

City of Willoughby Hills

Regular Meeting of Council

Minutes of July 28, 2016

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

The Regular Council Meeting was held on Thursday, July 28, 2016 at 7:00pm in the Willoughby Hills Council Chamber. President Fellows presided.

Members Present: Vice President John Plecnik, Councilman Christopher L. Biro, President Nancy E. Fellows, Councilman David M. Fiebig, Councilwoman Jennifer Sommers Greer, Councilman Christopher Hallum, Councilwoman Janet R. Majka

Others Present: Mayor Robert M. Weger, Law Director Thomas G. Lobe, Finance Director Frank Brichacek, City Engineer Pietro A. DiFranco, Clerk of Council Victoria Ann Savage

DISPOSITION OF THE JOURNAL

President Fellows: The first order of business is the Disposition of the Journal for the Regular Council Meeting Minutes for July 14, 2016 as revised.

Councilman Biro moved for passage. Vice President Plecnik seconded.

Roll call: **YEAS:** Plecnik, Biro, Fellows, Greer, Hallum, Majka

Abstention: Fiebig

Motion passed.

COMMUNICATIONS

President Fellows: I will not have the Clerk read Correspondence, Notifications or Minutes as these will appear in the Regular Journal.

CORRESPONDENCE

Email: Building Commissioner Fred Wyss to Members of the Planning & Zoning Commission and Architectural Board of Review and Council Clerk; cc'd to Mayor, Mayor's Assistant, Law Director, City Engineer, dated July 21, 2016 re: FCC/NEPA Public Involvement review – Grange Cell Tower

City Engineer's Report dated July 21, 2016 (Email: July 21, 2016 to Members of Council; Council Clerk; Law Director; Finance Director; Willoughby Hills Finance Dept.; Building Commissioner; Road Superintendent; Mayor's Assistant; Assistant City Engineer)

Email: Interoffice from Mayor Robert M. Weger to Councilman David Fiebig, Chairman Safety Committee of Council, cc'd to Police Chief Christopher Collins, Council Clerk Savage dated July 25, 2016 and provided to the Members of Council on July 26, 2016 re: Analysis of White Road & Bishop Road Accident Data Documenting Reasons to Deny Expenditure – Email on July 26, 2016 to the Members of Council

NOTE: On a monthly basis, the Finance Director provides a report of the City's financial activity to City Council. The purpose of this reporting practice is to make the City's finances as transparent as possible and to keep the Council informed as to the City's financial activity. Financial Reports for 2014, 2015 and 2016 are posted on the City's Website

EMAIL: CONNIE AND MICHAEL KLINE TO MAYOR WEGER, FIRE CHIEF DISANTO, COUNCIL MEMBERS, COUNCIL CLERK SAVAGE, LAW DIRECTOR LOBE DATED JULY 21, 2016 RE; FOLLOW UP OUTDOOR FIRES/OPEN BURNING

NOTIFICATIONS

Planning & Zoning Commission and Architectural Board of Review Meeting of July 21, 2016 (Emailed: July 19, 2016)

CANCELLATION of the Planning and Zoning Committee of Council Meeting of July 18, 2016 (Emailed: July 18, 2016)

Planning and Zoning Committee of Council Meeting of August 1, 2016 (Emailed: July 22, 2016)

Recreation Commission Subcommittee Meeting of July 20, 2016 (Emailed: July 18, 2016)

Recreation Commission Subcommittee Meetings scheduled for: August 3rd; August 10th; August 17th; August 24th; August 31st and September 7th (Emailed: July 21, 2016)

Rules and Legislation Committee of Council Meeting of July 25, 2016 (Emailed: July 18, 2016)

Safety Committee of Council Meeting of August 1, 2016 (Emailed: July 25, 2016)

Utilities Committee and Finance Committee Meeting of July 25, 2016 (Emailed: July 25, 2016)

ON FILE

Northwestern University Center for Public Safety School of Police Staff and Command Graduation Press Release

ADMINISTRATION REPORTS & COMMUNICATIONS

MAYOR'S REPORT: I received an email from the Cuyahoga County Airport thanking the City of Willoughby Hills for their patience during the RNC with regard to air traffic. Thanks to our residents during this temporary inconvenience.

