

The Regular, Scheduled Meeting of the Council of The Village of Marble Cliff

At 1600 Fernwood Ave.

April 15, 2019

The Council of the Village of Marble Cliff held its regular, scheduled meeting on Monday, April 15, 2019 in the Village Hall at 1600 Fernwood Ave. at 6:30 pm. Those in attendance were Council Members: Matthew P. Cincione, Marnie Hoag, Matthew R. Jolson, Joanne Taylor, Kendy A. Troiano, and Dow T. Voelker; Mayor, Kent E. Studebaker; Village Solicitor, Yazan S. Ashrawi; Village Engineer, Joshua Ford; Administrative Assistant, Judith A. Ciccone; and Fiscal Officer, Cynthia A. McKay. Visitors and a representative of the press were present.

CONSENT AGENDA

- 1) Receive - Mayor's Court Report, March 2019
- 2) Receive – Police Report, March 2019
- 3) Receive – Fire Report, March 2019
- 4) Receive – Building permits issued in March, 2019
- 5) Approval - Minutes of the regular, scheduled meeting of March 21, 2019
- 6) Approval - Financial Statements for March, 2019
- 7) Receive - Village Income Tax Report March 2019 – \$85,339.15

Ms. Hoag moved approval of the Consent Agenda. Ms. Troiano seconded. Council unanimously approved the Consent Agenda.

MAYOR'S REPORT

Mayor Studebaker reported he presented a report on the state of the Village to the Tri-Village Chamber Partnership.

ENGINEER'S REPORT

Mayor Studebaker introduced the first reading of O-2598-19, An Ordinance confirming the City of Upper Arlington's acceptance of a bid for the 2019 Street Maintenance Project and accepting the agreement for cost sharing for the project and declaring an emergency.

Mr. Ford reported this legislation approves the Village's street project for 2019. The accepted bid for the Village portion was well below the engineer's estimate for the project.

Council briefly discussed the scope of the project. Arlington Ave. will be "milled and filled" from W. Fifth Ave. to W. First Ave.

Mr. Voelker moved to suspend the rules. Mr. Cincione seconded. The motion passed unanimously. Mr. Voelker moved the adoption of O-2598-19. Ms. Taylor seconded. The motion passed unanimously. Mr. Cincione moved Ordinance O-2598-19 be passed as an emergency for the health and safety of residents and visitors. Mr. Voelker seconded. Roll Call: Mr. Cincione, yes; Ms. Hoag, yes; Mr. Jolson, yes; Ms. Taylor, yes; Ms. Troiano, yes; Mr. Voelker, yes. The motion passed unanimously.

Mayor Studebaker introduced the first reading of O-2599-19, An Ordinance accepting a Proposal from Decker Construction Company for the 2019 Village Sidewalk Repair Project.

Mr. Ford reported he will be able to calculate the costs for aprons as required for R-2600-19 after the bid from Decker Construction is accepted.

Mr. Ford reported he and Ms. Ciccone did an inspection of the Village sidewalks and identified sidewalk panels, driveway aprons and curbs for repair or replacement over the next three years. The work identified for 2019 will address the most urgent needs with the less significant repairs and replacement to take place in 2020 and 2021.

Mr. Ford reported Decker Construction has done work in the Village in the past and their work has been of high quality.

Mr. Cincione moved to suspend the rules. Ms. Troiano seconded. The motion passed unanimously. Mr. Jolson moved the adoption of O-2599-19. Ms. Taylor seconded. The motion passed unanimously.

Mayor Studebaker introduced the first reading of R-2600-19, A Resolution, and declaring the necessity to repair certain sidewalks, gutters and driveway aprons in the Village of Marble Cliff . . . First Reading.

No action was taken.

Mr. Ford left the meeting at this point.

SOLICITOR'S REPORT

Mayor Studebaker introduced the first reading of R-2601-19, A Resolution accepting sanitary sewer infrastructure and maintenance responsibility of the same from Franklin County, Ohio.

Mr. Ashrawi explained that Resolution R-2601-19 would allow the Village to accept responsibility for maintenance of the portion of the sanitary sewer (commonly known as the Franklin County Main) which runs through the Village's jurisdiction. Attorneys for the Franklin County Board of Commissions are working on a companion legislation that will allow the county to release responsibility for the Marble Cliff portion of the Franklin County Main to the Village.

Mr. Jolson asked if the Village has had any problems with overflows or blockages on the sanitary sewer line. Ms. McKay stated that she is aware of one problem several years ago. During heavy rains, excessive inflow and infiltration into the line that comes out of Upper Arlington caused an overflow.

