

**VILLAGE OF MARIEMONT  
REGULAR COUNCIL MEETING HELD IN COUNCIL CHAMBERS  
AUGUST 28, 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 and Ms. Schwartz.

Mr. Marsland moved, seconded by Ms. Palazzolo to excuse the absence of Mr. Wolter. On roll call; five ayes, no nays.

Mayor Policastro read the following communications:

From Ohio History Connection of the National Park Service: Letter Dated August 11, 2017 re: Letter and Certificate

From Karen Berkich: Letter Dated August 22, 2017 re: Update on work being done by members of the Garden Club of Mariemont. Mayor Policastro referred the matter to the Health and Recreation Committee.

From Amanda Terrell, Director, State Historic Preservation Office: Email Dated August 17, 2017 re: Apology To Dr. Ken Tankersley for staff's misunderstanding. Ms. Schwartz asked to read the email into the minutes: "Dr. Tankersley, Thank you for this information and for sharing your concerns with me. Regarding the "motor-cross event" and related arrests, I do believe that there was a misunderstanding on our part and/or perhaps some incorrect assumptions made on our part. In what I've heard about this situation from Brent Eberhard, he has said that at the beginning he thought there was motorized bike activity occurring in the area, but that he later realized that was not the case. In addition, in the email exchanges you provided to me between you and Brent, I see that Brent admits to "confusion" and "shock" about bike activity, so I do think that he truly misunderstood or misheard your characterization of the activities. For that, I apologize. I'm sorry that the misunderstanding lingers on so that we're addressing it here two months later and that it has shown up in official Village Council documents. Whatever the mode of transportation, our office, like you, was concerned about damage to important archaeological sites. Second, I am sorry to hear that you had an unpleasant interaction with Brent on the phone today. Brent's supervisor is checking into that. I am glad that you have been in touch with Diana Welling of my team and I trust that she has provided you with the information you need. I understand that she has been in touch with the Mayor's office in order to clarify roles and responsibilities and provide guidance to help the Village navigate this situation. We always advocate for preservation and protection of historic and archaeological properties and can serve as a resource when there are local preservation issues. From what I've last heard, the Village is working through these issues. If in the future Diana or I can be of assistance, please reach out to either of us. We will serve as your contact(s) should you need any additional information from our office. Thank you, Amanda"

Mr. Brown read into the minutes the letter of apology he wrote to Dr. Tankersley: "I regret the events that unfolded surrounding Dr. Tankersley at our past Council meeting. A letter was read that called into question the accuracy of Dr. Tankersley's account of events regarding biking activity in Dogwood Park. The error turned out to be in the State Historical Preservation Office's misinterpretation of what happened. Dr. Tankersley has worked long and hard over many years in support of the Village of Mariemont. His efforts alone in helping us to divert the Eastern Hills Corridor were indispensable. He has worked tirelessly on Whiskey Creek, conducting countless tours, marking all significant historic sites, and helping with the reclamation work on the trails. Ken's detailed knowledge of this area provides us with a vital historical narrative. He is a valuable asset to our Village. I would personally like to thank Dr. Tankersley for all his work and hope he will continue to help us in the future. Sincerely, Bill Brown".

Mayor Policastro read into the minutes the letter of apology he wrote to Dr. Tankersley: "Dear Dr. Tankersley, Please accept my apology on behalf of the Village of Mariemont for the recent statements that were made on the record at the Council meeting of August 14, 2017, using a letter that misquoted you regarding Dogwood Park and its historic sites. Additionally, there were comments posted on Facebook that were clearly meant to discredit you. While the Village of Mariemont is not responsible in any way, shape, or form for any of these comments, I wanted you to know that I am truly sorry that any member of our community would disparage you in a public meeting and/or on social media. We are all becoming very aware of the impact social media now has. After all you have done to help the Village – from standing up against ODOT when they wanted to run the Eastern Corridor through the South 80 to helping to identify the important historic sites located here – I am appalled that anyone from Mariemont would use social media to question you, your motives, your heritage, your integrity, and your credentials. I hope we can look forward to continuing the very beneficial relationship we have had and that we will continue to work together to preserve the history of the Village. Sincerely, Mayor Dan Policastro"