Congratulations to Clover Development on a successful ribbon cutting last Friday. It was attended by 75 people and it was very nice.

Congratulations to Sgt. Jackson and Sgt. Nagegle of the WHPD on graduation from Northwestern Center for Public Safety.

Get well wishes to Finance Assistant Sharen Michney and best wishes for a speedy recovery. Right now there is somebody filling in for her and we hope that she'll come back soon.

Sympathy to the family of John Ponn who passed away last week. John was a long-time resident and a proud veteran and Member of 4350, the White Road Veteran's Society.

Congratulations to the WH Hills Fast Pitch Girls 14U team and Coach Joe Jarmusz. They were the 2016 14U Division Runners Up in our Willoughby Hills Softball League.

August 6th, this next Saturday is the Willoughby Hills Garage Sale. Check our website for the details. This is part of the Recreation Department and it is a very nice event but it's held throughout the City at each individual house but everybody has the same day which is Saturday but they can also have Thursday, Friday, Saturday.

9/11 Unity Day featuring a 9/11 Memorial Service which is being planned by the Recreation Commission for Sunday, September 11th from 11 to 6 at the VFW Post 4358 on White Road. There's plenty of family activities and we will show our appreciation to the first responders.

Saturday, September 17th is our annual Touch a Truck. This is another family event and everybody's welcome.

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

Councilman Fiebig: Just a comment. Mr. Ponn was a good citizen here in the City and he will be missed. He was also a member of one of the founding fathers of the Boys League and was real active in baseball and getting that started and also was part of the volunteer Fire Department here and that went way back when, so thanks for mentioning him, he will be missed.

LAW DIRECTOR'S REPORT: Two matters on the Law Director's Report. The first one is questions from the Personnel Relations Committee; Members asked me concerning the pay raises that the Mayor gave while they were considering their particular actions. It is my understanding that the Mayor gave all of his pay raises by and through his administrative powers within the pay raises. So the quick answer is did the Mayor due anything wrong or illegal or improper, the quick answer is no. The review of that starts with our Charter in Section 2.2 for the Mayor under "Duties and Responsibilities" and technically 2.27 "Salary Recommendations. Council has the authority to fix salaries as defined in 3.32 the Mayor shall have the duty and responsibility to recommend to Council the amount of pay for various positions and also shall have the responsibility to review existing pay scales. Council also has a comparable and section under 3.3 under Council's Powers, "Duties and Responsibilities"; 3.32 reads: Fixing of Salaries -Council by ordinance shall fix the salary or compensation of every officer and employee within the municipality. In this particular case, the Mayor did in fact give raises, administratively but it was all done within the pay ranges as previously set by Council. Section 2.27 of the Charter as I just indicated which requires the Mayor to review the pay scales of the City employees based upon that review Section 2.27 also requires the Mayor to recommend to City Council the rate of pay for City employees based upon that review. Section 3.32 the corresponding one for Council, requires that Council fix the salary rate of pay for every employee. When City Council adopted the pay plan of the City it full filled its Charter responsibilities to fix the salary rate pay for the positions listed in the pay plan. For the positions where Council approved a fix, non-rate area those employees may only be paid at those rates. The Plan did not give the Mayor the authority to either increase or decrease that rate of pay for that position without obtaining Council's approval. For those positions where Council set a range though, for example a range would be \$35,000-\$40,000 for a position and I'm just using numbers for the sake of this discussion, Council has given the Mayor the authority to set the employee's rate within that range based upon its review of the position. This has been the City's historical practice as well. So the past practice is that Council gives the Mayor a range verses a fixed number; of course he can pay within the range and that is all that the Mayor did in this particular case. An example of that, a recent one even under this Council's position, I think except for Ms. Majka was the Community Service Officer. The position was created by City Council in 2015-21 which stated: initial employment to any position shall be made at the minimum of the assigned position. The Mayor at his discretion may approve a starting salary of up to an additional 10% of the minimum compensation schedule for the classification when the needs of the department makes such action necessary. Any compensation over and above of what Council authorizes in any given year will require separate Council approval. So that's a classic example where the Mayor has the authority if Council gives him a range and the Mayor did in this particular case, with those particular individuals only go within the range. This statement is not specific only to this newly created CSO position, but we've had that same philosophy, same procedures in place for the hiring of even all new City employees because there's another policy that allows him to go within 10%. In fact, we just hired a Police Chief, the new Police Chief was hired at 8% above that low range and the bottom range was 65,728 so Council allowed the Mayor to set that particular range.

