

MINUTES OF A COUNCIL CAUCUS
Mayfield Village Civic Hall - Mayfield Village Civic Center
Monday, October 3, 2022

The Council of Mayfield Village met in Caucus Session on Monday, October 3, 2022. Council President Schutt called the meeting to order at 7:00 p.m.

ROLL CALL: Present: Mr. Arndt, Mrs. Jurcisek, Mr. Marquardt, Mr. Meyers,
Mr. Murphy, Mr. Schutt and Mr. Williams

Also Present: Mayor Bodnar, Mr. Wynne, Ms. Calta,
Mr. Cappello, Chief Carcioppolo, Chief Matias,
Mr. Marquart, Mr. McAvinew, Mr. Russell,
Mr. Sipos, Ms. Wolgamuth and Mrs. Betsa

PENDING LEGISLATION

- **Ordinance No. 2022-18**, entitled, “An Ordinance repealing Mayfield Village Codified Ordinance Chapter 1128 “Comprehensive Stormwater Management” and replacing it in its entirety with new Chapter 1128 “Comprehensive Stormwater Management.” Introduced by Mayor Bodnar. (First Reading – August 15, 2022; Second Reading – September 19, 2022)
- **Ordinance No. 2022-19**, entitled, “An Ordinance repealing Mayfield Village Codified Ordinance Chapter 1129 “Erosion and Sediment Control” and replacing it in its entirety with new Chapter 1129 “Erosion and Sediment Control.” Introduced by Mayor Bodnar. (First Reading – August 15, 2022; Second Reading – September 19, 2022)
- **Ordinance No. 2022-20**, entitled, “An Ordinance repealing Mayfield Village Codified Ordinance Chapter 1130 “Illicit Discharge and Illegal Connection Control” and replacing it in its entirety with new Chapter 1130 “Illicit Discharge and Illegal Connection Control.” Introduced by Mayor Bodnar. (First Reading – August 15, 2022; Second Reading – September 19, 2022)
- **Ordinance No. 2022-21**, entitled, “An Ordinance amending Mayfield Village Codified Ordinance Section 501.99 “Penalty for Misdemeanors.” Introduced by Mayor Bodnar. (First Reading – August 15, 2022; Second Reading – September 19, 2022)

Council President Schutt asked, any discussion on these four Ordinances?

There was none.

Council President Schutt stated, Ordinance Nos. 2022-18 through 2022-21 will move to Third Read at our Regular Meeting of Council on Monday, October 17th.

MAYOR

Thank you Council President, I have nothing this evening.

Council President Schutt stated, thank you Mayor Bodnar.

COUNCIL PRESIDENT

Happy Belated Birthday to our Assistant Law Director, Tony Coyne. His birthday was yesterday, October 2nd.

Just a reminder that Shred Day will be held on Saturday, November 5th from 9:00 a.m. to 12:00 p.m. in the Civic Center parking lot.

Also, it's hard to believe but Election Day is almost here. It is Tuesday, November 8th. Please request an absentee ballot or vote in person at the Board of Elections office or here at the polls which will be open on Tuesday, November 8th from 6:30 a.m. to 7:30 p.m.

COUNCIL CLERK

It's always good to report on good news. This past weekend, Danielle Echt, Asst. Recreation Director and Olivia Ferritto, long-time lifeguard at Parkview Pool and Mayfield Village resident, participated in the *24 in 24* at The Classic Stadium in Eastlake benefiting Special Wish of Northeast Ohio, a charitable organization dedicated to granting the wishes of children between birth and 20 years of age who have been diagnosed with life-threatening illnesses. All donations to the Northeast Ohio Chapter benefit over 250 local children who are seeking treatment through Cleveland Clinic Children's Hospital, UH Rainbow Babies & Children's Hospital and Akron Children's Hospital. During the *24 in 24*, challengers run one mile outside, on the field, every hour, on the hour, for 24 consecutive hours from 12 noon Saturday to 12 noon Sunday. Danielle and Olivia accomplished this despite the cold and windy weather. What kept them going was through the afternoon, evening and morning, they were constantly inspired by number of different events, videos and presentations from parents, some of whom lost their child, but wanted to show their appreciation for everything Special Wish was able to provide to the child and his or her family through the years as a result of the donations from the *24 in 24*. The last lap of their run, they were handed a flag from the wish children and ran with it to the finish line where they received their medal from the child they sponsored. The event collected almost \$500,000, making it a grand total over the last 7 years of \$1,500,000.00. I figured something like this needed to be in the Minutes. It was truly something very special.

