

**MINUTES OF THE REGULAR MEETING  
AMBERLEY VILLAGE COUNCIL  
MONDAY, JANUARY 14, 2008**

The Council of Amberley Village, Ohio met in a regular session at the Amberley Village Hall, 7149 Ridge Road on MONDAY, JANUARY 14, 2008 at 7:30 P.M. Mayor Charles Kamine called the meeting to order. The following roll call was taken:

**PRESENT:**

Charles Kamine  
Tim Carter  
Jon Chaiken  
Fran Cohen  
Peg Conway  
Louis Katz  
Merrie Stillpass

**ALSO PRESENT:**

Bernard E. Boraten, Village Manager  
Stephen Cohen, Village Solicitor  
Chief Monahan, Police/Fire Chief  
Nicole Browder, Clerk of Council

**ABSENT:**

Rich Batterberry, Treasurer

Mayor Kamine welcomed everyone to the regularly scheduled meeting of the Amberley Village Council, and led those in attendance through the pledge of allegiance.

**MINUTES**

Mr. Katz moved acceptance of the minutes of the December 10, 2007 regular meeting as submitted. Seconded by Mrs. Cohen. The motion carried unanimously.

**FINANCE REPORT**

Mr. Boraten presented the Finance Report for the month of December (Finance Report attached). Mrs. Stillpass moved to approve the December Finance Report. Seconded by Mr. Chaiken. The motion carried unanimously.

**COMMITTEE REPORTS: FINANCE COMMITTEE:**

Mr. Chaiken reported that the Village has substantially reduced costs for the expense of property casualty insurance for 2008. He stated that Neace Lukens has agreed to charge fixed fees for 2008 and the next three years should the Village continue to utilize Neace Lukens for property casualty insurance.

Mr. Chaiken presented the annual ordinance that is required to zero out the Village's accounts for the year. Mr. Chaiken read and moved to approve ORDINANCE NO. 2008-01, ORDINANCE AMENDING ORDINANCE NO. 2006-20 PASSED DECEMBER 11, 2006, TO PROVIDE FOR SUPPLEMENTAL APPROPRIATIONS. Seconded by Mr. Katz and the roll call showed the following vote:

AYE: Kamine, Carter, Chaiken, Cohen, Conway, Katz, Stillpass (7)

NAY: (0)

ABSENT: (0)

Mr. Chaiken moved to approve the Ordinance passed as an emergency measure. Seconded by Mr. Katz and the roll call showed the following vote:

AYE: Kamine, Carter, Chaiken, Cohen, Conway, Katz, Stillpass	(7)
NAY:	(0)
ABSENT:	(0)

#### **BEAUTIFICATION COMMITTEE:**

Mrs. Stillpass announced that the Beautification Committee will meet on January 28<sup>th</sup> in the community room at Village Hall. She stated that the committee will continue planning for the celebration of Arbor Day that will be celebrated on Sunday, May 4, 2008, from 1-4 p.m. She stated that the committee will continue working on a master plan for the Village's landscape as well as plans for a rain garden. Mrs. Stillpass announced that Sgt. Rock will be returning to provide entertainment during the Arbor Day celebration. She also announced that Mitzi Miller will have the history room at Village Hall open for viewing by residents.

#### **MAYOR'S REPORT:**

Mayor Kamine reported that council voted at the November council meeting to conduct another culling of the deer herd in Amberley and to expend up to \$10,000 for that purpose. At the December council meeting, a consideration was made to perform a deer count before conducting the deer culling program to prove that there is an overabundance of deer in the Village. Council voted in December to postpone the culling pending the count and made arrangements for the count. However, the count is done by a flyover and requires a solid snow on the ground in order to accomplish the count and weather has not cooperated.

Mayor Kamine informed the council that we may be close to running out of time to effectively perform the culling as well as the likelihood for a count to be performed. He stated that the issue on the table for council was to decide whether or not to lift the postponement of the culling that was already approved and go forward without a count or continue to delay the culling until a count can be performed.

Chief Monahan reported that Lt. Blum spearheaded this program last year and Lt. Blum has stated that the program would need to begin immediately to coincide with hunting season. Chief Monahan reported that after February, the bucks lose their antlers, which makes it difficult to distinguish between the male and female deer.

