

City of Willoughby Hills

Regular Council Meeting Minutes of January 25, 2018

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.

The Regular Council Meeting was held on Thursday, February 8, 2018 at 7:01pm in the Willoughby Hills Council Chamber. President Fellows presided.

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

Absent: Councilwoman Pat Grebenc, Mayor Robert M. Weger

Others Present: 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: Councilmembers, I would ask that you amend the agenda to accept Councilwoman Pat Grebenc's resignation. I have before me a letter dated January 25th:

"Dear Mayor Weger and City Council, I would like to inform you that I am resigning my position as Council-at-Large IV of Willoughby Hills for personal reasons. Please consider this effective immediately. Thank you for the opportunity to serve. Best regards, Pat Grebenc."

Vice President Plecnik: So moved.

Councilman Fiebig: Second.

President Fellows: I have a motion from Vice President Plecnik and a second from Councilman Fiebig to accept the resignation, to amend the agenda to accept the resignation of Councilwoman Pat Grebenc. Any discussion on the motion?

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

Vice President Plecnik moved to accept Councilwoman Pat Grebenc's resignation. Councilman Fiebig seconded.

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

President Fellows: It is with sadness that we accept her resignation. Next, I would look for a motion to amend the agenda to set aside the Mayor's vetoes on Ordinances 2018-1 and 2018-2.

Vice President Plecnik moved to amend the agenda to set aside the Mayor's vetoes on Ordinance 2018-1 and 2018-2. Councilman Fiebig seconded.

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

Motion PASSED.

President Fellows: The agenda has been amended to accept a motion to set aside the Mayor's vetoes of Ordinances 2018-1 and 2018-2.

Councilman Fiebig moved to set aside a veto of Ordinance 2018-1. Vice President Plecnik seconded.

President Fellows: I have a motion from Councilman Fiebig and a second from Vice President Plecnik to set aside the veto of Ordinance 2018-1. Any discussion on the motion?

Councilman Hallum: Madame President. I'm just wondering what Mr. Byron said at the last meeting what might be the better selection, to remove that section and follow state law.

President Fellows: Any discussion on that?

Vice President Plecnik: Madame President. I think that it's pressing that this ordinance go into law now given that we have one former employee asking to be indemnified for his own malpractice. And another employee asking us to pay for two criminal defense attorneys who specialize in public corruption and federal crimes. I don't want any of our taxpayers' dollars to be directed towards defending criminal cases, malpractice actions. We've discussed how expensive legal services are and while we need to expend funds to defend the City we shouldn't be defending people who are worried about their own misconduct, that's of a criminal nature. We want to protect our employees who are acting in the course and scope of their duty. But, we do not want to defend employees who step outside the course and scope and behave criminally. And I think that it is important to clarify that in an ordinance so that no taxpayers' dollars are misspent as such.

Councilwoman Majka: Madame President. Just for purposes of clarification because of the question that was answered and just because of my own questions with no having a law background, I wonder if Mr. Byron, if you could explain in layman's terms, like what exactly are the differences between what we had before and what we're trying, what we're talking about passing right now.

Acting Law Director: Sure. The City has had an indemnification ordinance for longer than the provisions of state law required it. And when it was written, there weren't the exclusions placed in there. I've heard the expression that somethings shouldn't have to be written down. It's true, lawyers insist upon certain things being written down and these are some of them. So, the, it would be a policy choice to repeal the ordinance in its entirety and just rely on state law for indemnification purposes. I can remember one instance where Mort O'Ryan was elected by a very, very narrow margin. And there was an election contest that went to court. And the City looked at this ordinance and said that he was entitled to indemnification because he did not do any action and the Board of Elections counted the votes. And he raised his right hand and took the oath of office and that's what put him in a position to be sued. So, that would be broader context for indemnification than the state code would provide. Because he took an action as an official of the City he received indemnification from the City. So, your ordinance is a little bit broader and provides a little bit more protection than state code would otherwise. But, it's your policy choice. You could repeal and just matchup with what's state code. It's Council's choice.

President Fellows: Any further discussion?

Councilman Fiebig: Madame President. I believe that highlights it pretty well; a local municipality has home rule, they have the opportunity to state what their best values, best practices are and that is what we're doing. Of course, everything else defaults to state law, but what we're doing is saying emphatically and very positively that this is what we're trying to do. This is the ideal that we're holding ourselves up to. And so, for that matter, I think that it is appropriate and I will support this.

Councilman Hallum: Madame President. One other question for Mr. Byron. So, Mr. Plecnik had spoken about some indemnification from some current or past employees. And, I guess my question is, how will this affect, I mean, what part does this play because laws, new laws, does it apply to past things, I've never thought...

Acting Law Director: The two things that I'm aware of, the request for indemnification are premature. Our ordinance requires that they be delivery of a written request for defensive and indemnification along with the notice of suite, usually complaint or maybe, I suppose, if it were a criminal action, indictment. Neither of those things have come about. The one that I'm familiar with, there is an investigation that will be conducted regarding whether or not there was legal malpractice. No determination has been made to file an action in that situation. We must first do the investigation to determine whether or not the standard of conduct was not properly met. So, a change in the ordinance now would take away an argument at some later date if somebody sought indemnification at a time when they were actually entitled to it under the ordinance. And so that's why the change would be made now.

Councilman Hallum: So, just want to make sure that I understand. So, if, I don't know the situation, if somebody, three years ago, and suddenly we decide that what they did wasn't correct, would that since it happened in the past, want would apply the new law or the old law?

Acting Law Director: Well, the City's obligation to pay funds to someone is not something that it's required to do at any certain time. The current request that is in front of the City, doesn't meet the current standard. So, there's no obligation on the part of the City to pay funds at this point and time. What they are doing is making a change to the code so that in the future only certain conduct would be, entitle somebody to indemnification. If somebody is responding to an emergency condition and has an auto accident with an emergency vehicle, of course that would be covered. But, if someone engages in anyone of the activities that are listed as an exclusion, those aren't going to be covered and this just clarifies that.

Councilman Hallum: Thank you.

Councilwoman Pizmoht: Madame President. Mr. Byron, so is it safe to say that the 2018-1 is essentially just a more clear, more defined indemnification ordinance than the old Section 111. It's almost the same, it's just a little bit more clearer on what is covered and what is not covered in the indemnification policy.

Acting Law Director: I would say that the exclusions that are purposed in the revised ordinance are consistent with the exclusions that exist in state law. They are not all, I saw the Mayor's veto referenced one specific section of the Ohio Revised Code, that's not the only source of exclusions. There's another section, 2744.03 which also contains some of these exclusions. So, although the Mayor has the authority to veto an ordinance, for any reason or no reason, his legal analysis, I don't believe is correct.

President Fellows: There's a motion on the table, call the roll.

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

Motion PASSED.

President Fellows: The motion to override the veto on Ordinance 2018-1 has passed.

Councilman Fiebig moved to set aside the veto of Ordinance No. 2018-2. Councilwoman Pizmoht seconded.

Councilman Hallum: Madame President. I seem to recall that when the initial Ordinance 78, 77 was passed that part of the reasoning behind the amount of money that we were willing to pay was because we were getting all of Walter Haverfield in addition to Mr. Byron, because they have extensive municipal experience. And now this new law firm that Mr. Byron is now working for, I don't get a sense that they are as experienced as Walter Haverfield and so, I'm just wondering, you know, are we, the fact that we're paying the same but not seemingly getting the same people with the same experience other than Mr. Byron, I would exclude from that. But, the wealth and breathe of knowledge that we have with Walter Haverfield we no longer have.

President Fellows: Any other comments?

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

Motion PASSED.

President Fellows: The motion to set aside the veto on Ordinance 2018-2 has passed.

Acting Law Director: Thank you.