Council President Schutt stated, thank you Mrs. Betsa for that update.

**NEW BUSINESS FOR
DISCUSSION**

1) Appointment of Alternates to Board of Zoning Appeals (Law Dept.)

Council President Schutt asked, Ms. Calta?

Ms. Calta replied, thank you. We talked about having alternates appointed to the Board of Zoning Appeals so that we can have a full compliment of five members. It's not unusual but not necessarily happening all the time, but we have had a couple of meetings where only three members have been present. One of the easy ways to avoid that in the future is to appoint two alternates. This Code section would do that. Two members would be alternates. If you need both of them, they can attend to fill those two spots.

The idea is to have five. If you start with your normal five and you are down one, you can call one of the alternates to see if they could make it and then if they could not make it, maybe go to the second alternate. If you need two, obviously you can call both of them. The idea is to rotate those two so if you call one person first and there's a meeting and the next time you would contact the second alternate. Debbie can keep track of who she calls first. They would attend the meetings. They would participate in the additional discussions. They would vote. They would be a voting member only for the meeting they are filling in for.

It is possible that you could have a situation where you have three items on the agenda and someone on the Board has a conflict. You could actually have the alternate jump in just on that case for that conflict. Again, that's not very usual. It doesn't have to be for the whole meeting so to speak but I think the idea is we are looking at alternates to fill spaces when someone isn't available for those meetings. They would be paid like the other members. That's pretty much the gist of what's on here. They would be appointed by the Mayor, confirmed by Council. If this passes, we would be looking for individuals to fill those alternate spots.

Mayor Bodnar stated, that's how I read it and that's my understanding of it.

Ms. Calta stated, we went back and forth a little bit about whether they would actually attend all meetings sort of like as an alternate juror. You listen at the meeting and would always be there. That didn't seem to make the utmost sense. They could still attend meetings they are not required to be at if they wanted to, but they won't be required to.

Mr. Meyers asked, if they do attend and there's something that comes up, they really can't vote unless they are called, right?

Ms. Calta replied, correct.

Mr. Meyers stated, kind of like Planning and Zoning when two years ago we had the difference where Joe voted and Dr. Parker was there. Joe sat in because Dr. Parker wasn't there and then Dr. Parker came in. That's why I am asking the question. If they are there, even though they are not called, they are not allowed to vote?

Ms. Calta replied, correct. The idea is it would be established ahead of time. Debbie Garbo would know that she doesn't have a full complement of the Board and then she would reach out. I know we sometimes have last minute things that happen. Again, it would be the same process, to see if she can get someone last minute.

Mayor Bodnar stated, Al brings up a good point. What would happen in the case that all five members say they are going to attend and we have an alternate who shows up just to watch and get an idea of what's going on and one of the five members is actually not in attendance at the beginning of the meeting but then as someone is going through their case and presenting their case, 15 minutes into the meeting that person shows up. Who votes? I would say the alternate should vote since they were there from the beginning.

Ms. Calta replied, that's what I would say too.

Mayor Bodnar asked, do we have to codify that?

Ms. Calta replied, I think that's something we should just advise the Chair of the Board. Once you are counted in, you are going to be the one voting.

Mr. Murphy asked, are those alternates paid just like a regular member? The way it reads is alternate members who attend the whole scheduled meeting will receive the same compensation paid to other standing members of the board. So is it only those meetings that the alternates are filling in that they are then compensated? They are not compensated like the other permanent members though? Only if they are attending the meeting?

Mayor Bodnar replied, that's how the regulars are.

Ms. Calta replied, they are compensated per meeting.

Mr. Murphy asked, for the alternates?

