

Village of Shawnee Hills Council Meeting Minutes

July 9, 2018

Mayor Monahan called the meeting to order at 7:00 p.m.

Council in Attendance: Mary Gates, Douglas Gil, Dan Mathews, Renee Matney, Jeff Stacy and Robert Thatcher

Also Present: Fiscal Officer Shirley Roskoski, Administrator Steve DeBolt and Solicitor Brian Zets

Minutes

It was moved by Gates, seconded by Matney to approve the minutes from June 25, 2018 with the following amendments: on page 7, under miscellaneous, place a comma after W. Mohawk and change the word quite to quiet. Following vote on the motion is recorded: yea, 4; Gates, Gil, Matney and Stacy. Nay, none. Abstain, 2; Mathews and Thatcher. Chair declared the motion passed by a 6-0 vote.

It was moved by Gil, seconded by Thatcher to approve the minutes from June 28, 2018 with the following amendments: on page one, six lines up change be to me and change irregardless to regardless. Following vote on the motion is recorded: yea, 6; Gates, Gil, Mathews, Matney, Stacy and Thatcher. Nay, none.

Agenda

It was moved by Stacy, seconded by Matney to move the visitor section after number six and before number seven. Following vote on the motion is recorded: yea, 5; Gates, Mathews, Matney, Stacy and Thatcher. Nay, one; Gil. Chair declared the motion passed by a 5-1 vote.

It was moved by Mathews, seconded by Matney to adopt the agenda as amended. Following vote on the motion is recorded: yea, 5; Gates, Mathews, Matney, Stacy and Thatcher. Nay, one; Gil. Chair declared the motion passed by a 5-1 vote.

Solicitor

Brian said I attended the planning and zoning meeting on June 26th. We talked about a few different issues and we are having another planning meeting this month and I think Mary is going to report on all the items we talked about so I will not go into great detail on those but we did talk about a lot of things and probably in July there might be some legislation that comes out of those discussions from planning and zoning to council to consider, discuss and deliberate. I did a quick review of the street resurfacing bid package so that can go out for bid.

Brian said I want to talk about the administrative hearing that Council is going to have and I will be here to help out as the hearing goes on but I did want to remind Council that it is a hearing that is governed by the revised code as discussed at the beginning of that administrative charge, code section 731.171 and it is truly council's hearing. While everyone here is absolutely entitled

to attend and watch, the Mayor, Shirley, the public, really are not allowed to participate in the hearing. It is Council's hearing, the Council's overall decision. In line with that, the Mayor recommended a specific discipline, though, with no disrespect to the Mayor, it is Council's obligation to make that final decision. That was a recommendation after he had reviewed the situation and everything that was included in the investigatory packet but ultimately that is Council's decision to make as it so chooses. You can ask Chief Baron questions if you want during the process though he is not obligated to answer any of those questions. He is not going to be afforded a Garrity statement. In turn you actually aren't allowed to use his refusal to answer those questions against him. It is technically a Fifth Amendment implication because you are the village, Council here is really the village, so you are really the government, so really he does have a Fifth Amendment protection even though his criminal proceedings are over, he does have that right to not answer the questions and you can't compel him to answer them and you can't use his refusal to answer your questions against him. I don't believe there are going to be any witnesses who are going to testify, if you will, the information that was in the investigatory packet. I think that is all there is. My understanding is everything came from Delaware County. The policies were there, the contract was there, I think it is all in front of you so there will be nothing there to testify. No one will be testifying. Chief Baron is here tonight. He has every right to appear here. He decided to have Council hear this. He had that choice as well. He has a right to respond to all those charges. By statute he has that right to be able to respond to any answers, that are given. I'd advise you to go through all of the four basic charges that are outlined on page four. I would suggest that council go through each one of those. I would go through them one at a time and if you have questions in particular for the Chief on any one of those I would go through them in order. I think it would be easier to process if you go through each one of them at a time. Fully deliberate and discuss, whatever you want to and then move on to the next one as opposed to jumping around. My mind works in a neat list and I think that will be more beneficial for you.

Council member Gil asked Brian if they could ask him questions during this process.

Brian said yes, it is your hearing but I will be here to give you some guidance. If you have questions, absolutely I am here as the village solicitor to answer any questions you may have along the way.

Remember, at the end of the day, according to the revised code, there are three distinct choices that council can make. One of them is dismiss the charges. Because there are four administrative charges, Council has the ability to dismiss any or all of them. You have the ability to suspend the Chief without pay for not more than 60 days and you have the ability to ultimately remove him if that was your choice. The code section says it has to be two thirds vote, for the simple math, it's four to agree on something, whatever that something is. We are going to have to follow Roberts Rules of Order so if someone makes a motion to do something, you are going to need a second. That motion will have to be confirmed by four of six votes. If someone makes a motion and it is not seconded, it will die for lack of a second. Someone else may decide to make another motion. It is not the simplest process; it seems a bit cumbersome, but unfortunately that is the way these administrative charge hearings have to go. I think that's the order of how things should go tonight.

Visitors

Carol Kender said I am the publisher of the Village Gazette. I consistently get criticized at this council for saying things that I don't think I said. I wrote in the June issue of the Village Gazette explaining how legislation is passed. It is passed either by a vote of council with three readings or it's passed by emergency. That was misinterpreted to say that I was misinterpreting things and accusing council of passing things by emergency and sliding things through. On June 25th at the Finance meeting there was a need to have legislation passed by emergency because the Village Administrator needed to have approval to apply for a grant. Unfortunately, there were only four members of council present so it was decided that council would meet for a special meeting on the 28th of June and that they would pass this one piece of legislation so that the Village Administrator could apply for the grant as it was due on June 30th. Since I am also the Chamber of Commerce President I was fully in support of him applying for the grant because I think a sidewalk connector between Dublin Road and the bridge is a good idea. The meeting was scheduled for June 28th. I received the minutes for that meeting and I was very surprised to find that there were two more legislative items on that agenda that I did not know about, that I was surprised about and surprise, surprise they were both on the agenda as emergencies. One was emergency legislation to buy a new unmarked police vehicle for the village and another was emergency legislation to move funds around so that they could buy this vehicle. I was also asked by council to cut them some slack because four people were new and I should give them a chance to adjust. Well, you guys all did what I was accused of saying you did, which I did not accuse you of saying. You passed two emergency legislations without having anybody in the village know anything about it.

