

City of Willoughby Hills

Special Council Meeting Minutes of January 28, 2015

All Council Meetings shall be recorded by audio recording device and will be held in perpetuity and shall be part of the official records and minutes. Written minutes of Council shall be shortened whenever possible.

Meeting Called to Order at 7:00 p.m. by President Raymond C. Somich

Pledge of Allegiance

Roll Call of Council

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

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

Disposition of the Journal

Regular Council Meeting of January 8, 2015

MOTION WAS MADE BY COUNCILMAN BIRO, seconded by Councilman Hallum to adopt the Regular Council Meeting Minutes of January 8, 2015 as submitted.

Roll Call: 6 – AYES – unanimous

MOTION PASSES

President Somich stated that the Regular Council Meeting Minutes of January 8, 2015 have been approved as submitted.

CORRESPONDENCE

Email: From Council Office to Members and the Mayor dated January 14, 2015 re: 2014 Financial Disclosure Statements

City Engineer's Report dated January 22, 2015 (**Emailed:** January 22, 2015)

Letter from Rodger A. Pelagalli Co., L.P.A. dated January 14, 2015 re: Public Records Request (**Emailed:** January 20, 2015)

Email: From Council Office to Members and the Mayor dated January 23, 2015 re: Ohio Department of Liquor Control – Tavern Fresh

Interoffice Memorandum from Law Director Thomas G. Lobe and Council Clerk dated January 26, 2015 re: Public Records Request (**Emailed:** January 26, 2015)

FINANCIAL REPORTS FOR THE MONTH ENDING DECEMBER 2014 CONSISTING OF: GENERAL FUND INCOME STATEMENT, CASH RECONCILIATION, PURCHASE ORDER REPORTS, FUND ANALYSIS REPORTS, AND EXPENSE REPORTS (**Emailed:** January 19, 2014)

NOTIFICATIONS

Finance Committee Meeting of January 15, 2015 (**Emailed:** January 10, 2014)

Personnel Relation Committee Meeting of January 5, 2015 (**Emailed:** December 29, 2014)

Planning & Zoning Commission and Architectural Board of Review Meeting of January 15, 2015 (**Emailed:** December 15, 2014)

Rules and Legislation Committee Meeting of January 5, 2015 (**Emailed:** December 29, 2014)

Cancellation of the Regular Council Meeting scheduled for January 22, 2015; Special Council Meeting scheduled for January 28, 2015 (**Emailed:** January 12, 2015)

Rules and Legislation Committee Meeting of January 19, 2015 (**Emailed:** January 10, 2015)

Working Committee of Council Special Meeting of January 19, 2015 (Emailed: January 10, 2015)

Working Committee of Council Special Meeting of January 24, 2015 (Emailed: January 21, 2015)

BOARD OF BUILDING & ZONING APPEALS MEETING SCHEDULED FOR TUESDAY, FEBRUARY 10, 2015 HAS BEEN CANCELLED AS NO NEW APPEALS WERE RECEIVED (Emailed: January 28, 2015)

CHARTER REVIEW COMMISSION MEETING SCHEDULED FOR 6:00PM ON TUESDAY, FEBRUARY 3, 2015 (Emailed: January 28, 2015)

MINUTES

Board of Building & Zoning Appeals Meeting of December 9, 2014 have been posted on the City's Website (Emailed: January 14, 2015)

Finance Committee Meeting of January 15, 2015 (Emailed: January 26, 2015)

Rules and Legislation Committee Meeting of January 5, 2015 (Emailed: January 9, 2015)

Working Committee Meeting of January 19, 2015 (Emailed: January 26, 2015)

Working Committee Meeting of January 24, 2015 (Emailed: January 26, 2015)

PLANNING & ZONING COMMISSION AND ARCHITECTURAL BOARD OF REVIEW MINUTES OF NOVEMBER 6, 2014 AND NOVEMBER 20, 2014 HAVE BEEN POSTED ON THE CITY WEBSITE (Emailed: January 28, 2015)

President Somich stated the while we were talking about postings on the website, he knows that the Clerk of Council contacted him after the last Council meeting, because there was some discussion whether one of the Ordinances had been updated properly on the City website. He believes it was Councilman Fiebig that couldn't find the newest version of that one and stated that in the minutes. The Clerk of Council did check and he did verify that the revised, latest version was updated on the website.

The **Clerk of Council** replied that it was for 2014-64.

President Somich responded to let the minutes show that the Ordinance had been updated as of the last meeting.

Councilman Fiebig stated that what he had found was he had an old version on his computer and he forgot to refresh his website.

MAYOR'S REPORT – Robert M. Weger

Charter Review is set to start their meetings next week beginning on Tuesday, February 3, with their Organizational Meeting.

A meeting was held with Tim Miller of Lake County Stormwater Management Program last week. We will be creating a 5-year plan with projects we would like to accomplish. Once the Knecht/O'Brien and Lamplight projects are completed, we will have basically completed everything on our previous 3-year plan's list. Council should contact Mark Grubiss if they receive any possible stormwater projects or if they are aware of any in their district to get it on the new list as part of our planning process.

Bid specs are being finalized for the trash and recycle program and we plan to go out to bid in the next week or so. Thanks to Mark Grubiss, Gloria Majeski, and Councilman Chris Hallum for their work on this project.

Thanks to the eight applicants for District 1 Council position. I am sure their excellent qualifications have made Council's job difficult, but I look forward to welcoming our new Council representative.

Chief Collins and the Civil Service Commission conducted interviews for a Full-time Police Officer to replace retiring SGT Duane Petrovich. We made an offer which was accepted to PT Police Officer Cory Planisek and look forward to swearing him in on Friday.

AARP Tax Assistance appointments are still available. Call my office to schedule.

Acknowledgements:

Congratulations to resident Kevin Malecek on his appointment as Lake County Commissioner. Kevin will be sworn in next Wednesday, February 4 at 6pm at Mentor Civic Center. All are welcome to attend.

Congratulations to our Police Department who were able to end a standoff peacefully on Monday, bringing the criminal to justice without incident.

Welcome to our new dispatcher Kendra Adams and part-time Police Officer Richard Harmon (no relation to Fire Chief Harmon!).

Congratulations to the following employees who are celebrating significant years of service with the City of Willoughby Hills:

- Chief Chris Collins—15 years
- Firefighter Tim Beck—10 years

- Service Department Employee Marty Gazdak—15 years

Thank you for your service to the City.

Condolences to the family of Victor Koncilija who passed away last week and Florence Iafelice who passed away this morning.

Events:

Boys' League Football Raffle at La-Vera – Saturday, January 31, 2015 at 6pm

Councilman Fiebig asked the Mayor if he personally or has the City engaged the services or retained the attorney Rodger Pelagalli.

The Mayor stated that he did not recall.

The Law Director stated that he can answer that. Absolutely.

Councilman Fiebig reiterated that the Mayor did not recall retaining his services.

The Mayor stated no, he does not. We did not.

Councilman Fiebig clarified if we did not as a City or him personally.

The Mayor responded yes.

Councilwoman Fellows asked is Florence Iafelice Richard's mother?

The Mayor responded no. It's Loreto's mother. The funeral arrangements are going to be Sunday as viewing and the funeral is Monday.

President Somich clarified for those in the audience and at home, Loreto is one of our more prominent residents and has worked hard in many areas of development of our City and his mother has been there, behind him, so our sympathies certainly go out to the family. Many other expressions of gratitude and congratulations he thinks are echoed by Members of Council. He hopes our new County Commissioner does not forget his roots and serving on this Committee, on this Council, for many, many years. We look forward to working with him on the County position.

