

# City of Milloughby Hills

## Special Council Meeting Minutes of May 17, 2018

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**Policy No. 2:** All Council meetings shall be recorded by audio recording device and will be held in perpetuity and shall be part of the official records and minutes. Council minutes shall be written, and approved by Council.

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The Special Council Meeting was called to order on Thursday, May 17, 2018 at 8:00pm in Council Chambers. President Fellows presided.

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

### MOTION TO EXCUSE

**Vice President Plecnik moved to excuse Councilwoman Janet R. Majka from the Special Council Meeting of May 17, 2018. Councilman Fiebig seconded.**

**President Fellows: I have a motion from Vice President Plecnik and a second from Councilman Fiebig to excuse Councilwoman Majka from this evening's meeting. Is there any discussion on that motion?**

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

**President Fellows: Councilwoman Majka has been excused from this evening's meeting.**

**Others Present:** Finance Director Frank J. Brichacek, Jr., City Engineer Pietro A. Di Franco, Clerk of Council Victoria Ann Savage

**Absent:** Mayor Robert M. Weger

### 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:** First of order of business this evening is Public Portion. This is an opportunity for individuals to come forth and state their thoughts and opinions. We ask that you give your name and your address. You have three minutes and it's a Special Meeting, so we have two things on the agenda, so that is what we prefer you speak to. And I would prefer that there be no bullying. And those of you who think that's very funny, come sit up here. Run and come up and sit here. **Public Portion is open at 8:02pm.**

**Tony Miller – 2857 Hayes Drive.** And tonight, I want to talk about, sort of, two sides of a coin. And I'll start on the one side. On the one side there's the super majority and the people that agree with them. And on the

other side, there are the people that disagree with them. For instance, let's talk about Mr. Germano. I don't think that he agrees with your side or your thoughts, your actions or your, how you run this City. And you've tried to get rid of him. I don't know where that stands, I know that you were.

**President Fellows:** Excuse me, Mr. Miller, what does that have to do with tonight's business?

**Mr. Miller:** I'm getting there, I'm getting there. Number two, the ah, Mr. Lobe, the Acting Law Director, he didn't prefer your side as well.

**President Fellows:** Mr. Miller, could you please get to your point.

**Mr. Miller:** Yes, I will. Do I have three minutes and I get to voice my opinion? Yes or No?

**President Fellows:** I'm asking you to state your thoughts and opinions on tonight's agenda.

**Mr. Miller:** You didn't care for him, so he resigned basically because of your actions and your words. Let's see, there was the, secretary, the Mayor's Assistant and let's see and then there was the Grange thing and then there was the WHISPER thing and you guys tried to scare her off with that and that didn't work. So, what did you do, you defunded her position and got rid of her. So, you know, it seems like those people who don't agree with you, you'll find ways to get rid of. And the Mayor, I believe everything that's going on with the Mayor, how many seconds do I have left?

**President Fellows:** You have one minute and sixteen seconds, sir.

**Mr. Miller:** Thank you. So, the Mayor, everything that I've seen with you guys and the Mayor has been nothing but bullying and trying to get rid of him and that hasn't worked. But, you're still trying to get rid of him. I think tonight's agenda and what you're trying to do tonight is just another example of that. So, there's that side of the coin. On the other side of the coin, there's people that agree with you. So, let's talk about Mr. Byron. Mr. Byron was an employee of this City and got fired and what do you do, you put him on as Law Director. All right, there another person on this Council that sued the City for \$25,000 and yes, indeed, won. Cost the City \$25,000. All right, but every other person that you, that has recently sued the City, you've condemned. But, what did you do to this person, you appoint them to an empty spot on the Council, member, isn't that correct, Ms. Lenz?

**Councilwoman Lenz:** That is absolutely correct.

**Mr. Miller:** There's, there's too much of a coincidence how this, how this supermajority functions.

**Joyce Grady – 3020 Marcum Boulevard.** I don't have a whole lot to say this evening, except that I'm very unhappy with the way this government is operating. And I think each of you are partly to blame for my nerviness of what's going on in this City. And I'm very concerned about the general attitude of those people who don't think that it's necessary to come up here because they can't really say anything that's wrong. Unfortunately, I hope they see it before it's too late. Thank you.

**Chris Welsh – 38801 Chardon Road.** Does the City have a Labor Attorney?

**President Fellows:** No.

**Mr. Welsh:** Does the City need a labor attorney? I'll answer my own question, yes, they do because I'm a member of a union, a labor union for 20+ years. The City I work for, the union has a labor attorney, the City has a labor attorney but the Administration of the City also sits on the negotiations but not without the City, they have their own labor attorney. My union has been around for 70+ years, they have an attorney. The contract

that is in question, there is no good faith to start with. AFSCME and it just was, everyone has their own opinion, and I don't believe, in general, administrative personnel, doesn't sound like it should be unionized because it's administration. But, the City needs to have an attorney that specializes in labor law because the contract that was presented is ridiculous. It's a little fat to be the first offer that came out of administration. If the union presented it, the administration should have said no, because no public employee has tenure, none. It doesn't exist. Unlimited vacation time, unheard of. General raises, yes, but 3,3,3 across the board is a little rich to start with, that's above the State average. I believe that it's in the City's best interest to hire a labor attorney. This is for employees and the City, and as a resident, if all the people in the room are residents, it's important that the City employees, they work for us. They can earn a living, but this is not a job agency. So, the City should get an attorney, that's my thought. Thank you.

**Linda Fulton – 2990 Marcum Boulevard.** I am glad that we have this Council up here. I am glad that we have more money to do roads. I am glad we have more police. And that we can more fire. Thank you. I hear a lot about Mr. Miller saying you're bullies. Another person who is nervous because they don't like the way the government is going. I don't like the way the government is going. The Mayor is responsible for that. Not Council. Council is moving in the right direction. We have a Councilmember up here who likes to spread fake news. "Fake news". You can smirk all you want, you know who you are. It's time, it's time that everybody gets together, work together. Where's the Mayor? Does he want to work with you? Many times, I've heard you, ask him at a Council meeting, will you work with us? And he just sits there and stares. What kind of Mayor is that? Thank you.

