

VILLAGE OF OAKWOOD
COUNCIL MEETING MINUTES
November 10, 2020

ATTENDED

Johnnie Warren – Council President
Elaine Gaither- Council at Large
Melanie Sanders – Ward 3
Patricia Rogers – Ward 4
Candace Williams – Ward 5

Gary Gottschalk-Mayor*
Jim Climer-Law*
Brian Thompson-Finance
Tom Haba - Service
Daniel Marinucci – CBO
Mark Garratt – Police Chief
James Schade – Fire Chief*

ABSENT:

Chris Callender – Ward 1
Eloise Hardin-Ward 2

Carlean Perez-Recreation
Ed Hren – Engineer

*=Late Arrival

Gaither opened the meeting at 7:00p

Motion to approve Finance minutes of October 27, 2020 made by Gaither seconded by Rogers
FOUR YES VOTES: Gaither, Sanders, Rogers, Williams ABSTAIN: Warren
Motion Passed

Motion to approve Council minutes of October 27, 2020 made by Gaither seconded by Sanders
FOUR YES VOTES: Gaither, Sanders, Rogers, Williams ABSTAIN: Warren
Motion Passed

Departmental Reports

Service-Haba: The pre-construction meeting for the Village Hall ADA sidewalk and entrance took place today. It will begin November 30th and should be done by year's end if all goes well. I looked at the creek on Garden Road. It is shallow. There is one spot about 15 feet long we could dig out but most likely not until next year so it can take more water. Also, we talked to Waste Management about recycling containers. By the first of the year, the whole Village should have them. They are smaller with lids. **Williams:** On Wright, Free and North Lane there is a lot of leaves hanging over in the street. Is that property owners? **Haba:** We will check.

Fire-Schade: Everything is going well. I preciously submitted my report.

Building-Marinucci: A case was filed in September for the box truck on Garden Road. They have two continuances on it with a pre-trial scheduled for November 17th. **Rogers** asked what the issue is. **Marinucci:** This goes back to September. Several letters were sent out from my department. We offered them to park the truck in the Village Hall parking lot. He wouldn't do it. I met with him as did Robert. We gave him until September 28th, then we filed it in Court. They paid for the second continuance. **Mayor:** The City of Cleveland is closing down their court until further notice. **Rogers** asked about the resident who had her roof done but didn't file for the Ward 4 Program until after it was complete. **Marinucci:** We will take that resident to court. **Rogers:** She does rehabs. **Marinucci:** She said she is going to live there. **Rogers** mentioned there is a semi-truck being parked in a driveway on Macedonia Road.

Police-Garratt shared a flyer about the DEA drug buy-back. Our 2021 calendars are in. There was a power issue today at Koltz Block where a truck took down two poles and wires. The driver jumped out of the truck. He avoided being hit by the high-tension wires. It wasn't a Koltz Block truck.

Finance-Thompson: Nothing additional.

Law-Climer: All but one of the Charter amendments have been certified by the Board of Elections as passed. The one repealing the Civil Service ordinance failed. We are a Village. That is not a huge issue.

Mayoral Report-Mayor: We provided Nichols a Job Creation Tax Credit. They provide disinfectants, sanitizing and cleansers.

Linear Logistics Update

Mayor: They are now in the Maines building. They are one of the world's largest and innovative providers of temperature-controlled food distribution in the U.S. They are having a hard time getting truck drivers. We have collected money from them over a month. They deliver to Olive Garden, Tim Horton's, Burger King, and Longhorn Steakhouse. Wendy's was a big account. They raised \$1.9 million in building more cold storage space. That was one of the issues Northern Haserot was having. I am meeting with Linear this coming week then with Northern Haserot on whether they can erect a building for more cold storage for Haserot. They are going public on the New York Stock Exchange. That is our third company on the stock exchange. It was a very good week for Oakwood.

Premier Update

Mayor: I met with Premier and the company which hopefully will go in where John's Trailer is located. They are both planning to be before the School Board on incentivization by the end of the year. Premier will have to pay about \$350,000 mitigation of the wetlands on their location. By the end of this month they hope to purchase the remaining lots sold to Oakwood for \$1 then we will sell them back to Premier, so we are part of a chain of title. This is required for the TIF. When we sell that land back to Premier, we should receive back the carrying costs.

