

# City of Willoughby Hills

## Regular Council Meeting Minutes of January 11, 2018

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**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. Council minutes shall be written, and approved by Council.

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The Regular Council Meeting was held on Thursday, January 11, 2018 at 7:00pm in the Willoughby Hills Council Chamber. President Fellows presided.

**Members Present:** Councilman David M. Fiebig, Councilman Christopher Hallum, Councilwoman Pat Grebenc, Councilwoman Janet R. Majka, Councilwoman Laura Pizmoht, Vice President John Plecnik, President Nancy E. Fellows

**Others Present:** Mayor Robert M. Weger, Acting Law Director Stephen L. Byron, Finance Director Frank J. Brichacek, City Engineer Pietro A. Di Franco, Clerk of Council Victoria Ann Savage

**President Fellows:** First, I'd like to welcome Councilwoman Pat Grebenc to City Council. She has worked hard and she is very enthusiastic about working on Council. So, welcome, Pat, to you.

**Councilwoman Grebenc:** Thank you, very much.

**President Fellows:** Before we start Correspondence, we have to amend the agenda to add two motions.

**Councilman Fiebig:** Madame President. I'd like to amend the agenda to allow for us to make a motion to put out a bid, to ask the Mayor to put out a bid for asphalt and limestone for this year.

**Councilwoman Majka:** Second.

**President Fellows:** I have a motion from Councilman Fiebig and a second from Councilwoman Majka to go out for bid for asphalt and limestone for 2018, under New Business. Any discussion on the motion?

**Councilman Fiebig:** Madame President. This was in regard to an email that the Mayor had sent us on Wednesday, so it was after to when the agenda was sent.

**President Fellows:** Correct. Any other discussion?

**Roll call: YEAS: Fiebig, Grebenc, Hallum, Majka, Pizmoht, Plecnik, Fellows**  
**Motion PASSED.**

**Vice President Plecnik:** Madame President. I would like to make a motion to amend the agenda in the area or the section in correspondence to allow for a motion to override the Mayor's veto of Ordinance No. 2017-88.

**Councilwoman Pizmoht:** Second.

**President Fellows:** I have a motion from Vice President Plecnik and a second from Councilwoman Pizmoht to set aside or overrule the Mayor's veto on Ordinance 2017-88, under Correspondence. Is there any discussion on the motion?

**Roll call:**      **YEAS:**      **Fiebig, Grebenc, Hallum, Majka, Pizmoht, Plecnik, Fellows**  
                     **NAYS:**      **Hallum**

**Motion PASSED.**

**President Fellows:** Motion to set aside or overrule the Mayor's veto of Ordinance No. 2017-88 has been added to the agenda.

## **CORRESPONDENCE**

**Vice President Plecnik:** Madame President. Motion to override the Mayor's veto on Ordinance No. 2017-88.

**Councilwoman Pizmoht:** Second.

**President Fellows:** I have a motion from Vice President Plecnik and a second from Councilwoman Pizmoht to override the veto on Ordinance No. 2017-88. Is there any discussion on the motion?

**Councilwoman Grebenc:** Madame President. One thing that I find very concerning about 2017-88, specifically listed under Section 2, services for the above captioned matter will be pursuant to the agreement which is appended hereto and incorporated herein. We have not defined what we will accept as a cost for this. I find this completely irresponsible. And I know that there was conversation around bankrupting the City, concerning the union. But, this to me by not coming forward and giving this law firm some specifics on what we will accept. And, you know, seventeen thousand dollars (\$17,000) might be a great starting point. And then they can come back with their findings at that point, then we can make additional decisions. But, I can't, in good faith, for our taxpayers, give them basically the keys to our bank account because that's what we're doing with this ordinance. We are telling them you just let us know how much you want to spend.

**Vice President Plecnik:** Madame President. Ordinance No. 2017-88 would hire the law firm of Bensch, and Attorney Joe Gross, in particular, to represent the City in the matter where the secretaries' union had brought action against the City trying to impose the contract with the infamous nine percent (9%) raises, tenure like a public-school teacher, cash uniform allowances, longevity pay, one thousand dollars (\$1,000) annual bonuses, potentially unlimited vacation as determined in the Mayor's sole discretion to quote the contract. This is something that Council has rejected in the interest of the public. And while I would certainly like to limit legal cost, you can't go into the hospital and say fix me but I'll pay you a maximum of seventeen thousand dollars (\$17,000). Hopefully, we'll spend no money. Hopefully, the secretaries' union will recognize that it's in the best interest of the City for them to drop their legal action. Hopefully, the Mayor will also admit that it's in the best interest of the City to stop suing the City as well, but so long as the City is being sued, Council is obligated as fiduciaries of the City to have its defense. And my hope is that a dime is spent. And my hope is that after this meeting people will think better of the lawsuits that they've frivolously brought against the great City of Willoughby Hills and that no legal fees will be necessary, but if they do pursue their claims, the City of Willoughby Hills must be defended. Thank you.

**Councilman Hallum:** Madame President. I want to just state that for the public's knowledge, that first of all, we would have had, had the union been voted down within the thirty (30) day time frame, then we would have been back at the negotiation table trying to work this out, do something that everyone could live with, um, for whatever reasons Council did not do that and now we are here in this position. However, to my knowledge, no one has ever gone back to the union to see if we could continue this negotiation to work it out as opposed to becoming litigious about it. So, I just think that this is not a good ordinance, it doesn't set a good precedent and I think that it is frivolous on our part to do it.

**Councilman Fiebig:** Madame President. The reason is, to Mr. Hallum's point, the reason is, Council was not advised that there was a thirty (30) day time limit. Further, it was also not advised that we had fifteen (15) days in which to question the actual formation of a union which was, for example, if you have someone in management going around asking people to be in a union that's clearly a violation of the spirit of unionization. And there's evidence that has occurred. And to the second point, the Mayor was directed to go back to the union and renegotiate this. The Mayor and the Law Director were the sole people that were in the negotiation. We were never invited as Council to participate. We have since asked to participate in any further negotiations and we've also directed that the Mayor will no longer be negotiating on behalf of the City going forward for any union negotiations.

**Councilman Hallum:** Madame President, I'd like to respond.

**President Fellows:** I don't want a debate.

**Councilman Hallum:** I'm not going to debate, I just want to make a couple points that I think were inaccurate in what Mr. Fiebig said.

**President Fellows:** And then Mr. Fiebig is going want to reply too.

**Councilman Hallum:** That's fine and then I won't say anything else.

**President Fellows:** Actually, the Acting Law Director has something to add.

**Acting Law Director:** With regard to Ms. Grebenc's concern, she has a legitimate point. What I would recommend, Madame President, is based upon what the ordinance provides, we can go to Mr. Gross and put a cap on the cost of the services for the initial work to be done by the City. That would allow Council to be aware of the status. I don't think that they are going to get to seventeen thousand on the initial evaluation but it's a fair number for the initial work, and further expenditures would be at Council's direction. So, and that can be done administratively by an amendment to the agreement. The ordinance doesn't have to be changed because the ordinance was passed last time. It is what it is, but administratively, we can put that in there with the agreement of the other party. And that would also make Mr. Brichacek's certification appropriate.

**Councilwoman Grebenc:** And Madame President. I would like to have an opportunity for us to discuss what that amount is and not just arbitrarily accept an amount that I had proposed. I think that we need, I think that's a fair enough number, but I want to understand more of what you're saying. If you're saying that the number doesn't need to be seventeen thousand dollars (\$17,000) then tell me what you think the number needs to be because I certainly don't want to make more than it needs to be. But to offer nothing and then come back and say that seventeen might be too much. So...

**Acting Law Director:** What I'm saying to everyone is that the Acting Mayor will have the authority to get that number placed and that's a discussion that she can have with the proposed special counsel.

**Councilwoman Pizmoht:** Madame President. I would just like to add that Benesch, Friedlander is a renowned firm in the City of Cleveland and the attorneys that work there are bounded by the rules of professional responsibility and they can't just charge us as much as they want or try to stipend money out of our City's bank account. That's not how this works. They are here to perform a service, they will perform the service to the best of their abilities, I'm sure because of the rules of professional responsibility. And because they have a duty to their clients and they have a reputation to uphold. So, I do believe that they will do a very good job. I think a limit isn't a terrible idea. I can definitely get behind that and I have full faith that an Attorney, like Joe Gross, will do everything in his power to keep the cost fair for the services he is providing us.

