

CITY OF ROCKY RIVER

May 9, 2016

The Regular Meeting of Council was called to order by Mr. Moran, President of Council at 8:00 p.m. in the David J. Cook Council Chambers.

Council Members Present: Mr. Hunt, Mr. O'Donnell, Mr. Shepherd, Mr. Furry,
Mr. Sindelar, Mr. Klym, Mr. Moran

Administration: Mayor Bobst, Mrs. Costello, Mr. Thomas

Law Director: Mr. Bemer

Press: Ms. Botos

MOTION:

Moved by Mr. Moran, seconded by Mr. O'Donnell, that the reading of the minutes of the Legislative Meeting of April 25th be waived, and that the minutes be accepted as submitted

Vote: Hunt – aye	Shepherd – aye	O'Donnell – aye	Mr. Furry - aye
Sindelar – aye	Klym – aye	Moran – aye	
7 ayes	0 nays		PASSED

Moved by Mr. Moran, seconded by Mr. Furry, that the reading of the minutes of the Special Meeting and the Committee-of-the-Whole Meeting of May 2nd be waived, and that the minutes be accepted as submitted

Vote: Hunt – aye	Shepherd – aye	O'Donnell – abstain	Mr. Furry - aye
Sindelar – aye	Klym – aye	Moran – aye	
6 ayes	0 nays	1 - abstain	PASSED

MAYOR'S REPORT:

The Mayor reported that phones are out. Cox Communications had two lines severed in the State of Rhode Island causing this outage everywhere from New York, Philadelphia, including Cleveland, a city in Kansas and Las Vegas. 911 is still working. Ready Notify's have been sent out as well as for Lakewood and Fairview Park that have also lost their phones. Safety-Service Director Costello will continue monitoring the situation.

The Mayor shared Building Department statistics: Year-to-date through the end of April, 397 permits have been pulled compared to 372 last year. Valuation is up slightly with total valuation for this year at \$5.8 million as compared to last year at this time of \$4.6 million. If

Council is interested in any of the detail or breakdown, the Mayor will be happy to send that to you.

The Mayor mentioned that information regarding the Zika Virus was placed on the city's website from the County Board of Health and the Ohio Department of Health. Information can be accessed from the city's website.

The Salt Ordinance is before Council this evening. Additional statistics will be discussed during that portion of the meeting however the city currently has about 1,300 tons in the barn. The city has to accept another 1,300 tons as part of the minimum order from last year. The city can place an additional 1,000 tons in the barn and 300 tons will be on the ground and covered in accordance to EPA standards. Director Costello did check in to having Cargill hold it but that comes at an additional cost.

The Historical Society will host a dedication of a new historical marker at the site of the Cowan Pottery Factory on Lake Road this Friday, September 13th, at 4:00 p.m.

This Saturday, the world's largest fingerprint painting will be at City Hall Campus to benefit Elle's Enchanted Forest, the playground that will be built on the City Hall Campus which will be an all-inclusive playground for children with all abilities and disabilities. Finger painting will be held from 10:00 a.m. to 2:00 p.m. They are hoping to set a Guinness World Record!

This Sunday will be the Rite-Aid Marathon. The Marathon does turn around on Lake Road at Kensington early Sunday morning. All are invited to cheer the runners on!

The Mayor mentioned that Fire Chief Lenart shared that Bob Hallen, a Rocky River Firefighter and former NFL football player, graduated with a Fire Protection Degree from Lakeland Community College. He graduated as Lakeland's "Most Outstanding Student" in this graduation class. Huge congratulations to Bob Hallen.

- Councilman Furry asked if the 1,300 tons the city is accepting by the end of this month is from last year's contract. The Mayor said yes. The barn can hold another 1,000 tons and the rest will be covered outside. Next year's order will be for 2,500 tons.

LAW DIRECTOR'S REPORT: Law Director Bemer said that last week the Supreme Court addressed a case of first impression regarding open meetings. The facts involved a school board but the salient facts concerned internet communications by a majority of the board which constitutes a public meeting. This is good for all public officials to know so as not to engage in a majority of the board members communicating at any one particular time. This must be done only in an open meeting with notice. Mr. Bemer can get copies of the opinion if anyone is interested.

