

# City of Willoughby Hills

Council  
CHRISTOPHER L. BIRO  
DAVID M. FIEBIG  
FRANK A. GERMANO  
CHRISTOPHER HALLUM  
JOHN PLECNIK

## Regular Council Meeting

### Minutes of April 24, 2014

*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 7:05 p.m. by President Raymond C. Somich*

#### *Pledge of Allegiance*

#### **Roll Call of Council**

**Members Present:** Councilman Christopher L. Biro, Vice President Nancy E. Fellows, Councilman David M. Fiebig, Councilman Frank A. Germano, Councilman Christopher Hallum, Councilman John Plecnik, President Raymond C. Somich

**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

---

#### **PRESENTATION OF RESOLUTION HONORING KEVIN D. MALECEK FOR HIS LEADERSHIP AND DEDICATED SERVICE TO THE CITY OF WILLOUGHBY HILLS**

---

#### **Disposition of the Journal**

#### **Regular Council Meeting of March 13, 2014**

**MOTION WAS MADE BY COUNCILMAN BIRO**, seconded by Councilman Plecnik to approve the Regular Council Meeting Minutes of March 13, 2014 as submitted.

**Roll Call: 7 AYES – unanimous**

**MOTION PASSES**

President Somich stated that the Regular Council Meeting Minutes of March 13, 2014 have been approved as submitted.

#### **CORRESPONDENCE**

City Engineer's Report dated April 17, 2014 (Emailed: April 17, 2014)

**FINANCIAL REPORTS FOR THE MONTH ENDING MARCH 2014 CONSISTING OF: GENERAL FUND INCOME STATEMENT, CASH RECONCILIATION, PURCHASE ORDER REPORTS, FUND ANALYSIS REPORTS, AND EXPENSE REPORTS** (Emailed: April 10, 2014)

#### **NOTIFICATIONS**

Finance Committee Meeting of April 21, 2014 (Emailed: April 11, 2014)

Planning and Zoning Commission and Architectural Board of Review Meeting of April 17, 2014 (Emailed: April 14, 2014)

Planning & Zoning Committee of Council Meeting of April 24, 2014 (Emailed: April 11, 2014)

Rules and Legislation Committee Meeting of April 21, 2014 (Emailed: April 11, 2014)

Cancellation of the Utilities Committee Meeting scheduled for April 28, 2014 (Emailed: April 22, 2014)

#### **MINUTES**

Planning and Zoning Commission and Architectural Board of Review Meeting of March 20, 2014 (Emailed: April 10, 2014)

## **MAYOR'S REPORT – Robert M. Weger**

Surplus Vehicles - will go on Auction tomorrow and the Auction ends May 15<sup>th</sup>. If you go to Public Service Auction on the Internet you will be able to bid on those vehicles. We have four old police cars, the Mayor's vehicle and a fire truck on that

Fire Contract Status – We plan to meet with the Union next week again and we hope to wrap that up shortly.

Sewer Rates – There have been numerous calls about Sewer Rates and he wants to remind everybody that we have a Summer Sprinkling Program and they can save on their summer rates to be equal to their winter rates. The sewer rates were done on a five year basis; last year 5 Year Plan was passed and it wasn't the cause due to any raises given to the employees of the City

Color Run Postcards – We have postcards going out to the residents for the Color Run; the Color Run is May 10<sup>th</sup> and we sent out letters telling them that the streets will be closed already but in case they don't want to open the envelope because it looks very official from the City we devised this postcard and it will be mailed to all the residents shortly

Asphalt – Asphalt is on its way; we are purchasing asphalt to repair all the chuck holes, please be patient with us, it seems like there are more chuck holes then streets

### **Acknowledgements:**

Congratulations to Claire Omerza on achieving the Girl Scout Goal Award; her project consisted of some work at the Maple Grove Range

### **Events:**

Art Gallery Reception – Friday, May 9<sup>th</sup>

Color Run – Saturday, May 10<sup>th</sup>

**President Somich** stated that the Mayor mentioned in his report that cards were being mailed to all of the residents; **President Somich** wanted to clarify only the residents along the path, is that right. The **Mayor** replied all the residents in the affected areas of the Color Run.

## **LAW DIRECTOR'S REPORT – Thomas G. Lobe**

Three matters on the Law Director's Report this evening, the first one is the legal opinion concerning Councilman Germano on the Independent Investigation by and through David Matty from the Law Firm of Matty, Henrikson & Greve LLC; he submitted a copy to everyone in their mailboxes, it was dated April 21, 2014. The Law Director had some public records requests from some other Council people which were provided and this is the first time that he has had the chance to report on this matter; it is a nine page with four or five pages of analysis and then multiple affidavits that were attached. The end result on this particular matter was as the opinion from Independent Counsel is therefore Councilman Germano's actions did not violate the Ohio Revised Code Sections 102.03(D) nor 2921.42(A)(1) and the full opinion speaks for itself. We still have the issue, we did notify also in an overdue abundance of caution, we notified the State Auditors concerning this same matter, the State Auditor can and may do its own independent investigation, they may rely upon this one but they have their own legal team and their own investigators and he talked with Mr. Brichacek today and he or we do not know of the status as we stand here today but we will keep you advised as we go forward.

The second matter that the Law Director wanted to report is a potential; he got a phone call with Steve from our Development, Mr. Rozczyk that there is another potential Internet Sweepstakes, the Old Gold Rush, the one on 91 and an individual by the name of Brian Krantz calls and he had multiple phone calls with Steve Rozczyk and he says that he is different from the other one. That he has a different model and this model is different than the one that we had described last time. And that this one is all a game of skill and has no chance and they don't payout cash, they are paying out in gold. Inside, he is just reporting, and in lieu of cash because that is one of the triggering events that gets the Attorney General involved, they are going to have a pawn shop within this Internet Sweepstakes. The Law Director stated that he had made it crystal clear to him that the Attorney General, as the Law Director reported last time, will automatically be investigating this thing and he said why because the Law Director said that they are automatically investigating and the Attorney General through Brian Moody, who the Law Director has had a conversation with before last Council Meeting and since that Council Meeting, they are now expanding it on their own and we even saw it today again in the newspaper there was some indication of some raids primarily in Cuyahoga County and of course, that was always the County that they were the most aggressive. The County verses the other 87 County Prosecutors that were not as aggressive. So the Law Director said that he

basically told him that he forms no opinion, like he did last time, and he will probably advise the Attorney General whose got BCI involved and if you looked at the newspaper tonight it was BCI and the Ohio Department of Public Safety which the Law Director didn't know it existed, also assisted on this particular raid together with the County Prosecutor so he thinks that he has a different new model and that model which is different from the other model as of course, does not come into the gambling confines and the Law Director informed him when the AG comes to do their investigation we will be cooperating with them and that he is operating under his own risk. The Law Director stated that he doesn't know if he has opened up, will open up or can open up but he thought that he should report to that. The only other thing to this is that there was only other criminal case, he had previously told the Members that there were two in the State, where he thinks that it was in Coshocton came back not guilty, but it was a bench trial. That is why you can't really rely on these municipal court cases because you don't know which model they are using, what their business plan is, how good the prosecutor was, how good the defense counsel was and it is a high standard on criminal cases, so we are going to rely on what the Attorney General does for us. The Law Director was told that they may or may not get back to us in the terminate times and to just sit back and be patient. When the other one opens up he will give Council an update.

