

# City of Willoughby Hills

## Regular Meeting of Council Minutes of September 22, 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, September 22, 2016 at 7:00pm in the Willoughby Hills Council Chamber. President Fellows presided.

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

**Others Present:** Mayor Robert M. Weger, Law Director Thomas G. Lobe, Finance Director Frank J. Brichacek, Jr., 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 September 8, 2016.

Councilman Fiebig moved for passage. Councilwoman Biro seconded.

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

**Motion passed unanimously.**

### COMMUNICATIONS

**President Fellows:** I will not have the Clerk read Correspondence, Notifications, Minutes or what's on File as these items will appear in the Regular Journal.

### CORRESPONDENCE

City Engineer's Report dated September 15, 2016 (Emailed: September 15, 2016)

Memo from Assistant Director of Finance to Council dated September 16, 2016 re: New Hires (Email: September 16, 2016)

**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

### NOTIFICATIONS

Board of Building and Zoning Appeals Meeting of September 13, 2016 (Emailed: September 12, 2016)

Civil Service Commission Meeting of September 28, 2016 (Emailed: September 12, 2016)

Planning & Zoning Commission and Architectural Board of Review Meeting of September 15, 2016 (Emailed: September 13, 2016)

Personnel Relations Committee of Council Meeting of September 19, 2016 (Emailed: September 12, 2016)

Planning & Zoning Committee of Council Meeting of September 26, 2016 (Emailed: September 16, 2016)

Recreation Commission Subcommittee for the 9/11 Memorial Service and Picnic Follow-up Meeting of September 27, 2016 (Emailed: September 14, 2016)  
APA Cleveland's 28<sup>th</sup> Annual Planning and Zoning Workshop scheduled for Friday, November 4, 2016 (Emailed: September 20, 2016)

## **MINUTES**

Notification that the Planning & Zoning Commission and Architectural Board of Review Meeting Minutes of September 1, 2016 have been posted to the City's website (Emailed: September 16, 2016)  
Safety Committee of Council Meeting Minutes of August 1, 2016 (Emailed: September 1, 2016)  
Working Committee of Council Meeting Minutes of September 8, 2016 (Emailed: September 20, 2016)

## **ON FILE**

Cleveland Clinic Article: Battling an "Epidemic" Firefighters Combat Heightened Cancer Threat (Emailed: September 8, 2016)  
Public Protection Classification (PPC) Summary Report (ISO Report) Willoughby Hills incl. Waite Hill (Emailed: September 8, 2016)

## **ADMINISTRATION REPORTS & COMMUNICATIONS**

**MAYOR'S REPORT:** I want to thank everybody for their patients in the Route 91 resurfacing. It's very monotonous when you have to wait for hours or like maybe when they're doing Chardon and 91, it was very long and people were turning around. They have the first layer down for Willoughby...for all of Willoughby Hills and they will complete it by November 15<sup>th</sup>. They're gonna do their work through Willoughby and then come back and raise all the manholes and so forth and then they'll put the final 1-1/2 on. The completion date is November the 15<sup>th</sup>.

I want to say that the Indian Motorcycle Shop closed yesterday and it's a real hit to us. It's in the old Sears Shop and it's closed. They're gonna have a guard there. They have some motorcycles still there but they'll all be out of there by Saturday.

Thank you for allowing me to be your Mayor. It's an honor to serve the residents of Willoughby Hills. As Mayor I always try to make the best decisions for the residents and employees of our great city. As some of you may know, there has been some negative press recently and I would like to have an open dialog with you to communicate the background information surrounding these issues.

The hiring of Fire Chief DiSanto. The hiring, firing, suspension and compensation assignment of the Willoughby Hills Fire Chief cannot be done by the Mayor alone, but needs the approval of Council and that's in our Charter. The hiring process that we followed this year: There were 18 candidates that were interviewed for Fire Chief. Seven of the eighteen candidates were either part-time or current full time firefighter in the Willoughby Hills Fire Department. A job offer was made to an outside candidate, but he declined it due to the starting salary. Robert DiSanto was my next choice. He had worked part-time in the City for ten years with the Fire Department and eighteen years with the Cleveland Fire Department. Over the years I witnessed Mr. DiSanto and he is a good firefighter and paramedic. I selected him because of his positive attitude and vision to move the department into the future. Mr. DiSanto was also recommended by the former Chief Richard Harmon as his preferred candidate for this position. I presented Mr. DiSanto's resume, credentials to City Council for confirmation. This memo outlined the interview process by four individuals versed in Fire Science and employment. At no time did I say that Mr. DiSanto was vetted in this memo. Council asked for all the other candidate resumes and credentials and for the employment package which I provided. Council placed the approval of the compensation package for the Fire Chief on the 5/26/16 agenda which was Ordinance 2016-31. During the Council Meeting Council went into Executive Session to discuss the hiring. Council returned from Executive Session, waived the 3-Reading Rule and welcomed Mr. DiSanto as our Fire Chief for Willoughby

Hills. Two weeks following the hiring the Civil Service Commission brought to my attention that certain credentials were previously requested from Mr. DiSanto had not yet been received. It was the Civil Service notification to me that prompted me to initiate notification to Council, the Law Director, and our HR Director. I was in communication with the Civil Service Commission as they continued the vetting process. I was totally open with Council. Any statements that have been made that the Willoughby Hills was in danger as a result of the appointment of Robert DiSanto as Chief of the Willoughby Hills Fire Department are absolutely false. Mr. DiSanto possessed the State required minimum qualifications to be Fire Chief. The main issue before us was his truthfulness on his application. I share the responsibility that Mr. DiSanto's credentials were not fully vetted prior to his hiring. I feel Council is equally responsible since I, nor they alone, can hire a Department Head by Charter. Given that I witnessed his work at Willoughby Hills I did not foresee any issues, which I find regretful. I believe that receiving his credentials from the Cleveland Fire Department was a formality and it may take a while to receive. Council had an obligation to ensure Mr. DiSanto was vetted, but never called or included any member of the Civil Service Commission into their Executive Session to ask questions. I think any reasonable individual would agree that I have done my job appropriately and there are certainly not grounds to ask me to resign, or call a vote of "no confidence" against me.

I am also providing to the residents a handout on the pay increases for part-time police officers, part-time firefighters and the Police Chief. The Fire Department washer extractor and the issue of the balanced budget. I wanted to provide you with the true so that you have the whole story. If you would like to discuss it any further regarding this or any other City concern, please contact me at 440-946-6614 or you can set up an appointment with me and email me at [mayor@willoughbyhills-oh.gov](mailto:mayor@willoughbyhills-oh.gov). Thank you again for the opportunity to serve you as Mayor.

**Member of the Audience:** I see that Mr. Hallum did his job...

**President Fellows:** Excuse me the public is out of order when they speak at this time. Let me say before we go further this body will not entertain personal attacks on anybody this evening or ever in the Council Chamber. If you have something to say to somebody, it's your opinion which you are entitled to then you can take it out of the Council Chambers. Otherwise I will call the police and they will remove you. Are there any questions for the Mayor? Councilman Fiebig.

**Councilman Fiebig:** Madame President, I appreciate that the Mayor has taken ownership of this, it was disappointing when you pointed out that oh Council shared in this responsibility instead of owning it. It's your decision that you presented to Council so thank you for taking the responsibility that's the first step, I think, okay. There are a couple of things that you wrote in here that I have to point out that are not, to my understanding, not true. In your...about the middle of the page, you said that Council asked for all other candidates' resumes and credentials for the employment package and you promptly provided it. I did not receive that. I asked our Council Clerk and she did not receive it so do you want to clarify that please.

**Mayor:** We provided it to Council.

**Councilman Fiebig:** I don't have it; our Council Clerk doesn't have it.

**Councilwoman Greer:** I believe we received that in Executive Session after...as we were confirming former Chief DiSanto. I do remember receiving that.

**Vice President Plecnik:** Madame President.

**Councilman Fiebig:** I specifically...this says for all other candidates. We did not get them, no we did not.

**Councilwoman Greer:** Yes, we did. We received that in Executive Session.

**Law Director Lobe:** Alright, control the conversation, the debate.

**Councilman Fiebig:** I do not have them in my possession, I asked the Clerk for them. Secondly, the former Chief although his recommendation is good to have, its pleasant to have, was that his only recommendation?

**Mayor:** Yes, sir.

**Councilman Fiebig:** It was my understanding that he had several people in mind. In direct conversation with him, so it was not his only recommendation. And the other point that I'm seeing is "at no point did I say Mr. DiSanto had been vetted" in this memo. Well, you know that there is a separation between Administration and Council and the Administration has the responsibility to run the day-to-day operations of the City. I don't think that it's necessary for you to say that you did your job. It's not necessary for you to say you vetted this candidate, it's assumed that you did all your due diligence because you had eighteen people to choose from. Of those eighteen people you picked on and you presented it to Council and said this is my guy. This is who I want to run the department, a very important department in our City. We took that as this is what the Mayor wants, we will give you what you've asked us for in the spirit of cooperation. It is not Council's job to go through the hiring process and to interview eighteen people. If you would like to ask us to do that, we would be glad to. We'd form a subcommittee and going forward I already suggested that we do that, perhaps we do that, Council should be more involved. And we will be, I personally will be more involved, if asked. However, I have to be asked by the Administration to be part of a committee to screen these candidates, to help hire those candidates. You selected someone from outside the City and your Civil Service Commission who appoint directly whose husband is your secretary which I've always had a problem with, much to what you (Councilwoman Greer) had said in the last meeting, I do not every vote for Tom Majeski to be part of the Civil Service Commission. Council does not vote for any Mayoral appointees.

**Councilwoman Greer:** They do not vote but at some point there was an exception given.

**Councilman Fiebig:** No.

**Councilwoman Greer:** I was not on Council at that point he was already appointed.

**Councilman Fiebig:** So I just wanted to clarify the record at no point in time...

**Councilwoman Greer:** I did not say that you voted, I said you offered some type of...Council offered some type of waiver. And I can't speak to it because I wasn't here.

**Councilman Fiebig:** I understand that...

**President Fellows:** Councilwoman Greer, Councilman Fiebig still has the floor.

**Councilman Fiebig:** I understand that you that....

**Councilwoman Greer:** He had asked the question.

**Councilman Fiebig:** I had wanted to point out that because you did mention I had somehow approved it. I do not approve it; I do not approve of it. It's what I consider to be nepotism. I do not think that it belongs in our City and I'd like to see it stopped because there is an amount of influence that a Mayor and I'm not saying that it happened, I'm not saying that it does, although a reasonable person could conjecture that if a Mayor says to his secretary that's the person I want, she could say to her husband I want you to make sure that's the guy we get. There's an amount of influence that can be from the outside looking in, it can be a problem. So you eliminate that problem by appointing someone else to that position. A couple of more points to point out here

on this. Now I just got this (Mayor Weger's Report to Residents regarding Council Concerns, September 22, 2016) before I walked into Council. Now was this paid for on City time?

**Mayor:** Yes.

**Councilman Fiebig:** Two weeks following the hiring, the Civil Service Commission brought your attention that certain credentials that were previously requested, etc. from the testimony that we heard from Thomas Kicher who is part of the Commission he said that he had told you before, if I'm not mistaken, I'll look back in the minutes but I think that point was inaudible, but it was my understanding he said before you gave the decision to hire him, he said that certain credentials were not done. However, again we would let the audience know, that it's not that hard to find out if somebody had graduated from college, it can be done with a phone call.

**Councilman Plecnik:** Mr. Fiebig, to that point it was not in the minutes, actually it was a letter that the Civil Service Commission sent to the Mayor informing him that they had yet to...

**President Fellows:** Councilman Plecnik, just ask...

**Councilman Plecnik:** Madame President may I...

**President Fellows:** Ask, yes.

**Vice President Plecnik:** Mr. Fiebig...

**Councilman Fiebig:** One moment please. Let me just finish my point here and then I'll yield the floor.

**Law Director:** Policy #9, get this meeting under...they're talking...Policy 9 you're out of procedure...ask questions to the Mayor not political statements.

**Councilman Fiebig:** I'm asking a question of the Mayor to correct a statement that we gave him a lot of leeway to read. Mayor you asked...you wrote in here that you...Mr. DiSanto possessed the state required minimum qualifications; however, your administration came up with a list of qualifications that you had demanded of them so what did you mean by state required minimum? That he be a licensed driver?

**Mayor:** No, on the...

**Law Director:** I'm the advisor...

**Councilman Fiebig:** Hold on, we can't have side conversations here.

**President Fellows:** Councilman Fiebig has the floor.

**Mayor:** State minimum requirements in the ORC for being a Fire Chief.

**Councilman Fiebig:** Which is what?

**Mayor:** I can't tell you right now but I'll research it for you.

**Councilman Fiebig:** Well you should've know this before because you wrote that this is what he had. So how can you say you don't know what they are?

**Councilwoman Greer:** I'm a lawyer and I don't know the whole Ohio Revised Code.

**President Fellows:** Excuse me.

**Councilman Fiebig:** I just wanted to find out what the state minimum requirements are to be Fire Chief Mayor? So you don't know what they are.

**Mayor:** They're in the ORC.

**Councilman Fiebig:** Now as a body, we are chartered and we can create our own rules and you did create those rules. Did you waive all those rule for Chief?

**Mayor:** Some of them. I did not waive the four-year degree requirement and that's what he lied about and that's why he's not with us anymore.

**Councilman Fiebig:** How did Council have an obligation to ensure that Mr.DiSanto was vetted?

**Law Director Lobe:** I can answer that.

**Councilman Fiebig:** You wrote this in your final paragraph on the first page.

**Mayor:** You could've invited him into Executive Session. You could have asked him questions; you could have done a lot of things. You ended up doing that eventually.

**Councilman Fiebig:** We brought him into Executive Session after you made the recommendation to hire him, is that correct?

**Mayor:** He was brought in...he was asked to be included Executive Session which you declined him on May 26<sup>th</sup> and then you had a further Executive Session about him and you didn't include him on the last Council Meeting.

**Councilman Fiebig:** It was my recollection that we did include him in an Executive Session where we learned of some disciplinary action that was taken by him...that was taken against him. And you had said that you had researched that and that it was minor issue and that it happened 10 or 12 years ago.

**Mayor:** He wasn't in Executive Session with us. We discussed certain things about him before the May 26<sup>th</sup> meeting.

**Councilman Fiebig:** And you came to Council and said this is the person that I want.

**Mayor:** Yes.

**Councilman Fiebig:** Knowing full well that he had those issues and that you didn't fully have all the information from not only the City of Cleveland but you had waived the minimum...you had waived the qualifications that your department...the Mayor's office had established themselves and then you presented to Council and you asked us to waive three readings and appoint him right away, is that correct?

**Mayor:** I did not ask you to waive the 3-Reading Rule. You decided that yourself.

**Councilman Fiebig:** I'll ask the Clerk to check back on that memo to see if that is what is there because I do believe that we would have been without a Fire Chief for a considerable amount of time and I do believe that, that had happened. Madame Chair, thank you for indulging me in a few questions.

**President Fellows:** Thank you Councilman Fiebig. There are other Council members that have questions for the Mayor.

**Councilwoman Greer:** Madame Chair. I just want to state for the record and I hope that Council will join me in this as well that we should have asked for the report and going forward I will ask, I will say to the Civil Service Commission, may I please see a copy of the report. It would have been that easy to ask and it would have taken 10 minutes to look at it and it would have avoided all of this, so from now on I will ask and I hope that Council will join me in saying that. We are all equally at fault here.

**Councilman Hallum:** Madame Chair. I couldn't agree more with Councilman Greer. It's been my experience in the short time that I've been on Council that things of this nature really should've probably, in my opinion been sent to Committee. The Personnel Committee probably should have been sent all of the information on the Chief...on the person that we were recommending, given them the opportunity to review everything and do our own vetting internal which is really our responsibility and then a recommendation should have been made from that committee to Council for us to then make a decision. Thank you.

**President Fellows:** Thank you. Any other questions for the Mayor?

**Mayor:** Madame President...

**Councilman Plecnik:** Madame President. I'd like to ask the Mayor if he is familiar with Section 5.5 of our City Charter as amended, entitled Civil Service Commission?

