to Chris.

I would ask everyone support Jim and Stephanie. If you want to put things into perspective their battle with Jim's brain cancer will do that. Also Julia has donation boxes at most of the businesses in the Village and your help for them is greatly appreciated.

Mayor's Report

Mayor Monahan gave the following report:

The Veterans celebration on Saturday the 14th was great and I appreciate the respect shown to our Veterans.

As a reminder the Holiday tree lighting will be held in our Memorial Park on Sunday Dec 6th at 6PM. Thanks to the Civic for the furnishing of Hot Chocolate and cookies. The Cub Scouts from Eli Pinney will be leading us in caroling.

Thanks to Terry and Bill Herzog we will again be using the beautiful Norwegian spruce they donated to the Village.

Our new Village maintenance and snow plowing truck was supposed to arrive today.

Committee Reports

Council member Dalvi said Finance met today and we reviewed the budget for 2016.

He said that he wanted to touch a bit on the Eagle Scout project. He said we met with an Eagle Scout and his coach in terms of doing a project for us. He is going to do a GAP analysis and then he will hold an open community meeting to get input from the residents on what they would like to see on the website.

Council member Callender said that he wanted to report on the Delaware County Regional Planning Commission. Our fee will be reduced once again for next year. He said he has been on this commission for the past eight years and their job is to oversee and make recommendations for the PUD. It has been in Delaware County for years. He has seen it work; He has seen it address your concerns. I would recommend that Council reach out to Scott at RPC for any help on future development.

Legislative Actions

Second Reading- Ordinance 29-2015- An Ordinance to reappropriate funds for current expenses and other expenditures of the Village of Shawnee Hills, State of Ohio, during the fiscal year ending December 31, 2015 and declaring an emergency. It was moved by Gauldin, seconded by Dalvi to suspend with the third reading and declare Ordinance 29-2015 an emergency. Following vote on the motion is recorded: yea, 6; Callender, Dalvi, Gauldin, Mathews, McVan and Vidor.

Nay, none. Chair declared the motion passed by a 6-0 vote. It was moved by Dalvi, seconded by Gauldin to adopt Ordinance 29-2015. Following vote on the motion is recorded: yea, 6; Callender, Dalvi, Gauldin, Mathews, McVan and Vidor. Nay, none. Chair declared Ordinance 29-2015 adopted by a 6-0 vote.

Second Reading- Ordinance 30-2015 – An Ordinance authorizing the payment of the invoice received from D. L. Smith Concrete and Design and declaring an emergency. It was moved by Dalvi, seconded by Gauldin to suspend with the third reading and declare Ordinance 30-2015 an emergency. Following vote on the motion is recorded: yea, 6; Callender, Dalvi, Gauldin, Mathews, McVan and Vidor. Nay, none. Chair declared the motion passed by a 6-0 vote. It was moved by Callender, seconded by Dalvi to adopt Ordinance 30-2015. Following vote on the motion is recorded: yea, 6; Callender, Dalvi, Gauldin, Mathews, McVan and Vidor. Nay, none. Chair declared Ordinance 30-2015 adopted by a 6-0 vote.

First Reading- Ordinance 31-2015- An Ordinance creating a new full-time Police Officer position and declaring an emergency. Mayor Monahan said this was run through finance to go with a fourth officer. With all the things that are going on and we pride ourselves that we have officers on patrol. This helps to keep the crime levels very low. It was moved by Dalvi, seconded by Gauldin to suspend with the second and third readings and declare Ordinance 31-2015 an emergency. Following vote on the motion is recorded: Yea: 6; Callender, Dalvi, Gauldin, Mathews, McVan and Vidor. Nay, none. Chair declared the motion passed by a 6-0 vote. It was moved by Dalvi, seconded by Gauldin to adopt Ordinance 31-2015. Following vote on the motion is recorded: yea, 6; Callender, Dalvi, Gauldin, Mathews, McVan and Vidor. Nay, none. Chair declared Ordinance 31-2015 adopted by a 6-0 vote.

First Reading- Resolution 19-2015- A Resolution setting Trick-Or-Treat on October 31st each year in the Village of Shawnee Hills.

Bills

It was moved by Gauldin, seconded by Callender to pay the bills in the amount of \$21,428.48. Following vote on the motion is recorded: yea, 6; Callender, Dalvi, Gauldin, Mathews, McVan and Vidor. Nay, none. Chair declared the motion passed by a 6-0 vote.

Treasurer's Report

It was moved by Dalvi, seconded by McVan to approve the following treasurer's report:

| | |
|--|------------------------------|
| General Fund 296,266.87 | Fire Fund 78,739.10 |
| Street Fund 176,175.78 | TIF Fund 11,457.79 |
| State Highway Fund 10,815.47 | TIF 2 Fund 8,510.96 |
| Parks/Recreation Fund 900.00 | Veteran's Memorial 98.97 |
| Continuing Prof Training 1,280.00 | Sewer Operating 34,411.10 |
| Drug Law Enforcement Fund 200.00 | Sewer Replacement 166,000.00 |
| Indigent Drivers Interlock Fund 385.84 | Storm Sewer 1,642.83 |
| Enforcement and Education 2,010.00 | Debt Service 136,198.39 |
| Mayor's Court Computer 6,398.30 | Debt Reserve 100,329.36 |
| Weed Fund 4,072.38 | |

Total \$1,035,893.14

Following vote on the motion is recorded: yea, 6; Callender, Dalvi, Gauldin, Mathews, McVan and Vidor. Nay, none. Chair declared the motion passed by a 6-0 vote.

Executive Session

It was moved by Mathews, seconded by Gauldin to adjourn from regular session and move into executive session to discuss pending or imminent court action. Following vote on the motion is recorded: yea, 6; Callender, Dalvi, Gauldin, Mathews, McVan and Vidor. Nay, none. Chair declared the motion passed by a 6-0 vote.

It was moved by Mathews, seconded by Callender to adjourn from executive session and move back into regular session. Following vote on the motion is recorded: yea, 6; Callender, Dalvi, Gauldin, Mathews, McVan and Vidor. Nay, none. Chair declared the motion passed by a 6-0 vote.

Miscellaneous Business

Shirley asked Council if they had time to review the health coverage for next year and it is due by the 30th of this month. Council member Gauldin said it was reviewed in Finance and recommend approval. It was moved by Mathews, seconded by Callender to approve the health care coverage as reviewed by Finance for 2016. Following vote on the motion is recorded: yea, 6; Callender, Dalvi, Gauldin, Mathews, McVan and Vidor. Nay, none. Chair declared the motion passed by a 6-0 vote.

Shirley informed Council that the City of Columbus was raising their sewer rates by 3.5% beginning in 2016 and since we have not raised our rates in three years she said we will have to do it for 2016 and it is already written in our code that our rates will raise when Columbus raises their rates.

Adjournment

There being no further business, it was moved by Dalvi, seconded by Gauldin to adjourn until December 14, 2015. Following vote on the motion is recorded: yea, 6; Callender, Dalvi, Gauldin, Mathews, McVan and Vidor. Nay, none. Chair declared the meeting adjourned at 8:50 p.m.

Fiscal Officer

Mayor