

City of Willoughby Hills

Special Council Meeting

Minutes of August 10, 2015

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 whenever possible.

Meeting Called to Order at 8:52 a.m. by President Raymond C. Somich

Pledge of Allegiance

Roll Call of Council

Members Present: Councilman John Plecnik, President Raymond C. Somich,
Vice President Nancy E. Fellows, Councilman David M. Fiebig

Absent: Councilman Christopher L. Biro, Councilwoman Jennifer Sommers Greer,
Councilman Christopher Hallum

Also Present: Mayor Robert M. Weger, Finance Director Frank J. Brichacek, Jr.,
Clerk of Council Victoria Ann Savage

MOTION WAS MADE BY COUNCILMAN PLECNIK, seconded by Councilman Fiebig to excuse Councilman Hallum, Councilman Biro and Councilwoman Greer from the Special Council Meeting of August 10, 2015.

Roll Call: 4 AYES – unanimous

MOTION PASSES

President Somich stated that the abovementioned Members have been excused from the Special Council Meeting of August 10, 2015.

President Somich: I do want to apologize to all those in attendance and all those who set their clocks to watch at home but we will not be able to conduct the intended business here today; last minute notification from one of our Members that we were counting on to be here is out of town and one of the other Members is in surgery this morning and another one is in a meeting this morning and I have been trying to reach them to see if they could get here but it has been confirmed that we do not have the majority quorum that we would need to be able to waive the necessary Three Readings and Two Day Notifications to get these properly done. So I do apology to you for the inconvenience and I want to thank my colleagues that did take the time and effort to be here this morning so that we could facility this meeting and get these things through. We will try to reschedule this as soon as possible and give the proper notifications to the general public so that we can conduct the business. There was one last minute tiny omission of a word in the Charter Amendment that was noted over the weekend, too and it could be considered significant so we decided that we also, in our best interest and the community's best interest and legal interest to make sure that things get done the way that they should that we will send that back over to the Charter Review Commission to make sure that they are in agreement; that it was merely an omission and there is really no other intent on that so that we can get that because Council cannot make that amendment here without their approval. So that business needs to be conducted and the meeting needs to be rescheduled; we will do it as soon as possible so that we can get everything on the proper agendas and over to the County, the Board of Elections, etc., etc.

Councilman Fiebig: May I ask, as a courtesy to Council and to our listening public and that you hold the meeting at the usual and ordinary times for example a Monday night at 7:00 or a Thursday night at 7:00 so that people can tune in; people are not inconvenienced and our Clerk isn't putting in extra hours on a Sunday or a Monday morning. Could we please do that if you are going to schedule that....**President Somich:** We will make every effort to do that; believe it or not this was originally designed because we checked with people and they were able to make this, one

by one we've lost people for various reasons and we couldn't do it but this actually was suppose to be a very good time. So we tried to make it that way but we will make every effort to find at time that works for everybody and if it could be done in the evening, that's fine. Other than that we really can't conduct any other business. So we will open for Public Portion.

PUBLIC PORTION

Section 107.08 – Public Meetings of Municipal Bodies of the Codified Ordinances of the City of Willoughby Hills:

(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.

1. Frank Cihula

Member of the City's Records Commission

Re: On the first Sub-Section 5.81 there are a couple of words in the Ordinance that are not the exact words of the Ohio Revised Code and I don't know why they were changed but I don't know that it makes a difference but nevertheless, the original proposal was verbatim from the Ohio Revised Code and this was changed. **President Somich:** What was that again, Frank, I'm sorry.

Cihula: Under 5.81 about two-thirds of the way through, it reads "and an additional member". The Ohio Revised Code reads "and a citizen member".

President Somich: If we need further clarification, I would suppose that was just an over-sight. So if we need to follow up with you on that one, we will do so.

President Somich: Can I just ask our Council Clerk to follow up on that.

Council Clerk: Sure because I need to know if it was submitted by the Charter Commission; as submitted by the Charter Review Commission.

President Somich: We'll check back with that and make sure that is. **Clerk of Council:** That 's what I need to know. **President Somich:** At least it is done the way that it needs to be done, should be done. Thank you for bringing that to our attention Frank.

President Somich: Is there anybody else that would like to address Council during Public Portion? Public Portion closed at 8:58am and I don't know if I noted when it was started let's call it 8:56am for clarity.

Councilman Fiebig: A follow-up question to just the logistics of this; who writes, who wrote the Caption for these Charter Amendments? As I understand Council simply can approve to put on the ballot submission by their Commission. But who wrote the Caption describing...**President Somich:** I would guess that it was done through the Commission with their Secretary of the Commission and with the support of the Commission.

Councilman Fiebig: That's not my understanding, so...**Council Clerk:** I received it from the Commission; it was in the form of Objectives. So I contacted the Law Director and said that I have it in the form Objectives, it needs to be phased in the form of a question; Can I put shall in front of, so the only thing that we did was put Shall the Charter be changed and then it is the full Objective and not changed a bit. So instead I took an Objective and phased it in the form of a Question; per the approval of the Law Director I then also gave those same Objectives and Questions to the Lake County Board of Elections for the Director to look at to see if that was appropriate and this is what you have before you. She will take any concerns that she may have, if she has any and propose them probably, possibly to the Law Director, but I didn't receive any. She can take her concerns to the Law Director, but I did not receive any.

