

City of Milloughby Hills

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

Regular Council Meeting

Minutes of February 27, 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 7:00 p.m. by President Raymond C. Somich

Pledge of Allegiance

Roll Call of Council

Members Present: Councilman Frank A. Germano, Councilman John Plecnik, President Raymond C. Somich, Councilman Christopher L. Biro, Councilman David M. Fiebig

Absent: Vice President Nancy E. Fellows, 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 COUNCILMAN FIEBIG, seconded by Councilwoman Fellows to excuse Vice President Nancy E. Fellows and Councilman Christopher Hallum from the Regular Council Meeting of February 27, 2014.

Roll Call: 5 AYES – unanimous

MOTION PASSES

President Somich stated that Vice President Fellows and Councilman Hallum has been excused from the Regular Council Meeting of February 27, 2014.

MOTION WAS MADE BY COUNCILMAN BIRO, seconded by Councilman Fiebig to appoint Councilman Frank A. Germano to serve as Vice President Pro-tem for the Regular Council Meeting of February 27, 2014.

Roll Call: 5 AYES – unanimous

MOTION PASSES

President Somich stated that Councilman Germano has been appointed to serve as Vice President Pro-tem for the Regular Council Meeting of February 27, 2014.

Disposition of the Journal Organizational Meeting of January 6, 2014

MOTION WAS MADE BY COUNCILMAN FIEBIG, seconded by Councilman Germano to approve the Organizational Meeting Minutes of January 6, 2014 as submitted.

Roll Call: 5 AYES – unanimous

MOTION PASSES

President Somich stated that the Organizational Meeting Minutes of January 6, 2014 have been approved as submitted.

CORRESPONDENCE

City Engineer's Report dated February 20, 2014 (Emailed: February 20, 2014)

FINANCIAL REPORTS FOR THE MONTH ENDING JANUARY 2014 CONSISTING OF: GENERAL FUND INCOME STATEMENT, CASH RECONCILIATION, PURCHASE ORDER REPORTS, FUND ANALYSIS REPORTS, AND EXPENSE REPORTS (Emailed: February 21, 2014)

NOTIFICATIONS

Civil Service Commission Meeting of February 22, 2014 (Emailed: February 14, 2014)
Finance Committee Meeting of February 24, 2014 (Emailed: February 20, 2014)
Planning and Zoning Commission and Architectural Board of Review Meeting of February 20, 2014 (Emailed: February 14, 2014)
Rules and Legislation Committee Meeting of February 24, 2014 (Emailed: February 20, 2014)

ON FILE

WH Senior Center News Letter for March 2014, Issue No. 71

MAYOR’S REPORT – Robert M. Weger

Service Department Labor Contract – signed by Union Members and will be sent to Council for first of Three Readings by next Council Meeting

Acknowledgements

Sympathy to Mary Krockner on the death of her son, Don

Events

Pancake Breakfasts – beginning Sunday, March 2nd; March 9th; and March 16th

LAW DIRECTOR’S REPORT – Thomas G. Lobe

Recommended passage of Ordinance No. 2014-20

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

Placed information in the Members Mailboxes describing the Sewer Projects described in the Appropriation Ordinances that are before the Members this evening.

Emailed the Results of 2014 Payroll for the Elected Officials. The January CPI was raised recently and the information has been provided to Council.

Councilman Fiebig wanted to clarify that the CPI Index is what indexes the automatic increases in the Council and the Service/Safety Directors and the Mayor and it went up 1.22. **Finance Director** responded 1.2 percent, so it is a very small increase and it is adjusted automatically, the **Finance Director** replied yes.

Councilman Plecnik wanted to add that the Consumer Price Index is published by the Federal Government and it has been a measure of inflation that most cities and organizations use; there are many different ones, but the CPI is the most common. **Finance Director** wanted to clarify that the salaries for the Mayor and for the Members of Council and Council President, Safety Director, Service Director are established by ordinance and he is following the formula that is spelled out in the Codified Ordinances of the City.

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

Continuing to work on the Design of the Knecht/O’Brien Culvert Removal and Stream Restoration Project on Eddy Road.

Working on a Drainage Swale on the eastern part of Eddy Road

Hoping to start the Lamplight Lane Culvert Survey – weather permitting to be able to conduct a survey

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 FEBRUARY 24, 2014
Members Present: President Raymond C. Somich, Chair, Councilman Frank A. Germano
Also Present: Councilman Christopher L. Biro, Councilman David M. Fiebig, Finance Director Frank Brichacek, Law Director Thomas G. Lobe, and Mayor Robert M. Weger
Purpose of the Meeting was to discuss <u>City Finances</u> and any other business.
Meeting convened at 6:02pm
<i>Order of Business</i>

Our Finance Director reported that Income Tax Revenue for the first 2 months of 2014 is about even with 2013. There will be a cost savings in the budget for Workers Compensation, with a refund due the City. With the Phoenix Theater closing, we will lose that Admission Tax Revenue but this will hopefully be offset by unit fees from the Cyber Playground reopening in a couple of weeks. We are in the off-year of our bi-annual state audit cycle, but the Management Advisory Service of the State Auditor has finished their review of 2013. New refinance bids are expected by March 4, although if there is a major market shift, he may move this date earlier.