**President Fellows:** Anybody else this evening? Of course, Dale.

**Dale Fellows – 2812 Fowler Drive.** So, I think that it's pretty transparent today of what's going on as the Mayor's not here, he's been MIA at the last several meetings. It is all about this labor union that obviously he is supposed to be representing the City's interests and he obviously is not. He's been representing his staff's interests, not the interests of the City. I mean, that's pretty transparent. And speaking of transparency, Mr. Hallum, I'm just curious why I'm on *Next Door Neighbor* now and can't see some of the postings that you make? Couldn't be that I got blocked, is that...

**Councilman Hallum:** Can't block in *Next Door*...

**Mr. Fellows:** Like Mrs. Pizmoht, is not, she hasn't been blocked, either?

**Councilman Hallum:** You can't block them in *Next Door*.

**Mr. Fellows:** Okay, sure, right. Yeah, we'll all believe that too. So, anyway, I think that what you're doing is, unfortunate that you have to do it, but, when the Mayor is MIA in not responding to ULP requests, is blocking and actually, basically fired the labor attorney that won the last case. The labor attorney that has the expertise to represent the City's interest, which is all 9,000 or 10,000 residents, I think that it's pretty transparent where the Mayor's interests are.

**President Fellows:** Mr. McKenna.

**Ed McKenna – 2963 Lamplight Lane.** Actually, I wasn't going to speak tonight, but, you know, I can't go by without hearing some things that I don't agree with. First of all, I would advise each of you to reread the Court's decision. I think that you're violating some items in that Court decision in a number of ways, okay. What's the second one, oh, I think the Mayor is doing what he believes is in the best interest of the City. It's just an opinion different from yours, okay. So, I applaud him for what he is doing. Okay. Thank you.

**Cheryl Ota – 2960 Marcum Boulevard.** One thing, Laura, do you mind if I talk about your lawsuit?

**Councilwoman Lenz:** I would love it, thank you.

**Ms. Ota:** Okay. Laura and her son, Laura was on the Recreation Commission or Committee, I'm not sure exactly which. And her son was working as a monitor, 16 years old, over at the Community Center. Well, here comes John Plecnik and he's going to run for Council. And Laura decides that she is going to back John and as soon as the Mayor found that out, he told her not to come to Recreation anymore and he fired her son. So, there's a 16-year-old that's devastated because he got fired for political reasons. So, if you want to talk about things that don't seem quite fair, that certainly does seem quite unfair. Thank you.

**Councilwoman Lenz:** Thank you, Cheryl.

**Doris Dodge – 37881 Milann Drive.** On reference to your second ordinance here, now I know that the Mayor hasn't been present for a number of meetings lately, but in the past, when he was here, at one time, he was very actively in favor of this union. So, I do think that there is some bias here and anyone that shows any kind of bias or has some affirmation for one side versus the other, really should not be involved in the negotiation process. He should be impartial here and represent the City. And from what I've seen when he was at a meeting, he was in an adversarial position. So, I do agree with the passage of your second ordinance tonight.

**President Fellows:** Anybody else, this evening? **I will close Public Portion at 8:15pm.**

### **UNFINISHED BUSINESS**

**President Fellows:** So, Mr. Miller, I'd like to respond to one of your comments. And I've heard this comment, on and off for a while. Many years ago, before I was on Council, Mr. Steve Byron was the Prosecutor for the City. When the person that was the Mayor was going to rerun, Mr. Mike Germano, who was on Council, was going to run against him for Mayor. That Mayor didn't want him to run against him. So, they cut a deal, and that Mayor got rid of Steve Byron to put in Mike Germano as the Prosecutor. You can call it whatever you want, you can call it firing, you can call it that Steve walked out the door and never said a word about it after. That's the story and that's the truth. So, I would appreciate, you quit telling people that he was fired because he wasn't, and anybody else that says that story. And if I had been on Council on that time and I knew about it, that would have been a criminal offense for that deal.

The other thing, Mr. McKenna, you continue to tell us that we've violating the Court. That the Mayor's doing the right thing, do you have a law degree? I don't think so.

**Mr. McKenna:** Do you have a law degree?

**President Fellows:** I don't and I don't make legal judgments. However, however...

**Mr. McKenna:** Do you have a Law Director?

**President Fellows:** Well, yeah, why not?

**Mr. McKenna:** Because you got rid of him, that's why not.

**President Fellows:** Because the Mayor doesn't bring individuals to our Council that are qualified for the position. Just like he didn't bring a Fire Chief that was qualified for the position. Just like he didn't bring a Building Inspector that was qualified for the position. You get notes from somebody and you stand here and you read them and you can't even read properly.

**Mr. McKenna:** I don't get notes from anybody.

**Vice President Plecnik:** No, Mr. McKenna, I understand that she may be engaging, no, no, Mr. McKenna you are out of order and I will have the Police remove you if you continue.

**President Fellows:** You come up here at every meeting and you've got notes from whomever tells you to read them, you can't even read them properly and your statements that are not true.

**Mr. McKenna:** [undecipherable]

**Vice President Plecnik:** One more time and you'll be removed.

**Mr. McKenna:** [undecipherable]

**President Fellows:** It's a lie, what you say is a lie.

**Mr. McKenna:** I'm saying nothing but the truth...

**Vice President Plecnik:** Madam President...

**President Fellows:** I'm the facilitator and I'm running the meeting and I'm clarifying things...

**Vice President Plecnik:** Let the record reflect that Mr. McKenna has been ruled out of order three times.

**President Fellows:** I gave him the gavel so that I could speak as not the Council President, but as a Councilmember. And to other point, when you talk about a supermajority, supermajority of Council, we are a body of one. We are seven individuals that are a body of one. We are not a minority, majority, supermajority, queens, queens, who used queens lately? Oh, he's not here tonight because he doesn't want, because he's a coward. We are a body of one. We vote as a unit.