Tartabini Property Update

Mayor: I met with Joe Tartabini and the wetland specialist about his land. He had \$1.4 million mitigation cost, but it has been worked down to less than \$700,000. We are hoping to lay out the types of buildings for this land near Mt. Zion Circle. A lot is happening.

Recap Oakwood Development

Mayor: Picture beautiful glass window office buildings on either side of I-271 in Oakwood lit up at nighttime. **Sanders** asked how many acres are developable at Tartabini? **Mayor:** A little over 24 acres. A power grid runs through there. It would be down to 18-19 acres. We hope to have two small office buildings and a much larger one with light manufacturing near the entrance of the site off Broadway. We hope three buildings will be there in the next few years. **Sanders** asked how much land must be cleared. **Mayor:** Our Engineer is working on site plans. Mt. Zion is interested to know also. We should have that in the next two weeks.

Job Fair

Gaither: You indicated several companies are looking for employees. I am wondering if we could have a job fair early spring. **Mayor:** I am open to any suggestion like that. One of the people in Administration knows someone working at Swift in assembly. They applied and got the job. It was a lady. **Gaither:** I will talk to you more on that.

Open Floor Comments

Mini Thomas 24815 Broadway, Oakwood Village: I am building a house at 26355 Solon Road. I am back here about the water issue. **Warren:** We spoke with Cleveland Water and the Commissioner. He said it is impossible to get the service across the street. He did say, they will consider trying to get the service cheaper but will need a little cooperation from others to get it from Morning Glory behind you. I thought it would be cheaper to have the line go across the street. He can't allow that because the line doesn't go far enough to do that. We will know something hopefully within a week. We will have to contact the Meadows Homeowners Association about the connection. We just received this information today. We are optimistic and aggressive to get this done. We will get you an answer. **Thomas:** They are finishing up my house, but I have no water. It will be a year on November 18th. **Warren:** Just give us until Tuesday. If we would have known at the time of excavation, it may have been done. **Thomas:** The first engineer said we could get water. Then the second one said you can't. **Warren:** The first engineer may have been optimistic, but you still have to get permission from Cleveland Water. **Thomas:** The engineer I spoke with was a Water Dept. employee. **Warren:** I talked to the engineer who spoke to both those engineers and I spoke to his boss today. He says his boss is now agreeable to look into

the tie in with Morning Glory. You will have water. **Mayor:** The sanitary should begin within two weeks. **Thomas:** Nothing has been easy about building on that property. We have gas and will have electric with a discount.

Melanie Sanders-Ward 3

Sanders: I want to thank Chiefs Garratt and Schade for handling the issue last week on Oakhill. I am grateful for their professionalism.

Close Floor

Legislation

2020-90 A resolution of condolences to the family of Augustus Hawkins Sr.

Motion to suspend mad by Gaither seconded by Sanders

FIVE YES: Warren, Gaither, Sanders, Rogers, Williams

Motion to adopt made by Rogers seconded by Sanders

FIVE YES: Warren, Gaither, Sanders, Rogers, Williams

Motion Passed

MOTION TO ADJOURN made by Hardin seconded by Rogers

FIVE YES VOTES: Gaither, Hardin, Sanders, Rogers, Williams

Adjourned 8:25pm

Adopted _____

Debra L. Hladky, Clerk of Council

Johnnie Warren, Council President

VILLAGE OF OAKWOOD
COUNCIL WORK SESSION MINUTES
November 10, 2020

ATTENDED

Elaine Gaither- Council at Large
Eloise Hardin-Ward 2
Melanie Sanders – Ward 3
Patricia Rogers – Ward 4
Candace Williams – Ward 5

Gary Gottschalk-Mayor
Jim Climer-Law
Brian Thompson-Finance
Tom Haba - Service
Daniel Marinucci – CBO

ABSENT:

Johnnie Warren – Council President
Chris Callender – Ward 1
James Schade – Fire Chief