LAW DIRECTOR'S REPORT – Thomas G. Lobe

Commented on 2015-5 which is the Ordinance for the new position for the Community Service Officer. We have gone through multiple drafts on the exhibit which is the job description to come into compliance. He thinks we are on the third or fourth draft. The Chief edited this with some of the Police Officers, but he did receive a phone call from the Union Representative and he has issues. He wants to meet so we are meeting Friday, January 30. One of the issues, and he might have more issues, but one of the issues was in fact if there are layoffs, how would this position be in the next...with any layoff possibilities. The second issue was how many of these CSO officers are we going to hire? They want to limit it and he told him that we planned on that, but we might be entering into a memorandum of understanding if those are the universe of the two issues only. The Chief has no problem with that position and he doesn't think there is any necessity for more of these positions. In fact, he told him Council would have to approve more of these positions because it is a position. He said he might have more issues so we will find out Friday afternoon.

Councilman Fiebig stated that he doesn't know if this would be the appropriate time to discuss the records request or if we bring that up in New Business, but it is in regard to the memo that the Law Director sent out. Would this be the appropriate time to talk about that?

President Somich replied he thinks it would be more appropriate under New Business, because at this point he is making a report and that wasn't included in the report.

Councilman Fiebig responded sure.

President Somich stated that the comment he was going to make was that the plan for Ordinance 2015-5 is to leave it on First Reading tonight so we are definitely not going to allow for consideration for passage this evening.

The Law Director replied that he knew that but he wanted everybody to know that there was a second issue we were not aware of.

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

No formal report was given.

Councilman Plecnik stated he didn't have the report that the Finance Director gave at the last meeting, but he wanted to make sure he was reading it correctly. The Finance Director had stated that the second column which was labeled "Projected" should be labeled "Final as of 12/31/2014" and the last two items at the bottom, Unreserved General Fund Balance, he reads that to be the carryover. Is that correct?

The Finance Director replied correct. Both of those statements are correct.

Councilman Plecnik questioned if he was reading correctly that the carryover went from nearly \$1.2 million to \$635,000 from December 31 to the very next day of January 1?

The Finance Director responded no.

Councilman Plecnik questioned what do the numbers mean there?

The Finance Director stated the first number is the Fund balance from January 1, 2014 and the last number is the balance on December 31, 2014 so it's the end of the year 2013 balance and the end of the year 2014 balance.

President Somich commented that the Finance Committee did meet; although, this was distributed at that Committee meeting so we knew we didn't have a lot of time to discuss this so we do plan to discuss that further at the next Finance Committee meeting so any other questions could be discussed and asked then.

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

Motions to authorize bidding on the Lamplight and Knecht/O'Brien culvert are on the agenda. Those have been a long time coming and they are finally ready to go out. Ordinance 2015-6 and Ordinance 2015-7 are related to those. They are easements that the property owners are granting the City and they are a requirement for funding from the County. If those Motions are approved, we are immediately ready to go out to bid.

Motion to go out to bid for the Pavement Marking Project. We've already had Motions for resurfacing Pleasant Valley Road and Eddy Road, but if those Motions are approved the only thing we would need to prepare the bid documents is an appropriation which he is assuming would be done when the Budget is prepared.

A resident brought to our attention several bumps on Chardon Road between Worrell and River. Both he and Mark Grubiss drove the road and observed the bumps. The bumps are there and are, in his opinion, at the joints of the concrete pavement below. In his opinion, last winter, due to the harsh cold, it caused some heaving and created those bumps. He did call ODOT because it is a state route and found out that Chardon was last resurfaced in 2008 and is currently rated an 80 or above on a scale of 100 and they typically don't resurface a road until it reaches a 55 so there is not a whole lot we can do. Service Superintendent Mark Grubiss did talk to the City of Wickliffe and could potentially get an asphalt planer to try to shave the bumps down, but we do have a concern that that might create some sound when you drive over. We are probably going to wait until Spring and do a test and see if we can address those.

President Somich stated that we are in receipt of the one you filed with us and we were all sent that by email.

COMMITTEE REPORTS

The following Reports have been listed alphabetically by Committee.

FINANCE – Raymond C. Somich, Chair

Committee Members:

Nancy E. Fellows

COMMITTEE MEETING OF JANUARY 15, 2015

Members Present: President Raymond C. Somich, Chair, Vice President Nancy E. Fellows (currently one Member short due to Councilman Germano's resignation.)

Also Present: Councilman Christopher L. Biro, Councilman David M. Fiebig, Councilman John Plecnik, Finance Director Frank Brichacek, Mayor Robert M. Weger

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

Meeting convened at 6:02pm

Order of Business

The Finance Director Brichacek recapped the background on the need to refinance previous debt, and recommended a plan. He stated that he expects interest rates to remain low, similar to what we received in 2014. **Councilwoman Fellows** asked if there were legal limits for the amount of debt a city can have, and **Finance Director Brichacek** said we are well below legal limits, and in his opinion, in good proportion for a City budget of our size. She also asked for clarification on how we appropriated funds last year before ordering the ambulance's refurbishment. **Finance Director Brichacek** explained that we had appropriated funds from a capital account to legally allow us to place the order, but reminded us that we had agreed that we would finance the purchase in 2015 when we did the refinance package. We also discussed that we would meet in the near future to discuss a plan to save for future vehicle replacement and other capital expenses. We also discussed how much of the debt related to street paving, and how we are paying off \$200,000 from an old street note in this refinancing. **Councilman Fiebig** asked if we could pay down early without penalty and the **Finance Director**

said we should have budgets finished before we actually finalize the refinance program, so we could reduce the amount borrowed if we determine that less funds are needed. He also stated that “debt unto itself is not necessarily a bad thing, but debt out of control is definitely bad,” and we are definitely not in that state.

We then discussed the procedures and timing that would be required to meet the deadlines and save money by pursuing financing for the rollover debt at the same time as we pursue financing for new capital purchases. **There was consensus that we would adopt the refinancing ordinance with no emergency clause after three readings. There was also consensus that we would waive the three readings on the ordinances to purchase the new service truck and ambulance refurbishment.** However, these ordinances will not have an emergency clause, which means that, in the unexpected event that a resident has concerns about the adoption, they have time to voice their concerns and even prevent the ordinance to become a law within 30 days of the vote.

Public Portion

Opened at 6:41pm – no one came forward. **Closed at 6:42pm.**

Meeting adjourned at 6:44pm

RULES & LEGISLATION – Nancy E. Fellows, Chair

Committee Members:

David M. Fiebig, Raymond C. Somich

COMMITTEE MEETING OF JANUARY 19, 2015

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

Also Present: Councilman Christopher L. Biro, Councilman Christopher Hallum, Councilman John Plecnik, Law Director Thomas G. Lobe, Finance Director Frank Brichacek, Mayor Robert M. Weger

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

Meeting convened at 6:05pm

Order of Business

Legislation for the Council meeting of January 28, 2015:

Ordinance 2014-64 – Introduced last fall 2014, placed into Personal Relations Committee, amended twice – this will be the **2nd Reading of the Second Amendment.**

Ordinance 2015-1 – An Ordinance providing for the issuance and sale of not to exceed \$800,000 notes for the purpose of paying:

- A portion of the costs of renovating, improving and equipping the City’s existing fire and police communication center
- Acquiring a fire truck
- Rebuilding and resurfacing various roads including Gatsby Lane and Hanna Road