**Mr. Miller:** That's out of order.

**President Fellows:** Oh, no, it's not.

**Vice President Plecnik:** Mr. Miller, you are now ruled out of order.

**Mr. Miller:** This is out of order.

**President Fellows:** No, it is not, sir.

**Vice President Plecnik:** Second time. One more and you'll be asked to be removed.

**President Fellows:** You individuals come up here and you have nothing but bad things to say about us. You don't want to agree with anything that we do. You don't talk to us civilly. What? What?

**Mrs. Walsh:** You don't talk civil, yourself.

**President Fellows:** I hardly ever talk at this dais.

**Vice President Plecnik:** Let the record reflect that Ms. Lori Walsh has now been rules out of order, once, twice move and you'll be removed...

**President Fellows:** I rarely speak at this dais.

**James Walsh:** Nancy, you're melting down, don't do this in public.

**Vice President Plecnik:** Let the record reflect that Mr. Walsh has melted down and he has been ruled out of order once.

**President Fellows:** I'll take the gavel back.

**Mrs. Walsh:** You guys are all bullies, that what you are.

**Vice President Plecnik:** Twice on Ms. Lori Walsh.

**President Fellows:** Anybody have anything to finish up on Public Portion?

**Vice President Plecnik:** Madam President. If I may, I really want to follow off of the very kind comments of Ms. Ota because I will say, that I will never forget how Laura Lenz and her family support me in my first race for Council. Anybody who's been to a Council meeting in Willoughby Hills knows how difficult these campaigns are and that she was willing to stand up and campaign for me with her family is something that I could never thank her for enough. And I know that it was sincere because I worked with Ms. Lenz two years on the Recreation Commission. Between the two of us, we knocked on every single business in Willoughby Hills, three time asking for donations for our annual City fair. And I saw first hand how passionate Laura was for her City, and I couldn't have been more distributed when the day after the election was resolved, the day after, the Mayor fired Ms. Lenz's son and put her off of the Recreation Commission. And frankly, I know many Department Heads warned the Mayor, they privately approached me, and told him that we know if you do this, you'll be sued and we know if you do this, you'll lose. But, the Mayor was so angry, so political, that he retaliated against our resident and our neighbor, Laura Lenz. And to this day it bothers me that there's never been a full accounting because, yes, the City lost money because of what the Mayor did. And his infringement of our resident's First Amendment Rights did cost us as a community. More than the money, it cost people the ability to speak out without worrying if the Mayor would fire or retaliate against them. And I've talked to so many residents who said we love you John, but if I put up your sign, may be the WHISPER Program won't help me. And if I put up your sign, maybe the leaf pickup will miss me. And if put out your sign, who knows what the Mayor will do to me. And Laura Lenz is the perfect example of why we know there's retaliation in this City. This is a fact, you can't debate or dispute what happened, it's on the record that he fired her son. It's on the record that he lost his case. It's on the record what he did and when he did it. These are not things that we can debate and it's really sad that we're still having this conversation four years later because in most cities, the Mayor would have resigned after an embarrassment like that and we would have moved forward. But, he's still here, kind of. Where is the Mayor night? You can not work with someone who's not ready to work with you. You can not work with someone who's not even interested in engaging. And by the way, when Councilmembers express concern about notes being shared, well there's real validity to it. We found out, through various public records requests, that a certain City employee was telling several members of Council exactly what to say each meeting. And interestingly enough, turns out, they said exactly what they were told to say in those emails. So, we know where these vicious talking points came from, we know this was not spontaneous, good faith discussion or debate, we know it came from vile, political sources. Now, there are a lot of good people who work for this City. There are a lot of good people, who nonetheless, have stepped up to run and to serve. Some have won, some have lost, but a lot of good people would have stepped up anyway even through they know that there are those who years later will go on social media and will attack and attack and attack, out of bitterness, years after their campaigns. This hall should be a place of respect, of where we could have a real dialoged with one another because these issues are never going to get easier. And the only way we can have a legitimate, honest discussion is if we respect one another. Firing people when they disagree with you politically is wrong. But, you know what, only one person has demonstratively done that in Willoughby Hills and his name is Robert Weger. There were reductions of positions in the budget and we know why, it's because the Mayor submitted a deficit budget to Council. And his "balanced budget", that he submitted after we absolutely refused to vote for deficit spending was not balanced. We went through it line by line and I encourage anyone of you to read