Chief Monahan confirmed that there was not a measurable snow since the last council meeting. Chief Monahan reported that Indian Hill performs their count every January. He also reported that the final accident count for 2007 was 13 and so far for 2008 there have been six deer incidents, one of which was an auto accident.

Mayor Kamine inquired about how many nights are needed for the culling. Chief Monahan reported that last year it was done over a six week period. He stated that we are now at four weeks left in the season. Mayor Kamine invited other council members to ask questions.

Mr. Chaiken asked what the accident numbers were again. Chief Monahan reported that it was 13 in 2007 and 22 in 2006.

Mrs. Conway inquired about when Indian Hill performs their culling if their count is done in January. Chief Monahan reported that Indian Hill allows hunters to hunt in bow season in November versus conducting a culling. Their program is completed by January 1<sup>st</sup> each year.

Mr. Katz pointed out that the topography of Indian Hill is much different than that of Amberley. He stated that he understood the helicopter pilots could have performed a count; however, it would not have been completely reliable. Mr. Katz stated Crest Hills would not have been a problem, nor the rest of the Village, but French Park might have been a problem. Chief Monahan stated that French Park would have definitely been a problem due to the wooded nature of the park.

Mayor Kamine asked if anyone would like to make a motion to either go forward with the culling or postpone the culling. Mrs. Conway expressed that she felt that she was in a dilemma because culling is an acceptable approach, however accidents are down. She stated that philosophically she is comfortable with culling. She stated that she felt last year's numbers were more compelling. Mr. Katz stated that he agreed with Mrs. Conway that culling is an acceptable practice. He stated that his concern is that we do not have a policy in the Village of what is appropriate, whether our concerns are traffic or vegetation. He stated that he felt that before the Village conducts a culling program, a policy and a deer count should be performed so that we have accurate information.

Mrs. Conway stated that she felt we do know that we have more deer in Amberley than can be supported. Mayor Kamine stated that the information that we have received reported that an area the size of Amberley would support a herd of 120-150.

Mr. Katz stated that he puts out food for the deer. He stated that the number of bags of food he uses is down by over two-thirds this year. Therefore, he cannot say for sure that we have more than last year. He stated that at least seven residents that he has spoken to since the last council meeting have reported a lot less deer. He stated that the accidents are down as well.

Mr. Carter stated that he agreed with Mr. Katz that the Village should have a policy. He stated that there are certain properties in the Village where our expert marksman could hunt extremely safely, such as on his property. He stated that he agreed that the count should be performed and a policy drafted so an intelligent decision can be made.

Mr. Chaiken asked what was driving the decision back in November when the decision was made and passed for the culling. Mayor Kamine stated that although we performed the culling last year, there were still significant accidents. He stated that doing the culling a second time was to ensure safety on the streets and to allow for sustainable vegetation in the yards. He stated that 48 deer were taken out last year; however, the population bounces back very quickly. He stated that this effort was not about eradicating the deer, but to protect the vegetation and the deer from overpopulating.

Mrs. Conway asked when the culling would take place if a count was performed first. Chief Monahan stated that the culling would start in November. Mr. Katz reiterated his view to establish a policy and perform a count.

**RESIDENTS TO ADDRESS COUNCIL:**

Ahron Leichtman, resident at 8660 Lynnehaven Drive, stated that he understands that there is a way to prevent deer collisions with automobiles. He stated that he forwarded information to the manager regarding this solution. He stated that it is used effectively in Minnesota. He stated it was a laser system and the police department has begun to look into it. He stated that it is not an inexpensive option. He stated that he has come to the understanding that there will be deer culling, although he does not like it. He urged council to find out the number of deer. He stated that he felt the laser device is a safety measure that is a viable option to utilize. He stated that he realized that this has been a hot issue on both sides. He stated that he recently found out that the Village has coyotes. He reported that his neighbor's pet was injured by a coyote and the vet bill was over \$4,000. Mr. Leichtman stated that he is nature-lover; however, he understands culling must be done, but he wants an accurate count completed and responsible management.