**Mayor:** Yes.

**Councilman Plecnik:** Then you know that the new language states and I think that it is important for all of us to take this background under "Duties and Responsibilities of the Civil Service Commission which was amended at actually the Civil Service Commission's request last year. *The Commission shall prior to an employment offer by the appointing authority, review and confirm all credentials stated in the application provided by the candidate for employment by the Municipality, including, without limitation: (i) reviewing and confirming that the employment and educational history of any candidate is correct as stated in such candidate's employment application, and (ii) that such candidate has obtained and is maintain in full force any license, certification or other qualification required by the Municipality for employment by the Municipality in the position sought by such candidate.* So under our Charter, it clearly states that the Mayor's Civil Service Commission which he appoints has the authority, has the duty and responsibility to confirm all credentials including educational like a college degree or certifications and to say that it's Council's responsibility is simply not true. Linda Fulton who serves as a volunteer member of the Personnel Relations Committee of Council asked why isn't Personnel Relations being given the chance to look at this issue? The answer was, Civil Service Commission has under the Charter, for better or for worst, at its own request and with the Mayor's support the full authority to do this job. Beyond that even before this Charter change as Councilman Fiebig's said this is an administrative task. Ask any Council member, ask any library trustee, ask any board member that you know of any non-profit and ask them, do they personnel interview the employees, ask them if they call up their employers, do they see if the letters of recommendation are true, do they pull transcripts from universities. Boards and commissions...boards and trustees do not do not do that work, we instead rely on the administration to do that work and then tell us that the job is done and frankly that was told to us but is certainly true as the Mayor says he does not use the word "vet" in his interoffice memo to Council. I do want the record to show what it did says because it's a relatively short memo and it's easy to construe a document...I rather...I

think that we all would rather hear exactly what it said: On May 19<sup>th</sup> sent to Council, our Clerk from the Mayor, subject: Confirmation of Robert K. DiSanto as Fire Chief Appointment here's what the Mayor's represented to us and based on that Council rightly confirmed him. *"In accordance with Willoughby Hills Charter Section 2.21, I hereby request confirmation of my appointment for Chief of the Department of Fire, as I recommend the following individual: Robert K. DiSanto. Robert DiSanto (Bobby) was selected as the top candidate after interviewing seventeen other candidates. The interviews were held over two days. A list of all candidates interviewed is attached (applications and resumes are on file in the Mayor's Office for these candidates). I was assisted with the interviews by our excellent Civil Service commission, consisting of the following individuals: Tom Kicher – retired Dean of Case Western Reserve University Engineering Department with extensive interview experience of students and faculty; Carolyn Patton – retired school teacher; Tom Majeski – professional firefighter/paramedic for over forty years, current LT/Shift Officer with Pepper Pike Fire Department and Assistant Fire Chief for the Village of Gates Mills, Outreach Instructor for the Ohio Fire Academy, American Heart Association Basic Life Support and First Aid Instructor, Fire Safety Inspector, and Continuing Education Instructor for EMS/Paramedic, to name a few of his credentials on Fire Science and Fire Department leadership; Mr. Gary Gabram also joined the interview team, presenting with 30+ years as a firefighter/EMT for Russell Twp. And the City of Pepper Pike, as well as being a former Assistant Principal at Kenston High School and a Russell Twp. Trustee. All four of these individuals served to provide excellent expertise in determining qualifications and experience for our next Fire Chief that would be in the best interest of the City of Willoughby Hills. At the conclusion of the interviews, Robert K. DiSanto, who is currently a full-time firefighter for the City of Cleveland and a part-time firefighter for the City of Willoughby Hills, was offered the position and accepted. Bobby has eighteen years with Cleveland Fire Department, with extensive background in hazardous materials, technical rescue, and is a contributing member of the State of Ohio's Region II Rescue Team. In addition, Bobby's service to Willoughby Hills Fire Department since 2006 makes him a perfect candidate with the knowledge of the inner workings of many aspects of our current department, nurture the current staff and work with Administration and Council to provide optimum EMS and fire service to our residents. I encourage you to review his resume and application in its entirety and you will agree that a confirmation of this individual as our next Fire Chief is certainly in order. Thank you for your consideration. An endorsement as a perfect candidate representing the credentials of everyone who interviewed and used their expertise to determine the credentials of in your own words, I don't see how any Council who trusted you wouldn't assume that the Charter required duty in Section 5.5 of the Charter as I read for verbatim was not done, in less if you're telling us that it's Council fault for not trusting you. It's not Council's fault to take your representation and to vote based on it and that's what I did. So my question is what fault can you ascribe to Council after you wrote this letter and said that Bobby DiSanto is the perfect candidate other than I shouldn't have trusted you. Thank you.*

**Law Director:** Ms. Fellows...Point of law...

**President Fellows:** Excuse me, we have a meeting to try to conduct and if you would like to applaud, I would suggest that you wait till the meeting is concluded.

**Law Director:** Ms. Fellows...

**President Fellows:** Councilman Biro you had a question. Councilman Biro is recognized.

**Law Director:** Ms. Fellows, there is a statement on the floor and I am obligated to correct it before we proceed. There's absolute misstatement of law and I just want to put it out there and then you can but as I Law Director, I cannot tolerate when misstatements of law are made. The misstatement of law that was just made is that Mr. Plecnik said that he read the statute verbatim, that is not true. He did not read the entire ordinance, he forgot to mention the last line so it is not verbatim and for everybody out there if you think that he is practicing law, he is not allowed to give an opinion, I am the only one and it is not verbatim. Please look at Section 5.52 and he forgot to say the one part that does include and I will report on this in my Law Director's report, he



forgot to mention the last paragraph. Now whether he did it intentionally or not, all I can say is that it is not verbatim. The last paragraph states and I am quoting and he quoted everything else correctly, “*the Commission and that is the Civil Service Commission, shall report its proceedings to the Mayor or Council upon request and shall make the report to the Mayor at the beginning of each fiscal year*”. As such I have...I’m going to report...

**Disturbance created by the audience.**

**President Fellows:** Next time the Police Chief is coming in. You can leave. You have no respect for what’s going on. This is not something that’s easy and it’s serious. This is a position that deals with the safety of all of our residents.

**Law Director:** I will also comment upon that in my Law Director’s report. But when I hear misstatements of law or when somebody only tells half of the story I am obligated to report it before this Council determines further. Please note that he did read that portion correctly but absolutely omitted that gives the power of the Mayor and/or the Council to ask for that report. And that is in the Charter as voted upon by this Council. I just want to clarify the law and if I hear continued misstatements of law I will interrupt this proceeding. I promise you I will. I’ve been your Law Director for twenty years and I’ve been through a lot of Council debates and with Mayors.

**Councilman Fiebig:** Okay.

**Law Director:** No, it’s not okay. It’s absolutely wrong. And I don’t need comments or questions because I have too many opinions of law and I am the only one that’s supposed to give a law opinion and if there’s anything, let me tell you right now and I’ll put this, Mr. Plecnik is not qualified or competent as a matter of Ohio law to give a legal opinion.

**President Fellows:** All right Tom.

**Law Director:** No I need to say this...

**President Fellows:** I have asked at the beginning that no personnel attacks be...you are out of order.

**Councilman Fiebig:** This is out of order.

**President Fellows:** You are out of order. I’ve asked that no personnel attacks, that’s one. Two more and I’ll have the police take you out of this Chambers.

**Law Director:** Please, please.

**President Fellows:** Councilman Biro, you had a question for the Mayor.

**Councilman Biro:** No, just a comment. Just a comment about the whole process and that’s the first time, as I recall any part of an affirmation of a Police Chief or Fire Chief. Yes, we did take into consideration the Mayor’s on that situation. I took the chance; I took the opportunity to talk to Mr. DiSanto and asked him questions and at no point did he offer the information that is in question today. I did find him to be an extremely good gentleman. I mean a family man. Served our City for ten years, if I’m not mistaken, on a part-time basis. And I had the chance to talk with some of our firefighters who though very highly of him. So, yes I’m part to blame because I took that as an affirmation of myself and thought that he had excellent character. Unfortunately, he made a bad decision but I still think that he would have been an excellent Fire Chief for our City and it’s unfortunate that we had to drag him through the mud like that and you know, advertise all these

issues but I still have to...well...it's unfortunate that it happened and I feel bad for Bobby but you know, this is a new process. I think that we've all learned a lot from this process and I think that we are going...I know that I will take a more active approach. One of the unfortunate things too is that, you know we have a couple gentlemen who are very adamant about 3-reading rules and this is one of those situations where it would have been a good idea. Had we taken the time it would have given us at least another month to look at Mr. DiSanto and to look at these questions that we had...the information that we didn't have. So, that's one of the issues too, we should've vetted this a little more and looked at the information that was missing so and I personally, and I voted...I also voted like the rest of my colleagues to waive the 3-reading rule and affirm him and I take responsibility for that. Thank you.

**Councilman Fiebig:** Madame President. Could I correct for the record there, Mr. Biro said that if we had taken the time we would have corrected the information that we didn't have. But we were not aware, unless you were and I wasn't. We were not aware that there were missing credentials or missing information or that there was a report that the Civil Service Commission had given to the Mayor, a letter apparently that I had asked for two weeks ago that I still haven't received, that was written apparently, so we were not aware that there was missing information, missing credentials, missing vetting. I was not aware, were you aware that?

**Councilman Biro:** I only mean it in the sense that...I think that the question was initially that there were some classes missing like 300, 400 series that we were aware of.

**Councilman Fiebig:** You knew that?

**Councilman Biro:** I think that I had heard that. I don't remember when and I can't verify that but the point is that I found him to be of excellent character and once again...

**Councilman Fiebig:** And Chris, again, I agree with you...I had a conversation with him as well, nice guy and so on. I just want to be clear that I didn't have the information. If you had information that he didn't have 300, 400 series credentials, I didn't have it or all of Council as a body, didn't have it and we can go back on the record and ask the Clerk to check but I was not aware of that.

**Mayor:** It was...I'm answering the question; it was two weeks after he was hired you got a memo from me stating that there were missing credentials.

**President Fellows:** Any other questions for the Mayor?

**Vice President Plecnik:** Madame President. Two quick things, the first time that I or any member of Council, that I'm aware of, knew of it was when the Mayor gave a letter to us dated August 26<sup>th</sup>. But it actually, I don't think that anyone actually received it until some days later. So that wasn't two weeks after. But the question that I have, you know I did not state that the entire Charter section was being read, simply that I was reading the relevant section that was amended last year verbatim. The part that Law Director Lobe read had actually been in the Charter previously, I was reading the new portion that had been amended in '15. But since he read that last section and it says: *the Civil Service Commission shall report to the Mayor or Council upon request*, I'd like to ask the Mayor did he request the Civil Service Commission to report their findings to him or not after the interviews with Mr. DiSanto?

**Mayor:** Yes, I did.

**Vice President Plecnik:** So I think the point would be moot because the Mayor was in procession of the report unless of course they declined to give it to you.

**Mayor:** It wasn't ready yet.

**Vice President Plecnik:** So you're saying that your letter of May 19<sup>th</sup> which you sent to Council where you list off the Civil Service and say that they interviewed him and used their excellent expertise in determining credentials, you're saying that you wrote that letter knowing at the time that Civil Service had told you that the report wasn't ready and you didn't share that with Council.

**Mayor:** The memo said four people interviewed. It was just a coincidence that it was the Civil Service Commission.

**Vice President Plecnik:** But you know that the report wasn't ready and you did not share that with Council, is that true?

**Mayor:** I don't recall.

**Vice President Plecnik:** Well I can tell you that it was not shared with Council Mr. Mayor. Thank you.

**President Fellows:** Thank you. I do want to mention that Ordinance 2016-31 was the ordinance confirming the appointment of the Fire Chief. As the Mayor mentioned in his report, that we appointed, Council does not appoint, we confirm. Thank you. Next order of business is the Law Director's report.

**Councilman Fiebig:** Can I ask what was his hire date?

**President Fellows:** June 1<sup>st</sup> I believe.

**Law Director:** June 1<sup>st</sup>.

**Councilman Fiebig:** It was June 1<sup>st</sup> and this memo was August 26<sup>th</sup>. That's almost two months after he had been working here.

**President Fellows:** Not two weeks.

**Councilman Greer:** Madame President. I just want to say one more thing, after reading the relevant ordinance, I respectfully disagree, just because it's not listed as our job duty of Council to ask for this report or seek this information doesn't mean that it's not a relevant part of our job. I do things every day in my job that are not listed in my job description and it is an important part of our job and like I said, I will do it in the future.

**President Fellows:** Next order of business is our Law Director's report. Mr. Lobe.

**LAW DIRECTOR'S REPORT:** Okay, two points on the Law Director's report for tonight number one will be the cell tower at Roemisch fields which is ordinance 2016-36 and second one will be the motion of no confidence and all related legal aspects.

Let's talk about subject number one which is Roemisch field ordinance 2016-36. This the cell tower that is across the street. We have a cell tower that is across the street that we have obtained some info from, we have a cell tower that we have here behind City Hall and this City Council just passed ordinances in hopes that we will get approximately \$1500 a month from two more cell towers that will be up at the Grange and also one over by the Osborne off of West Miller Road which is close to Wickliffe and those matters will hopefully come through so this City will get some revenue. The issue before this Council in 2016-36 is the renewal of a twenty-five-year lease and we're dealing with American Tower. We had an offer initially and that is chaired by Ms. Majka on her committee and I've been in communication and attended those meetings to try to give her some assistance and this matter is on 3-reading tonight. The initial offer from American Tower that basically is the leasing agent for Verizon that wants to renegotiate and get an extended lease on that tower. Originally they

offered us a \$60,000 bonus, signing bonus and a little under \$800 a month for rent plus co-location. The problem is, is that we just signed and this Council went through and signed in hopes of having two new towers at the rate of \$1500 a month and those new ordinances for those new towers provided significantly more financial income to the City. I was advised and requested by Council and I did my job and I contacted Ms. Onyi Nwokogby and I sent a copy of the email that I received just recently to the Clerk and I know she distributed it tonight to you and I know that I sent it to Ms. Majka because she is the Council representative. I told her that Council had issues because the amount of the offering when looked at in its totality was less than what other cell towers were offering us and I told her that the legals didn't bother us as much as we wanted a fair financial shake from them. In an email dated September 19, 2016 at 5:47pm she revised the financial terms and I think that I turned it around to Council at around 6:04pm. I basically said that I didn't have time to review it but I got it off to Council and Ms. Majka in hopes that to give the must opportunity. What I'm suggesting is that Council look at it, look at the numbers. They are now offering equal \$1500 a month and a \$40,000 signing bonus, so they have come up. What they are not telling us is on these cell towers there are three factors. There is the signing bonus, the monthly payment and the co-location fee. They are not telling us the co-location fee; they are still saying that they will receive a 43.75 or whatever it is for co-location which does provide money to the City but we have no guarantees that those co-location fees will go in the future. Her statement and you can read it and I'll let Council and the committee review it when it goes forward, we can't get co-location until we get the master lease signed. So they've come up to \$1500, they've almost doubled their monthly offer, they're still giving us a signing bonus which is great which matches what we had and I'm giving it back in Council's hand for further review, okay. So we have 2016-36 which is on 3-reading. I'll ask that you table it indefinitely or vote it down because we're going to have to have a new one and then take her request, chew on it and see if it's good. I just talked with her again today and she said, you know, is everybody happy and I said I haven't had Council's approval yet let alone Administration's review of it yet. So I still don't know if you want to call her to be here, they are anxious because the lease does expire in 2017. So that's my status on that particular matter.

The second matter is this motion or a no confidence and the actions of the Council and the Personnel Relations Committee. I'm going to give you my position of law and my problem is that there are many people that give their position of law and they are not qualified to do so, so I'm going to give the law to this Council. I will not tell you how to vote but I will tell you what the law requires of you. I want to start by affirmatively saying on the record that a majority of this Council again has not sought my law advise and has operated without my legal guidance and must be receiving improper and terrible legal guidance from somebody else. This happened before in 2014 when we had the legal debacle when member of this committee on this Council tried to evict a Council member on a Thursday night.

**President Fellows:** Mr. Lobe, I've asked that you not do personnel attacks and you are personally attacking this body.

**Law Director:** I have not personally attacked anybody, I'm making actual statements that occurred on the record so that I can fully advise all members of Council, some of which were here and some of which were not here. I have the right to give legal advice.

**Vice President Plecnik:** Madame President, may I ask a quick question?

**Law Director:** No, I'm not going to entertain questions in the middle of...

**Vice President Plecnik:** I'm not asking the Law Director a question, I'd like to ask the Chair a question.

**President Fellows:** Vice President Plecnik, you may ask the Chair a question.

**Vice President Plecnik:** Madame President, I do believe that you've now called the Law Director out of order twice and I would like him to be reminded that he engages in another personal attack or other misstatement or interjects when he's not had the floor he will be removed on the third remark. This is not the law, this is the Rules of Council and you're obligated to follow those rules as our legal adviser so I hope that you'll do so, so that we can have a respectful dialog and take your advice into account. But if you're not capable of it there's the door. Thank you.

**President Fellows:** So I'm keeping tally, are you all happy? Okay, good. Mr. Lobe you may continue.

**Law Director:** I'm going to continue to the extent that I can. I apologize to everyone in the audience. I am the Law Director and I try to give legal advice and I'm squelched here. I will honor the Chair's representation but I disagree with it, I totally disagree with it and I have that right to voice it and I feel that it is improper to squelch the Law Director especially when misstatements of law have and continue to be made. I'm going to give you the law. Let's talk about a vote of no confidence. As a matter of law a vote of no confidence is a legal friction, it does not exist, it has no legal significance, and I am advising this Council not to proceed on it. I must advise all members of this Council that if this body continues to pursue this personal and political avenue that it is not legal, any Councilman that persists in this is placing themselves in legal jeopardy for their illegal and procedurally improper and reckless actions. If there is any litigation that could arise from this, such as a taxpayer action, any Councilman may lose their sovereign immunity for this reckless action. You will not be covered by insurance and you will not be covered by sovereign immunity, so are so advised.

