

VILLAGE OF MARIEMONT
REGULAR COUNCIL MEETING HELD AT MERCY ST. THERESA
July 23, 2018

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: Mrs. Graves, Mr. Hawkins, Mr. Marsland, Ms. Palazzolo, Mrs. Rankin and Ms. Schwartz.

Mr. Marsland moved, seconded by Ms. Schwartz to accept the minutes as written for July 9, 2018. On roll call; five ayes, no nays, with Mrs. Graves abstaining.

Mayor Policastro read the following communications:

From Shirley Jordan: Request for Parking 3927 Plainville Road. Mayor Policastro referred the matter to the Safety Committee.

From Administration Office: MTD/YTD Report 2nd Quarter 2018

From Mariemont Parks Advisory Board: Meeting Minutes July 10, 2018

From Karen Berkich: Email of July 18, 2018, Request for use of Municipal Building lawn. Mayor Policastro said the Garden Club's plant sale was held on the lawn of the Municipal Building this year and it went really well, so the Garden Club would like to do that again. He asked if Council had any objections to the request. Council agreed to allow the Garden Club to use the lawn for their plant sale again in 2019.

From Assistant Fiscal Officer Elissa Wendler: Treasurer's Report for June 2018

From Assistant Fiscal Officer/IT Administrator Elissa Wendler: IT Infrastructure Project Update. Ms. Wendler explained to Council that a review of our computer systems had shown that we had a hard drive failure and a power supply failure. We need to start looking at getting a new server. Trying to replace hard drives in the existing server is perilous as it would require the upgrading of many components, any of which may fail due to the upgrade. We need to be mindful of the fact that our CMI Payroll and Finance software is on this server. Since we may have to upgrade the hardware, this may be the time to look at whether or not we stay with CMI or go with an alternative. CMI charges us about \$6,000 per year for licensing and \$1,500 per year for "hardware" support. They are going to force us to upgrade to new software in the near future that will cost an up-front fee of about \$20,000. She has done some investigation and found out there is an alternative software that, unlike CMI, is designed for smaller governments. It's called UAN and was written by the State of Ohio Auditor's Office for Ohio municipalities to use and basically provides the same functions as CMI. It would be much less expensive than CMI. They provide the software and the computers.

Ms. Palazzolo asked if we use CMI for payroll and tax purposes. Ms. Wendler said it is used for payroll and finance. The Tax Department used to use CMI, but chose to switch over to a product called MITS. She said now is the time to update if we are going to do so and it would be the best time to also look at converting to UAN. Ms. Palazzolo asked if Ms. Wendler would do the research on this. Ms. Wendler replied that she will need to figure out first what we really need from our payroll and finance software. She said what she has figured out already is that CMI is a high-cost solution. Mr. Marsland suggested we get everyone together to discuss what we need. Mayor Policastro said this should go to the Finance Committee. Mayor Policastro said this is an example of why we may need a Capital Improvements levy. We want to do what is right and we want to do it for a long time. We don't want a 'band-aid' approach to this.

Jerry Vianello, 6570 Wooster Pike, Mariemont, Ohio, was given permission to address Council. He read the following statement:

Ms. Palazzolo,

I'm sure you recall receiving a telephone message from me approximately two weeks ago. You returned that telephone message and left me a message stating "you would contact me later that evening." As of this date, you have never contacted me.

The reason for my call was to inform you, that I had heard you were looking for a candidate to run for the 6th district council opening, replacing my current councilman Troy. I wanted to inform you that I might be interested in being one of the candidates.

However, a couple of days later, I heard that you and other council members had already hand-picked a candidate and contacted each other in private discussions, securing each other's individual support / vote.

All of Council,

As you might imagine I was surprised since other village residents were not contacted about the opening, nor given an opportunity to nominate other candidates or express their personal perspectives.

Further, I was informed at a later date that some council members independently organized this effort and even requested through an additional individual council member, to have the Mayor call for a replacement vote at tonight's council meeting. The gist of that request to the Mayor were along the lines, that you already had the necessary votes for your candidate, so contact the Mayor and let's force this through at tonight's meeting.

It seems that this type of activity may be improper and at the very least is not within the spirit of established processes for selecting council members. Normal processes require council members to discuss the public's business in public, not as a series of individual back door communications.

Mayor Policastro,

You should be aware that Cincinnati City Council is currently experiencing legal issues for similar type process manipulation. I am requesting that you immediately look into this irregular behavior and find a resolution that would be fair to all residents of the village that may be interested in being on council.

I am not sure how you can achieve the fairness part of my request, since other council members may have already pledged their votes prior to this council meeting. Therefore, you should delay this purposed replacement vote since it has already been tainted and solicit votes from all the residents at a later date.

Mayor Policastro said he does want to be as transparent as possible. He thinks if the process is accused of being tainted, we need to get out to all the people and get their opinion or possibly a vote of the people. Ms. Schwartz asked Mayor Policastro if he had received a phone call from a Council member regarding having a vote tonight. He said he did, but the vote was called off. Solicitor McTigue said that Council can't have a vote until you have an actual vacancy. Mayor Policastro said having a vote wasn't on the agenda for this meeting. Mayor Policastro said he received a phone call from Mr. Marsland and he told him that we couldn't do it, because it wasn't on the agenda and we didn't have a vacancy yet. He said Mr. Hawkins had told him his last day was to be July 27th, but now it's on July

31st. Mr. Hawkins said he set it for the date that he will no longer be a resident, which is July 31st. Mayor Policastro said we can't do the vote tonight and we are not going to do it.

