

**VILLAGE OF MARIEMONT
REGULAR COUNCIL MEETING HELD IN COUNCIL CHAMBERS
DECEMBER 18, 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.

Ms. Brenda Wehmer, attorney with Dinsmore & Shol, gave a brief explanation regarding the Resolution to be passed for the construction loan. The Village is to borrow some money for a short period of time to do the construction for the Municipal Building. Some of the money is hoped to be repaid quickly with the grant monies. The Village is going to issue a one-year note for \$850,000 to provide enough money during the construction phase to pay the invoices. PNC Bank has agreed to purchase the note from the Village at an interest rate of 2.6%. It will mature next year. It will be one year before it goes into long term bond. There will be a process to get ready before the note matures to get ready for the bond.

Mr. Brown asked when the note rolls over to the longer term note will the Village negotiate the terms and rates. Ms. Wehmer said the Village will have to re-negotiate the rate at that time. It will be based on the current five-year rate. The duration of the loan can be negotiated as well up to 30 years. The Village can also roll the note on a short term basis if the grant money is delayed. This not a construction draw loan. The Village will receive the \$850,000 in the account this week. The Village is free to invest the money on a short term basis during the construction period and earn what you can. Mayor Policastro asked if there is a pre-pay penalty. Ms. Wehmer said the Village can pay a year from now before it goes into long term bond. The first year there is no pre-payment. After one year we will re-evaluate where the Village is regarding if all the grant money has been received and decide if we are going long term bond or short term.

Mr. Hlad moved, seconded by Mr. Wolter to approve the minutes as written for November 27, 2017. On roll call; six ayes, no nays.

Mayor Policastro said Mr. Marsland had put together a list of questions regarding the process of the gabion wall. Mr. Marsland said he was asked to read into the minutes the letter he prepared dated December 1, 2018: "Dear Mayor and Council, Online resources date the Whiskey Creek hillside repair back to October 8, 2012 when Village Engineer Chris Ertel mentioned applying for a grant from the Hamilton County Storm Water District for a "Whiskey Creek Landslide Correction". At that time, Geotechnical Engineer, Richard Pohana, gave a detailed cost estimate of \$225,280.00 to repair the hillside that included a massive gabion wall. This grant request was denied but was resubmitted in January 2015 using the same design parameters recommended by Mr. Pohana. The second grant was awarded in the amount of \$40,000 with the Village being responsible for 2/3 of the cost. In April of 2016, Council approved \$20,000 of grant monies to be used for the construction of a smaller gabion wall. In the spring of 2017, the hillside began to fail and we are now faced with a costly repair. The Whiskey Creek Project has exposed some deficiencies in the way we conduct business in the Village of Mariemont. There have been issues on numerous fronts including: (1) Incomplete information was provided to Council by the Mayor regarding project design and history before it commenced. For example, Council was unaware that a geotechnical engineer had evaluated the hillside and recommended a specific action and that the grant application referenced his recommendations. (2) Incomplete information on project financing as Council was under the impression that a 100% grant had been awarded. (3) A lack of expertise on the design of the project on the part of our Village Engineer. He is very qualified in his area of expertise, but he made recommendations on a geotechnical project that were dramatically different from those made by Mr. Pohana, a Certified Geotechnical Engineer. (4) A lack of expertise on the construction of the gabion wall. The contracting company hired to construct the gabion wall is primarily a road contractor. (5) Failure to assign the project to a Council Committee. Council appraised the project based only on the recommendation of the Mayor and the Village Engineer."

Mayor Policastro let the Village Engineer address the five issues as so far presented which he does not believe are true. Engineer Ertel said Mr. Pohana looked at the hillside and assisted in writing an application for funding to repair the landslide corrections. The application was written to allow as many open ended solutions as possible. There were three ways to sub-design the hillside repair: (1) Using Soil Anchors or Nails (2) GeoTech fabric and earthwork (3) A wall. It was a matching grant application which includes the problem and solutions. The solution was provided three different ways. Mayor Policastro said according the Engineer Ertel two geotechnical engineers, Justin Anderson and George Webb, agreed that the wall that was put in is working. What we did mitigated the loss as best as possible. It worked on the north side of the hill. Had he been here the night Council agreed to go forward with the work (he was out of the country) he would have said we need to run a footer/wall all the way across. What has been done is not causing to do a costly repair. Engineer Ertel did what he thought would save us a lot of money. Mr. Anderson, GSI, said the north side of the hill side is working but the other side is caving in. Engineer Ertel said the problem is the top of the hill which is basically creating a mudslide.

