

CHRISTOPHER HALLUM
President of Council

MICHAEL KLINE
Vice President of Council

KATHERINE LLOYD
Clerk of Council, Pro Tem
2/21/2020 meeting

COUNCIL:

NANCY E. FELLOWS

JOE JARMUSZKIEWICZ

JANET R. MAJKA

TANYA TAYLOR DRAPER

City of Willoughby Hills

Special Council Meeting

Minutes of February 21, 2020

Policy No. 2: All Council meetings shall be recorded by audio recording device and will be held in perpetuity and shall be part of the official records and minutes. Written minutes of Council shall be shortened whenever possible.

The Regular Council Meeting was called to order on Friday, February 21, 2020 at 6:00 p.m. in Council Chambers. Council President Hallum presided.

ROLL CALL

(Audio 0:41-1:13)

Members Present: Council Vice President Mike Kline, Councilman Dan Knecht, Councilwoman Janet Majka, Councilwoman Tanya Taylor Draper, Council President Chris Hallum and Councilman Joe Jarmuszkiewicz,

Absent: Councilwoman Nancy Fellows

Motion to Excuse Councilwoman Nancy Fellows from tonight's meeting made by **Councilwoman Janet Majka**, seconded by **Councilman Knecht**. (Audio 1:14-1:56)

Roll Call: AYES: Kline, Knecht, Majka, Taylor Draper, Hallum, and Jarmuszkiewicz
NAYS: None
6/0

Motion Carries to approve excuse **Councilwoman Fellows** from tonight's meeting.

Pledge of Allegiance (Audio 2:12-2:22)

APPOINTMENT OF CLERK PRO-TEM

(Audio 2:32-3:12)

Motion made by **Councilman Jarmuszkiewicz**, seconded by **Councilwoman Taylor Draper** to appoint **Katherine Lloyd** as Council Clerk Pro Tem for tonight's meeting.

Roll Call: AYES: Kline, Knecht, Majka, Taylor Draper, Hallum, and Jarmuszkiewicz
NAYS: None
Vote: 6/0

Motion Carries to appoint **Katherine Lloyd** as Council Clerk Pro Tem for tonight's meeting.

PUBLIC PORTION #1

(Audio 3:13-7:24)

An opportunity for the public to address Council concerning anything pertaining to tonight's agenda

Public Portion opened at 6:04 p.m.

Frank Cihula – 35060 Dixon Road, Willoughby Hills, OH – “Please remember to announce your decisions after the motions are adopted.”

Dale Fellows, 2812 Fowler Drive, Willoughby Hills, OH – “First off, welcome to the new Council member, Mr. Knecht. I just wanted to touch base on a couple of the Ordinances that you are considering tonight. The first one talks about the ranges and I think that you have addressed that concern. In the Ordinance 2020-09 as far as the committees, I think one perspective you might want to think about here is about combining some of the committees. However, eliminating so many, especially with the Rules & Legislation Committee being pretty much gutted if it is just going to be about substantive items such as style and that, if we go to publish in the paper that you are just having a Council Meeting of the Whole, it is not going to tell folks what it is about. And so, I think for the purpose of transparency and for more involvement from the public, you probably want to have some of these committees to stay addressed and stay intact, especially things like Utilities, Service and those, especially when you have infrastructure issues that you are going to have to deal with in others. So I would recommend that you would not necessarily pass this in its entirety where you are gutting it down to basically two committees but to consider that many more of those committees could be addressed. The other concern, of course, has to do with Ordinance 2020-10. Mike Lucas is a fine Law Director and would make a great Law Director, as well as Dan Richard and his firm behind would be excellent. I think you made a good choice, however, adding Tom Lobe to that is a concern and I will demonstrate one reason why. (Pounds his fist on table) I am the Law in this City. That is what Mr. Lobe said at a meeting. That, number one, is un-American and number two an unelected bureaucrat does not run a city, a municipality, a county, any government and that is what he telegraphed when he said I am the law in this City. That disqualifies him from being anything in the City in my mind. So just understand that. Thank you very much.”

Public Portion closed at 6:07 p.m.