Carlean Perez-Recreation
Ed Hren – Engineer
Mark Garratt – Police Chief

*=Late Arrival

Meeting opened by Warren at 8:04p

2020-WS-13 AN EMERGENCY ORDINANCE ENACTING SECTION 505.19 AND AMENDING SECTION 505.13 OF THE OAKWOOD VILLAGE CODIFIED ORDINANCES TO PROVIDE REGULATIONS FOR THE RAISING OF CHICKENS IN THE VILLAGE

Rogers: Mr. Bugarcic has over 100 chickens on Macedonia Road. It attracts seagulls and is out of control. I asked the Law Director what we could do about it. Ross Cirincioni wrote this up. **Climer:** Based on the ordinances we have currently. **Rogers:** Deb contacted fellow Clerks of Council to see what they had and she provided that to me. I found something I felt would work here in the Village. **Williams:** Do we know how many residents have chickens? **Rogers:** I don't know. **Gaither:** On the corner of Richmond and Cambridge the resident has chickens and goats. **Warren** asked about this ordinance. **Climer:** There are several options. We could allow so many on the lot size, ban them all together, or allow them in certain districts. **Warren:** How affective is this ordinance in its existing condition and what about those who already have chickens? **Rogers:** One hundred chickens cannot be tolerated. **Warren** suggested looking into the health issue regarding that many in a residential area. **Climer:** That is the rationale to have Council act. **Williams** asked how many complained. **Rogers:** One, the resident is insisting her husband was assisting with killing the chickens. He stopped doing it due to the conditions over there. **Warren:** We need justification for the ordinance. **Williams** asked if we should hold a meeting for those who have chickens. **Rogers:** I spoke with a couple people who have chickens. I think it is reasonable. It covers everything. **Gaither:** Do we know who has chickens and goats? **Williams:** Are goats permitted? **Rogers:** No, they aren't. **Warren:** Bugarcic had them. **Rogers:** In our codified it states, no person shall keep or harbor any animal or fowl in the municipality so as to create noxious or offensive odors or unsanitary conditions which are a menace to the health and welfare of the public. It mentioned they cannot be running haphazardly. **Williams:** Does it say they cannot have them? **Rogers:** This is from Mr. Cirincioni. We have section 505.08. **Williams:** So, 505.03 is current as well. They can have them, but they can't run at large. Do our ordinances contradict each other? **Climer:** As I recall, you can have them as long as they are not running at large. **Warren:** We need to determine what creates unhealthy conditions? Maybe allow five chickens per acre, etc. **Climer:** It is not unusual for municipalizes to either ban farm animals or limit them. I am sure there is case law out there. **Warren:** We need to at least include the crust of our concern. One may say I can have more chickens because I have more land. **Rogers** suggested four per acre. **Gaither:** I know one resident has a rooster. **Warren:** This states that roosters are prohibited in this ordinance we are entertaining. **Gaither:** Roosters crow and keep people up. **Sanders:** They are terribly messy and destructive. **Williams:** For a person who has a rooster, what will they do when they see this? **Sanders** mentioned including a grandfather clause. **Rogers:** Mr. Bugarcic seems to be building more in the back of his property on Macedonia Road. **Warren:** Does he have a permit. **Rogers:** I don't believe so. **Warren:** Then that needs addressed. **Williams:** If we say they shouldn't be allowed, we need to grandfather people in. **Warren:** Grandfathered as long as they are in compliance to the ordinance. **Climer:** Those who have animals already,

they should be able to keep them. **Warren:** Can we do an all encumbrance ordinance. We can give those who are not in compliance, 30-60 or 90 days to comply then move forward. Is that what we want to do? The bottom line is, if we allow them, how many do we allow per acre. The first thing is to find the certifiable safety hazard or health hazard. We want to address the quantity issue. **Sanders** suggested a meeting for residents. **Warren:** We should include the number per acre. **Williams** asked about commercial purposes. **Climer:** It is more a matter of proof. **Rogers:** The people I talked to say the permitted number of chickens should be enough to produce eggs for a family of four. We don't want to permit selling. **Warren** asked for case law. **Climer:** This ordinance is put together reflective of case law. **Warren:** If we could include the health issue. **Williams:** We don't own chickens or goats. Is it possible to have a conversation with those who own them? **Gaither:** Some are pets. **Rogers:** I talked to Rand Broadstreet who is on Pettibone and is on one of the commissions. He has had chickens. I spoke with Ed Hren who has them as well. **Gaither:** Certain holidays people get little chicks. They give them to their kids, and they become pets. It grows into a chicken, then what? **Williams** asked to invite residents to a Council meeting. **Rogers:** Rand Broadstreet read this proposed ordinance and thought it was good. **Warren:** We can do that through a virtual meeting. We have other issues. **Sanders:** The purpose of revising this is to enforce it? **Climer:** Yes, to crack down on the situation. **Gaither:** Chickens fly and get away.

