

**VILLAGE OF MARIEMONT
REGULAR COUNCIL MEETING HELD IN COUNCIL CHAMBERS
MAY 13, 2019**

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. Bartlett, Mr. Brown, Mrs. Graves, Ms. Palazzolo, Mrs. Rankin and Ms. Schwartz.

Ms. Schwartz moved, seconded by Mrs. Rankin to accept the minutes as written for April 22, 2019. Mr. Bartlett asked for clarification. In the previous minutes it indicated that Assistant Fiscal Officer Wendler would be providing the new expense and revenue reports quarterly and his understanding was that the reports were being generated monthly. Ms. Wendler indicated that they were being prepared monthly. Mr. Bartlett indicated that he did not need the minutes changed to reflect that. On roll call; five ayes, no nays (Ms. Palazzolo abstained)

Mr. Brown moved, seconded by Mr. Bartlett to amend Council's current agenda to add the reading of the Bond Ordinance to refinance the note Council took out to pay for the building addition. On roll call: six ayes, no nays.

Ms. Brenda Wehmer from Dinsmore & Shohl LLP explained that the addition to the agenda was an Ordinance to Authorize the Bond in replacement of the note that was taken out to finance the building addition. The original note was for \$850,000 then renewed for \$623,000 and after the grant monies were received and paid on the note the Village needs a bond for the remaining \$450,000 in debt. The note is not due until June but the bank has allowed the Village to pay off the note early without penalty. The Village will be taking out a bond for \$450,000 at a 3.6% fixed rate. Mayor Policastro asked if there was a penalty if we paid off the bond early. Ms. Wehmer is unaware of the terms regarding pre-payment of the bond and referred Council to PNC bank. The payment schedule for the five year re-payment period is included in the Ordinance. Solicitor. McTigue indicated that this Ordinance regarding the bond would need to be passed as an emergency.

Mayor Policastro read the following communications:

From Police Chief Hines: April 2019 Monthly Report

From Assistant Fire Chief Kiefer: April 2019 Monthly Report

From Service Superintendent Scherpenberg: April 2019 Monthly Report

From Building Administrator Keyes: April 2019 Monthly Report

From Tax Administrator Busam: April 2019 Monthly Report

From Assistant Fiscal Officer Wendler: April 2019 Monthly Report

From Resident Linda Bartlett: Email Dated May 9, 2019 Regarding the "Pioneer Cemetery"

From Dr. Ken Tankersly: Email Dated May 9, 2019 Regarding the "Pioneer Cemetery"

Dr. Tankersly indicated that he disagreed with Ms. Bartlett's email wherein she cited sources that indicated that the wall around the "Pioneer Cemetery" pre-dates the erection of Mariemont Church. He referred Council to the Department of the Interior National Historic Landmark /National Park Service "Form 10900", page 19 which notes that architect Louis E. Jallade designed the Community Church (which we now call the "Chapel"), Lych Gate and cemetery to be medieval in design and structure and to be consistent with how all of Mariemont was intended to be designed. The ground breaking for the church took place November 12, 1923. Construction took place between 1923-1927 with the Farris House being built in 1923. He contends that while there may have been a previous wall there, the

wall that is there now was constructed around 1925. It is constructed of the exact same stone and architecture as the Lych Gate and the church.

Mr. Bartlett indicated that he met with Matt Ayer who is a docent for the Mariemont Preservation Foundation and that he and Mr. Ayer visited the site of the church and wall. Mr. Ayer told Mr. Bartlett that the cemetery pre-dates the church and that when Mr. Jallade had designed the church he designed it to sit at 45 degree angle to the existing cemetery walls. Mr. Ayer showed Mr. Bartlett that the stone and mortar work on the wall was very different from and more primitive than the stone and mortar work found on the church. Mr. Bartlett presented a series of photos to Council showing the aerial views of the construction of the church, clearly visible are the existing cemetery walls indicating that the cemetery walls pre-date the church. Mr. Bartlett indicated that Ms. Bartlett's email cited information found in the book written by Dr. Millard Rogers. Dr. Millard Rogers cited this book in his information provided to the National Historic Landmark application. Additionally the National Historic Landmark application does not cite when the cemetery wall was built but does cite when the church was built.

Dr. Tankersly replied that the existence of the current wall "does not preclude a pre-existing wall. The wall had to be consistent with the architecture of the time." He also questioned the authority of Mr. Ayer who is just a docent. Dr. Tankersly indicated that it had previously been asked whether or not graves extended outside of the cemetery wall. Dr. Tankersly said that in his 43 years of experience he has yet to study a cemetery that did not have graves that extended beyond the cemetery walls. The only way to demonstrate for certain is with probes "and we have found human remains outside the walls." Dr. Tankersly reasserted his disagreement with Mr. Ayer's assessment.