Brenda Shomfield, a 37-year resident of 7640 Elbrook, stated that she was in the Village before deer were considered a problem and she does not understand why there are too many now, but she loves deer. She has talked to neighbors and friends who like having the deer too. She stated she felt that council may only be hearing from the people who want the deer eliminated. She gave an example of a doe on her property with triplets and she felt it was an uplifting experience. She stated that once a fawn slipped in her driveway and she picked it up and felt she touched nature, which has been a beautiful experience for her. She stated that as long as we have cars and traffic, there will be accidents. She gave an example of an accident that she had with a lawn mowing company truck and expressed that we could not cull the lawn mowing people or dogs that run across the street. She expressed that as an affluent community we could share our space with innocent animals. She stated that she felt the animals have enriched our lives and for the amount of vegetation they eat we can afford to buy a new plan in the spring. She asked that council take into consideration the thoughts of the people who enjoy the deer.

Mayor Kamine stated that he would like to propose a compromise. He proposed that council continue to postpone the culling until a count is conducted, however, that council authorize that if a count comes in between now and the next council meeting that comes in at over 150 that the police department be authorized to perform the culling. Otherwise, if we do not receive a snowfall, we wait until November. Moved by Mr. Chaiken. Mr. Carter explored council to consider again what Mr. Katz stated about requiring a policy before we cull. He stated that he does not think we should move forward without a policy. He stated that for the record, he was not at the November meeting because he was out of town and he would have voted against the resolution.

Mr. Chaiken expressed that a policy would have several components. He stated that if Amberley can only support between 100-150 deer, then because we are an urban environment we have taken away the natural predatory system that would have regulated the population. He stated that in conjunction with the motion, we then develop a policy so going forward we do not have to debate the issue.

Mrs. Conway stated that the method we are utilizing is an accepted practice on a state and national level. She stated that a policy would be a good idea, although she felt that what we are doing is responsible

Mr. Katz again expressed his desire for a policy to determine exactly what the acceptable number of deer is for the Village. He stated that a policy would prevent further debate on the issue.

Mrs. Stillpass stated that there are a lot of residents who feel that the deer are attractive; however, they are destructive to landscaping which has discouraged homeowners. The deer also cause erosion in yards by creating trails, which destroys the vegetation and grass. Therefore, if the deer count results show that we have more deer than our environment can support, Mrs. Stillpass would be in favor of deer culling at that point.

Mayor Kamine stated that the motion on the table would authorize the police department to move forward with the culling upon a successful count and if that count would show 150 deer or above, then the police department would be authorized to conduct a deer culling program this year. If there is no snow and no count, then there deer culling program will not be conducted this year until November. The motion was seconded and the roll call showed the following vote:

AYE: Kamine, Chaiken, Cohen, Conway, Stillpass (5)

NAY: Carter, Katz (2)

ABSENT: (0)

### **MAYOR'S REPORT**

Mayor Kamine stated that a re-appointment of an Income Tax Review Board Member is needed. He stated that the Board hears appeals filed by residents regarding their income tax returns. The Board is made up of the Manager and Treasurer along with one resident. Mayor Kamine recommended that Judy Barron be re-appointed. Moved by Mrs. Cohen and seconded by Mrs. Stillpass. The motion carried unanimously.

Mayor Kamine reported that there is, by ordinance, a Long Range Planning Committee that is made up of the Vice Mayor, a member of Council along with four residents. Mayor Kamine presented and read the recommended list of names to Council for approval, which were Merrie Stillpass, Peg Conway, Jose Garcia, Michael Schuster, Frank Davis and Connie Hinitz. Moved by Mr. Katz and seconded by Mrs. Cohen. The motion carried unanimously.

### **Solicitor's Report:**

Mr. Cohen prepared a draft of an ordinance and memo that was distributed to Council prior to the meeting. He stated that the Ohio legislature chose to preempt municipalities' control over the video service providers. This particular ordinance relates to the fact that we are going to get a zero percent for the use of our rights of way unless we pass this ordinance. Time Warner Cable Franchise Agreement will be continued until the end of their term of the existing contract, which will expire November 14, 2009.