The third matter on the Law Director's Report is he would like to go into an Executive Session inviting all of Council and the Mayor and the Law Director only for the threat of litigation at a time most convenient for Council.

**Councilman Fiebig** wanted to know who in the Auditor's Office was contacted, they have a Special Investigation Unit, is that who you contacted or....The **Law Director** replied, no they contacted, **Mr. Brichacek** interjected by stating Mark Carnabuci, Senior Audit Manager. **Councilman Fiebig** repeated Mark Carnabuci, an Auditor Manager, okay. Councilman Fiebig stated that he did want to talk a little about the legal opinion, but to the Internet Café, just to comment on that, he wonders what the wishes of Council on are that, but they are kind of, really trying to work around the ruling, Councilman Fiebig stated that he was wondering about considering, like some other municipalities did, kind of a hold on these things, the **Law Director** replied a Moratorium..**Councilman Fiebig** continued by saying to see what the legislation is doing, what other municipalities are doing, what the AG is doing, instead of creating more hassels with enforcement or those sort of things he thinks that we should have a discussion about that, perhaps put it into committee; Councilman Fiebig stated that he is seeing some heads nod, so maybe we could talk about that. **President Somich** responded by saying sure. **Councilman Fiebig** stated that the legal opinion that Mr. Lobe, from Councilman Fiebig's perspective, that he reviewed, it really missed the heart of the matter, was our Charter was violated and that is the question that he wants to ask the Law Director. Were these actions a violation of our Charter? **Law Director Lobe** replied as noted in the opinion, the issue really that was given to the Independent Counsel only has to do with the State Statutes and the Criminal Statutes. The Charter issues were already raised by this committee, by you, by one of you, particularly and it was determined already not to be one. And in fact the determination as to whether there is Charter violation, it is the majority, or five members of this Council, that have to make that opinion, not the Law Department, that is how the Charter, which he thinks is clumsy and needs a reform to it, reads and that is what he said in his, in the legal opinion that he gave last time and if you read through it, on 9.3, it's not the Law Department that says that this is a violation, it is the Law Department that gets you through the due process so that you can make the determination individually and ultimately, collectively by and through majority and the majority that he stated, his thinks is five affirmative votes, that's who makes that determination and it was already made, right or wrong, it was already voted on and it was a determination that it was not a violation and not subject to removal. So the Law Director stated that he re-iterates and restates everything that he said in the previous meetings. **Councilman Fiebig** said that you (Lobe) feel the actions of having a family member receiving a contract if the person being on Council who's voting for those contracts that is not a violation of our City Charter. The **Law Director** responded that it is not his opinion to make, that it is this Council's opinion to make and it already spoke. The Law Director said that he would ask Councilman Fiebig a question, it is the Law Director's understanding that Councilman Fiebig has gone to other governing agencies, including the FBI, the County Prosecutor and other agencies to review this matter so what did they say; he means, you look at him, he did his thing, he got a legal opinion on the State Charter Issues, he told you how to handle our City Charter Issues but it is his understanding, and he has good....it came back to him that Councilman Fiebig has contacted all these agencies for their review. The Law Director wanted to know who Councilman Fiebig contacted because he doesn't think that Councilman Fiebig did this unilaterally, he didn't do it with the majority of Council permission or direction so if Councilman Fiebig would tell us who he went to for direction maybe the Law Director could go talk to those individuals and he could double-down on it. The Law Director said that he heard that Councilman Fiebig did it, he knows that Councilman Fiebig did it with the FBI, the County Prosecutor, so if you tell him today he will further this investigation to those entities. **Councilman Fiebig** replied that we should. The **Law Director** said so tell who you, **Councilman Fiebig** interjected, we should, we should. When he (Councilman Fiebig) talked with the County Prosecutor he wanted the Law Director's opinion and he wanted the answer to that question, as well as to the other question, does it violate the ORC or...the **Law Director** replied that he would gladly

forward this on to him, he has no problem. **Councilman Fiebig** said that we would like...the **Law Director** replied that he wished that Councilman Fiebig had told him this, he could have communicated with him and found out with that prosecutor who has the expertise in this particular area, what his specific questions were, he could have done it lawyer to lawyer, prosecutor to prosecutor, or experienced lawyer to experienced lawyer, but he will go back to him, he has no problem. **Councilman Fiebig** stated that at this point, he has only had a conversation with him, he hasn't turned over documents to him, none of us has, as far as Councilman Fiebig knows. Councilman Fiebig stated that nobody has turned over any documents. The **Law Director** stated that he understands that the FBI was contacted. **Councilman Fiebig** replied that he had a conversation to ask for some guidance. Because as you (Lobe) said to him (Councilman Fiebig) in our Council Meeting a couple of weeks ago, "well you are stuck with me". The **Law Director** replied that's right. **Councilman Fiebig** said well you know that answer wasn't good enough for him, he is sorry, Tom he needed a little more guidance then that. Councilman Fiebig said he did seek out some other opinion. The **Law Director** asked how about the FBI? **Councilman Fiebig** said yes he had spoken with someone from the FBI. The **Law Director** asked who at the FBI so that he can contact them. **Councilman Fiebig** replied Melissa Fortunato. The **Law Director** asked if he had a telephone number for her and **Councilman Fiebig** replied that he could certainly get it for him. The **Law Director** asked anyone else, he's got no problem, let's give it to everybody, put this on front street. **Councilman Fiebig** responded well we should. The **Law Director** said he will. **Councilman Fiebig** stated that one of the things that he had been criticized for was he should have handled this differently and Councilman Fiebig wanted to point to the Administrative Code it is 107.08 and it is (b)(1) that no municipal body shall hold an Executive Session for the discipline of an elected official for conduct related to performance of his official duties or for his removal from office. So Councilman Fiebig said that he will take criticism but it was his opinion and the opinion of some of his colleagues that we had to do this in a public body and that is why we are having this discussion. Now he doesn't want to fight with anybody on Council, he wants this, as Kevin said, to be a professional body, one that gets along, one that works well together and one that is looking out for the interest of our citizens. Councilman Fiebig continued to say what he saw was something that was wrong, and he is seeing a document that was delivered to us from someone that the Law Director selected and he is not sure that the Law Director can hire an outside, Independent Counsel, Council's Attorney, we are the Council, we should have authorized that. So what you did was you hired an "assistant". The Law Director is authorized to do that. The **Law Director** stated that was correct. **Councilman Fiebig** continued to say that the Law Director hired an assistant and Councilman Fiebig understands that the Law Director goes a long way back with Dave Matty and that's all well and good but we should have some further review. The **Law Director** stated lets set something so that the people in the audience are not confused, (1) we never went into Executive Session because we are not allowed to go into Executive Session, that is an absolute; (2) he is allowed to, subject to the approval of the Mayor, the Law Director may appoint such assistants as he deems necessary. He (Lobe) would have done this differently had this been brought to him as it has been in the past. Number One, it was not, based upon that he had learned that night and how it unfolded, he immediately, because it seemed to be imminent and the issue was very flaming at the time, he took immediate action and he was not about to wait another two weeks and then be accused of not doing anything. So what the Law Director did was put Mr. Matty, who is an experienced legal counsel in multiple jurisdictions, in fact he is the lead counsel in the law suit where all sixty lawyers chose him as the lead counsel in the case of the Northeast Regional Sewer District, other Law Directors chose him to be lead counsel. He has been a Law Director in multiple jurisdictions and he has multiple members of his team and his firm that are prosecutors in multiple locations; secondarily he (Lobe) wanted to get out of the county to take any and all politics out of this thing and he did, initially he was going to stay within the county and then he thought that he should go outside the county and lastly, it is the same Council that when this Council had a problem with Mayor Lorenz individuals still on this dais chose the same law firm so he went back and he just didn't just chose my good buddy, he chose the same law firm that last time when we had the same issue he utilized the same firm, just so everybody is clear on that. Okay, that was the issue involving Lorenz we hired the law firm of Matty, Henrikson & Greve LLC, it is the same one so he took someone that would not be a connection in that regard, he took with this Council and other people on this dais and he thinks that even Mr. Malecek was there during that time, he took their choice and he just repeated it. So everybody is clear. **Councilman Plecnik** asked if it was the appropriate time to state his concerns with the Independent Counsel Report or should he wait until Unfinished Business. **President Somich** replied that this would be the appropriate time, but he would ask that because we have discussed this at great length in prior meetings and we have heard a lot of the opinions that were spoken and Councilman Fiebig has just restated many of them of which we did have the response already that we not just continue to restate the same comments, the same opinions, the same objections. If this body wants to discuss this further as it has been suggested that we do, we can call a Council Meeting of the Whole and we can make this the topic of the evening, but to just keep re-iterating over, and over and over again the same objections he thinks that it is fruitless for us at this point. **Councilman Plecnik** replied that he would restrict his comments to the Independent Counsel Report which is absolutely new, something that we have just received. Councilman Plecnik then went to say that his concern with the report, independent of whether or not the Law Director's assistant is independent of the Law Director, is actually the way