Vice President Plecnik: Mr. Lobe, just a correction, so that Chief Collins isn't worried, you mean the new Fire Chief, right.

Law Director Lobe: Fire Chief, didn't I say Fire Chief. We're not getting rid of Chris just yet nor do I plan to and I pray that this Council and Mayor never do. But based upon these facts, Council established pay-ranges rather than specific salaries. Ordinance No. 2015-21 and the other numerous ordinances authorizing the same, set a clear pattern as the authority of the Mayor to make payments within the ranges if that is what Council

gives him. You also have to remember that these matters as has been practiced for the last 20 years; we've probably have had at least 10 auditors come in here because they come in on a two-year basis and this is exactly what the auditors would look for, an improper payment. So it's not only our past practice, it's within reasonable interpretation and if there was a problem, I'm sure at least one auditor in the last 20 years, as long as I've been here would have caught it and I've been through three administrations that have all done the same thing staring through the O'Ryan, Lorenz and now the Weger administrations. So putting that aside and finishing that one. My second issue for tonight is...

Councilman Fiebig: Mr. Lobe, would you entertain a question or comment on that before you move on?

Law Director Lobe: Whatever you want with the permission of Council President.

Councilman Fiebig: Just to clarify, in the past three administrations that you've served under has there ever been a situation where we've had a raise that was granted without Council's acknowledgment or at least blessing or an ordinance that would say, yes give everybody a one percent, two percent, three percent...

Law Director Lobe: Yes, the answer is yes. Absolutely.

Councilman Fiebig: There has been that's been an overall blanket, maybe we could...

Law Director Lobe: Not an overall blanket but within ranges if somebody came or went or if there was a new hire or something you are allowed to even start them off at a range...

Councilman Fiebig: Specifically though that was I think the issue here is that it was a blanket for a lot of people, not just one. You pointed out the CSO position, great example, perfect example of an isolated incident, a one-person incident. I think what the crux of that matter was and where perhaps there was a little bit of a movement from where past-precedent had been was that it was a blanket raise of 3% to multiple employees across the board without Council's knowledge or blessing, approval, ordinance and things like that so...

Law Director Lobe: I'm quite sure that it was done with those within the range but I cannot cite anything specific, I only used the CSO position as the most recent one that was brought forward, I only brought forward the most recent one being the Fire Chief; but it has been as I understand it, raises have been given if they are within the ranges, that's my understanding that it has been done, I can't cite a specific one right now but as long as it and even if it wasn't done as long as it is within the range it would be legally permissible.

Councilman Fiebig: I understand the legally permissible argument that perhaps it's legally permissible, I'm just saying as a past precedent I don't believe that it has even been done where a full range of people were given a blanket raise without Council's approval, knowledge, authority, and so forth. So we could perhaps look back on that just to verify that, but in my experience in the time that I've been here I've never seen that. So I believe that was the crux of the issue.

Law Director Lobe: I can only give a legal opinion. I can't say what may be good for this Council or the Administration but legally the question from my perspective is there an impropriety, is it illegal, is it a violation of some state rules or ordinances or even some auditing provisions, the answer is no, okay that's as far as I can go okay so my answer is a legal answer, I'll leave it at that.

President Fellows: Mr. Lobe, if my recollection is correct, I don't think we had ranges in the O'Ryan or Lorenz administration, only in the Weger administration.

Law Director Lobe: We had it at some time, I thought it was in the Lorenz and I didn't go back on that. I thought that it was in the Lorenz and you're maybe correct, if there were any in the O'Ryan, I just...I can only

say that as long as I've been Law Director. I did not do a historical analysis to that particular extent. But I know that we had them, I know that we modified them in the Lorenz, I could be wrong about that. Vicki, I'm sure could always go back and look at that thing but as far as I can recall it went back not only from this Administration it went back at least one administration and maybe even two and that's as far as I can go back, okay.

