

FAIRPORT HARBOR PUBLIC HEARING

July 21, 2020

The July 21, 2020 Public Hearing Meeting, regarding the re-zoning of the Tsengas property from Marine Recreational to Industrial was called to order by Mayor Timothy Manross at 6:30 p.m.

Answering roll call were Christina Bacnik, Verne Horton, Anthony Bertone, Frank Sarosy, Doug Harrison, and Jerry Hites.

Mayor Manross asked Mr. Radachy if he had any opening remarks. Mr. Radachy had no comments at this time.

Mayor Manross offered the property owner, Mr. Tsengas a chance to speak. Mr. Tsengas said he appreciated Council, with the Covid 19 going on, putting this on the fast track as far as re-zoning from Marine Recreational to Industrial. Mr. Tsengas stated that he is looking for another tenant for his property adjoining the property to be rezoned. The current tenant, Cosmic Pets, vacated a couple of weeks ago. They still have some inventory in the building but have pretty much vacated the property. So if Council sees activity there, the owners are looking to do some improvements there including painting inside and out and getting it ready for a new tenant. So anybody coming in, whether it's a new tenant or someone who wants to buy the building, one of the things Mr. Tsengas wants to make sure of is that the land behind it, the two acres in question for rezoning, is zoned the same as the front parcel (with the OurPets building) in case new owners or tenants are looking for expansion. So this will really help as far as clearing the way for making sure there is no road block in the future activity there. So we are trying hard to get things going over in that building again.

The Mayor thanked him and said at that time he was opening this up to Council and he believed there was a couple of questions that had come in. Mr. Paquette verified that two people had emailed. The Mayor stated that after the Council portion was complete they would read over and answer those emails.

Mr. Bertone said he had a couple of questions for Mr. Radachy and Mr. Tsengas. He asked Mr. Radachy what his thoughts were with respect to the request and what would his recommendation be.

Mr. Radachy said he would recommend approving the change. Mr. Tsengas already owns this property along St. Clair and if someone wants to use it for industrial purpose, now they will have the ability to do so.

Mr. Bertone then asked if there was a down side to changing this. Let us say this is still a separate parcel as it sits now and it's not merged. Are there any down sides or cons in your opinion to having this zoned as Industrial as compared to Marine Industrial which are similar.

Mr. Radachy interrupted to correct Mr. Bertone by saying that actually it is currently zoned Marine Recreational not Marine Industrial.

Mr. Bertone at that time said there would be differences then.

Mr. Radachy explained that the only down side with changing with that scenario is that there is no access to sanitary sewer along St. Clair St. It can be utilized with the rest of the land without any issues. They would have to either have fee simple access to High Street or obtain an easement for sanitary sewer so if they want to sell the property off separately and utilize it for an industrial building of some sort. Parking, storage and the like is no problem for the use on the property.

Mr. Bertone thanked Mr. Radachy and stated that he just wanted to have his recommendation on public record.

Mr. Bertone then asked Mr. Tsengas if the re-zoning is approved, would he then dissolve those property lines. If Mr. Tsengas sold the property, would it include that parcel or would it be sold separately?

Mr. Tsengas stated that right now, if somebody comes in there is a very good chance that they are just going to buy the building and the 5 acres that building is sitting on right now. The Tsengas family, dba as Senk Properties, actually owns the two acres in the back, which is in question here, plus an adjacent 5 acres. So right now, primarily it is the building on the five acres but somebody might come in and might be interested in buying the whole property or, if they only buy that one, they may later want to expand. Obviously, we can work with them on selling them the land behind to build on. We just want to make sure it is already zoned properly for them.

Mr. Bertone said typically, when we do these things, we want to see what the development plan would be for that so we don't have somebody that comes in and, I'm going to go a little extreme, but someone who want to come in and build a chromium plant, which you can do on an industrial site. We would not have the ability to discourage that in any way. So without a development plan or deed restrictions or anything like that, there is a liability to the Village. Of course, I think that's something for all of Council to consider even though I think this all looks like it makes sense but those are the things I think we need to think through here. So, if you are not dissolving the property line, you are selling it separately.