- Councilman Shepherd asked about internet contact if it is just scheduling a meeting. Mr. Bemer said it goes back to basic deliberation. Anytime Council is discussing something it constitutes a deliberation. If Council is trying to schedule a meeting at such and such a time, or can we move the meeting to 7:00 p.m., this does not constitute deliberation. If

there is a topic or an agenda item and there is any discussion, this would constitute deliberation. Mr. Shepherd asked what if the matter was not in front of Council, Mr. Bemer would still caution that getting a majority of Council talking concerning a particular issue shouldn't be discussed via email. Even discussion on the telephone cannot be done with a majority of members of the Council. Mr. Shepherd asked what about figuring out dates or the possibility of a rules suspension in an emergency situation. Would it be ok to poll? Mr. Bemer's opinion is that it would need to be done independently of any other member. Anytime there is an issue of substance, not procedure, that may have the potential of a legislative item, needs to be discussed in an open meeting.

COMMITTEE REPORTS: Councilman Furry said that he held an Environmental Committee Meeting prior to this Legislative Meeting discussing Ordinance No. 20-16.

COMMUNICATION AND ANNOUNCEMENTS: NONE

PUBLIC COMMENT – LEGISLATIVE ITEMS: NONE

ORDINANCE NO. 89-15 **BY: THOMAS J. HUNT**
AN EMERGENCY ORDINANCE DIRECTING THE MAYOR TO EXECUTE
EASEMENTS TO JOSEPH P. VALORE AND VALORE BUILDERS BY THE CITY OF
ROCKY RIVER, AND AS FURTHER DESCRIBED IN EXHIBITS “A-1” AND “A-2”
ON HOLD

This Ordinance continues to be on hold.

ORDINANCE NO. 16-16 **BY: THOMAS J. HUNT**
AN EMERGENCY ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR
TO ENTER INTO AN AGREEMENT WHEREBY THE STATE OF OHIO WILL
SUPPLY UP TO \$30,000.00 FOR THE OPERATION OF THE MARINE PATROL FOR
THE YEAR 2016, AND AS FURTHER DESCRIBED IN THE ATTACHED
AGREEMENT
3rd READING

Councilman Hunt said that at this time he would like to move for passage of Ordinance 16-16 and was seconded by Mr. Furry. This has been discussed for a number of weeks. The substance of the ordinance is to receive money for the operation of the Marine Patrol which has been done for a number of years.

Vote: Hunt – aye	Shepherd – aye	O'Donnell – aye	Furry – aye
Sindelar – aye	Klym – aye	Moran - aye	
7 ayes	0 nays		PASSED

ORDINANCE NO. 17-16

BY: DAVID W. FURRY

AN ORDINANCE AMENDING SECTION 521.11 ENTITLED “COMPOST ACCUMULATION” OF THE CODIFIED ORDINANCES OF THE CITY OF ROCKY RIVER

2nd READING

Councilman Furry said this is the second time this has been read. This has been discussed for a few weeks and Mr. Furry has sent out exhibit changes. This will be discussed more at the Committee-of-the-Whole Meeting next week. Mr. Furry will be looking to amend by substitution and possibly seek passage in two weeks.

ORDINANCE NO. 18-16

BY: THOMAS J. HUNT

AN EMERGENCY ORDINANCE AUTHORIZING THE MAYOR OR HER DESIGNEE TO ENTER INTO AN AGREEMENT FOR MUTUAL AID SERVICES BETWEEN THE POLICE DEPARTMENTS FOR THE CITIES OF ROCKY RIVER AND CLEVELAND, IN SECURITY ASSISTANCE FOR THE 2016 REPUBLICAN NATIONAL CONVENTION

2nd READING

Councilman Hunt said discussion will be deferred to next week’s Committee-of-the-Whole Meeting so members of Council can continue to go through the agreement.

ORDINANCE NO. 20-16

BY: DAVID W. FURRY

AN ORDINANCE AUTHORIZING THE MAYOR OR HER DESIGNEE TO ENTER INTO A CONTRACT FOR ENERGY SERVICES WITH GARDINER SERVICES COMPANY AT A PROPOSED COST OF \$1,390,520.00

2nd READING

Councilman Furry said that there was an Environmental Committee Meeting this evening prior to the Legislative Meeting. Mr. Furry feels that Council has a better grasp on the contract in front of them. Mr. Mark Havens and Mr. John Scott from Gardiner Services discussed some of the intricacies of the project and the Mayor discussed the financing. Mr. Furry is more comfortable with it and will discuss it more at the next Committee-of-the-Whole Meeting.