Council member Mathews asked how did you know there was a special meeting on the 28th.

Carol said because I went to the Finance Committee meeting and they told me and I asked for the agenda and I read the agenda.

Council member Mathews said the agenda was posted.

Carol said the special meeting agenda was not on the website. Did anybody else here know about the special meeting. That's my point. If there is going to be a special meeting where you are going to have something like that, the residents need to know what is going on. Carol said I want to point out that the only person that objected to a lot of the things that were passed at that special meeting was Council member Gil.

Council member Gil said I was not aware of those items as an emergency. I expressed my concern but we had to move on because we had the votes.

Carol said that's my point. I was accused of doing something that I didn't do and now you've done what I was accused of accusing you of doing.

Mayor Monahan said the agenda was posted in the five public places.

Carol asked how many people here know that the agenda is posted throughout the village. A few hands were raised. How many people run down to the police department and look on the bulletin

board to see what the agenda is. No hands were raised. How many people know to find it on the web site. A couple hands were raised.

Carol said you guys are not communicating with your constituents. The constituents do not know when there is an emergency meeting because it is not revealed to them.

Council member Mathews said give me your phone number and I will call you the next time we have an emergency meeting.

Carol said it was my understanding that the agenda for that special meeting was to approve legislation for Steve to apply for the grant. I was surprised to find that here were two more pieces of emergency legislation on there. One to buy the cruiser and one to move funds around to buy the cruiser and I don't think those should have gone through on an emergency session. I think they should have had the three readings that they are supposed to have.

Council member Gates said the issue with the unmarked vehicle. It was explained in the minutes here. Basically the time frame for the deal that was on the vehicle was July 4th. We don't have a meeting until July 9th.

Carol said that's a nice excuse but I happen to know a lot of car dealers that will extend the time frames.

Council member Gates said it is not an excuse. I'm glad you understand the mind of all the car dealers in central Ohio because that's not possible.

Geoff Hanna, 9120 Shawnee Trail, said I live at the very end of the Trail and it is a great area for our police officers to shoot radar over the years for all the speeders on Shawnee Trail. Over the years I have met a lot of the police officers and police chiefs and I just want to say that we should be thankful and grateful that we have Russ Baron because he is far and above a lot better than the previous chiefs and he has assembled a police staff that is professional and that is a testament to him because they want to work for him. I haven't heard any Barney Fife jokes in the two years since he has come aboard so I just wanted to make it clear how I feel about Russ Baron.

Rich Pomante, 9220 Shawnee Trial said Russ Baron has our full support. I think he is a complete asset for the community. We have been here for the last seven years and I have seen nothing but good come out of Russ. I feel like our community is lucky to have somebody like Russ in that position and I would hope our entire community would support him in any way he needs.

Jeffrey Probst, 9550 Shawnee Trial. I have owned that property for ten years and raising my family here, my son was born in that house, I have seen a few things as the neighborhood and the village has evolved. There are a couple of incidents that I would like to remind everyone of that Russ was involved in. There was a drug dealer and a drug house that was a block away from my house that Shawnee Hills police investigated and had to break into the house and deal with a bunch of weapons in that house. There was another instance where my neighbor, there was a man that had moved in there that went to prison for shooting up a judge's house and the Shawnee

Hills police had to confront him out in the middle of the street. Our police officers put their lives on the line, here in the village, as well as everywhere else. Russ and the Shawnee Hills police have done nothing but good for this community. As I look at the actions the council can take, the one thing I see missing is get humiliated on the news, have your picture posted on the news. I look at this and say, being the father of a ten-year-old boy, I say, our job is to teach a lesson and to make sure it doesn't happen again. While I don't disagree with some of the things that are in here I think the lesson has been learned and I for one am happy to have Shawnee Hills police, their support, continually, in this neighborhood. It is great to know that when I am south of here that my property is taken care of and I think I speak for a lot of members in the community, when I say the lesson has been learned and I think it is time as a village to move on.

Mahesh Dalvi, 59 E Pawnee Drive said I have come today to speak before you all in regards to the important decision you are about to make. Over the course of the past many years I have had the front row seat here to see how our police department has matured in terms of professional execution and the service they provide to the residents and businesses. Chief Baron has played a key role in assuring that happened and has stepped in when our village was going through a leadership crisis. Today, as you all make your decision, I implore you to keep that in mind. We all in our life have had moments that we questioned but it is important that such moments are dealt with in a thoughtful way rather than coming to a rash decision that can have long term implications. Chief Baron has my full support and our village is fortunate to have him.

Hearing on Administrative Charge - Chief Baron

Mayor Monahan turned the meeting over to Pro Tem Mathews. Pro tem Mathews asked if anyone wanted to start with a specific topic.

Council member Gates said I would like to, if I may, and this is directed to Russ. The first news report on Channel 10's website on February 7th, the day after this incident mentions that you were set up. We then found out later that you were in fact being investigated for some time prior to this stop by a detective who was under cover. Are you at liberty to tell us who was involved in this set up and their motivation. Did the people involved know anyone in the Sheriff's department that facilitated this undercover investigation and did the Sheriff himself authorize or even know about this undercover investigation before this incident.

Chief Baron said so many questions. First, it was a former employee and his significant other that prompted this. I know the former officer was friends with the deputy that stopped me that night. I don't know how that friendship played a role in it though. The Sheriff knew of this from the start.

Council member Gil asked Brian if we had a tool where we could do our own investigation in regards as to how the vehicle was acquired. There's a gap in your report. Brian said it is not my report. Council member Gil said Pat mentioned to us that we have had this vehicle since April 2015. So there is a gap, you (Russ Baron) signed the agreement in 2017 so there is a disconnect for almost two years. Who was using that vehicle. That's what I want to know, we don't have a paper trail.

Council member Mathews said Russ wasn't Chief when we acquired the vehicle.

Council member Gil asked who was using the vehicle, the previous Chief.

Chief Baron said officers were using the vehicle. I was in a quasi-detective role, I used it. Are we on count one then?

Council member Gil said there is a disconnect. So the previous Chief used that vehicle. Did he use that vehicle to go home?

Chief Baron said he did not.

Council member Gil said so what changed and what prompted you to change that policy to take it home. Something happened and I want to know a little more and that is why I asked Brian, do we have a tool to investigate this.