This note will mature on March 12th, therefore **First Reading is appropriate.**

The following notes are aligned with new equipment, or a first debt to be issued, therefore they cannot have emergency clauses attached to them. Because of this, the **Finance Director requests that they be passed on the First Reading in the essence of time for legal preparation.**

Ordinance 2015-2 – An Ordinance providing for the issuance and sale of not to exceed \$110,000 notes for the purpose of acquiring an ambulance chassis and related equipment. **First Reading, Waive the 3 Reading Rule and Adopt.**

Ordinance 2015-3 – An Ordinance for the issuance and sale of not to exceed \$150,000 notes for the purchase of a new service vehicle. **First Reading, Waive the 3 Reading Rule and Adopt.**

Ordinance 2015-4 – An Ordinance authorizing and directing the Mayor to enter into a contract agreement with Bowen Associates, for our city engineer and assistants. This new contract incorporates an additional assistant and increases retainer fees. **Rules and Legislation recommends that this be on First Reading.**

Ordinance 2015-5- An Ordinance accepting the newly created Community Service Officer and compensation. Rules and Legislation recommends this be on **First Reading.**

While Council is knowledgeable of the following drainage project between the Knecht/O'Brien properties, which has been ongoing for nearly 2 years, the following two Ordinances were not discussed at the Rules and Legislative Committee meeting.

Ordinance 2015-6 –An Ordinance aligned with a permanent drainage easement at 29329 Eddy Road.

Ordinance 2015-7 –An Ordinance aligned with a permanent drainage easement at 29341 Eddy Road.

Motions of Council authorizing the Mayor to seek bids for the following were mentioned:

City's 2015 requirements for Asphalt and Limestone

Lamplight Lane Culvert Replacement

Knecht/O'Brien Culvert Project

City's 2015 Pavement Marking, which was not done this past year (2014)

- Appointment of Councilman for District I

Public Portion

Opened at 6:34 p.m. with a question from resident Linda Fulton concerning pavement marking. **Public Portion closed at 6:35 p.m.**

Meeting adjourned at 6:35pm

WORKING COMMITTEE OF COUNCIL – Raymond C. Somich, Chair

COMMITTEE MEETING OF JANUARY 19, 2015

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

Also Present: Law Director Thomas G. Lobe, Mayor Robert M. Weger

Purpose of the Meeting was to discuss **Open Council Position – District 1** and any other business.

Meeting convened at 8:35pm

Order of Business

After the meeting was called to order, **Public Portion was opened at 6:36** and when no one came forward, **closed at 6:36pm**. Then Councilman Biro made a motion to go into executive session to consider the appointment of a public official. Seconded by Councilman Hallum. Motion carried unanimously. Moved to executive session at 6:37pm.

In Executive Session, Council discussed the resumes of eight council candidates, for possible appointment to complete Councilman Germano's 2015 term.

Executive Session was concluded at 8:04pm and the Committee Meeting resumed. Councilman Fiebig then motioned for adjournment, seconded by Councilman Hallum. Motion carried unanimously.

Meeting adjourned at 8:50pm

COMMITTEE MEETING OF JANUARY 24, 2015

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

Also Present: Prospective Members of Council: Kimberly Van Sickler, W. James Walsh, Jennifer Ann Greer, Michael Kline

Purpose of the Meeting was to discuss **Appointment of Councilman, District 1** and any other business.

Meeting convened at 8:05pm

Order of Business

After the meeting was called to order, Councilman Fiebig made a motion to go into Executive Session to consider the appointment of a public official. Seconded by Councilman Biro. Motion carried unanimously. Moved to Executive Session at 8:06am.

In executive session, Council conducted separate interviews with all four candidates, then discussed each interview afterwards. Executive Session was concluded at 12:20pm with a Motion by Councilman Fiebig, second by Councilman Hallum, Motion carried unanimously, The committee meeting resumed at 12:21pm, when public portion was called. No one came forward, and public portion ended at 12:21pm.

Councilman Biro then motioned for adjournment, seconded by Councilman Hallum. Motion carried unanimously.

Meeting adjourned at 12:22pm

OTHER COUNCIL REPRESENTATIVE REPORTS

There were no other Council Representative Reports brought forth by the Members.

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 7:30pm and with no one coming forth from the Public Sector was promptly closed at 7:31pm.

UNFINISHED BUSINESS

Councilman Fiebig wanted to ask Road Superintendent Mark Grubiss, because it was brought up in the Committee Report, about how he is doing with the service vehicles and any concerns that he might have. **The Road Superintendent** responded he currently has some information back about bids but he is waiting for some more; he is trying to go with stainless steel options, because they have a longer life period. **Councilman Fiebig** questioned if one of the vehicles we currently have will last another two years. **The Road Superintendent** responded probably not. **Councilman Fiebig** confirmed that we have five good vehicles currently. **The Road Superintendent** replied so-so. We only have two really good vehicles. **President Somich** stated they have been looking at this in Finance Committee; we know we have to look at our capital investments and some of our vehicles so he would urge our Service Committee to stay in touch with our Road Superintendent and when he is ready to present some options that he has prepared, we will call a Service Committee Meeting so we can start that process.

LEGISLATION

ORDINANCE NO. 2014-64 – AS AMENDED JANUARY 8, 2015 – SECOND READING

1st Reading: November 13, 2014

2nd Reading: December 11, 2014

1st Reading: January 8, 2015

AN ORDINANCE AMENDING PART ONE – ADMINISTRATIVE CODE, TITLE FIVE – ADMINISTRATIVE, CHAPTER 157 – GENERAL EMPLOYMENT PROVISIONS, SECTION 157.07 – SICK LEAVE, BY THE ESTABLISHMENT OF SUBSECTION (j) VOLUNTARY SICK LEAVE DONATION OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOUGHBY HILLS AND REPEALING CONFLICTING LEGISLATION.

Councilwoman Fellows made a Motion to waive the Three Reading Rule for Ordinance 2014-64.

President Somich stated we have a Motion to waive the Three Reading Rule for Ordinance 2014-64. Is there a Second? If not, then this dies due to a lack of a Second on that Motion.

President Somich declared that Ordinance No. 2014-64 would remain on Second Reading and will be considered at the next Council Meeting.

ORDINANCE NO. 2015-1

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED \$800,000 NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING A PORTION OF THE COSTS OF (I) RENOVATING, IMPROVING AND EQUIPPING THE CITY'S EXISTING FIRE AND POLICE COMMUNICATIONS CENTER, (II) ACQUIRING A FIRE TRUCK, AND ALL RELATED EXPENSES THERETO, AND (III) REBUILDING AND RESURFACING VARIOUS ROADS WITHIN THE

CITY, INCLUDING A PORTION OF GATSBY LANE AND HANNA ROAD, AND ALL NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

President Somich declared that Ordinance No. 2015-1 would remain on First Reading.

ORDINANCE NO. 2015-2

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED \$110,000 NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING THE COSTS OF ACQUIRING AN AMBULANCE CHASSIS AND RELATED EQUIPMENT, AND ALL RELATED EXPENSES THERETO.

MOTION WAS MADE BY COUNCILMAN BIRO, seconded by Councilwoman Fellows to suspend the Three Reading Rule for Ordinance No. 2015-2.

President Somich commented that this has already been described as to why we are doing this in the various Committee Minutes.

Roll Call: 6 AYES – unanimous

MOTION PASSES

President Somich declared that the Three Reading Rule for Ordinance No. 2015-2 has been suspended.