Mr. Tsengas said yes it is a separate parcel at this point; we are not putting it together with a package as far as the way Mr. Bertone is speaking right now.

Mr. Bertone then asked Mr. Lyons what we could do to protect ourselves from something coming in that we might not want to see there, such as the extreme. Any recommendations?

Mr. Lyons said then do not re-zone it. That is the only way to protect yourself. I guess the property owner could voluntarily put deed restrictions on it.

Mr. Radachy said the uses currently on the books in Fairport Harbor really do need to be reviewed and changed to make sure they are uses Fairport Harbor wants in the community and so actually what you really want to do is change your uses. Council may be able to stop the zoning on this particular piece of property but there are other vacant lots in Fairport Harbor zoned as industrial that could be the Chromium dump or whatever, under current approved uses. Council needs to review the zoning uses and that will really protect the Village as opposed to just not re-zoning this property or putting deed restrictions on this property.

Mr. Bertone said he was not sure that that use would come in here. We are against the River sort of, we are against Lake Metroparks property and I am just trying to think worst-case scenario, what could happen. I would like to try to get this done without a development plan but I also want to make sure the Village is protected.

Mr. Radachy interrupted to say that they could present you with a development plan and the property can be re-zoned and then the new owners could sell it to somebody else and that person could bring in a new site plan. So approving based on a development plan is not going to really protect the community.

Mr. Bertone said those were the questions he had. He just wanted to put them on the table and he does not think someone is going to want a Chromium plant but there could be something that we are not thinking about that could happen so maybe what we do is take a look at that list of uses. Once we approve the zoning change here, it is hard to go back and retroactively change what is an allowable use.

Mr. Radachy clarified for Mr. Bertone, saying that if the property is vacant and Council changes the uses, then those are the uses that are of record. If new owners or tenants start to use the property prior to Council changing the approved uses then the operation becomes grandfathered in or legal non-conforming.

Mr. Bertone then said maybe that could be the next step. He does not want to limit this so the Tsengas family cannot sell it; he just wants to be aware of what we are doing especially since we are going from recreational to industrial.

Mr. Horton asked Mr. Radachy to correct him if he was wrong but stated that there was no direct river access from that property. The only time there is ever water on that property is when the river floods and there is a backwater so in his mind there is not a recreational use unless Metroparks wanted to expand their park facility.

Mr. Radachy said he would have to agree with that. There is no direct access from the property to the river.

Mr. Tsengas pointed out that the property on the other side of St. Clair is zoned industrial as well.

Mr. Bertone said that was a good point.

Mr. Horton thanked Mr. Radachy.

Mr. Bertone said he had no further questions.

The Mayor thanked Mr. Bertone and asked Mr. Horton if he had any other questions.

Mr. Horton stated he did not.

The Mayor then went on to ask if there were any other questions from Council. There were not.

The Mayor asked Mr. Paquette to read the emails that come in from the public.

Mr. Paquette stated the first email was from Lee Negreli who wrote, while I understand the desire to be attractive to potential businesses, we cannot create more green space or replace natural habitats of local wildlife. The other email is from Cathy Chitty who wrote, I would like to know if there has been an environmental impact study on the parcel of property between Our Pets and the Metroparks property off St. Clair St. that is under consideration for re-zoning. If not, there should be, as environmental protections and habitats of many of our native species of animals and plants are being erased or ignored. In an area and locale that so depends on the natural beauty and the balance of the eco-system, we need to protect all that we have.

The Mayor asked Mr. Radachy to respond, knowing there has not been one done for this re-zoning issue but assuming there would be one if they were going to develop the land.

Mr. Radachy stated that yes one would need done if someone were to develop the property and they would have to go through the Army Corp of Engineers, Lake County Soil and Water, and the Village Engineer. Also, Mr. Radachy did look at the property from old aerial photos and found that this property was developed with some buildings at one time and was used for some type of boat storage. Therefore the property is not in a pristine condition and that is one of the items checked on in an environmental study; to see what the property was used for previously.

The Mayor asked if the re-zone were granted, would the study still be done if someone tried to develop the land.

