

**VILLAGE OF MARIEMONT
REGULAR COUNCIL MEETING HELD IN COUNCIL CHAMBERS
OCTOBER 8, 2018**

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. Graves asked that the minutes from September 10, 2018 be amended to read “She believes it was originally put into the Public Works and Service Committee’ not the Safety Committee regarding the historic lighting.

Mr. Bartlett asked that the minutes from September 24, 2018 be amended to read “to make sure we were still getting the right value” (regarding RFP on vendors) and “Mr. Bartlett suggested again that the reading of the Resolution appointing the Village attorney be suspended until the Rules & Law Committee has a change to complete the RFP Process”.

Ms. Schwartz moved, seconded by Mrs. Rankin to amend the minutes as requested for the Council meetings September 10, 2018 and September 24, 2018. On roll call; six ayes, no nays.

Mr. Brown moved, seconded by Mr. Bartlett to accept the amended minutes for the Council meetings September 10, 2018 and September 24, 2018. On roll call; six ayes, no nays.

Mayor Policastro read the following communications:

From Police Chief Hines: September 2018 Monthly Report

From Assistant Fire Chief Kiefer: September 2018 Monthly Report

From Service Superintendent Scherpenberg: September 2018 Monthly Report. He said leaf season will begin October 22, 2018.

From Building Administrator Keyes: September 2018 Monthly Report

From Tax Administrator Busam: September 2018 Monthly Report. Mr. Brown said it is a bad trend. Fiscal Officer Borgerding said one month is not a trend.

Mayor Policastro said the timer has been fixed and we will be utilizing the three minute rule when addressing Council.

Mr. Eric Marsland, 3600 Center Street, was granted permission to address Council. He thanked Solicitor McTigue for his many years of service to the Village. He is curious what is going on recently in regards to our legal counsel. In July this year Council voted unanimously to sign a letter of engagement with a local law firm specializing in municipal law. This letter would have allowed the law firm to look for potential conflicts of interest. This effort would be to bolster our existing representation on an as need basis. He has recently heard that Council has gone back to the drawing board on the matter and is soliciting bids for representation and asked if that was true. Mayor Policastro said to the best of his knowledge the reason for putting this in the Rules and Law Committee was to find a replacement if ever needed if Solicitor McTigue such as the example given by Mr. Bartlett that he runs his Porsche into a tree. When he sat through the last Rules and Law Committee meeting it did not sound like the same thing. Mr. Marsland said he would urge Council to hold off on the reappointment of Solicitor McTigue until Council sees what the field has to offer on all the representation that is out there. He believes it is good business to see what is out there. According to Ohio Revised Code Section 733.48 and our own Code of Ordinances which states “when it considers it necessary, the legislative authority of a Village may provide legal counsel for the Village, or for any department or official of the Village, for a period not to exceed two years and shall provide compensation for the legal counsel”. His reading of that is that it is Council’s decision. The compensation also states \$30.00 per hour. He would encourage Council to go back to the drawing board and take a look at the Code of Ordinances and make sure Council is doing what it should be doing.