that it is restricted; it only analyzes Ohio Revised Code Sections 102.03 Subsection (d) and 2921.42 (A)(1) so two subsections of those particular statutes it doesn't even consider those two statutes as a whole, he thinks that it should consider the Charter issues, he thinks that it is hard to imagine that a majority of Council can redefine or interpret the Charter so he doesn't agree with our Law Director that a majority vote or even a super majority vote can construed what our Charter means. If we were to have a majority vote that would make all of our terms infinite or we would never have to be re-elected it would clearly violate the Charter so he would disagree that a majority or a super majority of Council can authoritatively interpret the Charter and he thinks that that issue should have been referred to the Independent Counsel. Another problem that Councilman Plecnik stated that he had with the opinion is that it essentially states that entirely on the facts and truthfulness of the two attached affidavits from Councilman Germano and from Street Superintendent Nate Catania and there are several legal conclusions in those affidavits such as Councilman Germano states I did not influence anyone well of course if you assume everything in the affidavit is true and one of the statements in the affidavits is I did not influence anyone essentially within the meaning of the statute, your conclusion would be that the statute is not violated and Councilman Plecnik said that he has heard about these opinions in the past, they are the assuming it is legal, its legal opinion, assuming its legal, its legal and he has seen lawyers write these before although it has been a while since he has seen them, because in many contexts of law they have actually been labeled specifically unethical. Councilman Plecnik went to say that if he issued a tax opinion where he said that assuming this is not gross income, it is not gross income the IRS would disbar him under Circular 230 and he doesn't know what the rules are for interpreting Ohio Law or Ohio Statutes, he doesn't pretend to know the ethics rules for attorneys there but he knows as a tax attorney he couldn't make those types of assumptions so when he sees an opinion that says that assuming everything that Councilman Germano says is true and he says that he didn't influence anyone then he didn't influence anyone, that is not a very useful opinion and he honestly doesn't think that it is worth the paper that is written on. Beyond that, the newest Ethics Opinion that this Law Director's Assistant Opinion cites is from the year 2000, there has been from May of 2010 a far newer Ethics Opinion that analyzes the Statutes and the Ohio Ethics Commission actually issued as reminder and a primer on the rules for nepotism so he is shocked that the most seminal Ohio Ethics Commission Opinion wasn't cited. Particularly given that it is this opinion defines what authority influence is and it distinguishes authority or influence from authorizing and he would just like to read this one quick paragraph from the Ohio Ethics Commission word for word: "authorizing a contract includes voting on, signing or taking any other action to award the contract". And voting on an appropriation might fall within that preview. But it goes on to say that "employing the authority or influence of one's position to secure authorization of a contract includes a much broader range of activities such as recommending, deliberating or discussing and formally or informally lobbying any public official or employee about the contract". Councilman Plecnik stated that when he flipped through the affidavits that were attached to the Law Director's Assistant's Opinion he immediately noticed that both Councilman Germano and Superintendent Mr. Catania stated that they had a conversation with respect to the two projects that were awarded to Landco/Germano Construction, Inc. in 2013 and Nate Catania asks Councilman Germano "do you have a problem with me assigning emergency contracts, for these particular contracts to Landco and Councilman Germano responds no, I have no problem, I don't own it." Councilman Plecnik stated that he finds it hard to believe that conversation which both Councilman Germano and Superintendent Catania state happened, doesn't at least constitute discussing, discussing a contract with a public official or employee; he assumes that Superintendent Nate Catania is a public official or an employee of Willoughby Hills, they were clearly discussing the contracts but he actually went beyond this in some sense, Councilman Germano actually gave him (Superintendent Catania) the green light, he said should I assign this and he (Councilman Germano) said go ahead. **President Somich** addressed Councilman Plecnik by saying that he thinks that he (Councilman Plecnik) is making a lot of assumptions here, obviously you are not...**Councilman Plecnik** responded by saying that he is just reading from his affidavit, signed and sworn...**President Somich** replied that he has given Councilman Plecnik a lot of liberty here to make a lot of comments and statements which he thinks was fair and necessary but at this point and time again, we are hearing much of the same argument, much of the same statements that we have been hearing over and over again. This body has already voted as a Council on this issue, we have heard opinions; there are more opinions to still be had. President Somich stated that he is not saying that this issue is done and we will never talk about it again, but to continue to talk about it at this point and not to get on to our other meaningful items on the Agenda, he is not sure where this is going this evening, nothing else is going to be voted on. **Councilman Plecnik** then asked if he could make one last point....**President Somich** asked that he make it brief....**Councilman Plecnik** stated that to make this point, he does want to share with everyone the affidavits, he wants to make sure that everyone has a copy....the **Law Director** stated that he already has a copy...**Councilman Plecnik** replied but beyond that there is another document, just one document that he needs to compare to the affidavit. **President Somich** asked if this was a new item...**Councilman Plecnik** replied that this is new item that he is showing...**President Somich** stated then let's move this on to New Business, if Councilman Plecnik wants to bring up a new item this evening in Council then...**Councilman Plecnik** instructed everyone to take a document and he will revisit this during New Business.