President Fellows: Thank you.

Law Director Lobe: The next matter is 2016-36. You're going to hear a report from Councilwoman Majka tonight and a lot of what she is saying may not be 100% accurate and the reason that it may not be accurate is because I give her some facts that were preliminary facts that were not 100% yet facts and we talked in a generalized fashion before Council so if there is something in her report that does not come out at the end of all the facts that is not correct please do not blame Councilwoman Majka because I had a conversation with her and Councilman Plecnik the fault if any should rest with me, okay, I just wanted you to know that. So she's going to report tonight but please do not say oh Councilwoman Majka you're reported this and it's not right, so and what I'm talking about is we did have the 2016-36 is the...one of the contracts on the cell tower across the street and this matter is very, very difficult even though as I had said I've been here 20 years and getting very long in the tooth, this issue goes back 30 years, okay. It goes back to 1986 and it's further complicated with all of the cell phone mergers, consolidations, discharges when there was 10 of them down to 4 of them, down to 3 and the name changes and things of that nature. So we are trying to unravel that so some of my preliminary information as provided to her may be correct, it may be partially wrong and we will correct that as we go but she's going to report what she reported because she is duty bound to report. What we're doing is we are trying to get the analysis from the Administrative side and your Finance Director is looking into that on all of the payments and he and the Mayor, the Finance Director and the Mayor are going internally to review their documents and after our informal meeting, I did call the representatives in Boston Massachusetts and I was supposed to get for tonight so that I could hand it to Ms. Majka a detailed history from the outside, not the or an internal view but from the outside version of all the history of who started the tower, who merged, what name change, what was the affiliate and all of those matters and I did not receive it today, so I don't have it, so I just want to report that you are on second reading please keep it there and take no opinion, position or otherwise or please don't move to adopt especially at this preliminary stage.

President Fellows: We have no intention of doing that.

Law Director Lobe: Thank you.

President Fellows: Any questions for the Law Director? Seeing none, Finance Director's Report, Mr. Brichacek.

FINANCE DIRECTOR'S REPORT: No report for tonight.

President Fellows: Any questions for the Finance Director this evening? Seeing none, City Engineer's Report, Pete.

CITY ENGINEER'S REPORT: Thank you, no formal report for tonight.

President Fellows: Any questions from Council Table for the Engineer this evening? Seeing none, we'll move on to Committee Reports. Councilwoman Majka would you like to start this evening.

COMMITTEES OF COUNCIL

Councilwoman Majka: Okay, so this past Monday night, the 25th we had a joint meeting of Utilities and Finance, so these...the following is a copulation of notes between Chair Plecnik from Finance and myself from Utilities.

Utilities Committee and Finance Committee Meeting of July 25, 2016

The meeting started at 6:30pm. Present: Councilwoman Janet Majka, Chair of Utilities, Members: Councilman Christopher L. Biro, Vice President John Plecnik, Chair of Finance, Members: President Nancy E. Fellows, Councilwoman Jennifer Sommers Greer. Others: Mayor Weger and the Finance Director Brichacek.

Ordinance 2016-36 authorizing the mayor to enter into a lease agreement between the City of Willoughby Hills and Verizon Wireless was under consideration to see if it is properly written and more importantly, to consider the financial terms offered to the City. Chairwoman Majka explained that the cell phone contracts signed 15-20 years ago are much different than the current ordinance under consideration in terms of financial benefit to the City. Two things are important in a cell tower agreement--the base rent paid by the company to the City, and collocation benefits. Collocation refers to a third party who may additionally use the tower. This additional revenue would be shared with our City at a rate of 43.75%. The two other cell tower agreements recently signed by the City pay about \$1500.00/monthly. Over a 25-year contract period this would bring \$450,000 to the City. The current ordinance under scrutiny offers to pay \$732.00/monthly for a 25-year contract, plus a \$60,000 signing bonus. Over a 25-year period this would bring in \$279,000 (not taking present value or a stated 3% annual increase which wasn't sufficiently detailed into account). The new contract thus shows a \$170,000 shortfall compared to the other older contract. It was recently discovered by Law Director Tom Lobe that the American Tower company is the same company that administers both the newly signed contracts and the new one under consideration as **Ordinance 2016-36**. In addition to the lesser rent payment offered to the City, there are a number of problems with the ordinance. The collocation revenue share is 43.75% but it is not clear what this means in terms of money, since collocation is not a significant source of revenue as it was 20 years ago. According to Mr. Lobe, 43.75% of zero is zero, referring to the drop in collocation revenue in recent years. There is a confidentiality clause in the contract; according to Mr. Lobe this invalidates the entire contract as illegal, since this is a public contract requiring public disclosure. Chairwoman Majka concluded that **Ordinance 2016-36** should continue to be considered until the terms of the contract are fully negotiated between our Law Director and the cell tower company's representatives.