Mr. Dennis Wolter, 3804 East Street, was granted permission to address Council. In the spring of 2017 five Council members were quite frustrated with the way business was being conducted in the Village. We felt Council was not included in the early stages of planning. Council was asked with little background to make up or down votes on complicated things. They wanted to reach out to the Mayor in a private and ethical mannerly way to express these frustrations. We were very careful when we had our planning meetings to make sure we stayed away from anything that could fall under the restrictions of the Sunshine Laws. There were three meetings and it was decided to keep it to a limited number of issues and they wanted to make sure to keep it private. Only one letter was signed and personally delivered to Mayor Policastro by Eric Marsland as it was felt by the rest of Council that he was in good standing with the Mayor and we would be more successful in having a say with things planned for the Village. No change occurred. The five Council persons continued to feel excluded and isolated with no input. One case in point was the addition to this building which was put into a committee of one person. Council was told not to question the plans because the Mayor felt that architect was working pro bono and we should not question his work. He believes we have less of an outcome for our investment now than we would have had if we would have had a more ecliptic investigation of these opportunities. They listed four other events that occurred where Council was pretty much isolated until the last minute. We are not out to dispose the Mayor. We have the greatest respect for the Mayor's tenure and his passion for the Village. They felt slowly over time that we were being excluded and not even following our own rules. He has sat in this room when our rules were being violated and just last week one person was allowed to speak for 18 minutes. He asked that the following letter be made part of the permanent minutes. "Dear Mayor Policastro, We are gravely concerned with the input Council has had in recent projects and decisions. We are concerned with the recent decision-making process as well as some of the decision outcomes. We are a talented and dedicated group of individuals, representing the diversity of opinions among Mariemont residents. This letter serves as a formal request, that going forward, you include us earlier in the discussion and vetting purposes: 1.) It removes some of the fact-finding burden for you, and 2.) fosters a collaborative and transparent approach to governing, which is overwhelmingly desired by Mariemont residents and Council members. To facilitate mutual understanding of the decision-making process issues of concern, we call attention to recent Village decisions and the timing of Council's involvement. A significant theme of Council's later involvement is found in the following decisions: The parking on Murray Avenue, The addition to the Municipal Building, Selling naming rights to the Council Chambers, and the Whiskey Bike Trail. For each of these above discussions and decisions, we perceive that our voice has been brought to bear only after decisions are essentially made. A yay/nay vote is asked of Council, rather than Council's work to investigate options, participate in design and planning or devise an implementation strategy. The neglected process of authentic shared decisions making between Mayor and Council can be interpreted as a series of one-off projects not rooted in any sort of larger strategy. As Council members, we currently find ourselves to be both unaware of existing problems and projects in the pipeline and project prioritization. Authentic utilization of Council's talents early will ensure that Council meetings run smoothly and that all elected officials and Village personnel are not caught unaware by inquiring citizens during casual conversations. When Council members are unaware of upcoming Village plans, our entire governing process may be judged bereft of transparency; something valued by our fellow citizens. We are asking for two things: 1) better and more timely communication of the issues facing the Village and 2) thorough discussion of issues. We believe these changes will improve our cohesion as a group and provide a unified front on issues facing our Village. This note is not to disparage your efforts and accomplishments. You have fought tirelessly for what you believe is right for the Village. By changing the way we function as a group, we will provide a better Village government and service to our residents. Sincerely,"

Mayor Policastro said in his defense for almost two years he worked really hard to get the \$400,000 grant to build this. He needed help and Bob Rich is a well-known architect and he asked him to help the Village. When we received the grant he turned it over the Planning Zoning and Economic Development Committee and asked Mr. Brown if he was a Committee of one. As long as he has been Mayor he has been told we had to get an elevator, the Tax Department needed to be here next to the Police Department to get protection. We also need a handicap bathroom. He went to a lot of meetings with Senators that he really did not want to go to. They wanted to give \$200,000 and he said we have to have \$400,000 and that is what we got. Dennis Malone was very helpful with Bob Rich. We had to have a plan together to present to Columbus and both of them did this work pro bono. Mr. Brown said he held several meetings where the design of the building was discussed. Mr. Wolter said by the time we saw the plans they were pretty much finalized and drawn. He asked for the wall between Council and the museum area to be opened up. It is a light load wall and it would have made this space much more useable. We just had a meeting where people were standing out in the hallway which could have been avoided if we did not have this division. Even opening the doors isolates people from the meeting. He was told by the architect that he was not an architect. He also asked about putting the quoin on the corner of the building to make it more monolithic with the design. He was told that the original architect would roll over in their grave. Those are not forthright answers to questions where basically the plan is just don't talk to me about these issues. That is not the way you decide a building. Mr. Brown said Mr. Rich

did have an artistic temperament and the Village did not go through a bidding process with the architect but Mr. Rich did contribute a tremendous amount of time and continues to contribute time. Mr. Wolter said he does not doubt that.

Mr. Bob Van Stone, 4050 Lytle Woods, was granted permission to address Council. He was in attendance at the Council meeting two weeks ago and listened to the discussion going back and forth about the need for a supplemental attorney. The first question he asked himself was why that is a top priority for the Village. Is there a significant risk to Mariemont of Solicitor McTigue running his car into a tree? Prior to doing any supplemental actions the Village has to go through a full scale risk abatement of what the risks to the Village are. By risk abatement he means the probability of that risk occurring, the cost of the risk, the impact to the community and the consequences. There are a lot of things that have to be done around the Village that are more important than having a lawyer at your beck and call. The skeptical side of him says there has been talk and some connotation of a push by some in this chamber for a Village Administrator and one Council member wants to clean up the code book. Both may be very good ideas. However, he believes both need to be slow rolled until they are both fully vetted in committee in a live public forum. Those are both potentially big changes. His comment as an individual citizen is to recommend not going forward without supplemental legal help until Council looks at everything else that is needed. The most important things need to be done first.