Mr. Rex, Bevis, 4011 Miami Road, was granted permission to address Council. He said at a recent Council meeting there was discussion on trail-width for biking in the Whiskey Creek area. A fellow resident commented that there were narrow trails for biking when he did mountain biking in Colorado. He also mentioned that the trail length was much longer, about 4 miles. He could not help but make a comparison in his mind that mountains – Colorado and mountain biking all make sense. But here in Mariemont...? Mariemont is an urban Village of 3400 residents in a one square mile area. There are several small parks but only one what he would call natural area park, Dogwood Park. The area being considered for mountain biking between the old dam and the swimming pool is of very short length, about .4 miles long. To him this area just seems incongruent with mountain biking. It is too small. Less than two years ago he wrote an article for the Mariemont Town Crier on the 'new trails being constructed in the Whiskey Creek area of Dogwood Park'. When he interviewed a member of the South 80 group he ended up scratching his head and wondering why there would be interest and desire in off-road biking in such a small area. There are a lot more wide open spaces for this activity in rural areas of Hamilton and Clermont County. He read recently that mountain biking was being considered in 1500 acre Mt. Airy Forest. This may be a more suitable location. It is very likely that biking trails can be constructed in the subject area in a manner which avoid Native American burial grounds and pioneer kiln and distillery sites. The question that Council needs to consider is does

Council, and do the citizens of Mariemont, want mountain biking activity in this small urban forest. It just does not make sense to him because the target area is so small.

Dr. Ken Tankersley, Tenured Professor University of Cincinnati, was granted permission to address Council. He said during the last Council Meeting, Maggie Palazzolo falsely reported that he refused to turn over his emails to the Ohio State Historic Preservation Office (SHPO). She further falsely reported that he had called Diane Welling at the SHPO to report a motor-cross event and the arrests of people riding over human remains. Ms. Palazzolo's disingenuous and disrespectful report was unprofessional, defamatory, and slanderous in spirit and tone. Not only has he never spoken to Diane Welling, he never reported a motor-cross event to her, the SHPO, or anyone else. Her statements are completely false and should be corrected for the Council minutes and public record. The Mayor and Council Members have complete and unedited copies of my emails to the SHPO. None of them mention a motor-cross event or related arrests. The sole purpose of Ms. Palazzolo's falsified report was to discredit me personally and professionally. Her more grievous purpose was to argue that bike trails are not threatening significant archaeological and historic properties in Mariemont. He reported the recent construction of three bike trails, which cut across the Madisonville cemetery and two associated burial mounds, which are listed on the National Register of Historic Places. He also reported that the bike trails cut through the historic Ferris family distillery and gristmill sites including an intact brick foundation, which are eligible for nomination to the National Register of Historic Places according to Geoffrey Burt, Midwest Region and Ohio representative the National Park Service. Ms. Palazzolo's report is full of misstatements and falsehoods, which further exacerbates the rabid temper of this situation. As a response to Ms. Palazzolo's false allegations, Amanda Schraner Terrell, Director of the SHPO wrote it was a "misunderstanding on our part and "incorrect assumptions made on our part." She further laments that these "misunderstanding linger" and have "shown up in official Village Council documents." While he does not expect an apology from Ms. Palazzolo, she clearly owes me an apology. Making malicious and malevolent slanderous and defamatory statements about a citizen who has provided a decade of historic preservation community service to the Village, including the relentless and continuing battle to stop ODOT from putting the Eastern Corridor highway through Mariemont, is shameful, especially given it comes from a paid political official.

Mr. Rob Bartlett, 3611 Mound Way, was granted permission to address Council. He said he disagreed with Dr. Tankersley and thought what Ms. Palazzolo did was right. She read the email that was sent to her and did not embellish. To say Ms. Palazzolo made false statements is totally wrong. He saw the letter that Dr. Tankersley sent to Council and it was very redacted, cut and pasted and very hard to understand. He believes it is lame to try to blame someone else for what was done by Ohio State Historic Preservation Office.

