

**MINUTES OF THE SPECIAL MEETING
AMBERLEY VILLAGE COUNCIL
MONDAY, AUGUST 25, 2008**

The Council of Amberley Village, Ohio met in a special session at the Amberley Village Hall, 7149 Ridge Road on MONDAY, AUGUST 25, 2008 at 7:00 P.M. Mayor Charles Kamine called the meeting to order. The following roll call was taken:

PRESENT:

Charles Kamine
Jon Chaiken
Fran Cohen
Peg Conway
Louis Katz
Leslie McIntosh
Merrie Stillpass

ALSO PRESENT:

Stephen Cohen, Village Solicitor
Chief Monahan, Police/Fire Chief
Bernie Boraten, Village Manager
Nicole Browder, Clerk of Council
Margie Crowley, Finance Administrator

ABSENT:

Rick Kay, Treasurer

Mayor Kamine welcomed everyone to the special meeting of the Amberley Village Council.

Mayor Kamine announced that two ordinances relating to the Crest Hills litigation were before the Council for discussion. He stated that there were settlement discussions with regard to the Crest Hills litigation which resulted in an agreement on August 12, 2008 at court. At that time it was agreed that the Village, in conjunction with the insurance company, would be paying \$8,750,000 to the Ridge Club in exchange for the Ridge Club delivering to the Village and to the Village's insurance company a full release of all claims by the Ridge Club and all claims that may exist by Hal Silverman, Hal Homes, Murray Guttman and Hill Communities. He stated that it was arranged by the Ridge Club to obtain those releases from Mr. Silverman and Mr. Guttman in exchange for a payment of some amount of money that would come out of the settlement funds. A full settlement was agreed to and the parties are submitting to the court by Thursday, August 28, 2008, a final settlement agreement which will fully settle the litigation and release the Village of any further exposure to any liability from the lawsuit.

Mayor Kamine read ORDINANCE NO. 2008-17, ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE PURCHASE AGREEMENT, SETTLEMENT AGREEMENT, AND CONSENT DECREE. Mr. Katz moved to approve the ordinance. Seconded by Mrs. Conway and the roll call showed the following vote:

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

Mayor Kamine opened the floor for discussion to members of council and those present in the audience. No comments were made by those present.

Mayor Kamine reported that the Village must appear in court on Thursday, August, 28, 2008, thereby creating an urgency to pass this ordinance as an emergency. Mayor Kamine read the emergency measure section. Mr. Katz moved to approve the Ordinance passed as an emergency measure. Seconded by Mrs. Conway.

Mayor Kamine opened the floor for discussion to members of council and those present in the audience. Tom Neuman, resident at 5120 Rollman Estates Drive, thanked Council for the

opportunity to speak. He stated that he would like to address the issue of a referendum. He stated that he understood that the emergency procedure would then preclude the ability to move forth with a referendum petition. Mr. Neuman read section eight of the Village charter regarding referendums and stated that emergency measures are to be passed in compliance with the provisions of this charter. He felt that the Council was utilizing this emergency measure to avoid a referendum on this ordinance. He read again from the Village Charter section that defined an emergency measure. He stated that he did not feel that the definition of the emergency measure section was being met. He stated that residents want a review of this decision. He stated that he felt that Council has not given the residents a chance to vote for this issue.

He stated that should the emergency measure pass, he will contact the Institute of Justice to contest the emergency measure. He urged Council to consider not passing the emergency measure.

Mayor Kamine stated that the suggestion that the emergency measure was devised to thwart any action on this matter is incorrect. He stated until Council passed an ordinance, it would not have been subject to a referendum; therefore, the 45 day time frame would begin after the passage of this ordinance. He stated that the Village's legal counsel has advised him that in order to get this litigation settled along with the need to respond to the Judge in Court, the Council must move this forward and have it completed before Thursday. Mayor Kamine stated that this was not a plot to keep this issue from the ballot.

Mr. Neuman again expressed his dissatisfaction that he felt the residents no longer have the opportunity to challenge the Council's decision.