Discussion after Public Portion: Council President Hallum, “Thank you, Mr. Fellows, for your comments. We will notate what the purpose of what the Council meetings are and also, as you notice in the Ordinance, if we find a reason that we really need to dive into something, we still can create special committees and we would do that for certain things that are going to take longer time frames to discuss so that we could keep that all separated, so yep, we will take care of that. We will make sure that we do that. And I am just going to speak, I think when you take things that Tom Lobe said out of context it gives a wrong impression and while he said something similar to that, I think at the time, if my recollection is correct, he was being spoken over, talked over and he was trying to get people's attention that he is the one who directs as to what the law is and people were acting as if they were the Law Director when, in fact, that was his job and that is what he was trying to convey at that time.”

LEGISLATION (8:34-27:52)

ORDINANCE NO. 2020-06 – THIRD READING (Audio 8:34-10:08)

AN ORDINANCE FIXING THE SALARY AND COMPENSATION FOR THE POSITION OF FULL-TIME ASSISTANT FINANCE DIRECTOR; REPEALING CONFLICTING LEGISLATION AND DECLARING AN EMERGENCY.

Motion made by **Councilwoman Taylor Draper**, seconded by **Councilman Jarmuszkiewicz**

Discussion on the Motion: **Councilwoman Taylor Draper** said that in reviewing the Finance Director’s information regarding nearby cities and their ranges, she felt very comfortable with what was discussed in the terms.

Roll Call: **AYES:** Kline, Knecht, Majka, Taylor Draper, Hallum, and Jarmuszkiewicz

NAYS: None

Vote: 6/0

Motion Carries to adopt Ordinance 2020-06.

ORDINANCE NO. 2020-09 – AMENDED – THIRD READING (Audio 10:15-17:45)

AN ORDINANCE AMENDING PART ONE – ADMINISTRATIVE CODE, TITLE THREE – LEGISLATIVE, CHAPTER 121 –COUNCIL, SECTION 121.01 SUBSECTION (C) OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOUGHBY HILLS, AMENDING COMMITTEES OF COUNCIL, REPEALING CONFLICTING LEGISLATION AND DECLARING AN EMERGENCY.

Motion was made by **Council Vice President Kline**, seconded by **Councilwoman Taylor Draper** to adopt Ordinance 2020-09, as Amended.

Discussion on the Motion:

Councilman Jarmuszkiewicz wanted to be reassured that if the need should arise in the future to add additional committees, Council would have the ability to do so. **Council President Hallum** confirmed that at any time Council would be able to add another committee and that it is written in the Ordinance that way. **Councilwoman Majka** had the following comment: “As you know, I have had some concerns about this Ordinance all along. I have done some research in the meantime. It is interesting to note that on our agendas from other years, we would list on the front of our agenda all of the committees and a short definition of each of those committees which comes directly from our Administrative Code which is based on an Ordinance. So just reading through some of them we have had some comments made, for example, Rules and Legislation and you have been telling us that it is for form, spelling, fit and substance. However, there is an additional part that is in our code that reads as follows: “Including coordination with the Law Department, concerning the preparation of Ordinances and Resolutions and referral of legislation to Standing Committees or presentation to Council for consideration.” “Now this is really important because how we had Rules &

Legislation before is, if we had a brand new Ordinance and we wanted to work on it and look at it, we would refer it to those and then legislation, we would make sure it was spelled correctly, set up correctly, etc., but then we would have the Law Department review it to make sure that it was correct and there would be a recommendation – are we going to put this before Council directly for a vote or does it need more work and we are going to refer it to one of the other committees to work on it further? So it is kind of a safety net for a lot of the Ordinances. So to not have it exist in its complete function I think is not proper according to our Administrative Code. Utilities – we may have a lot of work to do with Utilities, especially now that we have acquired a Councilman who is very versed in public utilities. In fact, I spoke to Mr. Knecht and Ms. Taylor Draper and I asked them to be on the Utilities Committee since I was just appointed Chair. In fact, we did name Chairs because we were bound to do so in our last Council meeting. So we do have all of our committees set up as of now. There are eight different committees and then in addition to that, did we include Personnel Relations in that?” (**Council President Hallum** responds “Yes.”) “So Personnel Relations Committee was not going to exist?” (**Council President Hallum** responds “Correct.”) “So, Personnel Relations, to me that is a really, really, big problem because Personnel Relations is one of the few committees where any of you residents could serve on that committee. In fact, we have had that existing the last time we had Personnel Relations Committee. I think it included three additional residents who could come and serve and the public could then have input into the hiring and compensation of public employees, which is your right as taxpayers. So to not have that committee is real problematic to me because you, we would be cutting out resident participation in a Standing Committee. I don’t think it is a good move for that, for us to be doing that. And because of these concerns and because I would like to have a well-rounded group of committees, even if they don’t meet that often, I don’t think it is a problem because if we need them, they would exist. So I don’t think having a committee should be based on how frequently we meet or not. We may not meet in Utilities but a couple of times a year but that doesn’t make it less important when it’s time for us to have it. So based on these concerns, I would move to table this Ordinance and move it to Rules and Legislation so we could look at it more and also so our new Councilman Knecht can get up to speed on it. So I would need a second since I moved to make a motion.”