MOTION WAS MADE BY COUNCILWOMAN FELLOWS, seconded by Councilman Fiebig to adopt Ordinance No. 2015-2.

Roll Call: 6 AYES – unanimous

MOTION PASSES

President Somich declared that Ordinance No. 2015-2 has been adopted.

ORDINANCE NO. 2015-3

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED \$150,000 NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING THE COSTS OF ACQUIRING VEHICLES AND RELATED EQUIPMENT FOR THE SERVICE DEPARTMENT, AND ALL RELATED EXPENSES THERETO.

MOTION WAS MADE BY COUNCILMAN BIRO, seconded by Councilwoman Fellows to suspend the Three Reading Rule for Ordinance No. 2015-3.

President Somich commented that we have discussed the wherefores and whys.

Roll Call: 6 AYES – unanimous

MOTION PASSES

President Somich declared that the Three Reading Rule for Ordinance No. 2015-3 has been suspended.

MOTION WAS MADE BY COUNCILMAN BIRO, seconded by Councilman Hallum to adopt Ordinance No. 2015-3.

Councilman Plecnik questioned if the total debt plan in 2015-1, 2015-2, and 2015-3 is that we have essentially a million dollar note, \$200,000 of which we are paying down, leaving \$800,000 in 2015-1 then we are adding \$110,000 and \$150,000 respectively leaving us with a net of \$1,060,000. Is that correct?

The Finance Director replied that is correct.

Councilman Plecnik stated he would like to make a Motion to amend 2015-3 to only borrow \$90,000 because he would like to keep our debt stable at the million and given that we do have a significant amount of carryover to handle that \$60,000 of debt, he thinks we need to draw the line and try to keep debt at least at an even level as opposed to increasing it albeit modestly so he would move to amend Ordinance 2015-3 to borrow \$90,000 in notes instead of \$150,000.

President Somich would like to confer with our Law Director, because he knows we have already waived and we've had a Motion and a Second...does this take precedence?

The Law Director stated that it does take precedence.

President Somich replied okay. So we do have a Motion from Councilman Plecnik to amend Ordinance 2015-3 and change the \$150,000 to \$90,000. Is there a Second on that Motion?

MOTION WAS MADE BY COUNCILMAN PLECNIK, seconded by Councilman Fiebig to amend Ordinance No. 2015-3.

President Somich stated that he is going to ask the Finance Director his thoughts on this since he is the one that prepared the Ordinance and we have discussed this in Finance and it was discussed in Rules and Legislation as well. Mr. Brichacek, do you have any immediate comments on what that change would do for your ability to get the financing for us?

The Finance Director stated it won't affect the ability to get the financing. It will have a budgetary impact. Because if the truck is anticipated coming in at the \$150,000 level, the \$60,000 will have to come from the operating budget.

President Somich stated relative to that point, speaking as Finance Chair, because we have discussed that and he thinks that he has even allotted to that in his minutes, we have the time between now and between the time when this actually is exercised, when we sign on this, we will know exactly where our budgets are for this coming year, we will have had a chance to review them early and he said that he is not sure exactly of the timing perhaps even have voted on that budget so we will know if we have \$60,000 available and if so, we have already determined in the last Council Meeting that we would be able to borrow less than if we have it available to us so we have already discussed that and have that understanding, if you will; just wanted to give that opinion on behalf of the Finance Committee. President Somich then asked if there was any further discussion from any other Members of Council regarding the Motion to Amend.

Councilman Hallum added just speaking as a Service Committee Chair and knowing that there is a lot to get done that has not been able to be done on the roads he would rather have that money available to do some of the projects that we really need to get done, sooner than later, and said that was just his opinion. **President Somich** asked Councilman Hallum if he could clarify what that means relative to the Motion. **Councilman Hallum** answered by saying that he would rather us go ahead and borrow the money and have that money available that extra \$60,000 on hand to do other projects that we need to get done in the City rather than spend it, basically we are going to spend it on this truck and not have it available to do other things.

Councilman Biro stated that he agreed with Mr. Hallum, hearing that we have more issues with the trucks; also his question, we have the ability to pay that down if we do have a significant amount of resources left, we have the ability to pay more towards that debt, is that correct. **Finance Director** replied, yes, this is a one year note so when it matures next year, you can make the determine as to...**Councilman Biro** interrupted by saying that we have the ability like now we're paying \$200,000 we can pay more. **Finance Director** replied that is correct.

Councilwoman Fellows addressed President Somich by adding but not until next year, right. **President Somich** replied after the one year.

Councilwoman Fellows further stated that she knows what was discussed before the fact that whatever money that we can borrow that leaves more money for us to do things right here now, it would be nice if we were not...if we could whittled down our debt instead of add to it or at least pay off so that we are at least even. So when we are adding \$60,000 to our debt this year, which isn't a lot in the scheme of things but it is still adding instead of being able to pay off that whatever we are going to borrow from paying off or it would be even better if we could have it a little less.

Councilman Fiebig addressed the President asking if he could weigh in as everybody has made a comment. He said that the thing that he was uncomfortable with and he did mention it in Committee is that we are going in the wrong direction with debt when we have a carryover which has supposedly doubled, so it just doesn't seem to be prudent to go further into debt when there is such a carryover. Councilman Fiebig said that the other concern that he also brought up was that we are doing budgeting after we are looking at a Debt Plan; he thinks that's a little bit backwards too. He said that he wishes that we could have had the opportunity to have a little more projection and input on our budget during the last 6 to 8 weeks before being under the gun to do this before a certain date. So he thinks that proper planning is really the point that he is going after, but he did second the Motion for discussion, its good discussion and he said that he thinks that he will vote in the affirmative.

Finance Director Brichacek said to be clear, the City back in 2015 will have less debt than it had in the start of 2015 even with this change as proposed.

President Somich stated alright, if there is no other discussion, **we are about to vote on an amendment to Ordinance No. 2015-3. It was proposed by Councilman Plecnik, seconded by Councilman Fiebig to amend Ordinance No. 2015-3 not exceed \$90,000 in notes compared to the original not to exceed a \$150,000 notes.**

Roll Call: Fellows-no, Fiebig-yes, Hallum-no, Plecnik-yes, Somich-no, Biro-no

President Somich declared that Motion to amend Ordinance No. 2015-3 had failed.

President Somich further stated that we would go back to the original Motion that was made to Adopt as originally written for \$150,000 that Motion was made by Councilman Biro, seconded by Councilman Hallum, we were in discussion when the second amendment, when the amendment was proposed, is there any further discussion on Ordinance No. 2015-3 and the Motion to Adopt?

Roll Call: Fellows-yes, Fiebig-yes, Hallum-yes, Plecnik-yes, Somich-yes, Biro-yes

President Somich declared that Ordinance No. 2015-3 has been adopted.

ORDINANCE NO. 2015-4

AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN THE CITY OF WILLOUGHBY HILLS, OHIO AND RICHARD L. BOWEN + ASSOCIATES, INC. FOR CITY ENGINEERING SERVICES; REPEALING CONFLICTING LEGISLATION AND DECLARING AN EMERGENCY.

President Somich declared that Ordinance No. 2015-4 would remain on First Reading.

ORDINANCE NO. 2015-5

AN ORDINANCE FIXING THE COMPENSATION FOR THE POSITION OF COMMUNITY SERVICE OFFICER.

President Somich declared that Ordinance No. 2015-5 would remain on First Reading.