Chief Baron said I can answer that. What changed was we had a new Chief come in. I took that to Safety. I took that to Finance. I believe you were on one or the other. I took it to the committees.

Council member Gil asked did you take this contract?

Chief Baron said are we talking about the contract or are we talking about officers driving cars home.

Council member Gil said if I may Russ, I'm asking you, you presented this to Safety, I remember, I was on Safety in 2016 and that was my first meeting. You had a log and you said I am going to use this vehicle and I am going to take it home and I am going to sign this log. That is all I remember. My question to you is did you show this to us.

Chief Baron said I don't recall.

Council member Gil asked did you show this to the Mayor, to anybody.

Chief Baron said again, are we in the charges or.

Council member Gil said maybe I don't follow the protocol. I am just wondering if you showed this to anyone else, did you show it to somebody.

Chief Baron said I can explain that when we get down to it.

Council member Stacy asked Russ when you signed that agreement was that a renewal of a previous agreement.

Chief Baron said I can get into that right now if you want to go to count one. I can just talk about that now. My Exhibit A is a copy of the vehicle agreement from Nationwide signed March 23, 2015 by the former Chief. I actually arranged to get the car through a personal friend of mine who is a Senior President of Nationwide for their claims. We received the vehicle, the former

Chief entered into the agreement. I do not know who he showed it to. I assumed it was done properly. Again I wasn't Chief. In 2017 when I re-signed that it was just a renewal of the length of the time for the Nationwide car. I am not saying that relying on what the former Chief did was right, because I am not a convicted felon, but I followed suit. I got keys to a building and I got about ten officers and I didn't get special training. I was never told I couldn't sign a MOU. In fact, last meeting I asked Brian am I allowed to enter into a MOU, which is a Memorandum of Understanding. Brian informed me no and I will tell you right now there are probably twenty five in my desk drawer that I have signed with other agencies. Hey we will provide officers for this and we will take this training. I knew I couldn't enter us into a binding contract as far as finances but to receive a piece of equipment we are going to have to go back through some of that. I was not aware that I was not allowed to do that. I do ask for a little bit of leeway on that. There was no ill intent to sign the contract with Nationwide. Again, it was a resigning of the contract.

Council member Stacy asked who had a copy of the 2015 agreement, the Mayor, the attorney. Brian Zets said I do not. Mayor Monahan said I do not remember if I was given one by Sean.

Chief Baron said when I took over as Chief I found that in a plastic file folder. It wasn't very organized. There wasn't much of anything and Delaware County had removed a lot of documents, bits and pieces, passwords, keys, so I can't really speak to how it was stored or where it was stored.

Council member Gil said you guys signed an agreement and we have a full time lawyer available to us. There is a disconnect right there. My concern is what are we doing moving forward. There's a disconnect in between.

Council member Stacy said I think we already resolved what we are doing moving forward.

Council member Gil said it took me to show you the agreement to change that policy because Safety wasn't aware of it.

Council member Stacy said we resolved that issue by returning the car to Nationwide. So we have resolved that issue.

Council member Gil said we have.

Brian said back to your question, Russ didn't show it to me, but he just took it as a renewal. I don't think Sean ever showed it to me because, I'll be honest, it wouldn't have said it was entering into a contract between Nationwide and the PD because I am always very diligent about the PD can't be making a contract and that is what Russ and I started talking about a little more now. It's the village, not the PD and there were actually some typos in there. The actual contract referred to Columbus PD, I think I would have caught that in 2015 so I don't think Sean ever showed it to me.

Chief Baron said as far as not taking things to Brian. Brian costs us money and if I can renew something that says you are going to get a piece of equipment, sign here and give us this, these

stats in return, this cooperation in return or we are going to give you x amount of thousands of dollars in training as long as you agree to promote this program. Like the last one I signed was the sexual assault response network for Detective Waldenmyer. He gets training and we get information and we have resources available to our residents. In return, the village makes him available if there is a sexual assault in our area to assist in the investigation so I signed that one. To me that's a no brainer. I wouldn't call Brian for that. Knowing now that I can't enter into MOU's that's going to be a discussion that Steve and I have moving forward because he does have the authority to enter into those where I would make my recommendation to Steve and we can get it returned. In a lot of cases it is kind of delayed because Steve is a part time employee and I am full time and in the matter of the last one, they needed that back immediately I believe for a grant or something. So if there is a bit of a disconnect, that is something we might have to work out in the future.

Council member Mathews said this contract was obviously signed by both us and Nationwide in 2016 and it was renewed on 2017 by Russ and Nationwide. So Nationwide obviously had no problem with how we were using the vehicle. Do you get my point here?

Council member Gil said I get your point. So it was a misuse of the vehicle on top of everything else.

Council member Mathews said according to who though.

Council member Gil said according to the agreement.

Council member Mathews said Nationwide renewed it as well. So apparently Nationwide did not have a problem with how we were using the vehicle.

Council member Gil said we were not allowed to use the vehicle in the first place, to take it home.

Council member Mathews said well then Nationwide would have said you are not using this vehicle according to the contract.

Council member Gil said we took advantage of a car that was donated to us to investigate crimes. I'm sure that you are going to put a process in place and run everything by Brian or Steve. The previous Chief did not use it to take it home. There is a disconnect big time that I feel that we have to look into.

Council member Mathews said the take home vehicle is part of our police policy which was passed through Safety and Council though. Which you were on Safety.

Chief Baron said that is all I had to say about count one. I didn't maliciously do it. I was unaware that I couldn't. Again, ignorance isn't an excuse but in this manner I renewed a contract that was formerly approved and signed by the former Chief.

Council member Mathews said so this discussion actually takes care of the first and second charge. So moving on does anybody have any questions about the third charge.

Chief Baron said if I could respond to the second charge as well. As far as malfeasance for using the 2012 Explorer outside the scope of the terms of the contract. Regarding the overall use of this vehicle I have had several discussions with the Nationwide supervisor in charge of this program. It was his opinion, again, he is not going to put that on paper, it was his opinion that the individual assignment and take home use of the vehicle does not violate the terms of the agreement provided the agency uses it for the investigation of fraud and insurance related crimes which we most certainly did in addition to that. I would like to add that if we are going to read the contract by the letter of the contract it also doesn't say we can take it to BP and get fuel but we do that every day.

Council member Gil asked how many times did you take the vehicle to the Bogey Inn?

Chief Baron said I won't answer that?