Mr. Jerry Vianello, 6570 Wooster Pike, was granted permission to address Council. He was shopping at Kroger yesterday and was stopped by a resident of the Village who said you know what is going on in this community and what the hell is going on with trying to replace our solicitor. He told them that that was not happening. What is happening is a simple request to evaluate people who have municipal experience so if the solicitor says I am at a certain point that I cannot help you and I need more expertise that the Mayor can okay it. He was told he should have been at the committee meeting. He was at the last two Council meetings and very clearly both Ms. Palazzolo and Mr. Bartlett articulated that point of view. It was simply to look at people who had municipal law experience and make them available to the Village if needed. There was mention of upgrading the Village ordinances but that is where it stopped. He needs feedback from the Mayor and Ms. Palazzolo as the Chairman of the Committee if that topic shifted to replacement of the current solicitor. If so, why did it shift and how did it shift and what was the reason for the shift. If in fact it did shift he is more than concerned. He does not believe that people in a committee can just change the topic. The topic gets voted on by Council and is moved to a committee or the Mayor takes an issue and moves it to a committee. Mr. Vianello said he wants the answer from the Mayor as he is to the point where he doesn't trust them anymore. He wants to hear from the Mayor of the Village – did that happen. Mayor Policastro said yes it did. Mr. Vianello said that is a shame. That lets him know that they are not people of their word. They ran on transparency and if that happened it was not transparent and people who know the rules as well as Mr. Bartlett knows the rules as to where the Mayor can sit on committee, you cannot make him believe that it was accidental communication. It had to be preplanned and it gets to the point of telling the truth. Three meetings ago we talked about what is wrong with this Council and everyone said they want to be respected by the community. As long as you do not tell the truth Council will never get it.

Mayor Policastro said there is only one report from the Rules and Law Committee. Solicitor McTigue said there may be more people that want to speak. Mr. Bartlett said Mr. Wolter spoke and the Mayor was able to rebut and asked why Mr. Vianello spoke and he is not able to rebut? Solicitor McTigue said typically that is how it supposed to work but if Mr. Bartlett wants to rebut he should. Mr. Bartlett said to Mr. Vianello that it was not a change. Mr. Vianello said not to talk to him but to talk to the Mayor. That is who told him it happened. Mr. Bartlett said it was in the meeting minutes which said they were going to do a full RFP and suggested that he watch the ICRC video. He said that in the Committee meeting because the minutes were not out at that point in time. Solicitor McTigue even joked at the meeting that he and his big mouth said if Council was interested in soliciting for input on a municipal lawyer between then and the next meeting. Council agreed that it would be the prudent thing to do. It is on page three of the minutes. On the last page he said twice that Council would be doing the full RFP with the vendors and said twice that Council should suspend the second reading of the appointment for the Solicitor until they have completed the entire RFP process. The second time was not in the minutes which was the amendment he asked Mrs. Van Pelt to make. It was not a change because it was always discussed during the Council meeting. Ms. Schwartz said it was discussed in the Council meeting but who officially changed the topic? Mr. Bartlett said the topic was not changed. It was put into the Rules and Law Committee. Ms. Schwartz said it was for a back-up attorney. Mr. Bartlett said no he said in the meeting that the full RFP should be put into the Rules and Law Committee. Ms. Schwartz said the Mayor has to either change the topic or Council has to have a motion and a second motion along with four out of six votes. Nothing was done official. Mayor Policastro said when he assigned the matter to the Rules and Law Committee on April 23, 2018 the minutes clearly state 'Ms. Palazzolo said there is a resident, Jack Hemenway, who is an attorney specializing in municipal law. She would like to have the Rules and Law Committee study what it may cost to partner with him for specific questions. This would be on a contract basis not in place of Solicitor McTigue.' Mayor Policastro

said this is out of balance. He suggested referring the matter to the Finance Committee due to the fiduciary aspect. Mr. Bartlett said it would appear to him that it is better suited for Rules and Law but he was agreeable to have it put in the Finance Committee. Mayor Policastro said now that the topic has changed he feels it would be better in Finance.