President Somich: So the answer, it was from the Commission then with you adding, in form of a question with "shall".

Councilman Fiebig: I don't recall in any of the meetings that I had attended or anything that I heard that they actually wrote that language, like wrote the description of the proposed amendment. So I was just wondering who wrote that. **Council Clerk:** That I don't know.

Councilman Fiebig: And then I wonder, can Council amend that. I know that we can't amend what they proposed but that language is somewhat...you know to add the word like "vetting", I just wonder where that came from.

Council Clerk: That is what was submitted and I gave you the proposed amendments and you could see the Objectives that came.

Councilman Fiebig: That's the Objective Statement, okay. **Council Clerk:** Again, I took the exact, what was given to Council, for you cannot change it, so if the Commission used "vetting", you have "vetting" before you.

Councilman Fiebig: Got yeah.

President Somich: To resolve that and clarify that, since we do need to go back to them on that one error, that one omission, if you could also verify that what we have written here is acceptable to the Commission; okay so that there is no question, whatsoever, to Councilman Fiebig's point that this is exactly what they wanted us, to what it wants it to look like, okay. Including and even adding "shall" which is a formality but if you could verify that and then that way when we do come to a vote on it there is no question that this is exactly what the Commission wants.

Councilman Plecnik: I have some concerns with the Captions, independent on who wrote them is that they don't seem to describe, particularly in the case of Charter Amendment 5, (Note: Article IX) they don't seem to describe the substance to the Amendment. The very first part of the Caption says that it is amended to recognize the establishment of a Nepotism and Conflict of Interest Policy and I attended most of the meetings with respect to Article IX including the grand finale where the amendment was passed and what it essentially does is that it takes out the language of indirect as a violation of the Charter in addition to direct conflicts of interest or direct interest in City contracts so it would hardly be the establishment of a Nepotism or Conflict of Interest Policy, it really lowers us down to the State Standard. It also says that it clarifies the role of volunteer Board and Commission members as related to nepotism and conflict of interest issues but in the section that actually describes whose subject to Article IX it does not remove or in any way change the fact that members of all Council or Charter established Committees and Commissions are included so the language there is virtually identical and functionally identical so I don't even think that phrase should be there in the first place. It doesn't clarify the role or change the role at all so I wonder if this was something that the Charter Review Commission put together as a vague mission statement and the actual amendment doesn't necessarily reflect it because it certainly is not the language in front of us and I believe that the titles have to be sufficiently accurate to appear on the ballot and I forget whether it is the Secretary of State or which other official has the final say but if you submit a misleading title it will ultimately be coughed up back to us and there probably won't be enough time to get on the ballot if that ends up happening. So I am concerned first that it is misleading and voter might read it and say oh they are going to establish a policy and raise the standard and second I am concerned that if we submit it with such a misleading title it might be stuck back to the City without enough time to put it on the ballot. So I think we should really revisit how these Charter Amendments are described.

President Somich: Let us remind ourselves that our duty here is not to question what has been proposed by the Charter Review Commission but to make sure that it gets on to the ballot for the people. With that in mind I appreciate your concern because if it turns out that they are not going to go through the system and they are found to be by the County or by the State or whoever it is questionable in any way that would make them not go on to the ballot then that is our responsibility to facilitate that so again, I guess I am assigning more duties here to our Council Clerk, appreciatively, if you can verify that they want, you know what they've said, and what

they have given us is what is what they've intended and go back at that point at all specifically to Mr. Plecnik's concern and if they do say no that is what they wanted it to say; that was the result of their multiple months and that's how they want it to be then it is our responsibility to pass it through accordingly and not to in anyway question what they did or change what they did because that's not our task. So if you could just verify that in particular that is in representative of what they said and how they want it to be on the ballot if it gets passed by our Law Director and you have already submitted it to the County and they haven't had a problem with it then I think that we need to vote on it. It is our charge to vote on it and to pass it through and not to question what it says.

Councilman Fiebig: Well it is always our right to question things, it is our duty, it is our obligation to question things; we certainly can but obviously you are right, you can't change it, you know certainly speaking concerns is an important part of what we do.

President Somich: I know, since you went to most of the meetings and I intentionally didn't except for the last one because I did not want to in anyway politicalize the process and I had made that clear up front with them. But I know that you were at a number of them; you saw the intent of their work; you saw the diligence of their work, the tremendous amount of time that they've put into; they took it very, very seriously so I definitively want to stay consistent with giving them the responsibility and appreciating their efforts on it and there were plenty of times that people were addressing them, I know that you all did and it is what it is at this point.

ADJOURNMENT

MOTION WAS MADE BY COUNCILMAN FIEBIG, seconded by Councilman Plecnik to adjourn the Special Council Meeting of August 10, 2015.

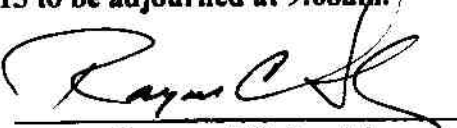
Roll Call: 4 AYES - unanimous

MOTION PASSES

President Somich declared the Special Council Meeting of August 10, 2015 to be adjourned at 9:08am.

APPROVED:

October 8, 2015
Date


Raymond C. Somich
President of Council

ATTEST:


Victoria Ann Savage, CMC
Clerk of Council