President Fellows: The order of business is the Disposition of the Journal for the minutes of the Organizational and the Special meeting of Council held on January 8, 2018.

DISPOSITION OF THE JOURNAL

Vice President Plecnik: In making my motion to adopt the minutes of the Organizational and Special Meeting of Council held on January 8, 2018 may I congratulate you on being unanimously re-elected to a second term as our Council President, moved.

President Fellows: Thank you.

Councilman Fiebig: Second.

President Fellows: I have a motion from Vice President Plecnik and a second from Councilman Fiebig to adopt the Organizational and Special Meeting of Council held on January 8, 2018. Any discussion on the motion?

Councilman Fiebig: Madame President. Just for the residents that perhaps ask me about this that are reading along and I welcome our residents to read along, the minutes. The audio is the official record and that's available, pretty much, after the meeting is over; within about an hour, our Clerk uploads that and that is the official record of the meeting. These minutes are typed literally verbatim from those minutes and it does sometimes take up to a couple of weeks to get those all done depending on what other legislation has to be written. So, our Clerk is doing a fantastic job with keeping up with that. But, it certainly does take a little bit of time. So, we ask for your patience on that and of course, reminder that audio is available on the website almost immediately.

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

President Fellows: The minutes of the Organizational and Special Council Meeting held on January 8, 2018 have been adopted.

ADMINISTRATION REPORTS & COMMUNICATIONS

President Fellows: The next order of business is the Law Director's Report, Mr. Bryon.

ACTING LAW DIRECTOR'S REPORT: No report.

President Fellows: Are there any questions for Mr. Byron this evening?

Vice President Plecnik: Mr. Byron. I would ask you for the benefit of Council and the public, if you could discuss the lawsuit of Lobe vs. Willoughby Hills.

Acting Law Director: Yes. The lawsuit requests certain noneconomic, nonmonetary damages. A declaration that the former Law Director is entitled to indemnification pursuant to the City's ordinances. And that I'm not the Law Director of the City of Willoughby Hills or the Acting Law Director; that, the ordinance is not valid, raising the same issues that the Mayor had raised in his law suit. I spoke with the insurance defense counsel who is handling the Mayor's lawsuit and he had indicated that he would be transmitting the information to the insurance company PEP, the Public Entities Pool of Ohio that provides the coverage to the City and that it would be likely that his firm would pick up the defense of this suit as well. And would likely seek to consolidate those two cases because they share many of the common issues.

Vice President Plecnik: And Mr. Byron, just to follow up, was I correct in reading the Complaint which was served to Council that Mr. Lobe actually names Attorney General Mike DeWine as a defendant in the suit?

Acting Law Director: He is listed in the caption, yes.

Vice President Plecnik: Would it be possible for Council to pass a resolution apologizing on behalf of the City of Willoughby Hills that he was named as a defendant? Because I don't want our Attorney General to take the misimpression that our City in anyway, impugns his honor or wishes him to be sued in court. I find it unfortunate that a resident of our City would involve Attorney General Mike DeWine in his own lawsuit. Could we pass a resolution apologizing to Attorney General DeWine?

Acting Law Director: Council has the authority to enact senses of Council on any lawful issue.

Vice President Plecnik: So, you would say, that it would be lawful to pass a resolution to give an apology on behalf of the City for this conduct?

Acting Law Director: Yes.

Vice President Plecnik: Thank you.

Councilman Hallum: Madame President. Mr. Byron, could I ask why he would name the Attorney General?

Acting Law Director: If there is an assertion that a state statute is unconstitutional. I know you have to name the Attorney General. It wasn't clear to me, from reading the Complaint, the reason why the Office of the Attorney General was named.

Councilman Hallum: Okay. Thank you.

President Fellows: Any other questions?

Councilman Fiebig: Madame President. There's a, you know, sometimes when you get a court reporter or a person, say in the media, the News Herald in particular, that reports action in the court, and they didn't have the opportunity to speak with you, the Council President or with Mr. Bryon, so she simply listed some of the things

that were claimed in the lawsuit, in the action that Mr. Lobe sued his own City. So, I don't want people to get the impression that those are facts. For example, it was cited that our current Acting Law Director is paid four times the amount of the yearly salary of the former Law Director, that's just simply not true. And there were some other things in there that are speculation, that are his claim and I'm sure that it would not be talking out of turn that there's going to be a counterclaim to all these which denies many of these things and also as a counterclaim to those things. So, that's unfortunate when you have media and they just pick up on certain things. You know, it's not fake news but it's not completely the whole picture. So, I just want to clear that up.

President Fellows: Thank you, Mr. Byron. The next is the Finance Director's Report, Mr. Brichacek.

FINANCE DIRECTOR'S REPORT: I have nothing to report tonight.

President Fellows: Thank you, Frank. Are there any additional questions for the Finance Director this evening?

Councilman Fiebig: Madame President. Frank, how's the budget coming along?

Finance Director: It's coming along.

Councilman Fiebig: All right. We talked about February 1st...

Finance Director: We're still on target, not February 1st, but very close to February 1st.

Councilman Fiebig: What do you think the method of distribution of that would be? Will you just ask us to come in and pick up a copy of it or...

Finance Director: I'll give copies to the Clerk.

Councilman Fiebig: Copies to the Clerk, okay. All right, good.

Finance Director: Just the same way that we have done in the past.

Councilman Fiebig: All right. Well, we're looking forward to reading that and if there are any questions or anything that we can do to help prepare that because I know that the Mayor's been out of town, so if there is anything that we can do, please don't hesitate to reach out.

Councilman Hallum: I have a question for the Finance Director. Mr. Brichacek, what amount of money were we paying Mr. Lobe for his retainer on a monthly basis?

Finance Director: Tom Lobe's retainer was twenty-six hundred dollars (\$2,600) a month, coming from memory, now, twenty-six hundred dollars (\$2,600) a month and...

Councilman Hallum: Mr. Byron's is...

Finance Director: Mr. Byron's is ten thousand dollars (\$10,000) a month.

Councilman Hallum: Okay. Thank you.

Vice President Plecnik: Madame President. Was Mr. Lobe only paid a retainer or was he also paid billable hours?

Finance Director: He was paid billable hours as well.

Vice President Plecnik: Thank you.

Finance Director: And he was paid at the rate of ninety-five dollars (\$95.00) a billable hour. The agreement calls to pay Mr. Byron two hundred and fifty dollars (\$250.00) a billable hour.

Vice President Plecnik: Madame President. Has Mr. Byron every been paid billable hours?

Finance Director: Not yet.

Vice President Plecnik: In fact, has he ever been paid anything by the City of Willoughby Hills?

Finance Director: Not yet.

Vice President Plecnik: I think that the point has been made. Thank you.

Finance Director: But, we will be issuing a check tomorrow on the invoices that have been submitted.

Vice President Plecnik: Finally.

President Fellows: Thank you. City Engineer's Report. Mr. Di Franco.

City Engineer: Thank you Madame President. Last week we received an update from our Bridge Contractor on the Pleasant Valley Bridge. As of last week, the materials were ordered, but had not arrived yet. So, they anticipate starting work mid-February. And that completes my report.

President Fellows: Thank you, Pete. Are there any questions for Pete this evening? Okay, moving on we have Committee Reports.

COMMITTEES OF COUNCIL

President Fellows: This evening we had a Finance Report. Vice President Plecnik, did you want to just touch base on it?

Vice President Plecnik: Absolutely. Madame President, I called a Finance Committee before our Council meeting so that we could discuss, among other things, a purchase order to Fire House Services and Consulting, LC. Councilman Fiebig as a member of the Finance Committee has taken the role of approving POs or expenditures of over \$2,000 which exceed the Mayor's limit and in his review, he wanted to hold this particular PO of fourteen thousand, seven hundred dollars (\$14,700) for all of our review. Unfortunately, the Mayor wasn't able to join us to discuss why this PO was necessary because as the Finance Director relied, he was on vacation, is on vacation in Hawaii, but hopefully, when the Mayor returns, we'll be able to inquire as to what the nature of this PO is and if it is in the best interest of the City.