Mr. Radachy said yes that is correct.

Mr. Horton asked Mr. Radachy if a phase 1 EPA study on that property would be required before it was developed? Mr. Radachy said yes. An EPA study would need to be done before the issuing of any zoning permits or building permits. In addition, a soil and erosion control plan would need to be submitted. Mr. Horton thanked Mr. Radachy.

Mr. Bertone stated that the Phase 1, just so the audience is clear is not a study about the wildlife. It is a study of the chemicals that may be on that property currently. That is generally what those are done for. It is an environmental study to determine if the land is suitable to build or reside on.

The Mayor thanked Mr. Bertone for the clarification then went on to say if there are no other questions or comments on this he would move to closed the public hearing and go on to the regular Council meeting. Mr. Horton made a motion to end the public hearing. Mr. Bertone seconded. Roll call, all ayes. Motion passed. Public Hearing ended at 6:55 P.M.

The Mayor call the Regular Council meeting to order.

Motion to approve the minutes from the June 16, 2020 meeting made by Frank Sarosy seconded by Verne Horton. Roll call, all ayes. Motion passed

CORRESPONDENCE:

REPORTS:

From the Village Solicitor: Jim Lyons

From Mayor Timothy S. Manross:

A request for a noise variance for Finn Hollow Park from Noon to 6 PM on August 8, 15, and 22 has been submitted by the Fairport Harbor Arts and Culture Alliance. Motion to approve the noise variance request was made by Verne Horton, seconded by Jerry Hites. Roll call, all ayes. Motion passes.

GUEST SPEAKER(S):

From the Village Administrator, Amy Cossick:

The Lake County Board of Commissioners announced the proposed projects to be funded with the Fiscal Year 2020 allocation of the Community Development Block Grant Program and the HOME Investment partnership Program funds from the U.S. Department of Housing and Urban Development (HUD). I am happy to report that Fairport Harbor received \$265,000 to fully fund phase one of our Streetscape project. (High Street from Third to Fourth.) The notice of projects that were funded throughout Lake County is included in your packet.

The Consumer Confidence Report (CCR) for 2019 was delivered to our water customers via regular mail and is posted to our Village Website. The CCR will also be posted at the following locations: Fairport Harbor Public Library, Fairport Harbor Village Hall, Vaskos Bi-Rite Supermarket, and Fairport Harbor Senior/Community Center.

The Mayor and I met with the new Executive Director for the Lake County Port Authority, Dave Anderson. We briefed Mr. Anderson on a number of projects that we had in motion prior to the pandemic and we are hopeful that these will continue to move forward. We had a meeting with all of the Senior Center volunteers to discuss steps on how to safely provide programs for our Seniors, and we are making progress on that front as well. I attended the July 15 Public Hearing, held by the Lake County Commissioners in regards to the Community Development Block Grant,

to thank them on behalf of Fairport Harbor for the funding. I also attended a Business Retention and Expansion meeting with the Lake County Port Authority and I participated in webinar for Ohio Tourism to learn about grant opportunities for marketing efforts.

The News-Herald ran several articles in June and July covering our Fourth of July House Decorating Contest, our parade through the Village, and the rezoning proposal by Senk Properties. (The articles are in your packets.) Also, thank you to everyone who participated in our first Fourth of July House Decorating Contest, first place went to: 501 New Fourth Street, Second place went to: 219 Eagle Street, and Third place went to: 223 Seventh Street. I would also like to extend a special thank you to the Fairport Harbor Men's Civic Club for donating the prize money and to the Fairport Harbor Creamery for donating \$20 gift cards to all of our contestants.

The Commissioners are working toward the creation of a Shoreline Special Improvement District in and around Lake County, to provide residents with a new method to finance erosion abatement projects along the Lake Erie shoreline. They are requesting that at least one property owner from each community complete the Creation Petition, in order for all communities to take the first round of legislative action to form the special improvement district. Unlike Mentor or Eastlake, we do not have residential homes situated directly on the shoreline. To participate in this SID, we could utilize parcel #14-A-005-0-00-040-0, which is highlighted on the Lake County GIS Map that you received. Through conversations with the Metroparks, we have determined that this parcel, which does have erosion issues, would be a suitable option for the SID. Amanda Gordon from McDonald Hopkins, is advising the County on this project and is attending this Council meeting. Council had no questions for Ms. Gordon.

