

REGULAR COUNCIL

DRAFT

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March 20, 2008

Mayor Poole called the meeting to order at 7:30 p.m. with the following members present: B. Blue, E. Davis, J. Jemison, S. Klein and B. Wallace. Councilman C. Hofstetter is excused.

**Note: The March 6, 2008 Council meeting and committee meetings were cancelled due to a power outage.*

Also present: C. Osborne – Fiscal Officer, D. Weir - Admin., Tom Lee – Solicitor, M. Hatch – Recreation Director, Carl Hornung, and Ann Wishart – Maple Leaf.

Agenda: no additions or deletions

Minutes of February 21, 2008 meeting were presented for approval. Klein moved to approve the minutes as presented. Wallace seconded. All in favor (5).

Payment of Bills Totaling \$194,801.37 was presented for payment. Klein moved to authorize the payment of bills totaling \$194,801.37. Blue seconded. All in favor (5).

Payment of Bills Totaling \$187,186.24 was presented for payment. Wallace moved to authorize the payment of bills totaling \$ 187,186.24. Jemison seconded. All in favor (5)

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

Recreation Director's Report – February included in the council packet. Hatch reported that the Easter egg hunt was attended by approximately 170 kids, and everyone had a good time. Hatch thanked the Fire department for transporting the Easter bunny and allowing the kids to climb on the fire truck.

Baseball sponsorships are continuing to be received. Baseball and soccer registrations are currently being taken at this time. Some of the registrations are down from last year due to kids entering high school. Babysitters training will be held next week at the Municipal Center with 7 participants.

The recreation committee discussed Community Days and scheduling the annual Sunday picnic on Saturday evening. Hatch has heard from many residents that they are disappointed that the Sunday picnic is being cancelled. A band will perform later in the evening. Davis stated it would be easier to have the picnic in the evening since it is cooler at that time. Also, Davis noted the Sunday picnic attendance has been down the last few years. Hatch stated she will hold the fishing derby Saturday evening rather than in the morning.

It is the consensus of Council to have the picnic on Saturday evening.

Ambulance Report – February: included in the council packet.

Bank Report – February: included in the council packet.

Financial Report – February: included in the council packet.

Investment Report – February: included in the council packet.

Detail Trial Balance – February: included in the council packet.

CCA Report – February: included in the council packet

PUBLIC PARTICIPATION – no comments from those in attendance.

Weir read a thank you letter to our service crew regarding their great job in keeping the roads clear during the ice storm and subsequent snowstorm. Carl Hornung agreed the crew did – and always do - an excellent job.

FIRST READING

Resolution 08-03: Authorizing the Village Administrator to enter into a Contract with Kaiser Permanente for the Provision of Health Care Insurance for the Village Employees at a Monthly Cost of \$10,693.52, Declaring an Emergency.

Wallace stated the finance committee discussed this ordinance and agreed to eliminate the cost of prescription co-pay. Blue stated this is an additional cost to the Village and the employees will save thousands by using the HMO. Lee stated that eliminating the “whereas” clause doesn’t affect the ordinance. However, exhibit “A” of the contract needs to be changed. Lee also stated the HRA can be used as a funding device where the employees will contribute through the creation of a new account, which council would need to create and approve. Weir stated that the HRA isn’t part of this plan and the intent is to implement the added choice plan. In discussing this with our insurance representative, we don’t have to have the HRA, just implement the other plan. Lee stated the final “whereas” clause needs to be removed from the resolution.

Wallace introduced Res. 08-03, minus the final “whereas” clause, moved to waive the required readings and declare an emergency. Blue seconded. Roll Call: all Yeas (5).

Blue moved to **pass** Res. 08-03 seconded by Wallace. Roll Call: All Yeas (5).

Ordinance 08-108: Enacting New Section 1151.01(e), 1153.035, 1157.03(i), and 1155.015, and Amending Existing Section 1140.06(a), 1115.01, 1155.08(a), 1157(b), 1165.06 and 1165.07(e) of the Codified Ordinances to Create the New SR Senior Residential Zoning District and to Make Changes in the Zoning Code Related Thereto.

Davis introduced Ord. 08-108, read by title only, and moved to place it on first reading. Wallace seconded. Roll Call: All Yeas (5).

A public hearing is scheduled for May 1, 2008 beginning at 8:00 p.m.

Ordinance 08-109: Amending Existing Section 1140.11(g) of the Codified Ordinances to Allow for the Posting of a Performance Bond to Obtain a Temporary Occupancy Permit Under Specified Circumstances.

Klein introduced Ord. 08-109, read by title only, and moved to place it on first reading. Wallace seconded. Roll Call: All Yeas (5).

A public hearing is scheduled for May 1, 2008 beginning at 8:00 p.m.

Ordinance 08-110: Establishing the 2008 Permanent Appropriations and Declaring an Emergency.

Davis introduced Ord. 08-110, read by title only, moved to waive the required readings and declare an emergency. Blue seconded. Roll Call: All Yeas (5).

Jemison moved to **pass** Ord. 08-110, seconded by Wallace. Roll Call: All Yeas (5).