Councilwoman Pizmoht, as I opened up the discussion to other issues, raised concerns about a couple of purchase orders. In particular, she was worried about a PO from New Moon Raising, Inc. where a donation was made by the City for therapeutic gardening in the amount of eight hundred, seventy-two dollars (\$872.00). She also raised concerns about a PO to Ripen Law Firm. Our Finance Director said that he wasn't familiar, off the top of his head, with those POs and would review them and get back to us.

Councilman Fiebig had asked our Finance Director whether or not there had been additional payments made under the union contract. Our Finance Director answered not at as yet, but they had intended to adjust to the union contract that has, that actually was voted down by Council, but, nonetheless, was signed by the Mayor

without authorization which would give the nine percent (9%) raises, tenure, that we've all discussed, many times.

Council President Fellows raised the issue that she had been informed by the Executive Assistant to the Police Chief that there are POs in the Police Department that haven't been paid. Councilman Fiebig expressed concern about late fees and the Finance Director had agreed that he would follow up on those issues.

We opened Public Portion at 6:47pm. No one spoke, so we closed the meeting at that time as well. I certainly stand open to questions.

Councilman Hallum: Mr. Finance Chair, you had a meeting on the 28th of December and I've asked a couple of times for the minutes. I know that you were, you had a lot, you told me. So, I'm just wondering, are we close to being, because I really want to read the minutes for that meeting.

Vice President Plecnik: I'm still working on...

Councilman Hallum: There was a lot that was discussed and I wish I could have been there, but I wasn't.

Vice President Plecnik: Thank you, Councilman Hallum. I'm still working on the minutes of that meeting. But, as I had shared with you at the last Council meeting, the most important point of those minutes, and the most important point of discussion is that in reflection of the election that had happened and the word of the people, our goal as a Council and our first priority is to put roads, police, and fire first and that will require cutting substantial amounts from administrative overhead. But, I will continue to work on the minutes as I always do.

Councilman Hallum: Does that include combining our Fire Department with another City because that's what I hear tell, I have and since I haven't seen the minutes, is that...

Vice President Plecnik: Council President Fellows had asked several questions of our Acting Fire Chief Tom Talcott and some of the questions that came up were what synergies could be found by combining departments or by working with other cities. She asked the question of what coordination we could have with Willoughby. I believe it was also asked, I believe that I had asked him whether or not we could have a Dispatch Center that worked with Lake County as a whole and whether there would be any savings from that, but I don't believe that there was a discussion on combining fire departments, so much as the question of whether or not if there were services or positions that could be combined with the Willoughby Fire District or Lake County as a whole. We'd also asked Acting Fire Chief Tom Talcott about the budget and his general response was that in the six months, he hadn't had time to review the Fire Department budget and so there wasn't a lot of discussion on that point either. So, that's the best recollection that I have about that part of the meeting.

Councilman Hallum: Thank you.

President Fellows: And Councilman Hallum, I did receive a follow up email from Acting Fire Chief Tom Talcott after he had a discussion with the Chief from Willoughby, with some pertinent information about that not probably being a viable option. So, it was just a question, it wasn't...

Councilman Hallum: Unfortunately, I wasn't able to be at the meeting, and I hadn't seen the minutes, so I just didn't want it to go on too long without asking the question. Thank you.

President Fellows: All right. So, the next one is Planning and Zoning. And Councilwoman Grebenc was the Chair for that committee. So, Council will need to address a Chair Representative and then subsequently, the Chair becomes a voting member of the Planning and Zoning Commission. And this month, both meetings of the Planning and Zoning Commission have been cancelled. The next one is Recreation...

Councilman Fiebig: Madame President. Since I'm the alternate member, I'll go ahead and cover the next meeting so that we'll have somebody there, okay.

President Fellows: Thank you. Then the next one is Recreation and Councilman Hallum, had indicated, I don't think that they have had a meeting since you've been on.

Councilman Hallum: No. I think one is coming next week.

President Fellows: Do you have any committee members?

Councilman Hallum: Well, it was Pat for one.

President Fellows: I'll serve with you. And also, it's going to come up a little later here, in Legislation, but I'd like to put the legislation or the topic of the Memorandum of Understanding with the Boy's League into the Recreation Committee as we had done some years ago when that was created.

Councilman Hallum: Okay. Thank you.

President Fellows: There are no other committee meetings except for the Working Committee of Council which met this evening for a few minutes and we discussed, the topic of discussion was concerning communication practices in the City of Willoughby Hills, particularly focusing on the City News Letter and also some concerns around some of the actions of the Mayor. And there was no one that came up for Public Portion and we adjourned at 7:00pm.

Are there any other Council Representative Reports this evening?

OTHER COUNCIL REPRESENTATIVE REPORTS

Councilman Fiebig: Madame President. I wanted to report that the Communications Ad-hoc Committee, while we haven't met, I continue to do research and reach out to various vendors to find out what we can do to operate the video facility and the ability to have these meetings online. I have an online, go to meeting, if you know what that is, tomorrow morning with a company that does documents. They're called Director Point and I also had one last week with another company because part of this was to integrate, for example, this pile of newspapers, if we all had what you're using, Mr. Hallum, at our tables here and the Planning and Zoning also had that and perhaps if we had a video monitor up here where people here are watching this could also see what we're looking at. And residents that wanted to do a garage update, for example, they could just submit that; perhaps we could even have, like a camera, that would look at a piece of paper like that and get it up where we could see that. And these meetings would then be available online so that you could watch it, you know, at midnight or 6am, whenever you would like to, or to go to sleep at night. But, that continues; I hope to eventually bring somebody into the facilities here and will take a look. In fact, I was hoping to do it even tomorrow if possible. But, it does continue and I know that we will have a meeting when we're getting to the point when we're talking about appropriations and the money. I think that's the next step because we were, in our initial meeting, I think that we were all in agreement that, that's what we need to do and we're just getting there. It's just going to take a little bit of time and a little bit of work, but we're making progress on it. Just wanted to report, thank you.

Councilman Hallum: I saw Wickliffe, I think that they have a resident that is doing it for them for free, that has the technology and everything. I don't know if that's a temporary "free" or what that is.

Councilman Fiebig: I saw that as well and I called three times and I got no answer, so, I kind of gave up on that because part of the thing is that you want to be able to call someone and they are going to pick up the phone.

Councilman Hallum: So, you called whoever the company was...

Councilman Fiebig: I tracked it down and found out who that was; they say that it's a Wickliffe number, but the phone numbers I've gotten were in Berea, Parma or something, but so I did follow up on that.

Councilman Hallum: I know, I just thought from a perspective on it, if we had someone that lived in our City that might be able or willing to do something like that, that might be an option, a potential...

Councilman Fiebig: Well, I'm saying that here and now, if there's anybody who is listening, who would like to help with that end of things and can offer some expertise; so that would like to help facilitate this, I'm open to that and certainly for those services to be volunteered or at a reduced rate because you're a resident, absolutely. We're definitely looking at that.

President Fellows: Thank you. Okay, our next order of business will be Public Portion.

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 forth to share their opinions. We ask when you come forward that you state your name and your address and to keep your comments to three minutes. **I will open public portion at 7:34pm.**

John Preuer – 8946 Trailwood Court, Mentor. And I'm coming before you as a past President of the Lake County Fire Chiefs and the Senior Chiefs of those assembled here this evening. The Association has prepared a letter for Council and with your indulgence, I would like to read that letter to you:

Dear Council President Fellows and Members of Council,

The Lake County Fire Chief's Association is here tonight to recognize and honor the 43 years of dedicated years of service of Acting chief Tom Talcott to the city of Willoughby Hills.