Ms. Schwartz asked if Mayor Policastro's conversation with Mr. Marsland about having the votes needed to elect a candidate. Mayor Policastro said this group wanted to have the vote tonight, because they had the votes needed. Mayor Policastro said he saw Sunshine Law problems with that and he would not be a part of it. Solicitor McTigue said he was thinking the same thing. If a majority of Council gets together prior to a meeting to discuss who they are going to vote for, then that would be a Sunshine Law problem. Ms. Palazzolo said she didn't think anyone did get together to discuss it. She said she was not a part of any group who got together to discuss it. We know the Sunshine Laws. Ms. Schwartz asked why someone made the phone to Mr. Marsland then. Ms. Palazzolo said she had talked to Mr. Marsland. They had all talked to each other all week long, because someone had put a letter together to express interest in the position and they were interviewed one-on-one by some of the Council members at coffee meetings. None of us ever gathered in a group to discuss this.

Mr. McTigue explained to Ms. Palazzolo that could potentially be a problem. He said if you met at 9:00 for coffee and someone else met at 10:00. Ms. Palazzolo said she is aware that would be a serial meeting. Mr. McTigue said Ms. Palazzolo had said there had been a series of meetings. Ms. Palazzolo said there were not a series of meetings. They had talked off and on all week, like they do every week. At no point did a set of Council people meet and then another set of Council people meet. That never happened. Mr. Vianello said that his source said there were quite a number of discussions about this and that a decision was made and that the candidate that they had selected had submitted a letter. He said he doesn't know that for a fact. It's what his source had told him. Still it's a problem with the process. The Village residents really didn't even know that there was an open Council position and, in fact, there really isn't one yet. Mr. Hawkins is sitting right here tonight. Ms. Palazzolo said Mr. Hawkins letter said he "would be resigning on July 31st or at which time Council finds a replacement for me". So if someone came here tonight like you have and said would you please vote on me to be a replacement, if we had a motion and a second, we could vote on you here tonight.

Mr. Marsland asked how we could move forward from this point. He said we are in uncharted territory as far as what historically has happened. He asked how do we move forward in adherence with the law and have a fair and equitable selection of a new Council member. Mayor Policastro said that Mr. Marsland called him and said this group has the necessary votes to put Frank Raeon in. He asked Mr. Marsland how that could be. Mr. Hawkins had not yet quit. A vote was not on the agenda, but this group has the necessary votes. Somehow this group had to get together. He said he was not going to name names. Ms. Palazzolo said it was the same process they followed when Kelly Rankin was vote onto Council. She said the way Mrs. Rankin came to be on Council is that some residents gave some names to Mr. Marsland and gave some names to her. She and Mr. Marsland started calling those people and most people said they were not interested. At the end of the day, Mrs. Rankin was a viable candidate. She met with some Council members, like Ms. Schwartz. She talked to each Council member who had an opportunity to vet her and at the end of the day, each of the people who had spoken to Ms. Rankin gave Vice-Mayor Marsland their opinion. That's the same thing that happened here. We all met individually with this person and told Mr. Marsland individually that we thought this person might be a good candidate.

Ms. Schwartz said she was never told she should report her thoughts to Mr. Marsland. Ms. Palazzolo reiterated that it was the same situation as what happened with Mrs. Rankin. Bill Brown said no one called him. Ms. Palazzolo said Mr. Brown knew Mr. Hawkins was resigning. Mr. Brown said he had no idea this process to replace Mr. Hawkins was already underway. Ms. Schwartz said we need to have a little more time to make sure everyone is aware that a position is open in case they want to be considered for Council. Mr. Vianello said apparently there were some calls going on.

Mayor Policastro told him about the call from Mr. Marsland and Mr. Marsland hasn't denied making that call. It was expressed that you all have the votes necessary to put this through tonight. Mr. Marsland said he may have overstepped it, but that was his impression.

Mr. Vianello asked if any of the Council members had committed their vote to this one candidate. Ms. Palazzolo if anyone wants to throw their hat in the ring, we will find a way to vote. Mr. Vianello asked about the plan to force the vote tonight. Ms. Palazzolo said no one is going to force a vote. Mr. Vianello said he believed they were going to force the vote tonight if he had not said something to stop it. He said he believes the entire Village should be allowed to get involved and the Village should nominate and vote for candidates. He said he doesn't care if this gentlemen becomes a Council member as long as everyone has an opportunity to vote on it. The way this was handled in the past was Town Meeting would do a caucus and Town Meeting settled that problem. You all have taken Town Meeting out of the equation and now you have a brand new dilemma that you have to solve. Ms. Palazzolo said Town Meeting can still have a caucus. She said Council can then decide if they want to consider the Town Meeting candidate or not. She had checked the code pertaining to this. It says that "when the office of a member of the legislative authority becomes vacant, the vacancy shall be filled by election by the legislative authority for the unexpired term. If the legislative authority fails within 30 days to fill the vacancy, the Mayor shall fill it by appointment". Mr. Vianello again asked Ms. Palazzolo if she had committed a vote for the person in question and she said she had not. She said she would consider anybody available. Mayor Policastro asked how this person came to submit his letter. Did someone call him? Mrs. Graves said it was in the minutes that Mr. Hawkins was resigning. She said everyone has been talking to people and this person is in Mr. Hawkins' district. Mayor Policastro said the districts are out the door. We cannot talk districts here. Mrs. Graves said they had talked to people who live in the same neighborhood as Mr. Hawkins. Mr. Hawkins said Council doesn't have to vote for someone from that district, but we can still talk about districts. Mayor Policastro said there is a lawyer who has said he would sue the Village if we talk about districts. Solicitor McTigue said we have two voting districts in the Village and we cannot have anything to do with Town Meeting. If Town Meeting wants to get together on their own and nominate someone, they can do so, but the Village cannot have anything to do with it. Ms. Palazzolo said they would be happy to consider a Town Meeting candidate.