**President Somich** stated let's move on to the item of business and that would be the Finance Director's Report from Mr. Brichacek.

#### **FINANCE DIRECTOR'S REPORT – Frank J. Brichacek, Jr.**

No formal report was given.

#### **CITY ENGINEER'S REPORT – Pietro A. DiFranco, P.E.**

Reported activity on a few projects:

With the warm weather they have become extremely busy with projects, reviewing projects within the City. As we know Maple Valley is under construction and we have heard that there are several new homes under construction and being planned in that subdivision.

Clover is planning on starting construction on their Congregate Care Facility

The new motorcycle dealership is finishing plans to move into the building on Bishop Road

Several new home plans that were submitted and we are currently reviewing

Received correspondence from NOACA this week. They will be pursuing funding opportunities to resurface State Route 91 before 2016 so hopefully they are successful.

**Councilman Plecnik** wanted to take a moment to thank Mr. DiFranco because he has spit-balled at least a half-dozen emails to him in the last few days; there were a lot of residents that had potholes and what-have you and amazingly Mr. DiFranco knew every situation and responded back intelligently and was able to allow him (Councilman Plecnik) to pass it back to the residents. So they are grateful and he (Councilman Plecnik) is grateful on their behalf. Councilman Plecnik further stated that he knows as a Professor how hard it is to know everything off the top of your head and the City Engineer managed to do it these last couple of weeks, so again thank you.

#### **COMMITTEE REPORTS**

**The following Reports have been listed alphabetically by Committee.**

##### **FINANCE – Raymond C. Somich, Chair**

###### **Committee Members:**

**Nancy E. Fellows, Frank A. Germano**

#### **COMMITTEE MEETING OF APRIL 21, 2014**

**Members Present:** President Raymond C. Somich, Chair, Vice President Nancy E. Fellows, Councilman Frank A. Germano

**Also Present:** Councilman David M. Fiebig, Councilman Christopher Hallum, Mayor Robert M. Weger and the Finance Director

Purpose of the Meeting was to discuss **City Finances** and any other business.

**Meeting convened at 6:07pm**

##### ***Order of Business***

A number of issues were discussed; this was one of our regularly scheduled monthly meetings. We talked about the new Finance Software that is being updated and running parallel with the old system right now until we are confident that it works.

We discussed the Income Tax being about 2% right now where we were at this same time in 2013 which actually is good news because there are some losses in there that we knew about because of Eaton leaving and we have almost recouped most of that loss. The RITA extension was caused by their electronic filing system that therefore necessitated a delay and an opportunity for our residents to file their taxes a little bit later beyond the deadline. The Purchase Order reporting system has changed; there used to be three different Purchase Order Reports and it was a little bit confusing, what items were on which report, our current Finance Director saw that and we were able to get all those merged on to one report so that it is more transparent and easier to see which purchase orders are open and which have been completed and that work was done by CMI without any cost to the City.

The Fire Contract which the Mayor had eluded to earlier, they are still working on that; it will be retroactive to January 1<sup>st</sup> and we had discussed a little bit about the payments that would be going along with that as well as the cost of the other contracts that we had previously approved and our Finance Director has reminded us that he has previously given us

information on the whole dollars involved but he did send that out again after the meeting.

We will have a Road Levy renewal on the ballot this fall, it is time again for that renewal and we discussed that it is in the best interest of our community to go with a renewal and not a Replacement Levy because of the changes in legislation at the State Level that give roll backs for Levies that are just renewed and are not stopped and then replaced. So it will actually be in the best interest of our Community to do that as a renewal as opposed to a replacement. So that is the plan as of now, we will work on that over the next couple of months so that it is completed in August and on the November ballot.

Our Finance Director had advised us that approximately a little more than \$80,000 in real estate tax; income state tax was received – State Tax, thank you was received and that was unexpected because of that change in the State Law but that was something that had been in process so that was a bit of good news to our City in terms of additional funds going into our Capital Account.

The Mayor did give us an exact list of surplus vehicles of over the last five-plus years and explained what was on that list and talked about the ones that are being up for auction, as the Mayor said this evening, starting tomorrow.

We did discuss the Ordinances; he won't repeat that because they were just heard in Councilwoman Fellows Rules & Legislation Report.

#### ***Public Portion***

**Public portion opened** and there were several issues that were raised and then we addressed those afterwards. Again, where are the dollars coming from for the raises in the Union Contracts and a question about the Whisper Account about the balances currently that the City has in our budget. Comments about the local funding from the State and a general comment that the Income Tax System in our City with the credits is not as fair as it should be and asking the Council to look into trying to find a way to make that more fair.

**Public Portion ended at 6:47pm**

**After a few more additional comments the Meeting adjourned at 6:52pm**

**Councilman Fiebig** stated that in the new fund analysis being delivered to us, taking the reports from three down to one, the one thing that changed was we don't now see what fund those purchase orders are coming from. Asked the Finance Director if we could get those back in there, we would like to see what fund the purchase order comes from.

#### **PLANNING & ZONING – David M. Fiebig, Chair**

##### **Committee Members:**

**Christopher Hallum, John Plecnik**

#### **COMMITTEE MEETING OF APRIL 24, 2014**

**Members Present: Councilman David M. Fiebig, Chair**

**Also Present: Not given in minutes**

Purpose of the Meeting was to discuss **Possible Zoning Changes** and any other business.

**Meeting convened at 6:30pm**

#### ***Order of Business***

The Committee met just prior to this Regular Council Meeting to discuss potential zoning changes to the City's Zoning Code; one in particular, Cross-Access and the other was some verbiage regarding set-back requirements and some other sections of the Code that would update some of the language there and do things like add particulars about numbering mailboxes so that the addresses can be seen from both sides. If this were to go ahead, through Council, we would have a Public Hearing and that notice would be posted thirty days in advance and we would have that prior to a Council Meeting. The result of that meeting was to go back to the Commission and clarify the language on the mailbox requirement to make sure that it was specific enough and/or general enough that it would be practical.

#### ***Public Portion***

**Public portion opened at 6:49pm.** Frank Cihula mentioned some corner lot and the problems that you have with getting the addresses on both sides.