ORDINANCE NO. 2015-6

AN ORDINANCE ACCEPTING A PERMANENT DRAINAGE EASEMENT AND TEMPORARY WORK AGREEMENT AT 29329 EDDY ROAD FOR THE PURPOSES OF INGRESS AND EGRESS TO THE PERMANENT DRAINAGE EASEMENT AREA AND THE ASSOCIATED APPURTENANCES AS DESCRIBED IN THE ATTACHED EXHIBIT.

President Somich stated as Councilwoman Fellows mentioned at the end of her report, we did not discuss Ordinance No. 2015-6 or Ordinance No. 2015-7. If we have had a chance to read those, and he hopes that all of Council has; those are allowing us, the terms “ingress” and “egress” are allowing us basically to do the areas so that, we need to have that approved by Council as a law, as an Ordinance approved before we can go ahead and go out to bid to make those necessary improvements. So it is a formality but it is important and he believes that he heard this evening our City Engineer urging us get this adopted as quickly as possible, if we chose to do that so that he can go out to bid earlier and get the project underway as quickly as possible. The earliest way to do that would be for us to consider waiving the Three Reading Rule that is of course at the wishes of Council.

Councilman Plecnik replied that he thinks that the O’Brien/Cappelli and Knecht have waited long enough and made the following Motion.

MOTION WAS MADE BY COUNCILMAN PLECNIK, seconded by Councilman Biro to suspend the Three Reading Rule for Ordinance No. 2015-6.

Roll Call: 6 AYES – unanimous

MOTION PASSES

President Somich declared that the Three Reading Rule for Ordinance No. 2015-6 has been suspended.

MOTION WAS MADE BY COUNCILMAN PLECNIK, seconded by Councilman Fiebig to adopt Ordinance No. 2015-6.

Roll Call: 6 AYES – unanimous

MOTION PASSES

President Somich declared that Ordinance No. 2015-6 has been adopted.

ORDINANCE NO. 2015-7

AN ORDINANCE ACCEPTING A PERMANENT DRAINAGE EASEMENT AND TEMPORARY WORK AGREEMENT AT 29341 EDDY ROAD FOR THE PURPOSES OF INGRESS AND EGRESS TO THE

PERMANENT DRAINAGE EASEMENT AREA AND THE ASSOCIATED APPURTENANCES AS DESCRIBED IN THE ATTACHED EXHIBIT.

MOTION WAS MADE BY COUNCILMAN PLECNIK, seconded by Councilman Hallum to suspend the Three Reading Rule for Ordinance No. 2015-7.

Roll Call: 6 AYES – unanimous

MOTION PASSES

President Somich declared that the Three Reading Rule for Ordinance No. 2015-7 has been suspended.

MOTION WAS MADE BY COUNCILMAN FIEBIG, seconded by Councilman Plecnik to adopt Ordinance No. 2015-7.

Roll Call: 6 AYES – unanimous

MOTION PASSES

President Somich declared that Ordinance No. 2015-7 has been adopted.

NEW BUSINESS

MOTION WAS MADE BY COUNCILMAN HALLUM, seconded by Councilman Biro to authorize the Mayor to seek bids for the City's 2015 requirements for Asphalt and Limestone.

Roll Call: 6 AYES – unanimous

MOTION PASSES

President Somich declared that the Mayor has been authorized to seek bids for the City's 2015 requirements for Asphalt and Limestone.

MOTION WAS MADE BY COUNCILMAN FIEBIG, seconded by Councilman Plecnik to authorize the Mayor to seek bids for the Lamplight Lane Culvert Replacement Project.

Roll Call: 6 AYES – unanimous

MOTION PASSES

President Somich declared that the Mayor has been authorized to seek bids for the Lamplight Lane Culvert Replacement Project.

MOTION WAS MADE BY COUNCILMAN PLECNIK, seconded by Councilman Biro to authorize the Mayor to seek bids for the Knecht-O'Brien Culvert Project.

Roll Call: 6 AYES – unanimous

MOTION PASSES

President Somich declared that the Mayor has been authorized to seek bids for the Knecht-O'Brien Culvert Replacement Project.

Councilwoman Fellows stated as the Mayor had indicated, we had eight very eligible candidates for the appointment of Councilman District 1. **President Somich** interrupted by stating that there was one more Motion listed on the Agenda that we may want to do in order. Councilwoman Fellows replied that they didn't have be in order. President Somich replied that he did not know that they didn't have to be in order and thought that she may have just forgotten or may have overlooked. **Councilwoman Fellows** stated that they are not legislation. Councilwoman Fellows went on to say that after much deliberation and thought that she would like to make the following Motion:

MOTION WAS MADE BY COUNCILWOMAN FELLOWS, seconded by Councilman Plecnik to appoint Kimberly Van Stickler to serve as District 1 Councilman.

Councilwoman Fellows stated that it was very difficult and she thinks that we would all agree to that. What stood out for her was that Kimberly has worked for many years with the Girl Scouts and for an individual to take that much time and dedication to help nurture and foster young girls to become respectable and honorable citizens in our community says volumes to her character.

Councilman Plecnik stated that he knows that most of us digested by ourselves who we thought the best candidates were, there were not a lot of discussions outside of the meeting, and he said that he actually thinks that is for the best because the public deserves to hear our thoughts and he thinks that it bears noting that Council would probably be extraordinarily be well served by any of the people who had applied and he thinks that we should start before we vote by saying that every single person who applied did a great service to the City just by stepping forward and he is really grateful to some of those candidates for actually coming out today and for following up with each and every one of us; he doesn't know how this particular vote will go, if there will votes after that vote as well, but before we get in the nitty-gritty, he thinks that it is important to say that he thinks that most of us are impressed with everybody who applied and just a couple of notes, he thinks were impressed with several of the people that we didn't have time to interview as well. One of the

references in our Engineer's Report was to one of the applicants who was very concerned about his road and he thinks that it speaks to his leadership that he actually took the step by approaching the City, going to Council Meetings and getting our new Service Road Superintendent and our Engineer to check it out and to start finding solutions so even the people who didn't make it to the interview stage he thinks were very, very qualified and add a lot to the pool here, so he thinks that we have an extremely difficult decision to make and he is looking forward to welcoming who ever Council chooses today and who ever Council doesn't choose and it pains him for he sees two people here and he knows that only one of them could potentially be picked but this 10-month period is a chance for you to show your neighbors how well you performed as a Councilman, Councilwoman or in the alternative a candidate. And whether or not you earn his vote as a resident which actually he thinks is a lot more valuable than his vote here for a very short term is going to come down to what you do in the next 10 months whether it is on Council, whether it is a Member of the Charter Review Commission, whether it is just as a candidate reaching out to your neighbor, so he hopes that he will be able to meet with all of the candidates again and talk with them about what they want to do for Willoughby Hills as a Councilperson, as a Commission Member, as a resident because gosh, this is a tough one. It pains him when we have a whole bunch of A students and we have to chose the high A.

President Somich as the Chair of the Working Committee of Council, he said that he echoes many of Councilman Plecnik's comments and he really doesn't think that it comes down to who is better, he doesn't even think that it matters if it is a high A, medium A, low A, he thinks that it is a matter of the different things that they bring to Council because there are tremendous gifts, experiences, assets, talents that go along with those members, so what he thinks that each one of was asked to do on an individual basis, not collectively, behind closed doors but on an individual basis to make that determination of who would best fit on to this Council, to be able to move the City forward so that we can make the appropriate decisions as a body to do the right things that are in the best interests of our City and its residents. So that is the plan, he thinks all four, if not all eight of the candidates could have filled this position, we had tremendous response and again we do want to thank every person that came forward and put themselves out there because really you do that, you put yourself at risk knowing that only one person can be chosen. President Somich wanted to remind everyone this evening that we have six people voting so we need a clear majority of four to be able to accept the nomination here this evening; four, five or six Members voting for one person will allow that person to serve and anything less than that, obviously a 3-3 tie doesn't get us anywhere tonight for that particular motion.