Council member Gil asked was this the first time or have you taken the vehicle before, prior?

Chief Baron said I am not going to answer that.

Brian said he has every right not to answer those questions and you cannot use the fact that he does not want to answer that question against him in any way.

Chief Baron said if this charge is solely based on operating the vehicle after consuming alcohol, again, I am going to jump to count four. I agree, I violated that policy. I have agreed to that since day one and I have apologized since day one. It is almost kind of double jeopardy there, violating a contract and violating a policy. If that is the intent behind that count with the alcohol, I admit I did that but if it is alluding to me for using it for things I am not supposed to, including take home use, according to Nationwide, their opinion of the contract was that it was not a violation for individual assignment.

Council member Mathews asked if there was any other discussion.

Council member Gil thanked the visitors for attending. He said this is a friendly community. I have been here for fifteen years and I love to see the police go by my house. Russ is the Chief of Police and he should be held accountable of the highest standard, I believe. We have been in the news, the prior Chief was in the news, prior to that one was in the news. This is going to continue.

Chief Baron said but the former Chiefs are not on trial here.

Council member Gil said I am addressing everyone here Russ, including you. That is what I had to add. It is very unfortunate. We should hold you accountable. That is my opinion.

Chief Baron said I don't disagree.

Council member Gil said you broke a contract. Took advantage of it. It's just messy and you guys can see it.

Council member Mathews said I believe that's opinion.

Council member Stacy said can we move on to the third thing here. If anybody has anything to say about the third thing.

Chief Baron said in regards to count three, dishonesty. I kind of want to start with, this is a nail in the coffin for a police officer, the dishonesty charge. The ORC 737. 171 specifically states dishonesty in the performance of the Marshall's official duty. This does not fit that. I also have a constitutional right not to self-incriminate myself as Brian has just said. I was stopped by the deputy and we can go back and forth and I can get into extreme detail on BAC, blood alcohol level, science, observing, the light conditions, or we can stop it there. I admit to where I did wrong. I do not feel that this charge fits.

Council member Gates asked Russ if he could kind of flesh that out a bit. I think that there is probably some science in that, I think that would be relevant in this situation. If you have anything that would show, my gut tells me that six beers...

Chief Baron passed out a BAC chart to Council. He said this is from the University of Cornell but it was cleaned up and references the National Highway Traffic Safety Administration who governs and teaches and that's where officers learn field sobriety and all about driving drunk. They do all the studies. I weigh, after Thanksgiving, probably 205, before Thanksgiving between 195 and 200 pounds. I believe that it was five or six beers that they alluded I drank.

Council member Gates said six.

Chief Baron said six. Looking at this chart, again, this is science, it's either way. If I had consumed six drinks I would have blown between .113 and .107 given my weight. I tested .04. Also in the same manual or the same training courses that they talk about blood alcohol levels someone my size and weight and I also ate that night, so after eating between one and about five or six hours is when you hit your peak blood alcohol level so the hour and a half or the two hours prior to the test actually worked in the deputy's favor and against me because my alcohol level was rising. I was served two drinks at the Bogey and one at Largo's Pub. I did not consume the entire amount of beers at the Bogey and I did not drink the entire beer at Largo's. Even looking at the science and anyone that has been in Largo's Pub, it is dark in there. There are lights over the bar and I did go and speak with the bartender and asked him if someone has a bottle of beer on one end of the bar and you are standing at the other end of the bar can you even see what is in there and he said no. I am going to add in there the two undercover officers both consumed alcohol. I believe one of them had two Bud Lights, one of them had two rum and cokes or Jack Daniels and coke and they were probably forty feet away from me. They were all the way at the other end of the bar. They were carrying on a conversation. I did purchase a Miller lite and something else for a regular that was in there. On the way out the door I talked to Jeff Stacy. I did not consume six drinks.

Council member Gil said the evidence shows six. We have the investigation.

Chief Baron said it is a matter of opinion, it's a matter of perspective.

Council member Gates said the problem I have with the receipts in general is that it is not a complete picture. My belief is that his maintaining within his report that that is proof positive that Russ drank all four of those beers and when I started rereading everything and looking at the BAC test there is no way that he actually consumed all four beers and I said well you would have had to been a monk before you were the detective to believe that people in a bar don't buy drinks for each other. If you look at the receipts from other patrons that night, there is no way that they could have walked out of the bar if they drank everything that was on their receipt.

Council member Stacy said my receipt is in that packet for that night and I didn't drink all the things that are on my receipt.

Council member Gil said I don't go out and drink but this is coming from BCI so I believe it, you know his investigation.

Council member Mathews said I think you are missing the point. There are receipts from everyone that was there that night.

Councilmember Gil said somewhere in the report it says he consumed six beers, is that right Russ.

Chief Baron said I could write a report right now saying you drank four beers during council, it doesn't make it right. It is a matter of opinion, it's a matter of perspective. That's what they perceived. I believe science and my statement says otherwise. At the end of the day it all boils down to, that the charge of dishonesty, per 737.171 specifically states have to be in performance of my official duties. I was not in the performance of my official duties. The previous charges even say I was not in performance of my official duties. Also with my fifth amendment right not to self-incriminate myself when he initially stopped me. I believe that takes precedence over any explanation I have on what happened.

Council member Stacy read the following statement:

From my own experience and the input of many residents within the village, the chief has been extremely positive. We, in Shawnee Hills, have a dedicated and professional group of officers due to the outstanding work of the Chief.

While I do not condone the violation of policy or intentional misconduct by anyone, especially those who serve our community, I find it troubling that we, on council, have but three options in this matter. Having worked in the private sector my entire career and managed staffs exceeding 100 employees I would say this matter would have been resolved with a written warning explaining the violation of policy and stating the consequences of a repeat of such a violation. I know I have made mistakes, and have learned from those mistakes. Hopefully those mistakes made me a better person as I wanted to prove to others I would work harder to be a better example to those I worked with.

Chief Baron has repeatedly stated his regret and is remorseful for his action that was against village policy. I believe he will be an even more effective chief due to this situation. I think he has endured public scrutiny that none of us would want to go through and has retained the majority of the resident's support.

We, the council, must decide how to resolve this matter. A suspension will be permanently on the chief's record. I feel this is too severe and make a motion to dismiss the charges.

Motion died for lack of a second.

Council member Gates moved to dismiss the charge with regards to the dishonesty, based on science. Seconded by Stacy.

