

Village of Gates Mills
MINUTES OF A REGULAR MEETING OF COUNCIL
October 15, 2024

A regular meeting of the Council of the Village of Gates Mills, Ohio was held at the Community House on Tuesday, October 15, 2024, at 5:30 p.m. with Mayor Siemborski presiding. The meeting was audio recorded. Due to technical issues, the meeting was not live-streamed to the internet.

1. Roll Call

Councilmembers present: Atton, Broome, Deacon, Press, Steinbrink, Turner, Welsh.

Other Village officials present were Treasurer Morgan, Clerk DeCapite, Service Director Biggert, Police Chief Minichello, Fire Chief Majeski, Finance Administrator Mulh, Village Engineer Courtney, and Law Director Hunt.

2. **Public Hearing for Ordinance No. 2024-29, “An Ordinance Amending Section 1131.07 and Enacting New Section 1157.10 of Chapter 1157, “Zoning Uses”, of the Codified Ordinances of the Village of Gates Mills to Prohibit Adult Use Cannabis Operators in the Village”.**

The public hearing was called to order at 5:32 p.m. by Mayor Siemborski, and he recapped that after a six-month moratorium, legislation was proposed and read twice. This is the third reading and also the public hearing. Resident Jerry Bohinc wondered if this is a zoning change legally, and Law Director Hunt replied yes. Mr. Bohinc suggested, even though it might not be in the written report, if all Comprehensive Plan Committee members were polled, they all assume that zoning changes would be referred to a referendum. Law Director Hunt stated that is not the current law and that has not been put into effect. It cannot go unless the Council would wish to put it on the ballot. We have followed, to a tee, both our codified ordinances and the state process with respect to adoption of any kind of zoning regulation. There being no further comments from the audience, Councilmembers, and no write-in questions delivered to the Village, the Mayor closed the public hearing at 5:34 p.m.

Moved to Agenda Item 13. **Ordinance No. 2024-29 (Third Reading)**

Councilmember Steinbrink moved to approve Ordinance No. 2024-29 and Councilmember Press seconded the motion.

Ayes: Atton, Broome, Deacon, Steinbrink, Turner, Welsh.

Nays: Press

Motion carried.

3. Minutes of Council Special Meeting of September 11, 2024

Councilmember Steinbrink thanked the Mayor for organizing the meeting. It was two hours well-spent to go through sections of the zoning code and clear up some issues that may have been confusing or not clear.

Councilmember Broome moved to approve the September 11, 2024 minutes and Councilmember Turner seconded the motion.

Ayes: Atton, Broome, Deacon, Press, Steinbrink, Turner, Welsh.
Nays: None
Motion carried.

4. Minutes of the Regular Council meeting of September 17, 2024

Councilmember Welsh moved to approve the September 17, 2024 minutes and Councilmember Press seconded the motion.

Ayes: Atton, Broome, Deacon, Press, Turner, Welsh.
Abstain: Steinbrink
Nays: None
Motion carried.

5. Pay Ordinance # 1290 \$534,207.48

Councilmember Welsh moved to approve Pay Ordinance #1290. Councilmember Atton seconded the motion.

Ayes: Atton, Broome, Deacon, Press, Steinbrink, Turner, Welsh.
Nays: None
Motion carried.

6. Mayor's Report

- August 6 Storm Damage - our claim was turned in to the State and validated for submission to FEMA. All NE Ohio municipalities were advised that the dollar amount of damage was not large enough for FEMA support. The governor opened up the State fund and we are re-applying. Councilmember Welsh asked the dollar amount and the Mayor replied \$115,000.
- Political Signs - a gentle reminder because we are spending an inordinate amount of time on political signs. The rule is simple. It's six square feet and not in the right of way. Please express your views in accordance with the ordinances that previous Councils set up.

A. Mayfield City Schools Liaison Committee - Sean O'Hagan and Meghan Perez, Co-Chairs of the Committee, summarized the recent 5-star report card issued by the Ohio Dept of Education to Mayfield City Schools. The written summary dated 10/11/2024 and Quality Profile brochure are attached. Regarding the Improvement Society sponsored levy meeting held last week at GMES, O'Hagan and Perez presented an overview of the state report card similar to tonight's and a summary of the upcoming levy Issue 51. There were testimonials by GM residents with students in the District.

