

**MINUTES OF THE REGULAR MEETING  
AMBERLEY VILLAGE COUNCIL  
MONDAY, APRIL 11, 2016**

The Council of Amberley Village, Ohio met in regular session at the Amberley Village Municipal Building, 7149 Ridge Road on Monday, April 11, 2016 at 6:30 p.m. Mr. Muething called the meeting to order. The following roll call was taken:

**PRESENT:**

Richard Bardach

Elida Kamine

Ed Hattenbach

Thomas C. Muething

Ray Warren

Natalie Wolf

**ALSO PRESENT:**

Scot Lahrmer, Village Manager

Kathleen Harcourt, Acting Clerk

Kevin Frank, Village Solicitor

Chief Richard Wallace, Police/Fire Department

Mr. Muething welcomed everyone to the meeting of the Amberley Village Council. He then led those in attendance through the pledge of allegiance.

Mr. Muething noted that Dr. Errol Stern, a long-time resident of Amberley Village and husband of former Councilperson Leslie McIntosh passed away last week. He asked that everyone keep Leslie, the family and Dr. Stern in their thoughts and prayers.

**MINUTES**

Mayor Muething stated that some changes were requested by the Vice Mayor and Mr. Warren in regard to the minutes of the March 14, 2016, regular meeting which were circulated to Council. Mayor Muething asked if there were any additional changes to the minutes as distributed. There being none, he stated the minutes were accepted as submitted.

**FINANCE REPORT**

Village Manager Scot Lahrmer presented the February, 2015, Finance Report (a copy of which is attached hereto). Mr. Lahrmer reported a summary of this report and noted tax collections for the month of February totaled \$315,897. The total general fund revenue for the month of February was \$384,521 while expenses equaled \$384,000. At the end of February, the unencumbered General Fund balance was \$3.8 million. The report was accepted as submitted.

**CITIZENS TO SPEAK**

Mr. Michael Gerson, 6700 E. Beechlands Drive, speaking on the topic of Amberley Green, stated that for 12 years he had acted as steward of this piece of property. He said the Village is making a mistake and vowed to fight the direction the Village is going on the property all the way. He stated that when the time comes, the residents will be there with him.

Mayor Muething asked if there were any questions for Mr. Gerson. Councilman Hattenbach responded to Mr. Gerson, explaining that the Village needs to get ideas for concepts for the property as far as infrastructure costs and possible pitfalls in the development of the property regardless of who is chosen as the developer. He stated that the financial situation in the Village is not getting any better and we need to monetize some of our assets. Mr. Gerson asserted at this point that two residents were being ignored in the process—Mark Fisher (the Jewish Community Center) and Hank Schneider. Mayor Muething thanked Mr. Gerson.

Vice Mayor Wolf requested to make a comment in response to Mr. Gerson. She wanted the residents to know that no one having an interest or opinion on the property had been ignored.

Mayor Muething added that the JCC would be included in any plans going forward. In regard to Hank Schneider, the Mayor stated that the Village needs an overall plan rather than just 33 acres for what he wants.

### **STREETS, PUBLIC UTILITIES & SEWERS COMMITTEE**

Mr. Warren reported that the committee met on April 5 to discuss the 2016 Streets Program. He announced that the program would consist of curb and street repair to Springvalley north and south of Galbraith Road, curb replacement on Longmeadow from Ridge to Lamarque and curb repair on Arborcrest Drive north of Lamarque. Depending on overall cost of the program, the paving of Kentland and Patrisal Court may be added. The program will be paid with \$400,000 from the Streets Fund and \$140,000 from the Storm Water Fund. The cost of curb repair and replacement is split 50/50 between Street and Storm Water.

Mr. Warren also announced that Amberley Village received a \$96,000 grant from the Municipal Roads Fund for resurfacing Kincaid from Section to Farmcrest. The Village is filing for an additional grant for Farmcrest in the fall.

Mr. Warren mentioned that the Village planned to resurface Aracoma in conjunction with plans from GCWW to replace water lines. This program had been delayed by GCWW several times, hopefully it will move forward in the fall and the resurfacing will take place next year.

Mr. Warren stated that the committee voted to recommend the program, allowing the Village to move forward to collect bids with the intent to be able to award a contract for the program at the May Council Meeting.

Mayor Muething interjected that the \$400,000 for the program coming from the Street Fund is composed of \$200,000 received by the Village for license plate registration and gas tax. The other \$200,000 comes from a transfer from our General Fund. Future programs are dependent upon the amount available in the General Fund. While the goal each year is a \$400,000 project, it may not always be possible.

