

**VILLAGE OF MARIEMONT
REGULAR COUNCIL MEETING HELD IN COUNCIL CHAMBERS
SEPTEMBER 25, 2017**

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

Mr. Brown moved, seconded by Ms. Palazzolo to accept the minutes as written for the Council meeting September 25, 2017 and Committee of the Whole September 19, 2017. Mr. Wolter made a motion to have the minutes from the Committee of the Whole meeting September 25, 2017 as written by Mr. Marsland be read into the minutes. Mayor Policastro said we just got the rewritten minutes from the Committee of the Whole meeting from August 22, 2017. We will table the vote till the next meeting so everyone may have a chance to read the rewritten minutes. (It was later corrected that Mr. Wolter was referring to the Committee of the Whole Meeting from August 22, 2017, not the meeting from September 19, 2017 and he withdrew his motion). On roll call; six ayes, no nays.

From Police Chief Hines: September 2017 Monthly Report

From Assistant Fire Chief Kiefer: September 2017 Monthly Report

From Service Superintendent Scherpenberg: September 2017 Monthly Report

From Building Administrator Keyes: September 2017 Monthly Report. Mr. Wolter asked when he could expect the fee structure so he can call a meeting together to discuss raising the Building Department permit fees. Building Administrator Keyes said he hopes to have them by next week. Mayor Policastro said we are set to have another ARB meeting next Monday September 2017.

From Tax Administrator Busam: September 2017 Monthly Report/HB 49 Handout and Narrative. Mrs. Busam said the Ordinance is to join the litigation against the State of Ohio. At the end of last week there were 65 municipalities who have joined to fight the erosion of home rule and the taking of the net profit accounts. She believes this is "a foot in the door" and then the State will try to go after withholding tax and individual returns. At that point the Village would lose all control to audit or review because we will not have any documentation. The State can issue refunds, even if they should not. She believes Council should carefully consider this legislation. At this time this will just affect businesses. Businesses will have the option to just file with the State. They will then have to file with the State until they opt out. A June 2019 tax receipt would be made by August 5, 2019. We will not get a report of who filed so it will be hard to post payments to the proper accounts. We would have to take the money and assume that it is right. The new Chapter of ORC 718.80-718.95 would deal with the new State collections. Businesses have to let the State know by March 1, 2018 if they plan to opt into that program. The Village has 90 days thereafter to give to the State all the pertinent information such as carry forward accounts, payments etc. The Village will be charged .5% of the total for each month. If the State determines that the Village has not given all the pertinent information that they need in a timely manner, they can withhold 50% of our monthly payments. There is no mention that the State needs to pay that back once they receive the information.

Mr. Brown asked what the potential amount of municipalities could join. Mrs. Busam said there are 624 municipalities in the State of Ohio that have an income tax. She believes all the big cities will join the litigation, such as Dayton, Dublin and Lancaster. The minimum payment is \$1,000 with the cap at \$10,000.

Mr. Hlad asked if this could lead to the same for individual taxpayers. Mrs. Busam said there have been rumblings. Ironically the State is upgrading the Ohio Business Gateway and the first improvement is for the withholdings.

Mr. Wolter asked if there has been any feedback from other communities about how they feel about this. Mrs. Busam most of the communities she has spoken with are for joining the fight. Ms. Palazzolo asked if there were smaller communities, such as Mariemont, joining. Mrs. Busam said there are but she does not have the list but she does know that RITA is supportive. Ms. Palazzolo asked if there is a procedure for the State to follow for auditing returns to see if they are correct. Mrs. Busam said no one really knows how much auditing they will do. They may be so overwhelmed that most are skimmed over. Ms. Palazzolo asked if there is a code for tax professionals. Fiscal Officer Borgerding said CPA's do have a code of ethics and of course they cannot file a false return. Ms. Palazzolo said the system would automatically fail or collapse if there was no oversight. She said the State's interest would be the same as the Village and that would be to get as much money as is due. They are not going to try to be giving refunds with our municipality's funds because they want money too. Fiscal Officer Borgerding said you lose control and most municipalities want to keep control.

Mr. Wolter said the mechanics of the State taking on more in the tax department is a mistake. As a small businessman dealing with the state on any tax issue and you are waiting an hour or more for a person who seems to know less about it than his assistant. It is very frustrating. Issues can get resolved far more efficiently at the local level. Mrs. Busam said she has heard that same argument many times. She said if enough municipalities go into financial emergency because of this there would be more merging of smaller cities and villages therefore eliminating one level of taxation.

Mr. Hlad asked what the standing behind the legislation is. Is it that it is unconstitutional? Mrs. Busam said yes it is the unconstitutionality. The new tax code implements the authority for the state to collect tax whereas right now they do not.