No action was taken.

Mr. Ashrawi reported the attorneys representing the proposal for PACE Financing for the owners of 1600 Dublin Rd. are moving forward. Mr. Ashrawi stated he anticipates a request for the Village to adopt the necessary legislation will be forthcoming.

Mr. Ashrawi reported his firm will be filing a request for the Supreme Court to hear the case filed on behalf of various municipalities regarding municipal income tax collection by the state.

Mayor Studebaker recognized Grandview Heights High School students attending the meeting to meet requirements for a government class. The students asked a variety of questions regarding current Council activities as well as general government operations.

VARIANCES AND PERMITS

Mr. Ashrawi asked all in attendance who intended to offer testimony on the variance request before Council to stand and be sworn in. Mr. Ashrawi asked, "**Do you swear or affirm that the testimony that you will give before the Marble Cliff Council in this variance hearing will be the truth and the whole truth and nothing but the truth?**" Those standing responded "**Yes.**"

Mayor Studebaker introduced the first reading of O-2597-19, An Ordinance approving a Use Variance to Lynne Brown for the property at 2125 West Fifth Ave., in the Village of Marble Cliff and declaring an emergency.

Property owner, Lynne Brown, explained the rental space in her building was previously occupied by Fleurish Home. Fleurish Home was operating with a use permit that allowed for retail activities. She stated her opinion that the space is best used with retail as part of a business. Ms. Brown introduced Jared Friesner, owner of Cliff Wellness.

Mr. Friesner explained the nature of his business is retail sales of men's personal care items as well as offering yoga classes. Local business will have the opportunity to sell personal care products, clothing and jewelry at the location. Mr. Friesner explained he will occupy the same space previously occupied by Fleurish Home and he plans to refurbish the existing signs.

Mayor Studebaker noted that the use permit is linked to the business identified and is not transferable if the business sells or the property changes hands.

Ms. McKay reported she sent all required notifications to surrounding property owners and she had not received any comments in favor of or opposition to the variance request.

Mr. Cincione moved to suspend the rules. Ms. Taylor seconded. The motion passed unanimously. Mr. Cincione moved the adoption of O-2597-19. Mr. Jolson seconded. The motion passed unanimously. Mr. Voelker moved Ordinance O-2597-19 be passed as an emergency to support business development in the Village. Ms. Troiano seconded. Roll Call: Mr. Cincione, yes; Ms. Hoag, yes; Mr. Jolson, yes; Ms. Taylor, yes; Ms. Troiano, yes; Mr. Voelker, yes. The motion passed unanimously.

Mayor Studebaker introduced a request for a demolition permit for 1345 Cambridge Blvd. Mayor Studebaker reminded Council that the property owners have received a variance for the construction of a new garage. The demolition permit is required for the removal of the existing garage.

Mr. Cincione moved approval of the demolition permit requested by the property owners of 1345 Cambridge Blvd. to permit demolition of the existing garage on the property. Mr. Jolson seconded. The motion passed unanimously.

COUNCIL MEMBERS REPORTS

Ms. Troiano had no report from the Parks and Recreation Board.

Mr. Voelker reported the Growing on Tradition Task Force received public comment on its report and findings. He noted that as plans were discussed for moving or relocating various Grandview Heights offices and programs, the task force received strong support for maintaining senior services in a centralized and accessible location.

PUBLIC HEARING

At 7:15 pm Mayor Studebaker opened the Public Hearing on Ordinance O-2596-19 and introduced the second reading of O-2596-19, An Ordinance approving a Concept Plan, Preliminary Development Plan, and amending the Village of Marble Cliff's zoning Map to rezone +/- 1.25 Acres of land located in the Village of Marble Cliff – Parcel # 143-000066-00 (Commonly known as 2015 West Fifth Avenue) from its current zoning of B-1 Central Business District with a conditional use overlay of "Live/Work" To Planned Development District, as requested by F2 Companies and Dr. Katherine Gardner pursuant to a formal application.

Mayor Studebaker asked Mr. Ashrawi to explain the process the Council would follow for receiving comments and questions during the Public Hearing. Mr. Ashrawi explained that the Council is working through a legislative process because the proposed redevelopment of the property at 2015 W. Fifth Ave. requires a rezoning of the property. He stated he would not be swearing in speakers because there is no "testimony" to be offered. He stated Council would hear from the developer and the interested parties present. Council will have the opportunity to review and take action, as they deem appropriate.

