

**MINUTES OF THE COUNCIL
VILLAGE OF MARIEMONT, OHIO
REGULAR MEETING HELD IN COUNCIL CHAMBER
JULY 8, 2013**

Mayor Policastro called the meeting to order at 7:00 p.m. with the Pledge of Allegiance to the flag. The following Council members answered present to roll call: Mr. Andrews, Mr. Miller, Mr. Scheeser, Ms. Schwartz, Mr. Stelzer and Mr. Wolter.

Mayor Policastro said we are going to recognize and honor two very brave police officers, Mariemont Lt. Tom Ostendarp and Sheriff Deputy Nicholas Hoevel for their rescue efforts. Police Chief Hines said on June 11, 2013 there was an unfortunate situation in which a young gentleman perished in the Little Miami River. It was a long three plus days. He thanked Sheriff Neil and his department for all their resources. The run first came into Mariemont but it was soon determined that it was in fact the sheriff's jurisdiction. Mariemont Fire Department took command of the rescue and recovery. We worked hand in hand with the Sheriff's Department and it was certainly a team effort. He thanked Assistant Fire Chief Tim Feichtner for his command of the Fire Department and rescue efforts, Hamilton County Sheriff's Office, Fairfax and Newtown Police Departments, Cincinnati Fire Department, Anderson Township Fire Department, Little Miami Fire Department, Hamilton County Coroner's Office, Hamilton County Police Association Underwater Search and Recovery Team, Hamilton County Sheriff's Search and Recovery Team Task Force One, Hamilton County Police Association Clergy Team (which we deployed our own Police Clergy Chaplain Todd Keyes) and Bramble Towing Service.

Mayor Policastro read and presented Lt. Ostendarp and Sheriff Deputy Nicholas Hoevel with Mayor's Office Certificates of Recognition which thanked them for their important work and bravery.

Sheriff Neal presented both officers with the Sheriff's Merit Award. Both Lt. Ostendarp and Deputy Hoevel entered the water with swift currents and a very large whirlpool approximately 50' in diameter. Had they been swept into the whirlpool there is doubt that they would have been able to escape. They risked their own personal safety in order to save the lives of both swimming victims. They showed tremendous bravery in their selfless attempts to locate Mr. Shepherd and Mr. Andrews. Their courage should be commended and highly praised by our community. Their actions reflect highly on themselves and their respective police agencies. They performed in the face of fear and still were able to carry out their duties which is the true definition of bravery. Both officers were presented with a medal to wear on their uniforms and awarded a Sheriff's Award of Merit plaque to display on their desks.

Mr. Miller moved, seconded by Mr. Andrews to approve the minutes of June 10, 2013 as written. On roll call; six ayes, no nays.

The following communications were read by Mayor Policastro:

From Police Chief Hines: June 2013 Monthly Report

From Assistant Fire Chief Feichtner: June 2013 Monthly Report. Mr. Wolter said "good job" to the Fire Department for getting the \$3000 grant. Assistant Fire Chief Feichtner said the grant money was used to purchase a stair chair which is a chair with wheels and a seat belt. It is used to help when patients are on a second floor or stairs to be able to be maneuvered safely with more ease. Mr. Miller suggested reaching out to Fairfax Administrator, Jennifer Kaminer, should any help be needed with applying for grant money.

From Superintendent Scherpenberg: June 2013 Monthly Report. Mr. Scheeser thanked the department for fixing the drainage issue at Murray and Berwick.

From Building Commissioner Malone: June 2013 Monthly Report

From Tax Administrator Busam: June 2013 Monthly Report/Waste Collection Fee Report.

From Swim Pool Manager Schad: June 2013 Monthly Report. Mr. Stelzer said it appears that receipts are down this year and wanted to know if we are capturing the online receipts on this report. Mrs. Van Pelt said she does believe the online figures are included in the report but will double check with Ms. Schad.