Mayor Policastro indicated that there are two differing opinions but that we know what we need to know- that the human remains found were reported by the University of Alabama to be Native American remains.

Tyler Martin, 6 Emery Lane, was granted permission to address Council. He elected to show a video. The video was recorded from Mr. Martin's home showing a blue Toyota Prius repeatedly failing to stop at the stop signs in front of Mr. Martin's home. Mr. Martin indicated that this was a compilation video of 15 occurrences but that he had many more occurrences recorded. Mr. Martin indicated that the car was driven by Council Member Rob Bartlett and that Mr. Bartlett had been ignoring the stop sign since the sign was put in and voted on almost three years ago. There was a vote in 2016 about the stop sign and Mr. Bartlett drives past his house in protest every day. Mr. Martin wanted to underscore that there were 17 young children that live around his house and failing to stop at the sign creates a dangerous situation. The cars are getting bigger and people are distracted by cell phones. He is afraid a child will get hit. He wants to know what Council and the Chief of Police will be doing about this situation. He wants it addressed and it wants it to stop. He does not come to Council often but when he does it is for serious reasons. He cannot believe that a man sits here passing laws to the community and then does not follow them. How can Council support and get behind that? He asked Mr. Bartlett if he understood. Mr. Bartlett said that he would be happy to come to a more complete stop. Mayor Policastro indicated that it was his belief that the Village could be found liable and legally negligent should anything happen due to Mr. Bartlett's failure to stop now that we have been put on notice to the situation. Mayor Policastro asked Mr. Bartlett to stop and Mr. Bartlett indicated in the affirmative that he would. Mayor Policastro stated that normally he would tell a resident that he has to prove that there is a problem and Mr. Martin has brought in proof. He believes the Police Chief has gotten calls over the years as well. This is kind of embarrassing to the Village and hopes we can learn from this.

Ms. Schwartz said that she is in the area a lot and she has witnessed Mr. Bartlett fail to stop. There is not a stop or a foot on the pedal. She has a problem with Mr. Bartlett's attitude and smirk during Mr. Martin's presentation, as if this were a joke. She takes issue with the fact that he is still smirking now. She has seen that there are many small children on scooters and people with strollers and dogs walking in this street. She feels that Mr. Bartlett should go more slowly and come to a full stop. She feels that it is shameful, especially for a Council Member to not take five seconds time for safety. Mr. Bartlett said he would be interested in watching Ms. Schwartz stop at all the stop signs in the Village. Ms. Schwartz said she does stop at every stop sign.

Solicitor McTigue said that it is incumbent upon the Police Department to pursue heightened enforcement and monitoring in that area now that they have been made aware of a problem. Mayor Policastro says that we only have two police officers on duty and that they are needed at both the grade school and high school and on Wooster Pike. Solicitor McTigue said he understands that and Mr. Bartlett has said he was not aware that he was so blatantly disregarding the stop sign. He is going to try to do better and that is all Council can ask for. If he does it again and a

police officer sees it a ticket will be issued. Mayor Policastro said again he does not want to have to put an officer at that location as they are needed in the mornings by the schools. Solicitor McTigue said he understands that but a Council meeting is not a court of law as to whether or not Mr. Bartlett violated the law. Mayor Policastro said he understands that but he is running the meeting. Mayor Policastro said everyone has a right to say what they want to say. Solicitor McTigue said that is correct and as the Prosecutor of Mayor's court he would not prosecute and file criminal charges based on that video as you cannot prove who is actually driving the car. Mayor Policastro said (if in a court setting) would Mr. Bartlett admit that he was not driving the car when there are witnesses. Solicitor McTigue said if it is taken to trial there are no requirements for Mr. Bartlett to get up and testify as to whether or not he was driving. It's a word to the wise and Mr. Bartlett says he will do better. Mayor Policastro said his concern is for the kids. Solicitor McTigue said he thinks that is everyone's concern. Mr. Bartlett is going to address the point made and asked what more could be done.

Police Chief Rick Hines he understands the concerns and will have his officer's look into the situation. We do need to keep the officers around the schools in the mornings and afternoons but that the police will look into it and hopefully it will rectify itself. He apologized to Mr. Martin that the police have not been more diligent in that intersection but they will be.