Mrs. Graves said she is not sure why we are changing the committee. Ms. Palazzolo said Council talked about Mr. Hemenway and voted to sign the engagement letter. It is over and done with. The wording of this matter is totally different. She asked the question in the last meeting, probably everyone was talking and she did not look to see if it was in the minutes, if Council needed to make a motion to put it in Committee and the Mayor said no that he got it. Mayor Policastro said he can put it in committee. The reason she was asking was if Council needed to make a motion to put it in committee was because it was not like we were returning the issue to committee. The Frost Brown topic has been completed and rolled off of the Rules and Law Committee docket. The new listing stems from what she thought Council all understood stemmed from Solicitor McTigue's comments about soliciting quotes from other law firms. She thought Council was clear that what was referred and that it was a new everything. Mr. Brown said the overriding theme of the discussion about the attorney at the last Council meeting was about getting a back-up attorney. There are many references to that in the minutes. When Solicitor McTigue asked Mr. Bartlett if he was looking for a new Village Solicitor Mr. Bartlett answered "I don't think we are". Mr. Bartlett said he also said later in the minutes that we should. Mr. Brown said it appears to him that we are undergoing a big shift. The entire discussion about the attorney had to do with the back-up contingent attorney. Mrs. Graves said at the last meeting it was brought up by Mr. Blum that Council needed to do their due diligence. Mr. Brown said he does not see where in the last meeting the shift went from a back-up attorney to a new Village Solicitor. Mr. Bartlett asked why he would say twice in the meeting to suspend the second resolution reading for Mr. McTigue. Mayor Policastro and Ms. Schwartz said it was never officially put into a committee. Ms. Palazzolo said again that she asked at the last meeting if it should have been voted on to move into committee and the Mayor said he had it. Mr. Brown said there really should have been more clarity of what Council was really doing. A lot of people who were here that night were still under the impression that Council was looking for a back-up attorney. Ms. Palazzolo said Council needs to do a better job of following Roberts Rules and making formal motions instead of doing things informally. Clearly it was a communication issue that some thought we were discussing one thing while others thought we were discussing something else. She does not particularly love this being in her committee. To her it seems like a time bomb. She believes it belongs there because it is a contract. However, it does also touch fiduciary responsibility and does not have a problem putting it in the Finance Committee. She does believe Rules and Law did the work and being that Mr. Bartlett was in the committee he should be able to keep the report as it is a time sensitive issue. Solicitor McTigue's contract expires on December 31, 2018 and we are already going to have to do this as an emergency to meet the current timeline. The timeline was all that was set in the meeting. We did not do anything else. Mayor Policastro asked Ms. Palazzolo if we still needed a back-up attorney and isn't that what she wanted. Ms. Palazzolo said initially yes but the letter of intent is not signed and during that conversation this all together separate issue came up and it did seem to be a more open way to go about it by putting out a public RFQ and talking with other law firms to see where the benchmarks are. We had not realized there was such a field as municipal attorneys. Mr. Brown said there is no field. He checked with the Ohio Bar Association. There is no known field as municipal law. There is no specialty in municipal law. There may be firms that that is the body of their work but it is not a recognized specialty.

Ms. Schwartz said what she believes happened is that Mr. Bartlett was talking to Solicitor McTigue in their corner because she and Mr. Brown were confused when they got an email about a new lawyer. She said Mr. Bartlett said 'well Ed knows' and that was because they were having a sidebar down there because she watched the whole thing. Ms. Wendler said she totally knew that was what was going on. Ms. Schwartz said that is because she was right there.

Solicitor McTigue said at the risk of being too self-serving about this and he looks around and everybody is correct as to what was discussed. He and Mr. Bartlett did have a discussion. Ms. Palazzolo is correct if we are going to follow the Roberts Rules of Order we should do that. With Roberts Rules Mr. Bartlett should have made a motion to table the Resolution relative to the reappointment of the solicitor so Council could go out and solicit bids for a new solicitor. That is what should have been done it was not done and he believes that is where the confusion came from. Frankly, he was not going to go the Rules and Law Committee meeting because he did not think it was necessary but he was asked by the Mayor to attend relative to the minute's issue that was discussed and the back-up lawyer. He talked with Mayor Policastro, Mrs. Van Pelt and Mr. Brown who were all under the impression that it was to solicit bids for a back-up attorney. To follow Roberts Rules the motion can still be made to table the reappointment. He appreciates the support he has gotten but wants it to be handled in a practical manner. As much as he loves this job and as much as he wants to be here and as much as he deserves to be here and as much as he thinks he does a good job for the Village if Council wants to go out to solicit someone else then let them do what they want to do. If Council wants to follow the recommendation of the Finance or Rules and Law Committee then have at it. He is a big boy and

as much as he does not want to lose if he loses he loses. The same is with the minutes as he told Ms. Palazzolo last week they are making much ado about nothing with the minutes. As much as he appreciates the discussion about him it is much ado about nothing. The contract he has with the Village states the Village can terminate him with 30 days' notice for any reason whatsoever. If Council does not like him they can terminate him with the votes of Council. He said to the Mayor that it is not a problem if Council wants to go out and solicit bids. He asked for a fair shot as everyone else. Mr. Bartlett said most definitely. From a business standpoint Mr. McTigue would have a little bit of a lead because he already has experience. Solicitor McTigue said frankly he should. He understands that this really is a what have you done for me lately world but you have to look at the whole body of work that has been presented over 20 years. Everyone makes mistakes. You show him a lawyer that does not make 10 mistakes a day and he will show you a lawyer that is not doing any work.