Mr. Jerry Vianello, 6570 Wooster Pike, was granted permission to address Council. He said people from this community and outside this community have challenged Dr. Tankersley's Indian heritage. He has seen his documented certificate that so states that. He has also seen Dr. Tankersley's DNA test that says he is 10% American Indian. We as a community have done him a big disservice. We can try to justify it anyway we want but Council does owe him an apology. What was allowed to happen in Council Chambers of people accusing him of things is slanderous and in his perspective it was shameful. He wishes someone on Council would have said this is out of line and out of place. He is fed up with all the bickering back and forth. We are the point where we do not solve problems anymore. We dig a trench, hop in and defend it till the sun sets. He would like to see Council take an up or down vote on bikes on the trail. He is not so sure we should have bikes in the lower 80 acres and urged Council to evaluate that as well.

Mr. Bob Blum, 6601 Mariemont Avenue, was granted permission to address Council. There has been a lot of finger pointing on views about bikes in Whiskey Creek. He feels we need to start talking advantages and disadvantages and put hurt feelings and political issues aside. The bike issue is now about what is best for Mariemont. He feels there are 4 issues that need to be considered when deciding if bike traffic should be allowed in Whiskey Creek: 1<sup>st</sup> Issue: Destruction of historical Village property: Council is currently identifying locations to protect. 2<sup>nd</sup> Issue: Safety Concerns: 3<sup>rd</sup> Issue: Threat of continual soil erosion (natural or man enhanced): Dr. Tankersley has noted that Mariemont's soil in Whiskey Creek is unstable and cannot be successfully compacted. I have heard opposite support that bike traffic and foot traffic are equally damaging on a trail, therefore bikes do not additional harm than walkers. Addressing that statement, there is a question often posed in introductory physics. Would you rather be stepped on by an elephant or a little girl in high heel shoes? To answer the question, you need to calculate the pressure which is the amount of force applied over a given area. The answer is the elephant, because even relatively small forces can exert tremendous pressure when applied. Oversimplified examples relating to Whiskey Creek: For simplicity, an average sized person of 160 pounds walking, would be 120 pounds per square foot. The person on a trail bike (where the bike weight is not included in this example) and each tire contacts the surface at approximately 2" x 4" or 8 square inches exerts 1,440 PSF. Because of the less contact to the surface, the trail bike rider is exerting 4 times higher pressure per square foot than the walker. But PSF is not all the issue. Street bikes, designed for speed, have narrow tires to have less road contact or drag. The rider strives to keep the wheels perpendicular to each other similar to someone walking. Trail bikes have nubby tires to grip the surface and dig in for stability. The rider is not trying to keep the wheels perpendicular but move and push side to side to maintain balance through rough terrain. Thus, they exert more PSF and have constant movement to undercut soil surfaces. None of that is beneficial to the Whiskey Creek soft terrain. 4<sup>th</sup> Issue: Who benefits from bikes being allowed in Whiskey Creek: If there are advantages to bikers being in Whiskey Creek and that it is a good thing for Mariemont he does not understand why it has taken so long to discuss this issue. Council's responsibility is to protect and enforce what is best for Mariemont.

Mayor Policastro said the time has come when we must come together. We have to get this past us. We are getting nowhere. We have at least eight items on the agenda that need to be looked at quickly but we just stay on this same topic. He agrees with Mr. Vianello that Council needs an up or down vote. We have pinpointed the areas that are historic or sacred. It is time, perhaps at the next meeting after the holiday, to have an up or down vote. The kiln plan for protection is going to take several months. We will have to have the Army Corps of Engineers and representatives from the Historical Preservation Office to look at it and get it on the National Registrar. We have to get this past us – we are eating each other up. It is not good. He has never seen this in 16 years as Mayor.

Mr. Brown moved, seconded by Ms. Schwartz 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. Hlad moved, seconded by Mr. Brown to accept the recommendation of the Economic Development and Zoning Committee which met Thursday, August 24, 2017, at 10:10 a.m. Present at the meeting were Committee Chair, Bill Brown, Vice-Chair Eric Marsland, and member Lorne Hlad. Also present was Building Commissioner Don Keyes. The Committee met to discuss the merits of a proposed Demolition-Delay Ordinance. Demolition review is a legal tool that provides communities with the means to insure that potentially significant buildings and structures are not demolished without notice and some level of review by a preservation commission. Hundreds of communities practice this procedure. Mariemont is a National Historic Landmark Village. A foundational element of this designation is the distinctive historical and architectural character of our community, which was influenced by the architecture of an earlier period. The essence of the ordinance would be when an applicant applies for a demolition permit the Building Commissioner will notify the Architectural Review Board to initiate the review process. The ARB would have 90 days to conduct the review. The delay period starts at the time the permit application is presented to the ARB, and can be extended beyond the original 90 days by mutual agreement with the applicant. The ordinance would equally apply to all buildings and structures within the Village. Further, demolition includes the act of either demolishing totally or removing:

- Twenty-five percent or more of the roof area as measured in plain view;
- Twenty-five percent or more of exterior walls of a building as measured contiguously around the building coverage, or;
- Any exterior wall facing a public street;
- The removal of architectural elements that define or contribute to the character of the structure;

Accordingly, we wish to establish penalties that will discourage non-compliance from occurring. Our Solicitor will be involved in establishing appropriate penalties. The Committee recommends the Village Solicitor prepare the necessary legislation to enact a Demolition-Delay Ordinance. Ms. Palazzolo asked if there is an obligation for the seller to communicate to a potential buyer that the property is under this review. Ms. Palazzolo said it would upset her if she bought a house only to find out that you could not do what you want. Mr. Hlad said any home built before 1962 currently contributes to our National Historic Landmark Designation. Through the Mayor’s Bulletin and other avenues people will become aware that this does not mean you cannot demolish a home in Mariemont, it simply means if you are applying to do so it automatically goes through a review process. Mr. Brown said it would require someone to make themselves familiar with the building code and any regulations of anyplace someone might move into. It would be incumbent upon someone looking to buy within a Historic Village. The process could lead to an alternative buyer instead of someone wishing to tear it down. Local Realtors would most likely be familiar with the process. Mayor Policastro said someone has always needed a permit to tear a house down – this is not something new. Fiscal Officer Borgerding asked if a non-owner can apply for a permit before you invest in the property. Mr. Brown said you would have to be the owner of the home. Mr. Hlad said in order to demolish a house in the Village requires a permit – what we do not currently have is a review process of whether or not that house is historical. On roll call; six ayes, no nays.

Mr. Hlad moved, seconded by Ms. Palazzolo to accept the recommendation of the Committee of the Whole which met Tuesday August 22nd at 7:00 pm in council chambers to discuss the following:

- 1) Timeline for reopening the original footprint of the trail to foot traffic
- 2) Progress report on the identification and sequestration of sensitive archeological sites
- 3) Plans for remediation of damaged areas around said sites
- 4) Temporary signage to be placed at the trailhead(s)

Present at the meeting were Mayor Dan Policastro, Vice-Mayor Eric Marsland, council members Bill Brown, Lorne Hlad, Maggie Palazzolo, Mary Ann Schwartz, and Dennis Wolter, and Mariemont residents Clem Luken, and Jerry Vianello. After brief discussion, it was unanimously decided that Council vote to reopen the Whiskey Creek Trail to its original, historic footprint with a terminus at the first creek crossing heading from the trailhead located at the end of the boathouse pond. Further discussion ensued pertaining to the identification, marking, and possible sequestration by physical means (i.e. fences) of historic sites. It was decided that a final walk of the sensitive areas in question be performed with the help of Dr. Ken Tankersley on Saturday, August 26, 2017 at 09:30. The walk will allow us to determine how best to protect the historically significant areas. A spirited discussion followed regarding the remediation of the damaged areas. It was decided that the current efforts underway by our generous volunteers are to be evaluated and likely continued after further discussion. Temporary signage noting the new/reopened trail course was also approved. These signs will be procured and installed by the maintenance department. It was agreed by Council that the signs would say ‘Trail closed beyond this point’ (the trail would be open to the first creek crossing) past the Boathouse. It was also agreed to erect two signs to say “No Trespassing” by the Historic Madisonville Sites (by where the “No Digging” signs are located on the fence). On roll call; six ayes, no nays.

Ordinances:

“To Amend Section 95.10 of the Mariemont Code of Ordinances to Give a More Complete Description of Dogwood Park” had a second reading.

Mr. Brown reminded Council that the pre-bid construction meeting for the Municipal Building will take place tomorrow morning.

The meeting adjourned at 7:40 p.m.

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Dan Policastro, Mayor

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Anthony Borgerding, Fiscal Officer