Mr. Dennis Wolter, 3804 East Street, was granted permission to address Council. He stated that he is embarrassed that the video situation came to Council rather than one gentleman approaching another gentleman showing the video and say this needs to stop. If it does not then he would go to a higher more impactful way to solve the problem. This is not how we solve problems in this Village. Mr. Wolter turned to Mr. Martin saying he should have contacted Mr. Bartlett man-to-man...Mayor Policastro interrupted and said Mr. Wolter needs to address Council only. Mr. Wolter said he was finished if he was not going to be allowed to speak.

Ms. Marcy Lewis, 5824 Miami Bluff, was granted permission to address Council. She stated that she is concerned about Mr. Bartlett's behavior; he is not stopping or even slowing down. It is concerning to see the video over and over because she knows Mr. Bartlett had a big issue with the stop sign. She is also concerned because Mr. Bartlett does not seem to have any remorse or concern for the fact that he might have hurt somebody. Mr. Bartlett is not slowing down nor is he rolling through the stop sign. She has witnessed it as well when she was behind him. She thinks that is unacceptable behavior for a Council member or any resident of the Village. If she was caught running a stop sign she would expect a ticket and would pay it.

Ms. Schwartz moved, seconded by Mr. Brown 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. Brown provided a verbal report from the Health and Recreation Committee. He and Mr. Bartlett met with officials of the Waldorf School to discuss the erosion of the hillside and what is to be done. He feels that the meeting was productive and Waldorf officials agreed to come up with some acceptable ideas to retain the hillside. He indicated that he had reached out to Wendy Van Buren from the State of Ohio on how to trim the existing trees to get some light to the space. He also reviewed drainage issues at the site. Mr. Bartlett indicated that they will come up with a good set of recommendations to prevent further erosion. Mayor Policastro indicated that he hopes Engineer Ertel can meet with Waldorf to discuss the drainage issues. Mr. Brown said that he and Mr. Ertel can meet with the Waldorf maintenance crew and review the conditions.

Ms. Palazzolo provided a verbal report from the Rules and Law Committee regarding the installation of solar panels. She said that she has been looking into the issue but does not anticipate being able to render an opinion for quite a while due to the volume of research necessary. She has reached out to other communities and learned that there are many solar panel installation configurations, of varying visual appeal. It is a complex issue and she does not anticipate being able to put together a knowledgeable opinion until the first quarter of 2020. She wondered if she should have her committee table the issue but Mayor Policastro indicated that citing 2020 on the agenda would be sufficient.

Mrs. Graves provided a verbal report from the Safety Committee regarding the removal of the fire hydrant on the Spinnenweber property. She indicated that we were still waiting on information from Mr. Spinnenweber with regard to the details included in his contractor's price to remove the hydrant. It was much cheaper (by half) than the

price the Village was quoted but we are still unsure if it includes the scope of work necessary to meet the Village's requirements.

Mrs. Rankin provided a verbal report from the Public Works and Service Committee regarding the curbs and catch basins on Madisonville Rd. Engineer Ertel had contacted Choice One and gotten some figures for the replacement of 378 linear feet of concrete curb, 2 street drains and 60' of pipe to connect the new drains to the existing drains. The bid was \$4,650 to survey the road and provide design/engineering drawings for the curb and the drain placements and \$29,120 for the installation. Mrs. Graves said that she understands that we are getting ready to pave that street but that we have more pressing draining problems that need money spent on them. She indicated that Murray was of concern and that Columbia Township was waiting on a grant decision. Mayor Policastro said that he did not think that Columbia Township would be receiving that grant. Engineer Ertel said that this work would fall under our existing Madisonville Rd OPW grant and that if we wanted to proceed we had about \$25,000 left of our \$200,000 OPW application that provided 40% in matching funds available, up to a \$99,000 limit. So we could do this project and expect to receive about \$10,000 back in a grant/loan as part of the \$99,000. With the project as it stands we are not maxing out our \$99,000 grant/loan but only using \$89,000 roughly as the bid for the Madisonville Road work came in lower than we had applied for, at \$175,000. Mayor Policastro and Mrs. Graves both indicated that there were other places in more dire need of our drainage dollars if we were going to spend more money. Mayor Policastro referred the curbing back to committee.

Mayor Policastro read the following miscellaneous announcements:

- State Auditors will conduct on-site audit work May 16, 2019 and May 17, 2019
- Village Offices will be Closed Monday May 27, 2019 due to the Memorial Day Holiday
- Memorial Day Parade will be Monday May 27, 2019 – Lineup Begins 8:00 a.m.
- Council will be Held Tuesday May 28, 2019 at 7:00 p.m. Due To Memorial Day Holiday
- The Public Hearing on the 2020 Budget will be July 22, 2019 at 6:00 p.m.