President Somich repeated that a MOTION WAS MADE BY COUNCILWOMAN FELLOWS, seconded by Councilman Plecnik to appoint Kimberly Van Stickler to serve as District 1 Councilman.

Roll Call: Fellows-yes, Fiebig-yes, Hallum-no, Plecnik-yes, Somich-no, Biro-no

President Somich declared a 3 to 3 vote, so the Motion does not carry.

MOTION WAS MADE BY COUNCILMAN HALLUM, seconded by Councilman Biro to appoint Jennifer Greer to serve as District 1 Councilman.

Roll Call: Fellows-no, Fiebig-no, Hallum-yes, Plecnik-yes, Somich-yes, Biro-yes

President Somich declared that Jennifer Greer has been appointed to serve as Councilman District 1. President Somich congratulated Ms. Greer and took the opportunity to thank one of the other applicants, W. James Walsh for attending this evening's meeting and for being an excellent candidate.

MOTION WAS MADE BY COUNCILWOMAN FELLOWS, seconded by Councilman Biro to authorize the Mayor to seek bids for the City's 2015 Marking Pavement Program.

Roll Call: 6 AYES – unanimous

MOTION PASSES

President Somich declared that the Mayor has been authorized to seek bids for the City's 2015 Marking Pavement Program.

Councilman Fiebig: The new business that I had wanted to discuss was the Interoffice Memo from the Law Director Mr. Lobe and the Clerk of Council regarding a Public Records Request that was made to the Clerk asking for basically any and all records that pertain to and there were four (4) specific things: the City of Willoughby Hills or a reference to Laura Lenz or any governmental agency or communication between two council people. The memo that Mr. Lobe supplied said please provide the potential universe of all documents to the Clerk. In checking into that further, I had contacted the Attorney General's Office of Public Records, I had spoke with Jeff Clark there and he had pointed to the document that I had just passed out to everyone to give the definition of what is an overly broad request and he had highlighted many specifics and there is some case law Glasgow and Zidonis and other case law that discuss what is an over broad request. And he actually said that, it is pretty laughable, that attorneys tend to make the worst public records

requesters because they do things like you are in discovery; like you would be in a Court, like a, this is discovering any and all things to bring criminal charges or civil charges. What I think we need to do is and this is my opinion on what we need to do is and this was also his opinion, as a professional who deals with Public Records Request every day, was that you need to reject or deny an overly broad request and encourage them to revise their request with a little more specificity so that we can help them get the records that they need. There was a case for example, he says that he has a client that did not deny a request and they are now in their thirteenth month of producing any and all documents because any and all can be construed as any single document that the City of Willoughby Hills has ever created that might involve any issue. So what I, in a gray area, that I don't think that I have ever received a request this large, I don't know that any of us have, the request was made to the Clerk; I believe that we need a Motion of Council to direct the Clerk to reject or deny this request and please ask for specifics and then offer our Retention Records Policy, offer the fact that we do have personnel files of Laura Lenz, Disciplinary Evaluation Training and Payroll Records and anything like that and specifically ask how can we help you provide this request. So what we would need is a Motion of Council, as a body, to direct our Clerk to say please answer this request and ask for what specifically are you looking for; can I help you more. Can I find out what it is that you are trying to find here so that we can help fulfill a Public Records Request? And if you would please turn to the page that I had handed out, it is page 12 of the Ohio Public Records Act, Chapter 2, specifically about requesting public records. "An Ambiguous request is one that lacks the clarity a public office needs to ascertain what the requester is seeking and where to look for records to be responsive. So in four (4) bullet points it says: all records that contain a particular name or words, you know a particular name like Laura Lenz, or particular words like the City of Willoughby Hills; the duplication of all records having to do with a particular topic, or all records of a particular topic; every report that is filed with the public office for a particular time period, by the way that thirteen month investigation was for six months of records and we have been asked for a year and a half, and I have been asked for a year and a half of records. And all emails between two employees, these are specifically records that are ambiguous or overly broad request and we would not want to put the City of Willoughby Hills in a position of having to fulfill thousands and thousands of records and hundreds and hundreds and thousands of dollars worth of time and labor to fulfill a request that is overly broad, we would put our City in a very harmful position and it would not be in the best interest of our community to do that.

President Somich: Thank you Mr. Fiebig.

Mr. Fiebig: That is all I have at the moment, but I'd be glad to relay any information to open the discussion, but I would ask for a Second on the Motion to direct the Clerk to respond to this request in the way that I had just said, I'd clarify it, if I need to.

President Somich: First thing that I'm going to need to do is because I know that you had asked if you could ask a question of our Law Director at an earlier time, when he had his report, so I will ask the Law Director if he does have a comment.

Law Director Lobe: On what he said. **President Somich:** On what he said.

Law Director Lobe: Sure. **President Somich:** On the issue.

Law Director Lobe: Number one, there is, a public request was made. We have a duty to try and fulfill it to the best of our ability. The Attorney General will in fact aid us if we do need any assistance. At this time, and in fact, in the email that was sent to you, that Vicki and I did write to you, we utilized the same law, same booklet, and we also utilized the policy that is expressly in our Public Records Policy concerning emails. The way we read it and we copied the Attorney on it so that he would have notification that we are trying to comply, I believed, Vick believed, together we believed that he was not looking for every document whatsoever, but that he was simply looking for the emails that are not on the City server, that are on private emails of these two individuals be they from work or personal. Okay, that is how I read it that is why we identified it as such. And then the law basically says that's I how I read and I think that it is that narrow. And if it is not that narrow, he will come back and say that is not what I want, I want more; so we are looking for things that are not on a potential city server, that are business records that are defined by the Ohio Revised Code and the Public Records that are on, that were made between these two individuals, for those limited topics, for a limited time period that are on different servers and computers, not utilizing their City issued email address. Because as is noted in the Ohio Revised Code, in the Public Records and even in our Retention Policy Dogma it states that it is the context of the communication that is important. So if somebody utilizes a non-city issued email but discusses city business, it doesn't make it private. In fact, that is exactly what we quoted in that Memo to you. So the universe of documents is not that expansive, it is not that wide, and it is not that overly broad. We have received much more vague, overly broad requests and we have always complied. I have now been Law Director for seventeen years; I have never seen a motion like this come through. We have a duty to try to comply and to try to work with that individual and that was the purpose of that motion so that we would advice him this is what we are looking for and this is what we are doing and we even asked for time. In my opinion, it was directed to two individuals for their non-city issued emails from work and personal computers only. Okay, and we will work with them and I will get a hold of Mr. Clark. I would like to know did you provide that request in writing to Mr. Clark for his review. You gave some topics that this Attorney General, Jeff Clark, and I do that

routinely, I call down there, but did you give him the actual request or did you just talk to him about it.

Councilman Fiebig: Did I give Jeff Clark...**Law Director Lobe:** That's correct....**Councilman Fiebig:** Mr. President, yes, if I could respond to that, yes I faxed Mr. Clark the request and your memo. **Law Director Lobe:** Okay.

Councilman Fiebig: So that he is in receipt of that. **Law Director Lobe:** I'll call him on Monday.

