

**MINUTES OF THE COUNCIL
VILLAGE OF MARIEMONT, OHIO
REGULAR MEETING HELD IN COUNCIL CHAMBER
FEBRUARY 22, 2010**

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, Mr. Miller, Mr. Scheeser, Ms. Sullivan and Mr. Wolter.

Mr. Black moved, seconded by Mr. Miller to accept the minutes as written for February 8, 2010. On roll call; five ayes, no nays. (Mr. Andrews abstained)

The following communications were read by Mayor Policastro:

From MariElders: Monthly Recap Ending January 31, 2010

From Nationwide Insurance: \$3,157.54 reimbursement from car hitting a light pole

From Assistant Fire Chief Morgan: January 2010 Monthly Report. Mr. Wolter asked if there was a common thread to cause such high activity on three streets. Assistant Chief Morgan said no. The runs to Rowan Hill are mainly Mercy St. Theresa. The rest of the EMS runs vary in cause.

From Nancy Ludwig: Letter dated February 8, 2010 re: Thank you for investigation work.

From Mayor Policastro: Letter dated April 10, 2010: Happy 100th Birthday to the City of Madeira

From Treasurer Borgerding: January 2010 Monthly Report. He said for the first few months we don't have a lot of money coming in except tax revenues. In April/May we should see real estate taxes but until then the money is a little tighter but the balance will go back up. Mr. Scheeser asked if there is a sense of seasonality per category. Treasurer Borgerding said the General Fund is the biggest one. The other funds do not move a whole lot. Street Improvements/Highway Improvements will have activity once we start paying invoices for the street rehab work. Mr. Scheeser asked what seasonally will the General Fund have the highest balance. Treasurer Borgerding said it probably would be when the first real estate tax check comes from the Hamilton County Auditor. Mr. Andres asked what the lowest point for the General Fund is. Treasurer Borgerding said now until the end of March.

From Carl Stich: Letter dated February 19, 2010 re: Request for Zone Change for 6928 Madisonville Road and 6927 Thorndike. Mayor Policastro referred the matter to the Planning and Zoning Committee. Building Commissioner Malone said the request was reviewed by the Planning Commission and it was agreed to send the request to the Council. Planning and Zoning Committee will have a meeting and make a report back to Council. Council will vote to accept or reject the Committee report. A public hearing is scheduled and adjacent property owners are notified. An Ordinance is prepared with three readings. There is a 30 day period after the last reading before it becomes official. Mr. Scheeser asked at what point during the nine step process Council would require drawings and specifics from Spinnenweber Builders (SBI). Building Commissioner Malone said it would probably happen at the public hearing. Mr. Scheeser said it is concerning to him because the Planning and Zoning meeting will look just like the Planning Commission meeting. We will be on step 3 of 9 and we have not been given anything expect the inspiration of an idea. He is nervous about how far it is left to let go before we require SBI to share with us what they want to do. The steps are in place for a reason. Mr. Andrews asked before Council is asked to vote will they know what the proposal is. Building Commissioner Malone said yes. Mr. Andrews asked if there was any timeframe of when the details have to be in and Council is asked to vote. Building Commissioner Malone said there is no real established protocol either in the code or traditionally because it does not happen that often. Mayor Policastro said this can take as long as we want it to but he believes Council needs to get started. Once Mr. Spinnenweber comes up with a plan it will be contingent upon Council's approval. Nothing can happen until he gives us a concrete plan. Mr. Scheeser said SBI has a great track record with the Village but it still makes him nervous that out of nine steps we are already half way through before we get the specificity we need. Mayor Policastro said if SBI does not give us what we need like a house of cards it will fall. Mr. Wolter asked if Council controls the timeframe once we get the formulation. Mayor Policastro said yes there is plenty of time and Mr. Spinnenweber will need to work with Mr. Greiwe. Mr. Wolter said it appears that Mr. Spinnenweber and Mr. Greiwe seem to have a good rapport and are working together.

Mayor Policastro reminded those who wish to address Council to approach the podium, state your name and address. The time limit is three minutes.