Council member Gil said so dishonesty and nothing that he lied to the Sheriff when he was stopped. They asked him how many beers did you have.

Council member Gates said yes, based on the science. This chart right here.

Council member Gil said I just want to verify the science.

Council member Gates said even without this chart, I am incredulous with regards to how he would be able to have six beers in a 3 ½ hour timeframe and still blow a .04.

Council member Gil said I think we have to go back to the investigation and contact the detective who did this report.

Council member Mathews said the County has gone through their investigation and dropped their charges.

Council member Gates said the administrative charges are from the village with regards to this. The fact that the Delaware County Prosecutor dropped the charges is because they knew that they would not be able to convict Russ of the charges that the detective maintained so therefore they were dropped. Just because someone writes a report, just because that detective, as Russ has just told us, him and the other officer were sitting at the end of the bar drinking and talking, okay there's a receipt, Russ said he shared those different beers with other people, he did not drink all those four beers.

Council member Gil said this recommendation is coming from the Mayor. He is recommending these charges. I am sure he ran this by Brian and Brian gave him his report.

Brian said first of all, do not make that assumption. This is the process; the Mayor is making the recommendation. It is nothing more than just his thoughts on it. It is your decision of council.

Following vote on the motion is recorded: yea, 4; Gates, Mathews, Stacy and Thatcher. Nay, two; Gil and Matney. Motion passed by a 4-2 vote.

Brian said you haven't really discussed count four.

Chief Baron said I fully admit to count four. I violated department policy. Since day one, since the morning after, nine o'clock in the morning I was in Pat's living room. I gave him everything and I admitted to that since day one. I even provided Brian, Pat, or Steve, somebody, the policies I violated, highlighted. I violated that policy. I accept responsibility for that and I accept there will be punishment coming from that. I kind of have a lengthy statement here to read:

First, I want to thank all the residents and the officers that came here tonight to support me. Through my years of employment, and time I spent as a resident, I have made several friends and met several acquaintances. I have had the opportunity to mend several bridges, dispel rumors, and lift the rapport of this agency. I can point to several incidents that have been handled professionally and quickly because of these relationships. It is important that the community sees us as human beings, not just ticket writing/arrest making machines. I have attended many community events; sometimes that brings me in on weekends, late at night, and even on holidays. To put this in perspective, I have never taken my kids trick-or-treating as I am here. We do not have a large staff that can assume some of these roles, we do it all.

This is the first time I have been able to address this incident publically. I wasn't even interviewed by the Sheriff's Office to give my side of the story. The investigation conducted by the Sheriff's Office contains several statements that were not factual or extremely exaggerated by individuals that sought to do me harm and have a history of making threats and false accusations in retaliation to discipline. Discipline that was well deserved, and discipline that I had very little participation in dealing, and discipline that has been reviewed by the safety committee per my promise of transparency. Not only did they file this complaint, they followed me around and took photographs of me in public.

I can stand here and rattle off all of the accomplishments and positives that we have achieved since I was given this position but you and the community know what they are. I do not dispute the fact that I consumed alcohol and drove the village owned vehicle. I do not dispute that this is a violation of our policy and I should be held accountable. I will assure you that I have learned from this and it will not happen again. I do ask council to consider all of the facts as this report is a one sided depiction of me as portrayed by a disgruntled former employee and his significant other who has threatened me with false claims every time the former officer would receive discipline of some sort. These slanderous threats have gone on for over a year prior to this. I ask that you consider the sources of the information contained within the report as the statements made to Delaware County contain many inaccuracies.

This incident was reviewed by several prosecutors and none of them found that I violated the law in any way, or I would have been prosecuted. The night I was stopped I was followed by a deputy for 1 ½ miles and did not commit a traffic violation. The first step in making an OVI stop is "pre-stop indicators" meaning I committed a violation that would lead the officer to believe I was impaired. I pulled over in a parking lot to make a phone call and I was stopped for having an "obstructed" license plate. I did not know the deputy was following me with a purpose. I was then asked to perform SFST's, a test most people refuse. I performed the SFST's and according to his report I did not perform poorly per NHTSA standards. Other things listed such as "body tremors" are not a clue for intoxication, it was less than 20 degrees outside and I was wearing

only a fleece pullover. This was a policy issue from the start and an investigation of this magnitude was a waste of time and money. I have made hundreds of OVI arrests. I have received an award from MADD. I was accepted in the Drug Recognition Expert program but was unable to attend due to our staffing. I am very much aware of the investigation, arrest, and prosecution of an OVI related case and this wasn't even close. The deputy made his mind up that he was arresting me, as the video shows and the mayor has stated I was polite and professional. In fact, I was told that "if this was any other county agency a phone call to the chief's supervisor would have been the extent of it."

There were allegations that I carried a firearm in the bar. This was not substantiated by the undercover officers and is not true. I respect our local business owners and am very much aware that carrying a firearm while consuming alcohol in a liquor establishment can cause problems for them as well. I left my firearm in my vehicle and put it back on my hip when I left. It is not against the law to carry a firearm after consuming a minor amount of alcohol as I did. It isn't even a violation of our policy.

I have been living in the shadow of this investigation and pending discipline for the last five months. I have been upfront and honest with the Mayor and the Safety Committee since this occurred. Many people in the community are very supportive of me and our police department. While this incident did hurt my image with some residents in the community I feel that I can lead this agency forward and repair what has been broken.

My family and I have seen the news stories, heard the rumors, we have read the social media posts. It has taken a toll on us. I've even been subjected to comments while I am out in public. Even the fact that this is a public hearing, instead of an executive session as other employees are afforded is an embarrassment. This has cost me money, it has cost me the ability to eventually move on from Shawnee Hills and it has cost me physically. While I agree that discipline should be dealt I ask you to consider the human element side of this as well.

I have been forthcoming with you all since the beginning of this, in fact, the very next morning I reported this to the Mayor. I again agree that some form of discipline is required but I have more than paid for this mistake in other ways and I do not have a prior history of discipline issues. I have worked without issue for the past 5 months despite this looming over my head. An unpaid suspension of 3 days will be a severe impact on my family as this incident has already cost us a great deal. Although I realize that as a public official I am held to a higher standard this was a minor policy violation related to off duty conduct.