Now let me talk about law vs. fact. I as Law Director have the legal authority to make these opinions because pursuant to our Charter and the ordinance, I am the duly qualified and acting Law Director with a license to practice law and I have thirty-seven years of legal experience. Second of all, I am also empowered by the Policies of Council, a policy of Council is the rules that Council engages for the practice of procedures on this dais. Policies of Council, #9 and the policy is and I'm going to read it verbatim: *the Law Director shall, not may but shall, serve as the Council advisor as to the procedural rules for the conducting of Council meetings* and quote "*any other necessary procedures*". This policy of Council that gave me this power was enacted back when other councils acted recklessly. You remember when that was in the newspaper back in the 90's.

**President Fellows:** Excuse me, Mr. Lobe, I have a question. You said that you had two points to discuss one was Verizon and one was no motion of confidence. Now you are talking about the Policies of Council which is the third topic.

**Law Director:** No this is still in the second topic. Bear with me, I'm just putting a legal basis together. I am still on the vote of no confidence. The policy of this Council, Policy #9 gives me the authority, it was voted on in 2002 at the Organizational Meeting. It was reaffirmed in 2004, 2006, 2008, 2010, 2012, 2014, and on January 4, 2016 by every member on this dais. As such, I am declaring and telling this Council as a matter of law that the no confidence is procedurally and substantively improper and is being done in an illegal fashion and attack and as such I am declaring the motion of no confidence improper and null-in-void. Let me explain further for the record for my legal opinion. Reason #1 for that opinion: Why and how did the Personnel Relations Committee even discuss this issue without an ordinance to review? This came up on a Monday night in a Personnel Relations Committee which is comprised of a Councilperson and four members, of the...not of Council but of residents. The ordinances of Willoughby Hills dictate and control the nature, scope and parameters of each committee including the Personnel Relations Committee. This committee by law and they took oaths to follow the law, limits what they are supposed to do. They went beyond the scope of what our ordinances allow them to do. Our Clerk, Vicki Savage, properly states and copies the ordinances and the laws for each committee on the agenda, she does it all the type. In this case, the Personnel Relations Committee went well beyond it's legal and permissible authority and beyond the scope of authority that is provided to them by the ordinances of the City of Willoughby Hills.

So what is the authority of the committee as a matter of law? It states that subject to the provisions of the Charter, the Personnel Relations of the Committee of Council shall consider all legislation concerning the relations with the City employees. On last Monday night they had no legislation in front of them concerning this issue, they simply brought it on their own. They are to receive legislation and from this dais it is supposed to go into committee. It can go into Utilities; it can go into Recreation or it can go into Personnel Relations. They had no legislation in front of them, they decided on their own to go beyond what our ordinances tell them they should do.

**President Fellows:** Are we still on a vote of no confidence?

**Law Director:** We sure are and I'm not even finished yet. It must be noted that this committee is comprised of the four residents and they all, whether they like the Mayor or they don't like the Mayor, it is not their duty to give a vote of no confidence. I understand that they even went back and mentioned something from five or six years ago from a different committee. They are supposed to review ordinances, not give their opinion as to the Mayor. As a matter of law if you don't like the Mayor, you don't vote for him. The residents of the City will decide who is and who is not going to be the Mayor. It should also be noted that I agree and this is not personal, certain council people on this dais recently sent out a publication where they voiced their displeasure of the Mayor that is absolutely perfectly legal. That is how you can and should do it. When that went out I did not say anything about it because that is their right. They are allowed to do it. But this body does the City business. It is not to say who's doing a good job or a bad job, it's to conduct City business. There is a way to elect City individuals or even to get them out of office as a matter of law. It is not for this Council nor a subcommittee of Council that is limited "to reviewing ordinances". Again, under Policies of Council, #9 it is I who determines what are the necessary procedures. I understand at the meeting somebody mentioned the Robert's Rules of Order as being a potential basis for having that decided at the meeting. Robert's Rules of Order is a book for the policies and procedures that are to be utilized for the orderly disposition. A vote of no confidence is not in Robert's Rules of Order. This book is quite thick, it has multiple motions, how we do, how we vote on it, what's a priority, etc. It is in our ordinances that we shall follow Robert's Rules of Order and therefore, my opinion is that the committee exceeded their authority because they made up a rule, they made up a motion. It's not in Robert Rules of Order what gives them the authority, not only that's it not an ordinance, to pursue something that's not in Robert's Rules. We have an ordinance that says that we shall follow Robert's Rules, not to allow anybody let alone on this dais or a subcommittee to create a motion that isn't involving an ordinance. Clearly that committee and this Council is extending what is not in the law. They have no right. We are bound by the law. We are bound by the limitations of the law, not what we want to make the law. You want to make the law, change the law. We are stuck with the written word. This book is very specific as to how we conduct business, it is not in there. It's a made-up rule. It's a made-up motion and as such I find it improper under my authority of Law Director under Policy #9 of this Council.

**Vice President Plecnik:** Madame President.

**Law Director:** I'm not done yet Mr. Plecnik, unless you want to recognize him. It's your call.

**President Fellows:** Proceed.

**Law Director:** Thank you. The law and the procedure of Council to even utilize Robert's Rules of Order has been in existence since April 23, 1981. Ordinance 12103 and you can look this up all on line, is mandatory and limits this committee to Robert's Rules of evidence only and not some made up motion by anybody on a committee. City Council should be doing and conducting the business of the City and not bringing forward personal or political issues. A vote of no confidence is legal if you're in England. It is used to get rid of the Prime Minister. Now that is okay in England but we're sitting here in Willoughby Hills, Ohio, of the United States of America and we have different rules.

#3 reason why I think that the committee extended itself and the vote of no confidence is illegal. Let me provide various facts to this Council and to the audience concerning the law and the hiring issues including Mr. DiSanto's hiring of Fire Chief. You've heard a lot of law, you've read a lot of law, people put a lot of law out there, I'm telling you what the full and proper law is. The Mayor cannot hire the Fire Chief alone. The Council cannot hire the Fire Chief alone. The Mayor and the Council have the joint legal and charter authority to hire the Fire Chief. Please review Charter Section 2.21 which is exactly what Ms. Fellows alluded to that was part of their ordinance. Let me give you some further law on this particular issue. The Mayor cannot fire the Fire Chief alone the Council may not fire the Fire Chief alone but both the Mayor and Council have to work jointly and have the legal authority to even fire the Fire Chief. Please review Charter Section 2.27. Now as to setting the salary for the Fire Chief only the Council and not even the Mayor can set the salary see Charter 3.32. So please know that I am perfectly and clearly and succinctly and fully stating what the law is that the both have a joint responsibility. Please review even the Ordinance 2016-31 which was just mentioned by Ms. Fellows and read it it's online, passed May 26, 2016 by this Council and ultimately approved by this Mayor. These same legal statements are set forth exactly the way in which I am stating to you in the "whereas clauses" of those ordinances. You will see that the appointing authority is joined as a matter of law and as a matter of our charter. The Civil Service Commission and this was brought before must as a matter of law and specifically in our charter report its proceedings to both the Mayor and Council upon request. Please see the entirety of Charter 5.52. That is, and continues and always has been the law. The Mayor can the City Civil Service Commission for its report and so can Council. The Civil Service Commission on that particular issue must report to either one or both as requested. There were some comments made today on this dais that nobody does this oh the Board of Education and all this other stuff. This is much akin, just as making this a legal position, much akin to when the president appoints somebody for the Supreme Court. It is his recommendation. It then goes to the legislative body and they hold hearings if they so desire and then together it is a joint decision who ends up on the supreme court. We have a very similar, all be it on a smaller basis and a smaller scale provision. That is the law in the City of Willoughby Hills.

#4 reason of why I'm call that legally and procedurally and substantively out of order on the motion of no confidence. Robert DiSanto has as a matter of law, all the necessary legal qualifications to be the Fire Chief of Willoughby Hills. The questions that gave raise to this issue are not on his qualifications to be Fire Chief but rather as to other statements and assertions on his application. I wanted to remind people from a historical perspective, I as your Law Director have been greeted with this issue before on a very serious legal issue. About eighteen years ago I had a police officer that wasn't a licensed police officer who was making arrests and making and issuing citations and he was operating in our City for years. When we discovered it we took the proper legal action and we removed him. That was a true, legal, serious breach. Weather Robert DiSanto has a degree or a lot of classes from Bowling Green State University in communications is not a matter that there was any citizen was in danger or that the police or the fire department did not have qualified individuals there. Please know that as a matter of law. This concludes my Law Director's report for tonight, I am open to questions.

**Vice President Plecnik:** Madame President.

**Law Director:** I know that you are anxious to ask, but can I finish?

**Councilman Fiebig:** You said that you had concluded.

**Law Director:** Excuse me. Mr. Fiebig did you have a question for me?

**President Fellows:** You had said that you had concluded your report and you were open to questions.

**Law Director:** I want to know what he said, he was talking to me.

**President Fellows:** You had said that you had concluded your report and you were open to questions.

**Law Director:** No, I have a little more. I request that Council table the motion for no confidence indefinitely as being improper and illegal both procedurally and substantively and going forward I will not respond to any questions about people who say that they have a lawyer and prove this and do that. What I challenge anybody on this dais or in the audience bring me a lawyer who you truly think has the qualifications, the background and the experience to debate this. I promise you I would debate him in publicly both to his qualifications and the law. But I cannot debate the nameless, faceless lawyers that are sometimes brought up that disagree with me. That's all I want to say because I'm sure and it's not my job to make everybody happy. My job is to give you the law and that is my legal opinion on that issue. Thank you.

**President Fellows:** Are you done Mr. Lobe?

**Law Director:** I am now.

**President Fellows:** Vice President Plecnik, you have a question for the Law Director?

**Vice President Plecnik:** Yes, Madame President. First could you repeat for the record do we or do we not follow Robert's Rules of Order by law in this City?

**Law Director:** We have an ordinance on that, correct.

**Vice President Plecnik:** So, we do.

**Law Director:** Yes.

**Vice President Plecnik:** Are you aware that Robert's Rules of Order has an official website that opines to frequently asked questions on Robert's Rules of Order?

**Law Director:** I do; I know what you are talking about. Yeah.

**Vice President Plecnik:** May I, for the record, may I read what the official website discussing Robert's Rules of Order and It's Frequently Asked Question says about the fictional, I'll use quotes, "the fictional" vote of no confidence.

**Law Director:** Is this the same one, just so we're on the same page, Mr. Plecnik?

**Vice President Plecnik:** Yes, it is.

**Law Director:** Good.

**Vice President Plecnik:** The term vote of no confidence, I'm surprised that you didn't share it with us, Mr. Lobe.

**Law Director:** Well, I'll bet you'll share it.

**Vice President Plecnik:** "The term "vote of no confidence" is not used or defined anywhere in *Robert's Rules of Order*".

**Law Director:** Correct.



**Vice President Plecnik:** And there is no mention of any motion for such vote. So the Law Director was correct to state that but what he failed to add and I think that is important to read the entire interpretation: “However this does mean that an assembly cannot adopt a motion, if it wishes, expressing either it’s confidence or lack of confidence in any of its officers or subordinate boards or committees. Any such motion would simply be a main motion, and would have no effect other than to express the assembly’s views concerning the matter. A vote of “no confidence” does not, as our Law Director noted, as it would in British Parliament – remove and officer from office”. So, the question I would first pose to you is why you didn’t share this with us and second, why you think your opinion would trump Robert’s Rules of Orders’ official interpretations on their website.

**Law Director:** Love to answer that. Because, you know again, Mr. Plecnik, I’m glad that you’re looking at Robert’s Rules of Order and any lawyer does not just look at that one law. He must look at our laws because Robert’s Rules of Order is trumped by the federal statutes, the state statutes and the local ordinances. So looking only at that does not give you the good picture. Any good lawyer must and should look at all the ordinances. And what he failed to do is, he wants to laser beam in only on this and try and say that because it’s not in there, there’s a possibility. The problem is that we have an ordinance on our books that has been on our books since April 23, 1981 that I did mention in my Law Director’s report. I did not skip over it, I specifically mentioned it and it says that in the absence of a rule or the requirement to conform to a general law, the procedure of Council shall be governed in the Robert’s Rules of Order. Which I interrupt that if it’s in here follow it. If it’s not in here don’t strength it. If you find it in here, our ordinances that we’ve had since 1981 says that you must follow this. You can’t read between the lines and create something under their website. I’m not going to look at their website, I’m going to look at the laws of the City of Willoughby Hills. And I did not gloss over that, I specifically stated and if anybody has a question please look at our ordinances in the Administrative Code, 121(e) and it’s titled “Robert’s Rules of Order and it says it shall and that is why my legal opinion still stands and it is not narrow minded. Thank you.

**Councilwoman Greer:** Madame Fellows.

**President Fellows:** Councilwoman Greer.

**Councilwoman Greer:** I have another question while we’re on Robert’s Rules. I’m not as familiar as some of you. Are council people permitted to write notes back and forth to one another during meetings or does that have to be said out loud?

**Law Director:** You know, I’m going to allow the Council President to run her meeting and if she has a question on it or if I see something wrong, I’ll say it. I am only to give procedural advice which I gave tonight. Personally I think that it’s wrong, but I’ll allow the Council President to handle that under Robert’s Rules of Order, she should make the ruling. I’d like to see what she says and if I disagree with you, I’ll say...I’ll give my opinion thereafter.

**Vice President Plecnik:** Madame President...

**Councilwoman Greer:** I just feel that sometimes I say things at this table that aren’t comfortable for everyone but I do share it with everyone. And I see notes going back and forth over there and I would like to know, I want to know what’s being said at the table. It’s important as I make my decisions.

**Law Director:** Let’s be honest about this. I have seen people on this council table receive text messages. You know there is not a rule against it but that’s not my...

**President Fellows:** Councilwoman Greer...

**Law Director:** Can I finish my statement please? Unless you want to take over.

**President Fellows:** Councilwoman Greer there have been notes past between the Mayor and the Law Director and sometimes they push back from the dais and they have a side-bar conversation. We know there have been texts. We have had the public ask that texts not be done in a meeting. Of course we don't know what the texts are of a personal nature because someone's child is ill or if it is to another council Member asking for advice or whatever. So...we don't have a policy.

**Councilwoman Greer:** What concerns me is that I see Councilwoman Majka writing notes to Councilman Fiebig, especially at a meeting like this. I'd like to know what's being said. I want to know that we are all making independent decisions with the same information.

**President Fellows:** Any you have every right to have that concern.

**Councilman Fiebig:** Madame President, I don't have any note from Councilwoman Majka. I don't see...

**Councilwoman Greer:** She wrote on your notepad and you were reading it.

**Councilman Fiebig:** No, I assumed that she is just jotting down some notes on some scrap paper, that's not a note to me. I'm doing research.

**Councilwoman Greer:** She does have scrap paper to her right. I want to know...I want everyone to make an independent decision on these types of things. And I want all the information that everyone else has.

**Councilman Fiebig:** I have the floor...I was recognized.

**President Fellows:** We're out of order, we are out of order. These are questions to the Law Director. You asked a question of me and I responded. Tom responded as well. Thank you, Councilman Fiebig has the floor.

**Councilman Fiebig:** Thank you I wanted to respond because I am not passing notes; I'm doing research on my phone regarding this issue. If anybody want to see, you welcome to. The question that I have for the Law Director is the Personnel Relations Committee exclusively required to look at only legislation?

**Law Director:** That's what our law says. That's correct. If you read on your agenda, do you have it there? Vicki sends it to you every week, I think I read it. If anybody in the audience has an agenda, she defines exactly what's in our laws and it defines how that committee is supposed to work, you can read it for yourself in its entirety. The Personnel Relations...it starts off there hereby establishes Personnel and it goes on and then at the end the members of the committee may be changed by a motion of Council from time to time as Council shall determine and I read the most...what I thought...not verbatim but just the most pertinent part is subject to the provisions of the City Charter the Personnel Relations Committee shall consider all legislation concerning relations with the City employees. My point is it did not have any legislation in front of it. It started on this debate as to whether the Mayor is qualified or what he did five years ago. It's supposed to review ordinances that it receives from this committee, like all other committees. It's supposed to get direction from the committee and then it's supposed to go to those committees. It's not just to start on its own, start debating whether the Mayor's good, bad or indifferent. That is what our law says, that is what that committee is defined to do and limited to do. They cannot just go off on a tangent and start creating things and motions that do not even exists and they are contrary to our laws. That is where I have a problem in that the exceed their authority and the authority is by our ordinances and those ordinances have been in place since 1981 that go back multiple generations, practically and multiple administrations. And that's how it works and they are not doing it the way the law is and requires them to do. They exceed it.

**Councilman Fiebig:** Madame President. A follow up to that, the ordinance that created the position of the Fire Chief and created the hiring of him, what ordinance was that?

**Law Director:** She just had it, Ms. Fellows has it.

**President Fellows:** 31.

**Councilman Fiebig:** So 2016-31 was an ordinance that was drafted...that was being reviewed in Personnel Relations, as far as I can tell.