**Public portion closed at 6:55pm**

**Meeting adjourned at 6:55pm**

**Councilman Fiebig** further added that the result of the meeting was that he will go back to the Commission and draft up some suggestions and will distribute that to the rest of Council and the Commission and see if we can come up with some language there that makes sense.

**RULES & LEGISLATION – Nancy E. Fellows, Chair****Committee Members: David M. Fiebig, Raymond C. Somich****COMMITTEE MEETING OF APRIL 21, 2014****Members Present:** Vice President Nancy E. Fellows, Chair, Councilman David M. Fiebig, President Raymond C. Somich**Also Present:** Councilman Christopher L. Biro, Councilman Frank A. Germano, Councilman Christopher Hallum and Mayor Robert M. WegerPurpose of the Meeting was to discuss **Pending Legislation** and any other business.**Meeting convened at 6:52pm*****Order of Business*****Ordinance 2014-21** - CRA (Community Reinvestment Area Program) for Dunkin Donuts, tax abatement of 50% for 10 years. **The Rules and Legislative Committee of Council recommends that this Ordinance be tabled until the appropriate time to un-table this motion.****Ordinance 2014-28** - An Ordinance to appropriate funds for the Asphalt Hauler. **Rules and Legislative Committee recommends to Council that this be the 2<sup>nd</sup> Reading.****Ordinance 2014-29** – An Ordinance to appropriate funds for the already repaired sinkhole on Worrell Road. Funds for this repair are coming from the Lake County Storm Water Management Program for ~\$2,500, under the original estimate. **Rules and Legislative Committee recommends to Council that this be the 2<sup>nd</sup> Reading.****Ordinance 2014-30**- An Ordinance identifying expenses not appropriated on the 2014 Operating Budget. This is in reference in providing \$1,500 in fees charged by Lake County for the collection of tax increment payments in lieu of taxes and \$4,600 for the final payment to ODOT for the improvements to SOM Center Road as part of the Classic TIF project, both mistakenly left out of the adopted 2014 Operating Budget. **Rules and Legislative Committee recommends to Council that this be the 2<sup>nd</sup> Reading.****Ordinance 2014-31** – An Ordinance authorizing the Mayor to enter into the State of Ohio Administrative Services Contract for the remounting and refurbishing of the Fire Department's 2003 Ambulance. **Rules and Legislative Committee recommends to Council that this be the 1<sup>st</sup> Reading.****Resolution 2014-1** - will be presented to Councilman Malecek at the March 27<sup>th</sup> Council Meeting for his years of leadership and dedicated service to the City of Willoughby Hills.***Public Portion*****Public portion opened at 6:59 p.m.** Linda Fulton inquired when would the Independent Council hired by the Law Director rule on violation of the City Charter? The Mayor responded that he is hopeful that there will be a report/ruling this upcoming Council Meeting. Bob Kowalsky commented on a “chuck hole” near his street on 91 and shared his thoughts on our City taxes, the CRA tax abatement for Dunkin’ Donuts, and City zoning issues that end up in litigation.**Public portion closed at 7:07 p.m.****Meeting adjourned at 7:07pm****SERVICE – Christopher Hallum, Chair****Committee Members: Frank A. Germano, John Plecnik****COMMITTEE MEETING OF APRIL 14, 2014****Members Present:** Councilman Christopher Hallum, Chair, Councilman Frank A. Germano, Councilman John Plecnik**Also Present:** City Engineer Pete DiFrancoPurpose of the Meeting was to discuss **Scope and Goal of the Lamplight Lane Culvert Replacement Project** and any other business.**Meeting convened at 6:30pm*****Order of Business***The Committee met in conjunction with the City Engineer to talk to the residents of Lamplight Lane about the Culver Replacement Project. This meeting was a fairly informal session because it was just mainly the folks on the street that came; we discussed, **City Engineer Di Franco** went through the plan and what was going to happen, what the impacts would be.



***Public Portion***

**Public portion was opened** and there were some questions as to what this was going to resolve. **Chair Hallum** stated that he thought that some residents thought that this was actually going to resolve the flooding issue in people's basements and Councilman Hallum thought that the City Engineer Di Franco did a great job explaining that really this was to resolve the issue of emergency vehicles not being able to get to residents beyond that flooding area because of the road being flooded. This project is really to resolve the issue of the water going over the road and getting it to go under the road so that if there should be an issue with an emergency vehicle needing to go beyond that culvert that emergency vehicles can get there.

**Meeting adjourned at 7:15pm**

**UTILITIES – Frank A. Germano, Chair**

**Committee Members:**

**Christopher L. Biro, Nancy E. Fellows**

**COMMITTEE MEETING OF MARCH 31, 2014**

**Members Present: Not given in minutes**

**Also Present: Not given in minutes (Finance Director Brichacek and Mayor Robert Weger)**

Purpose of the Meeting was to discuss **Purchase of Truck for Sanitary Sewer Maintenance** and any other business.

**Meeting convened at 7:40pm**

***Order of Business***

Discussed the purchase of a utility truck for maintenance of sewer

Received approval from Mayor Weger. The Finance Director confirmed where the funds were coming from. **Consensus of the Committee was to draft an ordinance for the next Regular Council Meeting (May 8, 2014)**

***Public Portion***

**Public portion opened at 7:45pm.** Frank Cihula questioned the cost (\$48,750.50). Linda Fulton questioned where is the money coming from (Sewer Fund). Bob Kowalsky asked the projection of sewer rate and what is this truck for, can it be outfitted with other equipment.

**Public portion closed at 7:59pm**

**Meeting adjourned at 7:59pm**

**OTHER COUNCIL REPRESENTATIVE REPORTS**

Councilman Plecnik, serving as an Alternate Council Representative, presented a report on the Planning & Zoning Commission Meeting held on April 17<sup>th</sup>. Although the meeting wasn't the most exciting meeting, they did approve Councilman Hallum's garage, but Councilman Plecnik abstained, so it was all good. It passed none the less so there should be a new garage on Lamplight Lane. Preliminary approval was given to the project on Sears which is going to be the Heritage Motors Cycle/Indian Motor Cycle Shop in the old Sears building. Those were the two items of interest in the Planning and Zoning Commission Meeting and it was a very brief meeting and those were the only two substantive items.

**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 7:48pm**

1. Linda Fulton

2990 Marcum Boulevard

Re: Council President keeps saying that the issues have been discussed over and over and over again and you are not getting anywhere. She hasn't heard any discussion; she has heard nothing from Councilman Biro, nothing from Councilman Hallum and nothing from the Council President either. What discussion has there been other than this side (facing Council Table, pointed to the right side of Council). Resident Fulton stated that she thinks that they should take the Law Director's suggestion and talk about it along with former Councilman Malecek. If you don't talk about it, you can't resolve the issue. Resident Fulton addressed the Mayor and Council by asking what are you doing about the Charter. The Law Director says it is flawed, it doesn't matter if it is flawed right now, it is what it is. Resident Fulton then stated we have nepotism here. We have had nepotism going back to whenever. But now

it is out in the open and it needs to be discussed. Resident Fulton stated that the City has major problems there. You have Mike Germano, you have Frank Germano, one has to go. Maybe not immediately but you need to talk about it. There hasn't been any discussion here. Resident Fulton had one more question, she checked with the Building Department with Lando, they are not a registered contractor this year nor were they last year so why were they permitted to do any work in the City without registering with the Building Department and getting permits.