Ms. Calta replied, correct. Yes.

Mayor Bodnar replied, the regulars are compensated per meeting too.

Mr. Murphy asked, oh the regulars are compensated per meeting?

Mr. Wynne replied, yes. They have to be in attendance.

Mr. Murphy stated, gotcha.

Ms. Calta stated, that's a good question. So you shouldn't have any more expense for the alternates because they are only going to be paid when they are filling in a vacancy.

Mr. Murphy stated, good point. Thanks.

Council President Schutt asked, any other questions for Ms. Calta?

There were none.

2) **Council Review of Board of Zoning Appeals' Decisions (Law Dept.)**

Council President Schutt asked, Ms. Calta?

Ms. Calta stated, this has to do with appeals to Council from the Board of Zoning Appeals. We already have some provisions in our Code and our Charter about those appeals but they are not very detailed. This is meant to fill in those gaps.

The Board's standard is barred from what the Board of Zoning Appeals does. So that's in here just to show you what their standard for review is and what they looked at. We have reiterated what the right to appeal is, the rule of Council in that essentially Council may review the transcript and minutes of the Board hearing or have a re-hearing and then you have the ability to affirm the decision or with a 2/3rds majority vote you can modify or reverse the decision. Then when you get down to the abuse of discretion standard of review, that's something we don't have anywhere in our Code. This standard would essentially have Council look at what the Board did and determine whether it was unreasonable, arbitrary or unconscionable, so whether something was way off and incorrect. We outlined the procedure for rehearing and findings of fact and conclusions of law. The procedure for rehearing, again, we don't have any guidance in our Code right now for the procedure.

I think you guys can recall a couple of the hearings that we have had even this year. They can really follow any sort of format. We gave it a little bit of a framework but not too much. This can be waived by Council and the Council President can afford more time; those are two provisions that are in there. What we thought would be fair is to give each side 15 minutes to present, 10, your case-in-chief and then 5 minutes for rebuttal. You can make that longer; you can make it shorter. If you think about the ones we have had this year, we have been kind of short. I didn't think it made sense to say, hey, you've got 30 minutes to present your case but if someone did need additional time, Council President, you could provide that or if you wanted to change it up; you see that you have a lot of support on one side or the other so you want to give other time amounts allotted to other parties. You could do that. With the waiver. That would be by motion of Council to waive the rules, just like when we suspend the rules when we are doing legislation. The idea is to give each side time to present, time for questioning amongst the parties, that sort of thing.

Ultimately, if these matters were ever appealed to the Court, its good to have what are called findings of fact and conclusions of law. That's the last part here. It requires that if there's a modification or a decision is overturned, then Council is required to issue findings of fact and conclusions of law or if someone requests those findings of fact and conclusions of law. It's sort of a summary – here's all the facts that were provided, here's our standard and then here's why we all decided what we did and how we came to that conclusion. Those typically don't draft themselves at a hearing. Usually that comes my way with lots of help to put those together. You would then direct me to put together the findings of fact and conclusions of law and then we will bring them back to be approved. It's a lot more formal than you have been operating in the past. As a lawyer, I like that. I am sure the Mayor does too. If this were appealed from Council to Court, we have a great record. We have everything organized. It's a lot easier to proceed. If you ever get to that point.

Mayor Bodnar stated, if I can jump in, I think .05(A) gives appellants sort of an idea of how to prepare, what's going to be the responsibilities and how they should present and how much time they are going to have.

Mr. Murphy asked, if someone is looking for a variance, is there a way for them to just bypass the Board of Zoning Appeals and go straight to Council? Are we saying the Board of Zoning Appeals can't grant a variance?

Ms. Calta replied, we are not saying the Board of Zoning Appeals can't grant a variance. That's one of their jobs. They have the authority to review. This is only if someone would appeal. We have had those two appeals from the Board of Zoning Appeals that have come forward on variances. In those instances, when those applicants come to Council this would be the process that's followed by Council. We didn't really have a framework although applicants obviously spoke and then those in support spoke. I can't remember if you had an opposition on any of them, but we did have the ability to have Council ask questions. So, the Board of Zoning Appeals function still stands. Council's role in reviewing those appeals still stand. It's just a framework for those appeals when they come before Council.