Mr. John Swisher, 6624 Wooster Pike, was granted permission to address Council. He said Patriots Lane has once again been driven through with fresh tire ruts in the area. Mud pored over into the lane making quite a mess. The residents in the area want the problem fixed and repaired. It has been five or six weeks since he first complained about it and nothing has been done to address the issue. Mayor Policastro said he talked with Superintendent Scherpenberg who informed him that the work could not been done at this time because of the weather. Mr. Swisher said his company is doing work like this all the time. Mayor Policastro said he would talk

with the Superintendent again. He asked if Rumpke drivers used a toter today to collect garbage in the area. Mr. Swisher said he could not be sure today who made the ruts but the tire tread pattern is the same from two weeks ago which is still embedded in the ground. Ruts were made on his property, along the lane and on the Beech Street and Wooster Pike side. He indicated that both the garbage and recycling were picked up by Rumpke using the smaller truck with the last pick-up after 2:00 p.m. This happened sometime this afternoon. He asked if Rumpke had a call back in the area. Mrs. Van Pelt said the drivers stop in on Tuesdays after their route for any missed stops but no one stopped in the office today. Mr. Scheeser asked about putting a boulder along the area. Mayor Policastro said he believes that would cause a liability problem. Mr. Swisher said the problem is not that they are cutting corners. It is the long stretch. There is plenty of room to get around the vehicles. Some of the problem may be the drivers are driving the wrong way. If this problem was happening on the south side of the Pike it would have been taken care of already. Mayor Policastro said there are tire marks in the employee parking area behind the Municipal Building. Mr. Swisher said he does not know why this kind of work is not sub contracted out. The Maintenance Department is pushed beyond their limit as is. Mr. McTigue asked if anyone has witnessed Rumpke drivers doing this. Mr. Swisher said yes he has taken pictures. Tonight is the only time he has come in not knowing 100% that it was Rumpke. Mayor Policastro said we are waiting on \$170 due to the Village from Rumpke on the damage that was done previously. Mr. Scheeser suggested deputizing neighbors to capture the drivers in the act with a daytime stamp photo. It is a pretty damning piece of evidence. Council could then act with more teeth. Mayor Policastro asked Mr. Swisher to put together an estimate to repair the work and submit it to him. Mr. Wolter suggested putting in attractive frangible markers in the area. Some are made to tolerate being run over by a bus. Mayor Policastro said he will send a letter to Rumpke again detailing our frustration along with demand for payment of the repair.

Mrs. Jenny Ferguson, 2 Emery Lane, was granted permission to address Council. Mayor Policastro asked Mrs. Ferguson to come to the podium. Mrs. Ferguson said no thank you she would rather stand at her seat. Mayor Policastro said she was then not permitted to address Council. Mrs. Ferguson said there is no policy or procedure in place that would require her to come to the podium to talk. She addressed Council from her seat in the audience. She said at the last Council meeting the Mayor announced that he was setting new ground rules for those wishing to address Council and he outlined his new rules. While she can appreciate that there may be times due to the nature of the meeting or topic of discussion when it may be necessary to limit public comments, these new rules trouble her. On a number of occasions this new Council has talked about clarifying the ground rules for public comment. Their intent, it seemed, was to create an atmosphere that invited public comment for them to consider as a part of their decision-making process. The Mayor's new ground rules that offer (quoting the Mayor) "one bite at the apple", a three minute time limit, and a designated place from which to speak seem contrary to the intent of Council's request. For the Mayor to establish these new ground rules as a policy or procedure for all future meetings seems inappropriate. She asked Solicitor McTigue if it is correct that the Mayor cannot without Council's approval set such rules. She does not believe the Mayor can single handily set such rules without the vote of Council.

