

**MINUTES OF THE COUNCIL
VILLAGE OF MARIEMONT, OHIO
REGULAR MEETING HELD IN COUNCIL CHAMBER
JULY 9, 2012**

Mayor Policastro called the meeting to order at 7:30 p.m. with the Pledge of Allegiance to the flag. The following Council members answered present to roll call: Mr. Andrews, Mr. Black, Ms. McCarthy, Mr. Miller, Mr. Scheeser and Mr. Wolter.

Mr. Scheeser asked to amend the minutes for the Budget Hearing of June 25, 2012 to reflect more conversation regarding a potential tax levy. Mrs. Van Pelt said she would review the tape. Mr. Miller moved, seconded by Ms. McCarthy to accept the Council minutes as written for June 25, 2012 and to accept the amended minutes for the Budget Hearing June 25, 2012. On roll call; five ayes, no nays. (Mr. Black abstained)

The following communications were read by Mayor Policastro:

From Police Chief Hines: June 2012 Monthly Report. Chief Hines said it has been a busy month and he wanted to acknowledge a job well done by Officer Shaw and Officer Warner. They had several vehicles broken into and Officer Shaw observed a surveillance photo of a suspect and was right away able to identify them. He had contact with him several weeks earlier and knew who he was and where he lived. Both officers went to the residence and brought the suspect in and were able to close the case and recover some of the stolen property.

From Assistant Fire Chief Feichtner: June 2012 Monthly Report. Ms. McCarthy asked what the policy is regarding running lights and sirens. She witnessed on two occasions the trucks moving rapidly without either on or the other. Assistant Fire Chief Feichtner said they should always run with lights and sirens when responding. He said he would look into the matter.

From Superintendent Scherpenberg: June 2012 Monthly Report. Mr. Wolter asked how the storm clean up was coming. Superintendent Scherpenberg said they should be all caught up by the end of this week. Mr. Wolter commented on a good job being done by the Maintenance Department.

From Building Commissioner Malone: June 2012 Monthly Report

From Tax Administrator Judd: June 2012 Monthly Report/Waste Collection Fee Report

From Swim Pool Manager Beck: June 2012 Monthly Report

From Police Clerk Maupin: Mayor's Court Statement May 2012

From Councilman Black: Letter dated July 3, 2012 re: Letter of Resignation. Mayor Policastro said sadly this will be Mr. Black's last meeting. He has done a great job and he along with Council wished him the best of luck.

Mayor Policastro said the fireworks were very successful with approximately 1500 people attending. The total cost was covered by donations. Mr. Miller thanked the Mayor for all his hustling on getting the donations and tying up the loose ends. Mayor Policastro said we have a head start on next year.

Mr. Wolter moved, seconded by Mr. Scheeser to pay the bills as approved by the Mayor, Chairman of the Finance Committee and the Clerk. On roll call; six ayes, no nays. Mr. Wolter commented that the work on the shed is being done by the Maintenance Department and Fire Department which saves quite a bit of money.

Mr. Scheeser moved, seconded by Mr. Andrews to accept the recommendation of the Finance Committee which met on Thursday July 5, 2012 at 5:45 p.m. in Council Chambers to review the property and casualty insurance renewal plan from the Hylant Group. Present were Committee Members Andy Black, Cortney Scheeser and Joe Miller. Also present were Mayor Policastro, Rick Hines, Tim Feichtner, Dennis Wolter and Joanee Van Pelt. After reviewing the plan the Committee Members voted unanimously to renew with the Hylant Group at an annual cost not to exceed \$32,479. Mr. Black said we had the opportunity to look at other plans but opted to stay with the same group and plan as previous years. On roll call; six ayes, no nays.

Mr. Miller moved, seconded by Mr. Scheeser to accept the recommendation of the Finance Committee which met on Thursday July 5, 2012 at 5:45 p.m. in Council Chambers to review the health care renewal options from Center for Local Government. Present were Committee Members Andy Black, Cortney Scheeser, and Joe Miller. Also present were Mayor Policastro, Rick Hines, Time Feichtner, Dennis Wolter, Joanee Van Pelt and Fran Patterson of USI Insurance. After reviewing the various options presented by USI Insurance and taking into consideration the salary freeze, Committee Members unanimously agreed to renew the current health insurance plan (OME-RESA "Platinum A") at an annual cost not to exceed \$257,146. Mr. Scheeser asked what the calendar time frame for the employee salary/benefit discussion would be. Mr. Black said it is a first/second quarter discussion with the next meeting slated for spring of 2013. On roll call; six ayes, no nays.