Mr. Brown said before a motion is made that there be some discussion as to the motive for doing this. Other than the solicitor's contract is set to expire is there some overriding compelling reason why Council is doing this? Mr. McTigue has given the Village good service for 20 years, other Councils have looked and evaluated Mr. McTigue and if there was some hitch it would have come up in the past. Solicitor McTigue said very candidly that is what he said at the Rules and Law Committee meeting. He has never in all the years he has been here been suspicious of the motives of people but he is now. In his own mind the motives, which he is not going to articulate right now and here because it is not appropriate, are somewhat misplaced. As he said at the Committee meeting, how many people here truly have at the forefront of their minds to do what is in the best interest of the Village. He has never questioned that in all the years he has been here but he does question it right now if that is their number one goal/number one agenda. With that said it may piss some people off and may cause them not to vote for him but he believes it is something every Council member needs to think about.

Mayor Policastro said there is not another attorney in this state that works for \$100 per hour and said the Village spends approximately \$35,000 every two years for legal work. The average attorney in this town makes \$300,000 -400,000 so the Village would be tripling legal costs. He looks at the expenses coming in the coming year. The Municipal Building got a new phone system which was \$13,000. We have to get a new ambulance next year (\$150,000), the Village needs to pay back \$400,000 for the matching grant for the Municipal Building. We had to borrow \$800,000 because we will not get the money until we did this. The museum is important – if we do not do it we will not get the money. We also will need a new police cruiser and a dump truck (\$80,000), the large pumps at the pool are going out (\$50,000) and we are trying to hire a School Resource Officer for the elementary school. We have a lot of extra money that we need to come up with next year. If the solicitor was not doing a great job he would agree with this, but Solicitor McTigue is doing a great job and he thinks it is important to keep him.

Mr. Bartlett said people act like we are trying to replace Mr. McTigue. This is looking to see what the best overall value is. Mr. McTigue has done a really good job. Council just does not know because we have not gone out to look at other firms. We don't know what is out there and what the cost may be. He believes from a fiduciary standpoint it behooves Council to just get the data and go through the process. He does not know the answer to the question because he does not have the data. Mayor Policastro said the point he is trying to make is if we reappoint Solicitor McTigue then we are back to where we started which was a pinch hitter attorney. This whole thing started as a back-up to Solicitor McTigue. Mr. Bartlett said the Finance Committee will make a recommendation but not a decision.

Ms. Wendler asked when the Finance Committee goes through the process will this override the Frost Brown Todd thing? The Committee will come up with a second potential second pinch hitting attorney as part of this as well? Mr. Bartlett said yes because at the last Council meeting there was concern because we did not look at other firms as well. It did not get acted on though it was fully voted on by Council. Ms. Palazzolo said Council can vote to get rid of that recommendation but it did come out of committee with a recommendation to Council. Council voted to go forward but it just did not get done. It still needs to get done unless Council decides to suspend our recommendation. Ms. Wendler asked what did not get done. Ms. Palazzolo said the letter of engagement is to test for conflict of interest. Mr. Bartlett asked from a legal standpoint should Council vote to take it off. Solicitor McTigue said yes. A motion needs to be made to take off the replacement/back-up lawyer, a motion to suspend the second reading of the reappointment of the solicitor until Council has a chance to send out RFP and a motion to move the RFP into the Finance Committee.

Ms. Palazzolo said there is a misunderstanding there also because it sounds like the Mayor's understanding is that the Finance Committee will gather the financial data and then it will come back to Rules and Law. Mrs. Van Pelt asked Council to please not talk over each other as she cannot hear what Council is saying at all.

Solicitor McTigue said what he thinks Council is saying is that the idea of a back-up attorney is completely off the table and what Council is going to do is send out an RFP for someone to be considered as Village Solicitor. And while Council is looking at the Village Solicitor they are going to be looking at his municipal law experience and background as one of the components of whether that individual would be acceptable as a Solicitor. Mr. Bartlett said to build on that should Council choose Mr. McTigue then we may reintroduce the idea of whether we want a back-up or not. Ms. Schwartz asked if Council chose someone else are we still going to look for a back-up. Mr. Bartlett said it is one of the questions in the RFP. Solicitor McTigue said he has not seen a copy of it. Mr. Bartlett said he spoke with Ms. Schwartz about some changes they want to make. Solicitor McTigue said it has always been a crawl in his side that people look at sole practitioners or small firms in a different light than they do big firms who charge the big fees because they usually get the more newsworthy cases. He would put any sole practitioner or small law firm attorney that he knows of against any big firm guys. He has an association where he works with one young attorney who does work for him. He and four other lawyers own a building downtown which houses 93 lawyers in the building. They work cases together and refer cases back and forth. If he runs into an issue that is truly over his head there are 92 people he can go to who will provide the same service to him at the same rate that he charges the Village. With that being said he does not believe Council needs to go out for a separate search for a back-up solicitor. He does not believe when Ms. Palazzolo suggested having Mr. Hemenway as a back-up solicitor that she was unhappy with what he was doing. He thinks she ran onto a fellow that is a resident and volunteered services for "X" amount of dollars an hour – which kind of flies in the face of volunteer. He has always said if he needed the help he would call and say get Jack Hemenway or Jack Potatoes to help me out with this thing.