Relative to legislation, the Finance Department supplied updated information to the Council Clerk for the Account Balance Schedules in the series of Stormwater Management Funded Project Ordinances. This has resulted in Ordinances 2014-11, 12, 13, 16, and 17 needing to be Amended. In the future, it was suggested that like-content ordinances could be grouped together for more efficiency and to have less risk of this additional work being needed, because Council passed some ordinances out of sequence, causing the schedules to be inaccurate. We discussed not putting specific schedules in these ordinances, but were reminded that this particular aspect was part of the prior Finance Department's practices, when we received poor state audit ratings.

Public Portion

At 6:28pm the following came forth with questions/comments: Linda Fulton asked about tax collections and also corrected the chair on the date of upcoming finance committee meetings.

Meeting adjourned at 6:30pm

Councilman Biro questioned Chair Somich that Ordinance No. 2014-11, Ordinance No. 2014-12, Ordinance No. 2014-13, Ordinance No. 2014-16 and Ordinance No. 2014-17 are all dealing with water issues and drainage and those are all funded through Lake County. **Chair Somich** replied yes, he believes that they were all funded by the Lake County Stormwater Management. **Councilman Biro** stated that the City is not responsible for any monies and Lake County is supplying the monies for the projects.

RULES & LEGISLATION – Nancy E. Fellows, Chair

Committee Members:

David M. Fiebig, Raymond C. Somich

COMMITTEE MEETING OF FEBRUARY 24, 2014

Members Present: Councilman David M. Fiebig, Acting Chair, President Raymond C. Somich

Also Present: Councilman Christopher L. Biro, Councilman Frank A. Germano, Law Director Thomas G. Lobe, and Mayor Robert M. Weger

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

Meeting convened at 6:02pm

Order of Business

Legislation on the Thursday Feb 27th Council Meeting Agenda

2014-1 Administrative bid limit increase to \$50,000 from \$25,000. Move to 3rd Reading/vote.

2014-2 Increase the Retainer Fee for Bowen & Assoc. Engineer. Fiebig: Engineer wanted this dropped, **Somich:** wants to 3rd Reading – refer to Service/Finance. **Lobe:** Would drop off if not passed within one year.

2014-7 Collective Bargaining Agreement Dispatchers. Move to 3rd Reading Biro: the language was incorrect? Yes, his Committee recommended to Adopt. **Lobe:** clarified that after the 3rd Reading, you do not need to Waive the 3 Reading Rule.

2014-10 as Amended. Recreation Fees. Recreation Coordinator was ok with the legislation as presented. **Plecnik** voted to Table. **Consensus was ok to move to 2nd reading based on the feedback to Council, but Mr. Plecnik should be ok with it.** **Weger** wants to remove alcohol restriction on Funeral Luncheon. **Fiebig** thought it was added due to supervision issues. **Somich** and **Weger** would look into it.

2014-11 as amended; Appropriations for Storm Water Projects, 12, 13, 16, 17 same. Ok with not changing legislation because the Appropriations are the same, but Tables have changed. Mr. **Somich:** why do we need to leave on Readings. Mr. **Fiebig,** talked to Nate, who said he could not do these projects now or in the next few weeks. A vote to pass this means all other 5 tables would again change, causing more bookwork. Mr. **Germano** said the pipe is underwater. **Mayor Weger,** could order pipe, might take 6 weeks and then they are cutting grass. Much discussion about 3 Readings, Service Crew availability. Tables that were amended, how they need to all be passed together, how to plan in the future for these type of projects, importance to Council taking the time to review, public review.

2014-12, as amended; Rockefeller White Project \$7,200 appropriation.

2014-13, as amended; Knecht & O'Brien Property \$21,750 engineering/ 180,000 construction;

2014-16, as amended; Eddy Rd 36401 (Marvaldi)& 36341 (Tomljenovic) \$17,000 appropriation

2014-17 as amended; Pleasant Valley (west) \$16,500 appropriation

The above – 11 through 17 – should be passed together. There was a split on the Committee whether to waive the final Reading or leave on Third Reading.

2014-20, Bishop-Willoughby Company consent to the Judgment Entry for the suit for Zoning B-2 of the old Sears Building to become B-3 which would allow motor vehicles sales. Leave on 1st Reading. Law Director noted that he would advise Planning Commission they needed to follow the Order, 2 members were present tonight.

Motion for surplus Mobile Computers for \$50 each.

The Mayor said he requested the Road Levy be brought up. Mr. Fiebig asked to whom did he request this, and Mr. Somich said he talked to the Mayor.

Mr. Biro expressed concerns over 3 Readings, and getting the chance to talk about these since he missed last meeting, and no disrespect, but there needs to be resolve of these.

Public Portion

At 6:58 pm the following came forth with questions/comments: Mr. Cihula mentioned the condition of the roads in the City was poor, more than usual. Rough Winter.