Fiscal Officer Borgerding said as a CPA and member of the Ohio CPA they are pushing to do this. A lot of CPA's will tell their clients to opt in with the state. Mayor Policastro asked what the advantage is. Fiscal Officer Borgerding said clients don't have to file with each individual municipality. Mr. Wolter said it seems it would take business away from the CPA's which does not make sense to him because CPA's get paid by the hour. Fiscal Officer Borgerding said CPA's try to do what is best for their clients and not make it more difficult.

Mayor Policastro said that we need to make a decision by the end of the month. He would like to have our Solicitor present and discuss it in Executive Session at the next Council meeting. If we decided to go with the litigation we will have the ordinance ready to go with an emergency clause. Mrs. Busam said the ordinance is ready to go – she did get a copy from Solicitor McTigue. She has also been told if a community does not want to pay the fee they can make a donation.

From Ed McTigue: E-mail Dated October 2, 2017 and October 4, 2017 re: Municipal Coalition's Legal Action re: HB 49

From Assistant Fiscal Officer Wendler: September 2017 Fiscal Officer's Monthly Report. Fiscal Officer Borgerding said we have \$60,000 more than we did this time last year.

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

Mr. Marsland moved, seconded by Mr. Wolter to accept the recommendation of the Economic Development and Zoning Committee which met on Wednesday, October 4, 2017 at 10:30 a.m. Present at the meeting were Committee Chair Bill Brown, Vice-Chair Eric Marsland, and Member Lorne Hlad. Also present were Mayor Dan Policastro, Mary Ann Schwartz, and John Scherpenberg. The Committee met to consider the two lowest proposed bids for the addition to the Mariemont Municipal Building. The two companies in consideration were Empire Building Company and Perkins/Carmack Construction LLC. Both companies have strong qualifications and good reputations within their industries. The Village of Mariemont and the Mariemont School District have prior experience with Perkins/Carmack. They satisfactorily built our Maintenance Building in 2005, constructed the front entrance deck at Mariemont High School, and the Board of Education remodeling at the rear of the building. Based on these past experiences, and the fact that they are the lowest bidder, the Committee recommends accepting Perkins/Carmack's bid of seven hundred ninety seven thousand dollars (\$797,000.00) to construct the addition to the Village's Municipal Building. The Committee also recommends stipulating that a Schindler elevator be installed. This is contrary to the elevator company listed on Perkins/Carmack's bid form. Additionally, the Committee recommends passing on emergency the legislation necessary to accept bid and issue contract. Mayor Policastro said we have been working on this for 17 years. He believes Mr. Brown and Mr. Marsland have done a wonderful job putting this together. Mr. Wolter said he went with Mr. Brown and Mr. Marsland to a work construction site and believes they will do a good job. He thinks this is a good bid. Mr. Brown said he and Ms. Schwartz visited the Empire Site in Indian Hill which was very clean. In the end there was just too much gap between the bids. They are in the final stages on a project in Kentucky but would have different crews starting the project here. Mr. Wolter said Perkins/Carmack also gave a good explanation of accounting mechanics of why there was an \$80,000 price difference. On roll call; six ayes, no nays.

Mr. Hlad moved, seconded by Mr. Wolter to accept the recommendation of the Committee of the Whole which met on Tuesday, September 19, 2017, at 7:30 PM, in the Village of Mariemont Council Chambers at 6907 Wooster Pike, Mariemont, Ohio, 45227, to discuss the legalization of medical marijuana in Ohio and its impact on Mariemont. Present at the meeting were Vice Mayor Eric Marsland, Committee Members Bill Brown, Lorne Hlad, Maggie Palazollo, Mary Ann Schwartz, and Dennis Wolter, Mayor Dan Policastro and Mariemont Executive Assistant Joanee Van Pelt. Initial discussion included information about the communities of Blue Ash and Madeira and their recent legislation banning dispensaries. Dennis Wolter provided a packet of documentation indicating the problems associated with such dispensaries and the legalization of medical marijuana in general. After brief discussion, it was unanimously decided that we ask Ed McTigue, our Solicitor, to draft legislation banning marijuana dispensaries. The discussion of the medical marijuana issue concluded at 7:50 PM, and the meeting was adjourned at 9:00 PM after a discussion of the hillside repair on Whisky Creek. On roll call; six ayes, no nays.

Mayor Policastro referred to the Safety Committee parked cars on West Street between the new condominiums. During school hours it is chaos. He suggested having the Engineer and the Police Chief look at it too. Mr. Hlad said he would like to add revisiting Cherry Lane. He went with Troy Hawkins and looked at the area. We took three spots and made them no parking during 7:00 a.m. - 9:00 a.m. school days. After seeing how cars still park on the curve it would be best to restudy the area to potentially making it no parking on that small curve around the chapel on Cherry Lane 7:00 a.m.-9: a.m. school days only.