Mrs. Graves said that if anyone wants to be on Council, they can submit a letter like Mr. Raeon did. Mr. Vianello said he doesn't believe this should be Council's decision anymore. He believes it is so tainted that it needs to go to a vote of the people. Mrs. Graves disagreed that the process is tainted and having the residents vote is not the law. Solicitor McTigue said if the process was tainted, that would be contrary to the law. He does not know if it was tainted or not, but the law is clear on open meetings. You are all denying you made a decision outside of an open meeting and he doesn't have any evidence that happened. However, the series of telephonic communications and the series of emails or text could constitute a public meeting violation, if that took place. If it did take place, then anybody who would be subsequently voted in at an open meeting would be subject to removal. It's not a valid vote if that did, in fact, take place. He does not know if it did take place. Only the people involved would know whether there is a series of text messages or emails where one person says they met with someone and think he's a great guy and another person says they met with him, too, and think he'd be great on Council and I'm going to vote for him. If something like that occurred, then we've got a problem. Mayor Policastro said we don't know if that happened, but it does sound fishy that there was no Sunshine involved in these conversations. Ms. Palazzolo said they have to place phone calls to each other to do their work. Ms. Schwartz said we talk about transparency all the time. Mayor Policastro said it's OK to talk one-on-one, but when you have four people doing it, it's a problem. Solicitor McTigue explained that the problem exists when you have a majority of Council involved in the communications. There is case law that talks about that. Mayor Policastro said the last thing he wants is a lawsuit. He listened to Mr. Vianello and thinks a vote of the people may be the best way to go. Ms. Palazzolo said that is not the law. That is not how we choose a replacement. She said we can go 'Charter Village' and start to make our own rules and

she thinks that might be a good idea for the Village, but we don't have time to do that before July 31st. Mr. Marsland said he would not be present for the first meeting in August. Mayor Policastro said we could hold a special meeting.

Bob Van Stone, 4050 Lytle Woods Place, Mariemont, Ohio, was given permission to address Council. He read the following statement:

I have heard rumors of the behind the back political shenanigans going on about the replacement process for a council member who is resigning. I find this type of activity by members of Mariemont Village Council repugnant and offensive. We expect better from our elected and appointed representatives. In the name of full transparency, I am requesting the full release of all communications on this subject including all contacts, meetings, email, text messages, and voice mail to be released in accordance with Ohio code 149.43.

Mr. Van Stone presented Council with a letter, which he requested be read into the record. Fiscal Officer Borgerding read the following:

July 23, 2018

Village of Mariemont Village Council
6907 Wooster Pike
Mariemont, Ohio 45227

Mayor Policastro:
Council Members Avia Graves; Troy Hawkins; Eric Marsland; Maggie Palazzolo; Kelly Rankin; Mary Ann Schwartz

Pursuant to Ohio Revised Code 149.43, I am requesting the following public records:

1. Any communications or documents between, sent by, or sent to Maggie Palazzolo, Avia Graves, Eric Marsland, Troy Hawkins, Mary Ann Schwartz, and / or Kelly Rankin regarding Frank Raeon.
2. Any communications or documents from Maggie Palazzolo, Avia Graves, Eric Marsland, Mary Ann Schwartz, and / or Kelly Rankin informing Mariemont residents that Troy Hawkins is resigning his seat from Village Council.
3. Any communications or documents from Maggie Palazzolo, Avia Graves, Eric Marsland, Troy Hawkins, Mary Ann Schwartz, and/ or Kelly Rankin informing Mariemont residents about how to be considered for appointment on Village Council for the soon-to-be available Village Council seat.

Communications include emails, text messages, letters, and /or documents in written or electronic form. Please provide any such communications from May 1, 2018 - July 23, 2018.

A reasonable and timely response to this request is expected; otherwise I will be forced to initiate legal action to ensure compliance.

If you have any questions about this request please contact me at rvanstone@fuse.net

Robert Van Stone

Mr. Vianello asked if that included any active and deleted messages. Mr. Van Stone said if there are messages that have been deleted and forensic specialists are needed to retrieve them, then that is what would have to be done. Mr. Hawkins said there wouldn't be any communications before July because he had not shared that information. He did share it with other Council members individually out of respect to them. It was more of a courtesy. Mr. Van Stone said this smells so bad that the stench of it would put whoever you pick in a highly compromised position. It appears it's been done behind our backs. Whether it was or not, it sure looks that way and he doesn't know how you will convince people that it wasn't. Mr. Hawkins said he saw how things were when Mr. Wolter resigned. It was messy. He was trying to do what he could do make it smoother by informing people. It was in the minutes of the July 9th meeting. He feels Council is in a 'darn if you do, darn if you don't' situation. We don't have a good way to get a message out to the Village. People don't seem to like Nextdoor Mariemont that well. He said that in hindsight maybe that is one thing that could have been done.

Ms. Schwartz said she believed the Mayor was waiting until Mr. Hawkins actually left – or closer to the time Mr. Hawkins left – to put something out there. She thinks it's the Mayor's job to do that. She is not saying we can't tell people that the seat is open. Just like it used to come out from that other entity, it should come out from the Mayor's office. Maybe we do put it on Nextdoor Mariemont or the posting boards. Ms. Palazzolo said it was put out there because it was in the minutes of the last meeting. Ms. Schwartz said she believes Mayor Policastro was waiting, out of respect for Mr. Hawkins, to announce it when it was closer to him leaving. Then all of a sudden we hear that there is already a candidate that's been decided on. Mr. Hawkins said when Mr. Wolter resigned there was a vacancy which meant committees only had two members. It was harder to have a quorum. His intension was to give notice as soon as he knew he would be leaving so that the position could be filled and he would have stepped down as soon as his replacement was voted on.