Meeting adjourned at 7:00pm

PLANNING & ZONING – David M. Fiebig, Chair

Committee Members: Christopher Hallum, John Plecnik

Chair Fiebig reported on the Planning & Zoning Commission Meeting held on February 20th; the project that has been talked about quite a bit, the proposal of Dunkin' Donuts, the Commission did vote to postpone their application, so there are some issues about the size of the building fitting on the lot and allowing the drive-through and so forth. **Councilman Fiebig** wanted to make everyone aware, that the proposal has been postponed. **President Somich** stated that postponing is different than Tabling, it was to allow them more time to change; **Councilman Fiebig** replied, correct, it will allow them to go back and talk with their people, **Councilman Fiebig** doesn't believe that the project is dead, and he believes that nobody wants it to be, but it is definitely a small lot, cars would be backing up into other cars that would be waiting to get their product, so it definitely has some serious issues that need to be worked through.

UTILITIES – Frank A. Germano, Chair

Committee Members: Christopher L. Biro, Nancy E. Fellows

Chair Germano announced that a Utilities Committee Meeting has been scheduled for Monday, March 3rd at 7:30pm.

OTHER COUNCIL REPRESENTATIVE REPORTS

There were no other Council Representative Reports given.

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 7:20pm

1. Joan Mazie
2837 Stark Drive
Re: Would like a fence and greenery at the end of Stark Drive; Fire Marshall/Chief Harmon would not approve because there needs to be an access for the Fire Trucks to come down Stark Drive to get to the Church in case anything would happen; so it is okay for the Church to have a fence, but not for her to have a fence
2. Linda Fulton
2990 Marcum Boulevard
Re: Ordinance No. 2014-13 – City Property or Residential Property, is this City problem or if it is the resident's problem, if it is the resident's problem why would it be funded by using Stormwater Management Funding. Requested clarification of Charter, Article IV, Section 9.22 – Officers. Major conflict with employment and appointments

3. Kenny Knecht
29341

Re: Would like Council to take action on Ordinance No. 2014-13 to eliminate possible flooding on his property and there are a number of houses that would be affected

Public Portion was closed at 7:25pm

UNFINISHED BUSINESS

Councilman Somich stated that because there were a couple of questions that were raised and he doesn't have the answers to them, but we will get back to you, Linda, on those issues. Mr. Knecht is here and **President Somich** stated that he has been on that property many times and he knows that there is a lot more to it than simply going on to private person's property due to actions that the City took on that property many, many years ago. **Law Director Lobe** responded to Ms. Fulton's question by stating that the Lake County Storm Water Management Department makes their own independent determination as to what Projects they want to undertake within our City. They are the independent body that made that determination; the City just show them the projects and then they look area-wide and they try to proportion what the problems are and prioritize what the problems in the area that contribute to this and through the efforts of the Engineer, this has been a problem for many, many years and there is an issue, that we are still trying to resolve that the City did participate in some degree about four administrations ago, in allowing certain dumping to occur in that particular area the facts may possible be and it is alleged that part of all 305, he thinks when they ripped it up, what in fact was dumped there with cement with the understanding at that time, the City Engineer and the Administration that allowed for whatever reason, so there was some issue that we did, this was not something that was just done privately but with some participation from the City in that regard, and there after Lake County Stormwater Management makes that independent decision and we try to get those issues that involve streets more than those that involve just private property, but they are the ones that make that determination and they are the ones that pay for it fully. **City Engineer Di Franco** stated that the stream runs through private property; however, it takes care of the drainage in that entire area of the City, so this culvert that was put in by a previous private property owner has clasped which is causing the flooding so we are going to be removing the culvert and restoring it to its natural condition and we are requiring that those property owners give the City a conservation easement so that this will never happen again, it will always remain a stream. **Councilman Fiebig** confirmed with the City Engineer that the work has been started on this, and then asked the City Engineer how long he thinks it will take to complete that phase of it. The **City Engineer** replied that they have submitted preliminary plans to the County for their review and are waiting for their response, so we are hoping to go out to bid this spring or summer. **Councilman Fiebig** informed Mr. Knecht that is what we are probably looking at then. **Mr. Knecht** encouraged everyone to move this along for spring brings a lot of thawing and it is getting very bad. **Councilman Fiebig** stated that one of things that he learned when he became a public official was that government moves slowly, so we are aware of the problem.

LEGISLATION

President Somich stated that they has been an additional Ordinance No. 2014-21 that the Administration has proposed and they have the right to add an item to the Agenda at any given time and this was not numbered and placed on the Agenda in an error, so he would entertain at this time a Motion to amend the Agenda and add Ordinance No. 2014-21 to the Agenda this evening.

MOTION WAS MADE BY COUNCILMAN BIRO, seconded by Councilman Germano to amend the Agenda to include Ordinance No. 2014-21.