Chief Talcott is a devoted member of the City of Willoughby Hills Fire Department. He is highly respected by his peers and has committed himself to promote the safety and well-being of firefighters of all of Lake County.

Within the Lake County Fire Chief's Association, Chief Talcott is the treasurer of the organization, the Chair of the Mutual Aid Box Alarm Committee, the Chair of the Local Emergency Planning Commission, and a past President of the Association.

Chief Talcott is also an active member of the Ohio Fire Chief's Association. He currently manages the written testing program that develops and administers entry level exams and promotional exams for the fire departments across Ohio.

As you could imagine, Tom has seen a lot of changes to the fire service that has affected the City of Willoughby Hills over his 43-year career. Tom has provided unwavering leadership and dedication to your fire department to address those changes and bring stability to the organization in times of uncertainty.

Chief Talcott has been able to remain the voice of reason with a calming demeanor necessary to reorganize and operate the Willoughby Hills Fire Department in a safe and efficient manner throughout his career. Over the

past six months as Acting Chief, he has restored confidence to your fire department and bolstered relationships with neighboring Fire Chiefs and their departments. These relationships are essential to managing emergencies.

Most recently, Chief Talcott was the Incident Commander of an active shooter event in our community. The preparedness of the fire department and his strong relationships with his neighbors brought that incident under control in a quick and efficient manner. The Lake County Fire Chief's wanted to be here tonight to show our appreciation and our admiration to Tom Talcott and what he means to each of us and our organizations. We are grateful for his senior leadership and are indebted to him for his contributions he has made to make the Lake County fire service what it is today.

Thank you for the opportunity to speak tonight.

Doris Dodge – 37881 Milann Drive. I just have a question, what groups are now being permitted to use the Grange? Are there any groups using it, because I've still seen collection of cars up there on occasion and I don't know if this is something that should be going on? I want to know who is using it. The second thing that I wanted to know is with all the speed bumps on Route 6, could this be damaging to our snowplows when they are trying to plow? Do they have to set the blades up higher, like you would a lawnmower? Because what I've found going to work in the morning that we have like what is a path and as soon as I hit Countyline, going to Mayfield, it's down to bare pavement. So, I'm just wondering if this could be damaging our plows with all the ruts and bumps that we have in our roads.

Mike Tyler – 2770 Worrell Road. First, it's been my sixth year asking for Route 6 to be taken care of between 174 and Worrell Road. And I hope, I've been in contact with our City Engineer, wonderful, ecstatic Engineer that we have, he's great. I would hope that there would be some report from that. So, thank you.

Joyce Grady – 3020 Marcum Boulevard. I could not possibly meet the eloquence of the first gentleman. I see that you are planning on doing, rehiring Rich Harmon who has retired and I as a retired personnel, get very tired of seeing someone retire and then they are hired back in for more money when you have an abled body candidate ready to step-in as your Fire Chief. And I really think that the five of you should consider what you're doing. Thank you.

Linda Fulton – 2990 Marcum Boulevard. I know that I harp on this all the time. But, the mics, what's happening is when you turn your head to the left or to the right, the microphones do not pick up your voice. Just be aware of that; so that when you are speaking into the mic and you go like this, (turned away from the microphone) nobody hears you but the people up here. And I think that may be the mics need to be tweaked, they haven't been for many, many years. So, that's something that you might want to work on. The other thing that I want to bring up is, and may be Mr. Di Franco can answer this, but I see a lot of cable lines that are up like this and hanging down. And is there anything that the City can do to get the cable companies out to fix their cable lines? They're not, you know, setup on the lines, they are just hanging. The other thing is, I read in the News Herald about the lawsuits that are going on and one of the paragraphs in there stated that Councilwoman Fellows was mentioned as an Acting Mayor and I would like to have that clarified because I did not know at anytime that she was acting as the Acting Mayor. And as far as the Mayor going on vacation; absolutely, he has every right to go on vacation. But, it would be beneficial to the City that the City knows who is running the City. And if anything happened, and if department heads knew ahead of time, and if they needed something signed by the Mayor or anything that it could be taken care of, if the communication was out there. Thank you.

President Fellows: Anyone else for Public Portion? Seeing, none, **I'll call Public Portion closed at 7:44pm.**

So, a couple of comments. Doris, I have no idea who's permitted to use the Grange. I guess that we would need to ask the Mayor when he returns.

Concerning the speed bumps and plow damage, often Mr. Grubiss is here, he's not this evening, so I'll make sure that he gets that message as well.

Mike, I mean, there has been numerous messages to the Mayor; the City Engineer knows about the status of Route 6.

And Linda, yes, possibly we could look at replacing our mics. They haven't been replaced for an awful long time. I don't know about cable lines, Pete.

City Engineer: I would just call the cable company. They are private lines. I know that I've called the electric company in the past, lines were hanging near my house and they came out and took a look at it. So, you're welcome to call cable, electric, phone companies.

Councilman Fiebig: Madame President. If I could add, Linda if you told me where, approximately, I think that you're talking about Chardon Road and I have seen some activity there and I would be glad to make that call and see if I can find out; the lower hanging ones, are utilities, the upper ones are electric company. So, we'll take a look at that. Can I address the snowplow issue?

President Fellows: Yes.

Councilman Fiebig: The plows are mounted in such a way, and Chris, correct me if I'm wrong, that they do float over those bumps, so they're not going to be damaged.

Resident Chris Welch: [undecipherable]

Councilman Fiebig: Exactly. So, I think that we're okay on that, but that doesn't help with the question of should we fix the bumps. And Pete, you did mention that we did have some conversations with, was it ODOT?

City Engineer: Yes, and...

Councilman Fiebig: Regarding them, go ahead and elaborate...

City Engineer: Sure. Actually, Mr. Tyler has done a lot of the legwork himself. He's contacted ODOT, I've contacted ODOT several years ago and they rate all the state routes and this section of Chardon is, on their scale, is actually rated pretty good. Through Mr. Tyler's work, they are coming back out in April to re-rate it. So, for state routes, ODOT has a program where they will pay eight percent (80%) if it meets their rating threshold which it's not there yet. If the City chooses to make the repairs themselves, you know, you can pay for it yourselves, but you would not get the eighty percent (80%). So,...

Councilman Fiebig: And finally, regarding the Grange, we did pass an ordinance that did specifically only allowed the Boy Scouts and the Girl Scouts to use the Grange and that the key needed to be checked out and signed out over in Dispatch. So, that is in place. We could follow up with Dispatch and find out, you know, is there a list of who has been using it and we could report that back to you; that's a public record

President Fellows: And I would hope that somebody may be checking it even weekly, especially with the fluctuation of the temperatures to make sure that there aren't any electrical or plumbing issues there. So, we can follow up on that as well.

Councilwoman Pizmoht: Madame President. I would just like to add that I am planning to speak with Kathleen Crowther of the Cleveland Restoration Society tomorrow on the phone about the possible use of the Grange for the City. And we might consider bringing her in for a committee or Council meeting to discuss her opinion as an expert in uses of historic buildings.

Councilman Hallum: Madame President. I'd like to make a motion to confirm Tom Talcott as our Fire Department...

President Fellows: We're not finished with this.

Councilman Hallum: Oh, aren't we under "Unfinished Business"?

President Fellows: No, because we still have to address the question that one of the residents had asked about the Acting Mayor. And that will be under "Old Business" anyway.

Councilman Hallum: There isn't an "Old Business/Unfinished Business" ...

President Fellows: "Unfinished Business" or "Old Business", it's the same.

Councilman Hallum: Right.

President Fellows: So, there was a question about the News Herald identifying myself as the Acting Mayor and I'd asked the Acting Law Director to address that, please.