**Councilman Hallum:** And now I would like to state two points. I have a right to respond to this. So, Mr. Fiebig, Councilman Fiebig said that we were not notified of a thirty-day period. That is inaccurate, we were notified of a thirty-day period that came in the original email with the contract. And secondly, with regard to being notified that we had fifteen days to dispute anything, there's nothing that says that the Administration needs to notify us of that. They're responsible, according to our Charter, fully for negotiations and creation and acceptance of, not the creation of, sorry, the acceptance of and saying who is and who is not in a union. It has nothing to do with the legislation. It's not a legislative decision, and so I don't think that's an accurate argument to make, a good argument. Thank you.

**Councilwoman Pizmoht:** Just a quick look at the law, and when I was made aware of this situation. I found several obvious defects in the formation of this union that any competent attorney would have seen and would certainly have appealed the formation of this union base on those very obvious defects.

**Councilwoman Majka:** I just wanted to add in since this thirty days has echoed over, and over again. In reading over some of the recent back and forth emails, and I must say, at no time in my life had I wished more that I had gone to law school as recently. But, as it is, I believe that I was reading some recent response from the Mayor, and I'm sorry, I can't quote it exactly as I said, there has been voluminous amounts of litigation related material in the past couple of months. I'm doing my best to wade through, but in regard to the thirty days, I came upon something that said that we had been, since we were supposed to go into recess, in August, that the union was aware that we would be going into recess, and they were willing to extend the thirty-day time period. Well, I was never made aware of this and I doubt if any of my colleagues were aware of this either. But, this is in writing, we can go back and look at it. And then it further stated that because we met in August twice, for the purpose of seeking and interviewing and confirming a new councilperson which turned out to be Ms. Pizmoht that the clock, to quote the thing that I read, the clock began ticking again. So, we were on the clock again by virtue of us holding Council meetings in August. Another fact that was not made apparent to me and if anybody else knows of it, please let me know. But, two things that just stood out in my mind today to add into this thirty-day debate. Thank you.

**Vice President Plecnik:** Madame President. Falling off of Councilwoman Majka's comments, she's referring to the Mayor's veto letter dated Wednesday, January 10<sup>th</sup>, which refers to the special meetings in August as made "haste to appoint Laura Pizmoht." And I think that it's important to correct the record that Council is required to make its appointment within thirty days of a vacancy. That time limit is set by our Charter, so we were in a hast to follow our councilmatic duty of thirty days. And did so through a series of interviewing every single candidate that had applied. So, I think that it's unfortunate characterization in the Mayor's letter. I'll also add that at no time was I advised by our Law Director of a thirty-day deadline. We received a note from the Mayor in an email from him referring to that we have thirty days to pass, or reject this contract. But, at no time was I given legal advice that this was a legal deadline. And I certainly was not advised by our Law Director of any consequences of missing a thirty-day deadline. To the best of my knowledge, no member of Council was. So, it would be incorrect to characterize the Mayor's email as legal advice, he's not a lawyer, he couldn't permissively offer it, it would actually be a misdemeanor if he tried to. So, we know that he did not. And the fifteen-day deadline was never referenced in any writing or spoken form to my knowledge, to myself, and I believe to any other member of Council. So, I would concur with Councilwoman Pizmoht, that competent attorney would have advised Council of these very relevant deadlines given that regardless of who negotiates a contact, Council ultimately votes on it and deadlines are relevant to when a contract should be approved or denied. And Council, did in fact, speak with the Mayor and directed him to renegotiate the contract. It was our belief that the Mayor was going to go back and work with the union and try to create a more reasonable proposal that would actually reduce tax savings for residents as oppose to increasing cost. The Mayor confirmed to us that he would renegotiate but didn't touch base with Council until after this thirty-day deadline had past and informed us that the union wasn't interested in renegotiating. So, I agree that there is a litigious party here unfortunately it's the secretaries' union which is very anxious to take the benefits under the contract. But, I would call on them to do the right thing for Willoughby Hills, to drop their actions against the City. That way no

legal fees need to be expended. But, if they insist on suing the City, we will do our fiduciary duty to defend it with an attorney. And I'm grateful to the wisdom of Council in taking this action. Thank you.

**Councilwoman Grebenc:** Madame President.

**President Fellows:** Vick, call the roll.

**Councilwoman Grebenc:** Madame President.

**President Fellows:** I'm calling the question. Vicki, call the roll.

**Roll call:**       **YEAS:**       **Fiebig, Majka, Pizmoht, Plecnik, Fellows**  
                      **NAYS:**       **Grebenc, Hallum**

**Motion PASSED.**

**President Fellows:** The motion to override the Mayor's veto on Ordinance No. 2017-88 has been passed.

The next order of business is the Disposition of the Journal for the minutes of the Special Council Meeting of December 19, 2017.

### **DISPOSITION OF THE JOURNAL**

**Vice President Plecnik:** Madame President. Move that Council adopt the minutes of the Special Council Meeting of December 19, 2017. Councilman Fiebig seconded.

**Roll call:**       **YEAS:**       **Fiebig, Grebenc, Majka, Pizmoht, Plecnik, Fellows**  
                      **Abstention:**   **Hallum**

**Motion PASSED.**

**President Fellows:** The minutes of the Special Council Meeting of December 19, 2017 have been adopted.

### **ADMINISTRATION REPORTS & COMMUNICATIONS**

**President Fellows:** The next order of business is the Mayor's Report, Mr. Mayor.

**MAYOR'S REPORT:** The flags on City property were taken down this week. They were tattered and torn and ripped. The inclement weather has caused that and the pullies are frozen in the ground, so we used the ladder truck to take them down and they'll go back up once the bad weather subsides. Dave, I've got your note and so, they are all taken down now.

**Councilman Fiebig:** Thank you, Mayor. And if I may, do you think that nylon would last a little bit better than the cotton?

**Mayor:** We tried nylon and cotton, the last one was nylon and it ripped up in a week, so.

**Councilman Fiebig:** Right.

**Mayor:** The bump on Chardon Road: ODOT has been notified. They were working with Mark Tyler whose got some input with CT Consultants. And we're trying to see how we can rectify the bumps, uh, there is seventy-two (72) of them as we go down from River to the Kirtland line.

The Pine Valley Street Light: We're working with the Illuminating Co. and the HOA and we should see some progress soon within the next few weeks. The original proposal was to put it across the street in Marti DiVitos' property, but she objected to that so, they're thinking that they can put it on the same side of the street as Pine Valley.

The AARP is taking reservations for tax preparation and if you call my office, she's scheduling the appointments for that. They will begin on Friday in February.

The Law Enforcement Appreciation Night has been established by a company called Blue Line Unlimited that will feature Craig Anderson, one of the officers involved in the shooting last year. The Appreciation Night will be held on Saturday, January 27<sup>th</sup> from 6 to 10pm at St. Noel's Banquet Center. Ticket information is available on our website. And proceeds will benefit the officer and his family or a charity or cause of his choice.

The City has been awarded \$36,754 for the 2018 from NOPEC as part of the NOPEC Energized Community Grant Program. My office is working with the Fire Department to discuss writing a grant to replace the windows or any other energy savings stuff at City Hall.

The City also has been granted an award from the Bureau of Workmen's Comp for \$4,500 for Fire Department gear (Fire Department Environmental Exposure Gear). And this is the hoods and certain things.

I have provided an 88-page credentialing package to Council for confirmation this evening for Tom Talcott as our Fire Chief. In addition, I provided 53-pages to Council for Michael Germano as our Law Director. I encourage both of them to be confirmed tonight.

Legislatively, I am providing the veto which, although it was overturned at the rate of \$395 an hour but, um and also, I don't support Ordinance No. 2018-1 which amends section 111.01 of our codified Ordinances as it relates to the indemnification of our employees and officials. I do not support 2018-2 which engages Steve Byron and the law firm of Singerman, Mills, Desberg & Kauntz, to act as the City's Law Director for \$10,000 per month. With my recommendation, this evening, of Michael Germano who has been credentialed extensively through our hiring process, I see no need for this ordinance.

I will be presenting a proclamation to Senior Apartment resident Toni Bellissimo on her 100<sup>th</sup> birthday and congratulate her on that fine achievement.

Thanks to the Willoughby Hills Quilt Society who is sponsoring our Art Show in January and February. Their quilts were put up earlier this week, so you can stop by and see those.