Councilman Fiebig stated that this was regarding the CRA for Dunkin' Donuts, because it was postponed, he doesn't think that it is appropriate to move forward with at this time, we certainly can bring it up and discuss it and he feels that we need to discuss it in full detail. The **Law Director** is quite aware of all the issues in Planning and they may or may not go forth, they have some issues like all planning issues, he thinks that it is important, especially for those on Council and he is trying to honor that who want the Three Reading Rule to happen that we get issues to you sooner than later. The Law Director stated that he doesn't feel nor does he expect that the Members will adopt this Ordinance tonight; we are simply giving for those who want the Three Reading Rule that we get it to you sooner than later so that all of Council can think about it and also let the public, which he understands is the utmost prerogative, to have the Three Reading. This is an issue which runs on a different track, there is the "Planning Track", which the Planning Commission runs and they will determine the planning and zoning issue and Council does not get involve with those issues, unless the Members of

Council and the Mayor who are part of that Committee. The issue before you is a financial matter on whether you want to give some type of tax relief and incentives, so if they get through the Planning Commission, he would like to have at least Three Readings, maybe four, maybe even a Committee and he would expect that Council would bring in Steve to talk about it, question it, we do not even have the written Contract yet, which he knows this Council is going to want; but before we have the other side who is making the application, he wants to make sure that Council is at least comfortable with it, and then of course, which he has said before, and he knows that Ms. Fellows wants those things, and he wants to honor those types of wishes, but before, they would adopt it, if you adopt it in the form that it is that we would get a signed contract. The Law Director just thinks that it would be good to bring it forward at this time so that there can be a lot of discourse because they are two different tracks; this is his desire, and he hopes that Council sees it that way and he wants to honor those people who want the Three Readings so that the public can look at this independent track on the financial issues and again, please do not try to pass this tonight, there is a lot to this, it really is something and it really is somewhat premature consistent in what Councilman Fiebig said because we have to wait and see if Planning is going to adopt it; but if Planning does adopt it, we would like to, especially Steve, our Economic Development Director has said that they want to capture the construction season, if they pass it, we would at least have the Three Readings and then be able to pass it at that time and they run on parallel tracks so if one happens, the next can happen; but they are a tandem thing that has to happen so that is why he is asking for this thing to at least be brought forward to be addressed and not voted on at this time. **Councilman Germano** stated that basically what we are doing here now tonight is just to vote to keep it on First Reading, just to keep it on First Reading. **President Somich** replied yes, that is his intent to keep it on First Reading. **Councilman Biro** stated that he agrees with the Law Director, we have a business that wants to come into our community, we want to give them every opportunity, an expedient opportunity, to do that and the fact that we can make it known to them that we do support them and their business and coming into our community, yes, he agrees with Mr. Lobe. **Councilman Plecnik** questioned the Law Director by stating that it was his understanding that amendments to the Agenda or new legislation is typically required to be submitted at least 48 hours in advance of the Council Meeting and he believes that the purpose of that rule is to allow the Members of Council sufficient time to review it; even to put something on First Reading we should at least have some presumably idea of what it is and what it should be and whether we even think it is worthy of consideration in the first place, so he would just ask if he is correct that there is a 48 Hour Rule. The Law Director responded that there is a 48 Hour Rule, it can be waived, and it has been waived and there is also a separation here of those ordinances created by the Council and those created by the Administration. This Ordinance was created by the Administration and passed forward and there is a Charter provision that allows the Mayor, he believes that it is Section 3.1 which specifically states that the Mayor is allowed to introduce legislation; now what Council does with it is something else. Now the Law Director is asking Council to waive the Two Day Rule because of certain circumstances leading up to it, if you don't, he gets that, he just hopes that you do; he would like to get it to First Reading. Secondly, he agrees in part with that it is the law, but if it is Council's desire to have it read three times, which he is in favor of on this one because there is a lot for discussion and you want the public to know about it, he would like Council to waive it so that the public and the Council can consider it earlier rather than later, that's all it is. If you decide not to, he understands, that is the rule and it can be waived. The Law Director feels that it is constant with what he has heard at this diocese get it to the public sooner, not later, not only for Council's consideration but for the public's.

Roll Call: Germano-yes, Plecnik-no, Somich-yes, Biro-yes, Fiebig-no

MOTION PASSES: 3-AYES/2-NAYS

President Somich declared that the Agenda for the Regular Council Meeting of February 27, 2014 has been amended to include Ordinance No. 2014-21.

ORDINANCE NO. 2014-1 – THIRD READING

1st Reading: January 23, 2014

2nd Reading: February 13, 2014

AN ORDINANCE AMENDING PART ONE – ADMINISTRATIVE CODE, TITLE ONE – GENERAL PROVISIONS, CHAPTER 115 – METHODS OF PURCHASE, SECTION 115.04 – EXPENDITURES IN THE AMOUNT OF \$25,000 OR MORE OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOUGHBY HILLS AND REPEALING CONFLICTING LEGISLATION.

MOTION WAS MADE BY COUNCILMAN GERMANO, seconded by Councilman Biro to adopt Ordinance No. 2014-1.