Discussion: Vice President Plecnik expressed his concern that the two previous cell tower contracts with the same company appear to have better terms, and he wants to see the full cash value of the new contract versus the old contracts with all terms taken into account.

Finance Director Brichacek said \$72,000 per year terms change collocation. Collocation used to bring in a significant amount of money. Now things are different because the cell phone companies are almost a monopoly, a few large companies. From my point of view, we can negotiate and change things that we don't like. The City can add clauses including fair market value. When cell phone towers started, companies built their own towers because the technology was new and they were the only ones who knew how to do it. Now it's more advantageous to have different companies build the tower. That's what American Tower does. President Fellows asked if the new contract is comparable to what we have now? How do the old towers themselves compare with what is available today with updated technology? Would there be someone else to buy the tower if we walked away from the deal?

Mayor Weger replied that there are people who would buy it. Verizon pays \$805.00 now, American Tower has revenue of \$23,000. Two companies on that tower. We have to see what's in American Towers' contract and Verizon's. Verizon pays \$830.00 a month; they pay \$2000.00 a month.

Fellows: I don't know why this was even given to us anyway-we should table it.

There was a brief side discussion by Frank Cihula, Nancy Fellows, and the Mayor regarding the expiration date for tabled ordinances.

Mayor: We need to get parcel numbers for each tower and determine what is on each tower. We also have to figure out how much property tax is on it.

Frank Cihula: The identifying parcel number for City Hall is '0'.

The final consensus from the Committee was to leave the ordinance on 2nd Reading at the July 28, 2016 Council Meeting.

Public portion opened at 06:55pm.

Frank Cihula, Chairman of the Board of Zoning Appeals, asked when the current contract expires, and was told by Mayor Weger and President Fellows next year at the end of June. Mr. Cihula asked if there were co-locaters on it, and the Mayor replied yes. Mr. Cihula asked if we had an agreement with AT&T, wasn't it originally Verizon? Mayor Weger replied we have to find out. Mr. Cihula replied that it sounds like the same company that originally built the towers now leases them back to American Tower. Finance Director Bricacek said yes, that's correct. Mayor Weger suggested not to do a second reading of the Ordinance at the July 28, 2016 Council Meeting. Public portion closed at 7:06pm.

President Fellows: John is there anything that you want...or did you...

Vice President Plecnik: I had the opportunity to review Councilwoman Majka's minutes so they reflect my thoughts as well. I would just add for the financial aspect of our goal is to ensure that we get the market rate the best deal that the City can possibly get so at this point we're obviously not going to move forward as our Law Director said with the approving of any contract because we need to negotiate it fully, we need to compare it to the contracts that we've had in the past and have most recently signed so we have a long way to go but fortuitously as the minutes reflect we don't have to renew this agreement until June of next year so we have the time to thoroughly research and look at it in Finance and Utilities as well while the Administration negotiates the contact.

Councilwoman Majka: And as Mr. Lobe stated before we have quite a bit of work to do in discovery. Just to match up these cell towers to their exact locations, understand what the contracts originally said, what they say now, there has been a lot of changes of companies, just the name changes over the years and it does get very confusing. We're all a little bit confused about this at this point but the good news is that we do have enough time we're just trying to get a little head-start on this information. Thank you.

President Fellows: Councilman Fiebig, did you have a question?