Mr. Van Stone said all it would have taken is for an announcement saying if anyone was interested in serving, they needed to submit a letter by a certain date. None of that happened. Instead what has happened is some communication that was not in the light of day. Apparently, it's been whittled down to one individual, no matter how qualified that individual is, and other people did not get the opportunity to say they were interested. He said the stench is unbelievable. Mr. Hawkins said so many things here become big issues that don't need to be. Ms. Schwartz said this is a big issue. Mr. Van Stone said he wants all of this communication made public so we can clear the air. What has happened has put Council in a very bad light. Mr. Vianello said we need to talk about how to go forward. He said the candidate in question probably does have good qualifications. He doesn't know anything about him except that someone said earlier his name is Frank. But we need to let other candidates be part of this process and then have a Village-wide vote on those candidates. Ms. Palazzolo said we can't do that. Mayor Policastro said we can. Mr. Vianello said what has happened here is not right. He believes it is a tainted discussion at this point. He knows Ms. Palazzolo said she did not commit to a vote for this person, but somebody in this group did, because somebody called Mr. Marsland and then he called the Mayor. He admitted to that. Mr. Marsland said he was never told of anyone's commitment to vote. That was his impression. Mr. Vianello said we should let that candidate still be in it, but give the people of the Village an opportunity. If Bill Brown wants to run, great. Let people vote on it. If Frank wins, he wins. Ms. Wendler asked if the residents are supposed to vote on it. Ms. Palazzolo said our law explicitly says Council is to vote on it.

Rob Bartlett, 3611 Mound Way, Mariemont, Ohio, was granted permission to address Council. He suggested a proposal of waiting a couple of weeks. Make it available for everybody to put their names

in and then vote on it at the next meeting. Nobody is trying to force the vote tonight. Mr. Vianello said the problem is that somebody here is not telling the truth. Mr. Bartlett said if Council waits two weeks and gives everyone a chance to put their names in the hat, it would be the best way to move forward. He said he disagrees with all these claims that it's tainted and has a stench. He said this process is so much like the process when Mrs. Rankin was voted on Council. There was no official announcement from the Village that Mr. Wolter had left other than what was in the meeting minutes. This in being handled that exact same way. Ms. Schwartz said it was different because we had Town Meeting. It was announced at Town Meeting. Mayor Policastro said we are no longer allowed to discuss Town Meeting. Mr. Bartlett said that hasn't changed the actions of Council. You put it in the minutes so it's out there for the people to see. Mayor Policastro said no one has quit yet. Mr. Bartlett said it is in the meeting minutes that Mr. Hawkins is resigning. Mayor Policastro said he is resigning; he has not resigned yet. Mr. Bartlett said it's the same as when Mr. Wolter resigned. Mayor Policastro said Mr. Wolter didn't resign. He just quit. His resignation was effective the same night he announced he was leaving. Mr. Bartlett said it makes sense it makes a lot of sense to give people a chance to participate in the process, but if the Village opens it up to a general election, there will be a lawsuit. It's in the law how this is supposed to be handled and it's in the Ohio Revised Code. He repeated that if it went to a general election, there would be a lawsuit. Solicitor McTigue said that Mr. Bartlett's suggestion makes a lot of sense. It should be put out there that there is a vacancy on Council. Mr. Van Stone has made what he sees as a public records request. If the documentation that is provided in response to that public records request shows that there has been improper communication or deliberation, then that is going to seal the deal. Any subsequent election, even if it was done in an open meeting, would not be valid. That's what the law says. Mr. Van Stone said he would like the public records request results be revealed before the vote is taken. Mr. McTigue said that could be done. Mayor Policastro asked who would be assembling the results. Ms. Palazzolo said neither a private citizen nor a member of Council should be involved. She thinks Mr. McTigue should or another attorney should collate them. Mr. McTigue said he would be happy to get involved, but legally the response is to go to the person making the request. Mr. Van Stone said he would do it. He said the purpose of the request was to open up and bring light to it. He will bring the documents back to Council so it can be part of the public record. Mr. Hawkins said it's going to take time for people to assemble those records. It's going to take time for Mr. Van Stone to review them. In the meantime, this process will go forward. Someone will be selected following the rules as they are. You can come back after the fact and review that. That is how this process should lay out. Mayor Policastro said we are going to go by the law. Mr. Hawkins said delaying things until the information is collected would be bad for the Village, because as we go through the process of meeting this request, other business is still going to be happening. He said this is exactly what he did not want when he said he was resigning. He did not want to leave a mess. He thinks there are a lot of good candidates out there. He did meet with the person who submitted the letter of intent and thought he would be good for Council. He did not commit his vote to him. He doesn't think communication has been as good as it could have been. He could have asked Mr. Vianello if he was interested since they live on the same street. He does not think the process was tainted. Mr. McTigue asked how Mr. Hawkins came to know the person he spoke with about taking his place on Council. Mr. Hawkins said it was because of letter of interest Mr. Raeon sent. Ms. Schwartz said she wanted all of Council and the citizens of Mariemont to know that she was not part of the back-room maneuvering to bring Frank Raeon to a quick vote and thus eliminate the chance for other citizens to express interest in running for the open Council seat. She said this does stink and this election is horribly tainted.

Bob Blum, 6601 Mariemont Avenue, Mariemont, Ohio, was granted permission to address Council. He said he wanted to know if any Council members were involved in any discussion prior to this meeting to decide or talk about that Frank Raeon would be the candidate. Mrs. Graves said that Frank submitted his letter of intent to all of Council and to the Mayor. She said she emailed him back and asked if he would like to meet. They met for coffee and she thought he was a nice person. She told Mr. Marsland that she thought he was great and that was it. Mr. Hawkins said after he got the letter of intent, he invited Mr. Raeon to his house and they sat on the front porch for two and a half hours. He thought he was a nice guy and that's it.

Mr. Marsland said that Ms. Palazzolo called him and asked if he thought Mr. Raeon would be a

good candidate. He did think so. He has known Mr. Raeon from working on other things. He feels this is like the procedure they used with Ms. Rankin. He did discuss this with Ms. Palazzolo and they thought Mr. Raeon would be a good candidate. He then got a phone call from Mrs. Graves after she met with Mr. Raeon and she said she thought he was a good candidate. Mr. Marsland said that in this process he said multiple times that he thought we need to do things better. We need to slow down and get Mayor Policastro on board. He said he would give all of this communications to Mr. Van Stone. He did call Mayor Policastro when the idea of having a vote tonight was floated about, thinking that getting it on the agenda was the best alternative. It was his impression that the votes were there, but no one told him how they were going to vote. He said that if anyone has anything to show that things are different from how he remembers them, they should tell him. He said he indicated in messages that he thought this was happening too fast. Ms. Schwartz said that if you are having a vote for just one candidate, then the outcome is already known. Ms. Palazzolo said we could have voted no. She said we could have somebody walk into this room who is clearly not somebody we would want and two of us could vote yes and the rest of us could vote no. She said she can think of a list of people that would happen with. Ms. Schwartz said she believes this was a hand-picked candidate, so he would have had the votes.