Mr. Bob Blum, 6601 Mariemont Avenue, was granted permission to address Council. He said a lot of this discussion started with a question he asked which was 1). He did not want the Mayor to sign the engagement letter. The reason he asked all the questions he asked was because of the process that it came about. Council has not been open about a lot of the processes that they are doing. Mr. Hemenway was chosen, one person, no other discussion and was brought to a committee meeting and then decided what could be done. There was no discussion among those people that said we are going to look at this as a reason why we are doing it. The process appeared as we are railroading this person through. He came to me and it sounds like a good deal. He is not sure that the back-up information that we have had from Council is the same process each time. It is being done behind the backs of Council and it looks very hokey. The most important part of all of this is that Council members do not trust each other. There are two groups and those two groups seems to say 'we are going to battle on this side' and the other group says 'we are going to battle on this side'. There was discussion about the sunshine law and whether it was a full sunshine or not it was the idea that there was discussion behind the backs of the other people. Council is not working together. If he could make a recommendation it would be to take the next two weeks and not have any committee meetings and Council sits down and punches out each other until you figure out you trust each other. He is really, really, really disgusted with the attitudes of these adults as Council people and what you want to do behind the backs of each other. Are you going to make it for Mariemont or are you going to make it for yourself? He thinks Council needs to sit down and make sure they are working as a team. He has heard that name mentioned but not really facilitated. If Council wants to say 'I want to be friends or I don't want to be friends with whomever' or Council is going to be a friend and afraid that when they go back home that your friend is not going to be with you and your family – then you should not be on Council.

Ms. Marcy Lewis, 6824 Miami Bluff, was granted permission to address Council. She said she was at the meeting and came away with the impression that Council was discussing a back-up attorney. She said the sprinklers across the street at the Concourse do not have a rain sensor. She is having irrigation work done at her house and was told that the sensor would cost \$140 to put in. She is willing to pay for that but was unsure of the process on how to get that approved. Superintendent Scherpenberg said there are rain sensors on some of the other ones but some are affected by lightening hits which affect the sensor. Mayor Policastro said for Superintendent Scherpenberg to get the sensor and to give him the bill.

Mr. Joe Stelzer, 6609 Pleasant Street, was granted permission to address Council. At recent Council meetings it seems the permission to address Council has morphed into something completely different. It is different from what he has seen from looking at a lot of government meetings over the last six years as he was trying to track stuff along St. Rt. 32. He has never seen anything like that at any level of government. He contacted Mr. Brown and asked his take on it. Mr. Brown summed it up perfectly when he said he could not imagine if he got treated that way at a Council meeting. We need to take a look at the Council rules and figure out how to run a Council meeting in a professional and respectful manner. He believes the rules are in the code book for the most part. He asked that everyone take a look at them and figure out a way to enforce them. The three minute rule is the best thing to do because there are some people who violated that lately. The job is hard enough without having to put up with that type of nonsense is uncalled for. It appears that Council is looking for additional legal resources, whatever that may be, but he said that

in the past Solicitor McTigue has agreed with him when he classified the Code of Ordinances as poorly worded, vague and in certain areas are just not addressed properly. The Code of Ordinances is supposed to be the foundation of which this government is supposed to operate. He would ask the Solicitor to agree with him that that has caused problems in the past. People have interpreted the Code of Ordinances in any way they saw fit because it was not clear. If we are worried about legal fees we could probably reduce legal fees if we took the one time hit to fix the Code of Ordinances to make it crystal clear so everyone knows what rules we are working on. As Council goes through the process of looking for additional legal resources to include that one of the legal criteria be to fix the Code of Ordinances.