NEW BUSINESS:

ORDINANCE NO. 21-16

BY: MICHAEL P. O’DONNELL

AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY-SERVICE TO EXERCISE THE OPTION TO RENEW FOR ONE (1) YEAR THE PURCHASE OF JANITORIAL SUPPLIES FOR THE CITY OF ROCKY RIVER FROM OHIO VALLEY SUPPLY AND MAINTENANCE CO. AT A COST NOT TO EXCEED \$55,000 AS FURTHER DESCRIBED IN EXHIBIT “A”

1st READING

Councilman O’Donnell said that this is an annual housekeeping ordinance for the purchase of janitorial supplies. Last year, Council agreed to a one-year contract with an extension for a second year with Ohio Valley Supply and Maintenance Co. Exhibit A shows email

correspondence discussing the second year of the option with the same price. The cost is not to exceed \$55,000. The city has had a good experience with Ohio Valley and the administration is satisfied with the pricing.

RESOLUTION NO. 22-16

BY: JAMES W. MORAN

A RESOLUTION ACCEPTING THE ALTERNATIVE TAX BUDGET INFORMATION OF THE CITY OF ROCKY RIVER, OHIO FOR THE FISCAL YEAR COMMENCING JANUARY 1, 2017

1st READING

President Moran said this is the first item requiring action by City Council for the 2017 Budget. These numbers are put in as a projection; not necessarily the input from the Mayor or city department heads. This is due in July giving Council plenty of time for three reads. There will be more discussion at next week's Committee-of-the Whole Meeting.

ORDINANCE NO. 23-16

BY: JOHN B. SHEPHERD

AN EMERGENCY ORDINANCE AUTHORIZING THE ADMINISTRATION TO PURCHASE AN ESTIMATED 2,500 TONS OF SALT FOR THE 2016/2017 WINTER SEASON FOR THE SERVICE DEPARTMENT UNDER THE OHIO DEPARTMENT OF TRANSPORTATION'S COOPERATIVE PURCHASING CONTRACT NO. 18 FROM THE STATE-APPROVED VENDOR

1st READING

Councilman Shepherd said that Council has seen this contract yearly. In 1988, Council passed a resolution to participate in the Ohio Cooperative Purchasing Act Program. This Ordinance is to purchase salt from the Ohio Department of Transportation's Cooperative Purchasing Contract. If the city puts an order in for 2,500 tons, the city is obligated to purchase at least 90% of that order up to a maximum of 110%. The funds come from the Street Construction Maintenance and Repair Fund and also from the State Highway Fund. There is also a timing issue. The email from the state was sent out on May 3rd and needs to be back by May 27th. Mr. Shepherd anticipates moving for a rules suspension on May 23rd, which will be the second read. Director Costello appreciates the consideration. This email arrived on the 3rd at 6:45 p.m., not giving the city much time to go through the process with Council. Director Costello appreciates Council's patience in considering passage on the 23rd. The order goes through electronically along with a signed version of the ordinance. The Mayor said that the minimum order is 2,250 and the maximum order will be 2,750, which would give the city a total minimum salt order for 2017 of 4,934 tons and a total maximum order of 5,434 tons. The city's normal usage is 4,500 on a fairly snowy, icy winter. It's always good to have salt in the barn for the next winter. There have been early snowstorms prior to deliveries being organized and made.

- President Moran asked if there is a requirement regarding how soon a shipment must be accepted. Director Costello said no, but by the end of this month the city needs to accept the balance of last year's order.

MISCELLANEOUS BUSINESS: NONE

PUBLIC COMMENT: Mrs. BJ Alexander, Breezevale Cove, spoke to Council, and is here to speak out in opposition to the proposed 29-unit condo complex for the two lots just west of Breezevale Cove. She understands that there is a process that a developer goes through in order to change zoning. Since Council may be voting on this proposal down the road, she wanted Council to know that she does not support this proposal. If approved, this complex would be placed between two single family zoned areas. Also, Mrs. Alexander questions whether Rocky River's density laws would permit such a tall and sprawling structure. For the record, Mrs. Alexander opposes this proposition.

Mr. Bill Welch asked about any update on the Fire Department's Ladder Truck. Director Costello said about 90 % of the work was finished on the chassis as of today. Director Costello will get pictures and will share them next week. Hopefully deliver will be next week. The Mayor mentioned that a deer hit one of the city's ambulances near the MetroParks in Fairview Park last week.