Ms. Palazzolo said she met Frank Raeon when she was canvassing for the campaign. When they chatted, she found out his background was in site selection and real estate. He had some ideas for the Square that she had not considered, because it's not her area of expertise. She thought then that they should have lunch someday. That never happened, but when Mr. Hawkins called her on a Friday night to say he was resigning, she said we are all going to start brain-storming on some people that may be interested or available and have the right competency to fill the knowledge gaps on our current council. Over the next week or two, Mr. Hawkins said he had spoken to several people about his council seat and they all said they either weren't interested or didn't have the time. She told Mr. Hawkins she knew of someone who lived on the same street as Mr. Hawkins and she would contact him. She then remembered that Mr. Raeon had some good ideas about the Square. She called Mr. Marsland, because she knew there was a history between Mr. Raeon and Mayor Policastro and she didn't want to cause a nuclear bomb to explode without good reason. She asked Mr. Marsland if he thought it was worth calling Mr. Raeon. Mr. Marsland said he thought it was a terrific idea. She then called Mr. Raeon and let him know Mr. Hawkins was resigning. She told him that he lives in the right part of the neighborhood where he knows the traffic patterns and the drainage issues. She said he lives on the side of this giant hill where people have been having trouble. That in combination with his background in real estate and development would make him a good candidate to fill a place on Council where we don't have an expert in any of those areas. She said Mr. Raeon said he is partly retired now and it was definitely something to consider. Mr. Raeon said he had a past with Mayor Policastro and they don't always get along. He said they have had it out in the past and he didn't want to join the team if every idea he presented would get nixed. Ms. Palazzolo said she told him that Council works pretty well together and she felt they could work it out. Mr. Raeon said he would do it and asked her to throw his name in the hat. Ms. Palazzolo said she told him that we don't really have a firm process for this. We used to go one direction and now we may or may not caucus for somebody. She suggested he put together a resume and send it out so everyone would know who he is and that he was interested in being on Council. Ms. Palazzolo said she then called Mr. Marsland to let him know Mr. Raeon wanted to be a candidate and then we all received his letter of intent.

Mrs. Rankin said she read the letter of intent, but she has not spoken with Mr. Raeon. Mr. Blum asked if she had talked with other Council people about him. She said Ms. Palazzolo sent her a text message with his phone number and that was it. She did not meet with him and she did not promise a vote.

Ms. Schwartz said she had had no communication at all. She said this group tends to leave her out. Mr. Blum asked if she had received a text and she said she had not. Ms. Palazzolo said she sent the number to Mrs. Rankin because Mrs. Rankin is brand new. Ms. Palazzolo said she also sent a text to Mrs. Graves with Mr. Raeon's phone number, but just his contact information and nothing else.

Mr. Blum said it seems all this information was being gathered, but nobody else was being considered. Ms. Palazzolo said no one else said they were interested. Mr. Blum said that is because no

one else knew. Ms. Palazzolo argued that it was in the minutes of the last meeting. Ms. Schwartz asked if Ms. Palazzolo ever considered calling the Mayor and asking him when he was going to make the announcement. Ms. Palazzolo said she had not. Mr. Vianello asked Mayor Policastro if anyone on Council had called him to and tell him that they had a candidate they think would be great or was that just something they did among themselves. Mayor Policastro said he was not included at all. Ms. Palazzolo said this is solely because, if you read our code, it is not the Mayor who appoints. It is Council's job. The Mayor already has a job and he is very busy. Mrs. Graves said she thought everything was being done the exact same way as it was done when Mrs. Rankin came on Council. Mayor Policastro said it wasn't. He said Town Meeting met right here and Town Meeting was in play. He took it out of the process. Mr. Hawkins said you can't take Town Meeting out of the process. He said the Mayor is not involved in Town Meeting. Mayor Policastro said is no longer involved in Mariemont with Village Council. He said it is an entity in itself and they can do whatever they want to do. He said he took Town Meeting out of our website and everything and the districts and everything is gone. He said he made it very clear that from now on, Council will have the say. Mr. Vianello said the code says that if the opening goes for more than 30 days, the Mayor could appoint someone. He said it will take a while to get the information to Mr. Van Stone and it will take a while for a legal mind to evaluate it. So, if it goes more than 30 days, couldn't the Mayor present a group of candidates and Council could vote on those candidates. Ms. Palazzolo said Council cannot vote after 30 days. She said the 30-day condition is there so that if Council could not reach a consensus, then the Mayor gets to have the say, but that is a worse-case scenario. Mayor Policastro said he could sign an affidavit and say he won't do anything or whoever Council picks, it could be 30, 40, 50 days whoever the people pick or you (Council) pick. He did not quite understand the scenario. Mr. Vianello said Mr. Bartlett said to give it some time, so why doesn't Council do that. Get a group of candidates that can come before Council to sell themselves on why they are a good candidate. If it goes more than 30 days, but the Mayor signs an affidavit that he will not force the issue and will let Council vote, that might be one way to resolve it. He said he is still wanting to see the evidence before Council moves forward on a vote. Mr. Blum said that as a Village resident this does not sound like what he would expect our Village Council to do, to say we're going to have a person's name, not involve everybody, and all of a sudden have a vote tonight. Apparently there was a discussion about that happening since all of this has come up tonight.