Mayor Policastro read the following miscellaneous announcements:

Leaf pick up will begin Monday October 16, 2017. Last day of leave pick up will be December 22, 2017

Beggar's Night will be October 31, 2017 6:00 p.m. to 8:00p.m.

The Council meeting for December will be Monday December 18, 2017 at 7:00 p.m. The Civic Association Raffle winner will be pulled after the meeting.

Mayor Policastro referred to the Finance Committee Bonus Pay for Full-Time Employees.

Resolutions:

"To Accept the Amounts and Rates as Determined by the Budget Commission and Authorizing the Necessary Tax Levies and Certifying Them to the County Auditor" had a third reading. Mr. Wolter moved, seconded by Mr. Hlad to adopt the Resolution. On roll call; six ayes, no nays. Resolution No. R-22-17 was adopted.

"To Appoint Brad Lockhart as a Member of the Architectural Review Board for the Calendar Years of 2018 & 2019 (To Fill the Unexpired Term of Paul Allen)" had a second reading.

"To Appoint John Bentley as a Member of the Architectural Review Board for the Calendar Years of 2018 & 2019 (To Fill the Unexpired Term of Mark Bruggeman)" had a first reading.

"To Reappoint Mike Kintner as a member of the Architectural Review Board for the Calendar Years of 2018 and 2019" had a first reading.

"To Reappoint Linda Swensson as a Member of the Parks Advisory Board for the Calendar Years of 2018 and 2019" had a first reading.

"To Reappoint Ruth Varner as a Member of the Parks Advisory Board for the Calendar Years of 2018 and 2019" had a first reading.

“To Reappoint Louise Schomburg as a Member of the Parks Advisory Board for the Calendar Years of 2018 and 2019” had a first reading.

“To Reappoint Brian Kelly as a Member of the Pool Commission for the Calendar Years of 2018 and 2019” had a first reading.

“To Reappoint Anita Hunt as a Member of the Pool Commission for the Calendar Years of 2018 and 2019” had a first reading.

“To Reappoint Steve Spooner as a Member of the South 80 Trails, Gardens and Park Advisory Board for the Calendar Years of 2018” had a first reading.

“To Reappoint Karen Sullivan as a Member of the South 80 Trails, Gardens and Park Advisory Board for the Calendar Year of 2018” had a first reading”

“To Reappoint Mark Glassmeyer as a Member of the South 80 Trails, Gardens and Park Advisory Board for the Calendar Year of 2018” had a first reading.

Ordinances:

“To Amend Section 31.077 of the Mariemont Code of Ordinances to Set Forth Authority of Building Commissioner to Obtain a Warrant to Conduct Rental Property Searches” had a third reading. Mr. Wolter moved, seconded by Mr. Hlad to adopt the Ordinance. On roll call; six ayes, no nays. O-17-17 was adopted.

“An Ordinance Authorizing Application and Contracting with the Ohio Public Works Commission” had a second reading. (Potential Grant Funding for Madisonville Road)

“Ordinance Adopting a New Chapter 138.19 Entitled “Medical Marijuana” of the Codified Ordinances, Mariemont, Ohio ; and To Declare Emergency” had a first reading. Mr. Marsland moved, seconded by Ms. Schwartz to suspend the rules to allow for the second and third reading. On roll call; six ayes, no nays. The Ordinance had a second and third reading. Mr. Wolter moved, seconded by Ms. Palazzolo to adopt the Ordinance. 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. Ordinance No. O-18-17 was adopted.

“To Reappoint Anthony Borgerding as Village Fiscal Officer for the Calendar Years 2018 and 2019” had a second reading.

“To Reappoint Elissa Wendler as Village Fiscal Administrative Assistant for the Calendar Years 2018 and 2019” had a second reading.

“To Accept Bid of Perkins/Carmack for Mariemont Administration Building and To Declare Emergency” had a first reading. Mr. Brown moved, seconded by Mr. Wolter 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. Mr. Hlad said he agrees this a good thing that it is being done on an emergency so that the work can begin soon to break ground for the foundation. Mayor Policastro said we will have a ribbon cutting and invite everyone including Mr. Brinkman and Dr. Tankersley. The Ordinance had a third reading. Mr. Marsland moved, seconded by Mr. Hlad to adopt the Ordinance. On roll call; six ayes, no nays. Ms. Schwartz moved, seconded by Mr. Brown to invoke the emergency clause. On roll call; six ayes, no nays. Ordinance No. O-19-17 was adopted.

Mr. Marsland gave a verbal report regarding the phone system and website upgrades. He said it would make more sense to wait until the construction was done on the addition to the Municipal Building.

The meeting adjourned at 7:45 p.m.

Dan Policastro, Mayor

Anthony Borgerding, Fiscal Officer