**Law Director:** No, it was not. It was never reviewed in Personnel Relations, that's where you are absolutely, factually, incorrect. It never was sent to Personnel Relations. And let me correct one other thing factually that the Law Department knows, it's not the legal opinion. Mr. DiSanto was asked to come to the meeting, we went into Executive Session, he was never asked to come into Executive Session. In fact, I believe this dais said no we don't want to talk to you yet, then we went into Executive Session which I'm not allowed to say what was said in Executive Session. We came out and then this Council voted. Mr. DiSanto was never in Executive Session with us. If you have any questions about that, I'm sure our Clerk could tell us that. But let me answer your question about 201-31. Everything that I said was the law concerning Charter Section 2.21, 2.27, 3.32 that was drafted and she does a great job of drafting it and I concur with it, by our Council Clerk for your consideration. So, when I give the law that is exactly the same law that states in essence what the law is. So it's not contrary to what this Council and its Clerk wrote for this Council to vote on. My problem is that there is misstatements law contrary and I am trying to clarify what the law is. Thank you. Thank you, Ms. Fellows, for giving me that point.

**President Fellows:** Are there any additional questions for the Law Director?

**Councilman Fiebig:** Is a motion legislation?

**Law Director:** No. No it's not. Legislation is defined in the Ohio Revised Code. It must be an ordinance or it must be a resolution. A motion is that, it's just a motion.

**Councilman Feibig:** Is shall then an exclusive term that the Personnel Relations can only discuss a matter that is in legislation?

**Law Director:** No, no it...

**Councilman Fiebig:** Then it may discuss if it's outside of legislation...

**Law Director:** No it should discuss only litigation...excuse me, strike that, I didn't understand your question. Repeat your question for me so that I'm clear.

**Councilman Fiebig:** To be clear, the Personnel Relations Committee, from my understanding, can discuss matters of Personnel Relations within the City.

**Law Director:** No it should not. Not as defined by the ordinances that have been in place since 1981. In fact, that ordinance which I read is 121, I don't have...I could look up here, it says shall only consider only ordinances.

**Councilman Fiebig:** So we would have to have legislation to discuss Personnel Relations.

**Law Director:** That's correct.

**Councilman Fiebig:** So what you are saying is Council...

**Law Director:** Can I finish; can I answer fully?

**Councilman Fiebig:** Let me make the point here...

**Law Director:** No, I am not going to have multiple questions addressed at me. It's not fair, it's not proper. The question is do they need an ordinance? The answer is yes. And how this should have worked is you could have taken, and again this sphere in a vacuum you had this ordinance 2016-31, it was on Council, it could have said here you go Personnel Relations Committee, you have the ordinance. Chew it up, talk about it, discover it, look at, think it back, come back to us, give us your findings, give us your opinion so we can then at least review it. That is how it should work. But not after the fact when they don't have an ordinance in front of them. That they bring up this, they bring up about three other things and they bring up something from 2010. No that is absolutely contrary to the specific language of our ordinances. Beyond their scope.

**Councilman Fiebig:** Which is the point that I'm making that, I'm trying to make anyway. Not as eloquently as you, I'm sure, but Council cannot discuss personnel relations then according to you so how could we be involved in the hiring decision of the Fire Chief? Without an ordinance?

**Law Director:** You have absolutely misstated I said the Personnel Relations Committee can't do it. Council can at any time talk about and go into Executive Session on personnel relations. You have the absolute right, in fact, you have the absolute legal right to go into executive session outside the sunshine and discuss those matters. That's the Council. My problem and my opinion was how did that Personnel Relations Committee which has a limited scope to review ordinances somehow get to a vote of no confidence to talk about 2009. That's where it is legally and procedurally and substantively illegal, it's that simple. This Council can always do it; I wish they had done it with Mr. DiSanto because you had the right to do it. You had the legal right and you could have called and I'm not backing the Mayor, the Mayor didn't do it either. Trust me, he didn't do it, he said that he didn't do it. I get that.

**Councilman Fiebig:** He finally did, yeah.

**Law Director:** And I'm saying tonight, both had the equal, joint responsibility and the availability as a matter of law to do it. That's all my point is. I am not saying that this is good, bad, or indifferent. My position is to just tell you the law. That you had this right, whether exercise it or not that's up to you. And that's...

**Councilman Fiebig:** And did you give us that opinion prior to his hiring?

**Law Director:** You never asked for it. I absolutely would have. I'm only doing it now because I see on our Council that there is...I cannot read your mind what you're going to do. Trust me, I wish I could.

**Councilman Fiebig:** Absolutely, we can't read the Mayor's mind either.

**Law Director:** Well you know what...that's wrong...

**Councilman Fiebig:** The issue is what the Mayor did was not properly vet through his Commission and the procedures that we have here. You're getting off the topic with this vote of no confidence. That's the issue. So how do we solve that going forward?

**Law Director:** Well, I'm not here to...

**Councilman Fiebig:** Do we trust the Mayor to make recommendations to Council? Do we trust that the Mayor is spending money wisely? Do we trust that he is hiring the right people in the positions that he is? Do we trust that he's managing correctly?

**Councilwoman Greer:** Ask the right questions. Ask the question.

**Councilman Fiebig:** This is the heart of the matter...

**President Fellows:** Wait, David had the floor, please do not interrupt. If you're not going to ask the Chair...

**Councilwoman Greer:** My apologies, my apologies.

**Law Director:** Mr. Fiebig have you concluded?

**Councilman Fiebig:** Yes.

**Law Director:** I have to reply. All I can say as a matter of law again both have to be involved, one cannot hire without the other. That is the law. Now how anybody wants to review it that's fine. They are both jointly responsible for the hiring and firing. That is the law in the City of Willoughby Hills pursuant to our Charter. And that's all I'm going to say. How everybody wants to review it, it's up to you. But I'm giving you the law and you determine how you want to feel about it. Thank you.

**Councilwoman Greer:** Madame President. I just...I apologize for interrupting Dave. Ask the question, if you want to know something you have every right as a Council person to ask the questions. We have very important duties here. If we don't have enough information, then we're not going to make informed decisions. So ask the questions.

**Vice President Plecnik:** A couple of points, first off...

**Law Director:** Are these questions for the Law Director?

**President Fellows:** Are these questions for the Law Director, John?

**Vice President Plecnik:** Yes, first off, the first question I have for the Law Director relates to motions in general. And we made a motion, not too long ago. This was December of last year authorizing the Mayor to purchase an extraction washer for our fire department. I believe...

**Disturbance created by the audience.**

**Vice President Plecnik:** You think it's wrong for the fire department to have an extraction washer, I don't. In any event, we made this motion in December of last year after we learned that the fire department was forced to wash its fire gear on the bay floor with a hose. And they asked us to bring to Council this problem and we unanimously voted a motion to authorize the Mayor to spend up to \$6,000, I believe to purchase an extraction washer. Now our Law Director counseled us at the time that this motion was in order but like any motion, it was simply an express or view of Council. And the specific question that I have for our Law Director, given that he said this motion was in order in our meeting, is where in Robert's Rules does it specifically say that you can make a motion to authorize the purchase of an extraction washer? Does it say it anywhere in that book that you have, does it use the words extractor washer?

**Law Director:** No, and it doesn't tell where the bathroom is or...

**Vice President Plecnik:** So we can make a motion...

**Law Director:** Hold on, I'm answering. Please Mr. Plecnik, I know that you like to talk last but I have a right to speak. Okay, I advised you that it was symbolic, that it has not legal thing and what I told you to do, I don't

know if you did it, I told you to get an ordinance in place if you really want it done. And you are allowed to at least tell the Mayor what you want under “New Business” that’s correct, okay. But that has nothing to do whether it’s a political nature as to whether the Mayor’s doing a good job or bad job. At least that had something to do with the City business. And let me assure people out there all the facts are not being presented properly. I may not all the facts, but I did talk and I know that our Police Chief and Fire Chief at the time, as long as we’re talking about that...I don’t what to get into that because that’s a whole other topic but you want to bring it up. Our Fire Chief, Chief Harmon was looking at for nine months, it was not anything that he brought to our attention. He does a good job...

**President Fellows:** Tom, it’s not pertinent.

**Law Director:** I know it’s not, he brought it up, I agree. I think that’s its absolutely irrelevant, in pertinent and wrong to even bring it up today. But I have a duty to at least combat the statements made that you allowed him to get into something totally irrelevant.

**President Fellows:** So I believe that...

**Law Director:** We should cut this out right now...

**President Fellows:** I believe that Vice President Plecnik was using an example of a main motion, just a motion because it is not a legal stance. It’s not an ordinance. So if one can make a motion from Council to ask the Mayor to purchase something it’s as you quoted...it’s just simply symbolic. So it’s just as you said before, a vote of no confidence is just fictional.

**Law Director:** No.

**President Fellows:** John was making an analogy of a motion. That motions are not legal, they’re just a statement and they are only symbolic using your words.

**Law Director:** The difference is very clear. That has something to do with City business, very clear...

**Vice President Plecnik:** Madame President.

**Law Director:** Hold on John, under Policy 9, I’m the one that determines that. This Council and all past Councils and all Administrations has given me that. When you start talking about political nature and who likes who and who doesn’t like things, I am calling it out of order. As Councilwoman Fellows said, she is not going to let it get political and I agree with that. And based upon that, that is why I’m calling it out of order. Absolutely, there is a clear and simple distinction. And it is my job to cut the lines and that is where I’m cutting it. Thank you.

**Vice President Plecnik:** A few things, first I would like to confirm that I was trying to make an analogy if we can make a motion to express that the Mayor should purchase a washer, we can make a motion to express any thoughts that Council has. That is in Robert’s Rules of Order. Although it may not specifically image every conceivable motion or problem that a City will face or what expression of interest that the Council may have, it doesn’t specifically list any motion, it simple give the ability to make motions. So, I think that we are talking about content rather than law. Also, I’d like to ask the Law Director when he says that the motion of no confidence has nothing to do with City business, is he telling us here that the hiring of a Fire Chief has nothing to do with City business. That a Mayor has nothing to do with City business. And that Council’s concern over the hiring of a Fire Chief, who heads one of our largest departments, has nothing to do with City business. That strikes me as something that belies believe, but I’d like to ask if you really believe that our Mayor has nothing to do with City business or his performance in his job has nothing to do with City business?

**Law Director:** You know; I am not going to get...debate this folly. I believe that this is a political and a personal issue and they have their personal and political rights. This Council, under my direction, is supposed to conduct City business. As I stated before, he's made that expression and he did it in the lawful fashion. write a twenty-page memo, tell everybody, put it face book, write it in the newspaper, do what you want. We are supposed to conduct City business here and that is part of my job to keep it and we are so far of field, so far aligned that I'm not going to debate this further. You have my opinion. And anybody that wants to make those types of ridiculous positons in my opinion, I am not going to tolerate it and I am going to call it out of order and you have my opinion and I'm not going to debate further. Let's get on with the City business.

**President Fellows:** Next order of business, Finance Director's report, Mr. Brichacek.

**FINANCE DIRECTOR'S REPORT:** My only report tonight is to request Resolution No. 2016-11 which establishes the City's property tax rates for 2016, for collection in 2017 be passed by Council tonight. The rates are determined by the County Budget Commission based the tax budget that the Council adopted back in July and the County Budget Commission has requested that the resolution...that the approved resolution be returned to them by October the 1<sup>st</sup>. Thank you.

**President Fellows:** Any questions for the Finance Director? I do Frank. So, we cannot do 3-readings on this because this hasn't been brought to us soon enough for us to do that, correct?

**Finance Director:** That's correct. The County...attached to the City Resolution is the resolution and the schedule that the County prepared that they gave to me, that they mailed to me this month.

**President Fellows:** I just want everybody to understand this is a request from the Finance Director that the 3-Reading Rule be waived this evening because of the urgency of this matter and the date that it needs to go back to the County Auditor. I would appreciate not someone coming back and saying that we didn't vet this. This was given to us earlier this week under our agenda and that we should have done 3-readings on it. If we would've needed to do 3-readings on it then the Finance Director would have needed to give it to us much soon than this so we would have had time to do that.

**Finance Director:** To be clear, Council President Fellows is exactly right the schedule and the resolution are prepared are prepared by the County Budget Commission and the County Budget Commission established the August deadline. We are working on their schedule, not our own schedule.

**President Fellows:** Thank you Frank, any other comments or questions? Thank you. Pete DiFranco, City Engineer's report.

**ENGINEER'S REPORT:** Just one item, the resurfacing of Worrell Road is scheduled to start on Monday, October 3<sup>rd</sup>. This is a joint project between the City of Willoughby Hills and the City of Kirtland. Although there may be some isolated delays, traffic will be maintained at all times and that concludes my report.

**President Fellows:** Thank Mr. DiFranco. Are there any questions for the City Engineer this evening?

**Vice President Plecnik:** Madame President. I do have a few questions on the road projects. First on Worrell Road, do you have a sense of when the project will be completed if all goes according to plan?

**City Engineer:** Yeah, if all goes according to plan, it should take around four weeks.

**Vice President Plecnik:** So it will all be completed by the end of the year on schedule, if it goes on schedule.

**City Engineer:** Correct.

**Vice President Plecnik:** And on to the other big project, SOM Center Road. I've several calls from residents, even yesterday asking (a) who is managing the project and my understanding is our County Engineer is handling the logistics because it's between Willoughby and Willoughby Hills, is that correct?

**City Engineer:** Correct.

**Vice President Plecnik:** And second, the question that I've gotten from people in and out of the City who use SOM Center Road for commuting is why aren't we and I'm sure there is an explanation but I'd like to be able to give the right one, why aren't we doing more of the work at night to alleviate difficulties during the rush hour and day-time travel?

**City Engineer:** That would be a question for the County Engineer. My guess is that it would cost additional money.

**Vice President Plecnik:** Is there any chance that you could follow up with the County Engineer and report back to Council just so we can let our residents know that we're trying to do this on the best possible budget.

**City Engineer:** Sure, absolutely.

**Vice President Plecnik:** Thank you.

**President Fellows:** Any other questions for the City Engineer? Thank you, Pete.

## **COMMITTEES OF COUNCIL**

**President Fellows:** We'll move on to Committee Reports and thank you Councilman Hallum for your minutes on Planning & Zoning, appreciate that. John, I believe you have...

---

### **Personnel Relations Committee Meeting of September 19, 2016**

---

**Vice President Plecnik:** Yes, Madame President. September 19, 2016 at 6:30pm we had a Personnel Relations Meeting of Council. Present were the entire Committee and I'd like to correct for the record there's actually four total members, not four citizen members, myself as Chair and three citizen members, Chris du Laney, Linda Fulton, and Greg McCarthy. All were present. Also present were Council President Nancy Fellows, Councilman Chris Hallum as well as Councilwoman Janet Majka.

In our introduction, I announced the order of business was to discuss (1) raises for the part-time members of the police and fire departments as well as the Police Chief and (2) the failure of the Mayor and his Civil Service Commission to vet the applicants for the position of Fire Chief. As to the raises for the safety forces I handed out salary data collected by our Council Clerk to each Council member and summarized it by saying that our safety forces salaries were in line with or a bit below the norm depending on the position. We also circulated three draft ordinances which will presumably be going through Rules and Legislation in the near future.

Committee Member du Laney asked what the differences there were between the new ordinances and the old ordinances for safety forces raises that Mayor Weger had previously vetoed. I answered that the new ordinances responded to a few minor and typographical concerns that Mayor Weger raised in his veto letter but were substantively the same. Committee Member Fulton expressed concern that Mayor Weger would veto the raises for safety forces again. I replied that we should not automatically think the worst of people and hopefully Mayor Weger would do the right thing.



Committee Member du Laney asked about the Law Director's legal opinion on the ordinances. I replied by sharing the minutes of previous Council meetings in which the Law Director opined that Council should refrain from attempting to adjust the compensation of any potential members of a new union, but that the part-time police and firefighters as well as the police chief are not potential members of the new union. For the record, in the minutes of the July 14, 2016 Regular Meeting of Council, the Law Director specifically stated: "The people who are all out are the Directors, okay; the part-time police, the part-time fire and I am now able to say 'go for it'".

Committee Member Fulton expressed concern that the Mayor gave raises to administrators and that it hurts moral to give a raise to administrators and not safety forces. At that point, we voted on all three of the ordinances to give a 3% raise for part-time police, part-time fire and the police chief respectively. All three of them passed 3 to 0 or unanimously.

We then went on to the failure to vet and I handed out the same packet that we had at our previous Council meeting which included letters from Mayor, the job description for the Fire Chief, Mr. DiSanto's application for Fire Chief and the City Charter provision which requires the Mayor's Civil Service Commission to vet all City employees to the Committee Members. I explained that the job description for Fire Chief circulated to potential applicants listed ICS 300 and ICS 400 national/federal certifications as well as "***Graduation from an accredited two or four-year college or university***" as "***Minimum qualifications.***" I also explained that Mr. DiSanto listed those credentials on his application despite the fact he did not have them, and lied to Council in person at the Working Committee of Council on September 8, 2016, claiming to have a degree from Bowling Green State University minutes before admitting he never graduated with a degree.