### **PUBLIC BUILDINGS & PARKS COMMITTEE**

In the absence of the committee chair, Councilmember Conway, Councilmember Hattenbach reported. He stated that the committee met on March 28 to discuss the use of drones on public property. There have been complaints about drones on Amberley Green. At this point the committee is researching what other communities are doing as far as establishing a policy. Blue Ash is in the process of putting together a policy. City of Cincinnati parks and national parks ban the flying of drones. Mr. Hattenbach stated that Chief Wallace expressed public safety concerns. Drones can weigh anywhere from half a pound to 55 pounds so they are capable of property damage and personal injury if someone loses control of the drone. Mr. Hattenbach reported that the committee has not put together a policy, but the Village will not allow drones to be flown in the Village at this time.

Mr. Warren asked if a person would fly a drone on Amberley Green today and cause damage to the property can the person be held liable. Solicitor Frank answered that it would be like any other negligent act committed by an individual. He could be held liable.

Mayor Muething asked if the committee set a time-table for action. Mr. Hattenbach replied that a time-table had not been established. The committee's research was ongoing and they were looking to Blue Ash to help the Village establish a policy. He mentioned a news article about drones flying near Lunken Airport and other places. The concern is drones disrupting communications either with aircraft or police dispatching.

Mayor Muething stated that it made sense to do something sooner rather than later to address this issue. If the Village waits six months, it will be winter and the drones are less likely to be in use. It needs to be addressed now.

Vice Mayor Wolf inserted that it is a bigger issue than for the Public Buildings & Parks Committee. It is a privacy issue with some individuals putting cameras on the drones and possibly flying them over properties with pools, for example, and publishing pictures. She stated that she felt it was an issue for zoning and the Law Committee.

Mr. Hattenbach mentioned that there were legitimate commercial uses for drones—whole house inspectors, roofing contractors—that the Village would have to allow to operate. Ms. Wolf stated that issue could be addressed in the final policy.

### **LAND DEVELOPMENT COMMITTEE**

Mayor Muething began the Land Development Committee report with a brief history of Council action in regards to Amberley Green. He stated that the Long Range Planning Committee made recommendations that were endorsed by Council in May of 2011. In 2014, Council held discussions with members of the real estate industry in order to understand what could potentially happen on Amberley Green from a marketing standpoint. In 2015, Council solicited letters of interest for development of the property. The Village received four responses in July 2015, and the committee spent several months analyzing and discussing the plans and meeting with each group. At this time the Village is ready to enter into a one year agreement to explore the best option for the property for the residents.

The Mayor described the condition of the property today, stating that the club house needs to come down, the cart paths are in decay and trees are coming down. He stated that the Village needs to identify what is best for the property because what we are doing now is not the best long-term answer. Once the Village starts this process, we may find the best short-term solution is to do nothing. Maybe doing something small in the near term would be best. Or maybe a plan for the entire property will come into play. He continued saying we need to consider a wide range of possibilities and in considering the interested groups the question was which group could the Village work with to explore the widest range of possibilities? The Mayor mentioned one group was primarily interested in home development. He stated that residents didn't want that 12 years ago and they don't want it today. Mayor Muething went on to say that the Village needs to find something that benefits all of the residents. This could be something that increases revenues, recreational facilities or walking trails. Whatever is decided must include maintaining a great deal of green space.

Mayor Muething stated that no matter what is done the committee wants resident input and that any agreement the Village enters into will require getting input from residents. Mayor Muething went on to say that at the last Land Development Meeting Councilperson Kamine brought up the need to engage residents at the beginning stages of the process and, to that end, the committee intends, in the next couple of weeks, to hold a meeting solely to come up with a plan of how to do this. The committee has spent a lot of time considering this and the Land Development Committee came up with a recommendation in December. The Mayor stated that the Village will take this slow. It is not a typical development. He pointed out that the land is controlled by Amberley Village and the Village will continue to control what happens to the property. He stated that Council wants to do what residents want but also what is economic for the property. We cannot do anything on the property that does not make economic sense.

Mayor Muething then proposed Resolution 2016-14 authorizing the Village Manager to execute a pre-development agreement for Amberley Green with Amberley Development Partners for a

one year period in the form included in the Resolution. Vice Mayor Wolf seconded. Mayor Muething called for questions or comments.