Councilman Plecnik stated that he is supportive of this legislation, he just wants to say that it is incumbent on all of us to make sure that as we take advantage of the savings from avoiding advertising relatively small projects that we also exercise our discretion carefully in choosing bids in a fair manner so that our contracted are treated well.

Roll Call: 5 AYES – unanimous

MOTION PASSES

President Somich declared that Ordinance No. 2014-1 has been adopted.

ORDINANCE NO. 2014-2 – THIRD READING

1st Reading: January 23, 2014 2nd Reading: February 13, 2014

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT MODIFICATION AGREEMENT BY AND BETWEEN CITY OF WILLOUGHBY HILLS, OHIO AND RICHARD L. BOWEN + ASSOCIATES, INC. AND REPEALING ANY AND ALL CONFLICTING LEGISLATION.

President Somich declared that Ordinance No. 2014-2 would remain on Third Reading and has been placed in a Joint Committee of Finance and Service and has yet to be discussed.

ORDINANCE NO. 2014-7 – THIRD READING

1st Reading: January 23, 2014 2nd Reading: February 13, 2014

AN ORDINANCE AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY AND THE OHIO PATROLMEN'S BENEVOLENT ASSOCIATION (DISPATCHERS) AND REPEALING ANY AND ALL CONFLICTING LEGISLATION.

MOTION WAS MADE BY COUNCILMAN FIEBIG, seconded by Councilman Biro to adopt Ordinance No. 2014-7.

Roll Call: 5 AYES – unanimous

MOTION PASSES

President Somich declared that Ordinance No. 2014-7 has been adopted.

ORDINANCE NO. 2014-10 – AS AMENDED – SECOND READING

1st Reading: February 13, 2014 - Tabled until Regular Council Meeting of February 27, 2014

AN ORDINANCE AMENDING PART NINE – STREETS, UTILITIES & PUBLIC SERVICES, TITLE FIVE – OTHER PUBLIC SERVICES, CHAPTER 941 – USE OF PUBLIC PROPERTY, SECTION 941.07 – WILLOUGHBY HILLS COMMUNITY CENTER, SUBSECTIONS (f)(3), (g), (h) AND (m) OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOUGHBY HILLS AND REPEALING CONFLICTING LEGISLATION.

President Somich conferred with the Law Director as to if the Ordinance had been previously read for the First Time. The Law Director confirmed that it had.

Councilman Plecnik clarified that it was his understanding that we did have this piece of legislation on First Reading last meeting there were some stylistic amendments that the Recreation Coordinator wanted to see implemented and he believes it is the opinion of the Law Director, and he can correct Councilman Plecnik, if he is wrong, that it is permissible for it to move from First to Second Reading because there were no substantive changes, it was simply a change in the wording and format of the statute. The Law Director stated that Councilman Plecnik is correct on all fronts.

President Somich declared that Ordinance No. 2014-10 would remain on Second Reading and as recommended by Councilman Fiebig would be reviewed by the Recreation Committee.

ORDINANCE NO. 2014-11 – AS AMENDED – SECOND READING

1st Reading: February 13, 2014 – Amended February 20, 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 TRAILARD LANE STORM SEWER EXTENSION PROJECT AND REPEALING CONFLICTING LEGISLATION.

MOTION WAS MADE BY COUNCILMAN GERMANO, seconded by Councilman Biro to suspend the Third Reading Rule for Ordinance No. 2014-11- AS Amended.