Motion made by Councilwoman Majka to table Ordinance 2020-09, no second.

Motion fails to table Ordinance 2020-09.

Councilman Hallum stated, “While I understand your concerns, Councilwoman Majka, nothing that you have said is going to keep us from being able to discuss those things in the Committee of the Whole and again, as I said before, if there is a reason that we need to create a special committee that would maybe even include residents, we have still the right to do that, should we need to.”

As previously noted then, motion was made by Council Vice President Kline, seconded by Councilwoman Taylor Draper to adopt Ordinance 2020-09, as Amended.

Roll Call: AYES: Kline, Knecht, Taylor Draper, Hallum, and Jarmuszkiewicz

NAYS: Majka

Vote: 5/0

Motion Carries to adopt Ordinance 2020-09, As Amended.

ORDINANCE NO. 2020-10 – THIRD READING (Audio 17:51- 27:52)

AN ORDINANCE CONFIRMING THE APPOINTMENT OF MICHAEL C. LUCAS AS DIRECTOR OF LAW AND APPOINTMENT OF ASSISTANT LAW DIRECTORS, DEFINING THE DUTIES AND RESPONSIBILITIES OF THE POSITIONS, AND FIXING THE SALARY AND COMPENSATION FOR SAID POSITIONS, REPEALING CONFLICTING LEGISLATION AND DECLARING AN EMERGENCY.

Motion made by Councilwoman Taylor Draper, seconded by **Council Vice President Kline** to adopt Ordinance 2020-10.

Discussion on the Motion:

Councilwoman Majka stated, “I had sent an email earlier this week requesting that this Ordinance be split into two different ones. I did not receive an answer from you concerning that but one of our residents had brought that up too and I thought it made a lot of sense to clarify the public’s understanding that we would have a Law Director and then we would have Assistant Law Directors. So it was a simple housekeeping request that it might be easier to keep track of the compensation for the position and the functions for each position if this was two separate Ordinances. I am in favor of Mike Lucas. We are in great need of a Law Director and I will support him. I know he will be voted in at this moment. But because of my concerns for the additional tacked on part of Mr. Lobe, my vote will be “no” on this tonight.”

Council President Hallum responded, “Thank you. Councilwoman Majka, just so that you are aware, if you feel that there are Ordinances that need to be created, any of us can bring an Ordinance forward. You are absolutely welcome to draft something and I kind of felt that maybe you were going to but maybe you did not realize that.”

Councilwoman Majka responded, “I was just looking for some communication on...”

Council President Hallum replied, “I have no interest in doing that, as you know, so I was thinking you were going to present something.”

Council Vice President Kline offered the following comments: “I am supporting this Ordinance and I would like to state why, specifically why I support Tom Lobe. At Council meetings this week and last week, people both in the audience and on Council have objected to Tom Lobe being appointed Assistant Law Director. He has been described as polarizing, rude, unprofessional and various other terms. His work has been criticized. I have sat here and listened to this and thought about objecting, but then I thought no, say nothing and try to avoid more conflict and disunity. After further thought, I have come to the conclusion that I have to speak my mind. I am only going to respond to some of the comments made by Councilwoman Fellows on Tuesday night. Tom Lobe was criticized because the Master Plan was not updated. There have been five updates since the first Master Plan in 1972. A complete review of the Master Plan is to take place every five years. Only one update was done in a five-year time period. The last two updates were delayed to get the ten-year federal census data which is vital to the plan. In 2016, work started on the latest plan update and a decision was made by the Planning and Zoning Commission to wait until the 2020 census was available to finalize the plan. The City’s Building Inspector plays a key role in the Master Plan update. The last Council eliminated the position of City Building Inspector.”