Councilman Fiebig: So when you said that we are working with him did you mean we as the "City" or did you mean we as you and this Attorney...**Law Director Lobe:** No. **Councilman Fiebig:** Pelagalli. **Law Director Lobe:** I don't know Mr. Pelagalli. **Councilman Fiebig:** Okay.

Law Director Lobe: Basically it is up to me to help assist the requestor, whoever it is and that is how I read it and I even wrote it back to Mr. Pelagalli so that there is no question and that is how you have to because you have to simply proceed. I also think that it is a bad position; it is really...if the City takes the position and says that you are overly broad, I have always taken the position that you have to work with the individual and continue to communicate with them. I don't think that it is good to simply say it's overly broad and make him come back, that is not the way that I have ever handled it; that's everything that I have learned, you should never handle it that way, and that is why we are handling it the way we did. Vicki had some issues with it, she asked me to get involved, we looked at it and proceeded with it. And in fact, I think that we should continue to proceed and the universe of documents is not that great, unless, unless, there are a lot of documents out there that are not on the City server that involve City business. So that is the issue, **Councilman Fiebig:** Mr. President...**Law Director Lobe:** I want to continue to work with it and I think that we have a duty and I have always said this, to try and get the public documents to everyone. We have had discussions on this Council floor by these same individuals. That we have to try to do everything possible to get it and never to thwart it and so I agreed with it then and I still promulgate it now. And I will continue to do so in this regard. Thank you.

President Somich: Mr. Fiebig. **Councilman Fiebig:** So Mr. President, I again reiterate that I don't know why that I am named on this but I would certainly do everything I can to provide the requester any public document that they would like but I sure would like to know what they are looking for. What public documents are they looking for that would perhaps be on my personal home computer? So if I could narrow that search I could help to get whatever it is they are looking for. All of my emails that are in my City Server, I copy. My habit has been if I am using my personal email I will copy the Clerk so that she has a copy and it is creating a public record. So that's how I operate, I assume some of you do as well because I know that you have used your personal email many, many times, I think that everyone here has. So, by creating a public document we have that and the City of Willoughby Hills email account. So and that's vast, I think that there were some three hundred some messages in there, you know in that time frame, so you know, if that's what he is looking for, great he can have them, they are certainly available. So, if you would like to get specific, I think that we should ask our Clerk or just simply direct the Clerk to ask if you could be more specific, please.

Law Director Lobe: That was the purpose of the Memo. That's why I sent it to him to make sure that we are narrowing down as opposed to just sending anything to him and it was just those two, and in fact, I even narrowed it down to when Mr. Plecnik was not even a public official for one of the time periods that he had asked for. I even narrowed that down, that is why I sent it to him.

Councilman Fiebig: Mr. Lobe, did you get a response from him? **Law Director Lobe:** From who? **Councilman Fiebig:** Mr. Pelagalli. **Law Director Lobe:** No, I have not yet.

Councilman Fiebig: Okay, alright. **Law Director Lobe:** You know, he just got it and if there are no other documents, then there are no other documents, it's real simple. If there is no other business conducted on anything other than your Willoughby Hills.net or whatever it is, that's great and that's the answer, there is nothing more we can just simply try to get those documents and Vicki and I looked at and everybody around the table improperly, contrary to how you have been recommended to do it, sometimes do not use your Willoughby Hills email address and sometimes it is out of convenience or otherwise, you will utilize other ones. It is not just one or two; some of you do it, okay. **Councilman Fiebig:** Well, Mr. Lobe, you... **Law Director Lobe:** You should try to utilize for City business, if it is for City work or Council thing, utilize that and for your private, use your private. That is how Dave Reichelt set it up.

Councilman Plecnik: Madame Vice President, if I could just say that this is a very broad request to say that I want every single email that you have that is a public record that references the City of Willoughby Hills; we don't have any particular record keeping service with respect to our personal emails, I doubt anyone on Council does, the only thing that we would be able to do is to try and use the search feature on Google mail or any other email service that we are using in Willoughby Hills and then look through thousands of emails where I have said Merry Christmas from Willoughby Hills to my parents and determine which ones may or may not be public records and in theory if a resident were to email you to your personal account and said hey John I'm really worried about a pothole in my road, well technically that may well be a public record but it is not the duty of a Councilperson to go through hundreds of thousands of emails that have a key term or word in and determine which ones were to your parents saying Happy Birthday from Willoughby Hills and which ones were from a resident saying, you know could you fix my pothole and occasionally residents do email my campaign account or my personal account as opposed to my City Council account and I would ask everyone at this Dais how would

you feel if you had to look through ten thousand or a thousand emails over a year or a two year period to try to find out first of all which ones were public records and then turn them over; that's why narrowing it down is necessary and that's why the Attorney General doesn't just cite the cases, he really lays it out. I mean, I honestly think as I read Pelagalli's letter, it's almost like he read the Attorney General's Sunshine Manual and tried to violate every perceptive of being ambiguous because it says you are not supposed to have a request that contains a particular...all records that pertain particular names or words and yet he requests all records containing the City of Willoughby Hills or Laura Lenz. It says that you are not supposed to request all emails between two employees because that is overly broad and yet he says he wants all emails between Plecnik and Fiebig or back and forth. It is very clearly an overly broad request and it is not fair to expect Councilman Fiebig or myself to go through a thousand emails and I would happily give him what he is looking for if it is indeed a public record and I do indeed have it but he needs to tell us what he is looking for and I would ask every one Councilperson at this Dais to think in terms of fairness; is it fair to try and ask me to go through a thousand emails and figure out which (A) ones are public records just based on keyword searches because that is all that I can do; I don't have time to read through a thousand, two thousand emails in detail. I would have to put in Willoughby Hills and look through several hundred emails to determine which ones are personal and which aren't. And that is exactly why we have these rulings from the State Supreme Court and the Attorney General thought that it was such a clear point of law that he laid it out. Does anyone here want to go through a thousand emails because it could be you next?

Law Director Lobe: I promise everybody, I am going to try and get back that is why I sent it. Okay, I sent it out, we prepared it. We have a duty to try to comply and we have a duty to try to comply to the extent that we can and I will even get a hold of Mr. Clark in that regard and I will be working with Mr. Pelagalli or whatever his name is to narrow it down and that was the purpose of the last one. We have a duty to work with him under the Ohio Records law to continue to communicate with him and that's why we did it even the writing to him so that he would know what our thoughts were and I have not heard back from him since.

Councilman Plecnik: Madame Vice President if I could add just one more thing that's why when you deny a request for being overly broad, the Attorney General's Office, I spoke with them as well earlier today, he said that you don't just say denied for over broad, you say it is denied, its over broad, but we would be happy to comply with it if you could narrow it down. What specifically are you asking us for? So if you were to say well I am concerned with the lawsuit that Laura Lenz has brought against the Mayor of Willoughby Hills and the City do you have any emails relating to that then I could look more specifically to see if I have them and to my knowledge, I don't believe that I have any on that topic and I could say very quickly, I don't have any record that is responsive to you. Or if he said well I want to know about any public record where Laura Lenz has asked about Lamplight Lane, I could with that additional information, much quicker find out what he does or does not need and that's the purpose. It is to actually comply. The goal of denying a request for being over broad is not to simply stymie the constituent, it is to find out in an efficient way what do you really want so that it can be provided and that's what I want to do, I want comply to the fullest extent of the law but realistically if I am just suppose to go through hundreds of thousands of emails that mention Willoughby Hills I may well miss some. It is not necessarily possible for me to go through and find precisely what the person wants so in the spirit of wanting to comply I would ask that whether it is a Motion of Council or the Law Director and Clerk do it on their own, I am really agnostic that we tell Mr. Pelagalli that he has made an overly broad request but that we would happily comply if he would come back and give some more detail as what it is he is looking for provided of course, if he is looking for genuine public records.