Mayor Studebaker reported the plan under consideration is the plan presented at the March 2019 regular Council meeting. Mayor Studebaker stated that staff has reviewed the application received in March for completeness as required by the Village's Code of Ordinances. Mayor Studebaker asked Ms. McKay to explain the process for the development of the staff report and to present the staff findings.

Ms. McKay stated that she, Mr. Ashrawi, Mr. Ford and Ms. Ciccone reviewed the Preliminary Plan application presented by F2 Properties for the redevelopment of the property at 2015 W. Fifth Ave. The Zoning Text, drawings, sketches, etc. provided have been compared to the requirements of the Village Code. Ms. McKay noted two items that were not provided. Ms. McKay has notified the applicant that full signature pages for the applicant and the Village officials must be added to the application. They have agreed to provide those pages as requested. Ms. McKay noted that the codified requirements include a "phasing map and plan." However, because of the size of the proposed project, there will not be individual phases, but rather one phase, a "phasing map and plan" are not required.

Ms. McKay stated the staff asked for additional information regarding building materials. The developer will provide the information. Ms. McKay also noted questions regarding the adequacy of the current storm, sanitary sewers as well as existing water service to the property. The staff concluded that there is sufficient recognition of the requirement that storm and sanitary services will need to be reviewed and approved by the Village Engineer. The adequacy of the water service to the property will be determined by the Village Engineer and the City of Columbus.

Ms. McKay stated the staff report recommends the approval of the proposed Preliminary Plan for and the rezoning of the property at 2015 W. Fifth Ave. based on the adequacy and completeness of the materials provided.

Mayor Studebaker noted the developer, Mr. Foster and the architect, Mr. Stephens, were present and available to answer questions.

Mr. Studebaker noted he had been given note cards identifying five individuals who expressed an interest in making public comment or asking questions. He stated he would give those individuals the first opportunity to speak and then would open the floor to others. He asked those who would make comment to limit their time to three minutes and not to repeat comments previously made during the hearing.

Mayor Studebaker called first on Sharon Hendershot then Heather Fair (both Marble Cliff residents). Neither had questions or comments.

Mayor Studebaker then recognized Helen Miller (Marble Cliff resident). Ms. Miller expressed her concerns about the height of the new building and the proposed set back along the southwest and south sides of the property with particular concern with the setbacks where the property abuts her property at 1600 Roxbury Rd. Ms. Miller stated that the other surrounding properties will have a larger setback and noted that, as a historically significant, single family home, her property should receive similar if not better consideration. She suggested the footprint of the building could be changed or moved. Ms. Miller stated that she has met with the developer to review the footprint of the building as established by stakes placed in the ground. Ms. McKay presented two drawings completed by the developers to show the proposed new building from a perspective on Ms. Miller's property. Ms. McKay noted that a small portion of the existing building's roof can be seen in the drawings.

Mr. Stephens stated the ridge of the existing building will be beneath the eave of the new building. Ms. McKay stated information regarding the heights of buildings are stated in the zoning text.

Ms. Miller encouraged Council members and residents to walk the property at 2015 W. Fifth Ave. paying attention to the staked outline of the proposed new building.

Mayor Studebaker recognized Mowgli Assor (Marble Cliff resident). He asked how traffic will be handled on W. Fifth Ave. Mayor Studebaker stated a traffic study was required and presented to Council at its March meeting. The study reports the impact of residential development would not be greater than the impact on traffic if the current building was fully occupied as a commercial property.

Mr. Foster stated the proposal eliminates the east entrance because of concerns for cars entering and exiting close to the traffic light at the intersection. The overall increase in traffic is less than it could be currently if the property was fully occupied. Ms. McKay made copies of the traffic study available to Mr. Assor and other visitors. Mayor Studebaker noted that, as a residential property, there is a reduced concentration of traffic at peak hours.

Mayor Studebaker recognized Tylor Fox (Marble Cliff property owner. Mr. Fox asked if the Arlington Ave. property originally included in the plan is still included in the proposal. Mr. Foster confirmed the property on Arlington Ave. is no longer part of the proposed development.

Mr. Jolson noted that, because the underutilization of the property at this time, there is likely to be a net increase in traffic. Mr. Foster noted that when he was on the property on a recent Saturday there were fifteen to twenty cars in the back parking lot. Mr. Jolson asked if the development still includes a "right in – right out only" exit on W. Fifth Ave. Mr. Foster stated they will not have such an entrance because the east entrance is to be eliminated.