Mr. Brown said he believed Mr. Anderson also said that the first gabion wall is right at the creek bed. He is not going to touch that so apparently that is a sufficient wall. The upper gabion wall is going to be used in the repair and will be an integral part of the new fix. Engineer Ertel agreed saying you could look at it as Phase I and Phase II.

Mayor Policastro said the reason the south side is having a problem is due to one more house drain pipe on the top that was leaking in addition to the loss of three trees that helped hold the hill. We also had two one hundred year rain events. Combined that is what is really causing the problem. The scenario that Mr. Pohana put together said it would cost \$225,000 to do the work years ago. Now the estimate is \$185,000 which is a cost savings of \$40,000. We paid \$20,000 so the savings is still \$20,000. Mr. Brown said there is still some remaining grant money available. Mayor Policastro said there is another \$30,000 so in the long run we need to look at the positive side – we are saving money on a job that needs to be done.

Mayor Policastro said regarding incomplete information that was provided to Council referencing project design and history before it commenced is an incorrect statement – again he was not here for that Council meeting. He was out of the country. Engineer Ertel said he attended the Council meeting April 25, 2016 which Council had been presented with the

proposal and the cost. He brought it before Council to see what they wished to do with it. He was fine with it either being voted upon or put into a Committee of Council. He expected that it would have gone into a Committee of Council. Mayor Policastro said if it had gone into a Committee he imagined more experts would have come forward and asked questions. Engineer Ertel said he had four people look at the hillside.

Mayor Policastro said regarding the reference to incomplete project financing and not getting 100% grant. We never get 100% grant. They are always matching grants. Engineer Ertel said every grant he has ever applied for with the Village is a matching grant. There is always a contingency that the Village have some skin in the game.

Mayor Policastro asked Engineer Ertel to address the reference to the lack of expertise. Engineer Ertel said he received recommendations from Geo-Technical Engineer Mr. Richard Pohana who did not want to design more solutions. He referred Geo-Technical Engineer Joe Kowaiski who did not to participate in the project. He contacted Dan Taphorn, Hamilton County Soil & Water Conservation District and took additional information to Bret Henninger of Great Parks of Hamilton County who also looked at the hillside. With the solutions that were in the grant application he picked the one that would work best for the contractor that we had at the time.

Mayor Policastro said regarding the reference to the lack of expertise building the gabion wall he does not believe that to be true. Engineer Ertel said J. K. Meurer said built gabion walls for other municipalities in Cincinnati. Mayor Policastro said had it gone back into a Committee we could have started all over again and gone out to bid. He asked for a list of the other communities that J. K. Meurer has built other gabion walls for.

Mayor Policastro said regarding the reference failure to assign the project to a Committee of Council again he was not at the meeting and therefore out of the country and he is not going to be an arm chair quarterback but with a cost of \$20,000 it should have either stayed in the Public Works and Service Committee or been assigned to the Committee of the Whole so we could have discussed and looked at other ways to fix this problem.

Mr. Wolter said we got a brief engineering assessment. Geo technical Engineer Pohana said his estimate was \$225,000 and we ended up with a \$20,000 solution. How can you justify the difference in cost in technical terms of what would have been done on the hill. Engineer Ertel said it was what we could afford at the time. The gabion wall was to stop the toe of the hill and the instability. Ms. Schwartz said if it was put back into a Committee of Council the different options could have been explained. Mr. Wolter said at the time his impression was that this was a fix that would work not experiment with a partial fix. He believes the incomplete information started back in 2012. As we went through this Council was given snippets of information from the Mayor that said this would work. There was no technical information submitted to Council. We were told the engineers looked at it, we had the right grant and we had the company to do the work. But we were not given specifics. Council made a mistake at that time to go on verbal information without documentation. We have learned our lesson. At the time the Mayor set the committees. When we tried to set committees the first couple of times we got push back. Ms. Schwartz said she does not know what Mr. Wolter means. Mr. Wolter said the first time Council tried to put something in a Committee the Mayor said a request had to be done in writing and it would be dealt with at the next Council meeting when it could be put on the agenda. Ms. Schwartz said to Mr. Wolter that this matter was already in his committee. Mr. Wolter said it was never put in his committee. Mr. Brown said he has been doing some digging and found the minutes from a Public Works and Service Committee meeting held December 21, 2015 when in fact the hillside repair matter was in Mr. Wolter's committee and it was being discussed. In fact the grant application was being discussed which was being termed the second phase of the project which is to re-work the Whiskey Creek to prevent erosion behind the homes on Mariemont Avenue. Mr. Wolter asked why someone could not have given him this information prior to the meeting. Mr. Brown said it was on his desk as he arrived for the meeting. Mayor Policastro said he did not want to get into an argument but he never saw the wall report until he got back in town and the hill side repair was a part of the Capital Improvement project and was in Mr. Wolter's committee for quite same time.