Councilman Plecnik took a moment to discuss the Three Reading Rule and why it is so important to the residents of Willoughby Hills as well as for Council's own deliberations. **Councilman Biro** stated that it was a compelling argument and history lesson as well and he agrees with Mr. Plecnik in some respects; the Three Reading Rule should be read in certain instances where taxes and other things that really need to be debated in front of the Council and Administration; but on certain issues he thinks that it is important, Mr. Knecht has an issue with drainage and these several ordinances also deal with drainage, things that impact our City, our residents, directly and has Mr. Knecht has said as the winter thaw comes he is subject to great discomfort in his situation; this is a good example, the next several pieces of legislation, to waive that Rule because it does impact our citizens in a negative fashion. We have the ability to get some of these projects started for our residents because that is who we serve, our residents, so in his opinion, he agrees with Mr. Plecnik in a sense, the Three Reading Rule is very important, and he doesn't waive just because he wants to, he waives it because he feels these are important issues and we need to get these issues resolved, we have the monies that is coming to us from Lake County, it is not costing us anything and we need to get the engineering going and these designs and things going, so that is his reasoning on why he supports waiving the Three Reading Rule. **President Somich** passed the gavel to Vice President Pro-tem Germano, to state why he passed the gavel, it is in the effort to be correct in terms of voicing his opinion as a Councilperson as compared to voicing it as the Council President, as Council President he is the moderator, as Councilperson, he has the right to share his personnel opinion. President Somich stated that he also agrees with Mr. Plecnik, he agrees that there was a very good reason why that policy was instituted and he agrees that in many cases we need to follow that. He would like to mention however, when you compare actions today to things that happen centuries ago, it is a very difficult comparison because centuries ago when they did have to have a town crier go out to public square that was the only way in which they could communicate, today we have internet, we have email, we have cell phones, we have fax machines, we have a whole lot of ways where communication is done at lightning speed compared to perhaps horseback from town to town and town criers that could only reach perhaps twenty people at a time with their unamplified voices at a time. **President Somich** stated that while Mr. Plecnik's point is very well taken, you need to realize that we are a far cry from even what it was fifty years ago let alone what it was centuries ago. But more to the point, the reason that we should waive the Three Reading Rule is that the Administration is supportive of this, our Finance Director has asked for it, our Mayor has asked for it, our Law Director has asked for it and he believes that there needs to be a congruency between the Administration and Council; these were fully approved and discussed and aired out for conversation in September 2013, President Somich realizes that Mr. Plecnik wasn't on Council at the time, but the Council body that was elected did fully vet the idea and the concerns and they passed them and the only reason that they have come back again is because they were not fully completed in the calendar year 2013, so they have come back on the table and now they have had to be amended because some ordinances were passed time out of sequence and there were some amendments but these are in all substantial measure that was the same passed now five months ago. These are not new appropriations, they were fully appropriated for in 2013 and fully funded by the Lake County Stormwater Management which means that they do not cost our City residents any money, it does not cost us as a taxpayer any funding and while last time, you did mention that we are taxpayers for the County, we are not elected to serve the County, we are elected to serve the residents of Willoughby Hills and so it is in our best interests at all times to save the City residents taxpayers money and if the County wants to put money into our City that is a very good thing so that our own City residents don't have to pay for it. We have heard from Mr. Knecht this evening, fifteen feet of water is already a problem and we haven't really had a thaw yet. President Somich has been on that site when it is the largest, non swimming pool of water that he has ever seen that isn't suppose to be there and it isn't even thawing yet so that is going to be very problematic and you heard Mr. Knecht speak this evening to please move it. Government moves slowly if you let it move slowly, if we have an opportunity to let it move quickly, we should do it. We need to be efficient, people elect us to be efficient, they elect us to handle things wisely, properly, cooperatively, and intelligently; they ask us to look at the situations and make our best logical decisions to do the right thing. **President Somich** believes that if you talk to people and say that we have fifteen feet of water behind people's properties and we have other major water issues that could become very serious, very quickly would they rather have us wait six weeks when it has already been fully funded, when it has already been approved five months ago, when it has already been vetted through all legal matters months ago, or would they rather take a technicality and let it go through Three Readings, he cannot believe that there would be a resident that wouldn't say fix the problem and don't let the flooding occur, don't let the danger occur, don't let the damage occur, don't cause other problems because of your stupidity to not pass this ordinance when you need to. **Councilman Germano** stated that he has a moral obligation because he was elected in his District and he is to do what is best for his District and this project is very important, the pipe itself is under water, we have to get in there and get this taken care of or else, the whole area down there is low and if we start flooding we know about it and we don't do any action about it who's at fault. **Councilman Plecnik** stated that there is one more important fact to be made here, these ordinances were passed September of 2013 prior to when he was on Council and yet over the months that the Administration had permission and authorization to go forward and to do these projects they were not done and so when it

is now brought to Council and called an emergency he has to say that he is somewhat skeptical, there were months upon months when the Service Department was authorized to take action on these projects but they chose not to and what's more is that he has been told by two members of Council that they have spoken with the Service Director and he had told them both that until we have a significant break in the weather he cannot work on these projects, **Councilman Plecnik** said that he is left with the understanding that even if we were to go one meeting early and that is what we are talking about, to violate the Three Reading Rule we would have to go one meeting early this would not actually head up or move up the date that this work would be done, it would simply cut-off decision and potentially result in more problems. So now we had a Police Contract that was passed last year and it did not go through the Three Reading Rule and yet we were forced, now months later to have the Personnel Relations Committee meet and amend it because there were errors in that and our Vice President Nancy Fellows pointed out last year that when we waive the Three Reading Rule and act quickly it doesn't actually move up when our achievements are achieved, instead we end up having to clean up legislation, make amendments and having unforeseen difficulties in paying our dispatchers several hundreds of dollars that they were not entitled to, taxpayers' dollars that we lost because we chose to vote on a contract prematurely so he doesn't think that it is stupid to follow the Three Reading Rule particularly when it will not even delay the achievement of the projects in question; he thinks that it is absolutely necessary and if we were to ask our founding fathers they wouldn't use the word efficient to describe government, government is not a business, they would use the word deliberate and deliberative to quote not only them but Professor Cass Sunstein of Harvard Law, they would use the word deliberate and that is the same reason that our founding fathers endorsed a representative form of government, why we have city councils and congressmen and the entire model that we have today of representatives elected by the people. The thought was that it might be faster to have a dictator, it might be faster to have a king, it might be faster to have a tyrant or a mayor to make all of our decisions with no debate, no deliberation, no input from the public and maybe sometimes we would avoid a disastrous result, but on the whole it is better to have the whole public engaged in the process, it is better to have the Three Reading Rule and Councilman Plecnik with state it once again, Jeremy Bentham said it best, people may cry urgency but we typically reason after the fact it is all about cutting off discussion and debate, and in this case we won't even move up the completion of the project. This isn't about getting the job done earlier; it is about cutting off the debate. **President Somich** wanted to clarify that it takes five (5) members out of the seven (7) to waive the Three Reading Rule, so anytime that this has been done in the past, it has not been because it has been steamrolled through, it always takes at least five (5) members of seven (7) to Waive the Three Reading Rule and even this evening we only have five (5) members present. If this were to be waived this evening, it would take all five (5) of those votes. **President Somich** just wanted to clarify so people won't get the impression that anything at all has been railroad through in the past when that has happened it has been because Council has considered it and at least five (5) of the seven and typically all seven (7) of the Council Members have voted to Waive the Three Reading Rule.