Councilman Fiebig: No.

President Fellows: Thank you. Other Committee Reports. Planning and Zoning has a meeting Councilman Hallum, scheduled for August 1st at 6:30pm, correct?

Councilman Hallum: Yes.

President Fellows: Speaking of cell towers, new cell towers, might you know when Planning & Zoning Commission is going to have that on their agenda and when they are going to schedule a public hearing?

Councilman Hallum: The cell tower company has not applied to be on our agenda.

President Fellows: Okay. And Councilman Fiebig you have a Safety Committee scheduled for August 1st as well at 6:00pm, correct?

Councilman Fiebig: Correct.

President Fellows: I will move on to Rules and Legislation.

Rules and Legislation Committee Meeting of July 25, 2016

Rules and Legislation met on July 25th. We began our meeting at 6:15pm. All members of the committee were present, myself, Vice President John Plecnik and Councilwoman Jan Majka. Also present were Councilwoman Greer and Councilman Biro and the Mayor.

Ordinance 2016-36 – An Ordinance authorizing and directing the Mayor to enter into The First Amendment Lease Agreement Renewal (tenant Verizon) with the City. This is one of our original cell towers implemented in ~1987. The current contract expires in 2017. This will be on **Second Reading** as the Ordinance has been assigned to the Utilities/Finance Committees to review the sign-on bonus and contract renewal rates.

Ordinance 2016-38 – An Ordinance authorizing and directing the Mayor of the City of Willoughby Hills to enter into an agreement with the Ohio Department of Transportation (ODOT), District 12, for the Bishop and White Road temporary sign project. The entire cost and expense of this temporary signal will be provided by ODOT. This topic will be reviewed in a Safety Committee meeting on Monday, August 1st at 6 pm, called by Councilman and Chair David Fiebig. **Rules and Legislative Committee of Council recommends this Ordinance be on Second Reading.**

Ordinance 2016-40 An Ordinance authorizing the Mayor to enter into a State of Ohio Administrative Services Contract for the purchase of a 2016 GMC 3500 Sierra one-ton cab and chassis for use by the Service Department, vendor being Ross Service Group in Centerville, Ohio, about 250 miles from Willoughby Hills. The 2016 Operating Budget provides \$65,000 for the purchase and outfitting of a one-ton cab and chassis by utilizing funds from the Street Construction, Maintenance and Repair Fund #250 with any shortfall most likely to come from savings in salt. **Rules and Legislative Committee of Council recommends that the 3-Reading Rule be waived and the Ordinance be adopted.**

Ordinance 2016-41 An Ordinance authorizing and directing the Mayor to accept the quote submitted by Henderson Products – Ohio (120 miles from Willoughby Hills) for the acquisition of a one-ton Henderson snow and ice control package for the 2016 GMC 3500 Sierra cab and chassis that is being purchased (see Ordinance 2016-40). The 2016 Operating Budget provides \$65,000 for the purchase and outfitting of one-ton cab and chassis by utilizing funds from the Street construction, Maintenance and Repair fund #250 with any shortfall most likely to come from savings in salt. First Readings. **Rules and Legislative Committee of Council recommends that the 3-Reading Rule be waived and the Ordinance be adopted.**

Public portion was opened at 6:26 pm and with no one coming forth was promptly closed at 6:26pm. The meeting was adjourned at 6:27pm.

President Fellows: Councilman Biro any comments from Service?

Councilman Biro: One thing that we have to keep in mind and we discussed, we have to keep in mind that the 5-ton...we're looking to purchase another 5-ton plow truck. We just want to keep that fresh in everyone's memory; we have to start looking for funding now also we can initiate this toward the end of the year so that we can get it ordered because these things take so long to acquire so just to keep that in everybody's mind we probably will have another meeting in a couple of months just to reaffirm that idea.

President Fellows: Thank you

COUNCIL REPRESENTATIVE REPORTS

President Fellows: There are no other Council Representative Reports tonight. Any questions on Committees?

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 opened Public Portion at 7:32pm.