Mr. Marsland continued to read the rest of the letter dated December 1, 2017 to the Mayor and Members of Council: As a Council member, I rely on the information provided to me to make the best choices possible. When Council is not provided with all of the information relevant to an issue, I am unable to make informed decisions. In an effort to avoid repeating the unfortunate events surrounding the Whiskey Creek hillside repair, I would like to pose the following questions in order to determine where communication breakdown occurred. (1) How was the design for the hillside repair decided upon, and how many and what types of experts evaluated the situation and suggested remediation? Did they suggest multiple types or plans? How did we choose the plan that we ultimately "went with"? (2) How was the contractor for the hillside repair decided upon? (a) How many contractors were interviewed or considered for this work? (b) Did the contractor we employ have any expertise in building gabion walls? (c) Did the contractor we use go off of a plan for the "face shearing" of the hillside? (3) What communication occurred between the Village Engineer and the Mayor leading up to the project and was the discussion centered on what we "can do" versus what we "should do"? (4) When instances occur where there is question as to the process we have followed, how can we arrest the process for further evaluation before proceeding? This is not an effort to single out any one person's involvement, but an attempt to draw clarity from our mistakes and make the appropriate changes to our protocols and procedures to avoid future confusion. Sincerely, Eric J. Marsland".

Mayor Policastro said we already know that the contractor had experience with gabion walls. Engineer Ertel said Geo-Technical Engineer Mr. Richard Pohana referred Geo-Technical Engineer Joe Kowaiski who did not to participate in the project. He contacted Dan Taphorn, Hamilton County Soil & Water Conservation District looked at the soil, pipes and stability. He had Bret Henninger of Great Parks of Hamilton County who also looked at the hillside. More recently he has had Geo Technical Engineers George Webb and Justin Anderson. The street contractor at the time was J. K. Meurer who have done work on gabion walls in the past. There was no plan for face-shearing. They cleared what they needed to in order to install the wall. His communication with the Mayor was first to get a grant and then develop a plan. It took us five years. This was presented as a change order to the work contract. If a change order was not agreed upon it would have gone back out to bid. It stayed in Committee with the change order. He got the price quote from J. K. Meurer 7 or 8 days prior to the Council meeting which was the first time he had an opportunity to present it to Council. Mayor Policastro said if he would have been here he would have asked if it would have been possible to pour a footer all the way across to give stability to 100% of the hill. Engineer Ertel said what was done was a gravel footer. A concrete footer was not recommended to him. The problem would have been getting the concrete to the area and pump it down the hill. The problem with this site is where it is located.

Mr. Wolter said he understands that GSI is going to pump concrete to tie to the pins. Could that have been done for a poured footer? He believes there is a way to do this without destroying Mr. Luken's backyard. Mayor Policastro said he believes we are saving money. It may not have been the best way to do it.

Mr. Hlad left a letter of gratitude to all of Council and the Mayor for the opportunity to serve the past few years. He wished the best for the incoming members of Council. It was a rich opportunity to get to know so many people. Mayor Policastro said Mr. Hlad will have to be involved with the Memorial Day Parade. Mr. Brown shared the same sentiment as Mr. Hlad. He wished Mr. Hawkins and Mrs. Graves the best of luck. Mr. Wolter said he hopes both Mr. Hlad and Mr. Brown will stay involved with projects as their expertise allows. Both are an integral part and hopes they will continue to be involved with the Village.

Mayor Policastro read the following communications:

From Police Chief Hines: November 2017 Monthly Report

From Assistant Fire Chief Kiefer: November 2017 Monthly Report

From Service Superintendent Scherpenberg: November 2017 Monthly Report. He said this is the last week for leaf pick-up. After this week leaves will need to be placed in brown bags for Rumpke to pick up. He also reported that 65 trees have been planted this past year. Mayor Policastro said Superintendent Scherpenberg got him a list of trees that will grow 15-18'. It will be placed in Mr. Marsland's committee. He has been talking with our liaison at Duke Energy (quite a bit lately with the power outages) and he said Symmes Township had a lot of trees taken out like the Village did and Duke is not going to give Symmes Township a dime. Symmes Township has sued. Our Duke Representative wants us to settle up before the end of the year. He will get the information of cost etc. to Mr. Marsland and asked that a meeting be held prior to the end of the year.