Mr. Horton wanted to thank the Commissioners and Ms. Cossick for getting the Streetscape funded. It has been a pipe dream for most of Council.

Mr. Bertone agreed with Mr. Horton and requested a resolution thanking CDBG. He also requested one for Karen Volzer and all she has done to help raise money for the Lighthouse and Marine Museum.

From the Village Engineer, Clyde Hadden:

We are finalizing Water Plant projects. It appears right now that OPWC is able to fund this round of projects so we are moving forward on these water plant projects.

East St. project started a few weeks ago. We did meet today with Dominion to make sure we did not have any issues. New Fourth St., York St. and Joughin St. have been paved and look pretty good. Water line work looks like it will begin on July 27. Following that will be the storm sewer work and everything else. Mr. Hites asked how long he thought it would take to complete. Mr. Hadden said he thought a month or less. Mr. Hites thanked him for the information.

From the Fiscal Officer, Chris Paquette:

The Fiscal Officer provided current financial revenue and expenditure reports to Council.

Mr. Paquette noted that there was an amended appropriation to fund Storm Water repairs on Orchard St. and Courtland St.

Transfer of funds from Water 5101 to Capital Account 4916 for Water Plant improvements and from Streets to Capital Account 4904 for East Street is required by the State Auditor and accomplished with legislation on tonight's agenda.

OLD BUSINESS:

SAFETY COMMITTEE:

Mr. Sarosy said everything looks good. He feels that we are very lucky to have the Police and Fire Departments that we do after looking at everything that is going on in our country. We should all be very proud.

Mr. Hites said he had received some calls about tall grass at 624 Vine St. and 703 Vine St. Chief Leonard thought that letters were already sent out to those addresses but would double check when he was back at the office. In addition, Mr. Hites said the pothole that had some previous repair to it on Paradise Ct. was back.

LEGISLATION:

ORDINANCE 2020-041

MOTION TO PAY THE BILLS. Motion made by Frank Sarosy, seconded by Christina Bacnik. All present voted aye. Motion passed.

RESOLUTION 2020-33

A RESOLUTION REQUESTING THE VILLAGE OF FAIRPORT HARBOR'S SHARE OF COUNTY CORONAVIRUS RELIEF DISTRIBUTION FUNDS AND AFFIRMING THE USE OF THOSE FUNDS TO BE EXPENDED ONLY TO COVER CORONAVIRUS COSTS IN A MANNER CONSISTENT WITH THE CARES ACT AN DECLARING AN EMERGENCY. Motion to suspend the rules made by Anthony Bertone, seconded by Christina Bacnik. All present voted aye. Motion passed. Motion to adopt made by Anthony Bertone, seconded by Christina Bacnik. All present voted aye. Motion carried.

RESOLUTION 2020-038

A RESOLUTION SUBMITTING THE ELECTORS OF THE VILLAGE OF FAIRPORT HARBOR THE QUESTION OF THE REVEWAL OF AN EXISTING THREE AND NINE/TENTHS (3.9) MILL 5-YEAR POLICE TAX LEVY, AND DECLARING AN EMERGENCY. Motion to suspend the rules made by Verne Horton, seconded by Frank Sarosy. All present voted Aye. Motion passed. Motion to adopt made by Verne Horton, seconded by Frank Sarosy. All present voted Aye. Motion carried.

RESOLUTION 2020-039

A RESOLUTION SUBMITTING TO THE ELECTORS OF THE VILLAGE OF FAIRPORT HARBOR THE QUESTION OF THE RENEWAL OF AN EXISTING TWO AND FIVE/TENTHS (2.5) MILL 5-YEAR FIRE EQUIPMENT TAX LEVY,

AND DECLARING AN EMERGENCY. A motion to suspend the rules made by Verne Horton, seconded by Anthony Bertone. All present voted Aye. Motion passed. Motion to adopt made by Verne Horton, seconded by Anthony Bertone. All present voted Aye. Motion carried.