Mr. Jolson asked for clarification of the various setbacks. Mr. Stephens noted the setback for the new carriage houses is six feet. The setbacks vary between five feet to over fifteen feet at other points. He stated that the setback at the southwest corner is twelve feet. Mayor Studebaker noted that because the rezoning under consideration is to a Planned Development District the Council has the authority to establish setbacks that are different from setback requirements in traditional zoning areas.

Ms. Miller expressed concern that she already looks at the garage next door and now she will look at the new building as well. Mr. Foster stated he has contacted the owner of the property north of 1600 Roxbury Rd. to determine if F2 Companies could do work to improve the property. Mr. Foster also stated they are working to establish green screening to improve Ms. Miller's view. Ms. Miller again encouraged people to walk her property and surrounding properties. She reiterated that her property is on the National Historic Registry and deserves appropriate consideration.

Heather Fair (owner/occupant of 1616 Roxbury Rd.) expressed her concern regarding the impact of having three stories of residential windows overlooking the backyards of the apartments on Roxbury Rd. She stated her concern over the loss of privacy. Mr. McKay identified Ms. Fair's property on the map then allowed Council to view the west elevation of the proposed development. Ms. Fair stated that there is foot traffic across her property. She expressed concern that practice will continue and potentially increase. Mr. Voelker asked for clarification of who might be cutting through. None was offered. Mayor Studebaker stated that illegal dumping on the 2015 W. Fifth Ave. property is an ongoing issue.

Council asked what sort of plantings are planned for the west side of the property. Mr. Foster stated that fast growing, screening plants such as arbor vitae are planned. He also noted there are only windows on the west elevation no balconies.

Ms. McKay stated notices of the public hearing were sent by the United States Postal Service to property owners around the property as required by Village Code. She also stated notification postcards were sent to every address in the Village.

Charles Matthews (owner of 1607 Arlington Ave.) stated that a four to five story building is not in keeping with the Village atmosphere. Mayor Studebaker confirmed that the unit located on Arlington Ave. that was initially included in the project is no longer part of the development proposal.

Mary Van Balen (tenant at 1607 Arlington Ave.) stated her opinion that a three-story building behind her home will detract from the property. She stated that the proposed building will be huge and out of place.

Debbi York (Marble Cliff resident) asked the actual feet difference between the existing building and the proposed new building. Mayor Studebaker stated the peak on the portion of the building connecting to the new building is forty-two feet. The eave of the new building is forty-two feet and the peak at fifty-three feet. The peak on the connector is the lowest peak on the existing building. Reference measurements were taken on the south side of the property where the peak is the highest to grade.

Brian Matthews – owner of 1615 Arlington Ave.- asked which sides of the new building have balconies. Mr. Stephens stated there are balconies on the south side. There are no balconies on the east side. Mr. Matthews asked if there are windows facing east and west. Mr. Stephens confirmed there are windows on the east and west side. Mr. Matthews asked if the residents of the new building will be able to see out into the existing buildings. Mr. Stephens said, "Yes, people will be able to see in and out of windows." Ms. McKay noted that the current apartment buildings have windows and are closer to each other than the proposed new construction. He noted the tenants in the proposed development will be transient in nature. Ms. McKay stated that the building is anticipated to become a condominium. Ms. Hoag noted that in her experience of living in a building that is taller than the surrounding buildings it is more likely that the lower homes have a "view" into the higher windows rather than the other way around.

Mr. Jolson asked if the project is financially feasible if there were only two stories. Mr. Foster stated that the reduction of the number of units from sixty to seventy to thirty-seven units along with the restoration of the existing home create a very small financial margin. Further reduction of units would make the project unfeasible. Mr. Jolson asked about tax credits. Mr. Foster stated that state tax credits are not available to a small project such as is proposed. He said there might be federal tax credits available. Mr. Jolson asked what rental fees be for the units. Mr. Foster said \$200 per square foot.

Mayor Studebaker adjourned the Public Meeting at 8:10 pm.

VISITORS – Cont.

Mr. Stephens reviewed the construction materials proposed for the rear building. He explained the new buildings would have synthetic stone to match the existing building. The roofing material for the carriage houses and the new larger building will be asphalt shingle. The siding material for the bigger new building will be fiberboard with trim to complement the Tudor style of the existing building. The trim and fiberboard would be darker in color than the existing building and the carriage houses to reduce the visual impact of the building. Mr. Stephens said the windows would be a bronze color. Mr. Foster stated he is doing his best to address Ms. Miller's issues with her neighbor to the north. Mr. Foster stated that even if the setback were widened the height would be unchanged.