Councilmember Welsh complimented the excellent report. He asked what the current enrollment is and were there any surprise plans for GMES. Mrs. Perez responded no surprise plans. Current enrollment at GMES is 119 students. 41 students

are village residents. There is one class per grade; two classes for first grade. School is at capacity with no space for another classroom.

Councilmember Turner thanked the Committee for keeping us informed and keeping the District attentive to GM.

Councilmember Broome wondered how he would respond if asked how does Mayfield stack up financially (spend per student) to Orange. Mr. O'Hagan said Mayfield's spend per student is 10%-20% less than Orange. Mayfield's leadership has a culture of evidence-based innovation - they are excited to be serving and reaching kids across a variety of aptitudes and interests, in class and extracurricular. MHS has 28 AP classes - the highest in the County. The group of kids performing the least well is getting smaller. The stronger performers are getting better. There is opportunity for all the kids in the district. Mrs. Perez added she graduated from Orange and brought her family to GM because of the environment, the strength/real world socio-economic diversity of the schools, and educational options available to students.

B. 640 Chagrin River Road Update - Law Director Hunt said procedurally there was a hearing under our codified ordinances in front of the ARB last week. That hearing is a result of the Chief Building Official's (CBO) determination that a permit for restoration of that home had lapsed. The permit was extended only to the extent that we can do that under our code. The property owners were given a substantial amount of time to complete that restoration. The owner did appear at the ARB hearing with her contractor/husband and there was a robust discussion. The recommendation of the CBO was not to extend the permit and to seek demolition of the structure - unsafe, unsightly, and affecting the property values of surrounding properties negatively. The ARB agreed with that recommendation and passed a motion to support that. The property owners have 30 days to appeal that decision for demolition of the structure - that appeal is to Council. The Law Director warned Council that they will be judge and jury if there is an appeal. Being a judge and jury, you are not supposed to prejudge or discuss the substance of that.

The Law Director will prepare a document of conclusions/findings of fact, as required by Ohio Revised Code and our Code, that supports the decision of the ARB to uphold the recommendation of demolition by the CBO. The ARB will meet again to review, approve or revise the findings of fact in the document. Should the appeal to Council by the property owners be denied, they have the right to go to Common Pleas Court for an administrative appeal - the findings of fact in the document is the record that the Court decides the case on.

Councilmember Turner asked for a timeframe and Law Director Hunt explained the demolition is stayed pending the 30 days to appeal. The property owner does have 30 days to appeal any Council adverse decision; however, that doesn't stay the demolition unless they file a motion with the Court for a stay; if they don't file a motion, we can go ahead and do the demolition or order them to do it. If we do the demolition, we pay for it, and if we are not repaid, we put the cost on the tax duplicate.

Councilmember Press asked for guidance on what Council can or cannot say. He presumes we could report to someone who asks what's transpired tonight and he presumes we could listen to people's points of view. Law Director Hunt said to try to avoid other points of view because you are supposed to be impartial, but there's no

reason why you can't explain to members of the community what was discussed tonight.

Councilmember Broome asked the Law Director, and the Law Director agreed, to provide Council a list of the applicable procedural and substantive rules of laws (the ORC and local) and what the standards are.

The Mayor asked if the conclusions/findings of fact are public record. Yes.

Neither Fire Chief Majeski nor Building Inspector Biggert were available for comment as both were previously called away from the meeting to respond to an emergency.

7. Financial Report attached and on the website

Mayor Siemborski reported we continue to be in a good financial position. Our revenue sources seem to be on track. We received a large real estate tax payment in the first two weeks of October which puts us over our 2023 year-end results and this year's full budget by \$150,000. Municipal income taxes continue to trend well and we're confident of reaching the \$2,100,000 to \$2,300,000 level. Traffic camera receipts in August and September will be down due to the August 6 storm and electricity/camera being down for 10 days. Overall, we continue to show a good surplus year to date. We expect some of that surplus to disappear. We have moved forward with the emergency road repair on Old Mill estimated to cost \$225,000 less \$100,000 from the County and \$20,000 from the Water Dept. That's on top of the road repair we did for the water problem at Mayfield and West Hill a couple of months ago for \$35,000. We still expect the year to end with a small surplus.

