

**VILLAGE OF MARIEMONT
REGULAR COUNCIL MEETING HELD IN COUNCIL CHAMBERS
JULY 24, 2017**

Mayor Policastro called the meeting to order at 7:00 p.m. with the Pledge of Allegiance to the flag. The following Council members answered present to roll call: Mr. Brown, Mr. Hlad, Ms. Palazzolo and Ms. Schwartz.

Mr. Hlad moved, seconded by Mr. Brown to excuse the absence of Mr. Marsland and Mr. Wolter. On roll call; four ayes, no nays.

Mr. Brown moved, seconded by Ms. Schwartz to accept the minutes as written for the July 10, 2017 Council meeting, Committee of the Whole Meeting July 5, 2017 and the Budget Hearing July 10, 2017. On roll call; four ayes, no nays.

Mayor Policastro read the following communications:

From Administration Office: MTD/YTD June 2017 End Quarter 2017

From Times Star: May 28, 1927 re: Article Mrs. Emery's Latest Gift

From Mariemont Messenger: Article Dated January 16, 1931 re: Mariemont's Nature Trail

Mr. Rob Bartlett, 3611 Mound Way, was granted permission to address Council. He noticed the article in the Sunday Cincinnati Enquirer concerning the bike trail and the burial mounds. He felt compelled to call out the misinformation in the article that continues to be propagated that CORA built the trail along Whiskey Creek. The January 11, 2016 Council meeting minutes make it abundantly clear that the South 80 Park and Trails Committee and volunteers built the trail, and also that the Mayor and Council signed off on that trail. Knowingly and purposefully spreading misinformation like this puts the Village at legal risk and should be stopped.

Mayor Policastro said Council did not okay the trails in the mound area. The only thing Council went along with was the trail along the creek. Mr. Bartlett said CORA did not build the trails in the burial area. He believes the trails in the burial areas should be closed. But he thinks picking bicyclists as the sole reason is wrong. Walkers and joggers can cause just as much damage. Mayor Policastro we could agree to disagree on that statement.

Dr. Tankersley said the trails constructed in the Whiskey Creek Valley and across the Madisonville site and burial grounds are on the National Registry of Historic Places. The trails cuts over Native American cemeteries and bicyclist are running over graves which is very disrespectful. He went on a tour of the area with Linda Bartlett. He rode a bike over the area, ran across the area and walked across the area and it was evident that the bike caused the most damage. He does not believe that the Mayor or Council at any given point gave permission to put a bike trail through Native American cemetery or allowing anyone to impact early pioneering sites that are eligible for nomination for National Registry.

Ms. Schwartz moved, seconded by Mr. Hlad to pay the bills as approved by the Mayor, Fiscal Officer and Chairman of the Finance Committee. On roll call; four ayes, no nays.

Ms. Schwartz moved, seconded by Ms. Palazzolo to accept the recommendation of the Health and Recreation Committee which met on Monday July 17, 2017 to discuss clarification of the boundaries of Dogwood Park. Dr. Ken Tankersley of the University of Cincinnati presented to the Committee a CAGIS map which showed the updated boundary of Dogwood Park, as well as a narrative describing the boundary and the locations of the Madisonville Site, the Mariemont earthwork, the Madisonville Mound, the Spice Bush Mound, the Ferris Mill Site and the Ferris Distillery Site. A copy of the map and the narrative was attached to the report. After discussion, the Committee recommends accepting the narrative presented by Dr. Tankersley and having the Village Solicitor prepare the necessary legislation. On roll call; four ayes, no nays.

Mr. Brown moved, seconded by Mr. Hlad to accept the recommendation of the Economic Development and Zoning Committee which met on Thursday July 13, 2017 at 10:30 a.m. to discuss Kirkwood Legislation. Present at the meeting were Economic Development and Zoning Chairman Bill Brown, Vice-Chairman Eric Marsland and member Lorne Hlad. Also present were Mary Ann Schwartz, Linda Bartlett, Debbie Bradley and Terry Long. Approximately ten years ago, Mariemont adopted "Kirkwood Legislation". The intent was to create a means by which the Village could inspect both exterior and interior of rental properties. A rental property permit would subsequently be issued; a fee would be charged for the permit. Many other municipalities did the same, the City of Portsmouth, Ohio being one. Rental property owners in Portsmouth sued the city alleging it violated their fourth, fifth and fourteenth Amendment rights. The core issue was "warrantless searched". Judge Judy J. Dlott, United States District Court of the Southern District of Ohio Western division, heard the case and agreed such actions did constitute warrantless searches and would be deemed unconstitutional. After discussion, the Committee recommends the Village Solicitor prepare the necessary legislation such that our Building Commissioner has the authority to attain a warrant to conduct rental property searches in the event permission to search is denied. Mr. Brown said in the past years the Village has never been denied entry to do a property search by an owner. This legislation would give the Building Commissioner the ability to obtain a warrant if needed. On roll call; four ayes, no nays.