Warren: We have a situation where a city employee has been exposed to someone who had COVID-19. We want to do our due diligence to strongly consider moving to virtual meetings. **Williams** asked about the community center. **Warren:** You can but I am not. The other thing is Debbie, hauling everything from here to there. **Gaither:** She has a lot to carry. **Williams:** Covid isn't going away. It is only twice a month. If we must be in person. **Warren:** We don't have to be in person. **Williams:** I am talking hypothetically, if it has to happen in person, we can social distance there.

Motion to adjourn made by Gaither seconded by Sanders
5 YES: Warren, Gaither, Sanders, Rogers, Williams
Adjourned 8:p

Adopted _____

Debra L. Hladky, Clerk of Council

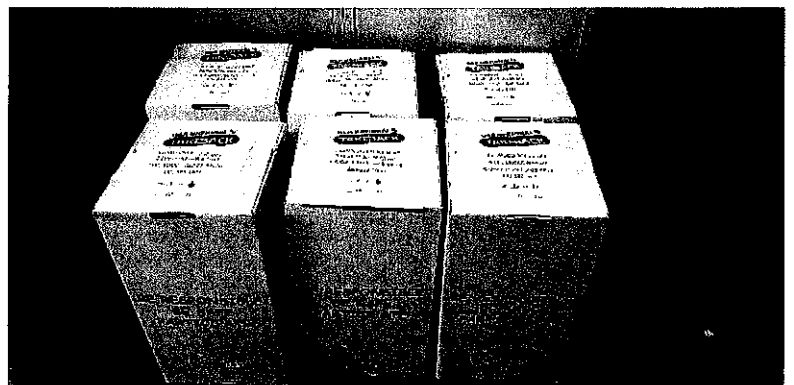
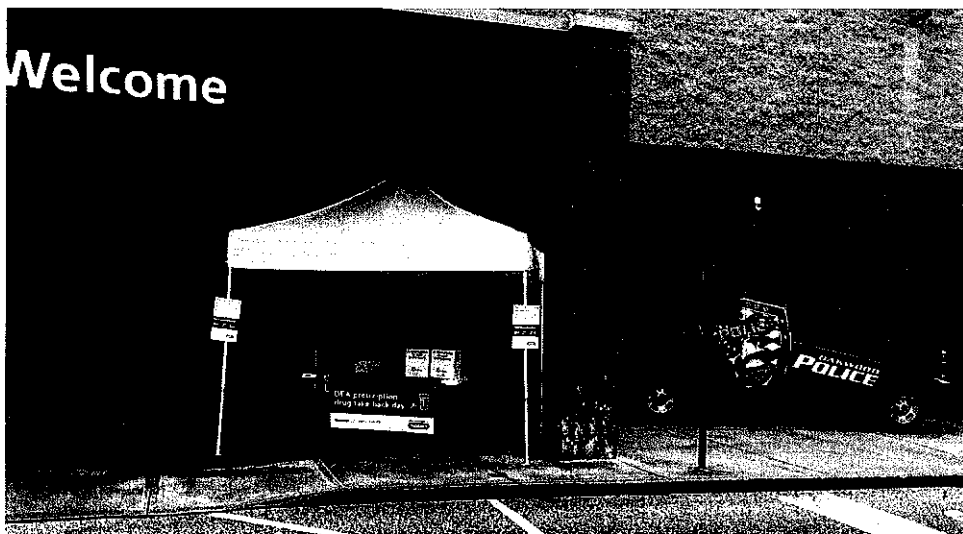
Johnnie Warren, Council President

DEA Drug Takeback Event



The annual event sponsored by the DEA was held on Saturday, October 24, 2020 from 10am-2pm at Sam's Club. The OVPD and Sam's Club Pharmacy Manger (Doug) worked to collect unused/unwanted prescriptions and OTC medications. The OVPD collected 6 boxes totaling 73 lbs. this year! Boxes are turned over to the DEA for destruction. This surpasses the 67 lbs. collected in 2019.