Councilmember Turner raised the subject of the sidewalk between the school and the library. We have a shortage of funds, and in order to keep the State & Local Fiscal Recovery funds of \$157,000, we previously discussed putting the shortage in the budget by year end. The Mayor replied we have been working on closing the gap of approximately \$95,000 by pursuing three sources of funding - 1) Mayfield School District was approached following Councilmember Welsh's suggestion, 2) Friends of the GM Library, and 3) Purcell Fund. If those numbers come in as the Mayor has asked, there will be zero shortage. The Mayor also has asked Village Engineer Courtney to update the two year old cost estimate of \$250,000 and to value engineer the project to make sure we are not overbuilding the sidewalk/crosswalk/bridge. The Mayor would like to lock up the funding sources and bring any appropriation request to Council before the end of the year.

8. Clerk's Report

In view of the negativity of political signs, Clerk DeCapite pointed out the Halloween spoof sign at the bottom of Old Mill Road - "Dead and Breakfast Inn, Established 1845". It belongs to David Young, in the audience tonight.

9. Police Department Report attached

The Police Chief reported that the up-fitting of our new police car will be delayed one week. It should be on the road November 1. In response to the Mayor's

question, the \$2,500 we will later be asked to appropriate from the Opioid Fund will be used for DARE programs, drug enforcement programs, youth services programs for all grade levels and at the environmental center, and failed vision goggles.

Councilmember Steinbrink commented on the speed cameras as we are now a year in. From September of last year to September of this year we've seen a 70% decline in the number of cars doing 60 mph or greater - and almost the same decline doing 56-59 mph. He is happy to see that what started as trying to get the speed level on Mayfield Road reduced has one year later shown effectively a 70% speed reduction between 10-15 miles or more over the speed limit. Councilmember Broome noted that due to the decrease in the number of passes in September, we might consider doing a study of traffic flow on Wilson Mills and Old Mill. Councilmember Welsh asked if the accident percentage has changed. While the Police Chief did not have specific numbers on hand, he did state that the intersection of Mayfield and West Hill is an area of safety concern in terms of running red lights, no turn on red infractions, and no dedicated turn lane. A traffic study probably will be done at that intersection. Councilmember Welsh suggested a camera to monitor the red light crashers. Possibly, but no promises.

10. Fire Department Report attached

Fire Chief Majeski was responding to a call and not available. The Mayor added two items not included in the fire report:

- The Fire Chief delivered a report to the Mayor this morning pertaining to Police/Fire/Service Departments communicating on the same band as opposed to cell phone usage for fill-in by Service Dept. members as was the case during the August 6 storm. After review with department heads, it may require the purchase of 6-12 additional radios for Service Department usage.
- Assistant Fire Chief Jamieson, Fire Captain Feig, and Fire Chief Majeski have been working on specs for the new fire engine so that we may be on track to start an RFP process in early 2025.

11. Service Department Report attached

Service Director Biggert was also responding to the same call and not available. Mayor Siemborski commented on item #3 in the service report - after two years of effort, we received a check for \$2,831 from the USPS for reimbursement of water and sanitary costs following a threat of shut off. Councilmember Atton asked was the check in the mail.

Village Engineer Courtney reported we have completed the road program for the year with the exception of some striping which will occur when the weather accommodates. Other than the change order for Old Mill Road that is on the agenda tonight, we are on budget. Councilmember Deacon asked when Old Mill would be completed, and the Village Engineer estimated about two weeks from the end of this week.

12. Committee Reports

- a. Tree Canopy Committee (Chairperson Mitch Bass)
 - Written report is attached and was read by Mr. Bass.

- Not included in the report were suggestions made at last week's Land Conservancy dinner by the group who managed the Mentor Marsh restoration project. We will be following those suggestions - community meeting, significant signage, and direct door-to-door communication with any sites abutting or in close proximity of locations being worked on.
- November 12 is the next committee meeting. Adam Beichler (service forester), John Kehn (ODNR), Chagrin River Watershed Partners, and Metroparks may all be in attendance. The meeting is open.

b. Fiber Optic/Broadband Committee (Chairperson Deacon)

