

City of Willoughby Hills

Regular Council Meeting Minutes of April 9, 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 7:00 p.m. by President Raymond C. Somich

Pledge of Allegiance

President Somich called on the Law Director to give us an update on our Agenda for this evening. Law Director Lobe stated that there is one slight adjustment, the Roll Call for this evening should lead with Councilman David M. Fiebig and this was brought to his attention by the Council Clerk. This is a minor issue and the Clerk will Call the Roll beginning with Councilman Fiebig.

Roll Call of Council

Members: Councilman David M. Fiebig, Councilwoman Jennifer Sommers Greer, Councilman John Plecnik, President Raymond C. Somich, Councilman Christopher L. Biro, Vice President Nancy E. Fellows

Absent: Councilman Christopher Hallum

Also 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

MOTION WAS MADE BY COUNCILWOMAN FELLOWS, seconded by Councilman Plecnik to excuse Councilman Christopher Hallum from the Regular Council Meeting of April 9, 2015.

Roll Call: 6 AYES – unanimous

MOTION PASSES

President Somich stated that Councilman Christopher Hallum has been excused from the Regular Council Meeting of April 9, 2015.

CORRESPONDENCE

Email: Council Clerk to Mayor serving as Safety/Service Director, dated March 29, 2015 re: Ohio Department of Liquor Control – 28601 Chardon Road

WH Community Center Report for March 2015 (Emailed: March 31, 2015)

City Engineer's Report dated April 2, 2015 (Emailed: April 2, 2015)

Mayor's Court Monthly Statement to City Council of Fines and Other Monies Received or Collected for the Month Ended March 31, 2015 (Emailed: April 7, 2015)

FINANCIAL REPORTS FOR THE MONTH ENDING FEBRUARY 28, 2015 CONSISTING OF: GENERAL FUND INCOME STATEMENT, CASH RECONCILIATION, PURCHASE ORDER REPORTS, FUND ANALYSIS REPORTS, AND EXPENSE REPORTS (Emailed: March 31, 2015)

NOTIFICATIONS

Board of Building and Zoning Appeals Meeting of April 14, 2015 for Case No. 2015-1 (Emailed: March 30, 2015)

Finance Committee Meeting of April 8, 2015 (Emailed: March 31, 2015)

Personnel Relations Committee Meeting of April 6, 2015 (Emailed: March 30, 2015)

Rules and Legislation Committee Special Meeting of March 30, 2015 (Emailed: March 29, 2015)

Rules and Legislation Committee Meeting of April 6, 2015 (Emailed: March 30, 2015)

Special Council Meetings of Council scheduled for March 29th, March 30th and March 31st (Emailed: March 27, 2015)

MINUTES

Charter Review Commission Approved Meeting Minutes for March 16, 2015 (Emailed: March 31, 2015)

Recreation Commission Meeting Minutes of March 4, 2015 (Emailed: April 2, 2015)

ON FILE

WH Senior Center Newsletter for April 2015, Issue Number 84

MAYOR'S REPORT – Robert M. Weger

Installation of the City Hall front doors is complete. They work and they are beautiful and it's a very nice addition to City Hall.

Tonight's legislation re: surplus vehicles and equipment represents the City's continued vehicle replacement plan for the Police Department and a cleanup of City property equipment by our new Road Superintendent Mark Grubiss. I appreciate prompt passage of this legislation to be able to get these items to internet auction.

Lake County Treasurer Lorraine Fende unveiled plans today for a new process for property tax collection. More information will be disseminated as it becomes available.

Acknowledgements:

Our condolences to the family of Sgt Matt Naegele on the loss of his father.

Get well wishes to Willoughby Hills Lion Wally Rudyk following recent surgery.

Events:

First Covenant Church's Community Luncheon to be held on Saturday, April 18th at 12:30pm will feature an Italian-Irish Band. All are welcome to attend, RSVP to the Church at 294000 Chardon Road. Fee is \$5 for lunch.