through the minutes of those meetings because you'll see that the savings that Mayor proposed went really. He said we'll save money by cutting Peter Di Franco, our City Engineer's salary in half without hiring a Building Inspector to take over the responsibilities Peter would no longer do. You can not save money by simply not doing the job. And if we were to hire a Building Inspector, it would have costed twice as much or more, that's not savings, that's actually more expensive. So, no, the Mayor never proposed a balanced budget. And anyone who actually does the hard work of reading through the minutes, or if you don't trust the minutes, listen to the audio, can see for themselves, that the Mayor never proposed a balanced budget. I'm the Chair of the Finance, I live with these numbers. I know Councilwoman Laura Pizmoht worked very hard on the budget too. Anyone who actually reviews, line by line, it's a public record, please do, can see what we were forced to work with. The reason that we've paving twice as many roads this year and you see our Roadcrew out working so hard, and so many thanks to Mark Grubiss his team for getting out there and really doing our residents proud. The last Council meeting, we had two residents who came just to say thank you for the road repaving. That's a wonderful thing. That's a positive thing and that's what our City should be known for, for serving our residents well. We have the Mayor, for once, doing something positive, swearing in new police and firefighters and we're go grateful for that good news for the City. But, instead of talking about these positive developments, and the reduction in our City debt, at the State of the Cities address, I'm sitting there with one other Councilperson, Councilwoman Majka, the Mayor wanted to talk about himself suing the City and how angry he was with Council. This is an opportunity for us at the Chamber of Commerce to sell our City and our Community and to show the positive. We'll always have challenges. And there will also be political disagreements. It's been tough in Willoughby Hills, but go to Richmond Heights, go to Mentor, go to Willoughby, go to Wickliffe, you'll see disagreements at the table too, handled a lot more respectfully, in most cases, but still disagreements because there's always tough issues that cities have to work through. We don't have an unlimited amount of money, we have to decide on our priorities. But, a good Mayor, is going to sell the positive when he steps outside the community. He's going to talk about what we've done right rather than talking about his lawsuits, suing his City. That's never going to convenience businesses to come to Willoughby Hills. It's going to convenience them to go running away screaming. You want to talk about a meltdown, that Mayor melted down as our representative, in front of all of the other cities and business owners in our half of the county. And I was embarrassed for Willoughby Hills. We have to do better. And I'm happy to have this conversation with the Mayor, respectfully, here at the dais, in front of you, I want you to be a part of that conversation too and say, Mr. Mayor, why wouldn't you sell the positive. Why wouldn't you tell the businesses how many roads we're repaving, how we're reducing our City debts, we're more fiscally responsible, and in a better place to serve you. Why wouldn't you sell the sewer fee cut that Councilwoman Majka and I pioneered and passed last year which makes it more affordable for businesses to come here. There's so many things that we could talk about, but instead, I sued the City. That's the Mayor's State of the City Address. We have to do better than that and by the way, that's not my opinion, that's a fact. Ask any economic developer should our Mayor lead with I'm suing my own City and I hate Council, at an event where he is trying to recruit businesses and convenience them that this is a fertile ground for them, no one will say that it's a good idea. Not one will defend that behavior because it's indefensible. And I hate to jump ahead, but I think that it's appropriate, I know that many of you are here tonight because you'll worried about Ordinance No. 2018-27 which very specifically removes the Mayor from negotiations, it doesn't make Nancy the Mayor of Willoughby Hills, although, I think that we could do a lot worse, than Mayor Nancy Fellows. It doesn't make her the Mayor of Willoughby Hills. It gives her a very specific responsibility. It doesn't pay her anything to do it, to handle the negotiations with the secretaries of the ASFSME union. And I'll tell you why, I think that many of you haven't actually read through the Ordinance and the packet in full. Are you aware, as a community, because you need to be, this is your money, that the secretaries' union sued our City in filing an unfair labor practice, demanding that they get the compensation benefits that has never been approved by your elected officials. Never been voted affirmatively by Council and gets all their positions back. So, we have to fire those new police and firefighters. We would have to cancel those road repavings, we'd probably end up borrowing a lot of money and then next year when other union contracts come due, just wait and see whether the police, the fire and the service are happy with a 1,1 or a 2, 2 when the see secretaries getting a 3,3,3. I don't think that I need to tell you that every labor attorney that we talked to told us that would be the first thing those other unions bring forward. This was horribly irresponsible. It was indefensible that this contract every got this far. But, I was stunned, stunned, to find that after the Mayor fired

the labor attorney who won the first ULP that the union filed that the Mayor didn't respond to the ULP as to the deadline on Monday. He knew about the deadline, he forwarded it to Council, he told us about the ULP and he didn't respond. This Monday was the deadline. This Mayor, as your fiduciary has to defend you. It's his legal obligation and not only did he fire the lawyer who was defending all of us as taxpayers, he then proceeded to do nothing. One could only, in good faith, presume that he wanted the City to lose and the union to win. And that's not he said, she said, in my opinion, his opinion, that's a fact. A fiduciary of the City doesn't have a choice. You might think that the City is terrible and horrible, you might want the City to lose, but if you want to serve as a Mayor, or a Councilperson, you have to defend your City. That's your job. That's not a matter of opinion, that's a matter of fact. And frankly, to have fired the attorney that was defending the City and then do nothing, up to the deadline, we're talking borderline criminal actions here. Depending on his intent and what other evidence exist, that could be criminal. This is that serious. This is that bad. And we need to come together as a community to ask the Mayor, what are you doing? In what universe is it okay for you to not defend your own City, to fire the attorney who won the first ULP and then to let the deadline pass. Thank God for Council and Councilman Dave Fiebig who called SERB and said that we need an extension for our City to defend our taxpayers. That's the job that we've been elected to do. That's the job the Mayor was elected to do. And each and every person in this room owes the Mayor a phone call and needs to ask him why didn't you defend me? I'm paying you, I'm paying for your health benefits, I'm paying for your pension, I'm paying for your salary. Your job as fiduciary of the City is to defend me and you fired the lawyer who is defending me and then did nothing yourself. Are you representing me or are you representing the secretaries' union? Are you representing me or are you representing your campaign manager? Are you representing me or are you representing yourself? And at this point, we can't avoid those questions unless if we just don't come to meetings, and someone is not here. And my understanding is that the Mayor's reasoning is for why he couldn't join us this evening even through so many residents who aren't being paid somehow found the time, is that he had to work this morning and so he's tired. Well, I had to work this morning too. I suspect that most of us here, except for the few of us, who have a well-earned retirement, that most of us had to work this morning. It's no excuse for missing an evening meeting. And it's no excuse for avoiding the very real question of why didn't you defend us? Are you a criminal? Or are you just incompetent? Because those are the only two alternatives. There is no more Public Portion this meeting, unfortunately, but I think that you should ask the Mayor those questions because they're critical and his phone number is available on the website. I'm not going to call him out and state it, but it's available on the website and you should call the Mayor. And you should ask him personally, why wasn't I worth defending? This is beyond debate, no one can defend this behavior anymore. It would be a meltdown, it would be an embarrassment to even try. And I feel sad for anyone who would because either you'll involved in this, possible criminal enterprise, or you know what the Mayor is doing is wrong. Those are the only two choices. This is beyond opinion; a Mayor has to defend their City. This is not a question, it's not a debate, the only remaining issue is why did the Mayor fail to defend us? And I want to ask him that question at the next Council meeting and Mayor Weger, I suspect that you're watching tonight and I'm calling on you to come to our next Council meeting answer why you failed to defend our City and are you prepared to take responsibility and resign? Thank you.