- Committee met October 15 and unanimously recommended that we move ahead with negotiating to a definitive agreement with Ohio Gig to provide broadband to village residents. Reid Consulting also recommends the same.
- Ohio Gig scored the highest among the two RFP respondents. Ohio Gig is currently doing the broadband installation in Hunting Valley. They would be doing the installation underground wherever possible. They are a local company with local leadership willing to work with the village in terms of crediting the village for things that we can do to help decrease their cost of implementation - that will translate into lower cost for the service for villagers. They will take the service to all villagers no matter where they are located.
- Next step is to engage specialized counsel to help us negotiate and review an agreement with Ohio Gig. There is a resolution in your packet regarding hiring the Taft firm who has an attorney who also worked on the Hunting Valley agreement.
- Once we reach a definitive agreement - we hope by the next Council meeting - we would put on first reading and we would have informational sessions with villagers to explain the details. Mayor Siemborski added we would not sign the definitive agreement until we have had discussions at three readings. It's critical that everybody in the village has a chance to understand what is being talked about. Costs, service levels, and more will be discussed at one or two open meetings with committee members and representatives of Ohio Gig present. Ultimately it is up to Council to decide and vote on going forward.

Moved to Agenda Item 18. **Resolution No. 2024-40 (First Reading)**

"A Resolution Authorizing the Mayor to Enter into an Engagement Agreement with Taft Stettinius & Hollister LLP for Special Legal Services; and Declaring an Emergency" was read by Mayor Siemborski. The firm is experienced in the matter and services will not exceed \$25,000.

Councilmember Turner moved that the rules requiring ordinances to be read on three different days be suspended and that Resolution No. 2024-40 be placed on its final passage. Councilmember Atton seconded the motion to suspend the rules.

Ayes: Atton, Broome, Deacon, Press, Steinbrink, Turner, Welsh.

Nays: None

Motion carried.

Councilmember Turner moved to approve Resolution No. 2024-40 and Councilmember Steinbrink seconded the motion.

Ayes: Atton, Broome, Deacon, Press, Steinbrink, Turner, Welsh.
Nays: None
Motion carried.

Councilmember Welsh asked when the cell tower would be up and running. Chuck Spear, in the audience, shared the Dean of Students stops at the coffee shop daily - today he said one week.

c. Wastewater Committee (Councilmember Broome)

- Mayor Siemborski reported that since the last Council meeting, we have submitted our nomination application to the Ohio EPA Water Pollution Control Fund to request a maximum of \$545,000. A favorable decision would allow us to officially apply for the loan.
- Our application for Ohio Public Works Commission District 1 funding programs was previously submitted without a resolution signed by Council to meet the deadline. The resolution is on second reading tonight and we would like to approve it, sign it, and get it turned in. We are one of 35 projects in NE Ohio asking for close to \$65,000,000 in grants. Councilmember Broome added it would help a lot to know the scope of what we're dealing with - grant or no grant.

Councilmember Atton asked if a decision was made to increase sewage fees. Councilmember Broome responded the committee was still gathering data from other municipalities to keep us competitive yet covering our costs.

Moved to Agenda Item 15. **Resolution No. 2024-37 (Second Reading)**

"A Resolution Authorizing the Mayor to Prepare and Submit an Application to Participate in the Ohio Public Works Commission State Capital Improvement and/or Local Transportation Improvement Program(s) and to Execute Contracts as Required; and Declaring an Emergency" was read Mayor Siemborski. Councilmember Broome moved that the rules requiring ordinances to be read on three different days be suspended and that Resolution No. 2024-37 be placed on its final passage. Councilmember Deacon seconded the motion to suspend the rules.

Ayes: Atton, Broome, Deacon, Steinbrink, Turner.
Abstain: Press, Welsh
Nays: None
Motion carried.

Councilmember Broome moved to approve Resolution No. 2024-37 and Councilmember Deacon seconded the motion.

Ayes: Atton, Broome, Deacon, Steinbrink, Turner.
Abstain: Press, Welsh.
Nays: None

Motion carried.

d. Investment Committee (Treasurer Morgan)

- Committee met with Ancora, our Investment Advisor, yesterday
- Market value of fund \$8,450,271
- Year to date performance 3.88% against government index 4.69, so Ancora has underperformed by 8 basis points that benchmark
- Fund is 85% in governments or agencies. It is a ladder portfolio - when something matures, they then invest that out. It is not an actively managed fund. The yield is 4.2%.
- Committee discussed exploring the possibility of active management for the fund, but first must research if that is permissible given statutes. If it is permissible, then we will probably interview some other managers and see if we can enhance that return. Safe return of principal first; return on principal second.