LAW DIRECTOR'S REPORT – Law Director Thomas G. Lobe

New litigation has been filed and brought forth by Charles Albertone and his wife against Richard Iafelice of CT Consultants, the City of Willoughby Hills and Andy's Empire Construction and Demolition. He believes that he may have brought this matter to Council's attention before, or maybe in a Committee Meeting or a Council Meeting. This was a matter that Dr. Fowler, who put in Fowler Drive, at the end of the cul-de-sac there was a water treatment plant and it was underground and when we went to sewers Dr. Fowler got the land reconverted back to him he hired Andy's Excavating because the County at that time owned and controlled the Water Treatment Plant, the City of Willoughby Hills did not. At that time, CT Consultants did some inspections and there is a letter on our (City Letterhead) signed by Mr. Iafelice, our then City Engineer which said that the Water Treatment Plant had been fully taken out and removed including all the appurtenances. Well, when Charles Albertone who bought the property from Dr. Fowler, started to dig a basement the Water Treatment Plant was still there. As such we had to make some arrangements, we did in fact meet, the Law Director thinks that he had mentioned this before, we met with various members of his legal team, Mr. Albertone during the construction, himself, the Building Department, we brought CT Consultants in, we brought Andy's Empire to try to elevate the matter and find out...the County refused to be involved, etc. At the end, they did remove it, and now the City is being sued. The counts and causes of action include, even though they are not specifically identified and delineated they are for fraud, misrepresentation, detrimental reliance, etc. The Law Director stated that he had already asked CT and two of its attorneys to hold us (the City) harmless and indemnify us (the City) and he has not gotten a reply back which he assumes is their answer that everybody is on their own on the defendants. The City has notified the insurance already and the matter was immediately and properly presented to our insurance company and if the Law Director doesn't get a reply back, we will go the normal judicial route. The Case is assigned to...the Case is entitled Albertone, Charles et al vs. Iafelice, Richard et al. It is Lake County Common Pleas No. 15CV000480 assigned to Judge Vincent A. Culotta. No answers, no cross claims, etc have been filed. Those types of matter will be determined in the future. We are involved; he thinks that we have a good case to get out on immunity and it wasn't ours but we are involved in litigation, as such we are involved.

Requested an Executive Session to be limited to no more than a half-hour at most. For the purposes of potential purchase of real estate, one of the eight identifiable and permissible reasons to go into Executive Session at a time most convenient for this Council. As usual, he assumes after the “Good of the Order” and prior to the Adjournment. He requests all of Council, the Mayor and himself. That is his request and the finality of his report for tonight.

President Somich questioned if the Finance Director should be included in the Executive Session. The Law Director replied no; no Finance Director, give him the night off.

FINANCE DIRECTOR’S REPORT – Frank J. Brichacek, Jr.

No formal report was given.

CITY ENGINEER’S REPORT – Pietro A. DiFranco, P.E.

No formal report was given. Reminded everyone that the City Engineer’s Status Report is posted on the City’s Website.

COMMITTEE REPORTS

The following Reports have been listed alphabetically by Committee.

FINANCE – Raymond C. Somich, Chair

Committee Members:

Christopher L. Biro, Nancy E. Fellows

Chair Somich: The Finance Committee of Council did meet last night, I do not have the Minutes to report for this evening. I will give that report at the next meeting; we did meet, all Members of the Committee were present and again I will have a full report at the next meeting.

PERSONNEL RELATIONS – Christopher L. Biro, Chair

Committee Members:

John Plecnik, Mayor Robert M. Weger

COMMITTEE MEETING OF APRIL 6, 2015

Members Present: Councilman Christopher L. Biro, Chair, Councilman John Plecnik, Mayor Robert M. Weger

Also Present: Vice President Nancy E. Fellows, Councilman David M. Fiebig, Councilwoman Jennifer Sommers Greer, Councilman Christopher Hallum, Finance Director Frank Brichacek, Police Christopher Collins, Mayor’s Assistant Majeski, Brian Lenzo, Group Benefits Specialist from Preferred Benefits Services Inc.

Purpose of the Meeting was to discuss **Affordable Care Act as it relates to Part-Time Employees** and any other business.