I explained that generally no Council, Board, or Board of Trustees vets employees, pulls transcripts, or calls previous employers – that is an administrative function. Moreover, the City Charter as amended in Fall 2015 requires the Mayor's Civil Service Commission to vet all City Employees. For the record, the City Charter provides: "***The Commission shall, prior to an employment offer by the appointing authority, review and confirm all credentials stated in the application provided by the candidate for employment by the Municipality, including, without limitation: (i) reviewing and confirming that the employment and educational history of any candidate is correct as stated in such candidate's employment application, and (ii) that such candidate has obtained and is maintaining in full force any license, certification or other qualification required by the Municipality for employment by the Municipality in the position sought by such candidate.***"

I also expressed my concern that the only Member of the Civil Service Commission who was present at the Working Meeting of Council on September 8, 2016 misrepresented to Council that Mr. DiSanto's educational record was checked by the Commission—something that is undeniably untrue given the fact that he does not have a college degree.

Finally, I expressed concern that Mayor Weger, in asking Council to waive the three reading rule and confirm his appointment of Mr. DiSanto as Fire Chief, sent Council his letter dated May 19<sup>th</sup>, in which Mayor Weger misrepresented that Mr. DiSanto is a "***perfect candidate***" and was vetted by his Civil Service Commission saying that the Commission and a firefighter by the name of Mr. Gary Gabram "***served to provide their excellent expertise in determining qualifications and experience for our next Fire Chief that would be in the best interest of the City of Willoughby Hills.***"

We then discussed a vote of no confidence in Mayor Weger and I shared my view which I hold to this day, that two men, Mr. DiSanto and Mayor Weger lied to Council and the public on September 8th. Mr. DiSanto lied about having the bare minimum qualifications to serve as Fire Chief, and Mayor Weger lied about vetting those qualifications. Mr. DiSanto had the decency to resign for what he had done, but to date Mayor Weger has not done the right thing and followed suit. As a result, I offered the Committee...

**Disturbance created by the audience.**

**Vice President Plecnik:** That is the minutes of Personnel Relations, that is the minutes of Personnel Relations. It is our job to read the minutes as they were. I added that a motion of no confidence is allowed by Robert's Rules of Order as explicated by their interpretation on the website.

Committee Member du Laney expressed that Mayor Weger is a bad mayor and he had said as much in the past, and that it would probably be best for Mayor Weger to retire. However, Committee Member du Laney shared that he is not comfortable with saying Mayor Weger is a liar so much as he ash made a big mistake and is not doing a good job.

I replied that the Mayor's letter of May 19<sup>th</sup> stated that Mr. DiSanto was a "*perfect candidate,*" listed the persons who supposedly vetted him, and stated that they "*served to provide their excellent expertise...*"

**President Fellows:** Vice President Plecnik, could hold on for a minute. You may proceed.

**Vice President Plecnik:** *Served to provide their excellent expertise in determining qualifications and experience for our next Fire Chief...*" and that was a lie in my view. I added that Council has the right to rely on the Mayor and his administrations representations, and a right to rely on the Mayor and his Civil Service Commission doing their jobs as provided in the Charter.

Committee Member du Laney said he would agree to disagree and still thought it was an issue of competency rather than dishonesty, but agreed that Council had the right to rely on the Mayor and his Civil Service commission fully vetting employees before recommending them for confirmation. Mr. du Lane also added that he was comfortable with a vote of no confidence in the Mayor based on his record of many serious mistakes, such as his failure to buy an extraction washer for the Fire Department.

I replied that, yes, a vote of no confidence really pertains to Mayor Weger's entire record, which as Committee Member du Lane share, is very troubling. Last year, Mayor Weger purchased himself a brand new Jeep as a company car using moneys from the Safety Forces fund. He also refused to buy the Fire Department an extraction washer, which is not a perq, but is required for the safety of firefighters to clean carcinogens from their fire gear. That refusal stood until this month, when Mayor Weger finally relented after trying to use the local laundromat and then a residential use, discontinued Maytag washer to save money. Mayor Weger vetoed the raises for safety forces while giving raises to administrator. And now, afer all that, the Mayor appointed a Fire Chief that lacked the bare minimum qualifications and lied about having them.

Committee Member Fulton expressed her concern that Mayor Weger lacks the good judgment to serve as Mayor, and questioned whether his health might be an issue because he had a stroke.

**Disturbance created by the audience.**

**Vice President Plecnik:** These are the minutes of Personnel Relations whether you like them or not. Committee Member McCarthy said he felt the same, Committee Member McCarthy said that he felt the same as Committee Member Fulton, and was disillusioned and disappointed in the whole process. He added that if we allow the Mayor to continue to do the wrong thing, and do nothing, we become a party to it. That is why he feels we need to say "stope" to the Mayor.

As to the motion of no confidence, Committee Member McCarthy made the motion, Committee Member Fulton seconded it and the motion passed 4 to 0, unanimously.

In Public Portion, which opened at 7:07pm, Jim Walsh of Berkshire Hills Drive stated that he worked for the County and represented that other County employees were saying that Willoughby Hills has returned to the Peter Pike era, and that doesn't surprise him because Peter Pike supports a faction on Council. He also represented that he is a manager and that he would never allow a personnel issue to become public like the Working Meeting Council on September 8<sup>th</sup>. Mr. Walsh then asked Chairman Plecnik, myself, if he is a lawyer. Although it is generally not the practice of Council or Committees to directly respond during public portion, I made an exception and replied that I was a lawyer admitted in the State of New York in the United States Tax Court. He asked if I was admitted in Ohio, to which I replied no, I am admitted in New York. Mr. Walsh followed up asking if, in my opinion if Mr. DiSanto could sue the City for being publicly embarrassed at a Council Meeting. I counseled Mr. Walsh to ask legal opinions of the Law Director. He insisted on a response and I replied that in my own personal opinion, Mr. DiSanto embarrassed himself by lying to Council and the public. Mr. Walsh concluded his comments by asking Council not to embarrass the City or act for personal gain. Frank Cihula, Chair of the Board of Zoning Appeals, asserted that former Fire Chief Rich Harmon was responsible for buying the wrong washing machine for the Fire Department because he is the one who purchased the residential use washing machine. He added that it is an administrative function to purchase a washing machine for the Fire Department. Cheryl Ota, of Marcum Boulevard stated that the residents voted to give the Mayor's Civil Service Commission the job of vetting all City employees and they should have to sign affidavits from here on out to certify that they did their Charter-required duty. Ms. Ota also expressed concern that our Assistant Chief Tom Talcott was passed over to serve as permanent and acting Fire Chief, when he has 40 years of experience, a master's degree, and his certifications. She also asked whether the Civil Service Commission vetted the acting Fire Chief Patty Heller, and whether she has the necessary qualifications.

Public Portion was closed at 7:17pm and there was a brief discussion afterwards in responsive. I responded to Jim Walsh saying that Council did what it had to do to correct the Mayor's failure to vet the fire Chief, and the only potential embarrassment would have been for Council to stand back and do nothing. As to personal gain, the only personal gain involved in the Fire Chief controversy is ensuring that a competent and qualified Fire Chief is there for true emergencies, which is exactly the kind of gain Council was elected to provide for our residents and neighbors. Second, I responded to Cheryl Ota, saying that we do not know why a public servant as qualified as Assistant Chief Tom Talcott was passed over, but it is troubling that a candidate who lacked the bare minimum qualifications was chosen over our very qualified Assistant Chief and other qualified candidates.

Committee Member McCarthy asked if Assistant Chief Talcott applied for the position of acting Fire Chief. I responded that I did not know, but that Assistant Chief Talcott had applied for the position of permanent Fire Chief.

Committee Member Fulton asked who prepares our application forms for Fire Chef. I replied that it was the City administration under the Mayor. Committee Member Fulton continued to say that Mr. DiSanto had used his brother as one of his letters of reference and she thought it was inappropriate to proffer or accept letters from relatives. She believes that we should amend our applications to prohibit the use of letters of recommendation from relatives in the future. Hearing no other questions or comments, I adjourned the meeting at 7:19pm. I stand open to questions.

**Councilman Hallum:** Madame Chair, just one comment. I was at the meeting as you stated, I only had one concern that the ordinances that were discussed, there was quite amount of material handed out my yourself at the beginning of the meeting for your committee to review and within 15 minutes the material had been passed out and all the ordinances had been recommended...excuse me, had been recommended to be passed to the Council, so I'm a little concern that all this material was handed out at the beginning of the meeting and we want to make sure that people actually reviewed that. I know that Mr. du Laney has said on a couple of occasions that he doesn't believe in across the board raises make sense and so I'm just wondering if they have had the time to really look through that, look at each individual's current salary, their current qualifications and

their work on the job and how well they've done before we just sign across the board raises after a 15-minute conservation. Thank you.

**Vice President Plecnik:** Thank you Mr. Hallum, to that point these items of legislation are not going to be passed immediately. They are going to Rules and Legislation to be numbered and then presumably they're go through at least 3-readings before they are passed, so there will be plenty of time for Council as a Whole to review that information. I did my best to summarize for the Committee what those numbers showed and your review will confirm that Willoughby Hills, not surprisingly, is either underneath or at the norm in all these positions. It's not for Council obviously to review the performance of an individual part-time police officer and decide individually on their circumstances or trying to see whether or not that position is being adequately paid and actually a 3% raise for part-time police and fire would accord them roughly the same treatment as they would have had if they were a member of the union which is something that Mayor Weger has shared with us in the past. So everyone knows where the 3% is coming from. But fortunately, the data does show that we're not wildly out of the curve, we're not paying people enormous salaries and so a 3% raise would not be adding to an already too high pay scale in the case of the part-time police, part-time firefighters and police chief. But we'll have plenty of time to continue that discuss in Rules.

**Councilman Hallum:** Thank you.

**Councilwoman Greer:** Madame President. I would like to comment on the portion when you talked about Mayor Weger having a stroke. I think that it is completely inappropriate but since you did say it, I will say that he did have a stroke, I'm so glad that he's better. It happened before he was elected Mayor. Again, the public resoundingly chose Mayor Weger, they voted him in over Dave Fiebig after he had a stroke. It's not appropriate that you talk about and the public picked him afterwards.

**Vice President Plecnik:** Madame President. Two quick points, first, I think that it's unfair to our colleague Councilman Fiebig to say that there was a resounding election when it was decided about 4% and 203 votes.

**Disturbance created by the audience.**

**Vice President Plecnik:** And that's also inappropriate. So, I think that we need to give respect to our distinguished colleague who very nearly won. That does not mean that Mayor Weger did not get more votes but to say that it was resounding is a little bit of a misconstruedence and second, my job...

**President Fellows:** John, just wait.

**Vice President Plecnik:** My job in reading the minutes is not to express my own opinion but to express what was said at the meeting faithfully. I disagree with many of the things that were said, but Committee Member Fulton chose to state what she chose to state and I honestly repeated it. Thank you.

**Councilman Biro:** Madame President. We've talked a lot about Personnel Relations Committee and I would just like to get Mr. Plecnik's...because it does involve some of his discussions tonight, his opinion of a letter that was...Council's aware of, that was written to us by Pamela Kurt who was a member of his committee and she's an honorable person, a member of our community as well as a licensing practicing attorney, and she writes to Council:

*From the desk of Pamela D. Kurt, Esq., June 16, 2016, to Chairman Plecnik, Fellow Personal Committee Members, City Council of Willoughby Hills, City Clerk of Willoughby Hills, and the Administration of the City of Willoughby Hills: I am in hopes that this letter is properly distributed as set forth above. I am writing to inform that I am submitting my resignation from the personal Committee for the City of Willoughby Hills. The following are some of the reasons for my resignation: I have strong concerns on the direction and the liability*

*placed on the Committee. It's my understanding the purpose and/or mission of the Committee itself has been questioned. The interpretation of the current statute and ordinance are conflicting with my opinion; employees of the City; and other members of the Committee. As such, there needs to be a review and legal opinion set forth as to the proper standing of the Committee to ensure said Committee stays within any legal guidelines. Also, there were representations that the Committee has recently "vetted" some salary/position information. Personally, I have not "vetted" and wish to publicly abstain from any such representation. The Committee needs to acknowledge there are some Union Contracts in place that may prohibit some of the discussions, questioning, etc. that have been discussed. I have chosen not to partake of those discussions until there was a clear legal opinion to advise me accordingly regarding the current Union Contracts with the City. Lastly, I have concerns about the formalities. As there is usually no written agenda and it's of my opinion the distribution of information needs to be more formalized. I am concerned about any potential Sunshine Law violations and/or Ethical considerations. While the Committee is NOT elected officials, the Committee is appointed as a public entity. It is of my opinion the operations of said Committee would fall under such laws and standards. Even if some of my concerns were addressed and/or corrective measures taken I am unavailable to make the time commitment necessary. I feel I have a duty to put all on notice of my concerns as I resign. Again, I am thankful for the limited time I was able to serve but please accept my resignation.*

My question is, we look at the legitimacy of the Personnel Relations Committee, and I've discussed this with you in the past, I think that there have been some issues that were raised by myself in terms of basis and how the committee functions and my question becomes...my statement was that I was hoping that we could put issues that are that seem to be conflicting with Personnel Relations and put them in the Committee of the Whole because I don't think Mr. Plecnik and his committee are on a basis enough to handle these situations so it's my hope that we can de-politicalize these issues, we can come together and work together as a unit and not have these political agendas that continue to be foment through this Council.

**President Fellows:** Thank you.

**Vice President Plecnik:** Madame President. If I could share that when we received Pam Kurt's resignation by the way, I do want to say that I actually saw Ms. Kurt tonight at the Celebrity Art Auction for the Friends of Lake ADAMS Board and was really honored to be there and represent Willoughby Hills.

**Pamela Kurt:** I'm here John.

**Vice President Plecnik:** Good to see you, Pam. And I responded to her email, I responded to her email saying that if she is aware of any Sunshine Law violations she should report them but I'm not aware of any that I or any other committee member have made. If I become aware of them, I will certainly report them. We've called every meeting according to the rules of the Sunshine Laws and in exactly the same manner that every other Committee of Council so to my knowledge there is no standing accusation that we have not complied with the Sunshine Laws and when Councilman Biro made a rather voluminous public records request everyone on the committee complied with it to the best of our abilities. And I'm sure that there are many people on the Committee that viewed Councilman Biro's request as an attempt to be political or to annoy them but none the less they complied with their legal duty and they did not publicly allege, basis or politics to Councilman Biro because that's really where politicization begins in this issues. When you throw around those terms entire Committee of some of the finest, hardest working residents in Willoughby Hills are basis or political or incapable of doing the job. One of them is a former President of Kaiser Permanente Ohio. To have his counsel and his advice is unbelievable another attended council meetings for over fifteen years and was a member of our Charter Review Commission before she was asked to volunteer, that's longer than anyone here has been a Council person at this dais. And yet another has decades of managerial experience. Just to say that they are all politically basis and to dismiss them is personal and political in and of itself and I want to defend that Committee's hard work and what they've done is put forward a raise for our part-time police and firefighters who have not had a raise for two years and have been consistently thoughtful and hardworking so I want to say

on the record that I'm defending the Personnel Relations Committee, the excellent volunteers who have given so much of their time to Willoughby Hills, not just on this Committee but in numerous volunteer opportunities. It's easy to just say it's political when you don't agree with the conclusion but I would wager more than half of Council thinks that taking it out of Personnel Relations would be political and I don't think we need to go down that road any further. I think that we need to start working together as opposed to throwing around a consistent attack anytime you disagree it's political and you're acting for personal gain.

**Councilman Biro:** Madame President. Is it possible because I trust the legal opinion of our Law Director, is this a letter that would concern a person? If I was a citizen or resident on this committee would I have liability towards certainly because I'm not an elected official and I know that we do have as an elected official but as a non-elected official if there is some type of litigation would they be liable for that litigation.

**Law Director:** Absolutely, they would be involved. They would probably come under our insurance umbrella and they would get sovereign immunity to the extent that they don't take any reckless actions but they are a body of our City. As to point of basis so they would have immunity but if they exceed their authority and this is the problem, if they exceed their authority and they continue to exceed their authority or they continue to not follow the laws and then after they are so advised and they continue they can presume them to be reckless and then they would not be afforded any sovereign immunity or protection under us. And that's the distinction when do they go rogue, when do they go reckless and that's what I'm afraid has happened and I'm trying rain them in that's all I'm saying. And all of Council is doing it and they have been advised of that too.