13. Ordinance No. 2024-34 (Second Reading)

“An Ordinance Amending Chapter 159, Police Department, Section 159.01, Membership of Department, of the Codified Ordinances of the Village of Gates Mills” was read by Mayor Siemborski. The purpose is to provide flexibility in hiring.

Ordinance No. 2024-34 remains on second reading.

14. Ordinance No. 2024-38 (First Reading)

“An Ordinance to Amend the Annual Appropriation Ordinance No. 2023-49 to Increase Certain Appropriations and Other Expenditures of the Village of Gates Mills, Ohio, for the Fiscal Year Ending December 31, 2024” was read by Mayor Siemborski. The Police Chief previously explained what the \$2,500 will be used for. Councilmember Broome moved that the rules requiring ordinances to be read on three different days be suspended and that Ordinance No. 2024-38 be placed on its final passage. Councilmember Press seconded the motion to suspend the rules.

Ayes: Atton, Broome, Deacon, Press, Steinbrink, Turner, Welsh.

Nays: None

Motion carried.

Councilmember Deacon moved to approve Ordinance No. 2024-38 and Councilmember Press seconded the motion.

Ayes: Atton, Broome, Deacon, Press, Steinbrink, Turner, Welsh.

Nays: None

Motion carried.

15. Resolution No. 2024-39 (First Reading)

“A Resolution Authorizing a Change Order to the Contract with Cole Burton Contractors, LLC, for Emergency Repair of Old Mill Road Due to a Water Main Break

and Declaring an Emergency” was read by Mayor Siemborski. As mentioned earlier tonight in the financial report, we have moved forward with the emergency road repair on Old Mill following the water main break. The repair started ahead of the paperwork, but an emergency is an emergency, and we are not able to wait three months to fix this. The repair should be complete in 2-1/2 weeks.

Councilmember Steinbrink asked what additional recourse we have against the Cleveland Water Dept. who was advised by Councilmember Broome of the leak several times over the summer. They came out each time and said there was no leak. This is negligence on their part that would have cost taxpayers \$210,000 to fix their mistake - it's great that Cuyahoga County is going to reimburse us \$100,000 and Cleveland Water is going to kick in \$20,000, but it's still costing taxpayers \$90,000 to fix something the Water Dept knew about five months ago. Councilmember Deacon asked what triggered Councilmember Broome to call the Water Dept. He responded water was shooting out the back of the retaining wall like a fountain for months and months on end. Village Engineer Courtney added we have had an active hillside failure at that spot since 2006. We have been repeatedly repairing the road as the hillside has slid. The water leak acts as a lubricant to the soil, so the hillside moved maybe more than it would have in the absence of a water leak. We have been talking to the County about the hillside problem for the last 15-20 years. Ultimately, we will have to put a sheet pile wall in along the west side of the road. The fact that the Water Dept was a little slow in responding to that leak is the primary reason they are contributing \$20,000, which is more than we would normally get in any circumstance because the water service agreement that we have with the Water Dept specifically does not allow us to make claims for pavement damage as a result of water main breaks. The Law Director added that he has filed suit on behalf of another community on this exact same issue for six figures. It went to the Supreme Court and lost based on the water service agreement and the way it is worded.

Councilmember Broome asked what the two amounts in the resolution represented. The Mayor answered the total cost of Old Mill is \$207,250. The total cost of the 2024 road program was \$314,680. Since we used Cole Burton for the 2024 road program it was simpler to amend their original contract with a change order for the out of scope emergency Old Mill work.

Councilmember Broome moved that the rules requiring ordinances to be read on three different days be suspended and that Resolution No. 2024-39 be placed on its final passage. Councilmember Deacon seconded the motion to suspend the rules.

Ayes: Atton, Broome, Deacon, Press, Steinbrink, Turner, Welsh.
Nays: None
Motion carried.

Councilmember Broome moved to approve Resolution No. 2024-39 and Councilmember Deacon seconded the motion.

Ayes: Atton, Broome, Deacon, Press, Steinbrink, Turner, Welsh.
Nays: None
Motion carried.