Sympathy to the following families who lost loved ones, including longtime Willoughby Hills Business Manager at Gale's Garden Center, Tom Krupa; St. Noel Pastor George Smiga's mother Stella Smiga and VFW Post Commander Ron Peura's wife, Marcia Morgan. Our thoughts and prayers are with them.

And then the last thing, the Photo Contest for March. Check the website for the information for detailing your artwork and the nice prize you can win. That's all I have.

**President Fellows:** Thank you, Mr. Mayor. Are there any questions for the Mayor this evening?

**Vice President Plecnik:** Madame President. One quick comment, two questions. First, the Mayor, you were referring to Mike Tyler, not Mark Tyler, the honorable former Mayor of Kirtland. I know that Mike has worked very hard on behalf of the City to try to deal with the issues on Chardon Road; he's a former member of our Planning and Zoning Commission; he is slated to be Governor of the Lion's for our local district and a really honorable member of our community. But, two quick questions for our Mayor. First, in the packet for nomination of Mike Germano there is a criminal background check which identifies itself as page 1 of 2. And

on that page, it says clear; and it says no which I find a little concerning and then page 2 is not included. So, is there any way that you could include the remainder of that in the packet for Council because we certainly want to know what it means for his check to not be clear. And secondly, you say that you don't support Ordinance No. 2018-1 which would take away indemnification from employees who are charged with a crime, who are being sued by the City, who are acting outside of the course and scope of their conduct or engaged in dishonest, fraudulent, willful or intentional malicious acts. I'm curious, what about that you don't support? Do you think the City should be hiring attorneys for those who commit crimes or are in a position with the City itself needs to sue them to recoup costs? Do you support hiring lawyers for criminal conduct of employees?

**Mayor:** The criminal conduct for employees is already exempted for the indemnification of their charges. So, that's already in 111.01.

**Vice President Plecnik:** What do you not support about it?

**Mayor:** I don't support the ordinance, the way it's written. In section one, it says they're not provided. In section three, contradicts the previous sentence. So, it's very poorly written because it does both.

**Vice President Plecnik:** I'm not clear on your concern, Mayor. I'm trying to understand your point and I'm not following.

**Mayor:** I just think that it needs more work in determining the; more work in the wordsmanship and so forth to make it clear what it is that you're trying to accomplish.

**Vice President Plecnik:** I think what we're to accomplish is to make sure that employees who've have acted outside of the scope of their employment, who have acted criminally are not able to subsidize their behavior with the City hiring an attorney for them. We've already expressed our concern with the expense of hiring attorneys when necessary to defend the City's interest. I think that it goes without saying, we don't want to hire a bunch of expensive attorneys for employees who are breaking the law and perhaps even under investigation by the City itself or sued by the City itself. We certainly wouldn't want to have to subsidize their attorneys. Would you agree with that, Mayor?

**Mayor:** Yes.

**President Fellows:** Thank you.

**Mayor:** Um, one last thing. I would like an executive session when it's convenient inviting all Council, and the Engineer. It's for the acquisition of City property and possible litigation for rezoning, not to be five minutes. I just want to make you aware of something.

**President Fellows:** Okay. I think though, Mr. Mayor, if it's acquisition of City property and possible litigation, the Acting Law Director should be included in that.

**Mayor:** That's fine.

**President Fellows:** The next order of business is the Law Director's report, Mr. Byron.

**ACTING LAW DIRECTOR'S REPORT:** I have no report.

**President Fellows:** The next is the Finance Director's report, Mr. Brichacek.

**FINANCE DIRECTOR'S REPORT:** No report tonight.

**President Fellows:** And the City Engineer, Mr. Di Franco.

**ENGINEER'S REPORT:** Also, no report for tonight.

**Vice President Plecnik:** Madame President. If I could ask one question of our City Engineer. We're repeatedly hearing from our residents' questions about the status of the Pleasant Valley Road Bridge. Do we have any sense of when that bridge might be repaired? What the progress is? I assume weather has been the issue, but I'd certainly like an update.

**Mayor:** I don't.

**City Engineer:** I don't have one either.

**Vice President Plecnik:** Well, I would just ask that Administration works to get one because it is very important to our residents on Pleasant Valley Road and Dodd and Dodd's Hill, so...

**President Fellows:** Moving on to Committee Reports.

### **COMMITTEES OF COUNCIL**

**President Fellows:** Council met this past Monday for the Organizational Meeting and the Chairs of the Standing Committees of Council were elected.

Finance Chair is John Plecnik; Planning and Zoning is Pat Grebenc; Recreation is Christopher Hallum; Rules and Legislation is Nancy Fellows; Safety is Dave Fiebig; Service is Dave Fiebig and Utilities is Jan Majka.

Personnel Relations will be chaired by Laura Pizmoht, her Committee members will be: Mr. Chris du Laney, Laura Lenz, Greg McCarthy and John Plecnik.

The Working Committee of Council is chaired by the President. And I sent a memo out, I think yesterday reminding members, chairs that they should have their members of their committees together no later than the next Council meeting in January. And I have received some of those and given them to Vicki. Any comments or questions?

**President Fellows:** Mr. Mayor, I do have a question about Brian Jones. I believe you had appointed him to the Planning & Zoning Commission.

**Mayor:** Correct.

**President Fellows:** He was also elected to the School Board of Lake County.

**Mayor:** Yes.

**President Fellows:** I think that there is a provision in our Charter, 9.21 that prohibits a person being an elected position to be in another committee. You may want to look at that.

**Mayor:** Okay.

**President Fellows:** Not that I wouldn't want him to serve, but...

**Mayor:** Yeah. Okay.

**President Fellows:** Are there any other Council Representative Reports or comments on Committees?



**Vice President Plecnik:** Madame President. If I could just share that I have selected my members for the Finance Committee of Council. Our composition will remain the same, yourself, Council President Fellows and Councilman Dave Fiebig will be joining me on Finance to continue for a second term. I did have, I have not prepared my formal minutes for our last Finance Committee Meeting yet. But, for the benefit of the public, I do want to share that our prime purpose of meeting was to give our priorities to the Mayor and Finance Director as they work on the 2018 budget which will hopefully be delivered to Council for our deliberation and consideration soon. And we emphasized the importance of lowering administrative costs significantly up to the order of a million dollars a year so that we can redirect those funds toward roads as well as increase resources for our Police and Fire Departments. We've certainly seen from Mike Tyler work that Chardon Road, itself could easily be a seven hundred fifty thousand (\$750,000) project and the only way our City can afford to continue to serve its residents is if we reroute our resources at this time. So, the Finance Committee has given that direction to Mayor. We look forward to seeing his draft of the budget. But, I can assure that public that Council will be holding to those priorities, roads, police and fire. And we will be minimizing expenses and administrative overhead while maximizing our delivery of services to you. Thank you.

**Councilman Fiebig:** Madame President. As Chair of Safety, I have also selected committee members Laura Pizmoht and Jan Majka. As Chair of Service, also Laura Pizmoht and Jan Majka. We had a Safety Committee meeting that I had spoken of and gave a very brief summary of and prior to the meeting, I emailed a pdf file to our Clerk, so that's available now for the public, it's public record and available and please disseminate to all our Council members. If you wish, I'm open to any questions. This does go back to November 16<sup>th</sup> meeting, but we haven't had a committee report, you know, section in our meetings up until this point. So, I stand open to any questions, if you have. But, that meeting again, was to discuss the bridge that was closed on Pleasant Valley and we discussed those issues, how it will be fixed, what happens going forward. Many issues were discussed such as should we continue to own the bridge. And we talked at great length about that and there was some history given. There was a good amount of information, which I won't bore you with the details now, about painting it, how we would go about doing it, when it going to be due to paint it again, how much is that going to cost, where did the fees go from the license plate fee and getting that money back into that fund. The legal obligations that the City has to repair that and there was a good amount of discussion. We did direct our Law Director to contact the County. I know that he's been busy, and it's been the holiday season, so I don't know if we've even gone there yet to discuss if they would be able to maintain that bridge down the road or could we work with, did you have that discussion, Mayor or Mr. Di Franco, regarding pooling the resources of their group that they would have painting on all of their bridges and making sure that was in there, we talked about that. And we can follow up on that if you have any discussion on that. So, that's basically it. We discussed with our Acting Fire Chief the issues with the Fire Department in the fumes that are in a Fire Station, naturally, diesel of course creating more than other engines. The equipment that we have in there when the door is open they automatically recirculate air, we talked about that. Obviously, cancer among firefighters is an important subject. You know, exposing them to less exhaust flames is why we put these things in place. There were some grants that were available, we talked about that. And I expressed to our Fire Department that anything you need, please let us know, we're willing to work with you and for your safety. And everyone that was there participated with a lot of questions. And again, I'm just being brief with this, but one of things that came out at the end of the meeting was that the reason that we hadn't hired a full-time fire staff was that there were concerns that our Acting Chief had about sustainability of funds to, for those positions. And, so there differently was some concern with that, so I think that's something that we're seriously going to look at with our budget going forward because we're having trouble with funding people that go out and save somebody from a life-threatening situation, that's got to be our top priority. Several people in public portion spoke. It was a little over an hour meeting and I stand open to questions. Thank you.