**President Fellows:** Anybody else?

**Councilman Fiebig:** Madam President. While we have a moment to discuss this, the labor union issue, I should let you know that just prior to this meeting, we had a Planning and Zoning Commission meeting and there was no clerk here. There's no reason, that I'm aware of, that there shouldn't be a clerk because we appropriated the funds for a clerk to be here. I found out through discussions with the Chair, that the union told her not to come. Now, assuming that's true, and I can't say for sure, I didn't hear it directly from the union, but that seems to me that we've got a situation here in the City where perhaps, people are striking. It turns out that the Chair said that we're not going to have any other meetings until we have a clerk. And I overheard a conversation from our BZA Chair that he's not having any other meetings until they have a clerk. So, I think we need to address that issue, perhaps we need to address it at our next Council meeting. But, I wanted to bring it up, I said that I would, we also made a motion to, for the Planning Commission to ask the Mayor, specifically, for legal representation for the CSL Plasma Center applicant because they came in front of our Committee of



Council with a lawyer and have done a public records request and I think that they're posturing was one of, well we're ready to sue. So, I think that it's prudent that we encourage the Mayor to hire an attorney, specifically for the Planning and Zoning issues and the body did formally ask for that in an affirmative, unanimous vote tonight. Thank you.

**Councilwoman Pizmoht:** Madam President. I just want to reiterate that the union contract, the AFSCME union contract forbids employees from striking and also forbids the employees in the union from impeding City business. So, if there is a strike, if there is an effective strike, if the union is actively trying to impede City business, then the City may have legal action that they can take against the union ourselves, so.

**President Fellows:** There's a couple of things that I want to say, first of all, I want to apologize. It's been exceedingly challenging, as you all know, on either side of the coin, as Mr. Miller said. Just a short thing about not having clerks, Chairs of Council Committee meetings, we take all of our own minutes. I mean, the commissions have numerous people on them, they can certainly appoint one to be a scribe or can even share one scribe one meeting or another next, whatever, that's not my call because commissions are the Mayors. But, certainly someone can do minutes or you can tape them as well.

The other thing that I want to share, so many times people talk about working together. So, about a month ago, the Mayor and I met with Commissioner Jerry Cirino. And the Mayor had asked him why would we meet him, why did you ask us to come and meet with you? And Mr. Cirino said because I'm concerned. People in the County have come to me, people from Willoughby Hills have come to me, people from my church, he attends Divine Word and many Willoughby Hills residents attend that church, are asking him what can you do? What's going on? So, the Commissioner reached out to the Mayor and I and we met with him, about four weeks, for three hours. And it was heated in the beginning, both by Bob and I and as we talked through things, the last hour we actually began to talk about how we could address issues and resolve problems. The Commissioner asked for a second meeting. We scheduled it and the Mayor canceled it. And we have yet had an opportunity to come back to the table to see if we could begin to implement some of the things that we talked about. I've met with the Mayor on many occasions, we've talked about things, we've, I've said that I would bring things back to Council because I can't make any decisions for Council by myself, none of us can. And then a week later, it's something different. So, maybe I'm at fault for not sharing over time that I have reached out to the Mayor to work with him whether I was on Council or whether I was in this position. If one of the two people don't come together to work together, then I don't know how you resolve anything, so, I wanted to share that. That's what I've been engaged with him and Commissioner Cirino. And I apologize for not being appropriate.

**Vice President Plecnik:** Madam President. The only thing that you should apologize for is being too kind, frankly. We're so grateful to you for leading what happens to be very difficult meetings. Sitting next to you, I appreciate that the hardest job is holding the gavel; I do occasionally. And you should know how great the respect is of your colleagues and residents are for you and for the work you do for all us because you give us all the opportunity to speak, even when a few people try to derail the discussion and it's not fair or right for any one person to jump in, out of turn, in violation of Robert's Rules and the Law and personally attack others because there is so many more that will never speak when they know they will be shouted down and only because of your careful handling of the gavel, do people feel free to speak, especially those who disagree with you. I think that it telling how free they feel to speak because of the respect you show, every view point. And to me, you're the epitome of someone who brings us together.

**President Fellows:** Thank you, John. Thank you very much. All right, we have two ordinances on the legislation part of the agenda.

## LEGISLATION

### ORDINANCE NO. 2018-25 – (As Amended)

**1<sup>st</sup> Reading: May 10, 2018**

**AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF WILLOUGHBY HILLS TO PARTICIPATE IN THE OHIO DEPARTMENT OF TRANSPORTATION'S (ODOT) ANNUAL WINER ROAD SALT BID (018-19) IN ACCORDANCE WITH OHIO REVISED CODE 5513.01(B) AND DECLARING AN EMERGENCY.**

**Councilwoman Pizmoht:** Madam President.

**President Fellows:** One second, Councilwoman Pizmoht. So, at the last Council meeting this was on 1<sup>st</sup> Reading. We did not have the quantity of tons of salt that we had to purchase. And my understanding is that this needed to be submitted by the 18<sup>th</sup> of May. Am I correct, Mr. Grubiss?

**Mr. Grubiss:** I don't remember the exact date...

**President Fellows:** I think that it was going to be before the next Council meeting though and so that's why we wanted to get this out tonight and get this passed so that you can order the salt.

**Councilwoman Pizmoht:** Madam President. Move to waive the 3-Reading Rule on Ordinance No. 2018-25-(As Amended).

**Councilman Fiebig:** Second.

**President Fellows:** I have a motion from Councilwoman Pizmoht and a second from Councilman Fiebig to waive the 3-Reading Rule on Ordinance 2018-25 – (As Amended). Any discussion on the motion?

**Councilman Fiebig:** Madam President. We did ask the Mayor to provide us with this number prior to that meeting and I got no response to that question. So, that's why it wasn't there. It wasn't a fault of Council, it was, you know, the Mayor has to submit to us what his request is. I did request that we ask for more road salt, but I don't know if I got the answer of how much did we order last year?