Mr. Murphy asked, so it's really tightening up what the Board of Zoning Appeals is allowed to do? Before they had some leniency on whether they could grant a variance or not. It was implied I would say, but now they have to stick to these seven non-exclusive factors in order to grant the variance.

Ms. Calta replied, I wouldn't say that. This is just to reiterate what the Board does when they review variances. These are the factors that are set out by the Ohio Supreme Court. Those are what the Board is governed by. They are very discretionary. There are factors but they are not exclusive factors for the Board of Zoning Appeals or Council.

Mr. Murphy stated, I would like to keep some discretion with the Board of Zoning Appeals. The way (A) and (B) is reading is the Board cannot grant a variance or exception unless there's these seven things which to me it feels like they are taking away any discretionary or common sense aspect of anything.

Ms. Calta stated, pointing you to this part, it says “unless the applicant has shown that the literal application of the zoning or building code would result in practical difficulties as a result of some peculiar or unique condition or circumstance pertaining to the zoning lot in question.” That’s what the Board does. But then in order to determine practical difficulties, these are the seven non-exclusive factors to consider in determining whether you get to practical difficulties. These factors again are not exclusive. If you read through them, in order to come to a determination of whether a variance is substantial, that could be pretty discretionary. Something might be substantial to you which might not be substantial to me. These still stand. I think they are still pretty flexible in their application. But it’s always been the Board is required to find that practical difficulties exist. We can talk further about that.

Mr. Murphy stated, there are smart people on the Board. I just wanted to make sure we are not bootstrapping them into you have to follow exactly this.

Ms. Calta stated, it shouldn’t change anything that they are doing.

Mr. Murphy stated, okay.

Council President Schutt asked, any other questions for Ms. Calta?

There were none.

Council President Schutt stated, thank you, Ms. Calta.

3) Establishment of Fund for Opioid Settlement (Law Dept.)

Council President Schutt asked, Ms. Calta?

Ms. Calta stated, thank you, Mr. President. For the opioid settlement that Council approved participation in at the last Council meeting, in order to receive those funds, which I found out are supposed to be annual payments, I reached out today, we may not be getting payment until this time next year, but in order to receive those funds we have to set up a special revenue fund. The Ohio Auditor’s office has recommended that that fund be set up. We have to bring forward a piece of legislation to create that fund. Also, if we ever receive the funds, once we have the funds, it is also recommended by the Auditor’s office that when we spend them, they also be approved by legislation of Council so we can keep track of how they are being expended and that they are being expended in accordance with the settlement agreement.

Council President Schutt asked, any questions for Ms. Calta?

There were none.

Council President Schutt stated, thank you Ms. Calta.

4) Establishment of Fund for Ohio First Responder Recruitment, Retention and Resilience Program Award (Law Dept./Police Dept.)

Council President Schutt asked, Ms. Calta or Chief Matias?

Chief Matias replied, thank you Council President. In June we learned that the State of Ohio was using ARPA money to put together a grant for recruitment, retention and officer wellness. There was a very short window to apply for the grant so I grabbed Officer Steve Palka here who recently went to training to become a certified law enforcement fitness specialist. He always blows everybody away on the physicals. He likes to lift big heavy things as well. So, I got together with Officer Palka and I said let's put together a wellness program. He went to work on it and for a couple weeks in June, we focused on that. I was kind of worried we were asking for too much, but Steve convinced me to go ahead and put the application in as is. We found out a few weeks ago that we got approved for the grant and were being awarded \$173,000 to fund a wellness program for our police, fire and dispatch for 2023-2024. We are excited about it. We still have some work to do. On Ron's end, we have to establish a fund for it.

Mr. Wynne stated, I will have to wait to see what the Grant Agreement requirements are. We already have our ARPA Funds set up on our books so whether we can continue to use that same fund or have to set up a separate one for this. I will have to wait to see it before I can know for sure.

Council President Schutt asked, any questions for Chief Matias?