Solicitor McTigue said that is not true. Mrs. Ferguson said she has an opinion from the Ohio Attorney General indicating otherwise. Solicitor McTigue said Mrs. Ferguson had the benefit of doing some research on the subject. He said quite frankly he does not spend a lot of time sitting around worrying about something as innocuous as what the Mayor had advised the public the last time Council met. He believes the Mayor has the right to set ground rules for presentations from the public to the Council. He has not researched the Ohio Attorney General's opinion. He goes to a lot of Mayor's Courts and Planning and Zoning meetings for a lot of municipalities and most of them do have podiums. Last week he received an e-mail from Mr. Scheeser saying that the podium may intimidate a lot of people to speak their minds. He has never seen anyone in the Village short of words if they want to address Council. He does not think the rules that the Mayor promulgated at the last meeting are unreasonable. It may not be a legal opinion but it certainly is a practical opinion. Mrs. Ferguson she does not dispute that there is a need for some constraint but she thinks it should be established by Council as opposed to a dictum from the Mayor. Her understanding is with a strong Council they should be the ones making the decision with the Mayor working at the discretion of the Council and that is reiterated in the opinion by the Attorney General. The rules suggested are contrary to what Council had discussed in prior meetings. It also concerns her that the Mayor is allowed to set policy when he in fact is not allowed to do. Solicitor said if the point is that this should be an issue that should be voted on by Council he is sure that Council will be more than happy to discuss the issue of whether there should be ground rules for public speaking. He does not think Council has a problem promulgating policies and procedure rules for people addressing Council. Mrs. Ferguson would like to see Council participate at every level versus being told how things are going to go. That is the point of having a strong Council government. She said she would be happy to share the opinion she received from the Ohio Attorney General with Solicitor McTigue after the meeting.

Mayor Policastro said he put these procedures in place because of Mr. Black's suggestion to have ICRC videotape the meetings. In order to do that the Village is required to have a podium from which the public speaks. Mayor Policastro said if Council wants to vote, let's vote right now. Mr. Black said he wanted to give a verbal report on ICRC before a vote is taken.

Solicitor McTigue said he remembers a while back when Mrs. Ferguson said it is time that we set aside our own personal animosities and try to do what is best for the Village. He urged her to think about what she said. He asked if this is really that important to bring up at a Council meeting. If it really and truly is that important to her he thinks what should be done is a letter should be sent to Council asking them to consider the guidelines the Mayor has mandated. It would be referred to a Committee and let them decide and get public input. Mrs. Ferguson said she did reach out to a Councilperson regarding this matter and their suggestion was to bring it forward tonight. She does not have an agenda driving this issue other than she appreciates the form of government that we have established in the Village and she would like to see it work the way it is supposed to.

There is nothing personal attached to this but she thinks the further we stray from operating within the boundaries of the law the more we are subjecting ourselves and our town and Council to lawsuits from citizens. It is important to recognize laws are in place for everyone's protection.

Mr. Andrews said there has been some lack of organization at some meetings and he does not have a problem with what has been recommended. He believes the meetings sometimes attract the extreme of any issues and most people would be willing to come up to a podium and say anything. His concern is residents who might not have prepared something to say. They may feel uncomfortable coming up to the podium. His other concern is what issues does Council have to debate and vote on. He does not want every single thing to have to come before Council spending their time on every single issue. Where is the line?

Mayor Policastro said he agrees with Mr. Black about bringing ICRC in but that will require the Council have a podium. He suggested that Council vote on the issue.

Solicitor McTigue said he is not sure that Council knows what they would be voting on. Is it the podium process without the consent of Council or is it some other issue.

Mrs. Ferguson said the issue is that the Mayor single-handedly is establishing the ground rules as opposed to at least presenting it to Council. She said now that the Mayor mentions that ICRC requires a podium that makes a great deal of sense. It is more about the process and the support of Council.

Solicitor McTigue said he is not sure he agrees with Mrs. Ferguson. He is accessible. If someone has an issue they would like him to research and it is of somewhat importance to the Village they can call him and he will look into the matter without charge. A phone call last week could have addressed this issue. Council is not here to fight the public. He said if Council wants to take a vote right now they can do that.

Mrs. Ferguson said the reason she did not call because it was her understanding that the Village would be billed for services.