“Tom Lobe was criticized because a Councilman voted on contracts that were awarded to a family business. This matter came up in March 2014. In April 2014, an investigation was conducted by an independent law firm. The opinion expressed by this independent law firm was that the Councilman in question did not violate the Ohio Revised Code. This is documented in the April 24, 2014, Council Meeting minutes. The matter was turned over to the Ohio Ethics Commission and in September 2015, the Commission reported that there had not been any ethics violations. This is documented in the September 10, 2015, Council Meeting minutes.”

“An allegation was made that Tom Lobe allowed City employees and officials to personally benefit from the W.H.I.S.P.E.R. Program. This allegation was originally made two to three years ago. The Lake County Prosecutor, the Ohio State Auditor, the Ohio Bureau of Criminal Investigation, the Ohio Job and Family Services Agency and the Ohio Ethics Commission all investigated this and none found any evidence of any wrong doing of any kind. Yet this matter came up again during last year’s election and has been voiced following that election and unfortunately even this week. This truly is sad.”

“Another allegation made was that there was an illegal cell tower contract. The cell tower contract in question was a contract that the Council authorized the Mayor to enter into in June 2016. This is documented in the June 9, 2016, Council Meeting minutes. At that meeting, a Councilman who is no longer in office stated, “This has been discussed very exhaustively in our Finance Committee meetings, there is substantial financial benefit to the City assuming that Planning and Zoning is able to work for an amicable way in putting the towers in, hopefully utilizing in the residential area by the Grange a camouflaged tree-type tower. I think that this will be great for the City and it will also give us a modest improvement to our budget. I think this has been thoroughly vetted and I am very much in support of passing it tonight.” “The Ordinance in question was approved. It was only after residents near the Grange protested building a cell tower there, that Council claimed that they were not aware of the contract. To paraphrase a famous political quote, they were for the cell tower before they were against it.”

“My final comment on this matter is that following Tom Lobe’s resignation as Law Director in 2017, there were six Ordinances (2017-70, 2017-88, 2018-2, 2018-6, 2018-21 and 2018-27) passed by the previous Council that the Lake County Common Pleas Court declared to be illegal and null and void.”

Council President Hallum stated, “I did not vote on any of those, Councilman, I was against them all.”

Councilwoman Taylor Draper stated, “I too support Mr. Lucas. I have had a chance to read all of his information and although I am not an attorney and don’t have the ability to vet him, I feel that if Mayor Gardner has confidence in him, then I do too. As far as Tom Lobe, I know that he was a lawyer here in this city for twenty years. I think the last four or five there were issues. I want to say maybe it was personal. I think maybe people were not getting along and I don’t think that is a reason to disqualify the man’s qualifications. Secondly, he has been an attorney for the City of Solon and I don’t remember lawsuits coming their way. So I thoroughly support Tom Lobe and I think he will be an asset. I work for a hospital. I have surgeons who deal in life and death and they have preceptors. Everybody needs a preceptor. I don’t care if you are an attorney and I don’t care what degree you have. Everybody needs a preceptor and I think somebody who has served the City for twenty years would be just the perfect fit. Thank you.”

Councilman Jarmuszkiewicz added, “I would just like to say, like Tanya said, that over the last twenty years, we had no lawsuits against the City. In the last several years, we have had quite a few based on his telling them, warning them in extensive terms that this would happen if they would not follow the law. The part that I feel is kind of disturbing is when I hear “well, they just interpret it different.” “He interpreted it

different. The judges interpreted it different. All of the other people investigating it interpreted it different. It was not interpreted differently; it was just another person's opinion who did not like what his opinion was. I do support Mr. Lobe and I do support Mr. Lucas.”

Roll Call: AYES: Kline, Knecht, Taylor Draper, Hallum, and Jarmuszkiewicz

NAYS: Majka

Vote: 5/1

Motion Carries to adopt Ordinance 2020-10.