From Mayor Policastro: Letter dated June 11, 2013 re: JEDD Agreement between Columbia Township and Village of Mariemont. Mr. Scheeser thanked the Mayor for getting the letter out. He also thanked Mr. Stelzer and Mr. Miller for all the time and work that they put in. We got a response from Columbia Township. What he heard from that reply is that time is short and that they are not going to provide to Mariemont a proposal. Because there is revenue for the taking and \$50,000 every year is a conservative estimate and annexation is problematic and because our expenses are paid in terms of headcount and equipment, and because this in no way effects Mariemont residents quality of life and because we have not discussed this issue as a group he made a motion to have a special meeting of Council within 10 days to discuss and debate the merits and the pros/cons of the JEDD agreement with Columbia Township and from that outcome draft a proposal.

Mayor Policastro said he is going to stick to his guns on this matter. We have asked for a proposal and we will not meet until we have a proposal. Mr. Scheeser's motion, according to Rule 25 which reads "when a motion is made and seconded, before debate, it shall be stated by the Mayor or Presiding Officer. A motion shall be reduced to writing, if the Mayor or any member requires it" will need to be presented in writing. It will be discussed and voted upon at the next Council meeting. Mr. Andrews said he thought it read if a motion was made and seconded it required a vote. Solicitor McTigue said he would ask that he be made aware prior to the meeting if a legal opinion was required. He does not appreciate shooting from the hip. Mayor Policastro said it is not on the agenda and therefore it could present a problem with the Sunshine Law. Solicitor McTigue said Mr. Scheeser can make the motion and reduce it to writing but questioned why we would want to do that considering we are only meeting once per month. Mayor Policastro said it is because we need a proposal. He is not going to argue but the fact is all of this is going to be put in the newspaper and quite frankly he is getting a little tired of it. It was not appropriate to start negotiating 9% with another party (Mr. Scheeser said the number was only given to the Mayor and other members of Council). Mayor Policastro said the number made it to the newspaper. Mr. Stelzer said a number was put out there. Mr. Scheeser said it was a very conservative number of \$50,000. Solicitor McTigue said the Mayor or any other member of Council can ask that the motion be reduced to writing. In reality Mr. Scheeser could write the motion right now in the hallway and ask that the special meeting be held in the not so distant future. It is up to the whole Council to discuss the propriety of a special meeting to decide if you want to discuss a JEDD coming from our proposal or if you want to stick to your guns per se and wait for Columbia Township to approach us. Mayor Policastro said the Solicitor wants Mr. Scheeser to go out in the hallway and write a motion. Solicitor McTigue said he has the legal right to do that. Let's not be silly about this stuff. Mr. Andrews said as a legislative body we have not met once as a group. Frankly we should just meet to talk about it. Mr. Stelzer said he has spent many hours reviewing different JEDD agreements. At the last meeting we tried to make a proposal to go into Executive Session so we could talk about JEDD terms. We found out that we could not go into Executive Session because there is not a specific exemption allowing us to go into Executive Session. The Solicitor at that point said it does not make much sense to have a full and open conversation about all the terms of a JEDD agreement because there are many different contract terms that we can ask for in this type of arrangement. Subsequent to that the legislature in the State of Ohio had heard about this from multiple governmental subdivisions and basically it did pass the budget last week because it tied our hands. Unfortunately at this point in time we have to wait for the Governor to sign the bill and then it will take 90 days for it to be effective. So we cannot go into Executive Session to discuss the provisions we might ask for in a JEDD. So to have a meeting where we have to bear our souls on a contract term does not make a lot of sense to him at this point. We should follow the model that was successfully implemented by Sycamore Township and Madeira where the proposal was submitted by the township so there was something to negotiate against. Right now we are negotiating against air. It does not make any sense for us to have an open session to throw out all of our terms and then have nothing left to negotiate with. Mr. Scheeser said he would love Executive Session to be a smarter negotiating tactic but that is not going to be available to us before the Board of Elections locks in this topic for Columbia Township voters. Mr. Stelzer said it is Columbia Township's decision to put a deadline on to get it on the November ballot. That is a recent development - it was not there 30 days ago. They may or may not be successful in getting that done before getting it on the November ballot. Mr. Scheeser said that is true. What he is saying is the shot clock is ticking with two seconds left, the game is almost over and if we do not do something bold, big and weird we have zero chance of being awarded a reasonable meaningful large sum of money every year. The way we got here is not perfect but let's put a proposal out there. It is our job to advance it and look for every dollar.