Clerk Tontillo suggested doing the research and then coming back to vote because now we are working on something that was not on the agenda. Mr. Scheeser said it was new news to him regarding ICRC so he would like to hear more data.

Solicitor McTigue suggested putting the matter on the agenda for the next meeting.

Mr. Andrews moved, seconded by Ms. Sullivan to pay the bills as approved by the Mayor, Clerk and Chairman of the Finance Committee. Mr. Scheeser questioned the Advanced Death Investigation course for Officer Rennie. Chief Hines said Officer Rennie is ready to take the class. Mr. Scheeser asked if police officers are required to take continued training. Chief Hines said there is a requirement to take a certain amount of hours each year for continuing education. This training is not mandated by the State but Officer Rennie does the bulk of criminal investigation work. For \$40 he feels it is inexpensive training but would be very beneficial. This class can run \$300-\$400. Mr. Scheeser asked if the officer is paid overtime while attending the class. Chief Hines said no he would be paid at his regular rate like a normal work day. The only training that is paid on an overtime basis is range because everyone has to qualify on the same day which makes scheduling difficult. Mr. Black asked if the \$2800 for salt had already been appropriated. Clerk Tontillo said this is not an additional appropriation - it has already been budgeted for. Mr. Black asked how long the Village has to pay Mr. Naticchioni's unemployment obligation. Mrs. Van Pelt said she believes at least for the standard 26 weeks. Mayor Policastro said they could add more to it later on but it is still cost savings to the Village. Ms. Sullivan said the Village should have some sort of procurement card for Department Heads to use. In this day and age it is something we need. Clerk Tontillo said there was nothing magical about it. It was the burden and the risk versus the benefit of the number of purchases. He thinks it is a valid question. It would require internal control and validation. In the past it has not been done not because it was too advanced of a concept. When the Committee of the Whole meets with the Department Heads we can determine if the usage is worth establishing a new system. On roll call; six ayes, no nays.

Mr. Black moved, seconded by Mr. Miller to accept the recommendation of the Safety Committee which met Tuesday January 21, 2010 at 6:00 p.m. to discuss the salary for the proposed position of combined police and fire chief and to set the range for the proposed position of part-time police officers. Present at the meeting were Councilmen Dennis Wolter, Andy Black, Joe Miller, Cortney Scheeser, Jeff Andrews and Mayor Policastro. The Safety Committee decided that the salary increase for the police chief in the new proposed position of Police & Fire Chief should be \$12,000. After much discussion and a review of a report submitted by Police Chief Hines containing part-time police officer pay information from Springdale, Forest Park and Glendale Police Departments, the Safety Committee decided that if a part-time officer were to be hired, the starting pay would be \$16.00 to \$18.50 per hour with no benefits. Mr. Andrews clarified that this was just to pass what was discussed at the meeting. On roll call; six ayes, no nays.

Mr. Black said the Finance Committee met on Monday February 15, 2010 to review the second piece of the deficit reduction roadmap. Discussion included trash services, leaf removal, lawn and landscape services, tennis and the swim pool. They came up with a couple of options for each which will be outlined in the formal Committee report. The trash service has four options which consist of proposing to increase the sticker fee to changing the overall structure of the trash program including a flat fee for all residents. There was discussion regarding eliminating the program all together, reducing the seasonal help during leaf season and reducing the number of weeks for leaf pick-up. They decided to follow the Public Works Committee recommendation

regarding the lawn and landscape services. They discovered that basically the swim pool and tennis courts are self-funded. The next meeting will be Monday March 1, 2010 with the Department Heads.