Councilmember Kamine thanked the solicitor and Village Manager Lahrmer for all they had done to get the agreement to this point. At the last Land Development Meeting many comments were made and they were able to get most of the issues addressed. She stated that the most important component of the agreement is community input. She calculated that since 2011 there has been a 20% turnover of residents and everyone deserves a voice. She went on to say that after the last Land Development Meeting she still came away with some concerns. She feels it is definitely time for a plan but how we define exclusivity under this provision and how much power it gives to our partner for the next twelve months with the words develop and negotiate are very broad. She stated that the spirit of the agreement is good and she thinks everyone wants this year to collaborate, work together and have a great plan at the end of the year. She went on to say that she was concerned in the case that things would go south with Amberley Development Partners (ADP) and the Village would not be able, because of this exclusivity, to have conversations with potential once in a lifetime opportunity partners without ADP in the room. While she expects the resolution to pass, she is voting against it only because of this one issue and how it ties the Village up.

Mayor Muething asked Solicitor Frank to discuss the exclusivity clause in the agreement. Mr. Frank stated that there is a need for exclusivity when ADP is agreeing to put up \$50,000 toward studies needed to plan the development. He said that this does constrain the Village but it still does not compel the Village to do anything afterward. The Village does not have to develop the property the way Amberley Development Partners wants it if the Village does not agree. With this agreement, the Village is getting someone to kick in some of the costs we would have if we did it ourselves.

Mayor Muething pointed out that this one year agreement could be longer, but if ADP doesn't stick to the spirit of the agreement it won't be longer. He stated it is very difficult to put into any agreement all of the situations that could come up. If the once in a lifetime thing comes, in the spirit of the agreement, there could be a discussion with ADP and Amberley Village could take the lead and report to ADP. The spirit of the agreement is most important.

Vice Mayor Wolf said she felt comfortable with the agreement. After the last Land Development meeting, members were given the opportunity to offer new language to refine the document. She was only privy to her own requests, but they were incorporated into the document. Additionally, Vice Mayor Wolf stated that she believed that the newly-worded Termination Clause was sufficient to address Councilwoman Kamine's concerns regarding unforeseen possibilities.

Mr. Hattenbach brought up the cost sharing aspect of the agreement. He pointed no matter who was chosen for development of the property, the Village would have been asked to contribute to these research costs. He stated some people may think we are throwing money away doing this, but any information gleaned from these studies belongs to the Village. The Village needs to know the income potential of the property. There are so many things we don't know that are necessary to make decisions.

Councilman Bardach spoke next. He stated he was not opposed to development on the property if it involved the JCC and Dov Limited. He is concerned that Amberley Development Partners has added new parties that have not been properly vetted. He is also concerned it could happen again and does not trust them because of this. He stated that he spoke to an official at the JCC who stated that the Village is not cooperating with him. He will have a plan to present in 60 days. Mr. Bardach feels we need to engage the community first. The community

needs to tell the development group what they want rather than the development group deciding what is best. He stated that the Long Range Plan is outdated. He does not know why we rely on it. Circumstances have changed since its inception. Mr. Bardach is opposed to the Village contributing to the cost of studies. He feels it is a cost of business the developer should pay. He takes exception to Amberley Development Group representing themselves as members of the Village and can't find one member who is registered to vote in Amberley Village. For these reasons he is not going to vote for it. He added that he was not against development on the property but the JCC should be involved. Mr. Bardach later withdrew his comment about registered voters after it was pointed out by Mayor Muething that Mr. Michael Schuster was a registered voter and a prominent member of the ADP team.

Mayor Muething then asked Village Manager Lahrmer to comment on working with the Jewish Community Center. Mr. Lahrmer explained that when letters of interest were sent out regarding the property the Jewish Community Center was included along with a number of broker developers. Prior to the deadline for responses the JCC submitted a letter stating that, while they were not interested as the sole party for the development, they were interested in partnering with someone on the property. The Village Manager and the Mayor met with the executive director and some board members on this topic. The commitment that the Mayor and the Village Manager made back to the Jewish Community Center was that the Village was very interested in their participation and saw the JCC as a critical piece in the development. Two of the developers who sent responses indicated wanting to partner with the JCC on the property. That was Dov Limited and Amberley Development Partners, ADP being the party we are honing in on with this agreement. The Village Manager added that he is continuing to meet with the Jewish Community Center to keep them informed about the situation.