Acting Law Director: Sure, under Article II, Section 2.4 of the Willoughby Hills' City Charter it provides that when the Mayor is unable to perform the duties, his duties for any cause, the Council President shall serve as the Acting Mayor. In Ordinance No. 2017-88, Council made a finding based upon the Mayor's secretary being the head of the secretaries' union that the Mayor was unable to perform the duties of his office. And so, for the purpose of dealing with the secretaries' union issue which was at the time pending in front of SERB and currently is in sort of a flux state. The Council made the determination that Nancy Fellows, President of Council, should serve as the Acting Mayor for the purpose of addressing those issues.

Vice President Plecnik: Madame President.

President Fellows: As the facilitator of the meeting, at this point, I'm going to move to legislation. The first one is Ordinance No. 2018-3.

Councilman Hallum: Madame President. I made a motion during "Unfinished Business" regardless of whether you felt it was in the right segment and I think that I deserve recognition of that. Squashing me just so that you don't have to deal with something, I think is inappropriate and not right as a President...

President Fellows: There is a motion from Councilman Hallum to confirm Acting Chief Talcott, do I hear a second? I hear no second. There's no motion.

Legislation, Ordinance No. 2018-3.

LEGISLATION

ORDINANCE NO. 2018-3

AN ORDINANCE ENGAGING RICHARD HARMON AS ACTING FIRE CHIEF FOR THE CITY OF WILLOUGHBY HILLS TO PERFORM THE DUTIES AND EXERCISE THE AUTHORITY OF THE CITY'S FIRE CHIEF, AND DECLARING AN EMERGENCY.

President Fellows: What are the wishes of Council?

Councilman Fiebig moved to suspend. Vice President Plecnik seconded.

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

Motion PASSED.

President Fellows: The Three Reading Rule on Ordinance No. 2018-3 has been waived. We have an amendment to Section 4 of this ordinance. So, I would entertain a motion, if there's a motion to adopt this Ordinance, I would ask that the motion be to include the amendment to Section 4.

Councilwoman Pizmoht: Madame President, what is the amendment?

Acting Law Director: The original draft that was transmitted on Tuesday, had a provision that the Acting Fire Chief would be an employee of the City. This clarifies that he would be a 1099 employee, not an employee. A 1099 service provider, not an employee of the City.

Councilman Fiebig: That's right, we read that earlier, so, yes. Madame President, I would make the motion to adopt Ordinance No. 2018-3 as amended.

Vice President Plecnik: Second.

President Fellows: I have a motion from Councilman Fiebig and a second from Vice President Plecnik to adopt Ordinance No. 2018-3 as amended, as Section 4 amended. Any discussion on the motion?

Councilman Hallum: Madame Chair. Yes. I'm sure how, so now are we going to have two Acting Chiefs? Is that what we're doing here? Because we already have an Acting Fire Chief, it's Tom Talcott. So, explain to me how you're enacting something when we still have someone in that position.

Acting Law Director: There's a legal issue complicated here. Ordinance, Section 141.04 of the Codified Ordinances provides that the Mayor's appointment of an Acting Chief shall only be effective for thirty days if it receives no confirmation from Council. Council has the authority to make the appointment. So, by the enactment of this ordinance, Richard Harmon would become the Acting Chief of the department.

Vice President Plecnik: Madame President. I would just add my concern that on March 23, 2017, Council enacted, I believe, unanimously and the Mayor signed Ordinance No. 2017-15 which amended Section 141.04 of our Codified Ordinances to clarify how Acting Chiefs are selected. And whether anyone agrees at this point if it's wise or not, nonetheless, Council voted, the Mayor signed Ordinance No. 2017-15 into law. And nonetheless, when Council selected Tim Serazin as Acting Fire Chief, the Mayor simply ignored it, I think, in violation of the union contract, the ordinance did not pay Mr. Serazin or recognize him in that role and instead selected another person. And this isn't a commentary on anyone else, but given the extent that we don't follow the laws passed by Council, particularly the laws passed by Council and signed into law by the Mayor himself, then everything that we do at this dais has no meaning. They're meaningless suggestions. And as a Law Professor, my first obligation when I take an oath of office is to follow the law. This isn't a commentary on who is a better or worse person to serve in a role, but I will say that I have a serious question of judgment in anyone who chooses to ignore the laws of Willoughby Hills when they are sworn to uphold them. And so, I think the point needs to be made that the last person to be appointed as Acting Fire Chief according to the laws of Willoughby Hills would be Mr. Serazin. And I give him an enormous amount of credit for not bring an unfair labor practice against the City for not insisting on being paid, for not demanding to be recognized because he understood the importance of keeping the department together and being unified. But, nonetheless, here we are the fiduciary guardians of the City law, we are obligated to uphold it. And I don't think that it fair for anyone to personalize these issues and act as though it's one individual. This is about the law of the City of Willoughby Hills that we are called, not only to create as a Council but uphold as we take office. Thank you.

Councilman Hallum: Madame President. I'm fine with all that. Let's just go ahead and confirm Tom Talcott as the Acting Fire Chief. Why switch it out again and create more havoc in the fire department?

President Fellows: We have a motion on the table...

Councilman Fiebig: Madame President. And the point is well taken that you certainly do have a vote as we all do and we're all looking at what our responsibility is to the best of our judgment, given all the factors that we have, we have to make the call. And I have tremendous amount of respect for Tom Talcott as an officer, as a neighbor, as somebody who has served in our department, as someone who has served obviously throughout all of Lake County. He has dedicated his time extensively. And that's, I appreciate that sir, you came to make that proclamation, that was very appropriate. And I thank you for that. And I don't believe that anybody on this Council would argue when we put forward the motion to compensate Tom for the time that he has spent serving the City in this capacity even if it was questionable that he should have been in that role by the Mayor not following the laws that we had passed. But to emphasize, if we as a Council, as an elected body, are not getting respect for the laws that we pass, then they are just meaningless suggestions that we're passing here. And that's not the way our government works. We will do better. We can do better. And we're trying to fix these things going forward. So, while everyone does have a vote, and we're voting based on all the information that, not everybody in this room has all of the information, and I know that I have to make a difficult decision as do my colleagues here on Council and making it for a variety of reasons, a bundle of reasons. So, I ask for guidance, I ask for understanding. And I wanted the opportunity to say that I do respect and appreciate your work here, Tom and I'm thankful for that as a resident, as a neighbor, as somebody who cares deeply about our community.

Councilman Hallum: Madame President. I'm just concerned that this ordinance has shown up and, you know, this doesn't seem like something that would come lightly. It seems like something that would have been discussed amongst Council in a public forum of some kind or at least in an executive session if it was of the (elk-?). None of that has happened. So, I'm just wondering, how did we reach the point of getting this to this point into an ordinance with no, either public or executive sessions to have a conversation about why we would even consider doing this, I'm just asking you.

President Fellows: Different Councilmembers have had different thoughts and suggestions and input that have come to myself, have come to the Law Director, have come to the Clerk. Have you provided those at any time, Chris?

Councilman Hallum: No, because I would do it in a public forum, not out of the sunshine.

President Fellows: We're not out of the sunshine.

Councilman Hallum: You've had conversations with this person, then this person, then this person and then coming to this solution of this, that is a sunshine law issue. That's what they told us in the sunshine law training.

President Fellows: One Councilmember having a discussion with another Councilmember...

Councilman Hallum: And then another, and another and drawing a conclusion is not what the residents want.

Acting Law Director: That's, you're thinking of a case that came out of the Cincinnati School Board and the violation was a consequence of...

Councilman Hallum: I'm not thinking of any case...

Acting Law Director: Well, when you hear about that, they are in the public records training, they are talking about a case that came out of the Cincinnati School Board where various members, three at a time, less than a quorum held round robin meetings with someone and there was deliberation between more than two members.