**Public Portion was closed at 7:51pm**

## **UNFINISHED BUSINESS**

**Councilman Biro** wanted to address Resident Fulton's comments. The Germano issue is something that came to us immediately, it was not discussed prior to the meeting that we had that issue, we were given no warning, no initial information on that and he did not comment at that meeting or at the subsequent meetings; just because he is not vocal in this venue here doesn't mean that he is not talking with his colleagues. Councilman Biro stated that he chose to discuss the issue with several of his colleagues and the Law Director because he asked the Law Director's opinion; he is our Law Director he has a license to practice in this State. Councilman Biro gives Mr. Plecnik credit he is a Professor of Law but he is not licensed. Councilman Biro stated that he trusts Mr. Lobe's judgment and his direction over Mr. Plecnik's. Councilman Biro continued to say that just because he is not vocal in speaking out in the meeting, he does it when he feels that he needs to express his opinion. It doesn't mean that he doesn't have an opinion and those are the issues that he discusses with his colleagues. He doesn't want to blurt out his feelings and what he feels may be transgressions or whatever, he chooses to be a little more calm about and get enough information where he can give an opinion, what he thinks is his opinion so that is...he is not as vocal...he is not as loquacious as some of my colleagues and some of my prior colleagues but he still...he likes to get all the information before he has an opinion or make up his mind on an issue.

## **LEGISLATION**

**President Somich** stated that the first item is one that has been on Third Reading and he would like to turn to our Law Director because it is very rare that we do Table an Ordinance and he would like to ask the Law Director's ruling on which way Council should precede on this. The **Law Director** responded that it is just a suggestion that when he talked it over with the Clerk, on this particular one because he truly wants the Planning Commission to make a particular ruling before we get into the financial considerations. The Motion to Table Ordinance No. 2014-21 subject until such time said project is approved by the Planning and Zoning Commission. The Law Director went on to say that it has a triggering event and that is exactly how when this thing came forward and if it gets done, great and then you can vote on it and if it doesn't get done, you don't have to Table it from week to week. The Law Director said that he thinks that it is a better way to do it.

### **ORDINANCE NO. 2014-21 – THIRD READING**

**1<sup>st</sup> Reading:** March 13, 2014

**2<sup>nd</sup> Reading:** March 27, 2014

**3<sup>rd</sup> Reading:** April 10, 2014

---

**AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO A COMMUNITY REINVESTMENT ACT AGREEMENT BY AND BETWEEN THE CITY OF WILLOUGHBY HILLS AND NIYATI ENTERPRISE LLC AND DECLARING AN EMERGENCY.**

---

**MOTION WAS MADE BY COUNCILMAN PLECNIK**, seconded by Councilman Hallum to Table Ordinance No. 2014-21 until the Planning and Zoning Commission approves the project.

The **Law Director** identified the project to be the Dunkin Donuts. **President Somich** said that this is the CRA Ordinance that we have been discussing here on Council for a long time relative to the Dunkin Donuts new project. **Councilman Fiebig** stated to make it clear that it does fall off our legislative agenda after one year. The **Law Director** replied yes, as a matter of law.

**Roll Call:** 7 AYES - unanimous

**MOTION PASSES**

**President Somich** declared that Ordinance No. 2014-21 has been Tabled until we get an approval on the project by the Planning and Zoning Commission.

## **ORDINANCE NO. 2014-28 – SECOND READING**

**1<sup>st</sup> Reading: April 10, 2014**

**AN ORDINANCE AMENDING SECTION 1 OF ORDINANCE NO. 2013-43 TO COMPLY WITH STATE BUDGETARY LAWS REQUIRING MUNICIPALITIES TO MAINTAIN POSITIVE ACCOUNT BALANCES THROUGHOUT THE YEAR BY PROVIDING FOR 2014 OPERATING BUDGET REVISIONS SPECIFICALLY FOR THE ACQUISITION OF A 4.0 TON CAPACITY ASPHALT HAULER AND REPEALING CONFLICTING LEGISLATION.**

**President Somich** asked the Chair of the Rules and Legislation Committee if it was the recommendation of the Committee for this Ordinance to remain on Second Reading. **Vice President Fellows** replied yes. **President Somich** then asked the Finance Director if this would inhibit the City from obtaining the Hot Box. The **Finance Director** replied that it wouldn't. **President Somich** declared that Ordinance No. 2014-28 would remain on Second Reading.

## **ORDINANCE NO. 2014-29 – SECOND READING**

**1<sup>ST</sup> Reading: April 10, 2014**

**AN ORDINANCE AMENDING SECTION 1 OF ORDINANCE NO. 2013-43 TO COMPLY WITH STATE BUDGETARY LAWS REQUIRING MUNICIPALITIES TO MAINTAIN POSITIVE ACCOUNT BALANCES THROUGHOUT THE YEAR BY PROVIDING FOR 2014 OPERATING BUDGET REVISIONS SPECIFICALLY FOR THE WORRELL ROAD SINKHOLE REPAIR PROJECT AND REPEALING CONFLICTING LEGISLATION.**

**President Somich** stated that Ordinance No. 2014-29 would remain on Second Reading. **President Somich** further stated that we know that the project has already been completed so it is just a formality and we will allow it to go through the Three Readings.

## **ORDINANCE NO. 2014-30 – SECOND READING**

**1<sup>ST</sup> Reading: April 10, 2014**

**AN ORDINANCE AMENDING SECTION 1 OF ORDINANCE NO. 2013-43 TO COMPLY WITH STATE BUDGETARY LAWS REQUIRING MUNICIPALITIES TO MAINTAIN POSITIVE ACCOUNT BALANCES THROUGHOUT THE YEAR BY PROVIDING FOR 2014 OPERATING BUDGET REVISIONS SPECIFICALLY FOR THE CLASSIC TIF CAPITAL PROJECT FUND NO. 423 AND REPEALING CONFLICTING LEGISLATION.**

**President Somich** stated that Ordinance No. 2014-30 would remain on Second Reading to allow the public to make any comments that they may have.