Mr. McTigue said that in his world people talk about something that is improper and it may or may not be improper. As lawyers, we are held to the standard that if it's perceived as improper, even if it is proper, we're wrong for doing it. It comes down to something having the appearance of impropriety. He said if we get a response to the public records request, that should give you some idea if there was in fact a violation. If there was, there was. If there wasn't, there wasn't. He likes Mr. Bartlett's idea of putting the word out to the citizens and say that if there are others besides Mr. Raeon that would be interest, then Council votes like they always do. Someone moves to appoint someone and someone else seconds it, then you vote on it. It's a nice thought about having it be up to the citizens, but it is against our code.

Mr. Blum said he understands the issue about the code, but he is concerned that the citizens weren't even given the opportunity to put their name in and Council members should have been asking who else could be considered. Ms. Wendler asked how long Council members have to reply to Mr. Van Stone's request. Mr. McTigue said the law says a reasonable period of time. It doesn't seem like the documents being requested should be that voluminous. We certainly should be able to get them before the next Council meeting. Mr. Bartlett said it seems like you would have to have a lawyer assess the records that are turned over to determine if there was a Sunshine Law violation. Mr. McTigue said he would be happy to review the records if Mr. Van Stone would compile them. Mr. Van Stone said he would agree to that. Mr. McTigue said that there is case law that is very specific about what is and what is not a violation. The courts are all over the board about what is and is not a violation. It needs to be pretty clear-cut. The deliberations is the real touch-stone word. Ms. Wendler asked if it would nullify their vote of someone that wasn't Frank Raeon if it were determined that there was a violation. Mr. McTigue said it would and the Mayor would then have to appoint. Mayor Policastro said you would have to file a lawsuit. Mr. McTigue said you would have to file a lawsuit. The code says that if anyone is subsequently elected in an

open meeting and then you find out that person was deliberating upon and agreed upon in an improper meeting, then somebody can file a lawsuit to have that appointment or election found to be invalid. You would have to have a lawsuit to do that. Ms. Wendler said she was asking if a different person other than the one that was decided upon improperly were elected or appointed, would that appointment be invalid also. Mr. McTigue said that appointment would be valid. Ms. Wendler asked if that means Council could move forward and elect someone else without the public records request being a threat to that process. Mr. McTigue said that is correct. Mr. Bartlett asked Mr. McTigue if that information is in the Village Code of Ordinances or the Ohio Revised Code. Mr. McTigue believes it is in Code # 121.22 (H).

Mr. Hawkins said that things in the Village seem to have a way of taking on a life of their own beyond the issue at hand, such as filling a vacancy. This seems to be another case of that. There was a candidate. The candidate submitted a letter. People talked to that candidate. Mr. Marsland thought we had the votes. Council was trying to act expeditiously to fill a seat. If he communicated something about his vote it was that he didn't intend to vote since he was resigning. He said he would just encourage people to take a deep breath, schedule a meeting, and let everybody speak their peace.

Mayor Policastro said that is just the point. People need the opportunity to speak their peace and you weren't allowing it. He said he knows this Village pretty well and he knows Frank Raeon pretty well. He's not very well liked. If the people voted, they would not vote for Frank Raeon. Mrs. Graves said the Mayor should not speculate how the people will vote. You don't know how they would vote. Mayor Policastro said Mr. Raeon tried to build an office building in Dale Park. This happened about eight years ago and when the word got out, I got so many phone calls and petitions to stop it. Frank Raeon also wanted to tear down the tennis courts and build our Village office building there and put the tennis courts down by the river. He didn't care about the kids and how dangerous it would be down there or the fact that it floods every year.

Mr. McTigue said that is one of the reasons you have open meetings. What Mr. Vianello suggested and what Mr. Bartlett suggested is reasonable. Mayor Policastro said he thinks people need to know the history. Mr. Vianello said Mr. Hawkins did what he believed was right. He said he is not convinced that Mr. Raeon is a bad candidate. He thinks if you allow other candidates to come in, the task then is for Council to vote on who they think is the best candidate. At the end of the day, we have to go with Council. At this point, he is not certain in his mind that he can be totally convinced that Council did not talk about this with each other behind the scenes. He said Cincinnati City Council is going through this right now. It does not require two or three or four of you to be together. It can be a series of individual communiques with that person. He said that he feels the way Mr. Blum does. He expected more of Council than this. He said he would have expected Council to say that there was a candidate and they should get together and interview him in public. Let's get together and tell Mayor Policastro we have a candidate and not get to a position where you're calling a vote on it like this. It's almost like you're trying to get this done real quick before people found out about it. He said there are at least ten people over in his area of the Village that are furious about it.

Mr. Bartlett asked what Mr. Vianello would suggest moving forward. Mr. Vianello said he is proposing that the Village make an announcement that there is an open position on Council and give people a short window for other candidates to submit a letter of interest. Then Council could vote on it and be done with it. Mayor Policastro said that as soon as Mr. Hawkins is officially gone from Council, then he will get a notice out that a position is open. Ms. Wendler said we would then have a gap in resources. Mr. McTigue said we would still have a quorum.

Bill Brown said that he would have liked to have been considered for this position. Had he known that you were moving ahead so rapidly with seeking and interviewing a candidate, he would have submitted a letter. By the time he got the notice, it appeared as though a decision had been made. All he really asks is, if there are going to be other residents that are going to submit applications, himself included, that Council assures him that he is going to be given, at bare minimum, a fair shake when I come before you. He said when he hears Ms. Palazzolo raving about how great Mr. Raeon is and how he has all these

qualifications, he wonders if he can be given an honest, fair evaluation of his qualifications. He said if he can get that, even if they turn him down, at least he will go away knowing he got a fair shake.

Carolyn Tuttle, 6806 Mount Vernon Avenue, Mariemont, Ohio, said all the residents are asking is that the notice be put out, post the deadline, and let the people apply, and that's it. Ms. Palazzolo said she assumed if people come to meetings or read the minutes, then they knew.