Roll Call: Germano-yes, Plecnik-no, Somich-yes, Biro-yes, Fiebig-no

MOTION FAILS: 3-AYES/2-NAYS

President Somich declared that the motion had failed and Ordinance No. 2014-11- As Amended would remain on Second Reading.

ORDINANCE NO. 2014-12 – AS AMENDED – SECOND READING

1st Reading: February 13, 2014 – Amended February 20, 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 ROCKEFELLER/WHITE STORM WATER CROSSOVER REPLACEMENT PROJECT AND REPEALING CONFLICTING LEGISLATION.

MOTION WAS MADE BY COUNCILMAN BIRO, seconded by Councilman Germano to suspend the Third Reading Rule for Ordinance No. 2014-12-As Amended.

Roll Call: Germano-yes, Plecnik-no, Somich-yes, Biro-yes, Fiebig-no

MOTION FAILS: 3-AYES/2-NAYS

President Somich declared that the motion had failed and Ordinance No. 2014-12- As Amended would remain on Second Reading.

ORDINANCE NO. 2014-13 – AS AMENDED – SECOND READING

1st Reading: February 13, 2014 – Amended February 20, 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 KNECHT/O'BRIEN CULVERT STREAM RESTORATION PROJECT AND REPEALING CONFLICTING LEGISLATION.

MOTION WAS MADE BY COUNCILMAN GERMANO, seconded by Councilman Biro to suspend the Third Reading Rule for Ordinance No. 2014-13-As Amended.

Roll Call: Germano-yes, Plecnik-no, Somich-yes, Biro-yes, Fiebig-no

MOTION FAILS: 3-AYES/2-NAYS

President Somich declared that the motion had failed and Ordinance No. 2014-13-As Amended would remain on Second Reading.

ORDINANCE NO. 2014-16 – AS AMENDED – SECOND READING

1st Reading: February 13, 2014 – Amended February 20, 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 EDDY ROAD STORM SEWER OVERFLOW SWALE PROJECT AND REPEALING CONFLICTING LEGISLATION.

MOTION WAS MADE BY COUNCILMAN BIRO, seconded by Councilman Germano to suspend the Third Reading Rule for Ordinance No. 2014-16-As Amended.

Roll Call: Germano-yes, Plecnik-no, Somich-yes, Biro-yes, Fiebig-no

MOTION FAILS: 3-AYES/2-NAYS

President Somich declared that the motion had failed and Ordinance No. 2014-16-As Amended would remain on Second Reading.

ORDINANCE NO. 2014-17 – AS AMENDED – SECOND READING

1st Reading: February 13, 2014 – Amended February 20, 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 PLEASANT VALLEY ROAD (WEST) STORM SEWER PROJECT AND REPEALING CONFLICTING LEGISLATION.

MOTION WAS MADE BY COUNCILMAN GERMANO, seconded by Councilman Biro to suspend the Third Reading Rule for Ordinance No. 2014-17-As Amended.

Roll Call: Germano-yes, Plecnik-no, Somich-yes, Biro-yes, Fiebig-no

MOTION FAILS: 3-AYES/2-NAYS

President Somich declared that the motion had failed and Ordinance No. 2014-17-As Amended would remain on Second Reading.

ORDINANCE NO. 2014-20

AN ORDINANCE PROVIDING FOR THE CONSENT AND RATIFICATION OF THE TERMS AND CONDITIONS SET FORTH IN THE AGREED JUDGMENT ENTRY AND ORDER DATED FEBRUARY 13, 2014 CASE TITLED BISHOP-WILLOUGHBY COMPANY, LTD. VS. THE CITY OF WILLOUGHBY HILLS, CASE NO. 13CV002709 AND DECLARING AN EMERGENCY.

President Somich declared that Ordinance No. 2014-20 would remain on First Reading.

ORDINANCE NO. 2014-21

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 BIRO, seconded by Councilman Germano to suspend the Two Day Notification Rule for Ordinance No. 2014-21.