Anyone who missed the event can drop off items at Drug Drop Box located in the Village Hall lobby. Items are then disposed of by Cuyahoga County Sheriff's Department.



MEMORANDUM

To: James Climer, Law Director

From: Ross S. Cirincione, Assistant Law Director/Prosecutor

Re: Regulation of keeping of chickens in residential zoning district

Dear Jim:

Per your request, I have reviewed the Village of Oakwood Codified ordinances in regard to the regulation of the harboring and raising chickens in a residential zoning district. Apparently, complaints have been received regarding a Macedonia residential property upon which chickens are being raised. Reportedly, at least one neighboring residential property owner has complained that the harboring of chickens on this property has resulted in nuisance conditions which are a menace to the health, comfort or safety of the public. I contacted Councilwoman Patricia Rogers to discuss this matter. She stated that she received a complaint regarding the Macedonia Road property upon which the chickens are being harbored. I asked Councilwoman Rogers to have the complainant call me so that I can get further detail in regard to the possible nuisance.

Section 505.08(a) of the Codified Ordinances states as follows:

“No person shall keep or harbor any animal or fowl in the Municipality so as to create noxious or offensive odors or unsanitary conditions which are a menace to the health, comfort of safety of the public”.

A violation of this section constitutes a minor misdemeanor punishable by a fine of up to \$150.00. I also reviewed Section 505.03(a) of the codified ordinances in regard to a possible violation of that section. That section states in relevant part that:

“No person being the owner or having charge of cattle...chickens or other fowl or animals shall permit them to run at large upon any public place, or upon any unenclosed lands or upon the premises of another.”

Based upon the facts related to me thus far, this section would not apply to the instant complaint since I have been advised that the property is enclosed by a fence. I will verify this fact with the complainant.

It should be noted that the City of Bedford and the City of Bedford Heights both prohibit the harboring of chickens within their respective City limits. The Village may want to explore the possibility of either banning the harboring of chickens within the Village's corporate limits or adding additional regulations to the residential zoning code.

Bedford's prohibition of harboring chickens within its City limits has been upheld by the Court of Appeals for the 8th District (See *City of Bedford v. James L. Deal*; 2013-Ohio-3240; Cuyahoga Co., 2013).

In addition, in a civil action for declaratory judgment and injunctive relief, the Seventh District Court of Appeals in *City of Columbiana v. Simpson, Sr.*, up (2019WL4897158; Columbiana Co., 2019), the Court affirmed a judgment of the Trial Court which found in favor of the Plaintiff City's ban on the harboring of chickens in a residential district. The Court found in favor of the Plaintiff City even though it did not have a specific ban on chickens in its residential zoning code. The Court found that since the City had residential and agricultural zoning districts, from the language governing those uses, it was inferred that chickens were not permitted in a residential zone.

It should be noted, however, that the Oakwood Village Code must be contrasted with the Columbiana Code since in the Oakwood Code, by conditional use, may allow the harboring domestic animals.

Section 1165.03(e) states that as a conditional use to a residential use the harboring of "domestic animals" may be permitted. Accordingly, I do not believe that a civil or criminal case using the rationale of the Columbiana case would be successful under the Oakwood Codified Ordinances.

In conclusion, it is my opinion that the only charge which would have a chance of success under the current Village of Oakwood codified ordinances is under Section 505.08, (Nuisance Conditions Prohibited). This will depend on the evidence the Village is able to prove at trial as to the existence of a nuisance on the Macedonia Road property. If you have any questions, please call me.

Ross S. Cirincione,

Assistant Law Director/Prosecutor.