**Road Superintendent:** It was 4200 tons last year.

**Councilman Fiebig:** Okay, thank you. So, this is 5,000, 4,200 was last year.

**Road Superintendent:** There's a 1,000 that we going to get from the summer and then 4,000 from the winter.

**Councilman Fiebig:** Correct, that's 5,000 and 4200 was last year. Thank you.

**Road Superintendent:** Keep in mind, we have to take 90% whether we use it or not. We can't store it outside. So, if we have a mild winter [undecipherable]

**President Fellows:** Right and I believe everybody knows and understands that.

**Councilwoman Pizmoht:** Madam President. Two things: one, the Mayor sent us a memo today that was accusing us of not giving enough notice about this meeting and calling a Special Meeting and making kind of a big deal about having a Special Meeting, but we needed to have a Special Meeting, not just for Ordinance No. 2018-27, but also, so that we can get salt for the winter. And just real quick, the contract here, it says it must, it says no later than Wednesday, May 18, 2018 and May 18, 2018 is Friday. It's tomorrow, so I'm not sure if that's something that needs to be fixed.

**President Fellows:** I'm sorry.

**Councilman Fiebig:** On the attachment.

**Councilwoman Pizmoht:** Yeah, on the attachment it says Wednesday, May 18, 2018 and it's Friday. So, I don't know if that's a material error of if it's something that we need correct or not, that's all.

**Vice President Plecnik:** Well, this is their...

**Councilman Fiebig:** It's a State template.

**Clerk of Council:** I went by the date, so did Mark.

**Councilwoman Pizmoht:** Okay, so we'll just go by the date. Okay, that's fine.

**Clerk of Council:** It was on Mark's memo.

**Councilwoman Pizmoht:** Okay.

**President Fellows:** And just so everybody knows, Special Council Meetings, by the Charter can be called twenty-four (24) hours in advance and Vicki actually submitted the notification and the agenda forty-eight (48) hours in advance. So, we're in compliance with the Charter in terms of calling a Special Council Meeting. And just an FYI, when you have a committee meeting it has to be seven (7) days in advance.

**President Fellows:** So, we have a motion to waive the 3-Reading Rule. Any other comment on that?

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

**President Fellows:** The motion to waive the 3-Reading Rule on Ordinance No. 2018-25 – (As Amended) has passed.

**President Fellows:** Councilwoman Pizmoht. Councilman Fiebig.

**Councilman Fiebig:** Motion to approve Ordinance No. 2018-25 – (As Amended)

**Councilwoman Pizmoht:** Second.

**President Fellows:** I have a motion from Councilman Fiebig and a second from Councilwoman Pizmoht to adopt Ordinance No. 2018-25 – (As Amended). Any discussion on the motion?

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

**President Fellows:** The motion to adopt 2018-25 – (As Amended) has passed.

#### **ORDINANCE NO. 2018-27**

**AN ORDINANCE TO REMOVE THE MAYOR AS THE SOLE NEGOTIATING AGENT ACTING ON THE PART OF THE CITY IN ANY MATTER IN CONNECTION WITH THE WILLOUGHBY HILLS AFSCME UNION, PURSUANT TO ORC 4117.20(B) AND DECLARING AN EMERGENCY.**

**Councilwoman Pizmoht:** Madam President. Do we need to waive the 2-Day Notification Rule?

**President Fellows:** No.

**Councilwoman Pizmoht:** Just the 3 Day? Okay. Madam President, move to waive the 3-Reading Rule on Ordinance No. 2018-27.

**Vice President Plecnik:** Second.

**President Fellows:** I have a motion from Councilwoman Pizmoht and a second from Vice President Plecnik to waive the 3-Reading Rule for Ordinance No. 2018-27. Is there any discussion on the motion?

**Councilwoman Pizmoht:** Madam President. So, in March, the City Council passed a budget which changed some positions and eliminated some positions, administrative positions and then we put money from those positions that we saved, into hiring more firefighters to fully staff our Fire Department and pave more roads. As a result of passing that budget, the AFSCME union which some of the employees that were affected by the budget, sued the City and filed a ULP, an Unfair Labor Practice, charging that the City Council by passing a budget was union busting. So, anticipating that, because it was threatened even before we passed the budget, this ULP, City Council passed an ordinance to hire a labor attorney who had worked for the City in the past, on labor issues, just like this one, again against the same union who filed a ULP a few months earlier. A week or so later, after Council set aside a veto of, that the Mayor vetoed the ordinance that hired that attorney, the Mayor sent that attorney a letter essentially firing that attorney. City Council, I think we just said, okay, we'll let the Mayor do what he wants to do here, we'll see what happens. Well, he had until May 14<sup>th</sup> to defend the interests of the City. You don't necessarily need an attorney to defend the interests of the City, you just need to answer the charges in the ULP. Well, Councilman Fiebig called SERB on the day of the deadline, May 14<sup>th</sup> and nothing was filed. If nothing is filed from the City, there is no defense, that all the allegations that are alleged in the ULP charge are assumed to be true, meaning the City automatically loses, in essence. So, that again is not doing our job. I would argue that's non-feasance of office, right there. But, what Councilman Fiebig did is he was able to get the City a three-week extension, so we only have three weeks to make sure that our City is defended. So, the point is that we need to move quickly with this to make sure that our interests in the City are defended as Councilman Plecnik said, we don't have to fire the new firefighter that we just hired. We can hire more as we planned. We can still pave those five roads rather than having to roll that back and go back to two or none. So, these are the things that we need to do to defend the interests of our City. And that's why this is important and we need to move quickly on this.