**President Fellows:** Thank you, Mr. Fiebig. Any questions? The last thing on committees, Rules and Legislation members are Laura Pizmoht, Dave Fiebig and John Plecnik.

**Councilwoman Majka:** Madame President. Utilities also had a meeting on December 28<sup>th</sup>, and by the way, I have pointed two other people on the Utilities Committee. I'm retaining John Plecnik to stay on and then the new addition would be Dave Fiebig.

So, on the 28<sup>th</sup> we met and the purpose of the meeting was to talk about the sewer reduction that was passed last year about this same time, it was passed at the end of January, last year. So, the purpose was just to acknowledge that we're in the process of review to see what impact the rate reductions have had, if any, on the budget. And going forward, as the new budget is being estimated and formulated we're going to be working with Mr. Di Franco, who was not present at that meeting, so we were a little limited as to what we could do as far as announcing upcoming projects and doing budget estimates. That's what everybody in Administration will be working on for the next month or so is to come with the plan for the year and the budget for the year. We talked about the composition of our sewer rate bill, that it comes from three parts; part of it comes from Euclid, part from Willoughby Hills and part is just an administrative fee from the County. We talked about a short history of our sewers being installed in Willoughby Hills and the current rate structure. Why we felt that it was necessary to go with a rate cut. The short history was that back in 2008 or so, the sewer fund was lacking money to cover basic costs. So, when the last round of sewer installation was done in about 2013, at that time CT Consultants, who was working with the City on that job had recommended a five-year rate increase schedule that they felt would give us a good cushion of money to pay our debt service because we did go into debt and take out loans to install sewers, to pay that off, to handle any ongoing repairs and projects related to sewers. And also, to transfer a shortfall that would be needed between our property tax assessment, so that anybody that has a sewer, probably pays a property tax assessment and so, this is not quite enough to cover the amount owed back to the debt that we had taken out, the loan that we had taken out. So, part of, the two biggest parts that we pay from Willoughby Hills go, number one to debt service, number two, to Euclid because they process our sewers, our sewer out fluent for us. We talked about upcoming projects and project that had recently passed that are going to be pretty costly. We have a four hundred-thousand-dollar project in the Meadowbrook Pump Station that was just approved by Council last year and that is going to be underway when weather permits. We had, we reviewed the recent purchase of a brand-new sewer truck that's going to be used to keep things going. We talked about a couple problem areas that will be under discussion with our City Engineer as well as our Service Director as to how we are going to approach them. One is down at Strafford Place, it's been a continuing on-going problem for quite a while. We talked about the necessity to be in communication with the City of Euclid since a large part of their rates come from Euclid. So, we want to get ourselves a little more involved with Euclid in talking with their Director, possibility even go down and taking tours, etc. So, this is a short summary, I do have a lot of good notes here which are going to be transcribed and be available in written form, fairly soon. But, the important thing that I need to do in my committee meetings in the near future is to get with Mr. Di Franco, do some planning, do some budgeting for our needs coming up this year and hopefully planning for some long term/short term goals as well. Thank you.

**President Fellows:** Thank you, Councilwoman Majka. Any questions for Jan? Any other Committee Reports or Comments?

**Councilwoman Grebenc:** Madame President. I would just like to go on the record to share that I did reach out to John to be a committee member for the Finance Committee. As well as I reached out to Dave, with the hopes of discussing joining the Safety and the Service Committees. So, I just wanted everyone to know that those were committees that I did attempt to join. Thank you.

**President Fellows:** Thank you.

**Vice President Plecnik:** Madame President. If I can just share, as I discussed with Councilwoman Grebenc, I'm very grateful for her interest in the Finance Committee and every member of Council should be concerned with our budget, it is after all, the most legislation that we typically pass. But, my decision in appointing the same members from Finance in addition to the experience that Council President Fellows and Fiebig bring to the table is because we typically do appoint the Council President to the Finance Committee given that the budget is such an integral part of what we do as a City. The Council President should be integral in that

process. And Councilman Fiebig has stepped up in terms of signing off on Purchase Orders that exceed the Mayor's two thousand dollars (\$2,000) spending limit. He's taken a considerable amount of time in learning how to review these PO's carefully and I think that experience is valuable going forward. It's also rare for a freshmen Councilperson to be appointed to the more senior committees like Finance or Rules. I wasn't in my first term either. I certainly give you credit for your interest, but I do want you to know that while I considered you carefully, in my judgment as Chair, I thought it was important to have the experience of our Council President and our Councilperson. And I look forward to having you come to all of our Finance meetings because all committee meetings are open to the public and we're all entitled to participate. So, ultimately, if our goal is to work together, whether I'm on Service or not, and this year, I'm not, I still have the opportunity to attend Chair Fiebig's meetings and participate. And as a new Councilmember, I would remind you of that and encourage you to come to all of our committee meetings. Thank you.

**Councilwoman Grebenc:** I appreciate that John. I do really hope that I would have had more influence with being a committee member than just sharing feedback. Thank you.

**Councilman Hallum:** Madame President. Just a quick question. Unfortunately, you guys had a Finance meeting that I was not available to come to that, just....

**Councilwoman Fiebig:** Can't hear you...

**President Fellows:** Yeah. You keep turning.... instead of speaking into the mic.

**Councilman Hallum:** Sorry, trying to make eye contact with John. But, I'm just wondering, I know that it was a lengthy meeting, I heard, so you're probably still working on minutes, but do you know when you might be able, when you think that you might have them out?

**Vice President Plecnik:** Well, I'm going to give a lot of work to them over the weekend, but I hesitate to make a promise when I'm not sure exactly when. I will use my best efforts, but I think that, I think that my characterization of the meeting was fair. While it was lengthy and there was a lot of discussion, it all came back around to the fact that a lot of our priorities as a City from a majority of Council and those who were elected by the voters are roads, police and fire. And we're interested in having a strong Segway from Administrative overhead and secretaries and assistants to most Department Heads to relying more on technology; having our Department Heads, like the Mayor, reach out directly to voters so a call would go directly to him as opposed to a secretary. That saves a position, that saves a lot of money for the City. And that was the main gist of the conversation. I think that we're going to see some substantial restructuring, some strategic planning going forward in this budget process.

**Councilman Hallum:** Thank you. I look forward to hearing that. Thanks.

**President Fellows:** Listening to the two of you, I do have a question for the Finance Director and the Mayor. When would Council anticipate receiving the budget?

**Mayor:** Right around February 1<sup>st</sup>.

**President Fellows:** Thank you.

## **PUBLIC PORTION**

### **Section 107.08 – Public Meetings of Municipal Bodies**

**(a) All meetings of any municipal body are declared to be public meetings open to the public at all times.**

**All meetings shall provide a reasonable opportunity to hear public opinion.**

**President Fellows:** This is an opportunity for the public to come forward. Please state your name and your address and try to keep your comments to three minutes. **I will open public portion at 7:45pm.**

**Chris Welch – 38801 Chardon Road.** A comment about the bumps on Chardon and I drive back and forth every day. Before the City spends any money on a resurface job like they did a few years ago, I suggest to reach out to ODOT or the Feds, the is bad. It's old, it needs more than replacement, it's a base problem. Administrative personnel in the union, I don't know if that's even allowed. And then as far as the union goes, what union is it? Is it the laborers, the teamsters, AFSCME, who's backing the secretaries?