SECOND READING

Ordinance 08-107: Enacting New Section 139.09 of the Codified Ordinances to Codify and Amend the Village's Police Mutual Aid Policy.

Blue introduced Ord. 08-107, read by title only, and moved to place it on second reading. Davis seconded. Roll Call: All Yeas (5).

THIRD READING

Resolution 08-02: Authorizing the Village Administrator to Enter into an Annexation Agreement with Catholic Charities Housing Corporation and the Most Reverend Richard G. Lennon to Allow for Annexation of a 14.98 Acre Parcel of Land Currently Located in Middlefield Township.

Lee stated there will be an amendment to this agreement.

Blue moved to table Res. 08-02 until the April 3, 2008 Council meeting. Wallace seconded. All in favor (5).

OLD BUSINESS – none before council.

NEW BUSINESS

1. Perram Electric Change Order #1 Downtown Intersection Mast Arms –

Discussion held regarding the sensors on the mast arms. Many residents believe these are cameras. Weir stated the sensors on the mast arms are to trip the signals and are not cameras. *Davis moved to authorize pay request #1 to Perram Electric for the downtown intersection mast arms' project, in the amount of \$28,896.23, seconded by Jemison. All in favor (5).*

2. St. Lucy's Annexation – Stuart Friedman, Catholic Charities representative, was present to review the funding application for property purchased from St. Lucy's Church. The property will be used to construct a senior housing building, with approximately 40 units. Friedman reviewed the funding application process. He should know by May 1 where this project ranks in the state process. Currently there are 37 applications in Pool B, which accommodates smaller communities and it isn't known how much money is available, which may require submittal for additional funding. Friedman stated four to six organizations will be awarded funding for their projects.

The annexation agreement and proposed zoning district information have been received and approved. Friedman stated there has been some degree of concern regarding where the construction will be on site. Most importantly the biggest concern is the requirement from the Village to construct sidewalks on property not owned by St. Lucy's Church. Friedman stressed the funding is for construction for this project only, which includes sidewalks on the property, and to make this project require sidewalk construction outside of the project area will force his company to increase the amount of rent the tenants will pay. The purpose of this project is to provide affordable housing. Friedman stated he is very hopeful they will get funding in 2008, but this is a very competitive process. If funding isn't awarded this year, they will try again next year. Regardless of the sidewalk issue, Friedman stated they still want to move forward with the annexation. Friedman continued to stress the sidewalk construction on the annexed property isn't an issue as it is part of the funding. Wallace requested a breakdown for the additional sidewalk construction.

Weir stated the total cost for the additional sidewalks was approximately \$87,000.00.

Lee clarified that if the development is built on the church parcel then sidewalks must be constructed. Also, once the property is annexed and this project doesn't go through and the church decides to do a major renovation or addition to the existing church, then the sidewalks would have to be included as part of that project. Lee doesn't see this as a problem. The acquisition of easements is to be acquired by the Village, as well as, any engineering that was necessary for the sidewalk

construction off of the church's parcel. However, the issue of sidewalk construction off of church property is a condition of annexation, and the council wants the entire sidewalk construction funded. We believe people would grant an easement to have a sidewalk. If a resident doesn't grant an easement, there is room in the right-of-way to construct a sidewalk, but for safety reasons, it would be better to construct the sidewalks on the property and, therefore, easements are needed.

Discussion held regarding zoning. Friedman stated he has reviewed the zoning and it's acceptable to him. The overall issue of density will work and the remainder of church property as green space would accommodate the village's requirement. The real issue is the \$72,000 for the construction of sidewalks as a condition of annexation. Davis stated it isn't fair for the Village to charge the church to construct sidewalks on property that is no part of this project. This is property that neither the Village nor the church owns, nor would council require this of any other developer. Mayor Poole stated to have the church pay for the sidewalks to Glen Valley is asking too much. However, the Mayor believes sidewalks going to the west into downtown will be used by the residents of this housing community to walk into the main part of town. Davis stated the village constructed all of the sidewalks in town and those in the developments are constructed by the developer. Friedman stated they completely support the sidewalk issue on the project site, but not off their site, and the sidewalks in question are off site. The average age of their residents is 70 and the majority of them owns a car or will use county transportation. The residents of this housing will have to bear the burden of this additional cost and, if the Village hasn't made this requirement of past developers, it isn't fair to ask the church to do it. Friedman stated they haven't asked the Village for tax abatement or any special concessions regarding this project. If council is adamant about this sidewalk issue, Friedman stated council would need to approve tax increment financing for these off site improvements. Lee stated no one has had to put in sidewalks as a requirement of annexation. Discussion held regarding the Glen Valley development.

Friedman stated they are a non-profit housing developer and use their proceeds to invest in the development, which leads to lower operating costs on an ongoing basis. We have planned a number of community spaces within the unit. These will not be able to be constructed or purchased because the money is being spent on sidewalks. Friedman stated the most important issue is affordable housing.

Wallace asked if Catholic Charities financial records are public information. Friedman stated he believes they are public record because he has to submit his financial report. Wallace stated that this area will be landlocked by not constructing the sidewalks. The library and the downtown area are less than a mile away from the church. Wallace stated the housing agreement states the residents can not be younger than 55. Friedman stated the residents have to be at least 55 and below 65% of the median income. The spouse may be younger and, if there's a care-giver, their residence in the unit must be approved.