## **ORDINANCE NO. 2014-31**

**AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO STATE OF OHIO ADMINISTRATIVE SERVICES CONTRACT(S) FOR THE REMOUNTING AND REFURBISHING OF ONE 2003 LIFELINE SUPERLINER AMBULANCE FOR USE BY THE FIRE DEPARTMENT WITH THE TRADE-IN AND CREDIT OF THE EXISTING CHASSIS.**

**President Somich** stated that Ordinance No. 214-31 would remain on First Reading.

## **NEW BUSINESS**

**Councilman Plecnik** that he would like to refer Council to the handout that was distributed earlier and he would also like his friend Linda Fulton to make sure that members of the audience with preference to the reporter, each receive a copy as well. Councilman Plecnik stated that like everyone else on Council he received Councilman Germano's affidavit earlier this week so he has not had a long time to review it but within the first few minutes of reading it through he was very troubled by Article V and he would like to read it in its entirety so that he wouldn't be accused of taking anything out of context. "I also obtained employment through Local 18, Operator's Union, Union Hall for employment. My last employment through the hall was with Omega Demolition, a Chicago Corporate in 2012. I have recently been contacted by the union for potential work opportunities for Spring 2014. These opportunities are still pending." Councilman Plecnik stated that he would like to put emphasis or highlight if you will Omega Demolition. Councilman Plecnik said that now he would like to take a moment to flip to the very next item in the handout which is the Financial Disclosure Statement that we are all required to file as elected

officials in Ohio. This was for the year 2012, filed in March of 2013 by Councilman Germano and also signed and sworn under criminal penalty. If you look at the second page, page 2 of 4, he lists his only source of income Landco Construction as an operating engineer with an amount of \$18,000 paid. Nowhere does he (Councilman Plecnik) see Omega Demolition on that report. Nor does he see any other employment through Local 18 Operator's Union on this or any other Councilman Germano's reports which he has reviewed from 2005 to 2012. Now if you flip to the very end of the report, he wants to make sure that no one thinks that this is his legal opinion, this is the legal opinion of the State of Ohio, we are all warned when we sign this report that I acknowledge and he is quoting here, "I acknowledge and understand that among other potential violations and penalties knowingly filing a false statement is a criminal misdemeanor of the first degree, in violation of Sections 102.02(D) and 2921.13(A)(7) of the Revised code, punishable by a fine of not more than \$1,000, imprisonment of not more than six months, or both." It goes on to say that "I acknowledge and understand that filing a false statement may be grounds for removal from public office." Now if you look at the affidavit he (Councilman Germano) states that he worked for various entities including Omega Demolition. You look at his Financial Disclosure Statement no other entity, particularly Omega Demolition, is listed. Both statements were signed and sworn and Councilman Plecnik stated that he will add that 2921.13(A)(6) goes on to say that it is also a criminal misdemeanor of the first degree to lie on a sworn affidavit before a notary. So one of these two signed and sworn statements is not correct. Either Councilman Germano did work for Omega Demolition in 2012 in which case he was required to list it on his Financial Disclosure Statement, just as he (Councilman Plecnik) is required to list Cleveland State University and we are all required to list any source of income that we have or he didn't in which case he lied on his affidavit; that is the only conclusion that Councilman Plecnik can reach and he would like to understand, he would like to understand if there is any explanation for this but he can't find one because one of these two statements must be false. So this is a new criminal issue that he thinks needs to be explained to Council which he thinks is grounds for removal.

**Councilman Plecnik** requested to make one more point, stating that it was related but separate from the previous; if you look at Councilman Germano's affidavit he also states in Article XI "I am currently not employed by Landco Developers, Inc. I did not receive compensation of any kind from Landco Developers, Inc. for over two years. For 2013, I was receiving unemployment compensation." Councilman Plecnik stated that he is very troubled when he googled Germano/permits and a couple other related items, he said that if you google Wickliffe/Landco/Germano you will pull up the City of Wickliffe Contractor Paid Report which lists every contractor who is registered who has a permit with the City although Landco apparently wasn't permitted in Willoughby Hills, it was permitted in the City of Wickliffe and if you look at who is listed as their General Contractor it is none other than Frank Germano and it says that he paid his permit on February 28, 2013. It strikes Councilman Plecnik as being very odd that he has been paid nothing from Landco Developers for over two years and yet he has paid to have a permit in Wickliffe. And Councilman Plecnik would also say that in his affidavit he makes the rather remarkable claim that he actually did work on both of the two projects that Landco was assigned in 2013 but that even though he was unemployed and receiving unemployment compensation, his parents didn't pay him anything? Councilman Plecnik stated that his father is pretty hard on him but he doesn't think that if he was unemployed he wouldn't pay him for when he was doing work for his company in his line of business; so while that is not a direct line of proof of a false statement, it certainly troubles him and he thinks that given that the legal opinion said that it is based on the truthfulness, it is based on Councilman Germano's affidavit and yet we have a clear conflict between his affidavit and his signed and sworn Ethics Statement and other conflicts seem likely, Councilman Plecnik doesn't think that the opinion is not worth very much and we need to get to the bottom of this sooner rather than later.

**Law director Lobe** stated that he has a comment on this. Mr. Matty is an experienced legal attorney, licensed and practiced in the State of Ohio for thirty-five years. He is renowned in the area of Municipal Law, he's got prosecutors, he has been special prosecutor he has been a Law Director on the Eastside/Westside, he knows this particular area. Now Mr. Plecnik is a Professor, he is not licensed nor has he ever been licensed in the State of Ohio. As we speak, Mr. Lobe feels that he (Councilman Plecnik) has been giving legal opinions but he cannot go into a Court of Law and even any competent Court of Jurisdiction from Cincinnati to Toledo, Erie, he can't go into a Court of Appeals..**Councilman Fiebig** asked if that is not a personnel attack..**President Somich** replied that we just heard plenty from that side..**Law Director Lobe** continued by saying that is only fair that if we have an opinion that any knocking, questioning that everybody judge. If you had a case, would you want an individual that has thirty-five years of legal experience in this particular area and that is all Mr. Lobe said that he was going to say. And he takes deference that somehow Mr. Matty is not qualified, did a poor job, and that he is being questioned, he takes deference at that point based upon the facts of an experienced Counsel. Law Director Lobe continued to say that you can throw out these types of acquisitions all day long but so that everybody is clear this

matter as currently constituted these are the same individuals that did not want his opinion, they have sought the opinion of the FBI on the criminality, they have sought the opinion of the Attorney of the County Prosecutor and we are also seeking the independent evaluation of the State Auditors; the problem is that they are the ones that yelled corruption and now that the facts are coming out and that is what you must do, simply stating here and putting these types of assumptions out is in fact irresponsible. And like what Mr. Biro said that you have to get to the facts and get the real facts and then apply the law. Not simply come up here and quote criminal statutes and imprisonment and things of that nature. He (Lobe) finds that to be improper and he takes personal offense as a Lawyer in the State of Ohio that these types of actions are being done in a public forum. He (Plecnik) has the right to say it but Law Director Lobe wants everybody to judge for themselves who would you rather have make these opinions. And Mr. Matty is a very well experienced and the Law Director is going to back his opinion. And any deference to it tell him where he didn't do a good job, tell him that his law is wrong, tell him that he misconstrued the facts, tell me that he didn't delve into the facts before making assumptions and it is interesting that they are the ones that they wanted to "remove immediately" and we shall do it. So the Law Director thinks that everybody has to understand this and he is defending Mr. Matty and he apologizes because he got a little too defensive for him. But he wanted to put those facts concerning Mr. Matty on the record.