Mr. Bartlett said after the last Council meeting he went back and looked at the Rules of Council and Rule 2 states: Any person or designated representative of a group of persons or organization shall be limited to three minutes at the podium unless a majority of Council would otherwise agree. Mr. Blum was allowed to go on for 18 minutes and the reason given was because there was a conversation. But that is not in the code. There is no qualification that says if a person is talking and Council is just listening then there is a three minute limit. If there is conversation it is not in there. It just says at the podium for three minutes. He believes Mr. Stelzer is right and Council needs to start sticking to that. It is very clear in our Rules of Council. Mayor Policastro said it is very clear but there was a lot of conversation. Mr. Bartlett said there were a lot of questions. When someone is at the podium it should be three minutes. Mayor Policastro said we had a problem with the timer but it is fixed now. Mr. Bartlett said we can always fall back and use a cell phone. Mr. Brown said it does seem though if we interrupt someone and other legislative bodies make exceptions. Mr. Bartlett said it allows for exceptions by the majority of Council. Solicitor McTigue said Mr. Stelzer said it best it is just a matter of common courtesy. Council does not want to cut someone off at the knees in the middle of making a point and no offense to Mr. Blum but he was up too long at the last meeting, no question about it, and he should not have been allowed to have been up there that long. But common courtesy would allow someone 30 seconds to finish a point without a vote of Council. Mrs. Graves said ultimately it comes down to Council being in agreement if there is a question or discussion that the person does not get an unlimited period of time. Ms. Schwartz said for the most part people are aware and following the three minute rule and asked the Mayor if he can make exceptions as they do in other municipalities. Mayor Policastro said he was thinking of allowing people one question. The residents have a right to come and talk to us. Mr. Bartlett said he does not disagree. If someone is close to making the close of their remarks then let them finish. But if they are rambling on beyond five minutes – that is way beyond what the rules say. At that point it would need to be voted on by Council. Mayor Policastro said there are rules that say Council cannot speak a second time. Ms. Schwartz said it also says Council has to raise their hand. Sometimes Mr. Bartlett talks five times on a subject and she cannot get a word in. Mayor Policastro said he agrees that there is nothing in the code book about asking questions. Mrs. Graves said she does not believe it has to be limited to one question. If people stay within the relative three minutes it should be okay. Mrs. Rankin said as long as the person stays on point. Mayor Policastro says one question leads to another which leads to another and so on. Ms. Palazzolo said if someone needs to finish it should not be like someone has to fill out an application, but if someone had said something about the discussion at the last Council meeting about it going on too long she is pretty sure many on Council would have said we are done.

Mr. Vianello said he believes Mr. Stelzer and Mr. Van Stone are right. From sitting in the audience Council interrupts each other constantly. He does not believe Council listens to each other. Many of Council interrupt. Mrs. Rankin waits to speak and Ms. Schwartz gets cut off each time she opens her mouth.

Ms. Schwartz moved, seconded by Mrs. Graves 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. Bartlett asked if Council could accept the report prepared by the Rules and Law Committee though it will be moved to the Finance Committee. Solicitor McTigue said he does not think so due to the number of people who were confused if the discussion was to find a back-up solicitor or a replacement solicitor. In the interest of transparency he would suggest it is referred to the Finance Committee for the purpose of going out for request for proposals for a Village Solicitor. Ms. Palazzolo said in the future she recommends that all referrals to committees be done by a formal motion. Ms. Palazzolo moved, seconded by Mr. Brown to take the matter request for law firms out of the Rules and Law Committee and put the matter of RFP for Village Solicitor in the Finance Committee.

Mayor Policastro read the following miscellaneous announcements:

Mayor Policastro referred to the Finance Committee bonus pay for Full-Time Employees. Mr. Bartlett said he is not familiar with this process. Mrs. Van Pelt said she would work with Mr. Bartlett and get him background information. Typically the bonus is processed with the first payroll in December so the Fiscal Officer can run final

figures for the Appropriation Ordinance. The committee would need to have their report submitted by the last meeting in November.

Leaf Season will begin Monday October 22, 2018 and end the week of December 17, 2018. Mrs. Rankin said she is concerned with residents and lawn care companies putting the leaves in the street. A big concern is Homewood Road. She asked what the process is to make sure that does not happen. Mayor Policastro said it will be in the Mayor's Bulletin which gives the residents a list of what they need to do. Mrs. Graves suggested sending notices to landscaping companies working in the area to remind them of the rules as well. Superintendent Scherpenberg said that is something he can do. Mayor Policastro said it can also be put on Nextdoor Mariemont.

Beggar's Night will be Wednesday October 31, 2018 6:00 p.m. to 8:00 p.m.

Annual Tree Lighting and Luminaria will be December 1, 2018 5:30 p.m. -8:00 p.m.

It was determined that the Council meeting in December will be December 17, 2018 at 7:00 p.m.

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. Ms. Schwartz moved, seconded by Ms. Palazzolo to adopt the Resolution. On roll call; six ayes, no nays. Resolution No. R-23-18 was adopted.

"To Reappoint Don Keyes to the Position of Building Department Administrator for Calendar Years 2019 and 2020; To Set Compensation" had a second reading.

"To Reappoint Dave Tensi as Inspector for the Building Commissioner for the Calendar Years 2019 and 2020" had a second reading.