As it's been described here, as I understand it, there have been one-on-one conversations with members of Council, that's permissible under Ohio Law, always has been. So, I don't agree with your conclusion that there has been a violation of the Ohio Sunshine Laws.

Councilman Hallum: It's not a conclusion, it's an assertion. But, I'm seeing more and more of these types of things coming before this Council and I think, based on comments made by people on this dais, in the past few years, that the residents have a right to hear what's going on, to make a comment on what's going on even before it gets to this point because these are significant ordinances that impact our residents, our tax dollars and I think that you should want to know why we're doing the things that we're doing and how we reached this point.

Acting Law Director: I'm very concerned that you're asserting that there's a violation of Ohio Law and if you have evidence that a majority of Council has had a prearranged meeting for the purpose of discussing public business, I would ask that you bring it to my attention.

Councilman Hallum: Well, I'm bringing it to your attention now, Mr. Byron.

Acting Law Director: You don't give me evidence. There is no evidence that you have. You're bring a bald assertion and I would ask that if you not, if you don't have evidence of the violation of the Ohio Sunshine Law, that you not opine that there has been.

Councilman Hallum: Well, there's certain...

Councilman Fiebig: Madame President. Where are we on this, is there a motion...

President Fellows: We have a motion on the floor to adopt 2018-3 as amended.

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

Motion PASSED.

President Fellows: Ordinance No. 2018-3 (as amended) has been adopted.

ORDINANCE NO. 2018-4

AN ORDINANCE ENGAGING BRADLEY HULL, IV, AND THE LAW FIRM OF BRADLEY HULL, IV, ESQ. LLC., TO PERFORM THE DUTIES AND EXERCISE THE AUTHORITY OF THE CITY PROSECUTOR AS ACTING CITY PROSECUTOR, ESTABLISHING THE COMPENSATION OF THE POSITION OF ACTING CITY PROSECUTOR, AND DECLARING AN EMERGENCY.

Councilman Fiebig: Madame President. I suggest that we leave this on First Reading.

ORDINANCE NO. 2018-5

AN ORDINANCE TO APPROVE A MEMORANDUM OF UNDERSTANDING WITH THE WILLOUGHBY HILLS BOYS LEAGUE IN ORDER TO PROVIDE SPORTS PROGRAMS FOR THE YOUTH RESIDENTS OF WILLOUGHBY HILLS AND DECLARING AN EMERGENCY.

President Fellows: This ordinance will stay on First Reading and will go into Councilman Hallum's Recreation Committee. And of course, we would invite the Boy's League whenever you schedule that committee.

ORDINANCE NO. 2018-6

AN ORDINANCE APPROPRIATING FUNDS NECESSARY TO ENGAGE THE SERVICES OF JOSEPH N. GROSS AND BENESCH, FRIEDLANDER, COPLAN AND ARONOFF, LLP, AS SPECIAL COUNSEL FOR THE CITY OF WILLOUGHBY HILLS, FOR THE PURPOSE OF PAYING SPECIAL

COUNSEL FOR PERFORMING THE SERVICES AUTHORIZED AND DIRECTED IN ORDINANCE NO. 2017-88, RATIFYING ACTIONS TAKEN PURSUANT TO ORDINANCE NO. 2017-88, DIRECTING THAT SUCH APPROPRIATION BE PUT IN THE 2018 APPROPRIATION ORDINANCE, AND DECLARING AN EMERGENCY.

Vice President Plecnik: Madame President. I would think that this ordinance, if I'm not mistaken, and please correct me if I am, this ordinance was proposed by former Councilwoman Pat Grebenc which would modify a previous ordinance, even she expressed at the meeting that she wasn't fully in accord with her own suggestion. I would recommend that we table this ordinance. I think that 2017-88 stands on its own and it's unnecessary to change it. But, I'm certainly open to being corrected or hearing other thoughts of Council people, but I don't see the need to amend 2017-88.

President Fellows: Do you want to make it a motion, well we need, if you want to have a discussion, it has to go in a different order to table it.

Vice President Plecnik: That's why I'm asking if anyone disagrees with my point of view.

Councilman Fiebig: Could you elaborate, please.

Vice President Plecnik: It's my understanding that 2018-6 simply set an upper limit of how much could be paid for the legal services of Benesch. And I'm certainly hopeful that there is no need for Benesch to expend any amount of money. I hope that the secretaries' union stops suing the City, but as long as the lawsuit continues, the City must be defended and I don't think that it's prudent to limit the amount of money that we would spend to defend our City in that lawsuit. You don't go to the doctor and say save me unless it goes over twenty-five thousand dollars (\$25,000). And if there's millions of dollars in stack in this union contract as we have been advised ultimately there are when you consider the negotiations with the other unions, I don't think that it's prudent to limit it. And my recollection is that Councilwoman Pat Grebenc even said that she wasn't entirely sure that she agreed with her own proposal. So, I don't see the need to go forward with this. So, I'm not hearing any disagreement, I would make a motion to table Ordinance 2018-6.

Councilman Fiebig: Madame President.

Councilman Hallum: We're still talking about it. So...

Councilman Fiebig: Ms. President and Mr. Plecnik, but we have the opportunity though to extend the amount at some point and could pass that in an emergency basis, waive three readings, isn't that correct?

Vice President Plecnik: We could and then the Mayor could veto it and that could delay payment and could cause issues to the extent if the lawsuit continues. And I think given that the Mayor has been vetoing everything Council has put forward at this point, it would be imprudent to put the City at risk where we might have a stoppage of payment to the lawyers who are defending us against the secretaries' union lawsuit.

Councilman Hallum: I think that it's inappropriate to give a, we're suppose to be watching how much money is being spent and I don't see any issue with us saying hey, if we're getting close, even if we're getting close, John, even close to that number you can always pass it ahead of time to give us plenty of time to override or set aside a veto in plenty of time to not run into that issue. So, I don't see this as, I think that this is a good control put into place for us to control the expenses on this. And at some point, hopefully, we don't get to that, it doesn't come to that. If we came to a point when we said we don't want to spend anymore money at this, we could stop that and not let the attorneys continue to spend money.

President Fellows: We should just leave it on First Reading.

Councilman Hallum: Okay, I'm find with that.

President Fellows: First Reading.

ORDINANCE NO. 2018-7

AN ORDINANCE AMENDING SECTION 186.02 OF THE CODIFIED ORDINANCES OF WILLOUGHBY HILLS TO AMEND CERTAIN DEFINITIONS TO CORRESPOND WITH DEFINITIONS WHICH HAVE BEEN AMENDED IN CHAPTER 718 OF THE OHIO REVISED CODE, REPEALING CERTAIN ORDINANCES, AND DECLARING AN EMERGENCY.

President Fellows: And it's my understanding that this would be, put us into compliance with the state code and it needs to be in effect by January 31, 2018.

Councilman Fiebig: Madame President. I move that Council adopts, sorry, move that Council waives the Three Readings on Ordinance No. 2018-7.

Vice President Plecnik: Second.

President Fellows: I have a motion from Councilman Fiebig and a second from Vice President Plecnik to waive the Three Reading Rule on Ordinance No. 2018-7. Is there any discussion on the motion?

Councilman Hallum: Just wanted to ask our Finance Director if this is definitely, if we need to do this quickly or...

Finance Director: I spoke with the Income Tax Agency and they recommend that the changes be adopted.

Councilman Hallum: Okay, thank you. I just want to make sure that we're doing the right things.

Finance Director: And I'll credit to Acting Law Director Byron for pointing that out.

Councilman Hallum: Thank you.

President Fellows: Thank you.

Councilman Fiebig: Madame President. And the reason for waving that is has been well stated and I think it is prudent that we pass this right away, so I'll be support of this.

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

President Fellows: The Three Reading Rule has been passed on Ordinance 2018-7.