Resolutions:

“Fixing a Time for Public Hearing on the 2020 Budget” had a third reading. Mrs. Rankin moved, seconded by Ms. Palazzolo to adopt the Resolution. On roll call; six ayes, no nays. Resolution No. R-9-19 was adopted.

Ordinances:

“Ordinance Amending Section 32.13 of the Mariemont Code of Ordinances, Rules of Council, Section W” had a third reading. Mr. Brown moved, seconded by Mr. Bartlett. On roll call; six ayes, no nays. Ordinance No. O-15-19 was adopted.

“Ordinance Providing for the Issuance of Bonds in the principal amount of \$450,000 by the Village of Mariemont Ohio for the Purpose of Making Building Improvements and Declaring Emergency” had a first reading. Mrs. Rankin moved, seconded by Mr. Bartlett 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. Mrs. Rankin moved, seconded by Ms. Palazzolo to adopt the Ordinance. On roll call; six ayes, no nays. Mr. Bartlett moved, seconded by Mrs. Rankin to invoke the Emergency Clause. On roll call; six ayes, no nays. Ordinance No. O-16-19 was adopted.

Mr. Bartlett was contacted by resident Chris Lupien who has purchased a home on Indianview Avenue and is making improvements that will require a variance. Mr. Lupien conveyed that it was his understanding that the Planning Commission had two vacancies. Mayor Policastro replied that the vacancies had been filled by resident Dr. Bob Van Stone and resident Bob Blum. Mr. Bartlett conveyed that it would be good to see residents with relevant skill sets on the Planning Commission. Mr. Bartlett requested that the Rules and Law Committee, in conjunction with Solicitor McTigue, look into the existing Ordinances that apply to the Planning Commission as well as the Architectural Review Board and the interactions and workflow overlap between the two organizations. Mayor

Policastro indicated that it was Ohio Revised Code, as opposed to Mariemont Ordinances, that dictated the actions of the Planning Commission. Mr. Bartlett indicated that he understood and was not advocating creating contravening legislation but that he wanted the Solicitor and the Rules and Law Committee to review what exists. Mr. McTigue indicated that he was happy to help but was not sure what the reason was for the referral. Mr. Bartlett indicated that at a previous Planning Commission meeting a resident and homeowner was told that the plans for her new construction needed to be reviewed by the ARB and at that meeting Mr. McTigue had interjected that in fact the plans did not need to be reviewed by the ARB and that it was a misunderstanding. Mr. Bartlett is merely requesting that the current rules be reviewed so that there are no more misunderstandings. Mr. McTigue stated that at the Planning Commission meeting it was suggested that the homeowner may voluntarily submit her plans to the ARB but that she was not obligated to do so as her property was not in the historic district. Mayor Policastro stated that he did not understand the goal of Mr. Bartlett's request. Mr. McTigue suggested that Mr. Bartlett forward to him the portions of the Ordinances that Mr. Bartlett felt needed review and Mr. McTigue would interpret and render his opinion about overlapping or inconsistent language. Mayor Policastro stated that he felt Mr. Bartlett should put in writing and submit the portions that he is concerned about. Mayor Policastro reminded Council of Dr. Larkin's recent renovations and her lawyer's assertion that her renovations needed to be reviewed by the Planning Commission and the ARB. Mayor Policastro indicated that those renovations were the first time he had heard that renovations need to be reviewed by the ARB. Mr. Brown reminded him that Dr. Larkin's property was in the historic district and required a "Certificate of Appropriateness" from the ARB to proceed to the Planning Commission. The Mayor indicated that the process was confusing and told Mr. Bartlett to send a letter to Mr. McTigue outlining his concerns.

Ms. Palazzolo requested that an agenda item for economic development be created for the Committee of the Whole. She is concerned with empty storefronts and wants to be proactive about the future of the Keebler site. She hopes that the Committee of the Whole can brainstorm to be proactive. Mayor Policastro asked if Mr. Spinnenweber would be invited. Ms. Palazzolo indicated in the affirmative. Mayor Policastro said that a few properties in the Old Town Square area had changed hands and he expects improvements. Mr. Bartlett said that he would like to see our business base diversified and for the community to be proactive. Mayor Policastro referred the matter to the Committee of the Whole.

Ms. Palazzolo asked if the Frost, Brown, Todd engagement letter had been approved by Mr. McTigue. He indicated it had been approved. He needs to get the document to Mayor Policastro for his signature.

Mr. Brown asked about the summer meeting schedule and when we will decide if we are doing one meeting a month or two as we did last summer. A discussion ensued and an agreement was reached to discuss it at the next council meeting.

Mayor Dan Policastro

Fiscal Officer Anthony Borgerding