I was not drunk. I was not on duty. I should not have even been arrested that night. I was not convicted of a crime or even a traffic violation. This is plain and simple. I consumed a minor amount of alcohol and operated a village vehicle. I do not dispute that this violated our policy. I fully admit that I made a mistake and violated policy in the process; however, I would ask that you look at the full scope of my service to the village while making your decision and trust that I can move forward and eventually put this behind us and I can continue to serve the residents of the village.

I accept responsibility for my actions and as a citizen of Delaware County I would hope you are as upset as I am with the amount of resources and money spent by the Sheriff's Office on this complaint that was initiated by a disgruntled former employee because I did my job properly and with the best interest of the village in mind.

Pro Tem Mathews asked if anyone had any further statements.

Council member Gates said I just want to say, for the record, an attempt by the press to kind of push my opinion about this proceeding or anything, fell on deaf ears when it came to me.

Council member Gil said I want to start a debate. The Mayor is recommending that we give Russ a three-day suspension without pay. Do we think that's appropriate? Dan what do you think.

Council member Mathews said I don't. I would reduce it to one day.

Council member Gil said I would go for option two.

Council member Mathews said you want to suspend him for sixty days.

Council member Gil said maybe not that long. Three days is nothing. We set an example. What do you guys think?

Council member Gates said we already made a motion to remove the dishonesty charge. It appears that there is a connection between the amount of days and the charges and I think at this point, just as a discussion, I think one day should be lopped off so we are talking two days. Do we want to do two days without pay?

Council member Matney said I agree with a lot of things that you said Russ. I think you have done a fantastic job here as Chief of Police and there have been so many positives that you do. You are very organized, you lead a lot of great things for our community but violating something like this, an alcohol policy in a village issued vehicle, in a private sector could be immediate termination. The expectation is greater for you because of the position that you are in. I don't think termination is appropriate but a three day is just not enough at all for a violation like this. You are held to a different standard than a private sector. I drive a company car every day. If I stopped and had a beer at lunch, I would be terminated no questions asked. I can't even stop at the grocery store and put a six pack in the back on my way home. I just don't think three days is enough based on the policy. It might have been one or two beers. It doesn't matter the amount. I know you weren't legally drunk and that is stated here but just because of your position I don't think three days is enough. I would propose one to two weeks probably.

Council member Gil said I agree. We like you Russ, you have done great for the village. What about the people under your command? What about the other standards? What about the rest of your officers? If that happened to me at work, I would be fired immediately.

Chief Barron said we have progressive discipline. I have no prior discipline. I have not been disciplined.

Council member Gil said I asked you that very question. How many times did you go to the Bogey Inn and you refused to answer that?

Chief Baron said I will answer that the same way that I don't know and I am not going to give you an answer.

Council member Gil said you are entitled to do that. It leads me to believe that this has happened before. It is very sad, very sad. Shawnee Hills has been on the news for two weeks, this is very sad.

Council member Matney said I have spent a lot of time with a lot of neighbors recently. This past weekend with the holiday and had a lot of gatherings and I feel like on council we represent the community. It's not my opinion, I represent my neighbors and my community. Over half recommend termination. I think that is way too severe but again I don't think three days is enough.

Council member Stacy said wow, I haven't heard that from anybody, nobody.

Council member Gil said I have heard the same thing over in my area. I took the report. For you guys, there's a report here. It's about 120 pages. You guys are welcome to read it.

Council member Stacy said there's about fifty pages of copies of receipts and pictures you can't even tell what they are. The thickness of that thing doesn't make any difference. That's crap.

Council member Stacy said I would make a motion, the first two charges. We are talking about he signed a renewal agreement with Nationwide, is relatively insignificant and Nationwide had no problem with the way the car was being used.

Council member Gil said you are exposing the village to a lawsuit. If he had an accident using this vehicle the insurance company would come and say we are not paying this. Accidents happen every day. What would happen Jeff if there was a claim against the policy. You expose the village by not showing this to Brian or Steve. It's common sense I think.

Council member Stacy said what happened when the title was transferred to the village. Was the original document attached? Who got the title.

Council member Matney said I don't think it was deliberate. I don't think you deliberately violated the policy. I just don't think they cared or we even looked at the items. I don't think it was deliberate.

Council member Stacy said it was common knowledge how this car was being use by everybody in the village, at least on council and the Mayor and by Nationwide.

Council member Stacy said so my motion would be the first two charges dismiss those. Seconded by Mathews. Following vote on the motion is recorded: yea, 5; Stacy, Gates, Mathews, Matney and Thatcher. Nay, one. Gil. Motion passed by a 5-1 vote.

Pro Tem Mathews said so count four. We have heard from Renee. Does anyone else have an opinion on the charges, this discipline.

Council member Gil said I think what Renee mentioned should be appropriate. Rob what do you think?

Council member Thatcher said I think there should be suspension. I haven't heard a number to vote on. No one put one out as a motion. I don't disagree with what the Mayor said. With my job, it is five to fifteen days mandatory, minimum for any offense, even stopping at the grocery store and buying alcohol so I am waiting for someone to make a motion. I think a week to two weeks is too much because there was no conviction, no actual charge but there should be something, especially given his profile and his position.

Council member Gates moved for a three-day suspension without pay. Seconded by Thatcher. Council member Stacy asked if that could be amended. Brian said no. Following vote on the motion is recorded: Yea, none. Nay, six: Stacy, Gates, Gil, Mathews, Stacy and Thatcher. Motion failed by a 6-0 vote.

Council member Stacy moved for three days' suspension over an extended period of time so the financial impact would be less and that if the Chief has personal days coming to him he could use those personal days for those suspended days.

Council member Matney said I don't think that whatever suspension we administer, there are guidelines that say they have to be consecutive, is there? I don't think that has to be in a motion does it?

Brian said I think it would. I think the assumption would be the next three days.

Chief Baron said I have two personal days.

Motion died for lack of a second.

Council member Mathews said Jeff's motion, three-day suspension without pay, eligible to use personal days and the first three charges be expunged. I think Russ made a bad decision. I think that is what he is guilty of, making a bad decision. Can these three charges be stricken from his record.

Brian said they are there but they have been dismissed.

Council member Mathews said moving forward I don't necessarily want this included in his record.

Brian said this is not a criminal proceeding. There is no expungement possible.

Council member Mathews said could those three charges not have a reflection in his permanent record or are they already there.

Brian said that piece of paper is there but the charges are not there because council dismissed them.