**Councilman Fiebig:** AFSCME.

**President Fellows:** AFSCME.

**Councilman Hallum:** AFSCME.

**Resident Welch:** AFSCME, okay, that's was it, I think.

**President Fellows:** Anyone else this evening? **So, I'll will close public portion at 7:46pm.**

**Councilman Fiebig: Madame President.** We had a complete resurface of Chardon Road, what year was that?

**Councilwoman Pizmoht:** 2009.

**Councilman Fiebig:** 9, so, but we did not go down to redo the base. That's...

**Mayor:** It's not the base. What's happening is that the concrete is shifting with the heat and the thaws and it is basically underneath asphalt. It was originally a concrete street and that's why it's every so many feet. So, the solution is to dig it out and that's expensive.

## **UNFINISHED BUSINESS**

**President Fellows:** Alright, is there any Unfinished Business? Next, is Legislation.

## **LEGISLATION**

### **ORDINANCE NO. 2017-79 – 3<sup>rd</sup> READING**

**1<sup>st</sup> Reading:** November 22, 2017

**2<sup>nd</sup> Reading:** December 19, 2017

**AN ORDINANCE AMENDING PART ONE – ADMINISTRATIVE CODE, TITLE FIVE – ADMINISTRATIVE, CHAPTER 135 – DEPARTMENT OF FINANCE, SECTION 135.001 – POSITION OF DIRECTOR OF FINANCE, SUBSECTION (b) DUTIES AND RESPONSIBILITIES OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOUGHBY HILLS; REPEALING CERTAIN ORDINANCES AND DECLARING AN EMERGENCY.**

**Councilman Fiebig moved for passage. Vice President Plecnik seconded.**

**Councilwoman Majka:** Madame President. I don't believe we've heard from Mr. Brichacek directly on this. I believe that the Mayor spoke for him at one of our meetings and said that Mr. Brichacek was okay with this ordinance. I would like to give him the opportunity, if he would like to speak on this.

**Finance Director:** I think the ordinance is an unnecessary. We already do this. I'm fine with the passage of it. There may be months when it may not be possible to meet the 15<sup>th</sup> deadline because some of the things, some of the adjustments and things each month are dependent upon getting reports from other agencies. But, in general, I'm fine with this. Like I said, we're already do this. The reports that are listed in this ordinance are reports that are on the website and given to Council every month. To consistently meet this, the 15<sup>th</sup>, there may be some shifting of priorities, there may be somethings that are put off because this makes these reports a higher priority because there is now a statutory deadline for them.

**Roll call:** YEAS: Fiebig, Grebenc, Hallum, Majka, Pizmoht, Plecnik, Fellows  
**Motion PASSED.**

#### **ORDINANCE NO. 2017-81 – 3<sup>rd</sup> READING**

**1<sup>st</sup> Reading:** November 22, 2017

**2<sup>nd</sup> Reading:** December 19, 2017

**AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO THE FIRST AMENDMENT TO THE OPTION AND GROUND LEASE AND AMENDED MEMORANDUM OF LEASE; REPEALING CERTAIN ORDINANCES AND DECLARING AN EMERGENCY.**

**President Fellows:** And we know that there was a typo in here, the 2<sup>nd</sup> Reading was December 19, 2017. And I had reached out to our Engineer this week asking if we needed to do anything with this ordinance, was there any amendments to it, or amending any exhibits and he said that he has what he needs and this is good to go.

**Councilman Fiebig moved for passage. Councilwoman Pizmoht seconded.**

**Roll call:** YEAS: Fiebig, Grebenc, Hallum, Majka, Pizmoht, Plecnik, Fellows  
**Motion PASSED.**

#### **ORDINANCE NO. 2018-1**

**AN ORDINANCE AMENDING SECTION 111.01, INDEMNIFICATION OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOUGHBY HILLS; REPEALING CONFLICTING LEGISLATION AND DECLARING AN EMERGENCY.**

**Vice President Plecnik moved to suspend. Councilwoman Pizmoht seconded.**

**Vice President Plecnik:** Madame President. I would just share there's urgency here because some employees and former employees of this City have been trying to send legal bills. And in many cases, it's fairly clear the intent of the legislation was never to indemnify a defense for the type of conduct or issues or suits involved. And I think that it's important to protect the City's fiscs so that we don't end up with an argument that the City is responsible for the legal bills of current and former employees. And I think that it also holds our employees to a higher standard of conduct which is admirable. We want them to always operate within the law and not put the City in a position where they're adverse to it. So, I think that it's urgent because this matter has been raised and I think the public should know that it is important to us to protect the fisc now.

**Roll call:** YEAS: Fiebig, Grebenc, Majka, Pizmoht, Plecnik, Fellows  
NAYS: Hallum  
**Motion PASSED.**

**Vice President Plecnik moved for passage. Councilwoman Pizmoht seconded.**

**Councilman Hallum:** Madame President. This is another piece of legislation that, and we've had several of these in the recent past here, where it shows up, it hasn't been through any committee meetings, to my

knowledge, to discuss it, to understand really, does it make sense, do we really need it, you know if, I'm really thinking, high level that if one of our part-time police or fire were accused of a crime, even, you know, in the job, in the middle of one of their jobs, that this could put them at risk. So, I would have liked to see this go to a committee before we just run this through.

**Councilwoman Pizmoht:** Madame President. I just want to clarify that even with this ordinance a firefighter who accidentally injured someone while trying to remove them from a burning building and were sued for the injury would be indemnified by the City. A firefighter, which I'm sure none of ours would ever do this, who'd stole some jewelry while in a house or while responding to a call wouldn't be covered, wouldn't be indemnified for a charge of theft for stealing jewelry. And of course, we wouldn't want them to because we wouldn't want our employees doing that. So, obviously, we don't want that. So, I think that it's important that we don't want people thinking that they can, you know, push the limits. We don't want people thinking that they can get away with embezzling from the City because the City will indemnify them and pay for their attorney to defend them. So, we need to make sure that we are protecting our taxpayer dollars. And encouraging all of our employees to hold themselves to a very high standard of conduct.

**Councilwoman Grebenc:** Madame President. I would like to, to Chris Hallum's point, understand, I believe that this was drafted by Steve Byron and I would really just like him to explain the reasoning behind the differences because as Chris had mentioned, some of the language in here, as you get further into it, does make me feel a little bit uncomfortable. And to the Mayor's point, he had mentioned that it's almost like a circular in the exclusions. But, I would like to understand from Mr. Bryon what the purpose of making a change was because we do from a criminal perspective, um, already have that in our ordinance or in our Charter.

**Acting Law Director:** Certainly. Given the history of this, you'll note that the ordinances that constitutes this Chapter 111 were originally adopted in 1984. In 1982, the Ohio Supreme Court passed, or decided a case that repealed the Doctrine of Sovereign Immunity which had applied in municipalities for as long as Ohio was a state. This ordinance was adopted in 1984 in response to that to provide some level of protection to municipal employees. The State of Ohio in 1986 enacted a state law that provided indemnification. What this ordinance does is, picks up the concepts that were in the state law that are not currently in the ordinances. And those are the exclusions that are found in subsection (b) of the ordinance. The conditions remain the same to obtain coverage. You have to request from the City defense. And you have to provide a copy of a summons and complaint. We have received some recent requests, but there are no copies of summons and complaints, so there is no authority to provide defense or indemnification at this time for those complaints. They don't exist. There is no charging document. No complaint in a civil case. So, this is intended to bring our ordinance into sync with what the state law requires and it also will sync well with the Law of Ohio relative to liability. So, that's why these changes are being made at this time.

**Councilman Hallum:** Just a question to Mr. Byron. So, just want to understand because an acquisition, you know, somebody who is accused of something whether they did it or not, am I understanding correctly, that if somebody accuses one of our City personnel of some criminal thing that occurred during them performing their duties as an City employee, would not be covered anymore. We're just going to assume that they're guilty and not provide any coverage.

**Acting Law Director:** No. The defense would be provided if there is a summons for a civil action. If someone is charged with a crime they would not get a defense from the City.

**Councilman Hallum:** So, regardless of whether it's proven that they did anything at all just because they've been charged...

**Acting Law Director:** There is an authority for Council in the event that there is a false charge made and they have to expend resources to defend themselves and they are ultimately acquitted, the Council would have authority to grant a request for reimbursement and it would be consistent with the principles here. If someone

were acquitted the concern is if you didn't defense someone who is ultimately found guilty that money is gone. So, the idea here is that we are only defending in civil cases and only upon the provision of the complaint process, notice, etc.

**Councilman Hallum:** I'm just concerned that somebody who is charged with a criminal offense that they didn't do may not have the wherewithal to be able to afford their own defense. And that could look badly upon the City. So, that's my concern.

