

REGULAR COUNCIL

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December 6, 2007

Mayor Poole called the meeting to order at 7:35 p.m. with the following members present: B. Blue, E. Davis, C. Hofstetter, J. Jemison, S. Klein, and B. Wallace.

Also present: C. Osborne – Fiscal Officer, D. Weir - Admin., Tom Lee – Solicitor, Police Chief Stehlik Carl Hornung, John Borkholder and Ann Wishart – Maple Leaf.

Agenda: Add to New Business – Ord. 07-160
Ord. 07-161
zoning fee reduction for Middlefield Sign Co.
Shook pay request #1

Minutes of November 15, 2007 meeting were presented for approval. Hofstetter moved to approve the minutes as presented. Davis seconded. Roll Call: All Yeas (5). Abstain: Jemison.

Payment of Bills Totaling \$418,965.23 was presented for payment. Blue moved to authorize the payment of bills totaling \$418,965.23. Wallace seconded. Roll Call: Yeas (6).

Director of Streets & Utilities Report – November: included in the council packet.

Police Report – November: Chief stated the police department participated in the area Christmas in the Country. The area businesses provided donation jars for the department's Shop with a Cop Program, resulting in \$2,082.00 donated. Also, Wal-Mart donated \$1,750.00 and Middlefield Bank donated \$250.00 for the Shop with a Cop program.

Blue moved to accept the donations to the Middlefield Police Department for their Shop with a Cop Program, in the amount of \$4,082.00, and the donation from Giant Eagle, in the amount of \$130.00, for the Middlefield Police Department equipment needs. Davis seconded. Roll Call: All Yeas (6).

The Christmas Fill-a-Police-Car will be this weekend.

Zoning Inspector's Report – November: included in the council packet.

CCA Report – October: included in the council packet.

PUBLIC PARTICIPATION – no comments from those in attendance.

FIRST READING

Resolution 07-40: Modifying the Agreement Between the Village and Foresight Engineering Group, Inc., and Declaring an Emergency.

Klein introduced Res. 07-40, read by title only, moved to waive the required readings and declare an emergency. Davis seconded. Roll Call: All Yeas (6).

Hofstetter moved to **pass** Res. 07-40, seconded by Blue. Roll Call: All Yeas (6).

Ordinance 07-155: Amending Existing Sections 1140.04 and 1140.06 of the Codified Ordinances to Modify the Application Fees for Occupancy Permits, to Provide for Additional Flexibility in Issuing Permits for Minor Additions or Improvements, and to Make Certain Related Technical Amendments.

Davis introduced Ord. 07-155, read by title only, and moved to place it on first reading. Hofstetter seconded. Roll Call: All Yeas (6).

A public hearing is scheduled for Jan. 17, 2008 beginning at 8:00 p.m.

Ordinance 07-156: 2008 Temporary Appropriations, and Declaring an Emergency.

Davis introduced Ord. 07-156, read by title only, moved to waive the required readings and declare an emergency. Blue seconded. Roll Call: All Yeas (6).

Hofstetter moved to *pass* Ord. 07-156, seconded by Wallace. Roll Call: All Yeas (6).

Ordinance 07-157: Amending Existing Chapter 121 of the Codified Ordinances to Allow for Voice Votes of Council in Certain Circumstances.

Klein introduced Ord. 07-157, read by title only, and moved to place it on first reading. Davis seconded. Roll Call: All Yeas (6).

Ordinance 07-158: Declaring that the Revenue to be Collected Under the 1.45 Mill Tax Levy for Ambulance and Emergency Services Approved on November 6, 2007 is Greater than the Amount Actually Needed, Requesting the Geauga County Budget Commission to Decrease the Levy by Approximately 75% to 0.35 Mills, and Declaring an Emergency.

Klein introduced Ord. 07-158, read by title only, moved to waive the required readings and declare an emergency. Wallace seconded. Roll Call: All Yeas (6).

Davis moved to *pass* Ord. 07-158, seconded by Hofstetter. Roll Call: All Yeas (6).

Resolution 07-41: Accepting the Amounts and Rates as Determined by the Budget Commission and Authorizing the Necessary Tax Levies and Certifying them to the County Auditor, and Declaring an Emergency.