From Building Administrator Keyes: November 2017 Monthly Report

From Tax Administrator Busam: November 2017 Monthly Report/E-mail Dated December 12, 2017 re: ONL Special Bulletin and SERP Update. Mrs. Busam reported that we are ahead of last year for December. We should end with a good December.

From Mariemont Parks Advisory Board: Meeting Minutes October 10, 2017

From Mayor Policastro: Letter Dated November 27, 2017 re: Waldorf School Property Purchase. Waldorf School wants to put a Jr. High in the old Dilly Deli in Old Town. He let it be known that it is an historic building and the Village is going to be tough. He said he did not know if he was crazy about the idea or not. Mr. Brown questioned if the building would be big enough. Mr. Hlad said it would depend on the class size. He wonders if they are just going to take 7th and 8th graders and put them in the new building. Mr. Wolter asked what impact it would have on traffic flow and parking. It is already pretty tough in that area. Mr. Hlad said he imagines there will be a lot of resident feedback and concern.

From Assistant Fiscal Officer Wendler: November 2017 Monthly Report

From Engineer Ertel: Memo Dated December 14, 2017 re: 2018 Street Rehabilitation Project. Mayor Policastro referred the matter to the Public Works and Service Committee. Mayor Policastro said we are trying to get a grant for the work on Madisonville Road. We also need to put in some catch basins on Homewood Road.

"An Ordinance to make Appropriations for Current Expenses and Other Expenditures of the Village of Mariemont, State of Ohio, During the Fiscal Year Ending December 31, 2017" had a first reading. Mr. Marsland moved, seconded by Mr. Brown 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. Fiscal Officer Borgerding said this is something we do every year to make sure our accounts do not have a negative balance. We have to appropriate money in order to spend it. This allows us to spend the money by the end of the year. The Ordinance had a third reading. Ms. Schwartz moved, seconded by Mr. Hlad to adopt the Ordinance. On roll call; six ayes, no nays. Ordinance No. O-26-17 was adopted.

Mr. Hlad moved, seconded by Mr. Brown to pay the bills as approved by the Fiscal Officer, Mayor and Chairman of the Finance Committee. Mr. Wolter asked about the charge for connecting the wire to the poles at the Condos. He asked if that should be the responsibility of the developer. Superintendent Scherpenberg said that is for a streetlight that the Village installed. On roll call; six ayes, no nays.

Ms. Schwartz moved, seconded by Ms. Palazzolo to accept the recommendation of the Economic Development and Zoning Committee which met on Monday, December 11, 2017 at 6:00 p.m. Present at the meeting were Committee Chair, Bill Brown, Vice-Chair Eric Marsland, and Member Lorne Hlad. Also present were Mayor Dan Policastro and guest Aaron Habig. The Committee met to review Mariemont Building Code regarding installation of dish-type antennas. The current code as written covers primarily all aspects of installation, including dish size, placement, and the need to obtain a building permit. A problem arises in that most residents are unaware of such requirements. The Committee recommends a plan to provide information as to the proper requirements for installing dish-type antennas:

1. Periodic reminder of the requirements in both the Mayor's Bulletin and Town Crier
2. Posting on Nextdoor Mariemont stating the need for a building permit
3. Brief informational sheet available to Village office staff to aid in answering residents' call-in questions
4. A detailed informational sheet containing all requirements for mounting satellite dish antennas to accompany application for building permits
5. Calling satellite dish providers in the Greater Cincinnati area to inform them about the Village's code requirements

Additionally, the Committee recommends an amendment to the code 151.060(C)(b) paragraph 1: In the event that the optimal satellite signal cannot be obtained at this location by the installer, the property owner must notify the building department to have the signal strength verified by Village inspector. No deviation on the placement of the dish antenna is permitted without prior approval from the building department. On roll call; six ayes, no nays. Ms. Schwartz commended the Committee on a terrific job.

Mr. Brown moved, seconded by Ms. Palazzolo to accept the recommendation of the Committee of the Whole which met Monday December 10, 2017 at 6:30 PM in Council Chambers to discuss the repair of the hillside on Whisky Creek. Present at the meeting were Vice-Mayor Eric Marsland, committee members Bill Brown, Lorne Hlad, Maggie Palazzolo, and Dennis Wolter, Mayor Dan Policastro, GSI representative Justin Anderson, Mariemont Administrative Assistant Joanee Van Pelt, and Mariemont residents Jerry Vianello and Rob Bartlett. Discussion centered on how the project would be completed and what kind of permits would be necessary for its completion. The committee unanimously approved the project to stabilize and secure the hillside with a total cost of \$184,885.00. The meeting was adjourned at 7:30. On roll call; six ayes, no nays.