There were none.

Chief Matias stated, I would like add, nice job Officer Palka for putting it together. He did a good job of it and put up with me.

Council President Schutt stated, thank you for your work on that.

5) Ordinance regarding Ditch Enclosures (Law Dept./Engineer)

Council President Schutt asked, Ms. Calta or Mr. Cappello?

Ms. Calta stated, Tom started this one, along with Scott. It sounds like periodically we have individuals who like to enclose their ditches that are actually in the Village's right of way. Tom came up with what I will call specifications for it that detail what kind of pipe and how you put it in and what length. You can talk about those details. He put that together. What we also talked about was putting together some kind of a companion piece of the Village's Code that will address those ditch enclosures so that you have to come in to the Building Department to apply for a permit to do those ditch enclosures. Tom, you can probably expand upon why this is important. It's in the Village's right-of-way, but you also want it to be done in a standard fashion so you don't have any water issues that are either created or made worse. You would be required

to file an application to obtain a permit. There's a small permit fee of \$50. There's one initial pre-inspection and one final inspection. If there are other inspections, there's a cost for that. The permit issuance identifies that the ditch enclosure shall be done according to the specifications by the Village Engineer. The owners or whoever is doing the ditch enclosure is required to pay all of the costs. Once they start the project, they need to complete it within 30 days so it's not something someone starts and then they go in to watch the Brown's game and then the end of the game happens and then they never want to come back out to finish their ditch enclosure. There's a small bond requirement and then there's a penalty provision if you don't comply with the Code section.

Mr. Cappello added, we actually had something similar from roadside ditches. So the Village either had curbed streets or streets with roadside ditches. People wanted to fill in the ditches for maintenance purposes from them cutting their lawns. The reason we have this criteria is because that ends up becoming our infrastructure that's in our right away going forward. We want to make sure they do it to those specifications. We did get a resident early this summer who wanted to enclose his rear yard ditch over there on Wildwood. That's in a drainage easement. We wanted to make sure we had some criteria for that type of situation so that kind of spawned on updating the roadside and making it all inclusive to cover any Village-owned property which a swale would be on if the enclosure happened. Also, we wanted some criteria even if it's a private ditch on a main waterway. You have to be careful about that. If it's in an easement controlled by the Village or the right-of-way, it just becomes our headache later so we want to make sure it's done properly because then we would become responsible for that.

Council President Schutt asked, are there any questions?

There were none.

Council President Schutt stated, thank you Ms. Calta and Mr. Cappello.

6) Appropriations Legislation (Finance)

Council President Schutt asked, Mr. Wynne?

Mr. Wynne stated, in December Council approves two pieces of legislation. One is the final approval for the current year budget reflecting any changes for items that Council has passed throughout the year and then the other is the temporary appropriations budget for the first three months of next year until the actual budget is passed in March. We put it on in October and November in title only so it will meet the three read rule and also to allow for the opportunity for any discussion regarding those two pieces of legislation before the final numbers are put together in December.

Council President Schutt asked, are there any questions?

There were none.

Council President Schutt stated, thank you Mr. Wynne.

7) Adoption of Cuyahoga County All Hazards Mitigation Plan (Fire Dept.)

Council President Schutt asked, Chief Carcioppolo?

Chief Carcioppolo replied, thank you Council President. This is something the County does every five years. They renew with all of the communities in the area so they can apply for Federal grant money. They are also going to be attending the Council meeting in a couple of weeks to issue a plaque for recertifying our Ready Certified Program which is an emergency operation. This is separate from the All Hazards Mitigation Plan.

Council President Schutt asked, any questions?

There were none.

Council President Schutt stated, thank you, Chief Carcioppolo.

8) Increase in monthly cleaning cost at Civic Center and Community Room (Finance Dept.)

Council President Schutt asked, Mr. Wynne?