**Vice President Plecnik:** Madam President. To the 3-Reading Rule, specifically. When I first joined Council almost every ordinance was waived. So, one thing that I'm really hearkened by when I hear residents who are concerned when we waive the 3-Reading Rule which is appropriate to do when there's true urgency. A three-week deadline, for example, to respond to a lawsuit where the City loses if we fail to respond is an example of that urgency. But, I do really want to share that this is something that I fought for as a Councilperson that we use this waiver judiciously. In the past, almost every ordinance was waived and adopted. You'll notice that is the exception to the rule as well it should be today. And I will say, for those of you who want to know the origins of the rule, you know, I was very grateful to the News-Herald that allowed me the opportunity to expound, but most historians believe that it started in English Parliament and is a practice that carried on in most commonwealths like Canada, the United States, right down to our City level. But, actually the 3-Reading Rule and its original administration goes back to ancient Athens where the assembly of Athens made rash decisions and decided to change their rules, more specifically, they were at war with Sparta and there were large fleets that were fighting one another and Athenians lost to the Spartans in a big naval battle which is hardly surprising. This is Sparta versus the Philosophers and with half their fleet sinking and sailors ready to die, the Generals had to make a decision, do we save the drowning sailors or do we go back to defend Athens because what if the Spartan fleet is heading to finish us off? Well, they decided to go back to Athens to defend their City and the Spartans weren't there. It turns out that the Spartans went home to celebrate and they let have their fleet drown and die. Of course, there's all these angry parents, standing on the shore, saying where's my son. When they found out the Generals abandoned them to drown, they went to their equivalent of City Council, the Athenian Assembly and said vote to execute all of them. And with no 3-Reading Rule and no restraint, they did so. Societies objected, a fairly wise man, by most accounts and he was actually ordered to recruit one of the Generals and bring him to the executions.

Societies refused and truthfully that's one of the reasons why he was ultimately executed himself, forced to drink hemlock. So, our tradition of the 3-Reading Rule in Willoughby Hills, dates back to thousand of years to ancient Athens. And only in instances where a Mayor would cross the line so severely where time is really urgent, it's appropriate to waive the 3-Reading Rule and that's why I'm very much in favor of doing so tonight because three weeks is hardly enough time to answer since the Mayor squandered the time that the law already give us. Thank you.

**Councilman Hallum:** Madam President. Just one last point. I just want to make mention that while Councilman Plecnik is correct there were several in the past, that were, we did do the 3-Readings; that were waived and adopted, this year alone twenty-three of the twenty-seven ordinances that have been before this Council have been waived and adopted. So, we have not been reading them three, very much this year at least.

**President Fellows:** And Mr. Hallum, you haven't been on Council as long as I have or Councilman Fiebig, and we waived and adopted everything, years ago. Just as a comparison.

**Councilman Hallum:** Okay, it's misleading to say...

**President Fellows:** Just a comparison.

**Councilman Hallum:** We haven't been, lately.

**President Fellows:** Just a comparison. Okay, so this is to waive and adopt.

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

**President Fellows: The motion to waive the 3-Reading Rule on Ordinance 2018-27 has passed.**

**Councilwoman Pizmoht:** Madam President. Move to adopt Ordinance No. 2018-27.

**Vice President Plencik:** Second.

**President Fellows: I have a motion from Councilwoman Pizmoht and a second from Vice President Plecnik to adopt Ordinance No. 2018-27. Is there any discussion on the motion?**

**Vice President Plecnik:** Madam President. Has the Mayor explained to anyone at this dais why he failed to defend the City?

**Councilman Fiebig:** No, not me.

**Vice President Plecnik:** I pose the question to any one at this dais, has the Mayor explained to a single member of Council he, not only fired the labor attorney, who is defending the City, but then chose not to defend us?

**Councilman Fiebig:** Mr. Plecnik. I also sent an email to the Mayor asking where he was at our committee meetings last week and where he was at the Council meeting, stating that we had several very important issues, I just wanted to know where he was, what was more important? It was a polite email, but I got no response to it.

**Vice President Plecnik:** Madam President. So, I take it to mean that the Mayor has not explained to a single elected official in the City his reasoning or his purpose for leaving the City completely undefended against a lawsuit that could cost the City, over time, millions of dollars. I'm really shocked that not a single person at this dais has had a conversation with the Mayor about why he would do this to our residents. And why isn't he here to answer that question tonight? And there is no defending this behavior. Anyone who defends it is either in on

something, or truly doesn't understand. At this point, we all need to walkout as a community and ask our Mayor why won't you defend us? And if you're not ready to do the job then please let someone else do it. There is no defending this. You can't say it's good to leave our City undefended in a lawsuit. That's like saying, well, you know, it's good to go door to door and give residents E. coli. You can't defend some behavior. And, I'm just shocked and horrified that he hasn't even discussed his reasoning with a single Councilmember.

**President Fellows:** So, Councilwoman Lenz, has the Mayor spoken to you?

**Councilwoman Lenz:** Not at all.

**President Fellows:** Councilwoman Pizmoht?

**Councilwoman Pizmoht:** No.

**President Fellows:** Councilman Fiebig?

**Councilman Fiebig:** No, I said no.

**President Fellows:** Vice President Plecnik?

**Vice President Plecnik:** No.

**President Fellows:** Councilman Hallum?

**Councilman Hallum:** No.

**President Fellows:** And I have not, just for the record. Anything...

**Councilwoman Pizmoht:** Madam President. There was some talk and I think in the Mayor's memo to us earlier today, he talked about Council usurping his authority. And I think that the word usurping tends to, it kind of lends itself to an interpretation that Council is trying to take his power away from him or we want to have this power or some sort of nefarious intent here and I think that it's safe to say, I can't speak for you, Council President, but I tend to think that you don't actually want to exercise this power that, I can only speak for myself, I just want someone to defend the City and do the job. And when our Mayor is unable to do his job for any reason, as our Charter says, that it is the Council President's duty to do the job for him and in his place. So, we're just following the Charter and we're trying to do what's right to preserve the safety and wealth fare of our community which we are tasked to do under our Charter, it's our duty to do those things. And it is our duty to make sure that the work of the City gets done even if the Mayor chooses to or refuses to or cannot do it. Thank you.