Solicitor McTigue said he has worked with Mr. Stelzer on this matter and consulted with other solicitors that were engaged with these JEDD discussions with the other communities. He has to agree with Mr. Stelzer 110%. These are very fact sensitive and are very sensitive about what you are going to negotiate. You have to negotiate the expense and the percentage. While he appreciates what Mr. Scheeser is saying he believes that you give up so much of your bargaining position. He does not believe the shot clock is running - you can always call for a special election. He questioned why you want to be forced into something that may not be the best thing for the Village to do. Mr. Andrews said part of the negotiating leverage is the risk of Columbia Township partnering with someone else. Mr. Stelzer said the reality is most of these contracts have two year termination clauses. Mr. Andrews said if we had a special Council meeting it would give us more understanding of the issue. This is the most conversation we have had on the subject to date. Solicitor McTigue said we had limited conversation on the JEDD but thought we took a straw vote making Mr. Stelzer our point guy to find out as much as possible and then report back to Council. If you want to discuss in open Council it certainly can be done but in his opinion it is not the greatest way to do it. Mr. Wolter asked why we are in this position. It is not because we failed to try to put this thing together. It is because Columbia Township has not given us a proposal. It is not the way it was done with Sycamore Township and Madeira. We are lacking information from an entity that came to us with the idea. Mr. Andrews said negotiating any contract is a process. For us to think that we could meet one time in Executive Session and walk away with all the details is not realistic. Mr. Wolter said it is not a process to be done under duress. We are in a position of duress right now. Mr. Andrews said it would be valuable to Council to have a session to talk about the general nature of the JEDD without discussing the details. Mr. Wolter said that is difficult to do. The State of Ohio recognizes that and is changing the law. Mr. Andrews said a lot of financial analysis needs to be done but none of that is being done. Mr. Wolter said what we need is accurate numbers that we can work with which we have not been given. Mr. Andrews said we should set aside more time when there is not so much anxiety about the topic. Mr. Scheeser said a clean sheet of paper gives us the flexibility to write whatever we want. Mayor Policastro said due diligence is very important. Former Vice-Mayor and attorney Bruce Hoffman always said 'get it in writing'.

Mr. Andrews seconded Mr. Scheeser's motion. On roll call; two ayes, four nays (Mr. Miller, Ms. Schwartz, Mr. Stelzer and Mr. Wolter dissenting). Mr. Miller said he would be in favor of meeting when the 90 days are up for Executive Session with the new state legislation. Mayor Policastro said we need to take into

consideration that we need more information. There are a lot of cost factors involved and nine percent is a sucker's game as far as he is concerned. Mr. Stelzer said until a formal proposal is made we really cannot do much for them. Mr. Wolter said we just talked about how good our budget is in comparison with other communities due to our good foresight and planning. We do not have the tools in this arrangement as it is now to do this planning. We were pushed into this by people who came with a proposal with no specific data. He is tired of negotiating air with an entity that does not seem to want to give us the facts. Mr. Miller and Mr. Stelzer said with the right arrangement they would be very positive about this. Mr. Scheeser said we will get no more communication from Columbia Township. They are going to sign an agreement in the next 30-60 days with Fairfax, Madeira or Amberley Village. Those communities will be happy to deal with the ambiguity. They will figure out a way to make it happen and they will go to the bank and cash our check. It is money that could pay for a police officer, more trees, fees at the pool etc. He wants us to hold hands and agree to the fact that someone is going to come in here and eat our lunch because we are unwilling and unable to lean in and do the deal. Mr. Wolter said he takes an issue with unwilling. We are very willing but we are unable because we do not have a proposal.