Klein stated it isn't fair to force the off site sidewalk construction costs to this developer. Klein stated he supports the senior housing district, but questions why Glen Valley wasn't required to construct sidewalks since they were annexed into the Village. Klein stated if Village zoning does not require it, it shouldn't be the church's obligation to construct it. Blue questioned the parking area requirement. Lee stated the parking lot is part of the normal process and no special exemption is made for fewer parking spaces. The parking provision is set by the Planning Commission.

Davis stated she's lived in downtown Middlefield for 55 years and didn't walk to the area stores because she physically cannot do it. Also, she stated she doesn't see elderly people walking anywhere in the Village. Wallace stated he sees many people walking from Glen Valley to downtown. Klein stated this developer shouldn't be required to construct a sidewalk for the benefit of the Glen Valley residents. Glen Valley has more than 200 residents, and it wasn't required that sidewalks be constructed to connect to Village property.

Lee stated that this agreement with St. Lucy's still needs some work.

Klein moved to exclude the off site sidewalk requirement from the agreement, seconded by Davis. Roll Call: Nays – Jemison, Wallace, Blue. Yeas – Klein, Davis.

Friedman stated this is an issue that could possibly take the project out of reality because the church won't be able to afford it. This is a five to six million dollar project. Friedman stressed that the additional cost for the sidewalks will not come from state funding, but from Catholic Charities and due to changes in Fanny Mae and Freddy Mack, there is less equity and a larger mortgage. Friedman stated these housing projects are just breaking even. Friedman stated the primary purpose was to provide affordable housing for seniors. Every meeting Friedman has had with church officials and township officials has been met with enormous support and he hasn't asked the Village officials to give him anything. Friedman is requesting not to bear an expense that isn't part of this project. Lee stated this could be structured as an impact fee. Friedman stated he cannot show these off site improvements as an impact fee, and can not come up with the additional money for these sidewalks. Lee verified if the additional sidewalks' costs are structured as an impact fee, you believe the state will not accept this improvement. Friedman agreed. Lee stated he will revise the agreement based on what's been discussed and, if this sidewalk issue is a deal breaker, it will defeat this agreement and the project will not move forward. Council needs to consider this issue. Wallace stated he's in favor of the project, but isn't concerned with the sidewalks going to Glen Valley. Council will continue to negotiate this agreement and in two weeks revisit this issue. Friedman stated if the funding issue is worked out, the Village would need to acquire the offsite land and pay for the engineering. However, Friedman stated he would have the right to choose the contractor. Lee stated what Friedman is saying doesn't address the easements. Lee to make those changes.

Davis stated the most expensive part of the sidewalks is located in the township, and how can we, as Village officials, require them to pay for something that's in the township? Lee stated that if it's a proper public purpose, it can be annexed without a problem. If the property were annexed without that condition you cannot force them to do that. Lee stated we have sufficient control that if a resident denies the sidewalk or requires payment for the easement, it's the Village's responsibility to

pay for it. Wallace appreciated the compromise that Friedman has proposed. Ralph Schwendeman, member of the St. Lucy's finance committee, stated that the sidewalks in question won't help St. Lucy's at all, and it doesn't make sense. Schwendeman stated he will vote against it and, at this point, isn't sure if St. Lucy's would want to continue with the annexation. Lee asked if the tax increment financing would be agreeable to Catholic Charities. Friedman stated they have to pay property taxes and he believes he could sell that. Friedman stated he will forward their performance agreement to Lee. Friedman stated that they will not file for annexation if there is not some agreement on this issue.

3. **Jack Gibson Construction Pay Request #22 – WWTP Construction** – *Blue moved to authorize pay request #22 to Jack Gibson Construction in the amount of \$108,829.00 for the WWTP construction, seconded by Wallace. All in favor (5).*
4. **Shook, Inc. Pay Request #4 – WTP Improvement Project** – *Weir stated Wallace moved to authorize pay request #4 to Shook, Inc., in the amount of \$208,829.00, for the WTP improvement project, seconded by Klein. All in favor (5).*
5. **Middlefield Cheese Outfall Relocation** – *Weir stated Rothenbuhler's would like to access Tare Creek, by the covered bridge, for their wastewater because the creek they're using currently doesn't have enough flow for their effluent.. Weir stated their plan includes installing a line across the City of Akron's property along the B & O right of way to Tare Creek. The utility committee questioned why they aren't going down the east side of the B & O. Lee suggested that they may have to get easements to go across the B & O. The other property is perpendicular to the B & O and the idea of restricting that property for someone not in the Village is not prudent. Going along the east side is better but need to be careful that there's no adverse effect. Weir isn't sure why they have to come onto Village property when they're already crossing Akron's property. Weir to discuss this issue further with the Rothenbuhler family.*

COMMITTEE REPORTS – included in the council packet.

CALENDAR - no changes

Being no further business at this time, Blue moved to adjourn at 9:07 p.m.

Fiscal Officer

Mayor