Council member Thatcher said all this is public record anyways. This is all going to be there as part of the proceedings for whatever is decided anyhow. Whether we vote for it or not, it is all in there.

Council member Mathews moved for a three-day suspension, eligible to use two personal days at some point prior to the end of the year and if allowed, expunged from his record. Brian said there is no expungement. Seconded by Stacy. Brian said just for the record, three days unpaid with two days PTO becomes one day unpaid. So I think what you are saying is he can use personal time day to plug into one of his unpaid suspension days. Following vote on the motion is recorded: yea, 4; Stacy, Gates, Mathews and Thatcher. Nay, two; Gil and Matney. Motion passed by a 4-2 vote.

It was moved by Mathews, seconded by Gates to take a 5-minute break. Following vote on the motion is recorded: yea, 6; Gates, Gil, Mathews, Matney Stacy and Thatcher. Nay, none. Motion passed by a 6-0 vote.

Meeting reconvened.

Village Administrator

Steve DeBolt said as I mentioned at the last meeting our grant application has taken a lot of time but hopefully it will be well worth it. The application for the connector trail on Glick Road was turned in on June 29th and there were four total applications. Ours was a thirty-four thousand dollar request. There is a pot of one hundred thousand available. A decision will be made by the end of July. I have been working on this for two years and we had a lot of public support from the community, different organizations and the Chamber, the Police Chief and numerous residents sent in emails and letters on short notice. I included letters from two years ago from the Zoo, City of Dublin, and Delaware County Commissioners. We do have to use the money this year if we get the grant. The grant called for a ten-foot minimum width path. We don't have the right of way that we need there so I put in for a variance for an eight-foot path.

We are including this work in the street paving program which is going out for bid by the end of this week. This will get us better pricing based on quantity being used.

The third program was the EPA orders. The advertising for that was put on hold temporarily so we could get the street and connector path out for bid.

The bench and the swing have come in for down at the park. The Chamber purchased another bench for the park and we are picking it up tomorrow. We will get those up as soon as we can.

Brian has completed his initial review of the policy manual and Russ and I are reviewing it. Something else positive can come out of this for all employees. Being aware of policies for everyone's benefit I think is important. Not only just the policies, but contractual things. I think we found that out in the UST meeting. There are things that we didn't know about for the last couple of years that should have been done with contracts and such. I think there is a lesson to be learned here for everybody that we will take more care in reviewing things, basically communicate amongst ourselves too.

We got our first application in under the revised right of way policy to try to save some residents money when they are doing work in the right of way. This application was from the person who kind of initiated the whole thing. He was approved and it was a minor project.

Some storm water problems have been accentuated due to the heavy rains we have had. There is an issue at the corner of W. Hiawatha and Westview Drive that we are looking at now and there is another pipe plugged on Shawnee Trail and E. Old Powell.

Communications

Mayor Monahan gave the following report:

On Saturday evening I was contacted by a resident concerning the malfunctioning of ZOO traffic. I contacted the Chief and this resulted from:

Delaware county had a chase close by. The deputy that was controlling the light left to assist, leaving the light on whatever direction it was on, dumb move. He is back and all is well

There was an interesting article in the Cities and Villages publication by Kent Scarrett, the Executive Director of the Ohio Municipal League.

The 2020 Census: Why it matters to Municipalities

In the article Kent states that, "Failing to get an accurate count of a city or village's population can lead to devastating consequences for the financial health and vitality of municipalities".

From a resident, kudos to Council, Steve, Mark, and Richard for the great job that has been done improving our memorial park

Mayor's Report

Mayor Monahan gave the following report:

JUNE 2018 MAYOR'S COURT REPORT

RECEIPTS

\$6,039.00 Total receipts

Disbursements

\$1,071.50 Treasurer, State of Ohio

\$41.50 HB 562 IDAT Fund

\$4,601.00 General Fund

\$325.00 Computer Fund

Erik Spaulding
Mayor's Court Clerk

Committee Reports

Council member Gates said planning and zoning met on June 26th at 6:30 p.m. We welcomed a new member, Todd Zimmerman. We also elected officers since this was the first meeting we had this year. Kathy Isern was elected Chair and Todd Zimmerman was elected Vice Chair. Some of the items we discussed were: a timely placement and removal of garbage cans to and from the curb. We kind of kicked that around and I think Brian is going to be adding verbiage to that. Repeat code offenders was the second topic. We currently have compliance; it should be within five days. Zoning violations are always with the goal of getting compliance and the third topic was tightening the blight ordinance to address deteriorating vacant properties. Brian said that our blight ordinance is good as is and would apply to a building whether it is occupied or not. Brian and Pat discussed a website called a vacant property registry and basically this is an attempt to engage the property owners into doing something with their property. It opens up a broader working relationship between the property owner and the municipality.

We also reviewed and discussed disallowing business curb cuts on side streets that don't traverse two streets. We discussed the curb cuts off of Dublin Rd. ODOT oversees those requests. We discussed widening streets off of Dublin Road around commercial parcels when a business decides to build and ultimately the idea is to keep the traffic from stacking up on Dublin Road. The last thing we discussed was storage of non-related vehicles and object on neighborhood commercial property. We were looking at owners storing vehicles or equipment that doesn't belong to them and the necessity of parking on a hard surface and not on grass.

Council member Thatcher said UST met and other than the things that Steve talked about already, we have some village service contracts coming up. Some are already expired. Engineering, wastewater, public works, legal and fire and administrator. We have had pavilion reservation requests for live music and we also discussed the same thing of non-commercial parking and the garbage cans.

Council member Matney asked what kinds of things were you both talking about in regards to garbage cans.

Council member Thatcher said the discussion in UST was that planning and zoning has looked at cans should not be out more than 24 hours prior and brought in the same day.

Legislative Actions

Third Reading- Resolution 08-2018- A Resolution authorizing and directing the Village Administrator and Fiscal Officer to execute a non-refundable municipal income tax credit agreement with Esber Dental, LLC (D.B.A. Shawnee Hills Dental). It was moved by Mathews, seconded by Gates to adopt Resolution 08-2018. Following vote on the motion is recorded: yea, 6; Gates, Gil, Mathews, Matney, Stacy and Thatcher. Nay, none. Chair declared the motion passed by a 6-0 vote.