Mr. Katz moved to approve ORDINANCE NO. 2008-02, ORDINANCE PERTAINING TO CABLE/VIDEO SERVICE PROVIDERS (1) THAT ARE CURRENTLY PROVIDING, OR INTEND TO PROVIDE, SERVICE WITHIN THE VILLAGE, (2) HAVE OBTAINED A VIDEO SERVICE AUTHORIZATION OR RENEWAL FROM THE OHIO DEPARTMENT OF COMMERCE, (3) CHARGING SUCH PROVIDERS A FEE IN THE AMOUNT OF 5% OF GROSS REVENUES INCLUDING ADVERTISING REVENUES, AND DECLARING AN EMERGENCY. Seconded by Mrs. Cohen and the roll call showed the following vote:

AYE: Kamine, Carter, Chaiken, Cohen, Conway, Katz, Stillpass (7)  
NAY: (0)  
ABSENT: (0)

Mr. Katz moved that this ordinance must be passed by emergency measure. Seconded by Mrs. Cohen and the roll call showed the following vote:

AYE: Kamine, Carter, Chaiken, Cohen, Conway, Katz, Stillpass (7)  
NAY: (0)  
ABSENT: (0)

#### **MANAGER'S REPORT:**

Mr. Boraten reported that Council has received for review the proposed CDS 2008 Engineer Fee Schedule for review and approval. He reported that the fees were found to be comparable. He recommended that Council pass a motion to accept this fee schedule. Mrs. Cohen moved to approve the use of CDS for 2008. Seconded by Mrs. Stillpass. The motion carried unanimously.

Mr. Boraten reported that the Hamilton County Joint Purchasing Cooperative is moving forward. He stated that he will review and arrange joint purchasing as appropriate. The Village has implemented this program for the purchase of office supplies and will move forward to transition other purchases to this program.

Mr. Boraten reported that this year we must renew our public depository. He stated that this means the bank with which we do business. He stated that state guidelines propose selection of a five year public depository. Our public depository expires on March 19<sup>th</sup>. Mr. Boraten explained that in the past the Village has chosen one depository for active funds and one for inactive funds. He stated we have varied from one to three depositories. He stated that he has discussed this with Mr. Chaiken and we may want to talk to Fifth Third to extend the time of our current agreement to allow the Finance Committee time to create an RFP. He stated that we will advertise, however, it is not a formal bidding process.

Mr. Boraten then announced that Chief Monahan has been selected to receive the Emil J. Otting Award for Service from the Hamilton County Police Association. He commended the Chief on the upcoming award and stated he was very proud to have the Chief receive this award.

Mr. Boraten then shared a letter from resident James Demsey. Mr. Demsey expressed his extreme satisfaction with the storm water work that was performed on Lamarque Drive. Mr.

Demsey stated that he feels that the project was completed in a very efficient and orderly manner. Mr. Demsey praised the engineers as well as Steve Rasfeld, the Village's Public Works Supervisor, for the coordination of the project. He stated that Steve Rasfeld has been working out the individual issues for each resident for this project.

### **NEW BUSINESS**

Mr. Katz stated that he has two issues to bring up as new business. He stated that Village Council received a report from a resident that she had a leak in her roof and when she called the roofer she discovered that a bullet had penetrated her roof. It was basically in a downward trajectory, straight down, not at an angle, according to what he understood from the police, which means that it was fired nearby, straight up into the air, and, this resident was concerned about the discharge of firearms in the Village.

Mr. Katz stated that he told the resident on the phone that he could not believe that the Village did not have an ordinance prohibiting the discharge of firearms. He stated he went to the municipal code and discovered under 137.05(a) it provides no person shall discharge a firearm on a lawn, park, playground, orchard, or other ground pertinent to a school, church or inhabited dwelling, the property of another or a charitable institution. It then goes on to say this section does not prevent or prohibit the owner thereof from discharging firearms upon his or her own land. Mr. Katz stated that he believed that we should look at that provision pretty seriously and establish a policy if that's what we're going to try and do in the future as to what is in the best interest of the Village and whether we should allow it. Mr. Katz pointed out that it does say no person shall discharge a firearm in a park, so he wondered how the police were going to shoot deer in French Park without violating our laws. Mr. Katz stated that he assumed that there would be sufficient enforcement if discharging firearms in the park is against our code.

Mr. Katz stated that the second issue is the issue of the giving of firearms to retired officers. He stated that he had asked the police department to create a policy. Mr. Katz stated that Chief Monahan recommended that if an officer is with us for sufficient time to then retire, he or she should be entitled to obtain his or her badge and purchase for one dollar his or her firearm. He stated that that is something that should be changed. Mayor Kamine confirmed that the Law Committee will then meet to prepare and propose an ordinance so that can take effect. Mr. Katz agreed.

There being no further business, Mrs. Conway moved to adjourn. Seconded by Mrs. Cohen and the motion carried unanimously.

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Nicole Browder, Clerk of Council

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Mayor Charles Kamine