**Councilman Biro:** So this letter does concern you.

**Law Director:** It does. I have not looked into it, if you want me to look into it please tell me and I will

**Councilman Biro:** Do you think that we need a legal opinion on the scope of this committee?

**Law Director:** Now that it is being raised, I will do it. Okay.

**Councilman Biro:** Thank you.

**Law Director:** But I was not going to before, thank you.

**Vice President Plecnik:** Madame President, one final point on Personnel Relations. If we take the Law Director at his word and agree with him, he's saying that unlike the Safety Committee which jots around ideas about safety issues to see what is worthy of spending the Council Clerk's time in drafting an ordinance and Council as a Whole reviewing it or Finance or any other committee. If he views it as completely different and that Personnel Relations quite literally cannot review Personnel Relations unless previously there is a piece of legislation that is currently being discussed and directly being discussed and I question whether that statute says anything about current legislation, past legislation, directly or indirectly discussion or discussion that might lead to legislation. I mean he has read a lot into the legislation but if we take his literally and say you need to have legislation pre-existing, it sounds to me like the Personnel Relations Committee is constituted in a ridiculous way that can't actually do any work. And if Council wants to view that going forward and say that we affectively have no Personnel Relations Committee until we amend the statute and say just Personnel Relations instead of legislation concerning personnel relations, I'm happy to take a holiday and not have to do the considerable amount of work of Personnel Relations. And I'm sure that our residents are happy to go back and volunteer for another wonderful organization where they will have their effects appreciated. But I do find it a little silly personally that the Personnel Relations Committee can't talk about personnel relations and matters relating to personnel relations. I find that to be a rather odd interpretation of a statute and the cannon of statutory interpretation do say that you should read a statute in a sensible way, so I'm a little remised to accept that as the correct reading. And one thing that I do want to say for the record because our Law Director has said

many times that he is the only Ohio admitted attorney at this dais and I certainly agree with that statement, it does not mean that someone with a legal background or education or experience in another state can't bring that to the Council dais and use that education to further their service as a Council person. And I'm not the only person that sits here who uses a legal background and to inform my opinion of legislation and everyone at this dais whether they are a lawyer or not is entitled to their own readable law. Is entitled to what they think is right and wrong and as we here legislate, it's our job to make the law. And frankly I think as a Law Professor at Cleveland State University, with a law degree from Duke University, a masters in law taxation from New York University, years of experience on Wall Street as a New York attorney, as an attorney advisor to a judge in the US Tax Court one of the founders of the Duke Journal of Constitutional Law and Policy, who has published multiple articles on statutory constitutional interpretation, I don't think that I'm going out on a huge limb to say that I know a little something about statutory interpretation. Thank you.

**President Fellows:** Thank you John.

**Law Director:** Ms. Fellows. The only thing that I'll say is I am the Law Director. I am the one that is responsible. I will not debate my credentials. If you have any questions about Tom Lobe you go to any federal judge in our district, you go to Lake County Common Pleas Court, you ask the Juvenile Court, the Probate Court, the Common Pleas Judges and even Domestic Relations Judge. Second of all, I will not tout my experience, just let me say this, I've been practicing law longer than some people on this dais have been alive. Thank you.

## **COUNCIL REPRESENTATIVE REPORTS**

**President Fellows:** Are there any other Council Representative Reports this evening?

**Councilwoman Majka:** I attended a Chagrin River Watershed Partners meeting on September 13<sup>th</sup>. I am still compiling a report for Council and I will present that at our next Council meeting.

**President Fellows:** Any other Council Representative Reports?

**Councilman Biro:** Madame President. It's possible that we will be having a service meeting soon. I've got to get together with Mark Grubiss to talk about some equipment that we may be purchasing, that was actually budgeted for this year so I will give Council notice of that meeting.

**President Fellows:** And Councilman Hallum I believe that you already have a Planning & Zoning Committee Meeting of Council scheduled for Monday, September 26<sup>th</sup> at 6:00pm, is that correct?

**Councilman Hallum:** That is correct.

## **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:** The next order of business is Public Portion. You all have been engaged in that all evening. Public Portion is an opportunity for the public to come forth. Comments should be restricted to matters aligned with responsibilities of Council. As I've said a couple of times this evening and have tried to maintain that decorum. It's not an opportunity to debate a topic nor is it an opportunity to belittle or an attempt

to degrade anyone. If the Chair deems that comments are of a personal nature or an attack, then I will ask that individual to sit down.

President Fellows opened Public Portion at 8:59pm. Please state your name and your address and if you do have any comments you must come to the MIC. We cannot **discern** minutes if we can hear your comments through the microphone.

**Dan Phillips – 2423 Pine Valley Drive.** You know I received an email from a Councilman this week...I received an email from one of the Councilman this week stating about what happened. I didn't really look into it too much till after I got that email. You know you guys were all lied to. The bottom line is it happens in today's world and you can say it's the Mayor's fault, whatever. I did hear here tonight that the Mayor cannot hire a Fire Chief on his own nor can Council. I do appreciate Councilman Greer and a few other Council Members taking responsibility. Responsibility and accountability is very hard to take these days. The question though that I do have did any Councilman, or are they able to vet anybody?

**President Fellows:** Dan, we'll answer your questions after.

**Dan Philipp:** Okay, #1 are they able to vet anybody? #2, okay, did they have access to these applications? Because I did hear in some minutes that a particular Council Member was asked specifically if someone hired and the answer was didn't know. As a public...or as a private sector guy and a resident, that's very concerning to me. You've got a job to do and maybe the title and you'll barely getting by with what you're doing but Councilman Greer admitted to it today, we have a job to do and the job is don't leave no stone unturned. If it's that important of a position have the 3-reading rule...whatever you have to do but do it the right way. I mean this is childish stuff up here. The Mayoral election is in three years. If you want to run for Mayor, do your job for the next three years and you'll win the Mayoral election.

**Jenna Bing – 36951 Beech Hills Drive.** I want to thank you all for implanting the audio version of the meeting minutes because I was able to listen and here what's been going on and so that's great. And I upon hearing about these issues that were being discussed here tonight, I went to look for the Civil Service Commission itself and they've seem not to have met since March so I do question how that would ever work. I mean I think that if they were vetting the eighteen fire department nominations or applications that they would have to have at least some meeting on record as a Commission, open to the public, like all meetings saying how they would vet and who was going to do what. I see no agendas, I see no meetings, I see no anything. No minutes, no anything that they ever met. So I really would...it concerns me that we have a Commission that is either not doing their job publicly which I think everything has to be done fairly publicly or is really just not doing their job. And if, I don't know where the oversight of them lies whether that lies with the Mayor because that's who appoints them. Whether it lies with the Council, whether it lies with...I don't know where it lies. But, I...that was very disconcerting that we were hiring people and they have not met since March. From what I could see. Maybe I'm wrong, maybe it's not there but we all know how easy it is to get agendas and minutes up now. So, thank you very much.

**Sandra Goodman – 34460 Parkview Road.** And have lived there for eighteen years. When I was applying for the position of Director of Nursing at Hospice of the Western Reserve I was interviewed by several people. The CEO, the doctors, and several of the nurses. My hiring was just...was a joint decision as was the decision to hire the Fire Chief. How dare you call for our outstanding Mayor to resign. This was a joint decision of the Mayor and Council. I am calling for the resignation for any of the Council members who also joined Mayor Weger in hiring this Fire Chief. This is an unfortunate situation but it doesn't make the Mayor and the residents of Willoughby Hills pay for this by all of our inconsistencies and bad decisions.

**Norman Goodman – 34460 Parkman Road.** I have known the Mayor for about fifteen years. He is honorable, dedicated and competent. I think that his administrative skills are impeccable. He was re-elected by



the people of Willoughby Hills to serve as Mayor. His popularity has grown. Let the Council and the Mayor work together for the betterment of our community. It is a must that the Mayor serve the community for the rest of his term for which he was elected.

**Artie Rodriguez – 3050 Rockefeller.** I just found out about these things recently and I'm not blaming anybody, accusing anybody. But like Mr. Lobe said, follow the rules. Okay, I don't care if it's hiring a janitor, or a Fire Chief or a Police Chief, follow the rules. That's all I got to say.

**Mel Schaefer – 35100 Chardon Road.** And that is the new community, retirement community. And I want to express my gratitude for this administration for having allowed for that facility to be built. My wife and I were at the point in our lives where we could no longer manage a full house and we were looking for places and we did not want to leave Willoughby Hills. We love this community. And this community...facility opened just at the right time for us. Thank you for that. As you...as many of you know, I served as Mayor, Service Director, Safety Director, and Mayor's Court Magistrate for sixteen years and we had a lot of problems during that period of time. It was a time of rapid growth, the freeway interchanges had just opened up and there were zoning problems everywhere, we had a lot of chaos to deal with. But never did we have the personal attacks against me that I have seen against our Mayor. And I think personal attacks like this, as the Council President had said in the beginning there will be no personal attacks and yet there were many. And every personal attack is a bad mark against the Mayor, a bad mark against the City of Willoughby Hills and a bad mark against this Council. Thank you.

**Yolanda Stay – 2938 Hayes Drive.** I live on Hayes Drive oppose Squires Castle, I'm in the flood plain all the time. I love this valley. I love Willoughby Hills. I was really hurting financially for a long time and Willoughby Hills has a WHISPER Program. You know you don't want to call them unless and somebody will tell you need help and Willoughby Hills has helped me. And there isn't anyone time that a police officer didn't come down at my calling and I'm chasing some kids with a broom, you know because I'm...you know in the park and these little young hoodlums, okay and it's very upsetting. I don't want things to change. I don't want any of this nonsense to go on. I get enough of this on TV with the trumpy-bumpy, whatever. So please settle this, stop the nonsense. Let's go on like a community of loving people. Thank you.

**Kim Lobe – 2920 Gatsby Lane.** I am married proudly to our Law Director for thirty-five years and I've watched three administrations in this City. The current administration under the care of Bob is the most successful we've ever had. Even the State Auditor thinks so based on their award to the City for exemplary reporting in 2015 and their continuous accolades in the State Auditor's reports year after year. By the way, in 2007 before Bob Weger became Mayor the City could not even be audited because the finances were in such shambles. When Bob took over in 2008 in the next eight years he took the City from a \$20,000 revenue extra to 1.4 million in the last audit of 2015. I'm not making this up, Council isn't telling this to us, the Mayor isn't tooting his own horn, this is public knowledge in the State Auditor's Report that is on line and I encourage all of you to read it. Bob Weger was elected by the voters of Willoughby Hills to much of the disappointment of several Council members. Now those four Council members who have no authority to override the voters are going to try later this evening to get a vote of no confidence from Council concerning the Mayor. Who in the world is the legal genius who suggested this ploy. There is...there is nothing more than political posturing by four compromised individuals in an attempt to create drama amongst Council. One would think that they have something better to do to advance the City of Willoughby Hills then spend time on shenanigans like this. They should follow the fantastic leadership of our Mayor and not sit around conjuring up scenarios trying to convenience the voters of Willoughby Hills that our Mayor is not effective, we know much better than that. Thank you.

**Roy Streetz – 2959 Gatsby Lane.** I've been a resident of Willoughby Hills for approximately 26 years. I'd like to reflect just a little bit on my background. Okay, when I first graduated from College I was lucky enough to serve in the arm forces. As a platoon leader over thirty-five men I found out one thing and one thing very

important that unless I had all the men agreeing to do the objective, what objective as planned, it would be a failure. Failure all around. And when I had the thirty-five men who were from all parts of the country working together you could be really surprised at what can be accomplished. You could really be surprised of what can be accomplished. But you had to work together. Now I'm going to change the subject just a little bit. I heard all the problems. I heard everything, read about them. My feeling is that we have a much more serious problem in Willoughby Hills. Much more serious. I was really deflated when I found out that the victory motorcycle was leaving, at the beginning of the meeting. That was a real letdown. That was a real letdown. Obviously, their business aspirations didn't occur. Now what is our biggest problem in Willoughby Hills? From a property owner standpoint? We have a plaza that looks like something in **Serra** bombed out. Let's work together to see what we can do about Loehmann's Plaza. Is there a committee around here in this whole organization that is doing anything about Loehmann's Plaza? Let's fix this up. That could be the center piece of the community. Instead it's a...just a negative. Loehmann's Plaza presents a negative to the City of Willoughby Hills and how much traffic goes down Bishop Road on to the freeway, coming and going? They see it all the time. Work together, it's important because that's how you accomplish things, working together. Let's get Loehmann's Plaza working. Thank you.

**Bud Moore – 36105 Chardon Road, Willoughby Hills, 44094.** Let me explain something to you people. A lot of business owners here, Mr. Hallum you did a nice job in making phone calls, I will congratulate you. But you didn't call me, you called my neighbors. I'm going to tell you something, I don't know how many of you people have ever worked under Civil Service. Probably none of you. None of the people here either who are business owners. The guy sitting next to me is complaining because he's a business owner. He doesn't have the patience to listen to this simplistic talk but he listened to everybody else talk up here. Civil Service people sit at the pleasure of the Mayor. At the pleasure of the Mayor. He appoints them, he's responsible to them...for them and they report to him. Not the Council. Council can ask but he's the man. Now you --- the ball. You dropped the ball. You know that you dropped the ball. Unfortunately, that young man that was here was probably very well qualified to run this thing but he lied on his application. I worked with the kid. I worked thirty-one years in Cleveland under Civil Service and when the Mayor wants to change the rules under Civil Service he goes to the Civil Service Commission and says that we are changing the rules. That's every City. And I'm going to say something else. Mr. Lobe you sit there in you --- arrogance. Your head swivels back and forth. You made faces when everybody else talks over here but the faces aren't the same over here. Twenty-nine years right. I mean...you're a very well educated man, I have no...

**President Fellows:** No, no...

**Bud Moore:** I'm not hassling him. I'm just telling you, you're a very educated man. Very educated. I sit back and listened to you, listen to me for a couple of minutes. Civil Service is his responsibility, nobody else's up here. His, he appoints the people. Thank you.

**Joe Udovic - 21317 Naumann Avenue.** Yes, I do business here in Willoughby Hills. But tonight, what I want to talk about a little bit is my background. I have a bachelor's degree and I have a master's degree. Both in management. It seems what I am listening to here to tonight is an issue on competency. I was a caregiver for my mom for five years, she had dementia. She died of pneumonia in December. I know people who are ill. My question is...we talked about is that the Mayor had a stroke. Wait a minute, here's the point that I'm bring up, is not everybody heals at the same time. Some people might take a little longer, some might take a little shorter to heal. That's my one point, #2, being a competency factor is like I said, I studied management. If someone is not doing the job to the regard of the letter, they have a right to either stepdown or be requested to stepdown. I am a Christian; I was baptized last November. I follow my business, run my business with Christian, biblical principles. I make decisions based not on what I can do but what Jesus is telling me to do. I think maybe we ought to consider reading the bible. But if you go to church, you read the bible or you're supposed to listen to the bible. Maybe we should consider opening up the good book and following those principles as well. Thank you, have a good evening.

**Jim Walsh – 38755 Berkshire Hills Drive.** You all know who I am...my wife and I...I have lived here since 1988 we came in under the honorable Mel Schafer's reign, it's a great City, we're very proud of the City. A lot has been spoken about that, about the pride in the City and the reasons not to be proud in the City but I specifically want to direct my comments to the Mayor. Bob I want to thank you, I want to thank you for your leadership, for your management and for your service. You lead by keeping calm in the middle of all this crape. You don't lose your cool, I don't know how you do it, I really don't know how you do it. One of these days, I'm going to come in and your head is going to explode like those purple commercials where their heads pop off. But you do stay calm and I thank you for that. You also show leadership by admitting tonight that the Fire Chief was an accident. Everybody I know has made a bad hire. It comes, it goes, you move on. If every single person in public service quite after they made a bad hire, we would have some very empty offices up in Painesville I can tell you that right now. I wanted to thank you for your management by bringing us back from fiscal disaster. This City was a mess and you fixed it, thank you. But most of all, this is what matters to me I'm a big believer in servant leadership, those who don't serve, can't lead and I have watched you. You've plowed our snow, I've driven by police scenes in the middle of the night when you didn't even know that I was there and you were out directing traffic so that the police and firefighters could do their job. I've seen you stack chairs tonight so that people didn't have to stand in the hallway. I've seen you work at pancake breakfasts. Bob you are a true servant leader, don't even think about stepping down. My final comment is simple, carry on sir, carry on.

**Tanya Taylor-Draper – 2909 Strafford Way.** First of all, I'd like to say I don't think anybody here is a doctor so nobody's qualified to determine what somebody's mental capabilities are for one. Number two, I'd like to thank the Mayor. We had problems when we first moved in Strafford Way, Strafford Place. We came and talked to the Mayor and he helped our community. So, we appreciate that and we thank you for your attention to the residents here. The residents did vote the Mayor in regardless if it's one or fifty. You need to respect that. Thank you.

**Richard Helton – 37500 Eagle Road.** I don't usually speak in public, this is the second time that I've spoken to Council. Instead of looking at Bob and saying he had a stroke why not looking at Bob and saying how good this man is doing after that stroke. How this man has come off and served our community after that stroke? You should be proud to have this guy here instead of saying that this stroke has hurt him. How much strength does this guy have to sit up here and do this job day after day? Thank you, Bob.