"To Confirm the Reappointment of Christopher M. Ertel as Village Engineer for Calendar Years 2019 and 2020; and To Set Compensation" had a second reading.

"To Confirm the Reappointment of Jordan Schad as Swim Pool Manager for Calendar Years 2019 and 2020; and To Set Compensation" had a second reading.

"To Reappoint Peggy Keyes as a Member of the Parks Advisory Board for the Calendar Years of 2019 and 2020" had a second reading.

"To Reappoint Dave Wuertemberger as a Member of the Parks Advisory Board for the Calendar Years 2019" had a second reading.

"To Appoint Eric Marsland as a Member of the Parks Advisory Board for the Calendar Year 2019" had a first reading.

"To Reappoint Rhonda Materese as a Member of the Pool Commission for the Calendar Years of 2019 and 2020" had a second reading.

"To Reappoint Jill Mehl as a Member of the Pool Commission for the Calendar Years of 2019 and 2020" had a second reading.

"To Reappoint Jane Stalzer as a Member of the Architectural Review Board for the Calendar Years of 2019 and 2020" had a second reading.

"To Reappoint Steve Spooner as a Member of the South 80 Trails, Gardens and Park Advisory Board for the Calendar Year of 2019" had a second reading.

"To Reappoint Mark Glassmeyer as a Member of the South 80 Trails, Gardens, and Park Advisory Board for the Calendar Year of 2019" had a second reading.

“To Reappoint Jason Brownknight as a Member of the South 80 Trails, Gardens and Park Advisory Board for the Calendar Year of 2019” had a second reading.

“To Reappoint Chris White as a Member of the South 80 Trails, Gardens and Park Advisory Board for the Calendar Year of 2019” had a second reading.

“To Confirm the Reappointment of Edward J. McTigue as Solicitor for the Village of Mariemont for the calendar years of 2019 and 2020”. Mrs. Graves moved, seconded by Mr. Bartlett to table the second reading. On roll call; six ayes, no nays.

Ordinances:

“An Ordinance Authorizing Application and Contracting with the Ohio Public Works Commission” had a second reading. Engineer Ertel said it is to apply for grant money for Petoskey.

Mr. Brown said Building Commissioner Keyes provided him with information regarding the extended warranty for the elevator. It is \$3600 per year. The list is longer of what they will not do instead of what they will do. The elevator comes with a 90 day warranty but it is unclear when the start of the warranty began. He personally does not recommend doing this. Solicitor McTigue said of course the elevator in his building gets a lot of use and he is really glad they have the elevator maintenance contract. Ms. Wendler said the elevator phone does not work. Cincinnati Bell tested the lines when they were out. The lines are good. It appears the lines failed to connect to the elevator company or there is something wrong with the connection inside the elevator. We should have what we paid for work. Mayor Policastro referred the matter to the Planning, Zoning and Economic Development Committee.

Mr. Bartlett wished Ms. Schwartz good luck with her upcoming surgery.

Mr. Bartlett asked about the heritage tree planting on Cambridge. Building Administrator Keyes said the owner is planning on putting one in and should tell him in approximately two weeks.

Mr. Bartlett asked when Ms. Schwartz and her committee look at the CRA issue if they can look backwards. It appears in 2007 it references attached family dwellings and later a single standalone house to it and it appears that we did not follow the rules. Solicitor McTigue said the first Ordinance/Resolution that was done was very ambiguous and it could be that he missed something. It is legal to add a single family house because it says all properties in the area. He has not looked at it in a long time. Mr. Bartlett said in 2012 it states it is a 50% abatement and for commercial/industrial you can negotiate terms but in 2012 it was bumped up to 100%. We did not follow what we said in the original set of documents. It seems there are some inconsistencies. He also has questions regarding the CRA and the Steam Plant. Solicitor McTigue said he, Mr. Brown and Mrs. Rankin said they met with the developer and it the first time he heard condominium was about two weeks ago. The declaration needs to be filed. Mayor Policastro said they need to come to the Planning Commission. Mrs. Wendler said you can have a single family condominium unit. Mr. Bartlett said it references two different governing bodies – and if we continue to expand this area we should have those two governing bodies in place. Solicitor McTigue said he would take a look at it and send his opinion to Ms. Schwartz.

Mayor Policastro announced that Ace Hardware is going to open a post office and is hopeful that it will open in two months. He thanked Mr. Wenstrup for his help.

Mayor Policastro said Chase Bank will be coming to the Village and will be located where the former PNC Bank was on the square.

Mayor Policastro asked for a moment of silence in the memory of Dennis Malone who was very instrumental in us getting this addition drawing put together.

The meeting adjourned at 8:27 p.m.

Dan Policastro, Mayor

Anthony Borgerding, Fiscal Officer