Davis introduced Res. 07-41, read by title only, moved to waive the required readings and declare an emergency. Wallace seconded. Roll Call: All Yeas (6).

Blue moved to *pass* Res. 07-41, seconded by Hofstetter. Roll Call: All Yeas (6).

Ordinance 07-159: Amending Various Provisions of Chapter 921 of the Codified Ordinances to Provide Added Protection to the Village for the Regulation of Potential Uses Within the Village's Right-of-Way.

Davis introduced Ord. 07-159, read by title only, and moved to place it on first reading. Klein seconded. Roll Call: All Yeas (6).

Ordinance 07-160: Amending Existing Sections 1165.03, 1165.08 and 1165.14 of the Codified Ordinances to Make Certain Technical Amendments Regarding the Village's Sign Regulations.

Klein introduced Ord. 07-160, read by title only, and moved to place it on first reading. Blue seconded. Roll Call: All Yeas (6).

A public hearing is scheduled for January 17, 2008 beginning at 8:00 p.m.

Ordinance 07-161: Amending Existing Section 1140.06(a) of the Codified Ordinances to Correct a Typographical Omission.

Davis introduced Ord. 07-160, read by title only, and moved to place it on first reading. Hofstetter seconded. Roll Call: All Yeas (6).

A public hearing is scheduled for January 17, 2008 beginning at 8:00 p.m.

SECOND READING – none before council.

THIRD READING – none before council.

ENGINEER'S REPORT – included in the council packet.

OLD BUSINESS – none before council.

NEW BUSINESS

1. **Sample Resolution for Council Consideration** – Lee stated this resolution supports a bill that would benefit certain steel companies directly. Lee advised council not to pass this resolution as it was drafted by an out-of-state legal firm or company.
2. **Middlefield Parkway Sidewalk Bond Release** – Weir stated Village Engineer Provost has reviewed this project and recommends the release of \$20,093.45. The original bond amount was calculated to include all the sidewalks, and periodically the engineer evaluates the completed lots and calculates the amount needed to complete the remaining lots. Weir stated there are 6 sublots yet to be sold. *Hofstetter moved to release \$20,093.45 of the Middlefield Parkway Sidewalk Bond for Phases 3A and 3B, seconded by Klein. Roll Call: All Yeas (6).*
3. **Abcon, Inc. Pay Request #1 Eagle Park Landscaping** – *Klein moved to authorize pay request #1 to Abcon, Inc., in the amount of \$28,990.12, for the Eagle Park Landscaping Project. Wallace seconded. Roll Call: All Yeas (6).*
4. **Sanyo Construction Pay Request #2** – Weir stated this project is now complete. *Davis moved to authorize pay request #2 to Sanyo Construction, in the amount of \$11,302.90, for the Eagle Park Pavilion. Hofstetter seconded. Roll Call: All Yeas (6).*
5. **Astro Pool Pay Request #4** – Weir stated this company is requesting the retainage be reduced to \$5,000.00. *Blue moved reduce the retainage to \$5,000.00, seconded by Klein. Roll Call: All Yeas (6).*
Klein moved to authorize pay request #4, in the amount of \$22,547.00, to Astro Pool Company, Inc., for the Eagle Park Sprayground Equipment. Davis seconded. Roll Call: All Yeas (6).
6. **Ohio Paving & Construction Co. Change Order #1** – Weir stated this change order represents the actual quantities used for the Eagle Park walkways. *Wallace moved to authorize change order #1 for the Eagle Park Walkway Project, for the additional amount of \$4,315.00, seconded by Klein. Roll Call: All Yeas (6).*
7. **Ohio Paving & Construction Co. Pay Request #1** – *Davis moved to authorize pay request #1 to Ohio Paving & Construction Co., in the amount of \$87,001.20, for the Eagle Park Walkways' Project. Klein seconded. Roll Call: All Yeas (6).*
8. **Phil Miller Construction Change Order #2** – Weir stated this represents the actual quantities used, and completes the project. *Davis moved to authorize change order #2, for the additional amount to the project of \$29,421.00, seconded by Klein. Roll Call: Yeas – 5. Abstain: Hofstetter.*
9. **Phil Miller Construction Pay Request #2** – *Blue moved to authorize pay request #2 to Phillip Miller Construction, in the amount of \$82,399.83, seconded by Klein. Roll Call: Yeas – 5. Abstain – Hofstetter.*