Meeting convened at 7:00pm

Order of Business

Wage Adjustments for Non-Union Employees: Brian Lenzo informed Council about ACA implications as it relates to 11 non-union employees of the City., Any large employer with 50 or more employees must comply with employer mandate to offer insurance to individuals who average 30 or more hours per week during a 12 mos. assessment period. These individuals must be offered access to insurance during 3 mos. open enrollment period for coming year renewal July 1st. Failure to do so results in a penalty. Mr.Lenzo researching if WH is eligible for Transitional Relief Period that would exempt WH from this provision until July 1, 2016. City has begun to track the 11 individuals for compliance. Mr. Lenzo will get back to City with legal documentation to clarify City position on relief period. . Penalty for not offering insurance to employees is \$2000.00/employee/yr.

If all 11 individuals decide to accept insurance, cost to City \$165,000.00. If all individuals accept waiver of \$225/mos., City cost \$29,700.00.

No action taken at this time. Mr. Lenzo will get back to City with answers to questions raised at meeting. Administration will work to track part-time employee hours to not exceed 30hrs.

Community Service Officer (CSO) and Memorandum of Understanding(MOU): Discussion with Police Chief Collins continued from prior meetings about CSO as it relates to MOU with Union. Community Service Officer is a classified Administrative Assistant under the direction of Police Chief and will act in support services to general operations of the Police Department. Duties include community relations and education programs, court and jail officer

duties, evidence custodian, training and many other assorted duties.

Chief stressed savings component with CSO where duties performed normally by union officers can be done by CSO. Chief states that this “allows more boots on the ground” for patrol duties and protection of our City. Chief fully supports this position and requests Council support.

Before Ordinance for CSO position advanced to Council, it was necessary to draw up MOU with Police Union. After much discussion, MOU agreed upon with Administration and Union to include certain provisions:

(Refer to Memorandum of Understanding Between the City of Willoughby Hills and The Ohio Patrolman’s Benevolent Association signed March 20th, 2015.)

After all questions answered and discussion complete, it was recommended by Committee to advance Ordinance with new number (since last Ordinance was Tabled) to Council meeting this Thursday, Waive Three Reading Rule and Adopt.

The following people came forth with questions/comments: Frank Cihula came forward with question to Police Chief Collins about Sgt. Staffing.

Meeting adjourned at 8:18pm

RULES & LEGISLATION – Nancy E. Fellows, Chair

Committee Members:

David M. Fiebig, Raymond C. Somich

Councilwoman Fellows: On March 30th I had desired to have a Rules and Legislation Meeting after the Special Council Meeting on the Budget so that we would have a venue for us to be able to discuss the Budget. I did call the Meeting to Order but I was highly advised not to have it as I was not quite on the time frame that was necessary. I did not take Attendance for the Meeting so the Meeting did not occur.

COMMITTEE MEETING OF APRIL 6, 2015

Members Present: Vice President Nancy E. Fellows, Chair, Councilman David M. Fiebig

Also Present: Councilman Christopher L. Biro, Councilwoman Jennifer Sommers Greer, Councilman Christopher Hallum, Councilman John Plecnik, Mayor Robert M. Weger

Purpose of the Meeting was to discuss **Pending Legislation** and any other business.

Meeting convened at 6:30pm

Order of Business

Ordinance 2015-14 – An Ordinance to amend Chapter 925 of the Codified Ordinances concerning industrial waste, in reference to discharge from the BP Station on Rt.91 to the City of Willoughby. Updating uniform requirements. **Rules and Legislation recommends 2nd Reading.**

Ordinance 2015-16 – An Ordinance to declare numerous vehicles and equipment as surplus all to be placed on the internet auction through PublicSurplus.com. Estimated value of all \$141,000. Some comments and questions that followed:

- Look for more realistic monetary values of the police vehicles as declared more than \$1,000 each
- Discussion concerning the replacement of sold service equipment

Rules and Legislation recommends the 3 Reading Rule be Waived and the Ordinance be Adopted.

Ordinance 2015-CSO – was distributed by Councilman Biro for discussion in Personal Relations Committee Meeting.