**Councilman Hallum:** Madam President. Respectfully, I disagree with that comment. The ruling from the judge on the past Court proceedings states that Council's determination that the Mayor is unable to perform his duties for such proposes, pursuant to Section 2.4 of the Charter is an error and contrary to law. Invoking that section and using it to strip the Mayor of his statutory and Charter powers to make the Council President Acting Mayor is not warranted. Council makes the argument that "unable to perform his duties for any cause" is a phrase which council is empowered to define. It is not. The construction of a Charter is a matter of law, to be determined by a court. And then it goes on to say, while Council may have discretion in determining when a mayor is unable to perform his duties for any cause..., its judgment is not unfettered. A mayor cannot be ousted from performing the duties the position entails at the whim of Council. In the instant case the grounds recited allege Mayor Weger I don't want to read that part, I don't want to get into that part, but it goes on to say, that the court found that the, it is further found that unable to perform suggests that a legal disability is a prerequisite to suspending a mayor from his or her duties. A legal disability means a debilitating mental or physical condition, or a legal one such as

conviction of a felony. So, I just wanted, this particular ordinance, there are elements of it that look very similar to 2018-77 that was, sorry 2017-88 that was rule unlawful and illegal. I'm just wondering who authored this ordinance? Madam President, I'm asking you.

**President Fellows:** Who authored it? There was combination of Councilwoman Pizmoht, Lenz, all of us, except probably you.

**Councilman Hallum:** Thank you.

**Councilwoman Pizmoht:** Madam President. You know, the idea that this is at our whim is just not true. And what the judgment says that there needs to be a legal disability and under the Ohio Revised Code, I would argue that when the Mayor would be violating Ohio Law or Ohio Ethics Law and committing a crime by acting or failing to act, that is unable to discharge his duties. That is a case where a mayor should recuse himself and when the mayor won't recuse himself or doesn't realize that he should recuse himself, which is probably what's going on here, it is our duty to ensure that he does because we don't want the Mayor to by failing to act violate the Ohio Ethics Law which would be a crime or to violate the Ohio Revised Code, Section 4017.20 which prevents or forbids the City's negotiator from having a conflict of interest such as what is demonstrated here in the exhibits attached to this ordinance.

**Vice President Plecnik:** Madam President. Just to follow off that point. If you review the exhibits to the ordinance, which are posted to our City website, and a public record, you'll see that the Mayor, many times refers to the Council's budget, which once again, balance the budget, reduce the City debt, increase funding for our safety forces and repaving our roads. But, did reduce some positions, some of which were in the secretaries' AFSCME union. He repeatedly refers to that budget as "union busting" which is exactly the allegation in the ULP. If you believe that and you state that, the City is wrong and should lose, you are not in a position to defend the City. And I don't think that any reasonable person, in good faith, would argue that if someone goes to you and says that you're a murderer that you would then turn away and say I'm hiring you to be my defensive attorney in my murder case. You cannot represent and defend the City when you say the City is wrong. And he said in writing, on the record, in his veto letters, at Council meetings, in Mayor's reports that the City is wrong. And okay, as Mr. Miller has pointed out, we all have our opinions, and if the Mayor really, truly believes that the City is wrong and should lose, he's entitled to his personal opinion. But, he can't then proceed to take the City's case and fail to respond, he would appropriately recuse himself and let someone who believes in the City defend it. If he really finds the case of our City so distasteful and so wrong, there's nothing preventing Mayor Weger from saying I think the City is wrong, I refuse defend it, I recuse myself, let someone else do the work. What you can't do is say that the City is wrong and as its Chief Executive and defender, I'm going to take the case so that all of you residents and taxpayers now have to pay. Because I've decided that you're wrong. And I'm going to help the other side win, over the side that I'm a fiduciary to. So, it's a really very simple, a very simple problem that unfortunately has gotten out of hand. And I never, truthfully, I never thought Mayor Weger would let it go this far. That he would fire the attorney who won the first unfair labor practice, successfully defended you and then would sit on the Complaint and do nothing presumable to make our City lose. This is, once again, we can't debate this, that is not okay. It's arguable criminal, certainly unethical. And I think that there needs to be a full investigation to find out what did Mayor Weger know, when did he know it, what was his intent. He needs to state on the record to us, what were you thinking when you let this go? Because if your answer is I wanted to secure an unlawful benefit, I wanted to make sure that the City lost and so, various individuals would get jobs, or compensation as a result of you, the taxpayer losing. I think that's a one, that's a one-way ticket to jail. And I really want to hear Mr. Weger tell us what he was thinking. He owes us the people he represents that explanation, but realistically speaking, we really need to hear from our Mayor. He needs to tell us why he didn't defend the City. But, he needs to stop pretending that he doesn't have a conflict, because his own words state the conflict.

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

**Motion PASSED.**

President Fellows: Ordinance 2018-27 has been adopted.

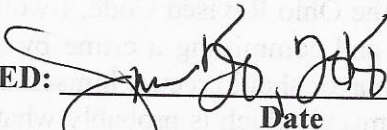
## ADJOURNMENT

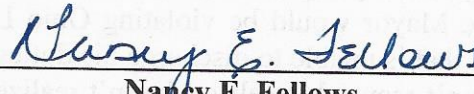
Motion was made by Councilwoman Pizmoht to adjourn. Vice President Plecnik seconded.

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

The Special Council Meeting of May 17, 2018 was adjourned at 9:03pm.

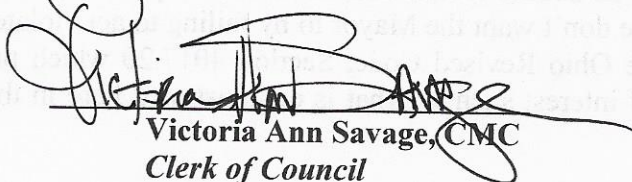
APPROVED:

  
Date



Nancy E. Fellows  
President of Council

ATTEST:

  
Victoria Ann Savage, CMC  
Clerk of Council