Mr. Wynne replied, Camco Cleaning is the company that performs the cleaning services at both facilities. They have been doing it since June 2019 at the cost of \$1,410 per month for each facility. We had a three-year agreement with a two-year renewal option. In June of this year when the three years were up, Council approved the two-year extension. At the time Camco agreed to do it without any price increase, but due to issues in trying to retain staffing and hire additional staffing they have come to us to ask for a 9% increase which would go into effect on November 1st. It equates to about \$254 a month in total for the two facilities.

Mr. Meyers asked, \$250 more, right?

Mr. Wynne replied, correct.

Mr. Murphy asked, you said that was total for both?

Mr. Wynne replied, yes.

Council President Schutt asked, are there any other questions for Mr. Wynne?

There were none.

Council President Schutt stated, thank you, Mr. Wynne.

9) Senior Snow Removal Program – Approval of Contractors (Parks and Recreation)

Council President Schutt asked, Mr. McAvineu?

Mr. McAvineu replied, thank you Council President. We are still collecting applications. They were actually due last Friday but we have extended that to up through October 15th without an additional fee. After October 15th there will be an additional fee of \$50 added to the application. Right now we are set at 252 applications for opt-in. Last year we were around 280-290. I am hoping to get few more. Right now we have five potential contractors. That's why I still haven't figured it out. Based upon how many driveways you get to come in, I would like to have less driveways. We normally have three contractors but by having more contractors, we created a more competitive market and people were a little more aggressive with their pricing. If you know anyone who still wishes to opt into the program, please encourage them. We will accept applications up to the 15th without any additional fee and after the 15th at a slight additional fee. We will not take any additional applications after the end of November. Does anyone have any questions?

There were none.

Council President Schutt stated, thank you Mr. McAvineu.

10)ODNR/Land and Water Grant Application for Wiley Park Improvements (Parks and Recreation)

Council President Schutt asked, Mr. McAvineu?

Mr. McAvineu replied, thank you Council President. If you remember, back in the Spring we submitted a Natureworks ODNR grant application for Wiley Park. We still have not found out about that application yet. Generally they will let us know about a week before Land and Water Conservation is due so we can adjust the amount. The good part about Land and Water coming before Natureworks is that it normally funds 50% up to \$500,000 where Natureworks only funds up to \$150,000. We would then go back to Natureworks and try to get the rest of the funding. Doing it in that order actually saves us money. We should find out soon. Natureworks is very competitive. Highland Heights and Mayfield Heights applied. Cuyahoga County is one of the most competitive counties in the whole State of Ohio. We have some rough drawings for Wiley Park. There's nothing in stone. It's basically a concept of what we would like to do with that park in the future.

Council President Schutt asked, any questions for Mr. McAvineu?

There were none.

Council President Schutt stated, thank you Mr. McAvineu.

ANY OTHER MATTER BEFORE COUNCIL

Council President Schutt asked, are there any other matters to come before Council this evening?

Mr. McAviney stated, this is the planning time of the year. We are going to start reviewing our special event programs. First up on the agenda is the Grove entertainment and the concert series at the Gazebo. We started with the Parks Board last month. We are going to meet with the Park Board this month. We are meeting with Administration and staff to discuss what areas we can make improvements on. If you have any feedback, please drop me an e-mail with good/bad. There's only one way to get better and that is if I hear them both.

On top of the concert series, it's the planning time of the year for all of the Special Events last year. We need feedback for Cruise Night, Easter Party, Mother's Day Pancake Breakfast, Fourth of July, Halloween Party, Santa Party and all of the other events. Please drop me an e-mail any time now or during the year. The only time we can make improvements is by listening to people.

Next, Saturday, October 15th we are still looking for adult volunteers. We have about 18 young adults who will help on the Trick or Treat Trail October 15th from 11:15-2:45. If anyone has any time, we can definitely use a few more adults on the trail. If you are available, it's a fun day. Thank you.

Council President Schutt stated, thank you Mr. McAviney and thank you for elevating all of the events and activities throughout Mayfield Village. Parks and Recreation has definitely brought things forward significantly over the past several years. Thank you for your work with that. Are there any other matters to come before Council?

There were none.

There being no further matters, the meeting concluded at 7:37 p.m.

Respectfully submitted,

Mary E. Betsa, MMC
Clerk of Council