Councilman Plecnik stated that he believes that this gets to the related point that Professor Keller of Cleveland State University we want to avoid sloppy government and we want our Mayors and Administrators to bring proposals to us in a timely fashion so he would not be supportive of Waiving the Two Day Notification Notice on this, he believes that forty-eight hours is a very simple requirement to met and a very short time in bring something before Council. **Law Director Lobe**, stated just the opposite, all he has heard is a very stern debate on the policy, and he doesn't want to get into policy, this would bring it to Council earlier and allow it to the public earlier and it is a technicality that can be waived and he is at a loss after hearing the stirring debate that you would not allow the public and the Council to have it, he is not asking that it be voted on, in fact, he is going to request that it be just considered thought upon, keep it on First Reading, please put it into a Committee so that we can talk about it so in the event that the Planning Commission does rule that we can at least go through this so that we don't have to start the debate or the discussion after the Planning Commission; that is all the Law Director asks, he has heard everybody and he still hopes that we give it to the public earlier and that you not stand on a technicality which can be raised and it is our rule and it can be waived either way; he just hopes that it does come for the Council's consideration, at least on First Reading and then what Council does with it, he will allow the majority of Council to do with it, but he hopes that you do put it in Committee and he hopes that we do start talking about it, sooner than later, in the event the Planning Commission does go forward but he would like for it to go on equal tracks just in case, it is good for the City. **President Somich** clarified that Mr. Plecnik had mentioned that Administration brought this forward just recently; it actually was brought forward last week. **Councilman Fiebig** requested **Point of Order**, for the President was giving his opinion on this, **President Somich** replied, no it is not an opinion, it is a fact, we all received an email from our Clerk that said it was received last week, so that is not an opinion, sir, that is a fact, there is a difference. **Councilman Fiebig** asked to be recognized. **Councilman Fiebig** stated that the project does not meet the City's requirements that is imposed by the local legislation; this particular piece, he feels has some serious flaws to it that he doesn't feel would be appropriate to put it on First Reading at this time, until we have had the opportunity to bring it up in an appropriate time, so for this reason and for the reason that the Planning Commission had voted to postpone the project, he doesn't feel that it is appropriate at this time to put this on First Reading, it is not ready yet.

MOTION FAILS: 3-AYES/2-NAYS

The Law Director stated that he was not sure if the Motion passed; doesn't know the legal answer if it passes or not.. The Clerk stated that it was the same as suspension of the rules; the Law Director stated that he believes that it is the same as the suspension of the rules, he can't verify that, so for right now until we can get a affirmative answer, we will come back, and if it passes it will remain on First Reading; he will come back and make the determination.

President Somich clarified that the vote was taken and it was three in favor of the motion and two opposed; we do not have a legal ruling because our Law Director needs to check it, it is an unusual situation in that we only have only five members of Council present and not sure if three votes is enough to pass the motion. The motion stands as the vote was taken and he will confirm that and if three is adequate it will stay on First Reading, if not, it will not officially even be at First Reading, either way it is not being voting on any further this evening. **President Somich** stated that if it does in fact go to First Reading, this will go to the Finance Committee because it is a finance issue, not a Planning and Zoning issue and it will be discussed further in Finance. **NOTE:** See "For the Good of the Order".

NEW BUSINESS

MOTION WAS MADE BY COUNCILMAN BIRO, seconded by Councilman Germano to declare as surplus 13 Datalux In-Car Mobile Computers as surplus equipment. The equipment has no true value now that it is outdated and cannot be re-used. If scrapped, the value of each of the units would be approximately \$50 each; total value of the 13 Datalux Mobile Units would be \$650.

Roll Call: 5 AYES

MOTION PASSES

President Somich declared that 13 Datalux In-Car Mobile Computers with the value of each of the units being approximately \$50 each; total value of the units would be \$650 have been declared as surplus property.

FOR THE GOOD OF THE ORDER

Councilman Fiebig:

Noted the passing of Elizabeth Luikart long time Eddy Road resident, (just across the golf course), who will definitely be missed.

Councilwoman Biro:

Acknowledged the passing of Kristina Music, long time Trabar resident, wishes go out to the family members.

Only has one word to say: Pancakes! Bring your appetites, blueberry is on the agenda, come and enjoy some great pancakes!

President Somich:

Looking for dinners and volunteers as well!

Councilman Plecnik:

Suggested that the residents try a "Willoughby Hills Hotdog" – try one of our sausages wrapped up in a blueberry pancake!

Councilman Fiebig stated that the motion to suspend the Two Day Notification Rule would require the approval of five (5) Members of Council. President Somich stated that we would have the Law Director verify that; the Law Director responded by stating that it was his recollection as well.

ADJOURNMENT

MOTION WAS MADE BY COUNCILMAN BIRO, seconded by Councilman Fiebig to adjourn the Regular Council Meeting of February 27, 2014.

Roll Call: 5 AYES - unanimous

MOTION PASSES

President Somich declared the Regular Council Meeting of February 27, 2014 to be adjourned at 7:10pm

APPROVED: Feb 19, 2014
Date

Raymond C. Somich
Raymond C. Somich
President of Council

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