10. **Tom Malunas Retirement** – move to executive session.
11. **Middlefield Sign Co.** – Klein stated this business moved to a larger unit in the same building and was required to pay the standard sign permit fee and occupancy permit fee. Klein stated the planning commission recommends reducing the occupancy permit fee, and keep the same amount for the sign because he will have a larger sign. Lee stated last year council passed legislation requiring occupancy permits to avoid improper zoning uses. The ordinance on first reading tonight reduces the fees for occupancy permits and provides for the zoning inspector to charge a single fee where two fees are applicable, such as occupancy permit fee and sign permit fees. Where there's a very minor improvement a "no permit required" permit can be issued. This ordinance also gives the planning commission the ability to change the fees. *Wallace moved to reduce the occupancy fee to \$50.00, seconded by Klein. Roll Call: All Yeas (6).*
12. **Ordinance 07-160: Amending Existing Sections 1165.03, 1165.08 and 1165.14 of the Codified Ordinances to Make Certain Technical Amendments Regarding the Village's Sign Regulations.** Lee stated during litigation, there were references made to certain provisions of our sign ordinance. Lee stated with this particular judicial district anything that regulates content is viewed as suspect in regards to the First Amendment. The Village's sign ordinance is very clear about not regulating content. Lee recommended to the planning commission to consider deleting those provisions. *Klein introduced Ord. 07-160, read by title only, and moved to place it on first reading. Blue seconded. Roll Call: All Yeas (6).* A public hearing is scheduled for January 17, 2008, beginning at 8:00 p.m.
13. **Ordinance 07-161: Amending Existing Section 1140.06(a) of the Codified Ordinances to Correct a Typographical Omission.** Lee stated at some point in the course of amending 1140.06(a) it appears one line of the ordinance was omitted and no one noticed it until recently. Normally this is caught prior to going to the printer. *Davis introduced Ord. 07-161, read by title only, and moved to place it on first reading. Hofstetter seconded. Roll Call: All Yeas (6).*
A public hearing is scheduled for January 17, 2008, beginning at 8:00 p.m.
14. **Shook Pay request #1** – Weir stated this represents work completed to date on the water treatment plant improvements. Davis moved to authorize pay request #1 to Shook Construction, in the amount of \$449,825.00, seconded by Klein. Roll Call: All Yeas (6).

Committee Reports – included in the council packet.

Mayor requested council consider which committees they would like to serve on in 2008.

CALENDAR

Klein questioned if council consider closing Christmas Eve and New Year's Eve. Lee reminded council the police, dispatch and service crew who would be required to work those days would be paid double time. Currently employees can take this as a vacation day subject to supervisor's approval. Discussion held.

It is the consensus of council not to close the Village office on Christmas Eve and New Year's Eve this year.

At 8:35 p.m. Blue moved to adjourn into executive session for purposes of personnel retirement, land acquisition and pending litigation, seconded by Klein. Roll Call: All Yeas (6).

The meeting reconvened at 10:05 p.m.

Discussion held regarding the retirement and rehire of Tom Malunas. Blue questioned Malunas' compensation. Lee stated under federal law, Malunas' position is not a salaried position, and a sixty day public notice of council's intent to rehire Malunas is required.

Blue moved to authorize the Village Administrator to advertise the sixty day public notice regarding the retirement of Tom Malunas and council's intention to rehire him to the same position. Wallace seconded. Roll Call: All Yeas (6).

Blue introduced Ord. 07 – 162: Employing Thomas J. Lee as Village Solicitor and Legal Counsel for the Year 2008, read by title only, and moved to place it on first reading. Hofstetter seconded. Roll Call: All Yeas (6).

Discussion held regarding naming the sports park on N. Thompson St. in honor of the Tim Yoder family. Council is in favor of this and Mayor Poole stated he will be in contact with Mr. and Mrs. Yoder.

Being no further business at this time, Hofstetter moved to adjourn at 10:10 p.m.

Fiscal Officer

Mayor