Dale Fellows – 2812 Fowler Drive. I was intrigued by the Law Director's Report on the first point that he had made about the raises and I was intrigued by what you read because it was pretty clear that the Charter is pretty clear that the Administration recommends and that the Council grants raises. The range thing that you gave was a new, relatively new way to do business but only for all the examples that you gave were regarding new hires and initial payments but not raises. Raises and ranges are apple and oranges, two different things. The budget, as I understood was granting a 2% raise when approved by Council but some were more than 2% were given. Historically, I've been around a few years too; I don't recall that ever happening before that Council's authority was usurped by Administration irrespective of the legal opinions and you can have...we all know that if you had five attorneys you'll get six opinions as to what's legal and what's not legal. But from a historical standpoint and I would challenge, not challenge but I would suggest to find out when that ever happened. I would be shocked if you could find when that's ever happened in the history of Willoughby Hills that raises were granted without Council's approval and especially when you brought up the auditor's report. The auditors would have found it if it had happened and I don't believe that it's ever happened. So just my comments, thanks.

Linda Fulton – 2990 Marcum Boulevard. My first question is in regards to the, I believe that the woman who is helping out, taking the place of Sharen is Denise Reichelt and I would like to know how she is being paid and I don't know if you can say how much but I was just wondering whether or not it would behoove the City to go through a temporary agency. Would it cost more money by going through a temp agency or what and I just find it interesting that it's a friend. So the other one, the other question that I have is in regards to Denise Edwards' son. I would like to know if he is still a monitor over there at the Community Center and if he is seventeen years old or younger because if he is, then according to the seminar that I went to last year, that is definitely nepotism because they feel that the parents are still in charge and they are pretty much in charge of the money, they could be. So I would like to know if that's the case; if he is still working there seeing that Denise Edwards is also working there. Thank you.

President Fellows: Thank you, Linda. Anyone else for Public Portion? I will close Public Portion at 7:36pm.

UNFINISHED BUSINESS

President Fellows: The next order of business is "Unfinished Business"; I'm going to pass the gavel to the Vice President. I have a couple of points that I want to share concerning Ordinance No. 2016-38 which is in reference to the signal at the intersection of White and Bishop Road. As elected officials we take an oath and have a responsibility to provide for the safety of our residents. My comments are concerning the signal at the intersection at Bishop and White roads. Actually concerns and discussion go back as far as 2011 when the thoughts of creating a round-about identified in the Capital Improvement Plan to keep traffic moving were brought forth. Recently (June 24, 2016), a statement was provided to ODOT indicating "after much discussion and consideration with the Mayor and City Council they have decided not to proceed with the permanent signal alternative at this time". However, there was no motion, nor legislation action taken by Council for this statement to be made.

My second point. this week, Council was provided a memo from the Mayor documenting his reasons to deny the expenditure for a permanent signal at the intersection of White and Bishop Roads. While we may eventually come to the same conclusion, what is important here is that Council did not concur with the decision before the Safety Committee of Council had an opportunity to “vet out” this topic; which we have been assured there is ample time to do, review all pertinent data, and the Safety Committee will bring forth a commendation to Council and then for Council to present a motion that will indicate a decision. Administration has circumvented the legislative process which should not be taken lightly by those that have elected us to represent them and these are just my thoughts, thank you.

President Fellows: Anything else for Public Portion concerns. Thank you, Tom. Any Unfinished Business?

President Fellows: Moving on to legislation, just a tip for tonight, not necessarily Robert’s Rules but at our Rules Meeting on Monday there was some discussion going back and forth with individuals about what to do with an ordinance and this one was in reference to the cell tower because the ordinance that was created most likely is not going to be the ordinance that we would address once all the negotiations have been made. So these are the things that we can do in terms of that legislation. To be more definitive, Council can vote it down if Council does not want to enter into the lease agreement that’s presented by the ordinance; table it, leaving an opportunity for Council to amend the ordinance at a later date; or if no action is taken, the ordinance will automatically be rejected on the anniversary date of its introduction. So if an ordinance is tabled then there is a life of 12 months on it no matter what month of the year that it is done. So it’s not a calendar year from January to December.

Our Codified Ordinances, Section 125.03 – Automatic Rejection of Legislation states: Each resolution or ordinance which has not been enacted by Council shall be deemed automatically rejected on the anniversary date of its introduction before Council, unless extended by motion of Council.