Mayor Kamine stated that the emergency measure has been moved and seconded. The roll call showed the following vote:

AYE: Kamine, Chaiken, Conway, Katz, McIntosh, Stillpass	(6)
NAY: Cohen	(1)
ABSENT:	(0)

Ed Desatnik, a Village resident for 14 years, stated that the Council was re-elected to keep the Crest Hills property maintained as a park. He stated that the property could have been developed four years ago and there could have been a nice development there with income to the Village. He stated that he has not heard anything about the cost of this venture and he thinks it is unfair that it is not on the ballot. He stated that the residents have a right to representation and he along with a lot other residents are upset. He stated that he felt that the Council disregarded the survey results from the residents on this matter. He stated the survey was not a legal process, but it was a majority opinion of the residents. He stated that this is a major issue for the Village and did not agree with Council.

Mayor Kamine read ORDINANCE NO. 2008-18, ORDINANCE PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$6,000,000 OF NOTES, BY THE VILLAGE OF AMBERLEY, OHIO, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING A FINAL JUDGEMENT.

Mr. Katz moved to approve this ordinance. Seconded by Mr. Chaiken. Mayor Kamine opened the floor to discussion. Ms. McIntosh asked for the clarification between the bonds in section one at six percent and the notes at four percent in section three. Mr. Chaiken stated that the short term funding is substantially better versus a bond which would run over a 25 year period. Ms.

McIntosh then stated that that she does believe that it is in the best interest of the residents to finalize the settlement of this property. There being no further discussion on this ordinance, the Mayor asked the Clerk for a roll call which showed the following vote:

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

Mayor Kamine read the emergency measure section of the ordinance. Mr. Chaiken moved and Mr. Katz seconded. Mayor Kamine opened the floor to comments. Mr. Neuman briefly reiterated his disagreement to pass the emergency measure.

Andrew Shott, resident at 7193 Fair Oaks Drive, stated that he has been watching this proceeding for years. He stated that Mr. Chaiken stated that the Village does not know what is going to be done with the property. Mr. Shott stated that he has always heard plans for a park or golf course or the like. He stated that he felt that the Council had just adopted an ordinance to spend taxpayer money to buy a property that Council does not know what to do with. He stated that the ordinance just passed was not just an ordinance to buy the property, but was a taxing ordinance against the residents and the tax will support the debt service. He stated there is not a business plan in place that a bank would consider in order to provide a loan.

Mr. Shott stated that he does not think the Council has been very forthright with disclosure on this matter. He stated that there is a need for public approval or disapproval of this matter. He stated that he does not want to see the litigation continue. He stated Council should find a way to be more open and genuine so that residents do not feel betrayed. He stated that the emergency measure is challengeable. He believes the use of the emergency measure on this ordinance was weak. He stated that many deadlines have been missed regarding this litigation already; therefore, one more would not be detrimental.

David Dahlman, life-long resident from Fair Oaks Lane, stated that he was very proud to share that he was one of the participants that stopped the Rookwood eminent domain that occurred a few years ago. He stated that this matter appears to be similar. He stated that definition is key in these matters. He felt that the emergency clause is actionable. He felt that the Village's attorneys may have stated that the Council has the ability to pass the emergency measure, but the Council may not have the right to do it. He stated that he was on the side of settling this matter. He now feels in support of Mr. Neuman's perspective that the residents' ability to challenge has been taken away. He stated that he feels that he does not have a say now.

Paul Hogan, resident at 9070 Ridgeway Close, asked if the Council actually did not have a plan for the property. Mayor Kamine stated that the intent is to move forward with the proposition that the majority of the Village would like to see it stay a green space. The Council will explore the possibility of a golf course, however, at this moment; we have been contacted by several different organizations that have expressed an interest in operating it as a golf course. Mayor Kamine stated no decisions will be made until the uses are studied. He stated the Council will spend a lot of time over the next several months to analyze what will be the best interest of the Village.

Mr. Hogan clarified that the results of the resident survey were against a golf course. Mayor Kamine replied that the Council has no interest in a golf course that will require additional tax revenues from the Village to subsidize it. If it is not operated without any additional revenue from the Village that we are not interested. Mr. Hogan cautioned the Council on the exploration

of the golf course idea as he felt it was not profitable. He suggested to Council that a vote be taken from the residents to decide on the use of the property.

Mayor Kamine stated that the emergency measure has been moved and seconded. The roll call showed the following vote:

AYE: Kamine, Chaiken, Conway, Katz, McIntosh, Stillpass	(6)
NAY: Cohen	(1)
ABSENT:	(0)

There being no further business, Mrs. Cohen moved to adjourn. Seconded by Mr. Katz. The motion carried unanimously.

Nicole Browder, Clerk of Council

Mayor Charles Kamine