PUBLIC PORTION #2

(Audio 27:56- 3:12)

An opportunity for the public to address Council with any comments, issue or concern.

Public Portion opened at 6:28 p.m.

Linda Fulton, 2990 Marcum, Willoughby Hills, OH - Ms. Fulton asked about the reason for the Special Council meeting tonight, rather than not waiting until the next Regular Council meeting. She asked if Councilwoman Fellows' comments were made in Executive Session. (**Council President Hallum** responded that they had been during the meeting and Councilwoman Fellows asked specifically that the Clerk Pro-tem put her comments verbatim in the minutes). Ms. Fulton then asked when Councilman Knecht was sworn in. (**Council President Hallum** responded that **Councilman Knecht** was sworn in at 5:30 last evening). Ms. Fulton said she thought he should not be allowed to vote on the last Ordinance since he was not here and felt that he should have abstained.

Dale Fellows, 2812 Fowler Drive, Willoughby Hills, OH – “I understand your comments, Mr. Kline, but you need to do a lot more research than that to actually see all of the aspects of what you said. They are too lengthy for me to get into detail, and Ms. Draper, the same, very similar. Mr. Jarmuszkiewicz hit it perfectly is that it is opinions. Even the judge's was an opinion. And the judge's was an appeal. That case was being appealed. He is not a Lake County Common Pleas Judge but he was a Court Judge who was a visiting Judge who is retired and I will stop from there. That is one of the reasons why we have an appeals level of court and why we have alternately a Supreme Court because judges get it wrong. And it was heading that way. That is one of the reasons that I believe, in my mind, that there was people willing to come to the table along with the illegal firing of six Council members. That's why people were willing to come to the table and settle because there was a concern of what happens if that appeal gets overturned, which it probably would have, in my opinion. And the others. So be careful what you do and say until you do the thorough research. Thank you.”

Frank Cihula, 35060 Dixon Road, Willoughby Hills, OH – “I attended those seven trials that the visiting judge, Judge Fuhry from Geauga County presided over. The reason why he was presiding over it was because none of the Lake County Common Pleas Court judges wanted to hear that because they were too familiar with the attorney involved and they recused themselves so the Supreme Court was the one who appointed Judge Fuhry to hear that. Judge Fuhry's ruling was that those Ordinances, there were seven of

them at least, were illegal from the moment they were put on paper, not when Council passed them, but from the moment they were put on paper. The reason why that decision was not appealed was because the Council people agreed not to appeal it if their legal expenses weren't covered. That was an agreement that was reached at 9:00 p.m. on the day before it was going to go into effect. Thank you.”

Comments following Public Portion: Councilwoman Taylor Draper said she would like to address Ms. Fulton. She recommended the News Herald article on Councilman Knecht. Ms. Fulton said she did not get the newspaper, but Councilwoman Taylor Draper said she would provide it for her to read and get the information she was looking for on our new Council member.

Council President Hallum addressed Ms. Fulton's questions about the need for a Special Meeting. He indicated that the legal issues that need to be addressed by a Law Director was the reason why the meeting was specifically called in order to read the Ordinance a third time to be able to make the appointment. Pending issues include the labor contracts, cell tower dispute and the appointment of Councilwoman Majka. We added the additional items to the agenda given the fact that it was imperative to get the Law Director's Ordinance read.

Public Portion closed at 6:33 p.m.

ADJOURNMENT (34:31-35:00)

Motion was made by Councilwoman Majka, seconded by Council Vice President Kline to adjourn.

Roll Call: **AYES:** Kline, Knecht, Majka, Taylor Draper, Hallum, and Jarmuszkiewicz

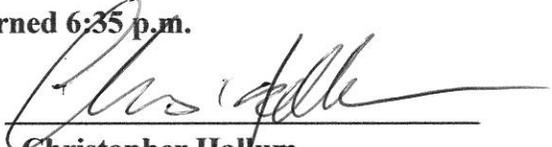
NAYS: None

Vote: 6/0

Motion carries to adjourn.

The Regular Council Meeting of February 21, 2020, was adjourned 6:35 p.m.

APPROVED: 2/27/2020
Date


Christopher Hallum
President of Council

ATTEST: Marie Majka
Council Clerk Pro-Tem