Mr. Black moved, seconded by Mr. Wolter to accept the recommendation of the Safety Committee which met on July 5, 2012 to discuss the need to purchase a new fire truck with aerial ladder. The current equipment was deemed unusable during a recent test of the ladder. Present at the meeting were Committee Chairman, Dennis Wolter, and members Jeff Andrews and Andy Black. Also present were Mayor Policastro, Clerk Borgerding, Police/Fire Chief Rick Hines and Assistant Fire Chief Tim Feichtner. Assistant Fire Chief Feichtner presented the Committee with a letter outlining the problems with the current equipment, costs to refurbish the existing equipment, and the specifications and costs of new equipment. The Safety Committee recommends the purchase of the new fire truck per the attached proposal from Farrara Fire Apparatus and Tax Exempt Leasing Corporation, using the three-year financing plan at an interest rate of 1.98% with three annual payments of \$254,289.10 paid from Permanent Improvement and to declare emergency. Mr. Wolter said when the discussion first started for the need for a new fire truck he pushed back on the idea of buying a new truck. Assistant Fire Chief Feichtner put together a great report. The reality is he does not believe the truck was specked out properly when it was bought in the late 1980's. The tip load when fully extended at 100' is 250 lbs which is the weight of an average firefighter with full gear. It would make it unsafe for a firefighter to carry someone else down. The new truck will hold 750 lbs. The other issue is to refurbish the old truck to meet current codes would run approximately \$400,000. He accepted the fact that a new truck was going to be the best option. The proposal includes a tax exempt corporation which offers a great financing deal. To soften the blow we recommend the purchase be paid for over a three year period so we do not deplete our Capital Improvement Funds. The reality is the old truck is not worth much money. Mr. Andrews said Assistant Fire Chief Feichtner did an excellent job with his report and research. Assistant Fire Chief Feichtner said initially the timeframe from the time of construction to the time of delivery was 6-7 months. We chose to put a line item in the contract that every day the truck was late it would cost them 1% of the value of the truck. In turn, they increased the timeframe to 270-300 days. Mr. Wolter said the finance agreement works such that no payment is due until 12 months from the signing of the contract. In the meantime we will have to rely on mutual aid because the truck has failed safety inspections. Assistant Fire Chief said unfortunately there is no place to rent a fire truck. He feels confident that mutual aid should suffice. He is looking to see if another municipality that has an extra truck may let them borrow it until the new truck arrives. Of course, should they need it back it would no longer be available. Mr. Scheeser asked how much has been saved over the years for the new fire truck. Clerk Borgerding said \$250,000 and \$500,000 set aside for the Municipal Building. Mr. Scheeser said our first payment is covered with the money set aside and we might have to scramble because we cannot save fast enough for the balance without dipping into the reserve for the Municipal Building. Clerk Borgerding said we would have to postpone plans for the Municipal Building. Also, he did some due diligence on the financing and found that PNC Bank offered 2.45% while 5/3 Bank does not offer financing under 2%. The proposed financing is 1.98%. Mr. Scheeser asked what we need to start saving year to year to purchase the next truck in 20 years. Clerk Borgerding estimates we should save \$40,000 to cover a \$1,000,000 truck in the next 20 years. We had been setting aside \$50,000 per year. On roll call; six ayes, no nays.

Mr. Andrews moved, seconded by Mr. Wolter to accept the recommendation of the Public Works & Service Committee which met to accept the lowest and best bid of Swisher Landscaping in the amount of \$12,500 for the restoration of Albert Place brick sidewalks. On roll call; six ayes, no nays.

Mayor Policastro read the following miscellaneous announcements:

Mayor Policastro referred the matter of "No Trucks Permitted on Lane A" to the Safety Committee. Mr. Wolter said there were also landscaping refuge issues as well. Mayor Policastro said the location/duration of pods should be addressed as well. Ms. McCarthy said the dumping issue happens all over the area. She believes she knows who it is. It is commercial landscaping stuff. Mayor Policastro said if she knows for sure who it is to contact the Police Chief and he will send someone over. Mr. Wolter said we need to stiffen how we handle the mess in the lanes. One of the worst offenders is a landlord who uses his garage as a dump and leaves the door open. Building Commissioner Malone said he has been contacted and he expects a new door to be put on in the next week or so.

Safety Services Night Out will be July 25, 2012 6:00 to 9:00 p.m.

Resolutions:

"Adopting the Budget for 2013" had a third reading. Mr. Black moved, seconded by Mr. Andrews to adopt the Resolution. On roll call; six ayes, no nays. Resolution No. R-15-123 was adopted.

Ordinances:

"An Ordinance Authorizing an Agreement Between the Village of Mariemont and the Board of Hamilton Commissioners Relative to the Improvement of Miami Road from Wooster Pike to Rembold Avenue" had a first reading.

"To Renew Current Contract for the Following Kinds of Insurance: Real and Personal Property, Comprehensive General Liability, Business Automobile and Other Coverages; To Pay Premiums" had a first reading.

"To Purchase a Fire Truck with an Aerial Ladder, Pump and Water Tank to Replace Fire Truck Deemed Unusable and To Declare Emergency" had a first reading. Mr. Wolter moved, seconded by Ms. McCarthy to suspend the rules to allow for the second and third readings. On roll call; six ayes, no nays. The Ordinance had a second and third reading. Mr. Wolter moved, seconded by Mr. Scheeser to adopt the Ordinance. On roll call; six

ayes, no nays. Mr. Wolter moved, seconded by Ms. McCarthy to invoke the emergency clause due to the fact that the fire truck we currently have has been ruled inoperable for safety purposes. On roll call; six ayes, no nays. Ordinance No. O-15-12 was adopted.