Mrs. Rankin asked what the best way to put the notice out would be. Mayor Policastro said when we had Town Meeting, we put a flier on everybody's doorstep in that district. Ms. Palazzolo asked how Council should do it now that we aren't having Town Meeting. Mayor Policastro said he has a team of about 40 people who pass out the bulletins. He could ask them to do it. We need to put it on the website, on the calendar, on the posting boards, every means we have. Ms. Palazzolo asked if we can set a special meeting date tonight. Mayor Policastro said we first have to let the people know. We have to determine a deadline.

Mr. McTigue said he thinks our plan moving forward should be to disseminate the information to the community that there is a vacancy on Council, be that by fliers, emails, or whatever. Just use common sense. Have a deadline to for people to submit a letter of interest and then schedule a special meeting on a date when all five Council members can be there. It should be a special meeting for the sole purpose of Council voting on any applicants that that have applied.

Mr. Brown asked if there would be an evaluation process. Some members apparently met with Mr. Raeon. Ms. Palazzolo said she would think so. Mrs. Tuttle said the applicants should come to the special meeting and be given three minutes to present themselves to Council. You cannot let them just talk and talk. Give them a time limit and then either vote that night or have a separate meeting to vote. Ms. Schwartz said other people may want to come in and have three minutes to talk in support of a candidate. Mrs. Graves said she would love to see more interest from the community.

Debbie Brown, 4030 Lytle Woods Place, Mariemont, Ohio, asked if Mr. Van Stone's request would put a hold on Council moving forward with selecting someone for Council. Mr. McTigue said it would not, because we still have to comply with what the code says. Mrs. Brown asked what would happen if a lawsuit was filed about it. Mr. McTigue said the lawsuit would not keep things from moving forward unless they were to get an injunction. He doesn't think anyone would go that route. The suggestions being made tonight are pretty reasonable. Just put out the notice. He thinks once people know there is a position open on Council, there may be quite a few people who would be interested. When you have the special meeting to vote and there is something in particular about one candidate over another that the community likes or dislikes, then they would have an opportunity to come in and voice their opinion. The special meeting should be done within the 30 days so that it can be a vote of Council rather than an appointment by the Mayor. Mr. Vianello asked that we make it clear that candidates don't have to come from District 6. They can come from throughout the Village. Mr. McTigue said that is correct.

Mr. Van Stone suggested that when you send out the announcement, you describe what the interview process will be. People should know that the three-minute presentation at the special meeting is not how the candidates will be interviewed. He said they should also agree that they wouldn't talk to each other about the candidates until the meeting. Mr. McTigue said that is a good point. Mr. Van Stone said Council needs to agree to some rules. Those rules should also be listed in the notice. Mr. Hawkins thinks is impossible to have a super defined process. Mr. Van Stone said it is not hard to say that Council members will not talk to each other about their assessment of any candidate until the public meeting. Ms. Palazzolo said that many of the Council members are friends and they may just mention in passing that they like a certain person. That is different from saying you are voting for one person over another. It is somewhat of a fuzzy area. Mr. Van Stone said the issue is to be transparent to the citizens.

Ms. Schwartz said we had a similar public records request from a journalist several years ago. Everyone had their documents within a couple of days. Mr. McTigue said that everyone has a joint interest

in making sure the process moves quickly.

Mayor Policastro adjourned the meeting for a ten-minute break at 8:21 PM. The meeting resumed at 8:30 PM.

Mr. Marsland asked if we should go ahead and schedule the special meeting. Ms. Palazzolo asked if anyone would be opposed to setting the meeting for the candidates to come in and then have Council vote on the same night. It could be scheduled for July 31st. Mayor Policastro said that is not enough time to get the notice out and have people respond. He said that no matter when the meeting is scheduled, he wanted to make it clear that he is not going to make a decision himself on Mr. Hawkins' replacement. He said he wants Council to make that decision.

Mr. Hawkins said he wanted to clarify that Mr. Van Stone was going to compile the replies to his public records request and then Mr. McTigue would review them. Mr. Van Stone said he would compile them and give them to Mr. McTigue, who said that anyone was welcome to come and review the records with him. Mayor Policastro said it might be better for Mr. Van Stone's attorney to review the records. Ms. Palazzolo said having Mr. McTigue do it could be a conflict of interest.

After further discussion, it was decided that a notice would be sent out announcing the opening on Council and giving all those interested in being considered for the position to submit a letter of interest by August 13, 2018. The special meeting to vote on the new Council member will be on Tuesday, August 28th, at 7PM.

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

Mr. Hawkins moved, seconded by Ms. Palazzolo to accept the report of the Rules and Law Committee which met on July 9, 2018, at 6:30 PM to discuss retaining the services of a municipal attorney. Attendees were Committee Chair Maggie Palazzolo, Vice-Chair Mary Ann Schwartz and Member Eric Marsland, Mayor Dan Policastro, Police Chief Rick Hines, Jack Hemenway, Village Solicitor Ed McTigue, Kelly Rankin, and Rob Bartlett. The committee discussed retaining the services of a municipal attorney in addition to Solicitor McTigue. Jack Hemenway, a village resident, from Frost made a presentation regarding the services offered in their municipal law division. Solicitor McTigue was present and commented that he believed his services were adequate, and that he would be willing to collaborate when he thinks he needs additional input and is happy to do it with Frost if that is what the village chooses. The committee unanimously agreed to sign an engagement letter with Frost to allow us to use their services as needed.