Councilman Fiebig moved for passage. Vice President Plecnik seconded.

President Fellows: I have a motion from Councilman Fiebig and a second from Vice President Plecnik to adopt Ordinance No. 2017-7. Any discussion on the motion?

Councilwoman Majka: Madame President. Just to, just for clarification, the reason that this is being passed is because we want to make our municipal ordinances consistent with state law, is that correct? Mr. Byron.

Acting Law Director: That's correct. And I noticed on the paper version that I have in front of me, that the redline is not showing up on the paper version. I think that it is showing up online.

Councilman Fiebig: Madame President. It has a strike through, but it's not in read.

Acting Law Director: You're not seeing redline. So, and you can see the difference in the printing under the definition of net profit. So, you can that's where most of the changes are.

Councilman Hallum: This here?

Acting Law Director: Yes, there it is. Yes, online, it's in red. So, I'm not a tax lawyer, like some people are in the room and my eyes glaze over when I read it. Fortunately, RITA is on board with the changes, so we're good.

Councilman Fiebig: Madame President. That's why I think a big monitor over here, a fifty-five inch would be really good. We could get it in color, we could see it and we could read through it, every word about net profit and LLCs and Subchapter S Corporations and how that affects us.

President Fellows: We have a motion on the floor to adopt Ordinance No. 2018-7.

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

President Fellows: Ordinance No. 2018-7 has been adopted.

RESOLUTION NO. 2018-1

A RESOLUTION ACKNOWLEDGING WILLOUGHBY-EASTLAKE'S SCHOOL OF INNOVATION AS ONE OF FOUR SCHOOLS THROUGHOUT THE STATE TO RECEIVE THE "ALL A AWARD."

Vice President Plecnik moved to suspend. Councilwoman Majka seconded.

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

Vice President Plecnik moved for passage. Councilwoman Majka seconded.

President Fellows: I have a motion from Vice President Plecnik and a second from Councilwoman Majka to adopt Resolution No. 2018-1. Is there any discussion on the motion?

Councilman Fiebig: Madame President. This is for the Willoughby-Eastlake School of Innovation right down the street. It was one of four schools throughout the state to receive that award, so we're very proud of that school right here and getting the opportunity to pass a resolution for that is wonderful and I thank you for bringing this to our attention.

President Fellows: You're welcome.

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

President Fellows: Resolution No. 2018-1 has been adopted.

RESOLUTION NO. 2018-2

A RESOLUTION RECOGNIZING WILLOUGHBY HILLS POLICE SERGEANT MATTHEW NAEGELE ON HIS ACHIEVEMENT OF GRADUATION FROM THE FBI NATIONAL ACADEMY.

Vice President moved to suspend. Councilwoman Pizmoht seconded.

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

President Fellows: The Three Reading Rule on Resolution No. 2018-2 has been waived.

Vice President Plecnik moved for passage. Councilwoman Pizmoht seconded.

President Fellows: I have a motion from Vice President Plecnik and a second from Councilwoman Pizmoht to adopt Resolution No. 2018-2. Is there any discussion on the motion?

Councilman Fiebig: Madame President. We're all very proud of Willoughby Hills Police Sergeant Matt Naegele on his accomplishments with only 221 other officers around the nation that go to Quantico for this session. It's really quite challenging. There's quite a bit of leadership that's involved with this, physically challenging, mentally challenging, and we're all very proud of him. So, it's a great accomplishment that he was willing to step up and do this and we did help with the funding of this. But, we certainly get a lot more in return than we spent, that's for sure.

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

President Fellows: Resolution No. 2018-2 has been adopted. I'd like to go back to "Unfinished Business".

UNFINISHED BUSINESS

President Fellows: Mr. Hallum, do you have a motion?

Councilman Hallum: Since we are in "Unfinished Business", I would like to ask, Councilman Fiebig and I both asked about creating a resolution for Councilman Biro, just wondering where we stand on creating that resolution for his years of service?

Vice President Plecnik: Madame President. It's unfortunate, but between that time, Council learned that Mr. Biro had made a contribution to the infamous Attack PAC, Citizens for True Public Service which made absolutely untruthful allegations about Councilman Fiebig, Council President Fellows, Council, generally; Laura Lenz, former member of our Recreation Commission; her son who was a minor at the time, myself. It was very concerning to see that he would support something that **despicable** and while I'm grateful to Councilman Biro for the time that he gave our City, I personally could not be supportive of someone who would put money towards an allegation that Councilman Fiebig was under investigation for breaking the law when in fact, Councilman Fiebig has never been under investigation for breaking any law. And anyone affiliated with that endeavor should be generally ashamed and should do some soul searching and find their peace with God on the issue. Because truthfully, I have so much respect for you Councilman Fiebig, I have so much respect for Laura Lenz, I have so much respect for the people who are maligned and have done so in a way that frankly could have been the topic of a lawsuit and it really states to your character that you let it roll off your shoulders. But, that kind of behavior can't be honored because Willoughby Hills has been mired in this negatively for too long and we need to move forward positively. And when someone crosses that line in a way that absolutely can not be condoned they can't be phrased for it. Thank you.

Councilwoman Majka: Madame President. While I can understand, echo Councilman Plecnik's comments and as somebody who has, is currently being sued by, not only by my Mayor, but my former Law Director, nonetheless, politics and campaign mode is a dirty business. It's very hurtful, a lot of lies are thrown around. I'd like to just state that I am able to put that aside just to honor somebody who did give a lot of years to this Council. I see it as not a totally separate issue but I believe that we can go forward in good faith and wouldn't cost us anything, wouldn't hurt us to recognize Councilman Biro for his years of service. Having only served two years,

I know how difficult it is and it's my greatest admiration for all of you sitting here that have served on Council in Willoughby Hills for a long time. Thank you.

President Fellows: I'd entertain a motion to confirm Acting Fire Chief Tom Talcott to Fire Chief.

Councilman Hallum: So moved.

President Fellows: It's been advised by the Acting Law Director that we vote on this.

Councilwoman Majka: I would just like to ask, are we going to put ourselves in conflict with another ordinance by voting on this?

Acting Law Director: No. The Council would have the authority at anytime to confirm someone appointed by the Mayor for Fire Chief. And the duties of the Acting Fire Chief at that point would end. You have in front of you an appointment that should be disposed of one way or the other.

Councilman Fiebig: Mr. Byron. Can we table this motion and investigate the source and doublecheck the payment and the salary and make sure that all that is in place?

Acting Law Director: Council can table any matter that is before it, for any reason.

President Fellows: That's already been clarified. If you want me to share, I will.

Councilwoman Majka: And Madame President. Do we need to bring this up as a matter of law to properly pay Mr. Talcott for his time already served? Is it anything to do with that?

President Fellows: I'll pass the gavel so that I can make a comment on this. The Finance Director has been asked what Mr. Talcott is being paid. It's public knowledge, so I don't, I'm not sharing anything that's confidential. Our Charter, in case of the Mayor, recommends wages for positions and then the Council fixes it or sets those wages. The wages that Mr. Talcott has been getting were not, are aligned with the union amount. When he was the Assistant Chief, he was not in the union. As the Acting Chief, he is not in the union. The dollar value was taken from a Lieutenant's pay from the union with a bonus for being in charge. So, currently his pay has been approximately \$87,500.00 a year with benefits. The ordinance that was just passed by Council, for us to legislatively place Richard Harmon as the acting position, as a part-time, interim position will be at \$70,000.00 a year with no benefits, except for I think, a \$1,000.00, one-time uniform allowance. The payment that Mr. Talcott has been getting is unlawful; it has never been fixed by this Council from day one.