Mayor Policastro said the State of Ohio wants him to write a letter addressing the damage to the burial mounds and historic area. He read some of the highlights he plans to send to the State for the protection of our landmarks and safety of our citizens. (1) He has ordered the Police Department to start using Ordinance Section 95.07 to stop the bike traffic at Dogwood Park. He is going to bring in an extra police officer strictly for the parks on the weekends. It is a Native American sacred area with very historic burial mounds. We must stop the bike traffic now. (2) He has met with Dr. Tankersley and

agrees that we need to put up ranch type fences blocking the trails that lead to the Historic and sacred landmarks. (3) He along with Mr. Vianello, Service Superintendent Scherpenberg and Dr. Tankersley have determined the areas where the fences need to go. The fences will be installed by the Village Service Department. The materials will be ordered this week. (4) Once the safety and protective fences are put in he will put together a group known as the Dogwood Blue Ribbon Ad Hoc Advisory Committee. They will be a working Committee to help repair the damage to the sacred mounds. The Committee will comprise of Jerry Vianello, Chairman, Steve Spooner, Chairman South 80 Trails Committee, Louise Schomburg, President Parks Advisory Board, Pat O'Brien, Brian Vianello, Joe Stoner, President MPF, Karen Sullivan Vice-President MPF, Dr. Ken Tankersley and Council Member Mary Ann Schwartz, Chairman Health and Recreation Committee. Mr. Vianello said he will keep Ms. Schwartz informed on their progress so she can update Council. Mayor Policastro said according to Dr. Tankersley we must protect before we can repair. (5) At the Council meeting on August 14, 2017 he will call for an up or down vote to not allow bikes in Dogwood Park. It is an historic and sacred part of the Village and we have a duty to protect it. He will write the letter to the State of Ohio outlining and explaining the repair and protection plan under Dr. Tankersley's supervision. He is going to bring together the ARB, MPF and the Parks Board to figure out where our new landmarks are. Once that is complete it will come before a Committee of Council (either Committee of the Whole or Planning and Zoning) for a vote.

Mr. Hlad said he is concerned if we know the proper protocol to follow when repairing the ancient historic grounds. His mom used to work at the ancient mounds in Newark, Ohio and there were strict protocol to follow. Volunteers were not allowed to touch them. Mr. Vianello was told that they were to take sticks and place them over the trail. In the fall it will be seeded so grass will grow and it will be protected. There will be a split rail post fence but it will not be dug down into the mounds. Ms. Schwartz said all of this work is being done under the supervision of Dr. Tankersley.

Dr. Tankersley said in addition to being a tenured professor in Archeology and Geology he is the Archeologist advisor for Cincinnati Preservation Foundation. The site that Mr. Hlad is referring to is Federal which is a different matter. It goes through the National Parks directly. Other parks use this same strategy to block the entrance ways so there is no further damage. The damage that is present is fixable. There is no permit process. This is a Village matter. In his opinion the outline by the Mayor will be acceptable to the State of Ohio. The alternative is the State recommending the Village hiring an environmental firm. It will provide the Village with good stewardship and promotes unity.

Discussion ensued regarding federal and state historical status and state versus national park requirements.

Mr. Bob Van Stone said it was important that the community be informed and encouraged that the Mayor's information be distributed to the community so residents know what is being done and why it is being done. Mayor Policastro said he will be sure to put the information in his next bulletin.

Mayor Policastro said the appeal made on the signs by Mr. Bartlett will be heard at the Council meeting on August 14, 2017.

Mayor Policastro said Mr. Wolter asked that the following be read into the minutes: "Dear Mayor Policastro and Members of Council: Since I am missing the Council meeting due to being out of town on business, I would like to request that the following proposals be read into the minutes. The first agenda is establishing Dogwood Park as a forest, bird and wildlife preserve and sanctuary. Relative to that, I would like to suggest that the following steps be taken in order to protect the many historic sites in that area. (1) Temporarily close the trails to both hikers and bikers until such a time as the other steps can be put in place. (2) Physically mark the boundaries of these sensitive sites. (3) Enact a Mariemont Ordinance making it against the law for anyone to cause damage or tamper with or remove artifacts from these historic sites. (4) Put appropriate signage in place that would inform anyone on the trails of the historic significance of the area. These signs would clarify that it is illegal to tamper with artifacts or damage these sites in any way. Posting the Mariemont Ordinance along with appropriate federal and state laws would give the Village standing in prosecuting violators. (5) Re-study the design and layout of the hiking trail system in this area in order to effectively allow enjoyment as well as establish protection of historic areas. I think it is important that we begin the process of implementing these measures as soon as possible. Respectfully submitted and signed by Dennis Wolter.

Mayor Policastro referred to the Finance Committee the liability insurance renewal.

Resolutions:

"A Resolution Declaring the Official Intent and Reasonable Expectation of the Village of Mariemont on Behalf of the State of Ohio (The Borrower) to Reimburse its Permanent Improvement Fund for the Settle Road Improvement CT06U/CT07U Project with the Proceeds of Tax Exempt Debt of the State of Ohio; and To Declare Emergency" had a first reading.

"To Authorize the Solicitation of Bids for Administration Building Addition and To Declare Emergency" had a first reading.

The meeting adjourned at 7:45 p.m.

Dan Policastro, Mayor

Anthony J. Borgerding, Fiscal Officer