Mr. Hlad moved, seconded by Mr. Brown to accept the recommendation of the Committee of the Whole which met Monday December 10, 2017 at 6:30 PM in Council Chambers to discuss the acquisition of 8 Winter King Hawthorne trees for the median on Murray east of Plainville Rd. Present at the meeting were Vice-Mayor Eric Marsland, committee members Bill Brown, Lorne Hlad, Maggie Palazzolo, and Dennis Wolter, Mayor Dan Policastro, Mariemont Administrative Assistant Joanee Van Pelt, and Mariemont residents Jerry Vianello and Rob Bartlett. After discussing the placement of the trees which is to be determined by the Mariemont Parks Board, the committee unanimously approved the purchase of the 8 trees for a total cost of \$2,000.00. On roll call; six ayes, no nays.

Mr. Marsland moved, seconded by Mr. Hlad to accept the recommendation of the Committee of the Whole which met Monday December 10, 2017 at 6:30 PM in Council Chambers to discuss the potential donation of the hillside north of the old steam plant by real estate developer Michael Heines. Present at the meeting were Vice-Mayor Eric Marsland, committee members Bill Brown, Lorne Hlad, Maggie Palazzolo, and Dennis Wolter, Mayor Dan Policastro, Michael Hines, Aaron Habig of Hamilton County Soil and Water Conservation District, GSI representative Justin Anderson, Mariemont Administrative Assistant Joanee Van Pelt, and Mariemont residents Jerry Vianello and Rob Bartlett. Although it was a very generous gesture, due to recent problems with hillside slippage in the village, it was unanimously decided that the village decline the offer. The meeting was adjourned at 7:30. On roll call; six ayes, no nays.

Mr. Hlad said he submitted Safety Committee reports regarding parking on Cherry Lane and West Street at the November 13, 2017 meeting which were tabled. He was not at that meeting but after talking with other Committee members who are now comfortable with the report he asked if Council was comfortable reading them now. Solicitor McTigue said it was not a marked item for discussion on the agenda. Mr. Marsland said they were tabled due to further study. Mayor Policastro asked if there was some engineering judgement put forth. Mr. Hlad said no. The first time we visited this matter there was not engineer study done. He said the committee was in agreement. Ms. Schwartz said there was not much process of any sort. Mr. Hlad said there was a process the whole time with the committee meeting and all representatives were there and in agreement on the limiting the parking 7-9 on school days. Ms. Schwartz asked how many complaints have there been. Mr. Hawkins said several families have requested that the no parking be the whole length of Cherry Lane. Ms. Schwartz said she suggested that and it was turned down. Mr. Van Pelt said she will pull the reports and have them ready for the next meeting. Mr. Hlad said he would like the legislation done on an emergency basis so it takes effect while school is back in session. Solicitor McTigue said he would prepare the Ordinance.

Mayor Policastro read the following miscellaneous announcements:

Last day of leave pick up will be December 22, 2017. Mayor Policastro said after December 22, 2017 leaves will need to be bagged in brown paper bags for Rumpke to pick up at the curb on said trash day.

Village Offices will be closed Monday December 25, 2017 in observation of Christmas.

Village Offices will be closed Monday January 1, 2018 in observation of New Year's Day.

Resolutions:

Ordinances:

“An Ordinance Authorizing Application and Contracting with the Ohio Public Works Commission” (Third Reading) (Clean Ohio grant for Steam Plan Development Project). Mr. Brown moved, seconded by Mr. Wolter to adopt the Ordinance. On roll call; six ayes, no nays. Ordinance No. O-27-17 was adopted.

“To Add to Section 151.26 Signs Within residential Districts, A provision to Require Address Numbers of Properties with Rear Access Alleys” had a second reading. Mr. Hlad said for clarification this came to us as a safety issue from our safety personnel that we have a lot of rear access alleys in the Village which are not marked. Sometimes that is the quickest way to a home and if they are not marked it can cause delay. The ARB met and made determination of what the signs should look like for those in the Historic District.

“An Ordinance Providing for the Issuance of \$850,000 Building Improvement Bond Anticipation Notes, by the Village of Mariemont, Ohio in Anticipation of the Issuance of Bonds and Declaring an Emergency” had a first reading. Mr. Wolter moved, seconded by Mr. Brown 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. Mr. Marsland moved, seconded by Mr. Hlad to adopt the Ordinance. On roll call; six ayes, no nays. Mr. Hlad moved, seconded by Mr. Brown to invoke the emergency clause. On roll call; six ayes, no nays. Ordinance No O-28-17 was adopted.

The meeting adjourned at 8:02 p.m.