Solicitor McTigue asked who would determine if additional input is needed. It should not be up to Council members. Ms. Schwartz said she had a similar concern. She wanted to know if we are obligated to use just this one attorney or this law firm if we sign this engagement letter. Ms. Palazzolo said this is a letter of engagement, not a contract stating that we can only use this particular law firm. Mayor Policastro said fees had been discussed with the letter of engagement. Mr. McTigue said Mr. Hemenway was very candid in saying that if Council asked him to handle a matter and it was over his head, there are other people at his firm that could handle it. Mr. McTigue said different lawyers within that firm have different hourly rates. While Mr. Hemenway may charge a reasonable rate, he know that others in the firm charge \$600 per hour. He said he thinks the report should be amended to say who makes the determination when and if to engage Mr. Hemenway's services. Ms. Palazzolo said signing the engagement letter is just the first step. We would then need to have a second meeting to determine our standard operating procedures of using an alternative attorney. Mr. McTigue said he had always been and would always be candid with Council and the Mayor if something came up and he felt he was not the best person to handle it. He has been the solicitor for twenty years and he hopes Council would trust him to know when he was over his head and that he would seek outside Council if something like that happened. If something like that happened, then Mr. Hemenway could be in the 'bull pen', so to speak, but he does not believe Council should have carte blanche

to call upon Mr. Hemenway. Mayor Policastro said we need to negotiate the cost with whoever would fill in for Mr. McTigue. Ms. Palazzolo said that signing the engagement letter would allow Mr. Hemenway to go ahead and make sure he wouldn't have any conflicts of interest and that would prevent any delays should we need to call upon him. After further discussion, it was decided that the final sentence in the report would be amended to read as follows: "The committee unanimously agreed to sign an engagement letter with Frost to allow us to use their services as needed as may be determined by the Village Solicitor and the Mayor". Ms. Palazzolo moved, seconded by Ms. Schwartz to amend the report. On roll call: six ayes, no nays. Ms. Palazzolo moved, seconded by Mrs. Rankin to accept the amended report. On roll call: six ayes, no nays.

Mr. Marsland moved, seconded by Ms. Palazzolo moved to accept the recommendation of the Rules and Law Committee which met on July 16, 2018, at 6:30 PM to discuss extending the probationary period for new employees. Attendees were Committee Chair Maggie Palazzolo, Vice-Chair Mary Ann Schwartz and Member Eric Marsland, and Police Chief Rick Hines. The committee discussed changing the probationary period of new hires in the police, fire and service departments from six months to one year. He informed us that since the department's employees are not in a regular situation where their supervisors can evaluate them and their work on a daily basis, but instead out in the field, it is difficult to know whether the person is the right one for the job in only six months. He also informed us that the standard probationary period for this type of employees is 12 months. The committee unanimously agreed to recommend the six month probationary period be changed to 12 months for new hires to the police, fire and service departments. On roll call: six ayes, no nays.

Mayor Policastro made the following miscellaneous announcements:

We need an update on the Steam Plant. Mayor Policastro said he and Bill Brown and Mrs. Rankin would be meeting with the neighbors who have property at the top of the hill above the Steam Plant to look at the survey and explain to everyone what is our land and what land belongs to the developer. We are going to try to have that meeting on Thursday. There will be a meeting with the developer later.

Mayor Policastro referred the renewal of the Village's liability insurance policy to the Finance Committee. Mr. Marsland said that the Finance Committee needs to have a meeting to discuss liability insurance and a post-retirement contract for Police Chief Hines.

Mayor Policastro referred the renewal of the trash contract to the Public Works and Services Committee. He said this would be the first one-year extension of the current contract with Rumpke and they are doing a pretty good job.

Mr. Hawkins said he would like to discuss openings on a couple of the boards. He said there are openings on the Parks Advisory Board and the Swim Pool Commission. He had recommended Martin Koepke to fill an opening there. Mayor Policastro said that Louise Schomburg is president of the Parks Advisory Board and he leaves it up to her to make recommendations for new members. Ms. Schwartz explained that what the Parks Advisory Board really needs are 'worker bees', meaning someone willing to actually do the hard work of maintaining the Village's flower beds and green spaces. Mayor Policastro said there may be one position open on the Swim Pool Commission. He said he would put it in the next bulletin.

RESOLUTIONS:

"Adopting the Budget for 2019; And To Declare Emergency" had a first reading. Ms. Schwartz moved, seconded by Ms. Palazzolo to suspend the rules to allow for the second and third readings. On roll call: six ayes, no nays. The resolution had a second reading. Fiscal Officer Borgerding explained that the resolution needed to be passed as an emergency due to a deadline from the county. The resolution had a third reading. Ms. Rankin moved, seconded by Ms. Palazzolo to adopt the resolution. On roll call: six

ayes, no nays. Mr. Marsland moved, seconded by Ms. Schwartz to invoke the emergency clause. On roll call; six ayes, no nays. **Resolution No. R-22-18 was adopted.**

ORDINANCES:

“To Amend Ordinance O-12-18 of the Mariemont Code of Ordinances to Increase Payment for Employees; And To Declare Emergency” had first reading. Ms. Rankin moved, seconded by Mr. Hawkins to suspend the rules to allow for the second and third readings. On roll call: six ayes, no nays. The ordinance had a second reading. The ordinance had a third reading. Mr. Marsland moved, seconded by Ms. Palazzolo to adopt the resolution. On roll call: six ayes, no nays. Ms. Rankin moved, seconded by Ms. Schwartz to invoke the emergency clause. On roll call; six ayes, no nays. **Ordinance No. O- 20-18 was adopted.**

“Ordinance to Modify Section 34.05(B) of the Mariemont Code of Ordinances; And to Declare Emergency” had first reading. Ms. Schwartz moved, seconded by Ms. Rankin to suspend the rules to allow for the second and third readings. On roll call: six ayes, no nays. The ordinance had a second reading. The ordinance had a third reading. Mr. Marsland moved, seconded by Mrs. Rankin to adopt the resolution. On roll call: six ayes, no nays. Ms. Schwartz moved, seconded by Mr. Hawkins to invoke the emergency clause. On roll call; six ayes, no nays. **Ordinance No. O-21-18 was adopted.**

The meeting adjourned at 8:59 p.m.

Dan Policastro, Mayor

Anthony Borgerding, Fiscal Officer