**Joe Zawatski –** I know I'm the last person you want to see come up here. But first thing I'd like to do is to address one thing and I'd like to praise Ms. Goodman and I have no idea who she is but you know somebody up here said that you don't get interviewed, vetted, taken care of by the Board members it's only administration, she's already told you that wasn't true with her and I'm going to tell you other than the fact that I've been called nothing but a used car salesman, I was also the Director of San Antonio Transportation, I was also the Director of the Crawford Auto-Aviation Museum. Just so you know on both of those occasions before I got those jobs, yes I did sit down with the Board members, yes I was interviewed by the Board members and I was vetted by the Board members, that's number one. Number two, I have to say the same thing that Rick just say, what a get job from somebody that's just come back from a stroke and stands up like this. The bottom-line guys is this is a kangaroo court, I know it and you know it and no matter anybody says here and you listen to all of these people you going to go back and you're going to vote the way that you've all decided to vote before you every walked in here. And I'm going to tell you before you do that, if you don't like him recall him. Take a look around you, do you think that you're going to have the votes to take Bob out of office? I don't think so. But if you want him...forget this vote of no confidence this is just again, we're grandstanding up here, let's not grandstand guys let's do what's best for the City. Come on, we've been through this twelve years ago. Nancy, you in particular went through this, you know exactly what it was like, you got rid of those people. Dave, you were around at that time too, you got rid of those people. No, you weren't on there but you were around the City, you know what was going on, you get rid of those people. You know, don't do that all over again. Work together, come on it's our City. Do you really want to pick up the newspaper because somebody got an in over there and can

go and get headlines all the time? Does those headlines make you proud? Because I've got to tell you the only reason that I ever got involved in the politics of this City in the very beginning was I had just moved here, I had been here about five years and I just got tired of reading all that BS...

**President Fellows:** Thank you Mr. Zawatski.

**Mr. Zawatski:** Thank you so much I appreciate you for having me.

**David Reichelt – 300 Pebblebrook Drive.** Former City Councilman, City Council President and since I'm not I can come in shorts and a t-shirt so what I'd like to know when it became a policy of Council to read minutes verbatim or read the entire transcript of a meeting verbatim. I don't understand what happened to the term "minutes". It used to be...minutes used to be a summary of the meeting, now we're consistently week after week hearing these entire transcripts and it seems ridiculous. I also what to remember the days when committees would do all the work and we didn't have stupid back and forth exchanges like we've had tonight here. Council use to do work in committees and those were sessions where the work gets done. You should be able to come in here, do your work and get on with it. Based on the qualifications of the Civil Service Commission, Bob, Robert DiSanto was a good candidate. He had unfortunately made a very bad decision but who would have ever imagined that a candidate for the highest position of the fire department would falsify their application. His professional experience was certainly surpassed the lace of a few college credits. My guess is that he could have tested out of it. But I really wonder if he just forgot, it was an error, it was regrettable and it's a shame that he left here with all of his qualifications and that we have to start that process all over again. My last question is when did the Personnel Relations Committee become a political weapon stacked with politically basis individuals. We used to have City Council members on it and we didn't have this kind of a problem. Ever since you introduce the selective picking of the political basis individuals now you've got a problem. That again is something that needs to be changed. And lastly, Nancy I want to tell you something that you may have heard me say before but I'll just remind you. You were my inspiration to become involved in Council because your platform back in what was it...2002, or 2000...what year did you start? I'm guessing it was 2002, anyway whatever year that was, your platform was that you wanted to get rid of the circus atmosphere in City Council and restore the decorum to this body and that was the premise in which I got involved in City Council and we did that for ten years. And now I see that it is progressing back to the '90's. I hope you can put an end to that Nancy.

**Loreto Iafelice – Willoughby Hills, Florence Drive.** I've lived here since 1990. We've been landowners since 1977 and we also so brought a lot of businesses to the City with our properties at 91 and 6 along with...we brought a lot of families to Willoughby Hills with our two developments. The one where we live which is Loreto Drive named after my dad and Florence Drive names after my mother and River's Edge. Bringing up my mom's name Florence, Florence always taught me respect, always respect your elders, always respect people in positions that deserve respect. I brought my son here tonight because I told him that I was coming and he said that he needed to come here for one of his school projects. I'm a little bit embarrassed that he had to see the disrespect that a lot of you have for each other. The condescending nature that a lot of you have for each other. I do business in a lot of cities, Willoughby, Perry. Many, many Councils that I have been in front of and I have not experienced what I've seen here tonight with just the look that some of you have in your faces, the meanness. If you don't want to be here, why be here. I, I...it's just very disappointing. We as residents deserve better than what I see with the actions of a lot of you. Mr. Lobe thank you for preparing everything the way that you did. I came here thinking one way and I was able to learn the truth. I don't appreciate reading things in the paper that don't seem fair and balanced. Mayor, I've got 30, 40 businesses that I've brought to the City and mostly everyone that does business in Willoughby Hills, that knows you, everyone that knows you always comments that oh we moved from Highland Heights, we've here, there and whenever we have a problem it's taken care of where it was police, fire anyone in the City whether it's Mark, Fire Department. When my mom was sick the Police Department, the best so thank you for that. I agree when I'm plowing my building at 3 in the morning, I see you and I don't see that in many other cities. So that being said, son you've

learned a lot tonight to see what's taking place. I think that the residents of Willoughby Hills deserve a little bit better with respect that we deserve and I think that you should all start respecting each other a little bit better.

**Dale Fellows – 2812 Fowler Drive.** The bottom-line is that a position of very high public trust was violated by the person that was appointed to that position. And one of the key elements that I don't think got talked about tonight was in August 26<sup>th</sup>, I believe a memo from the Mayor to Council...no, actually I think it was to Civil Service regarding and cc'd to Council about the fact that they had discovered that two of the credentials that Mr. DiSanto, he didn't actually have. That started the ball rolling. But in that memo it said that the Mayor said that I am waiving, if I remember it right, I am waiving those credentials. And so today if in fact Council which quite frankly everyone should be proud of what they did because the members here looked farther because the administration did not. That Fire Chief would still be here today, if Council hadn't done, or some Council members hadn't done the vetting process that the Civil Service Commission was empowered to do by the Charter. And then the Mayor oversees that Charter, that Civil Service Commission. So the question to the Mayor is, I believe it's probably rhetorical but would not the Fire Chief still be the Fire Chief today? If Council members hadn't actually vetted beyond those two things because you were going to waive those credentials, those missing credentials which then brings up a legal issue, Mr. Lobe, to you is can the Mayor of this City under our Charter, unilaterally waive requirements after the fact? And before the fact? And doesn't that create a liability issue with any member that wanted, was in fact interviewed, did in fact applied and had those credentials? Or maybe the person who decided not to apply because they saw the minimum credentials and didn't apply. And so, would that not leave you in a liability issue? And I know Mr. Lobe you mentioned during your dissertation that we're bound by the law and the Charter is the law of this community, correct? And in that, are you implying that the Charter has never been violated? And I'll leave you at that and so I for one am proud what the Council members did in fact do to protect the citizens of this community because the administration dropped the ball big time.

**President Fellows:** All right Public Portion will be closed at 9:33pm. Thank you everybody. So to go back through some of these, back to Dan. He wanted to know if Council vetted anyone and I believe the answer is no because we took the word of Civil Service and the Mayor on the recommendation and he also wanted to know if we had access to the applications and I do not recall getting all eighteen applications. I recall getting two of the individuals that were being considered. But I may be incorrect, it's a lot of information. Jenna asked if Civil Service has met since March? She doesn't recall seeing any type of minutes from this committee. The Civil Service Commission is appointed by the Mayor; I really can't speak to when the last time they met or where their minutes are located. Mayor, can you on the Civil Service Commission?

**Mayor:** They are going to have a meeting on the 28<sup>th</sup> of this month. As far as other meetings I attended, I don't know.

**President Fellows:** However, Gloria Majeski is in the audience and she does all the secretarial work for the Civil Service Commission. Possibly Gloria you might possibly have insight into that for Jenna.

**Gloria Majeski:** Sure I can tell you that Civil Service Commission did not meet during that time. You brought Mr. Kicher in here, he represented Civil Service and he was one of three members who was doing the vetting. Tom Majeski was doing a lot of the vetting, I can tell you that. The vetting was not done and...

**President Fellows:** Gloria can you, you know what you need to speak into the MIC because there's no way that we will be able to record the minutes from that distance, thank you. And if you could start again, I'd appreciate it.

**Gloria Majeski:** Sure. I think if you understood the whole process which I think that Mayor Weger tried to outline in his report this evening, you would understand a lot better. Those four individuals did the interviewing. When the interviews were over, they gave the eighteen applications to me to be shredded. The

copies that they had, excuse me, not the originals of course. The Mayor had the original eighteen. At that point the Mayor was able to go back and say what candidate he was interested in. They all...I can tell you those four individuals, three happened to be Civil Service members because they had the experience the Mayor felt to do that particular job to be interviewers. So, at that point the Mayor actually had picked a different candidate. And that's when...when you look at his report tonight it outlines everything and that's why we actually made a handout for all the people. If you can't absorb it tonight go home and read it. And he will tell you the whole process. After he reviewed the applications he picked an outside candidate. He went to the candidate and said he offered...and said what the offer was going to be. The candidate declined, the salary was just wasn't there. That's when he gave it to Bob. That's when he offered it to Bobby DiSanto. At that point Council was told and Council was able to review applications, I think that Mr. Plecnik said that they were in my office to review. I remember I had sent some to you, I know that at least Bobby's because I was told that I had a social security number on there. At that point, I took all the originals and actually our HR Director has the social security number on the applications, so I took a marker and blacked them all out and got them and for the people who wanted to read them you were given the opportunity to do so. Civil Service, if they meet, the three of them, they have to meet in a public forum. So no they haven't met. I think the thing here is, I think Bob took you know partial responsibility but I believe Council needs to take it as well because Civil Service was in the middle of doing the vetting. I can tell you we were over at the Fire Station looking for his part-time folder, you know personnel file, we were taken back and forth, back and forth, we were even looking for things, the HR Director had a folder that had tax forms in, nothing what the Civil Service Commission was looking for. Hazmat Certificates those are things that they have to provide...

**President Fellows:** So let me ask you then, if Civil Service wasn't finished vetting then I guess the question would be for the Mayor, why did he make the recommendation to Council to appoint him?

**Gloria Majeski:** Because that was his choice when he interviewed the eighteen candidates, his choice was Bobby DiSanto that's what he was telling you the interviews told him. At no point does that thing say it was vetted. And even after the fact, as you had said, he thought given that the guy has been here for ten years, we witnessed what a great job he does, Chris has even witnessed, you know...

**President Fellows:** So back to Jenna's question, so we have minutes of the Recreation Commission that are available to us...

**Gloria Majeski:** They're on the website and they are hanging out in front.

**President Fellows:** We have Planning and Zoning Commission minutes that are available to us so may be as we move forward we can look to have the Civil Service Commission minutes available to everyone as well.

**Gloria Majeski:** Actually, you know what, I just need to correct something that you had said earlier or somebody said. I am not the Civil Service secretary, that's Carolyn Patton. But I do take care of loading it on the website. We do not teach these Commissions how to upload things on the website. All the minutes are on the website; they're hanging out front. Civil Service has not met; Civil Service will meet because what they recognize...

**President Fellows:** So to Jenna's question

**Gloria Majeski:** Excuse me one second, I think that it's important...

**President Fellows:** So they have not met since March.

**Gloria Majeski:** It's important to know Councilwoman Fellows that the policy was there. The policy is our Charter. We know that Civil Service is supposed to vet these people before the offer is made but the people

voted for that but unfortunately there wasn't a procedure. The policy is there but what about a procedure. Why don't we say for each person that we're going to do this, this and this and then we are going to get a letter to Council or whatever, that's what needs to happen.

**President Fellows:** Thank you for sharing, I appreciate it. One of the other ones, Roy, where are you, did you leave? Okay, so actually, our last meeting of the Committee of the Whole we inquired of the Mayor and the Law Director what was the latest status of Loehmann's Plaza, the Shoppes of Willoughby Hills. And we were informed the properties are in receivership that a bank owns it. I inquired as to what bank that might be and the Mayor and the Law Director did not know, at least at the time that I had asked, they did not know. I had...a comment that I had made was that it would be nice if we could get a representative from the banks instead of the owners of the property and residents and administration and Council together and meet on that property to share with them what this property really looks like because I'm not really sure what the members of this bank other than having the address and the plot, knows what the property looks like. And that we should begin to share with them that we want something better here. I suppose that is not an easy thing to do. The question was just recently asked as to what the status was and I don't remember, I would have to look and see but when our Economic Developer was with us before he passed away there was an Economical Development Task Force that was part of the Mayor and in fact Councilman Hallum sat on that, I think that he might have been Chair for some period of time. We, I think that there may have been a question at some time when was the last time that group had met and I don't believe that they have met for a while. Correct?

**Councilman Hallum:** Correct, we weren't getting a response from the property owners. They were not participating.

**President Fellows:** So we do ask, maybe we need to be a little more assertive. Okay. Mr. Reichelt asked about minutes...when it was decided that minutes were read verbatim. It is the prerogative of the Chairman of the committee to determine how their minutes will be presented to report to Council and then be on public record. I think that's the notes I have for response.

All right, moving on to legislation.

**Vice President Plecnik:** Madame President. Isn't it Unfinished Business first?

**President Fellows:** Yes, I'm trying to find my notes here, yes.

## UNFINISHED BUSINESS

**Vice President Plecnik:** I did have one question for the Mayor. We had talked about City Newsletters last meeting and I had wanted to follow up. When he mailed out his Mayor's Newsletter which now apparently replaces the City Newsletter which previously at least the Council President participated in but now it's just a publication of the Mayor. Can I ask, did you get permission from Council or run this by us before you printed and mailed this?

**Mayor:** No.

**Vice President Plecnik:** Well, given that answer that he did not get permission from Council, I'd like to just quickly refer everyone to Chapter 103 of our Code in Willoughby Hills, Official Standards, it's 103.01 – Official Seal. Council hereby recognizes the existing seal that is displayed in City Hall and Chambers of City Council which is the beautiful circle that you see in our pins and everywhere, as the official seal and thereby exclusive represents the government of the City of Willoughby Hills. And it goes on in subsection b to say quite clearly the ownership and all usage rights of the official seal of the City of Willoughby Hills shall remain the exclusive ownership and control of the City and may not be reproduced without the expressed permission of

the City Council. And if I'm not mistaken, this particular law was passed in Ordinance 2006-55 when the Mayor was Council President, an ordinance that he voted for and he signed and so it seems pretty clear that when the Mayor sent out this newsletter which quite unfortunately congratulated and praised Bobby DiSanto right before all this happened that he did not get the permission of Council in his own words to send this and so used our seal on a publication without that permission, so I would just like to tell the Mayor in the future not to reproduce the City seal without Council's expressed permission pursuant to a law that you signed and voted for. Thank you.

**President Fellows:** Thank you, John. So, the next order of business is Legislation.

## LEGISLATION

### **Ordinance No. 2016-36 – 3<sup>rd</sup> 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:** Okay, so one second, Councilman Hallum. At the last Council meeting we did discuss either tabling this or vetoing it down and it was suggested not to do either because we needed more information which since then the Law Director has received. However, in his report, he indicated that there are significant changes now to this contract. So instead of reworking this one, what's the wishes of Council for this one?

Councilman Hallum moved to table indefinitely. Councilwoman Majka seconded.

**Law Director:** Ms. Chairman. I will, if you vote it down, I promise you that I will work with Vicki and Janet Majka to try to get a new one, take out some of the problems that we had. I will work with both and of them and we'll try to get something as least to a form and then you guys can chew it up and decide financially but the three of us will work together so that we can get a better one. Okay.

**Councilwoman Majka:** I would just like to say regarding this that Mr. Lobe, you kind of left it up to Council to let you know if the money was okay but I remember in previous discussions too, Mayor you weighed on your opinion of the money due to your experience with the companies before as did you, Mr. Lobe too. So it's not going to be just whether Council likes the amount of money or not. You lobbied for an increase and it seems like it was really good and this is kind of what we were waiting for. So I think that we are just tabling it because it need to be rewritten, basically on these new terms and the only thing that we don't know is a more clear definition of the co-location which I trust you are going to be in touch with them to find out about that.

**Law Director:** I will discuss this with you, they're playing little cat and mouse with...

**Councilwoman Majka:** Well they have been doing that all along but you kind of cut through that with these terms so maybe that will be forthcoming as well.

**Law Director:** I can assure you Ms. Majka and the rest of Council, I know what you guys want, there's three parts. I was able to get you two of them, I was able to get the increase and it's more than the other ones. But the co-location is a big factor of that so we can get the income because it's all about the income. But I will assist you, help you write it and I'll give you my opinion and I'm sure that the Finance Director will get into as well as everyone else on the committee as I did before and we will see where it takes us. Thank you.

**President Fellows:** Thank you. I did want to mention one thing, Tom. A couple times you've mentioned that maybe one of the representatives from the business could join our meeting but unless there's a representative in the area, I believe the company is in Massachusetts. So unless we pay her travel expenses I don't think she would come.



**Law Director:** I don't either, I'm just saying that I'm dealing with this individual from Massachusetts, she is from American Tower, she represents Verizon they do have local people here. I told her that this may happen that we may ask for her to come or anything, she said well I'll send you the emails. So she sent me the emails the last ones I turned around. I can continue to communicate with her, I'll even get on a joint line with your Council Clerk or Janet Majka and we'll try to figure it out but I can assure you that we've made great strides financially or even better than before so let's see where it takes us and part of the income is really necessary for this City so we've made great strides so let's continue to see where it takes us. We're in much better shape because it's an increase of about \$800 a month for about 25-30 years and it's a better financial offer, not that it's in writing yet, than what we agreed to previously and better than what other few communities locally have done as I expressed previously on the other two that are at the grange and over there by West Miller Road. We're on our way. Thank you.