Mr. Black said he met with Mr. Brad Stapleton of ICRC. The Village voted several years ago to be a part of ICRC and the Village is already paying for the service. Inspection of the Council Chambers proved that it would be doable provided the desk arrangement be altered to more of an "L" shape and a few seats in the audience would be lost. They would install three cameras, microphone at each Council member's station and one central to the podium. Everything is temporary with the exception of the mounts. They would arrive ½ hour prior to the meeting and set the mounts. Everything is funded with no overhead cost to the Village. A DVD will be provided for each meeting as well as an online schedule for when it will actually be televised. He said it would provide great transparency

Clerk Tontillo said he concluded his Fiscal Officer Office Hours. He scheduled four sessions over a two month period covering four major topics of interest. They discussed revenue, expenses, budgeting processes, stewardship and internal controls. He thanked the residents who engaged in the meetings and the positive feedback. He is going to give some thought to the continuation of the program. The packets of information that were presented at the meetings will soon be available on the website. Ms. Sullivan thanked Clerk Tontillo for taking the time to do this.

Mr. Wolter said the Safety Committee has been given the paperwork for the FEMA plan for their edification. The "No Dumping" signs along Miami Bluff have been made and will be painted and erected as soon as the weather permits. He talked with Dan Elkins regarding grills in public parks. Volunteers are going to be used to help prepare the site to save money. They are trying to get the speed limit down along Wooster Pike. He talked with Jay Hamilton of ODOT who referred him to speak with the District Deputy Director for safety. The State does have control of the speed limit. A speed study will need to take place prior to authorization to change the speed limit. Mr. Hamilton did say good things about the turn lane at Wooster Pike and Pocahontas. State Representative Maag is being helpful in making progress. Mr. Andrews said he would be happy to write a letter of support. Mr. Wolter said one thing that was discussed is that this is not your typical state route due to the lanes going from one to two and the converging lanes.

Mr. Scheeser said he talked with Robert Johnson, President of the Center for Local Governments. You have to be a member and being a member of the Ohio Municipal Leagues does not constitute reciprocity. They provide two services one being data on how the other members are doing. There is a library of data that tells you how other municipalities are doing it with success or failure. The other service is pooled cost savings. He found an article in the Business Courier from November of 2009 where 10 different municipalities in Hamilton County pooled together last year and saved 18% on health care costs for their employees. Neighbors including Indian Hill, Anderson, Fairfax and Silverton are either members or considering membership. There is real money to be saved by applying as a big group versus hoping a broker takes good care of us. His feeling is the dues will more than be offset by the savings. Membership dues are based on the General Fund Budget. Due to the tight time frame he will try to get additional information to share with Council as quickly as possible. Clerk Tontillo said if the dues are less than \$2500 the Mayor is authorized to spend the money provided it has been appropriated for.

Mayor Policastro read the following announcements:

Outstanding Citizen Award nominations are due to Mrs. Van Pelt by Thursday March 18, 2010

Increase Pool Commission Members from 5 to 7. Mayor Policastro said when Council increased the number of members on the Parks Board it increased the amount of work being done throughout the Village. He would like to do the same with the Pool Commission. He already has five members but would like to add two more. He would like to have more parties at the pool which would bring more money into the Village. It would increase the number of people who can work on fundraisers. Council agreed to the change. Mrs. Van Pelt will prepare the necessary legislation.

Ordinances:

"Ordinance Amending Section 151 of the Mariemont Code of Ordinances" had a second reading.

"An Ordinance Canceling Ordinance No. O-16-09 and Establishing a Video Service Provider Fee to be Paid by Any Video Service Provider Offering Video Service in the Village; Authorizing the Mayor to Give Notice to the Video Service Provider of the Video Service Provider Fee; and Declaring Emergency" had a first reading. Ms. Sullivan moved, seconded by Mr. Scheeser 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. Solicitor McTigue said Time Warner Cable sent two different templates to use and apparently the wrong one was adopted. This will allow Time Warner Cable to continue receiving fees for the Village. The Ordinance had a third reading. Ms. Sullivan moved, seconded by Mr. Andrews to adopt the Ordinance. On roll call; six ayes, no nays. Mr. Wolter moved, seconded by Ms. Sullivan to invoke the emergency clause. On roll call; six ayes, no nays. Ordinance No. O-2-10 was adopted.

The meeting adjourned at 8:36 p.m.

Dan Policastro, Mayor

Paul Tontillo, Clerk