Public portion opened at 6:48p.m. Linda Fulton directed her question to the Mayor, inquiring why the Government Channel was not updated with the upcoming meetings this week? The Mayor indicated that he would check. Also, Cheryl Ota inquired why the window in Council Chambers has been open since before the holiday. This is a safety issue. Mayor indicated that he did not know. Frank Cihula asked the year of the Tandem Dump Truck being declared as surplus? The Mayor responded that it is a 2008, but the City purchased it in 2010. **Public portion closed at 6:52p.m.**

Meeting adjourned at 6:52pm

OTHER COUNCIL REPRESENTATIVE REPORTS

Councilman Plecnik The Noise Abatement Council for the Cuyahoga County Airport actually met this morning at 10:00am at the Airport and several fairly important topics were discussed. First, the Co-Chairman of the Noise Abatement Council made the proposal to actually amend the Noise Abatement Council Resolution which is kind of their Charter that sets the Noise Abatement Rules to exempt single engine

airplanes from the Noise Abatement Rules such as the 1900 foot or 2 miles out before turning policy which is the main rule. So that would be a pretty substantial change that would have to go through the Cuyahoga County Executive and Cuyahoga County Councils as well as through all of the Cities for resigning process if that were to proceed. At the next Noise Abatement Council Meeting he is going to present statistics on whether or not this is a good idea because it has actually run as a pilot program under his interpretation as his other job is heading the Air Flight Tower for the Airport. So he actually has run a Pilot Program for exempting the single-engine planes for the past two years. So for the last two years he has actually kind of by Executive Order, if you will, exempted single engine planes and he says that he hasn't noted anecdotally any increase in compliments but they are going to compile the statistics and bring it to the next meeting for a more full discussion on that so it was a pretty significant proposal there. We were also given a bit of a schedule on proposed upgrades to the Airport. You might remember that they were all the alternatives some of which were the dramatic expansions to the Airport which Willoughby Hills over the years has fought mightily against. But we were all in support of essentially the repave with a modest extension to the runway for safety concerns but would not allow larger classes of planes and ultimately the FAA did adopt that so they have adopted the alternative that Willoughby Hills had lobbied for with no material expansion to the Airport. Likely construction will begin with grading of the ground and ground work in March of 2016 but will stop off for awhile because of the Republican National Convention coming to Cleveland in the anticipation that there will be a lot more air traffic for that period and will be completed in 2018. And in all likelihood will be a full repaving and small elongation of the runway. We were also reminded that for residents who want to give complaints that there is a 72 Hour Rule; typically the Airport will respond to any complaint given within 72 hours of the incurrence. But they will try to respond to complaints outside of that 72 Hour Rule particularly if it seems like it is a rather remarkable violation. However, they made the side note; the airport staffers made the side note that they only save radar as well as the conversations with the air traffic control for 45 days so if you make a complaint outside of that time range everything is deleted and they have no way of going back and judging whether or not there was a violation. In the last quarter there were actually 7 violations submitted from the surrounding communities to the Airport, 6 of which were from Willoughby Hills. After investigation it was reported that one of them was an actual violation of the Rules in the Noise Abatement Council Resolution where a plane actually started to turn over the airport a 100 feet lower than the 1900 foot minimum. At the end of the meeting it was announced that the next meeting will be July 9th at 10:00am. Typically the Noise Abatement Council meets every quarter; it's open to the public, you are certainly encouraged to come but for anyone who simply wants to make a complaint within that 72 hour window, we were once again encouraged to tell our residents that the ideal way to file a complaint is by email, you can find that on the Noise Abatement Council's Webpage with the Cuyahoga County Public Works, but for the record it is ccairport@cuyahoga.us but you can also call 216-289-4111 or send a letter to the Airport. Any of those will be accepted correspondence within 72 hours. The final proposal that went through Noise Abatement Council was to propose a website for the Cuyahoga County Airport; right now it only has pages within the Cuyahoga County Department of Public Works. Some residents as well as pilots have had trouble in locating information on Noise Abatement Policies so we did make a Motion and it did pass for the Noise Abatement Council to ask the County to provide an individual website. With that we adjourned. With that I am open to questions.