RESOLUTION 2020-040

A RESOLUTION SUBMITTING TO THE ELECTORS OF THE VILLAGE OF FAIRPORT HARBOR THE QUESTION OF THE RENEWAL OF AN EXISTING ONE AND NINE/TENTHS (1.9) MILL 5-YEAR ROAD TAX LEVY, AND DECLARING AN EMERGENCY. A motion to suspend the rules made by Christina Bacnik, seconded by Verne Horton. All present voted Aye. Motion passed. A motion to adopt made by Christina Bacnik, seconded by Verne Horton. All present voted Aye. Motion carried.

ORDINANCE 2020-042

AN ORDINANCE TO AMEND APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE VILLAGE OF FAIRPORT HARBOR, LAKE COUNTY, OHIO, DURING THE FISCAL YEAR BEGINNING JANUARY 1, 2020 AND ENDING DECEMBER 31, 2020 AND DECLARING AN EMERGENCY. A motion to suspend the rules made by Anthony Bertone, seconded by Doug Harrison. All present voted Aye. Motion passed. A motion to adopt made by Anthony Bertone, seconded by Doug Harrison. All present voted Aye. Motion carried.

ORDINANCE 2020-043

AN ORDINANCE AUTHORIZING THE REZONING OF THE 2.01 ACRE PARCEL AT 1185 ST. CLAIR STREET EXTENSION PARCEL 14-A-025-0-00-019-0) FROM MARINE RECREATIONAL (M-R) TO INDUSTRIAL (I). A motion to suspend the rules made by Verne Horton, seconded by Christina Bacnik. All present voted Aye. A motion to adopt made by Verne Horton, seconded by Christina Bacnik. All present voted Aye. Motion carried.

Mr. Bertone stated to the Mayor that as a follow up to that he would like to make a motion to direct Dave Radachy to do a study of our current zoning uses in the industrial area and come back to make recommendations to make sure we protect ourselves moving forward and to have a report read for the next Council meeting.

The Mayor asked Mr. Radachy if that would be doable in a month or did he feel he would need more time.

Mr. Radachy responded that he believed he could have it ready. He felt he could get a preliminary list of uses, which Council could bear down on but recommended sending them through Planning Commission to study the issue and then have them report to Council.

Mr. Bertone said he agreed, but he felt that list would be good to come to Council as a start then to Planning Commission. In addition, he challenged Mr. Radachy to say list of uses five times fast.

Christina Bacnik asked if this preliminary list was just for this property or for all vacant properties.

Mr. Bertone said the motion would be for industrial uses, so it would incorporate all properties labeled as industrial. If we want to do something with the other areas of zoning, I think we do that after because I do not know that Mr. Radachy would have the ability to do that within a month.

Mr. Horton agreed with Mr. Bertone. We need to take baby steps here, get a recommendation from Mr. Radachy and give him our input. Revising the Zoning is kind of a serious matter so I think we should do our due diligence with Mr. Radachy's guidance and Planning Commission's guidance. And I am sure Mr. Bertone agrees with that.

The Mayor asked the Administrator how that timeline worked with Planning Commission because he was pretty sure they had a meeting coming up next month.

The Administrator notified the Mayor that the next Planning Commission meeting was scheduled for August 11.

The Mayor again asked Mr. Radachy if he could have something ready by August 11 for Planning Commission.

Mr. Bertone said initially this would just be a list brought to Council. It could go to Planning Commission after that.

The Mayor said he will let The Administrator and Mr. Radachy work on that and have something prepared for Council. Then we will get it out on the Planning Commission agenda. I just want to make sure that we are being timely to the request that was made.

Mr. Radachy said he would get a report out as to how he is going about creating this list and have Ms. Cossick send it to Council members so they have an idea how he is going to develop the list so they will have something to be prepared for when he sends the list to the Council meeting.