From Clerk/Treasurer Borgerding: May 2013 Treasurer's Report/Trend Report

From Investigator Don Jasper, Hamilton County Coroner's Office: Letter dated June 19, 2013 re: Thank You Police and Fire Departments

From Police Clerk Maupin: Mayor's Court Statement May 2013

From Assistant Fire Chief Feichtner: Letter Dated July 1, 2013 re: Donation of 2001 Ford Expedition. AC Feichtner said with the Fire Department taking over the Tahoe from the Police Department something needs to be done with the Expedition. Normally we take it to auction and do not get much money. The Hamilton County Police Association has organizations such as SWAT and the Dive Team that have members from multiple municipalities throughout Hamilton County. The Dive Team is currently using a Blazer from the 1980's and he would like to suggest that we donate the Expedition to them. We cannot sell the vehicle outright. The car is not financially worth keeping. Mr. Wolter moved, seconded by Ms. Schwartz to donate the 2001 Ford Expedition. On roll call; six ayes, no nays.

Mr. Andrews moved, seconded by Mr. Wolter to pay the bills as approved by the Mayor, Clerk and Finance Chairman. Mr. Andrews asked about the keys to the Village. Mayor Policastro said those are the keys given in ceremony. Mr. Andrews asked about the Premier Internet charges for website services etc. Mrs. Van Pelt said she will forward a copy of the bill to Mr. Andrews. Mr. Andrews asked about the property maintenance code violation inspections. Mayor Policastro said those were paid to Mr. Hodulik for inspection services prior to becoming Building Commissioner. Clerk/Treasurer Borgerding said the amount is high on the bill list due to the payment on the fire truck. On roll call; six ayes, no nays.

Mr. Miller moved, seconded by Mr. Scheeser to accept the recommendation of the Finance Committee which met on Tuesday June 25, 2013 in Council Chambers to review the renewal of the medical insurance program for employees. The meeting began at 4:00 p.m. and Committee Members Joe Stelzer, Jeff Andrews and Joe Miller were present. Also in attendance was Mayor Dan Policastro, Councilman Dennis Wolter, Chief Richard Hines, Tax Administrator Patty Busam, Administrative Assistant Joanee Van Pelt and Foreman Elisha Davis, Horan Representatives Maggie Kroeger and Judi Meyer. The Committee discussed the renewal of the medical insurance with the Center for Local Government Benefits Pool. The Benefits Pool has proposed an increase of 6.6% for the plan year starting August 1, 2013. We were advised that due to prior losses of the Pool, Mariemont would need to pay \$120,000 if it wanted to exit the Pool and obtain insurance from another source. The Committee also discussed the employee premium contribution levels, deductible limits and contribution by the Village to the employees' HSA. The Committee also discussed continued participation in the Center for Local Government. We were advised that participation in this organization was required for participation in the Benefits Pool. The Committee unanimously recommends for full Council approval that the medical insurance be renewed with the current provider and that the employee premium contribution level, deductible limit and contribution by the Village to the employees' HSA remain consistent with the current year. The Committee also recommends this item be handled as an emergency measure due to the upcoming renewal date. Mr. Stelzer said we entered this health insurance pool a couple of years ago and by most participants' analysis that the premiums being charged when we entered the pool were not sufficient to cover the claims. There is a pool of money that is called a loss and some of these claims were before we even joined the pool and now we are responsible for them. We really do not have many options when seeking new medical insurance at this point. If we did get new medical insurance we would need to pay the \$120,000 fee. What happened three or four years ago is promises were made that did not occur as far as savings by going into the pool and we therefore are continuing to pay for it. There have been some political subdivisions that have exited the pool, paid the fee and found a different medical insurance provider. We felt to take the \$120,000 hit this year was not realistic. The 6.6% increase was probably okay but it represents prior not current claims. In the past twelve months the manager of the pool has been replaced. We definitely got into a situation that probably was not good four years ago when we entered the health insurance pool. The employees in general are happy with the insurance but clearly the financial results have not been as promised. Mr. Andrews asked if it was Mr. Stelzer's perception that in hindsight we know this or was there not enough due diligence. Mr. Stelzer said he was not around when this decision was made but there is the possibility that enough due diligence was not done to understand exactly what we were getting ourselves into. He recommends that we look at the contract to see what the provisions are and how firm the anchor is. For the Finance meeting we did not have the time to review the terms or evaluate the legal ramifications. We will have to pay the money over time or when we leave the pool. On roll call; six ayes, no nays.