Vice President Plecnik: Madame President. As I've said before, my concern here is simply following the law. When I was first sworn into this Council and I had concerns about conflicts of interest and contracts with Council people, I said that I wanted to follow the law. It was never personal with respect to the people who were involved. I didn't know the people involved until I was on Council. It's not personal now, as I look at one individual or another who is looking to serve as Fire Chief for the City of Willoughby Hills. But, for me it's critical that any individual who puts their hat forward for any position with Willoughby Hills from a part-time monitor in the Community Center to one of our Chiefs, have an absolutely respect for the law as passed by Council. As Councilman Fiebig said, what we do here are not meaningless suggestions. They are the law that must be followed. And so, I think that it's important for our Fire Department to have a reset and for our City government to have a reset, where we all acknowledge that the law is the law. It's not about me, it's not about an ex-Councilperson, it's not about many different applicants, who I admire greatly, who applied to be Fire Chief of Willoughby Hills in several rounds, we had many different chiefs. It is about following the law and I think that we need a period of time where we can get our Fire Department back on track with people who have always followed our law and move forward. And that doesn't mean that we shouldn't have a full search for Fire Chief later. In fact, I think that we need to have a full search for Fire Chief later. But, right here, right now, we need to

follow the law. And anyone who disagrees with that isn't someone who can be reasoned with because if we don't have the rule of law, we have nothing as a society.

President Fellows: It appears that some of our audience disagrees with that, Vice President Plecnik.

[undecipherable responses]

President Fellows: We are not in Public Portion, Sir. Sorry.

Councilman Fiebig: Madame President.

Councilman Hallum: So, I'll ask, what law has Tom Talcott broken?

President Fellows: He's being paid illegally. And he was never confirmed by this Council to be the Chief.

Councilman Hallum: So, he's breaking the law?

President Fellows: He's never been paid legally and he's never been confirmed by this Council which is our Charter which is the law.

Councilman Hallum: He didn't break the law.

President Fellows: Then talk to your Mayor.

Councilman Hallum: Yeah, our...

President Fellows: I have a motion on the table from Councilman Hallum. It's been recommended that we vote on, I need a second.

Councilman Fiebig: I'll second.

President Fellows: I have a second from Mr. Fiebig. Discussion, I think has been done. This is to confirm Tom Talcott as the Fire Chief.

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

Motion FAILED.

President Fellows: Motion fails. Is there any other Unfinished Business?

Councilman Fiebig: Madame President. I'd like to make a motion pursuant to Charter Section 9.34, Council directs the Mayor to remove Michael Germano from the office of Willoughby Hills City Prosecutor for misfeasance and malfeasance in office per Charter Section 9.32, Subsection 1 and in violation of his Oath of Office per Charter Section 9.32, Subsection 6 by failing to recognize a validity of laws of the City of Willoughby Hills and allowing his law firm to take a position adverse to the members of the WH City Government and direct our Acting Law Director to prepare the Complaint and charges if the Mayor fails to remove Michael Germano by close of business Friday, February 2nd for presentation at the February 8th Council meeting to set the Charter required hearing.

Councilwoman Pizmoht: Second.

President Fellows: I have a motion from Councilman Fiebig and a second from Councilwoman Pizmoht to remove Michael Germano as the City Prosecutor. Any discussion on the motion?

Acting Law Director: It's to request the Mayor...

President Fellows: Request the Mayor to remove Michael Germano as Prosecutor.

Councilman Hallum: I just want to be clear that I understand what the concerns are. This is concerning that the Mayor appointed Mr. Germano as Acting Law Director in conflict with what we appointed as Council? Is that what...

Councilman Fiebig: Madame President. Not specifically, it's to matters of our Acting Law Director pointing out that he (Germano) is holding himself out as the Law Director...

Councilman Hallum: Acting Law Director...

Councilman Fiebig: In violation of his Oath of Office to swear to up hold the laws of the City of Willoughby Hills and 2017-70 was legally and lawfully passed by this Council. And an override was also set down.

Councilman Hallum: Well, I guess I'll just ask Mr. Byron. Does, regardless of that...

President Fellows: Just ask for the Chair, please.

Councilman Hallum: Thank you. Does the Mayor have the right to appoint an Acting Law Director?

Acting Law Director: Not in the face of an ordinance which does so.

Councilman Hallum: So, the ordinance overrides the Charter?

Acting Law Director: No. The Mayor has the authority to appoint the Law Director. There is no Law Director. There's a vacancy in that office. The Mayor appointed, the Mayor nominated Mr. Germano in January and Council denied the nomination, unanimously. And Ordinance No. 2017-70 was enacted to put into place legal counsel for the City who is able to provide counsel to the City government. That's my charge. And my role is to advise all of the City officials. Mr. Germano has held himself out as either Acting or Interim Law Director and that is not in accordance with Ordinance No. 2017-70.

Councilman Hallum: So, one follow-up question because my recollection and I could be mistaken here, but my recollection is that the Mayor appointed him Acting Law Director prior to 2017-70 being adopted. In fact, the day before, I think.

Acting Law Director: That was the assertion, that the Mayor's administrative action that would be authorized under state law is not, does not survive the passage of an ordinance by the Council. So, on the day before the Council overrode the veto, he did, well, it's alleged that he appointed Mr. Germano on that day. And that did not survive the enactment of the ordinance. Under your Charter, it provides that the Charter controls and if the Charter doesn't speak to the issue, then an ordinance of Council will control. And then you get to state law. The Mayor's action was under state law. Once Council passed an ordinance, the Mayor's action was done. It was set aside.

Councilman Hallum: Okay. Sounds muddy.

President Fellows: I have a motion on the floor. Any other discussion? Jan, you're asking, this is to authorize the Mayor to remove...

Councilman Fiebig: It's written down.

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

Motion PASSED.

President Fellows: The motion has passed.

NEW BUSINESS

President Fellows: There are a couple of things for New Business. There has been a recommendation for a resolution for Attorney General Mike DeWine which we'll work on.

The other is that Council will now follow the appropriate steps to appoint a new Council person to fulfill Pat Grebenc's position that she has resigned.

Any other new business?

Councilwoman Pizmoht: Could we prepare a resolution to honor Officers Craig Anderson and Planisek, Cory Planisek for their award that they shall receive at the Blue Coats of Lake County meeting next month?

President Fellows: Absolutely.

President Fellows: With the resignation of Councilwoman Grebenc, the Clerk will advertise for the Council Position (At-Large, IV).

Councilman Fiebig: Council President. Do we need to make a motion to authorize the expenditure? No, okay.

President Fellows: That's information.

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.

Vice President Plencik: Madame President. If you'd indulge me for a moment, I was very saddened to hear that one of the longest serving staffers at Cleveland State University passed on January 22nd. When I served as Intern Associate Dean, Diane Oloff reported directly to me. She called in sick on Friday and unfortunately passed away this January 22nd. A resident of Willowick. Diane Oloff is the daughter of the late Frank Oloff, Jr. and Lillian; sister of Lynda Maire; aunt and great aunt of many. She was in charge of petitions, grade disputes, and most of the graduation requirements our students. So, any of you who graduated from Cleveland State University, probably have benefited from Diane's hard work. Even though you might not have seen her on the graduation stage or teaching in a class, I just wanted to give my condolences to her family and to say thank you Diane, Cleveland State University and everyone who graduated from Cleveland State including our residents here in Willoughby Hills is grateful for your, many, many years of service.

President Fellows: Thank you, John. I'd like to offer condolences to Gloria Majeski and her family on the passing of Gloria's mother.

Councilman Hallum: I would echo that, thank you.

ADJOURNMENT

Motion was made by Councilman Fiebig to adjourn. Councilman Hallum seconded.

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

The Regular Council Meeting of January 25, 2018 was adjourned at 8:32pm.

APPROVED:

March 6, 2018
Date

Nancy E. Fellows
Nancy E. Fellows
President of Council

ATTEST:

Victoria Ann Savage
Victoria Ann Savage, CMC
Clerk of Council