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

**Ordinance No.2016-11**

A resolution authorizing the City of Willoughby Hills to accept the amounts and rates for the year 2017 as determined by the Budget Commission of Lake County, Ohio and authorizing the necessary tax levies and the certification thereof to the County Auditor and declaring an emergency.

**President Fellows:** So this evening our Finance Director Mr. Brichacek identified the important of this, this is something that we cannot do for 3-readinigs because of the urgency of the nature and the time that it needs to go to the auditor.

Councilman Fiebig moved to suspend. Councilman Biro seconded.

**Councilman Hallum:** Madame President, do we need to waive the 48-hour rule first?

**President Fellows:** No, it's on our agenda.

**Councilman Hallum:** Okay, okay, sorry just wanted to make sure...thanks.

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

Councilman Biro moved for passage. Councilman Hallum seconded.

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

**NEW BUSINESS**

**Councilman Fiebig:** Would a motion be in order to, based on these discussions that Council create either a motion or legislation to hire a Fire Chief?

**Law Director:** Absolutely.

**Councilman Fiebig:** Would a motion or legislation?

**Law Director:** Probably legislation.

**Councilman Fiebig:** I'd like to suggest that Council create legislation to hire a Fire Chief.

**Law Director:** There are already some Charter provisions and statutory provisions just so you know, so I'll work with you on that. The hiring of a Fire Chief and a Police Chief they get special statutory provisions more than let's say hiring the Engineer or the Law Director there are special statutory provisions in place. I'll work with you if you want to do something like that. If you're a Charter Municipality, you've got the absolute legal right to do so.

**President Fellows:** So I have a motion on the floor that Councilman Fiebig that Council create the proper legislation and ordinance to hire a new Fire Chief with Law Director Lobe's assistance.

**Vice President Plecnik:** Second.

**President Fellows:** Seconded by Vice President Plecnik. Any discussion on the motion?

**Councilman Hallum:** I'm just...

**President Fellows:** It looks like you are thinking...

**Councilman Hallum:** Yeah, because we didn't do this before, I'm just curious why we're doing it now. Is it necessary? Why is it necessary now when it wasn't necessary before, that's all.

**Councilman Fiebig:** I put it out there on the table for discussion based on the Law Director's report to us.

**Councilman Hallum:** I don't know what that means.

**Councilman Fiebig:** What don't you understand?

**Councilman Hallum:** Why is it necessary...if it's...we didn't create it before.

**Councilman Fiebig:** I don't think that it is necessary, I don't think that it should be necessary but based on what the Law Director told us apparently, we do have to do that so we can be involved in the process, we can have discussions about it and move forward with this.

**Councilman Hallum:** That's not what he said.

**Law Director:** Ms. Chairman. That is not what I said. It's absolutely not what I said. I think that there is a process in place. You have the right at all times under the Charter to get the Civil Service, you have the right to vet him individually. You have the right to hold hearings, you have all those rights. I have never suggested it. The question that you just raised is could you prepare another ordinance to do it, yes you have that right and authority but please don't do it based upon anything that I said during my Law Director's report. That is absolutely contradictory to what I said.

**Plecnik Vice President:** Madame President. The reason why I seconded Councilman Fiebig's motion and I can't read his mind or anyone else's but the reason why I seconded it was based on the comments we heard from Ms. Majeski that while the Charter does say Civil Service is supposed to review she said that we need to have some procedure to make sure that the vetting absolutely happens before an offer is made just as the Charter said. So having the opportunity to work on an ordinance that would provide that a letter goes to Council certifying whether it be from the Civil Service Commission or the Mayor that the vetting has been done using that word so that no one can debate with synonymous whether or not the vetting is done. Maybe we need to make it that explicit at this point given what happened. I personally think that the Charter speaks for itself

but if others feel that we need to be even more explicit that you have to vet before an offer is made I'm all for it to make sure that this doesn't happen again. And that's why I personally seconded the motion.

**President Fellows:** And I think in one of the other meetings, Councilwoman Greer you had indicated that we needed to fix the process, I'm not sure if that were the exact words that you had said and I believe that my response was that I didn't think that we needed to fix it, I thought that we needed to follow it but if there is a better way to look at this in terms of a process then we could do that.

**Councilwoman Greer:** When I...when I said that I was referring to our involvement in the process, I don't think that we did enough. So that's where I was talking about, the Council's involvement. My personal involvement. Not that there wasn't an explicit process.

**Mayor:** There's a meeting on the 28<sup>th</sup> of September to talk about by the Civil Service Commission to talk about the process, the forms, everything needed to vet the person before the actual hiring so you're all welcome to come and I don't know what time it is...

**President Fellows:** 1:00 in the afternoon.

**Mayor:** Yeah. So, you're all welcome to come and this is what they're going to do.

**Councilman Hallum:** So then again I'll just restate I'm not sure that an ordinance to hire a new Fire Chief will get us what we want. I think that we need to do it and this sounds like this might be the proper form to get our opinions and be involved as opposed to just creating an ordinance to hire a Fire Chief if that's what we are trying to accomplish.

**President Fellows:** Any more discussion?

**Councilwoman Greer:** So can you please restate what you want the ordinance to say?

**President Fellows:** If I wrote it right...

**Councilman Fiebig:** No because this is new business this is to just get the process going. Just a motion to start creating, start the legislation that's all.

**President Fellows:** So, it's a motion to create legislation to hire a Fire Chief.

**Councilman Fiebig:** You can take the last legislation; you can duplicate it and work from there we just need the vehicle to move forward with this.

**Councilwoman Greer:** So your accentually asking Vicki to write an ordinance and then we'll vote on it at some further meeting.

**Councilman Fiebig:** In six weeks from now perhaps.

**Councilwoman Greer:** Are you asking her to prepare ordinance?

**Councilman Fiebig:** I had asked the Law Director would a motion make sense or an ordinance. I believe you had said an ordinance.

**Law Director:** I prefer that it be an ordinance. Because if you want to have some specific rules more than we have now, you have that authority. I don't know what this Council wants or what the motion but you have the authority to do it. I'll try and help as I can. That's all I can say, you have the authority

**Councilman Hallum:** I'm just thinking we're going to hire a Fire Chief so why are we creating an ordinance to hire a Fire Chief. It doesn't seem to make any sense to me. I would think that we would find one and then create an ordinance to confirm him like we did before. And before that Civil Service can go through the process to find that kind of stuff that makes more sense to me. It just seems odd to have a law, create a law that says hire a Fire Chief.

**Vice President Plecnik:** Madame President.

**Councilman Fiebig:** Madame President, can I just respond to this because I'm not asking you to create a law to hire a Fire Chief. We're making a motion to begin the process. This is new business to begin the process. For example, we can have a meeting and discuss what are the criteria...

**Councilman Hallum:** So you're not requesting an ordinance actually, your actually...

**Councilman Fiebig:** That's how you start new business. That's how you begin the process. And I think that you may agree with me that this process and there were a few things that could have been better.

**Councilman Hallum:** Oh, for sure. I just want to make sure that this is the right way to be doing it.

**Councilman Fiebig:** I'm putting it out there for discussion as a body do we want to do this going forward. I think that we should have some meetings about this process. I think that we should have a meeting about what are the credentials. You know this has typically been an administrative function. Typically, administration writes sort of the guidelines and then comes to Council and authorizes the money to be spent. That's the way it works in government. But we need to be more involved in this particular process. To this point and I'd like to have a committee meeting to review exactly what are the criteria that the Mayor has suggested, let's review it, let's make sure that they're complete, accurate and then let's get involved in the interview process too if possible.

**Councilman Hallum:** Okay, I mean that's fine...let me finish up and I'll be done, I promise.

**President Fellows:** Mr. Hallum.

**Councilman Hallum:** Thank you. I'm absolutely fine with the way you guys want to go with but my suggestion, my requirement from my perspective, what I'd like to see it that this conversation take place as a Council of the Whole as opposed to sending it into a committee. Thank you.

**President Fellows:** Councilwoman Greer.

**Councilwoman Greer:** Before we vote could you just restate exactly what we're voting on.

**Councilman Fiebig:** Since I made the motion, I will. I'm asking that we ask the body to create legislation that begins the process to hire a Fire Chief.

**President Fellows:** And remember this the beginning, it will go into the Council Committee of the Whole for discussion and when we vet it enough we determine whether we pass it or not.

**Councilman Hallum:** Okay, just want to make sure.

**President Fellows:** So I have a motion from Councilman Fiebig and a second from Vice President Plecnik. Any other discussion on the motion?

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

**Vice President Plecnik:** Madame President. This brings us to probably the most difficult part of our agenda, the motion of the vote of no confidence in Mayor Robert M. Weger as unanimously recommended by the Personnel Relations Committee of Council. I know I'm a young member of Council but I'm fairly old fashion my father immigrated from Slovenia when he was eleven years old...

**Disturbance created by the audience.**

**Vice President Plecnik:** Don't like Slovenians, do you?

Audience disturbance.

**President Fellows:** John can you get to your point, please.

**Vice President Plecnik:** My point...

**Disturbance created by the audience.**

**President Fellows:** John can you just get to the point, please.

**Vice President Plecnik:** My point is that whatever anyone else on Council may think or anyone in the public may think, I've talked to a lot of residents over the last couple of weeks and everyone that I've spoken to from firefighters who work in other cities, to next door neighbors, to people who I've never even met before who have called me have said that they have a higher standard and so do I. That's what I've said publicly, I stand by it and I believe that a Mayor needs to handle the handling of a Fire Chief more seriously. A Mayor needs to look at the needs of a Fire Department more seriously in terms of what they need for their safety and washing machine, prioritizing raises over a jeep. I'm sorry I have a higher standard than that whether you agree or disagree with me is your choice. I'll be respectful of you, I wish that you would be respectful of me and this body because I take what I say very seriously right now, it's not an easy thing to say but I personally don't have confidence in Mayor Robert Weger, I haven't had for some time and this event has only cost more of that confidence so I would make a motion for a vote of no confidence in Mayor Robert M. Weger as unanimously recommended by the Personnel Relations Committee of Council.

**President Fellows:** I have a motion from Vice President Plecnik for a vote of no confidence in the Mayor. Do I hear a second?

**Law Director:** It dies for a lack of a second.

**President Fellows:** I hear no second so the motion dies.

**Disturbance created by the audience.**

**Councilwoman Majka:** Even though we're not going to vote, I have a few things I'd like to say. I'm the newest member of Council here. I've just started in January and I can guarantee each and every one of you that I did not chose to come on to this Council to stir up drama. Or for political gain. I came because I was wanting to serve my community, a community that I've lived in for more than 45 years, probably longer than most of

you in this room have lived in this community. I've seen many administrations come and go. I've seen plenty of drama in other administrations. I appreciated the gentleman that stood up and talked about a squadron leader and having people under you and what they can accomplish. I have worked in Cleveland schools for the last five years and I see what happens when you have a good principle in a leadership position of a school and how you can get things done and what happens when you don't have a good leader in a position and things don't get done. Mayor I had talked to you probably back in the spring time and asked you to bring this Council together and to do something to bring our differences, help them be solved. I told you that you are the leader that needs to make this happen and you told be back in some years past that yes, we used to be getting along, we use to go to dinner and whatnot. But I truly believe even though I don't know all of the ordinances and I read all the time and I don't have the history that a lot of these Council members do, I do know that it takes good leadership to bring a team together and there is no other way to have this Council function than to have a working team and that team needs a good leader. I mean you didn't even come to our Council retreat. We're not having things happen that will bring us together. We're not having good conversations. Sometimes we don't even see the ordinances or we're not in the loop until we get it on the night of a Council meeting. I just think that we can do better in that regard. So, like I said, it's not my intention to bring drama in fact I sit here and my stomach is in knots and my hands sweat, really and it doesn't help that I feel like a school teacher right now and I want to write out detentions. You want all this respect, but you've been very disrespectful, not all of you but a lot of you have been making faces and I saw somebody in the way back making hand gestures like middle schoolers, come on. You want better from us; let's all be better.

**President Fellows:** Thank you. A couple things, so the Law Director reminded me that Councilwoman Majka's comments should not have been under "New Business" so they can either go, Vicki, in "For the Good of the Order" or "For the Good of the Community". Either way, okay. Also, in terms of the retreat, it was a Council Retreat. Administration has their meetings every two weeks; Council is not invited to them. The Council Retreat was a public, open meeting for anyone to attend. And it was publicized. So no one needed to have a personal invitation to come to our retreat. Just want to make that point.

Executive Session?

**Law Director:** I had not asked for one.

**Vice President Plecnik:** Well, we might be.

**Law Director:** I understand.

**Vice President Plecnik:** Madame President, I make a motion to adjourn into Executive Session to discuss union issues to take place after for the "Good of the Community" but before adjournment and to last no longer than thirty minutes. Mayor and Law Director invited, but our Engineer and Finance Director are excused as well as all members of Council are invited.

**Councilman Fiebig:** I'll second that.

**President Fellows:** I have a motion from Vice President Plecnik and a second from Councilman Fiebig to go into Executive Session to discuss union issues. Inviting the Mayor and the Law Director, excusing the Finance Director and the City Engineer for after "For the Good of the Order" and after "For the Good of the Community". Any discussion on the motion?

**Councilwoman Greer:** I question whether this is the best time to discuss those issues. It's been a heated evening and it doesn't seem that everyone would be able to discuss that well tonight. I think that we should wait until the next Council meeting.

**President Fellows:** There's not enough time to wait until the next Council meeting, in terms of the calendar.

**Councilwoman Greer:** For the union issues?

**President Fellows:** I have a motion on the floor. A first and a second, any other discussion?

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

**Councilman Hallum:** One more additional item for new business. This is directed to the Law Director. I've had a few occasions over the last couple of years and more recently a couple of occasions including tonight where I've had some concerns that members on this dais, Council members are having conversations outside of the Sunshine. There seems to be some knowledge of whatever we are going to meet on tonight amongst several of the members. I'm not aware of anything and I can tell that Mrs. Greer is also unaware. I'm a little concerned that...that is an issue. There were some recent conversations that I think took place before the Fire Chief was humiliated in the middle of a Council of the Whole meeting and there were some issues...the issue with Mr. Germano. So, I really would like some investigation with regards to potential violations of the Sunshine Law violations because I want to make sure that we're not doing things that we should not be doing.

**Law Director:** I'll take it under advisement.

**Councilman Hallum:** Thank you.

**President Fellows:** Any other n business? For the good of the order?

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

There were no items brought forth by the members.

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

**Councilwoman Majka:** I just found out today that our Kirtland Fire Chief's daughter, our Kirtland Fire Chief is Tony Hutton. His young, 24-year-old daughter was in a serious, serious accident and she is receiving surgery tomorrow at the Cleveland Clinic. I saw him this afternoon, I told him I would pass on the concerns to the residents, I didn't know that they would so many of you so that's good that you're all hearing this. Just to please keep that family in your thoughts and prayers.

**Councilman Hallum:** Madame President. I would like to thank everyone who showed interest in coming here tonight and I would hope that you will show up at more Council meetings because we need the residents to be involved. Thank you.

**Councilwoman Majka:** Yes.

**Councilman Fiebig:** Our hearts are saddened by the news of an infant that died over at the Towers in Willoughby Hills and our thoughts and prayers go to the family of that tragic situation and Mayor I'm asking for a report of what had happened and if there is anything that we could have...could possibly do in the future to avoid such tragedy.

There is an open house scheduled for the community, it is in Eastlake, however, it is for the entire Willoughby-Eastlake School District for the Northern Career Institute in Eastlake. There'll be free blood screening...blood pressure screening, BMI and medical bills and explanations. It's a self-guided tour in their new facility there at

34050 Glen Drive and more information could be obtained at [ncioh.edu](http://ncioh.edu) or 440-283-4300. That's an open house coming up Wednesday, September 28<sup>th</sup> from 6 to 7:00pm.

**Vice President Plecnik:** Madame President. The President of our Historical Society asked me to share that their September meeting will be a free program on Wednesday, September 28<sup>th</sup> at 7:00pm in the O'Ryan Room of our community center. Rebecca McFarland and Tom Pappas will present Cleveland's Union Terminal an early look at the days of Terminal Tower on Public Square and they will show never-seen-before photos of the terminal so don't miss it.

**President Fellows:** Announced that the Members of Council along with the Mayor and the Law Director adjourned into Executive Session at 10:16pm.

The Council meeting reconvened at 10:36pm. All members of Council were present as was the Mayor. The Law Director was not present.

### ADJOURNMENT

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

**YEAS: Unanimous.**

**The Regular Council Meeting of September 22, 2016 was adjourned at 10:37pm.**

APPROVED: October 27, 2016  
Date

Nancy E. Fellows  
Nancy E. Fellows  
President of Council

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