Third Reading- Ordinance 16-2018- An Ordinance granting a non-refundable municipal income tax credit to Esber Dental, LLC (D.B.A. Shawnee Hills Dental). It was moved by Stacy, seconded by Matney to adopt Ordinance 16-2018. Following vote on the motion is recorded: yea, 6; Gates, Gil, Mathews, Matney, Stacy and Thatcher. Nay, none. Chair declared the motion passed by a 6-0 vote.

Second Reading- Resolution 10-2018- A Resolution that the Village of Shawnee Hills host a village wide picnic late summer/early fall at the pavilion.

First Reading- Ordinance 18-2018 – An Ordinance to reappropriate funds for current expenses and other expenditures of the Village of Shawnee Hills, State of Ohio during the fiscal year ending December 31, 2018.

Bills

It was moved by Gates, seconded by Matney to approve the bills in the amount of \$44,822.92. Following vote on the motion is recorded: yea, 6; Gates, Gil, Mathews, Matney, Stacy and Thatcher. Nay, none. Chair declared the motion passed by a 6-0 vote.

Treasurer's Report

It was moved by Mathews, seconded by Gates to approve the following treasurer's report.

General	246,931.93	Fire	18,609.71
Street	111,655.41	Weed	6,880.84
State Highway	14,812.62	TIF	862.49
Parks and Recreation	3.02	TIF 2	28,896.08
PD Body Armor	406.40	Veteran's Mem	248.97
Cont. Prof. Training	3,868.15	Sewer Oper.	28,765.00
Drug Law Enf.	283.41	Sewer Repl.	192,719.87
Indigent Drivers	385.84	Storm Sewer	5,460.97
Enfct. and Education	1,160.85	Debt Service	197,206.40
Court Computer	4,450.00		

For a total of \$863,607.96.

Following vote on the motion is recorded: yea,6; Gates, Gil, Mathews, Matney, Stacy and Thatcher. Nay, none. Chair declared the motion passed by a 6-0 vote.

Miscellaneous

Council member Gil said this is exhibit B for the police car. I just read briefly. Do we have a way to revise this policy? We have two cars now and the officer has to live within a fifteen-mile radius. Do we have a way to go to Safety and say can you please revise this again? Do you think it's appropriate just based on this hearing and the second car? What do you think?

Mayor Monahan said you were on safety when the vehicle policy was brought forward and it passed by a 2-1 vote to move it forward to council.

Council member Gil said it was 2016, it was my very first meeting. I remember Russ showing us a paper, this is the vehicle, this is my log. I don't remember seeing the contract.

Mayor Monahan said at the first safety meeting this year you recommended changes that went to safety and safety did not agree with the changes you requested. If you want to propose to safety again, sure, and they can bring it forward.

Council member Gil said it's just because now we passed the hearing and I found this. It looks to me like this language was added recently. I feel that this policy has been changed back and forth without us knowing.

Mayor Monahan said I will recommend if you want to go back to safety you can do that and there is a misrepresentation on this car thing. If the car was eliminated, if you look right across from the police station, one of the State Troopers brings home a cruiser. Rob works for the government and he has a car. All I was going to do was tell Russ to take the cruiser home. Now you were right on what you said about Nationwide, but it cost. It cost us. We returned that vehicle.

Council member Gil said we did the right thing.

Council member Mathews said I disagree.

Mayor Monahan said I think you are wrong in this sense. All the other municipalities that have that car and as Brian has said no attorney is going to tell you you can use this for anything. In being right there was a price tag associated with it. I don't know who thinks it was a good idea, it wasn't council, was a good idea to go buy a junker to do that. I will tell you anytime you ask me my number one issue is safety. This car that we got gives us the opportunity to stretch out our cruisers. That I think is the most important part of it. I am not going to put somebody, nor do I expect somebody, in their own personal vehicle they couldn't get insured to make a run coming from their place. If you want to propose something different. That's okay but it is council that will rule on it.

Council member Gil said I will go back to the vehicle, it was misleading. We were doing something that was not right. The fact that somebody gives you something, are you allowed to use it, but we will move on. I feel that the policy, unfortunately Russ is not here, he cannot make this policy at any given time without us knowing. I am thinking that if it goes to safety and Russ would say I am going to change this policy, he will go to safety and then safety will come to us so at least everybody here will know, why are doing this and then we can ask questions. When I proposed to safety can you please revise this contract, you found nothing wrong but there was something wrong in there and Brian got into the mix and we were doing something wrong.

Council member Mathews said there was nothing wrong.

Council member Gil said it was in the contract.

Council member Thatcher said that is not what came before safety.

Council member Gil said we will move on.

Council member Mathews said to Douglas, I would find something that was worthwhile instead of the witch hunts that you are on. You are bringing up things.

Council member Gil said we move on Dan.

Council member Mathews said no, we won't move on because you don't move on and it has been going on and on and on and on and I could keep going, with trash bins, with wires, with somebody left trash out.

Council member Gil said trash can, it was my next door neighbor. I saw it out there for a week.

Council member Mathews said how about being a good neighbor and knock on her door and say hey, listen I noticed your trash cans are sitting outside.

Council member Gil said I helped her put a trampoline together on a Sunday. Don't we have a code. Don't you think it wasn't wise to do that? Don't we have a service to do this. Does it have to be you to go to your next door neighbor and say can you please take your trash can in.

Council member Mathews said you know what I'd do, I'd take their trash can in for them.

Council member Gil said good for you, we need a code, we can do better than that.

Council member Mathews said keep on with the witch hunts.

Mayor Monahan said I am going to address this. You will hear me say, is that a motion. Don't be shaking your head.

Council member Gil said body language dude. I can do this. I am not doing anything, go ahead.

Mayor Monahan said when we are in a committee, I will ask the committee is that a motion, as we did with the garbage cans, you left early, but you came to planning and zoning, because I wanted it in a motion. When we were in here tonight with UST I said is that a motion. I would have gone over and talked to the neighbor, but that's okay, some people do and some people don't. When it comes down to it, I don't have any problem tightening up the code and I will ask any of the committees, if you are going to make changes to a policy make a motion and bring it forward to council.

Adjournment

It was moved by Stacy, seconded by Matney to adjourn. Following vote on the motion is recorded: yea, 6; Gates, Gil, Mathews, Matney, Stacy and Thatcher. Nay, none. Chair declared the meeting adjourned at 8:45 p.m.

Fiscal Officer

Mayor