**Acting Law Director:** Nothing would prevent Council from providing on a case-by-case basis, indemnification by a special ordinance. Council would retain that authority. This does not prevent Council from providing a defense in such case.

**Councilman Hallum:** But, don't we, with the current ordinance have the ability to not grant indemnification anyway?

**Acting Law Director:** No. I'm unaware of anything that would. If you meet the conditions, there is the duty of defense.

**Councilwoman Pizmoht:** Madame President.

**President Fellows:** Just one second, Laura.

**Councilman Hallum:** Thank you.

**President Fellows:** I would encourage individuals when legislation comes out, because not always are ordinances put into a committee that, because you had many questions, you had two days to call Mr. Byron to ask these questions instead of having this diatribe here, dialogue at the Council table. We have an opportunity to go to all of our resources to ask questions whether it has something to do with the Mayor, the Police Department, the Fire Department, the Law Department, Engineers, Finance, whatever, instead of now, you know, doing this because not all ordinances always, depending on the topic of the ordinance and the urgency of it, are always going to be able to go into committee.

**Councilman Hallum:** I understand.

**President Fellows:** Councilwoman Pizmoht, you had questions.

**Councilwoman Pizmoht:** Yes, I just wanted to be able to respond to Councilman Hallum's point. What he is saying is called malicious prosecution which would necessitate a rouge prosecutor either a city prosecutor or a county prosecutor coming after one of our city employees for malicious prosecution which, you know, doesn't happen that often and if it does, there again are, there is recourse for that employee should that happen. And there are rules for professional responsibilities that should also cover that kind of activity. And that person can be held accountable for violating their ethical duties as attorneys.

**Councilwoman Grebenc:** Madame President. Two things, the first one is and having just read the Sunshine Law and the Charter, and all those things, I really feel very strongly that when an ordinance does show up, two days before a meeting, and we do have an obligation to let the public also seek those things out and hear this stuff and dialogue and if it didn't go a committee meeting, they could have attended, I think that I'm not maintaining my oath that I literally just took. Second, I do also want to just another question because I did reach out to Mr. Byron and we had a lengthy conversation about this ordinance and he answered a lot of my questions. But, one that I thought of that I didn't get a chance to reach out to him about is, well two actually, are there other cities that you can share with us that mirror these exclusions that have been added so that we can feel confident that this is written in a way that other people are doing it because I just got my training and they differently said to reach out

to like cities for those things. And the second one is, can you share with us how the union contracts because we now have four of them will treat this because obviously they have different expectations and rules that we must abide by. And as it goes to our Fire Chief hiring firemen and our Police Chief hiring policemen, I do think that we need some more time on this based on the fact that we're having a difficult time finding enough firemen to fill the roles we have. And if we look less attractive than the next town over because of these exclusions, I think that we could be to John's point, not putting safety first.

**Acting Law Director:** Well, one of the things that you could consider doing is repealing this Chapter in its entirety and just going under state law. Because the State Law already provides all of these exceptions under Chapter 2744. The purpose of the exercise is to bring the City's ordinance into harmony with state law and that's what this does. This excludes the things that state law excludes. And doesn't provide a defense requirement when the state law wouldn't require it. You could also repeal the entire Chapter and the safety forces of the City who are under the collective bargaining unit are still covered pursuant to state law, by the State Law.

**Councilwoman Grebenc:** You talking about 2744. Okay, so based on the fact that most people may not know what we were referring to, I would just go back on what I said, to say that...

**President Fellows:** Councilwoman Grebenc, you can just, if it's better, you can just abstain instead of voting a yes or a no on it. So, let's call the question and vote on this.

**Vice President Plecnik:** Madame President. Just one correction, if I might. In terms of the, I've served on Personnel Relations now for over four years, and I just want to clarify for the public that we currently have five union contracts. We have the service union contract, the fire union contract, the dispatchers' union contract, the patrolmen contract, and the sergeants contract; those last three are generally referred as the police. There's disputed status with respect to the contract that the secretaries' union is pushing for and the City has just contracted with an attorney to try to push back on the generous benefits in that and it's a disputed status. It's a question as to the state of that particular contract. But, we have at least five union contracts at this point and time.

**Roll call:**        **YEAS:**        **Fiebig, Majka, Pizmoht, Plecnik, Fellows**  
                     **NAYS:**        Grebenc, Hallum

**Motion PASSED.**

#### **ORDINANCE NO. 2018-2**

**AN ORDINANCE ENGAGING STEPHEN L. BYRON AND THE LAW FIRM OF SINGERMANN, MILLS, DESBERG & KAUNTZ, CO., L.P.A., AS ACTING LAW DIRECTOR FOR THE CITY OF WILLOUGHBY HILLS TO PERFORM THE DUTIES, AND EXERCISE THE AUTHORITY OF, THE CITY'S LAW DIRECTOR, AND DECLARING AN EMERGENCY.**

**President Fellows:** Do we have a motion to waive the...

**Councilman Fiebig moved to suspend. Vice President Plecnik seconded.**

**Councilman Fiebig:** Madame President. It is my understanding that the change of firm is effective February 1<sup>st</sup>, so having this in place prior to would mean a seamless transition. Is that correct?

**Acting Law Director:** That is correct.

**Councilman Fiebig:** So, that bears waiving Three Readings on this.

**Roll call:**        **YEAS:**        **Fiebig, Majka, Pizmoht, Plecnik, Fellows**  
                     **NAYS:**        Grebenc, Hallum

**Motion PASSED.**



**Councilman Fiebig moved for passage. Councilwoman Pizmoht seconded.**

**Councilwoman Grebenc:** Madame President. Section 9, it speaks specifically about the transfer of electronic files but it also quotes a fee of thirty-six thousand one hundred and twenty-nine dollars (\$36,129.00). I think that it would be beneficial for us to include in there a little bit more detail about the dates and perhaps how those fees were calculated. I know that we would probably have that in Finance. And I also would like to go on record that there is documentation and litigation relative to whether Mr. Byron is in fact our Acting Law Director. So, I think those two things, at minimum, need to be considered.

**Councilwoman Pizmoht:** Madame President. As of right now, Ordinance No. 2017-70 is a law of the City of Willoughby Hills. No court has overturned that law and Council has not changed it nor repealed it. So, Steve Byron is our Acting Law Director at this time according to the law of Willoughby Hills.

**Vice President Plecnik:** Madame President. Following off of Councilwoman Pizmoht's point, for those of us who are not law professor or lawyers, the theory of the case that the Mayor has brought that 2017-70 is invalid is that if you challenge the constitutionality of the law in court, in a civil case, you can simply ignore it and pretend that it simply doesn't exist. It would to apply the same logic to say that the criminal status against murder, if you were to challenge the constitutionality of a murder statute, you could murder people with impunity up until the court said no, actually it is constitutional to outlaw murder. So, you can see in a very simple example that it's a somewhat foolish argument. And even if a court were in some point to agree with the Mayor, which I doubt that they will, for the time period that the court has not ruled, any ordinance validly passed under the Charter of Willoughby Hills, would nonetheless be the law. And everyone, including the Mayor, the City Prosecutor, the Council, the employees, the people of Willoughby Hills have to follow Ordinance No. 2017-70. And so, it is the law. Steve Byron is the valid Acting Law Director of the City of Willoughby Hills. And there's really no debate. And I'll assign an "F" grade to anyone who does. Sorry, I'm a professor, what can I say.

**Roll call:** YEAS: Fiebig, Majka, Pizmoht, Plecnik, Fellows  
NAYS: Grebenc, Hallum

**Motion PASSED.**

**President Fellows:** The next order of business is New Business.

### **NEW BUSINESS**

- Motion of Council to declare the following six pieces of Fire Department EMS equipment that is no longer in serviceable condition as surplus: two large Cramer vacuum splints; three standard Cramer vacuum splints and one Cramer vacuum pump. The declared value of the abovementioned equipment to be of no value.

**Vice President Plecnik moved to declare the equipment from the Fire Department as of no value. Councilman Fiebig second.**

**Roll call:** YEAS: Fiebig, Grebenc, Hallum, Majka, Pizmoht, Plecnik, Fellows  
**Motion PASSED.**

**President Fellows:** The next one is for the confirmation of Michael Germano to serve as Law Director. Discussion?

**Councilman Hallum:** Madame President. [passed a piece of paper to Council President]

**Mayor:** [undecipherable]...Backtrack

**Vice President Plecnik:** An accident, it looks like...

**Councilwoman Pizmoht:** Are you sure?

**Vice President Plecnik:** It's had to tell, it's all abbreviated.

**Councilwoman Pizmoht:** Yeah, I think under Driver's OBMV history, there are two pages, but then there's this background check page and then page 51 of the document, it's page 1 of 2 and it does say report clear: no. And there's no page 2. So, they're both by Backtrack. What you have is the accident, I believe is page 2, the driver's background check.