President Somich: With that, I am going to ask some or comment. I have, for them to say that they haven't had any complaints during this past two year test period, I am really surprised. I am sure that there are some people in our community that are watching us right now that are very upset about that because there are a number of residents that have been claiming that the flight patterns have been adjusted and every time they have come back and said that's impossible because they must follow that standard and it sounds like that they have pointed out to you that they have been by Executive Order changing that over the last two years.

Councilman Plecnik: To clarify what was said the Co-Chairman of the Council who heads up as I understand the flight tower, said that he was not aware of an increase in complaints, he didn't say that he wasn't aware that there was no increase in complaints with respect to people changing flight paths and he was speaking anecdotally, he might well be wrong. And I have certainly talked with residents like yourself who have very explicitly said that they believe that the flight paths have changed and have been problematic so I think that it is all the more important for people to log their complaints if they have them and to come out to the next Noise

Abatement Council Meeting because this would be the first major amendment, I think since 1977 when the Noise Abatement Council was formed. So it is rather significant that they are suggesting permanently exempting single engine airplanes.

President Somich: So we will communicate with especially the streets that are most affected but for those of you who are watching now we are urging you to send the notes to the emails copy us as your Council people and as your Administration, but please send those out. Second point, the original promise as part of the adopted plan was to include a hush-hut. Was that discussed today?

Councilman Plecnik: It was not discussed at the meeting but I did speak with the Chairman, the Mayor of Richmond Heights David Roach after the meeting to ask if any hush-houses or hush-huts had been constructed or in the plans. To the best of his knowledge there were none so that does appear to be a promise that hasn't been kept from the original agreement. That said and obviously this is not a substitute but it is not nothing either, he did indicate that they required all planes that were doing major engine tests to do it in the center of the airport so that it would be as far away as possible from residents; obviously not a sufficient substitute but that was the answer that I was given to that question.

President Somich: Thank you. We will need to contact...

Law Director Lobe: Mr. Plecnik, just to add on probably, just wanted to make it clear that any expansion to the Airport as opposed to improvement that there is a big difference. The expansion to Plan 29 that happened six to eight years ago, this City legally blocked it, politically blocked it and it is financially not going forward so he just mentioned about that, I don't think that he implied that they are doing it, in fact just the opposite because that was a big political hot button, it really was something and they are not doing it, we legally blocked them; they can't do it and they had to change their plans significantly and dramatically and all they are doing are these improvements there such as hush-huts and doing some grating and some other things which is significantly less than they wanted to do many years ago. We legally, financially, politically blocked them; both the Administration and the Council in a unified effort.

Councilman Plecnik: And just to reinforce what the Law Director said it was good news that the FAA endorsed the least impactful redo of the Airport it was the alternative that everyone on Council, Mayor included supports. I think that we are in good shape there now that it is official.

President Somich: Yes, we just need to get that hush-hut built there because that will make a big difference if we could still get that done.

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.

Public Portion was opened at 7:29pm

1. Police Chief Collins

Re: I often receive information about criminal activity within our City and after being here fourteen years I just wanted to make a quick comment that we do track statistics; we have those available for anybody who needs those. There has been a lot of attention since the time that I have been Chief and prior to that on our West-end business and I would just like to state that we aggressively patrol that area, the activity down there is not what it is often perceived to be over the years that I have been here; you know I encourage our residents, neighbors and friends to shop in that area. The type of crimes that we see down there are your typical shop lifting, counterfeit bills and things like that. But often times that area has gotten a bad connotation to it as an area not to go to and I think that is a wrong opinion and I would certainly encourage people to do that. We've had a lot of information recently on drug activity. We make a lot of drug arrests in our City the majority of those are based on traffic stops that are

coming off the freeway and often end up on Bishop Road and Chardon Road and again our statistics support that so I would encourage anyone that has any questions you know to please contact us. We have three K-9s we aggressively patrol that area, we have traffic people out, we stop and ask questions, and you know we are very proud of that. It also helps us keep people out of that area when they know that it is heavily patrolled and that we are very firm as far as making arrests, prosecuting people and so forth. I would just encourage anyone who has questions to contact us and let us know and we would be happy to provide that information.