Mayor Policastro referred to the communication left on each Council member's desk referring to Town Meetings election of Mr. Joe Stelzer to fill the unexpired term of Mr. Black in District 3. Ms. McCarthy asked why we are doing this process differently than when she was elected and voted to Council to fill the unexpired term of Kim Sullivan. Council did not vote when there were six current members. It was announced that she had won the caucus at the meeting and was told at the next Council meeting there would be the vote to bring her onto Council. She asked if that would make seven members on Council. Mayor Policastro said it does not matter which way it was done and he is not sure why it was done that way. Solicitor McTigue said it would be okay to go forward with the vote because Mr. Black's letter states his resignation is effective July 9, 2012 when his replacement is in place. Ms. McCarthy said she wants to make sure we are following the letter of the law. Mr. Scheeser asked if there has to be a vacant seat first before Council can vote to fill it and would that not imply that Mr. Black has to empty the chair. Mayor Policastro said Mr. Black's resignation will be effective at the end of this Council meeting. Solicitor McTigue said Mr. Black can vote for his replacement. Mr. Andrews cited Section 32.06 of the Code of Ordinances which states when a member of the Legislative Authority becomes vacant the vacancy shall be filled by election by the Legislative Authority for the unexpired term. It seems to him that there is no vacancy yet. Solicitor McTigue said he would have appreciated a little heads up on the matter so he could have researched the case law. Mr. Black said he would abstain from the vote. Mr. Andrews said Mr. Black should do whatever he feels is right based on the Solicitor's guidance but his concern is that the seat being filled should be selected by Council. His issue is that he got no communication regarding this vacancy. He has had one interaction with Mr. Stelzer a couple months ago for two minutes. He does not know Mr. Stelzer. A name shows up on the agenda when Council has the right to discuss and select a candidate. There has been no chance to really get to know Mr. Stelzer. Mr. Stelzer is probably a good choice but requested that Council wait two weeks before the vote so they can get to know him. The vote can happen at the next Council meeting. He wants to know that he is voting for a candidate that he knows and thinks will serve well. Mayor Policastro said the tradition is Town Meeting. The residents in District 3 received a flyer announcing Mr. Stelzer's intention and the people in the District pick the person who they want to represent them. Mr. Andrews said Town Meeting is an important tradition but it does not have the binding authority here - it is Council's selection. He is disappointed that Council was not informed when this resignation happened and that there was a candidate that was going to be considered at this meeting. Maybe the rest of Council knows Joe but he does not and asked that more time be given to get to know him. Mr. Miller said he knows Mr. Stelzer and when his name came up he was for it. Mr. Andrews said maybe Council had a week notification but he did not have that. Mayor Policastro said it has never been that way - it is tradition to have the district to put the person in. Mr. Andrews said that is not per our code. It is Council's decision and selection and he cannot understand how Council was not communicated with. Solicitor McTigue said it is the Legislative Authority of Council who elects. Mayor Policastro said he knows that but it is our tradition in the Village is to have the district decide who is going to be the candidate. Mr. Scheeser said a process improvement would be to have Town Meeting invite all of Council to the caucus. It might be a nice enhancement of the process. Mayor Policastro said the precedent has been set in the past and Mr. Black can vote. He indicated that Mr. Andrews was a man without a country because he did not go through Town Meeting. Mr. Andrews said he does have a country and he represents District 6. Mr. Andrews moved to give Council a chance to get to know Mr. Stelzer because it is an important selection and put the vote on the next Council agenda. Mr. Wolter said that would say to the people in District 3 that what they want has no value because they had a choice and a caucus. Ms. McCarthy said if we are going by tradition then tradition has stated that the matter is presented at this meeting and voted on at the next meeting. Mayor Policastro said that is not the tradition. Ms. McCarthy said it was the last two times. Mr. Black said as this is his last meeting if no one is against Mr. Stelzer why not make a note that the next time this comes up we have the process laid out rather than belaboring the point for two more weeks. Mr. Andrews said his problem is that we do this every time - we never stick to doing what we think is right. He had no communication making him aware of the process and that this was going to be an agenda item. Ms. McCarthy seconded the motion to table the vote until the next meeting. (A yea vote indicates the vote for Mr. Stelzer will be tabled until the next Council meeting). On roll call; three ayes, three nays (Mr. Black, Mr. Miller and Mr. Wolter dissenting). Mayor Policastro broke the tie with a nay vote. Mayor Policastro called for the vote to have Mr. Stelzer fulfill the unexpired term of Mr. Black. On roll call; four ayes, one nay and one abstain (Mr. Andrews dissenting and Ms. McCarthy abstained). Mayor Policastro thanked Mr. Stelzer for taking this position.

The meeting adjourned at 8:15 p.m.

Dan Policastro, Mayor

Anthony J. Borgerding, Clerk