16. Council Matters

Councilmember Press stated back in May this Council passed a resolution to prepare a potential amendment to the charter which would require that significant zoning issues go to the residents. We had a zoning workshop and cleared away a bunch of other issues. Where does the charter amendment stand and what is the plan going forward?

Mayor Siemborski replied the charter amendment stands as an open item that we need to get to. You (Councilmember Press) and Law Director Hunt had some draft language a while back. Councilmember Press said yes, the draft language is all done - we probably want to take the pulse of the residents at some point to see if this is something they want or not. There's no point in doing a charter amendment that nobody wants. The Mayor suggested doing so in the next 90 days - freshen up the language, get it in front of Council, schedule a Town Hall to present to residents. Councilmember Deacon said the question is what we would present. There are different views on what that might look like. The Mayor thinks that's a good place to have those different views. We can have good debate among Council as well as input from residents.

Councilmember Broome said if we are inclined to do a charter amendment, we owe it to ourselves and to people who currently have odd zoning issues on their particular parcel, whether it would be a significant zoning change or not, to look and see if there are things that need to be cleaned up before we were to pass a charter amendment. If we were to pass a charter amendment that required everything go to the voters, and we have one house with an odd issue (for example the house by the Hunt Club that is technically zoned U3 probably ought to be R1), maybe we could change some of those before we make it so that we have to go to a general vote for one... Councilmember Press interrupted with the language is written in such a way that it would only apply to major changes in zoning. It would not interfere in any way with what P & Z does. Councilmember Broome replied everything is a minor change until it's on the property next door to you; then it's a major change. Councilmember Press said we would have to be very careful when we define what would trigger a vote for the residents.

Councilmember Atton posed the philosophical question is Council prepared to elevate all authority to residents to vote on major changes. The second question is how do you define major. We have a logjam on the first issue, and until we resolve that, there is no point in talking about the second issue. Councilmember Press agrees.

Councilmember Turner's sense of the zoning workshop was that Council was generally satisfied with what was presented, and she hopes Council has a lot of discussion around the table to see if charter amendment is what we really want. Councilmember Press said that's the whole point of the public hearing - we've already passed the resolution. We should take some steps to go to town hall and put it in front of the residents and see what they think. The Law Director clarified that there was a draft resolution and there was a motion - we will have to go back for the details. Councilmember Press apologized if he misspoke.

Councilmember Atton said let's not forget that the residents can have an initiative of their own and bypass Council entirely. Councilmember Deacon believes that 10% referendum right is what we discussed to be the remedial measure/the balance between Council and the public. It's the notice requirements for zoning changes that are dated, as pointed out by Councilmember Broome, and may not serve the purpose of

informing everyone properly and timely. It's something that needs to be looked at and proved. Notice is an important right. Councilmember Press said true, but the issue is are we going to let major zoning changes go to the citizens for approval or are we going to approve them. It's dead simple. The more we confuse it, the less likely anything will ever happen.

17. Business from the Audience

Resident Chuck Spear wondered if we had worked quickly on the charter amendment and given the power to the voters, then would stopping cannabis sales or commercial growers in this community (a zoning change) have required us to put it on the ballot and see if the voters wanted to eliminate that right. Councilmember Press replied no because the cannabis resolution does not fall within the language that the Law Director crafted. Mr. Spear accepts that, but there has been no agreement on what the language should be. If we had defined it in a particular way, we would have abdicated our right to say no. We should be very careful in defining zoning change. Councilmember Press stated, as it stands right now in the current draft, the things that would go to the residents would be change to the five-acre spacing, changes to 1160, or any other change that increases housing density in the Village.


Mayfield City Schools Liaison Committee Co-Chair and resident Sean O'Hagan corrected his previous estimate. Orange Schools spend per student is 29% higher than Mayfield. Their local spending is 31% higher than Mayfield, and they receive 32% more funding per student than Mayfield from the State.

Resident Jerry Bohinc said we just had a great zoning discussion about what the issue is. Zoning changes in GM are considered to be near sacred. Respecting the ability of the residents to get involved in major zoning changes is important to maintain the confidence of the voters in this Council.

18. Adjourn

There being no further business, it was moved by Councilmember Deacon, seconded by Councilmember Broome, and unanimously carried, that the council meeting be adjourned.

Respectfully submitted,



Beth DeCapite, Clerk

Approved:



Steven L. Siemborski, Mayor