2. Linda Fulton
2990 Marcum Boulevard

Re: I would like to direct, I don't know who to direct this to other than maybe the City Engineer and the Mayor. The Parkview/Marcum Area and I think that I can say even White Road in front of that area is under water almost all the time. And I was just wondering if there is any grant money that is available to do a study. We have always been told that is flat, nothing to do, you can't do anything; I find that hard to believe. And I would like to know if there could be an investigation on that so the people can get rid of their water situation.

Public Portion was closed at 7:32pm

UNFINISHED BUSINESS

There was no unfinished business brought forth for consideration by the Members.

LEGISLATION

ORDINANCE NO. 2015-14 – SECOND READING

1st Reading: March 26, 2015

AN ORDINANCE AMENDING PART NINE – STREETS, UTILITIES AND PUBLIC SERVICES CODE, TITLE THREE – UTILITIES, CHAPTER 925 – SEWERAGE SYSTEM REGULATIONS, SECTION 925.06 – FEES, SUB-SECTION (c) OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOUGHBY HILLS, OHIO AND REPEALING ANY AND ALL CONFLICTING LEGISLATION.

President Somich declared that Ordinance No. 2015-14 would remain on Second Reading.

ORDINANCE NO. 2015-16

AN ORDINANCE TO DECLARE CITY VEHICLE(S) AND/OR EQUIPMENT AS SURPLUS PROPERTY AND GRANTING AUTHORIZATION TO SELL SAID SURPLUS VEHICLE(S) AND EQUIPMENT ON THE OPEN MARKET, UPON SUCH TERMS AND AT SUCH PRICES AS ARE DEEMED MOST ADVANTAGEOUS TO THE CITY OF WILLOUGHBY HILLS AND DECLARING AN EMERGENCY.

MOTION WAS MADE BY COUNCILWOMAN FELLOWS, seconded by Councilman Biro to suspend the Three Reading Rule for Ordinance No. 2015-16.

Roll Call: 6 AYES – unanimous

MOTION PASSES

President Somich declared that the Three Reading Rule for Ordinance No. 2015-16 has been suspended.

MOTION WAS MADE BY COUNCILMAN FIEBIG, seconded by Councilman Biro to adopt Ordinance No. 2015-16.

Roll Call: 6 AYES – unanimous

MOTION PASSES

President Somich declared that Ordinance No. 2015-16 has been adopted.

President Somich also stated that the other Ordinance that was referred to earlier for the new Community Service Officer will be on the next Agenda, at the next Meeting.

NEW BUSINESS

MOTION MADE BY COUNCILMAN FIEBIG, seconded by Councilman Biro to adjourn into Executive Session prior to adjournment, just after “For the Good of the Order” to meet with the Law Director, the Mayor and all Members of Council to discuss potential purchase of real estate, limiting discussion to no

more than thirty minutes.

Roll Call: 6 AYES – unanimous

MOTION PASSES

President Somich declared that the Motion has carried and we will adjourn into Executive Session right after “For the Good of the Order”.

FOR THE GOOD OF THE ORDER

Councilwoman Fellows:

Congratulated Councilman Professor Plecnik for achieving tenure at Cleveland State University. This is really an honor when an individual achieves tenure.

President Somich stated that we will now go into Executive Session at 7:36pm and again for those of you who are with us this evening, we will come right back for adjournment; we will not vote on any other items after for “The Good of the Order”. We will excuse the Finance Director and the City Engineer and we will adjourn at 7:36pm.

Councilwoman Fellows was excused at 7:59pm and with remaining Members Fiebig, Greer, Plecnik, Somich, and Biro present the Meeting reconvened at 8:08pm.

ADJOURNMENT

MOTION WAS MADE BY COUNCILMAN BIRO, seconded by Councilman Plecnik to adjourn the Regular Council Meeting of April 9, 2015.

Roll Call: 6 AYES - unanimous

MOTION PASSES

President Somich declared the Regular Council Meeting of April 9, 2015 to be adjourned at 8:08pm.

APPROVED:

May 14 2015
Date

Raymond C. Somich
Raymond C. Somich
President of Council

ATTEST:

Victoria Ann Savage
Victoria Ann Savage, CMC
Clerk of Council