Mr. Lyons said he believe it would be a good idea to have a list of the current uses so that if something is eliminated your necessarily grandfathering them and he thought Council should know if they are going to be grandfathering a particular use.

Mr. Bertone asked for a roll call on this motion, as he made the motion and Mr. Horton seconded it. All present voted Aye. Motion passed.

RESOLUTION 2020-044

A RESOLUTION APPOINTING ALEXANDER HEARN AS A FIREFIGHTER FOR THE VILLAGE OF FAIRPORT HARBOR, OHIO AND DECLARING AN EMERGENCY. A motion to suspend the rules made by Frank Sarosy, seconded by Jerry

Hites. All present voted Aye. Motion passed. A motion to adopt made by Frank Sarosy, seconded by Jerry Hites. All present voted Aye. Motion carried.

RESOLUTION 2020-045

A RESOLUTION TO TRANSFER FUNDS FROM THE WATER OPERATING FUND (5101) TO THE OPWC WATER PLANT IMPROVEMENT FUND (4916) AND DECLARING AN EMERGENCY. A motion to suspend the rules made by Verne Horton, seconded by Doug Harrison. All present voted Aye. Motion passed. A motion to adopt made by Verne Horton, seconded by Doug Harrison. All present voted Aye. Motion carried.

RESOLUTION 2020-046

A RESOLUTION TO TRANSFER FUNDS FROM THE STREET CONSTRUCTION FUND (2011) AND THE ROAD LEVY (2907) TO THE OTHR CAPITAL PROJECTS FUND (4904) AND DECLARING AN EMERGENCY. A motion to suspend the rules made by Jerry Hites, seconded by Christina Bacnik. All present voted Aye. Motion passed. A motion to adopt made by Jerry Hites, seconded by Christina Bacnik. All present voted Aye. Motion carried.

RESOLUTION 2020-047

A RESOLUTION CONFIRMING THE APPOINTMENT OF KYLE J. OCHSNER AS A SPECIAL POLICE OFFICER STEP II FOR THE VILLAGE OF FAIRPORT HARBOR, OHIO AND DECLARING AN EMERGENCY. A motion to suspend the rules made by Frank Sarosy, seconded by Jerry Hites. All present voted Aye. Motion passed. A motion to adopt made by Frank Sarosy, seconded by Jerry Hites. All present voted Aye. Motion carried.

RESOLUTION 2020-048

A RESOLUTION ADVANCING ERIC C. SHARP TO CLASS A POLICE SERGEANT FOR THE VILLAGE OF FAIRPORT HARBOR, OHIO AND DECLARING AN EMERGENCY. A motion to suspend the rules made by Frank Sarosy, seconded by Doug Harrison. All present voted Aye. Motion passed. A motion to adopt made by Frank Sarosy, seconded by Doug Harrison. All present voted Aye. Motion carried.

MISCELLANEOUS

Mr. Bertone had a message for the residents. With all the things going on in the world right now and how crazy it seems, people get scared, wonder where we are going. We as a local government are probably the closest thing that folks get to government on an everyday basis. So I would like to remind everybody that we are a 26 gold star member community. Fairport Harbor is a good representation of what America is. We are a good country, a fair country, always have been. Despite all the garbage you hear that we are not good, we are good. Don't fall for it, don't believe it. Tell you children; tell your neighbors, we are good. Stand up for your country. Don't let them tear us down. We are going to survive this, we are going to survive the virus. We have been through a lot worse. We have had countries try to lob bombs at us and have fought many wars. We

have come out on top and we are going to come out on top. Please, residents understand, we are good.

Mr. Horton said he and Mr. Bertone do not always agree but he agrees with Mr. Bertone one hundred percent. We seem to be moving along the same lines. The Village is moving forward. Everyone else has moved backwards, while we are moving forward. It has a lot to do with this Council, with the Mayor and with the Administrator and he appreciates all of that. Thank you

OPEN TO THE PUBLIC:

Nothing from the public.

A motion to adjourn the meeting at 7:40 p.m. was made by Doug Harrison, seconded by Jerry Hites. All present voted Ayes. Motion carried.

FISCAL OFFICER

MAYOR