**Vice President Plecnik:** Oh, so that's not the page 2 of...

**Councilwoman Pizmoht:** I don't think so. I'll look though. Yeah, it's page 2 under the Driver's OBMV History that's already in here. But, we're missing the page 2 of the background check.

**President Fellows:** Is this body ready this evening prepared to confirm Mr. Germano as the Law Director?

**Vice President Plecnik:** Madame President. I would answer that question with a motion to permanently table the nomination for Mike Germano to be the Law Director.

**Councilman Fiebig:** Second.

**President Fellows:** I have a motion from Vice President Plecnik and a second from Councilman Fiebig to table a motion to confirm Mr. Germano as the Law Director. I don't believe there's any discussion on the tabling of a motion. There's no discussion on a table.

<b>Roll call:</b>	<b>YEAS:</b>	<b>Fiebig, Majka, Pizmoht, Plecnik, Fellows</b>
	<b>NAYS:</b>	<b>Grebenc, Hallum</b>

**Motion PASSED.**

**President Fellows:** The next one is the confirmation of Thomas Talcott to serve as Fire Chief.

**Councilman Fiebig:** Madame President. A motion to table for two weeks until our next meeting the appointment of Thomas Talcott.

**Councilwoman Pizmoht:** Second.

**President Fellows:** I have a motion from Councilman Fiebig and a second from Councilwoman Pizmoht to table the confirmation of Tom Talcott as Fire Chief for two weeks to the next Regular Council meeting (January 25, 2018) and there's no discussion on the table.

<b>Roll call:</b>	<b>YEAS:</b>	<b>Fiebig, Majka, Pizmoht, Plecnik, Fellows</b>
	<b>NAYS:</b>	<b>Grebenc, Hallum</b>

**Motion PASSED.**

**President Fellows:** The next one is Tree and Beautification Commission. Councilwoman Grebenc, would you like to speak to this?

**Councilwoman Grebenc:** I would love to. So, under the Administrative Code, Chapter 161, the creation and establishment of a Tree and Beautification Commission which shall consist of seven members comprised of the Mayor, or his representative, the City Road Superintendent, a member of Council who shall be appointed by Council and four residents of the City who are electors, two appointed by the Mayor and two appointed by

Council. And I won't go into a great amount of detail, but definitely want to give this to Vicki to add to the minutes. The overall here, is that this would afford our City the opportunity to have a group of seven individuals work collectively to bring together, giving advice on care, preservation, tree trimming. One of the things that I would and there's absolutely no cost because they're not compensated. What I love about it is, this may be a group that could help looking for grant money from organizations that are promoting green space, that are promoting, whether it's the EPA, there's so much money out there for sustainability. So, I'd like to bring this back to life. In reviewing the records, I think, Vicki, correct me if I'm wrong, it was active in 2007...

**Clerk of Council:** Up until 2007.

**Councilwoman Grebenc:** So, it's an opportunity and it exist. I'd love to speak about it in more detail.

**President Fellows:** And we can put that topic in Council Committee of the Whole.

**Councilwoman Grebenc:** Perfect. Thank you.

**Vice President Plecnik:** On the topic of new committees and commission, I would like to move to appoint Christina Luciano-Welch and Keith Martinet to our Board of Income Tax Review for the City. They've served previously in those roles, but I believe their appointments expire every two years. So, I'd like to move to appoint both of them for another term.

**Councilwoman Pizmoht:** Second.

**President Fellows:** Great. So, the appointments go from June to June. So, I believe Mr. Martinet's will expire this June as a member of two years on it. And Christina has just been appointed, I believe in October or November. So, hers would expire in June of 2019. I think. Something like that.

**Councilwoman Pizmoht:** Madame President. She took over my seat on the Board of Tax Appeals and I was appointed at the same time as Keith Martinet.

**President Fellows:** Okay, so both of them, both of them are serving until June of 2018. 2019, 2018?

**Clerk of Council:** 2018. It's on the City Roster that just came out.

**President Fellows:** It's on the roster that just came out.

**Vice President Plecnik:** Well, I just want to make sure that we keep our committee staffed and if they're there until June, so be it. We will remake the motion then. But, I do want to thank Christina Luciano-Welch and Keith Martinet for their service to the City. Like many commission, they're not compensated in that role. And they are there to defend the interests of the taxpayers if there are any disputes with or local taxes.

**President Fellows:** I'm getting the impression from the Mayor that this is fine.

**Mayor:** I'll check it.

**President Fellows:** Yeah, this is fine. We did check it because it goes from June to June instead of the calendar year.

**Clerk of Council:** The roster that Gloria just put out has that timeframe.

**President Fellows:** Or it does not go from the date that they were appointed as their toll month. Maybe we should look at that.

**Vice President Plecnik:** Please do double check, I want to make sure that the committee is fully staffed.

**Councilman Hallum:** I was just curious, because to my knowledge, Steve Byron has not or presented any, gone to the Civil Service for his qualifications and such. We're requiring anybody else who is an officer of the City to do that and I'm wondering if he might be subjecting himself to that.

**President Fellows:** So, are you acknowledging that Mr. Byron is the Acting Law Director?

**Councilman Hallum:** Well, I was just told that's the law of the land. So, I might not agree with it, I still think that if somebody is going to be acting in that role, in some, in any capacity, that they should submit themselves to Civil Service to be qualified.

**Acting Law Director:** The ordinance didn't provide for that. The ordinance sets what the law is. There's nothing that would prohibit Council from engaging in that process by ordinance. But, I'm not a Charter appointed official. So, I'm not subject to the same terms and conditions as one of those people would be.

**President Fellows:** He's not an employee of the City.

**Acting Law Director:** I'm not employed by the City. The terms and conditions of my relationship to the City are as established by the Ordinance, not by the Charter. That's why the Charter process, the Mayor terminating somebody doesn't apply. The ordinance provides for removal, the terms of removal; four members of Council or if I give notice or if a Law Director is appointed and confirmed. Those are the three conditions. So, if Council wants to submit my background and review, for review by the Civil Service Commission, you have the authority to do that.

**Councilman Hallum:** I think that we should do that. I'd like to make a motion that we have Steve Byron submit himself to Civil Service.

**Councilwoman Grebenc:** Second.

**President Fellows:** I have a motion from Councilman Hallum and a second from Councilwoman Grebenc to request that the Acting Law Director Steve Byron be submitted to a Civil Service inquisition.

**Councilman Hallum:** Review.

**President Fellows:** And in so doing this, would assume he's the Law Director.

**Clerk of Council:** A candidate to be Law Director.

**Vice President Plecnik:** Madame President. If at such time, Mr. Byron is nominated by our Mayor to be the Law Director then per the Charter, he will go through the Civil Service Commission Review. But, I would hope that in between then and now, we would staff the Civil Service Commission with attorneys, employment law experts, with people who are capable of doing a good review. I want to remind Council and the public that the three-member commission that the Mayor appointed were the ones that assured us that they had fully vetted Mr. Bobby Di Santo when it turned out that number one, he had not graduated from college; number two, although he had checked no discipline, in fact, he had been disciplined by his previous employer and that was documented in a front-page Plain Dealer article that apparently the Civil Service Commission didn't bother to check. That he did not have the certifications that were required in the application and that he claimed to have. And when I questioned the Civil Service Commission Vice Chair at the Council meeting and asked him, did he check the educational background, specifically the college degree of Mr. Di Santo, his response was to explain how he did a public records request to check it which I agree in terms of methodology. That's how I checked Mr. Di Santo's college background and learned that he did not have a degree. So, I have zero confidence and the public has zero

confidence in the Civil Service Commission that the Mayor's appointed. And I don't find their review to be particularly useful. Now, at such time we have a new Mayor and a new commission with qualified people then I think that might be a useful endeavor. But, unless or until then, I don't think that it would provide me with any added insurance that Mr. Byron has his credentials. I certainly respect Mrs. Caroline Patton on the commission, but two of the three members have not demonstrated good faith in the past. And when one lies to Council and by the way, lying at a Council meeting is falsification and is actually a crime, I don't find that review to be particularly helpful. So, I'm not in favor of this because I don't think a Civil Service review would provide me with any information about Mr. Byron's background that I don't already have from my own research. And what I've learned about Mr. Byron, is not only was father, a founding father of Willoughby Hills and drafted the original version of the Charter; not only is he one of the most respected municipal attorneys in all of Northeast Ohio; not only does he represent many other municipalities in the same way that he represents Willoughby Hills. He has guided us through an incredibly difficult time where the Mayor sued his own City, ran his secretary for Council. Oh my gosh, appointed himself Fire Chief and what else, Mayor? I mean, this attorney has stood up in a difficult time for Willoughby Hills and he's honoring his father's legacy and I'm grateful for it. Thank you.