LEGISLATION

Ordinance No. 2016-36 – 2nd Reading

An ordinance authorizing and directing the Mayor to enter into the first amendment to lease agreement by and between the City of Willoughby Hills and New PAR d/b/a Verizon Wireless.

President Fellows: Ordinance will remain on 2nd Reading.

Ordinance No. 2016-38 – 2nd Reading

An ordinance authorizing and directing the Mayor of the City of Willoughby Hills to enter into an agreement with the Ohio Department of Transportation, District 12 for the Bishop and White Road Project and declaring an emergency.

President Fellows: This will also stay on 2nd and it has been assigned to the Safety Committee.

Ordinance No. 2016-40

An ordinance authorizing the Mayor to enter into State of Ohio Administrative Services Contracts(s) for the purchase of a one-ton cab and chassis for use by the Service Department and declaring an emergency.

Councilman Biro moved to suspend. Councilwoman Greer seconded.

Roll call: **YEAS: Plecnik, Biro, Fellows, Fiebig, Greer, Hallum, Majka**
Motion passed.

Councilman Biro moved for passage. Vice President Plecnik seconded.

Roll call: **YEAS: Plecnik, Biro, Fellows, Fiebig, Greer, Hallum, Majka**

Motion passed.

Ordinance No. 2016-41

An ordinance authorizing and directing the Mayor to accept the quote submitted by Henderson Products-Ohio for the acquisition of a 1-ton Henderson Snow and Ice Control Package for a 2016 GMC 3500 Sierra 1-ton cab and chassis and declaring an emergency.

Councilman Biro moved to suspend. Councilwoman Majka seconded.

Roll call: **YEAS: Plecnik, Biro, Fellows, Fiebig, Greer, Hallum, Majka**

Motion passed.

Councilman Biro moved for passage. Councilwoman Greer seconded.

Roll call: **YEAS: Plecnik, Biro, Fellows, Fiebig, Greer, Hallum, Majka**

Motion passed.

NEW BUSINESS

President Fellows: I had neglected to see if anyone wanted to provide a comment to any of the people that came forward during Public Portion this evening.

Any new business for tonight?

FOR THE GOOD OF THE ORDER

Councilman Biro: Madame President, as I have been a big proponent of blood donations, it's summer and there is always a blood emergency so please if you see one of those Red Cross buses, or whatever, please stop and donation because it is a worthy cause. Being in the business, we use a lot of blood and it saves a lot of lives. So please take the time, get your kids involved if they're old enough, friends, just really need to promote that in our community

President Fellows: Thank you Chris.

Councilman Hallum: Just to follow up, we actually...there is a Blood Drive at the Willoughby City Hall on August 3rd from 1 to 6 and here at the Willoughby Hills Community Center on August 10th from 1 to 6.

President Fellows: Thank you.

Councilman Biro: I'll be looking for everyone to be there.

FOR THE GOOD OF THE COMMUNITY

Vice President Plecnik: If I could just add one item because we will likely be in recess through all of August. St. Mary's Church in Collinwood is having their annual church picnic at Slovenska Pristava on August 21st. It's probably the biggest picnic of the year at Pristava. A lot of our friends from Willoughby Hills go, it's just a wonderful experience so just wanted to commend everyone to the St. Mary's Church on August 21st.

President Fellows: Thank you. I was just thinking that the fest is in Willowick coming up as well and I know that St. Noel is really involved in that. So, I forget the date...August 7th, thank you. Wickliffe, thank you...it's one of those "W" cities.

ADJOURNMENT

Motion was made by Councilman Fiebig to adjourn. Vice President Plecnik seconded.

President Fellows announced that we will be adjourning until the next Regular Council Meeting scheduled for September 8th.

YEAS: Unanimous.

The Regular Council Meeting of July 28, 2016 was adjourned at 7:46pm.

APPROVED: September 8, 2016
Date

Nancy E. Fellows
Nancy E. Fellows
President of Council

ATTEST: Victoria Ann Savage
Victoria Ann Savage, CMC
Clerk of Council