Mrs. Mary Wood, Lake Road, lives right in the location where this proposed condo complex is proposed to be built. Mary opposes this building along with many people in the area including people who live across from the proposed complex. There is enough traffic on Lake Road as it is, and to bring in 29 units and say that these 29 units will not cause more traffic or use of the city's facilities is a misconception. Mary has many reasons written down. Council will get this at some point and she wants Council to know what is going on. She has her reasons, if Council is interested.

- The Mayor has met with both Mrs. Alexander and Mrs. Wood. The Mayor asked if their concerns have gone to the Planning Commission. The Planning Commission meetings are in pre-preliminary meetings and neither residents have attended. The Mayor said that if they need anything forwarded to the Building Department, she would be happy to forward it. Council has been in communication regarding this proposal. Mrs. Wood has been in communication with Mr. Furry. Mrs. Alexander has left messages with the entire Council stating her opposition and she did not know that Mr. Brickman was going to speak at the January Planning Commission. She found that out by reading the minutes. After reading the minutes she was aware of quite a few statements that are incorrect. The Mayor said that she would have an opportunity to address her concerns. The residents will be invited to the preliminary hearing with the Planning Commission sometime in June. A formal notification will be sent out prior to the meeting. Mrs. Wood said that the minutes from the last meeting are not available yet. The Mayor said that those minutes do take some time due to the large projects discussed. Talk to Kate in the Building Department and she will let you know when they will be completed. The minutes are not official until they are passed by the Planning Commission.
- Mrs. Alexander is not sure what the Mayor is asking of her. The Mayor said that at any time if she would like to put together all her points about objecting, some of the history, that all can be sent to the Planning Commission at any time now. Mrs. Alexander has written letters to the Planning Commission and delivered them to City Hall, but was told they wouldn't be given to them until the hearing. The Mayor said she is sure the Building Department has them. The Mayor will check with Kate to be sure they were received. Mrs. Wood said they do not have hers, but they will be receiving it.

- Mr. Furry asked that when it goes to preliminary review, is it every property owner within 500 feet that is notified. Law Director Bemer said it is every property owner within 150 feet. There also needs to be a publication for two weeks prior to the meeting. It is a long process. Mr. O'Donnell asked if it does require rezoning. Mr. Bemer said yes it is single family to multi-family. Mrs. Wood added that Mr. Brinkman is already taking deposits for the units that haven't yet been built. That is a separate issue.
- Jessica Johnson, a Breezevale Cove resident who is also opposed to rezoning Breezevale Cove to multi-family spoke. The Mayor said that no one has suggested rezoning Breezevale Cove at any time and that Breezevale Cove is not on the table. If the developer purchased additional property it may be included in that but Breezevale Cove is not to be rezoned. The Mayor said the developer cannot do that. According to the Code it must either be the property owner or City Council or have a contract that is contingent on rezoning. Ms. Johnson asked if it would be possible for Council to try to rezone a street without having the agreement of all the homeowners. The Mayor would not give a recommendation to do that. President Moran said that Council would like to be well informed and Council does not like to be surprised. All the Council members are aware of the concerns being discussed. Ms. Johnson said they are just trying to do everything on their part to take the right actions and steps to prevent anything like this from happening. The Mayor said the residents are doing all the right things. The Mayor said that the one issue is the whole idea of "spot zoning". The Mayor said there would be a lot of discussion regarding this. The nature of Breezevale Cove will become part of that discussion but in terms of rezoning it is not being proposed. If the contractor does purchase a couple of those homes, he does become a homeowner but it would be just those homes.
- Mr. O'Donnell asked for confirmation because when Ms. Johnson came to the podium she said she was against the rezoning of Breezevale Cove. He asked if Ms. Johnson was also saying that she is in opposition of the program in general or just Breezevale Cove. Ms. Johnson replied that she is opposed to the entire project and the rezoning of that area. Part of the reason she is living there is to drive down and see the unique beautiful homes. She does not want it to look like Tremont.
- Mrs. Woods clarified that she does not live on Breezevale Cove but just west of the property that is being discussed.
- Mrs. Alexander wanted to make herself clear that she opposes the two lots west of Breezevale Cove as being rezoned.

Mr. Moran thanked the residents in attendance and having their voices be heard. As there was no further business by members of Council, the meeting was adjourned at 8:40 p.m.

James W. Moran
President of Council

Susan G. Pease
Clerk of Council