**Councilman Hallum:** He has nothing to lose. Awesome.

**President Fellows:** We have a motion on the floor.

**Roll call:**        **YEAS:**        **Grebenc, Hallum, Majka, Pizmoht**  
                     **NAYS:**        Fiebig, Plecnik, Fellows

**Motion PASSED.**

**President Fellows:** Motion passes with four affirmative votes; you have to go through the inquisition. We have two additional motions that we amended the agenda for at the beginning of the meeting. The first would be, I would look for a motion to...

**Councilman Fiebig:** Madame President. I have it. I move that Council request that the Mayor go out to bid for asphalt and limestone needs for the City for 2018.

**Councilman Hallum:** Second.

**President Fellows:** I have a motion from Councilman Fiebig and a second from Councilman Hallum to direct the Mayor to go out to bid for asphalt and limestone for 2018. Any discussion on the motion?

**Roll call:**        **YEAS:**        **Fiebig, Grebenc, Hallum, Majka, Pizmoht, Plecnik, Fellows**  
**Motion PASSED.**

**President Fellows:** The Mayor had requested that we go into an executive session to discuss acquisition of City property and possible litigation; including all of Council, the Mayor, the City Engineer and the Acting Law Director. Excusing the Finance Director, for approximately five minutes.

**Councilman Fiebig:** So moved.

**Councilman Hallum:** Second.

**President Fellows:** I have a motion from Councilman Fiebig and a second from Councilman Hallum to go into executive session including members of Council, the Mayor, City Engineering and Acting Law Director. Excusing the Finance Director.

**Acting Law Director:** Second executive session... [undecipherable]

**President Fellows:** To follow after the five-minute executive session with the Mayor, I would look for a motion to go into executive session to discuss pending and imminent litigation and the appointment, compensation, removal of City Officials or employees inviting all of Council, the Acting Law Director and Attorney Joseph Gross for an unlimited time.

**Acting Law Director:** Greg Beck.

**President Fellows:** Oh, Greg Beck. Sorry. Inviting and excusing the Mayor, the Finance Director, and the City Engineer.

**Councilman Fiebig:** So moved.

**Councilwoman Pizmoht:** Second.

**President Fellows:** I have a motion from Councilman Fiebig and a second from Councilwoman Pizmoht.

**Councilman Hallum:** Council President, maybe you said it and I just missed it. We normally say it's after for the Good of the Community but before Adjournment. Did you say that. I assume that's what we're going to do, right.

**President Fellows:** So, we will go into executive session for these two topics after For the Good of the Order and For the Good of the Community. Thank you.

And the Acting Law Director is asking that I let you know that there maybe some legal action taken after the executive sessions; legislation. Thank you.

**Roll call: YEAS: Fiebig, Grebenc, Hallum, Majka, Pizmoht, Plecnik, Fellows**  
**Motion PASSED.**

**President Fellows:** So, this is to go into a second executive session following the first after "For the Good of the Order"; after "For the Good of the Community" and coming back to the Council table to address legislation.

### **FOR THE GOOD OF THE ORDER**

**President Fellows:** For the Good of the Order.

### **FOR THE GOOD OF THE COMMUNITY**

**President Fellows:** For the Good of the Community.

**Councilman Fiebig:** Madame President. There's going to be a Law Enforcement Appreciation Night, Saturday, January 27<sup>th</sup> from 6:00 to 10:00pm at the Banquet Center across the street at St. Noel. This will be featuring the guest speaker our own Officer Craig Anderson. The officer who heroically was involved with the shooting at Classic BMW up the street. And this is put on by Blue Line Unlimited, no affiliation with the City. Tickets are \$40.00 for a single; \$70.00 for a couple for dinner with soft drinks and beverages. And the benefit will be for the officer or his selected charity. So, this is a good opportunity to get together as a community and thank our men in blue, our women in blue and just show support to the community for this officer and his heroic efforts. I encourage you to join the event at [BlueLineUnlimited.Com](http://BlueLineUnlimited.Com). And tickets should be purchase by Monday, January 22<sup>nd</sup> for this Saturday, January 27<sup>th</sup> event.

**Vice President Plecnik:** Madame President. If I could share, St. Vitus Church which many of our residents are members of, is celebrating its 125<sup>th</sup> anniversary this coming Sunday with an all parish mass. So, as a parishioner

and a resident of Willoughby Hills, I just want to congratulate St. Vitus Church on 125 years. So, maybe I'll see a few of you there. But, that's quite a while for a church and quite a legacy for Cleveland and Willoughby Hills. Thank you.

**President Fellows:** We will go into our first Executive Session at 8:30pm.

**With all members of Council present, as well as the Acting Law Director, President Fellows reconvened the meeting at 11:01pm and requested a motion for adjournment.**

**Councilman Fiebig:** Madame Chair...

**Councilwoman Pizmoht:** Weren't we going to change the tabling of the Michael Germano confirmation?

**Acting Law Director:** It's a motion to reconsider permanent tabling.

**Councilwoman Pizmoht:** Okay. A motion to reconsider the permanent tabling of the appointment of Michael Germano for Law Director.

**Councilman Hallum:** Second.

**President Fellows:** I have a motion from Councilwoman Pizmoht and a second from Councilman Hallum to vote to reconsider the tabling of Michael Germano for Law Director. Any discussion?

<b>Roll call:</b>	<b>YEAS:</b>	<b>Fiebig, Grebenc, Hallum, Majka, Pizmoht, Fellows</b>
	<b>NAYS:</b>	<b>Plecnik</b>

**Motion PASSED.**

**Councilwoman Pizmoht:** A motion to consider Michael Germano as Law Director.

**Acting Law Director:** You should make a motion to either confirm or reject the nomination...

**Councilwoman Pizmoht:** Okay. So, I move to confirm or reject the nomination...

**Vice President Plecnik:** No, you have to choose one.

**Councilwoman Pizmoht:** Okay, I'm going to move to reject the nomination of Michael Germano for Law Director.

**Councilman Fiebig:** Point of order here. Aren't motions usually made affirmative?

**Councilman Hallum:** That's what I understood, too.

**President Fellows:** Yes.

**Councilman Fiebig:** Therefore, a rejection of it is voted in the negative.

**Councilwoman Pizmoht:** That makes it confusing. Can we just do it like we normally do.

**Acting Law Director:** Go ahead.

**Councilwoman Pizmoht:** I move to vote on accepting the nomination of Michael Germano for Law Director.

**Acting Law Director:** To confirm.

**Councilwoman Pizmoht:** A motion to confirm Michael Germano as Law Director.

**Acting Law Director:** Is there a second?

**Councilman Hallum:** Second.

**President Fellows:** I have a motion from Councilwoman Pizmoht and a second from Councilman Hallum to confirm Michael Germano as the City Law Director. Discussion?

**Roll call: YEAS: Fiebig, Grebenc, Hallum, Majka, Pizmoht, Plecnik, Fellows**  
**Motion FAILED.**

**President Fellows:** The motion to confirm Michael Germano to confirm Michael Germano as Law Director has failed.

### ADJOURNMENT

**Motion was made by Councilman Fiebig to adjourn. Councilwoman Pizmoht seconded.**

**Roll call: YEAS: Fiebig, Grebenc, Hallum, Majka, Pizmoht, Plecnik, Fellows**  
**Motion PASSED.**

**The Regular Council Meeting of January 11, 2018 was adjourned at 11:05pm.**

**APPROVED:**

February 22, 2018  
Date

Nancy E. Fellows  
Nancy E. Fellows  
President of Council

**ATTEST:**

Victoria Ann Savage  
Victoria Ann Savage, CMC  
Clerk of Council