Mr. Cincione asked about the next steps. Ms. McKay stated revised zoning text was provided to Council. She confirmed that staff recommends moving forward with the preliminary plan and rezoning. Mayor Studebaker stated Council could move forward with a decision or wait until the next meeting. He encouraged Council to review the zoning text and send questions or concerns to staff for inclusion in the next meeting packet.

Mr. Cincione asked if Ordinance O-2596-19 is the only action pending before Council. Ms. McKay stated Ordinance O-2596-19 is the action required for acceptance of the Preliminary Plan and rezoning. She stated that a resolution to permit a Community Reinvestment Area tax abatement is included on the agenda for the April meeting. She also noted that Council will be asked to approve a Final Plan. Approval of the Final Plan is an administrative action not a legislative action. The Final Plan will come to Council after staff review.

Mr. Ashrawi stated that the legislation that addresses the rezoning is the item that could be challenged through a ballot issue. Mr. Foster stated they will return to Council with the final plan after the 30 day challenge period. He stated they would like to begin construction in September. Mayor Studebaker stated any challenge must be filed within 30 days and then filed with the Board of Election by early August.

ADMINISTRATIVE ASSISTANT REPORT

Ms. McKay reported Ahlum and Arbor have completed a tree survey of Village owned trees. Immediate work to address dead and diseased trees and necessary pruning has been approved by staff.

Ms. McKay reported the landscaping contract approved with Rine Landscaping did not include flowers. Ms. McKay requested Council rescind the Mayor's authority to approve the landscape contract with Rine Landscaping. Ms. McKay asked Council to authorize the Mayor to approve the landscaping contract be with Environmental Management Inc. for a cost of \$27,540.

Mr. Jolson moved to rescind the Mayor's authorization to approve an agreement with Rine Landscaping to provide general landscaping services for the 2019 season and to authorize the Mayor to enter into an agreement with Environmental Management Inc. to provide general landscaping services for the 2019 season. Mr. Voelker seconded. The motion passed unanimously.

APPROVAL OF BILLS

Ms. Troiano moved approval of the April 2019 bills totaling \$108,720.66.

Ms. Hoag seconded. The motion passed unanimously.

Mr. Jolson moved approval of the amended March 2019 bills totaling \$97,335.99.

Ms. Taylor seconded. The motion passed unanimously.

FISCAL OFFICER'S REPORT

Ms. McKay had no report for Council.

OLD BUSINESS

Mr. Jolson reported he met with the Falco Scholarship Committee at the Columbus Foundation. The committee approved four scholarships for \$1,000 each. The scholarships will be presented at an assembly at Grandview Heights High School. Mr. Cincione will be present to make the presentations.

Ms. McKay provided preliminary costs for curbside recycling. She reported she and Ms. Ciccone are still gathering information from Bexley. She will report to Council at the next meeting.

NEW BUSINESS

Mayor Studebaker introduced the first reading of O-2602-19, An Ordinance authorizing the Mayor to execute the Community Reinvestment Area Agreement between the Village of Marble Cliff and F2 Companies.

Mayor Studebaker explained the Village adopted Community Reinvestment Area

legislation several years ago. The CRA allows for a property tax abatement on improvements to a property. Mayor Studebaker stated the developer has presented the possibility of a tax abatement to the Grandview Heights School Superintendent and Treasurer. They have indicated general support for the proposal because, currently, the property is regularly being devalued for taxes at the request of the current owner.

Ms. McKay provided information on the impact of an abatement on the improvements proposed by the developer. She noted that the Village is not significantly impacted by the abatement. At the end of the abatement, the school district and other tax recipients receive a significant increase in property taxes.

Mr. Voelker asked how a change from rentals to condominiums would impact any agreement. Ms. McKay stated in her experience she received two tax bills during the time an abatement was in effect on her real estate property. Mr. Ashrawi stated that the final language for the resolution will address any change in the status of the property. It will be the responsibility of the developer to ensure any changes in property tax billing and collection are managed in agreement with the Franklin County Auditor and Treasurer.

Council asked about the process. Ms. McKay stated the school district must first address their portion of the agreement. Then the Council would follow a standard legislative process of readings and possible approval. Mayor Studebaker stated the necessary documents will be sent to the school district.

Mr. Foster stated they would not be able to move forward without the requested tax abatement.

ADJOURN

Ms. Troiano moved to adjourn the meeting. Ms. Hoag seconded. The motion passed unanimously. Mayor Studebaker adjourned the meeting at 9:10 P.M.

Approved by:

Submitted by:

Matthew P. Cincione
Council President Pro Tem

Cynthia A. McKay
Fiscal Officer