Mr. Wolter moved, seconded by Ms. Schwartz to accept the recommendation of the Finance Committee which met on Friday June 7, 2013 in Council Chambers to review the request for two adult tennis parties to be held on Saturday August 3, 2013 and September 28, 2013. The meeting began at 4:30 p.m. and Committee members Joe Stelzer, Jeff Andrews and Joe Miller were present. Also in attendance was Mayor Policastro. The Committee discussed the proposal including the serving of alcohol and the Committee unanimously recommends to full Council the approval of the adult tennis parties for the above dates. On roll call; six ayes, no nays.

Resolutions:

“Adopting the Budget for 2014” had a third reading. Mr. Miller moved, seconded by Mr. Andrews to adopt the Resolution. On roll call; six ayes, no nays. Resolution No. R-14-13 was adopted.

“To Appoint Kirk Hodulik as Building Commissioner to Fill the Unexpired Term of Dennis Malone for the Calendar Year 2013; To Set Compensation; and To Declare Emergency” had a first reading. Mr. Wolter moved seconded by Mr. Miller to suspend the rules to allow for the second and third readings. On roll call; six ayes, no nays. The Resolution had a second and third reading. Mr. Scheeser asked how the salary compares to Mr. Malone. Mayor Policastro said it is the same and it will remain a part-time position. Mr. Andrews moved, seconded by Ms. Schwartz to adopt the Resolution. On roll call; six ayes, no nays. Mr. Wolter moved, seconded by Mr. Stelzer to invoke the emergency clause. On roll call; six ayes, no nays. Resolution No. R-15-13 was adopted.

Ordinances:

“To Add the Masonic Lodge Building to the Village of Mariemont’s List of Historic Landmarks” had a third reading. Mr. Scheeser moved, seconded by Mr. Wolter to adopt the Ordinance. On roll call; six ayes, no nays. Ordinance No. O-15-13 was adopted.

“To Amend Chapter 78, Schedule III of the Mariemont Code of Ordinances; To Declare Emergency” had a first reading. Mr. Miller moved, seconded by Ms. Schwartz to suspend the rules to allow for the second and third readings. Mr. Andrews asked for the reason for the emergency. Solicitor McTigue said the concern is the intersection is getting more dangerous. Mr. Wolter said it is necessary also because we are only meeting once a month. On roll call; six ayes, no nays. The Ordinance had a second reading. Mr. Wolter said this is a joint effort with the Village of Fairfax who is putting a sign on their side of the street as well so it will become a three way stop which is a safety enhancement. Solicitor McTigue said none of us like having emergency legislation but from a legal standpoint once we have identified a location that creates a potentially extra hazardous condition we better do something about it right away. Mr. Wolter said more streets will be looked at as part of the traffic calming plan. The Ordinance had a third reading. Mr. Andrews moved, seconded by Mr. Miller to adopt the Ordinance. On roll call; six ayes, no nays. Mr. Andrews moved, seconded by Ms. Schwartz to invoke the emergency clause. On roll call; six ayes, no nays. Ordinance No. O-16-13 was adopted.

“To Temporarily Suspend Section 95.06 Liquor, of the Mariemont Code of Ordinances for the Time Period 4:00 p.m. to 10:00 p.m. August 3, 2013 and September 28, 2013 and To Declare Emergency” had a first reading. Ms. Schwartz moved, seconded by Mr. Scheeser to suspend the rules to allow for the second and third reading. On roll call; six ayes, no nays. The Ordinance had a second and third reading. Mr. Wolter moved, seconded by Mr. Andrews to adopt the Ordinance. On roll call; six ayes, no nays. Mr. Scheeser moved, seconded by Ms. Schwartz to invoke the emergency clause. On roll call; six ayes, no nays. Ordinance No. O-17-13 was adopted.

The meeting adjourned at 8:10 p.m.

Dan Policastro, Mayor

Anthony J. Borgerding, Clerk