**Councilman Hallum** wanted to respond to a couple of things, one to what Ms. Fulton said a few minutes ago, and also to some of things that have been said. He has been largely quiet during some of this meetings about it but each of you on this dais know that he has met with you independently and we have had some conversations and he doesn't think that anything that he has to say will be a surprise to you. And that is that while he has been quiet, he hasn't said much in this public forum, he has said that he did not agree with the way that this was brought up in such short notice, in a public forum; he understands that it needed to be brought up in a public forum, not sure if it needed to be brought up in the main Council Meeting he thinks that it could have been brought somewhere else. But regardless of that even, he thinks that the real issue for him has been that we, that there was a forced vote on it. And he thinks that the right thing would have been to bring it up, let's do the research, let's find out what's going on and then vote on it. And now we are kind of struck because according to our Charter regardless of whether the facts show anything, his understanding is at the moment is that the vote stands, we were forced into a vote, we made a vote and now we have to live with that vote and now you know we are where we are. So that is all Councilman Hallum is going to say. He just wanted to say that he has been doing his research and he has talked with several people and that is kind of where he is on this thing, he wishes that we wouldn't have taken a vote so early but we were forced into that and we did it.

**Councilman Fiebig** replied to Councilman Hallum by stating that according to Robert's Rule you can always ask to reconsider a vote, it can happen at any time. To the point of Mr. Lobe, he doesn't know the Attorney Matty and he doesn't have any opinion about his expertise, he hears what Mr. Lobe says. But he is reading the language here second to the last line my opinion is limited to the facts contained in the affidavits from Nate Catania and Councilman Germano. So he stated right here that he didn't take any other opinions into place so to bring up new evidence or new discussion and this also protects Mr. Germano; if we were to go into a backroom or do this in committee with the public not there he doesn't have a defense of what was said or what did he say, you are discussing it, you are airing it. You know it is sometimes called dirty laundry but we do need to talk about it, Chris, we do. **Councilman Hallum** replied that he does agree with that. But what he was saying regardless of that; regardless of how it was brought out, he just wished that we had not been forced to make a vote on such short notice. Councilman Hallum went on to say that he thinks that it would have been much more prudent to follow due process and make sure that we really had all of the facts before we were required to make a vote. **Councilman Fiebig** replied that new facts are coming to light so...**Councilman Hallum** stated that we should take caution and learn from this that you know that it is not always a good idea to throw a few papers on the desk and say let's make a vote. As we've all said we want to make sure that we give the public a chance to hear things and to think about them, that's why we do our...we've talked about the Three Reading Rule and that is to give everyone a chance to digest things, to get their comments out there, look into things before we are voting on something so that is really the crux of his comments.

**Councilman Plecnik** asked to be recognized. **President Somich** responded by saying that we have given you a lot of time this evening....**Councilman Plecnik** asked if he could just say though....**President Somich** continued by saying that we have given him (Councilman Plecnik) a lot of time this evening....**Councilman Plecnik** said that he just wanted to just say....**President Somich** continued to say that he didn't take action to restrict his (Councilman Plecnik) comments in fact he stopped and then asked for more time and President Somich said that he gave him (Councilman Plecnik) more time; we don't want a circus here and again this is turning into another circus tonight although he (President Somich) appreciates that the tone has been better but there has still been a number of snide comments and insinuations and implications...President Somich asked if Mr. Fiebig wanted to be recognized and

then requested that he not make snide comments now when he is talking because that is just what he is asking not to be done. So we need to do this in a respectful way and what this Chair has a problem with is that all members of this Council and Administration are readily available. We have individual conversations on a regular basis; this group of people is very much in tune with trying to do the right thing and trying to serve this community and we are all working, although it is part-time for all of us, we are all very dedicated to this and then to have meetings come up where we are suddenly dropped bombshells on us and then certain lines are stated and certain comments are made without anybody's ability to read entire documents and analyze and intelligently, logically look at things that is what happened a few weeks ago, that is what happened again this evening, certain comments are made that make things sound outrageous and maybe they are and maybe they aren't. And President Somich asks in the idea of due process and in the image of fairness and respect that while all of this is public it is not done in the way that it continues to be done. It is not done on a surprise attack like we are in a war with Iraq because that is what keeps happening and he (President Somich) doesn't understand that. President Somich stated that he is glad our media is here this evening and if he is quoted appropriately then so be it. We don't need to glorify and glamorize these types of situations. What we need to do, what he believes the people want us to do is to get to the bottom of these issues and make determinations logically and reasonably and that is what we need to do. Not have circuses and showcases of craziness. And so it is with that at this point that he is going to make the determination that this conversation is completed, this discussion is completed for this evening. President Somich thinks that we have had plenty of input from everyone and this Chair is going to make that determination and we will bring this back up, he does believe, this Chair does believe that this does need further discussion; we will determine that as a Council of the Whole or some other vehicle to do that. But after we appropriately review the information, the documents, the decrees that are available to us.

**MOTION WAS MADE BY COUNCILWOMAN FELLOWS**, seconded by Councilman Hallum to adjourn into Executive Session to discuss potential litigation, inviting all Members of Council, Mayor and the Law Director for fifteen minutes to commence after "For the Good of the Order" and at such time dismissing the City Engineer and Finance Director.

**Roll Call: 7 AYES – unanimous**

**MOTION PASSES**

**President Somich declared that we will adjourn into Executive Session immediately following "For the Good of the Order" and at such time the City Engineer and the Finance Director shall be dismissed for the evening.**

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

#### **Councilwoman Fellows:**

On behalf of the Members acknowledged the good work that the Council Clerk does for Council and wished her a Happy Birthday! **President Somich** explained that he thinks that sometimes the term "Clerk", although it is a legal term and there are people who do have Clerks at every level of government, State, County and otherwise, but still some people think that it is someone who just sits and moves paperwork around and certainly a Council Clerk is not only responsible for a lot of important information but also needs to know a lot of procedures and legal operations and certainly our Clerk does that very well and we do appreciate the work that our Clerk performs. He wishes that there was a better title but we do hold our Clerk in high esteem.

**President Somich called for Council to adjourn into Executive Session at 8:16pm.**

**With all Members present, along with the Mayor and the Law Director the Regular Council Meeting reconvened at 8:33pm.**

### **ADJOURNMENT**

**MOTION WAS MADE BY COUNCILWOMAN FELLOWS**, seconded by Councilman Biro to adjourn the Regular Council Meeting of April 24, 2014.

**Roll Call: 7 AYES - unanimous**

**MOTION PASSES**

**President Somich declared the Regular Council Meeting of April 24, 2014 to be adjourned at 8:34pm**

APPROVED:

Date

ATTEST:

Victoria Ann Savage, CMC  
Clerk of Council

Raymond C. Somich  
President of Council