Mayor Muething stated that when the Village began studying the market for the property in 2014 to find what the market might bear for the property, the committee was surprised by the results. They thought there was much more possible on the property. In response to Mr. Bardach's suggestion that we find out what the residents want first, the problem is that this usually ends with a wish list that the market can't bear. The Mayor agreed that the Long Range Plan was out of date. He stated it was never realistic or market tested. In regard to the studies, the Mayor stated that all studies would be owned by the Village. Anything we approve, we would have to do anyway. Mayor Muething added he had already asked the Village Manager to set up a meeting with the Jewish Community Center in the next week.

Vice Mayor Wolf said the integrity of the Village is at stake in this matter. Council members who sat in on Land Development meetings were ignoring or trying to mislead residents concerning the participation of the Jewish Community Center in any development planned for the site. The letter to the JCC was proof that we want them included. The committee has listened to experts, listened to residents and selected the most visionary of the four development groups who submitted plans. She stated that at this point we just need to move forward.

At this point Mr. Louis Katz spoke from the audience requesting that the points of the resolution be explained to the audience and any residents listening.

Mayor Muething summarized that it was a one year agreement to develop a plan for the property. There would be extensive consultation with residents. The developer is required to report back to the Village on a periodic basis. This would be done at public sessions of the Land Development Committee. If, at the end of the year, there is an agreement of what should be done on the property there is an expectation of a longer agreement. It estimates required studies, such as engineering and traffic, to cost \$50,000 to \$100,000. These costs would be shared 50/50 with no cost being incurred until presented to and approved by the Village

Manager. The Village will not pay more than \$50,000 unless it is approved by Council. Finally, ADP will work with the Jewish Community Center to include them and their ideas.

Councilman Warren said he appreciated the work done on this matter. He stated he had seen due diligence going into determining the possibilities for the property. He saw the committee going through all of the plans submitted in great detail at public meetings. He stated he was quite satisfied with the results. He said this was the first step in a long process. It is our walk in the woods to discover the possibilities for the property. This was a good faith agreement. To cut it off at this point doesn't make sense. Finally, with respect to the study costs, Mr. Warren stated there were no free rides.

There being no further questions or comments, Mayor Muething called for a vote on the resolution. Stating that while the measure only required a voice vote, the importance of the matter dictated that a roll call vote be taken, Mayor Muething asked for the roll call.

Bardach	No
Hattenbach	Abstained
Kamine	No
Muething	Yes
Warren	Yes
Wolf	Yes

Mr. Hattenbach explained his abstention. He stated he was hearing two different opinions from the Village Solicitor and Councilmember Kamine. He wants to go forward but at this point he feels there are too many questions and he is concerned that legally something is not quite right.

Solicitor Frank clarified that the measure did not pass because there were only three yes votes. He explained it could be raised at the next meeting or something else could be proposed now.

Vice Mayor Wolf asked Councilperson Kamine if she took the opportunity to suggest language because the committee was open to new language. Ms. Kamine stated that she had submitted her concerns but assumed ADP was not open to them. Solicitor Frank stated he did not speak directly to ADP but had a client privileged conversation with Mayor Muething and Village Manager Lahrmer. Mayor Muething explained that it was difficult to come up with words to describe unusual scenarios that could occur. He went on to say the Village has no one to work development. If someone approaches the Village to develop property we need to seek help. For the next year, that help would be ADP.

Councilperson Kamine then asked Solicitor Frank for options going forward. Mr. Frank stated the measure could be brought back to the next Council meeting or the committee could have another Land Development Meeting and bring it back from there. Mayor Muething stated there were no plans for another Land Development Meeting to discuss the agreement. The next meeting would concern how to engage the residents going forward to development.

### **MANAGER'S REPORT**

Mr. Lahrmer reported that with tax season here the tax office has extended hours. The office was opened Sunday, April 10 from 12 to 3. The office will be open all this week until 5:00pm and next Saturday morning.

Mr. Lahrmer reported that Procter & Gamble had called to let him know they plan to outsource the coupon redemption operation now located in Amberley on Sunnybrook. The outsource company is located in Milford and sixteen employees will be moving to that company. The rest

of the operation will remain at Sunnybrook while the company studies their options. This will have a financial impact on the Village.

Mr. Lahrmer, mentioned the open houses hosted by Duke Energy to discuss the natural gas line through Amberley Village, and reminded residents to get their comments to the Power Siting Board as soon as possible.

### **COMMITTEE APPOINTMENTS**

Mayor Muething announced there were several committee appointments to be made.

- Tax Incentive Review Council (TIRC)—The Mayor explained that any community that offers tax incentives for business is required to set up a review council. That business is required to report back to the Council that they are complying with the incentive agreement. At the time of the Topicz expansion a tax incentive was requested and at that time the TIRC was set up. The Village was required to appoint two members and Mayor Muething and then Councilperson Doering were appointed. The Mayor stated that there being no requirement that members be on Council, he wished to continue with the current appointees. Mayor Muething moved to appoint himself and Bill Doering to the Tax Incentive Review Council. Seconded by Councilman Hattenbach. The motion was approved unanimously.
- Income Tax Board of Review—The Mayor explained that this Board meets to hear cases involving the Village income tax. While the board has not met since 2009, it is necessary to have the Board in place. There are three members on the Board, two of whom are appointed by Council. One is appointed by the Village Manager. Council is appointing Judy Barron, a current member of the Tax Board and Ben Hunt. Mr. Hunt sought the appointment to Council in January. Council was very impressed with him and saw the appointment to the Tax Board as an opportunity to get new people involved with the Village. Mayor Muething moved to appoint Judy Barron and Ben Hunt to the Income Tax Board of Review. Seconded by Vice Mayor Wolf. The motion was approved unanimously.
- Stormwater Advisory Board—Mayor Muething announced that Wayne Signer, who had served on the Stormwater Advisory Board since its inception expressed a desire to come off the board. The Mayor explained Mr. Signer had been in the unique position of being both a Village resident and an owner of a business in the Village. He was appointed to the Board as a business owner and served admirably over the years. Since Mr. Signer served as a representative of the business community and not as a resident, his replacement just needs to be from a business in the Village. Since Topicz is the largest business in Amberley Village, the Village Manager met with Topicz and they proposed Adam Greenberg to fill the spot. Mayor Muething moved to appoint Adam Greenberg to the Stormwater Advisory Board. Seconded by Vice Mayor Wolf. The motion was approved unanimously.
- Joint Economic District Zone (JEDZ) Board—Mayor Muething explained that the Sycamore Township JEDZ Board is composed of three members from Sycamore Township and three members from Amberley Village. He said that when the board was set up, it made sense that the Village Manager and two members of Council from the Finance Committee be appointed to the Board since the primary activity at the Board meetings is to report on the collection activity in the JEDZ. He stated that since the JEDZ Board usually meets at 4:15, the chair of the Finance Committee would have difficulty attending. For that reason the two members of the Finance committee appointed to serve would be Mayor Muething and Councilwoman Conway. Village Manager Lahrmer would be reappointed. They will serve a two year term beginning in June. Mayor Muething moved to appoint himself,

Councilmember Conway and Village Manager Lahrmer to the JEDZ Board. Seconded by Councilperson Hattenbach. The motion was approved unanimously.

### **CHIEF'S REPORT**

No report.

### **MAYOR'S REPORT**

Mayor Muething reported on behalf of the Environmental Stewardship Committee:

- The last ESC meeting took place on March 28. The main business discussed was the One Stop Drop that took place on April 10. Mayor Muething stated there were over 650 cars that came through, almost double the number from last year. Not all quantities are known at this point but 14 ½ tons of paper were collected, up over 20% from last year. This is especially important because the Village receives money back for the recycling we do. The Arbor Day celebrations will take place on April 25 at 6:00pm. The activities will begin in the Community Room with a showing of "Trees in Trouble" which was filmed locally. The next ESC meeting will be on May 23.
- Mayor Muething reported that Hamilton County Solid Waste announced that the amount available for recycling grants would be going down 15%. Their 2018 budget is declining due to a reduction in the amount of tipping fees collected in Hamilton County. Some communities are now dumping in Kentucky so the fees are lost to Hamilton County. On a positive note, the Mayor stated that Hamilton County Solid Waste is adding yard waste collected totals to the recycling numbers. This is very advantageous to Amberley Village since we are among the top in the County for collection of leaves and brush. The Mayor added that the Village receives about \$15,000 back each year.
- The Mayor announced the week of May 1-7 is the 47<sup>th</sup> Annual Municipal Clerk Week. He stated that Nicole Browder is more than a Village Clerk. She does a yeoman's job and goes well beyond what an ordinary Village Clerk would do. The Village has not recognized Municipal Clerk Week in the past, and he did not want to have Nicole prepare the proclamation before he announced it. Preparing proclamations is another one of her jobs.

### **NEW BUSINESS**

No new business.

There being no further business, the Mayor adjourned the meeting.

---

Kathy Harcourt, Acting Clerk of Council

---

Mayor Thomas C. Muething