Law Director Lobe: That is all that he is allowed to get, exactly.

President Somich: I passed the gavel, so that I am now speaking personally, rather than the Chair. I find it so amazingly ironic that this whole conversation is taking place here this evening. Over the last year especially, I have had conversations with our Finance Director about very, very broad perhaps overly broad requests for information that has caused him and his staff to spend hours and hours and hours, dozens of hours finding information and then copying them. I had that same conversation with our Council Clerk about her necessity to do the same thing. I have had the same conversation with the Mayor's Executive Assistant about spending hours and hours, and hours and again that is all City time that's at a cost to every taxpayer for all of that research and then all the copying of the documents and when I have on a couple of occasions mentioned that gee, I know that's the law and I know that's the right thing to do but should we have some conversations about what is reasonable and what is fair and what we should be doing in these regards because we're spending a lot of time and a lot of money on these very, very broad public records requests. I even went so far as to put a very general comment into the newsletter and Councilman Fiebig blasted me, chastised me for speaking on behalf of Council when I didn't have the authority to do that, relative to simply asking for some common sense, that's all I asked for some common sense. I didn't say you can't do it, I didn't say that you shouldn't do it, I just said can we have some common sense because it is costing taxpayers money every time we do that. Now, let's fast forward to tonight's meeting, okay, I'm hearing comments that says is this fair, is this reasonable, is this right, you guys wouldn't like it if you were asked to do this, you wouldn't like it, why do you expect us to do it, this isn't fair and reasonable. Well, when I've tried to

bring, or even approach that subject, okay, the two of you more than anybody else chastised me for saying how dare you consider taking away this right of the people; you can't approach this conversation and reduce their legal right to this, you can't entertain the idea of what's overly broad, we have to do it if it takes a hundred hours to get that information that's what it takes. And you had no concern for the fact that's it is taxpayer money. Now that it is your time, and now that it is your money, now the two of you are asking us to throw it out, to say that it is not reasonable because it is overly broad. I find this to be so insanely ironic, okay, and perhaps hypocritical that the same people that said, no way, no way, no way, announcing

Councilman Fiebig: Madame Chair, Point of Order, Point of Order here, you have used some inflammatory language here....**President Somich:** I'm done. **Councilman Fiebig:** Unfortunately, Mr. Somich, inflammatory language is what creates that so called circus atmosphere that you always say that we don't need. **President Somich:** Well, what I had to say was very controlled. I am done right now. **Councilman Fiebig:** Thank you, but to say blasted and chastised when I simply just disagree with you and I said please don't speak for me. I didn't say please don't speak for all of Council; I said please you don't speak for me in a public form like that. And I took homage at that because I disagreed with your point in there, I don't think that you should tell people to jump off the roof in case of fire and that is the way that I read that and I think that some people could construe it as that. I think that it was unprofessional, it was not something that I would say; I corrected you on that, we talked about it, and I said that you don't speak for me and you said that you won't do it again. **President Somich:** And I haven't. **Councilman Fiebig:** Great, Great.

Councilman Fiebig: And I wanted to clarify something else that you had said. We didn't ask to throw this request out. I want to comply with this request, and I think that as a City we have to simply follow the law and the law is very clear on what is an ambiguous, overly broad request. Now to say, I would like all of the records of our Law Director's invoices for the last year is a very specific request. To say that I want all the records of Willoughby Hills in the last year is overly broad. If I were to say that I want all of your emails on any subject for the City of Willoughby Hills that's overly broad. But if I said that I want all of your emails on discussions on the Bishop Road Plaza in an Economic Development Task Force, that's specific. That's what we are asking here. You must reject a request that is overly broad, you must. It protects the City. It protects the exact thing that you are espousing here is we don't want to waste hundreds of dollars and man hours requesting things. But I will also say that it is the duty of us, of our people who work here to fulfill those requests. And I am absolutely a hundred percent behind that. We need to fulfill public records requests anytime, anywhere but they have to be done correctly. Okay, as Mr. Clark said attorney sometimes, they're treating it like this is some type of litigation and it is not, this is a public records request, this is not litigation.

President Somich: We have had a lot of discussion here on the floor; there are a couple of people who haven't commented, if you would like to you can add to it, if not we do have a motion on the floor; I do not believe that it has been seconded yet, it was made by Councilman Fiebig. Is there a second for that motion?

Councilman Plecnik: Mr. President I'll second that motion and if I could just add as we're welcoming....**President Somich:** Is this something new...**Councilman Plecnik:** Yes, this is something new and it is very important to be said as we are welcoming a new member of Council and we are going to be entering next year with whole new terms with many new members of Council and very likely with a new Mayor as well it is time for us to set a new tone. We don't need to be talking about blasted and hypocritical; you said in the very first meeting of this year that we shouldn't be using inflammatory language and I could say ha, hah, how critical of you, but I don't want to play that game, it is time for us to start fresh, it is time for us to get to work and there is no need to laugh or giggle, I am making a sincere request to the other members of Council because frankly, if any of us wanted to play trouble-maker, a public records request could be made to anyone exactly the same as this one and I don't think that any member of Council would appreciate being told to go through every email you have that mentions Willoughby Hills and try to figure it out. You wouldn't want to do it, Ray, you wouldn't want to do it Chris or Chris, or Bob or anyone of us at this Dais so let's just be reasonable. Let's not try to score political points on one another; it is time to forward with the work of the City. Some of us are going to be here after the end of this year, some of us won't but here we have 10 months to work together and do the right thing and I think that most of us here want to do that so let's get to it. Thank you.

President Somich: What again is the wording on your Motion, Councilman?

Councilman Fiebig: I am requesting that Council reply to the public records request of Rodger A. Pelagalli and deny or reject are the words that the Attorney General Office said the request as overly broad and encourage him to file a revised request that is more specific. In the motion we can also ask our Clerk to work with this person to try to find what they are looking for and also to offer our, sorry this is such a long motion, but it is also to offer our Public Records Retention Policy and to make some suggestions about what we may have concerning Laura Lenz because I am assuming that is something to do with the case she filed for wrongful termination.

President Somich: Madame Clerk, in the eleven and a half years that I have served, we have always tried to be a little more concise in terms of the motions are you okay with copying that or do you...would you like for that to be restated in lesser words for the motion? **Council Clerk:** I'm okay with it on the recorder but and correct me if I'm wrong Tom, the

Chair or President has to repeat it because he is accepting it on behalf of the body of Council, in that content. **Law Director Lobe:** You are correct about that formality...**Council Clerk:** I'm not trying to be overly....**Law Director Lobe:** Let's not get overly technical...**Council Clerk:** Because I'm going to go off of what you say. **President Somich:** Okay. **Council Clerk:** Because what you say is the end. **Law Director Lobe:** We have a tape recording of all the meetings which are our minutes. Vicki...it was a long motion and I don't know if you can shorten it anymore.

Councilman Fiebig: Let me see if I can do that; **I make a motion to reply to the Public Records Request of Rodger Pelagalli to reject or deny based on it being overly broad and to work with him to encourage him to file a revised request.** **Councilman Plecnik:** That is more specific. **Councilman Fiebig:** That is more specific, yes. **Law Director Lobe:** alright.

President Somich: And I am going to try to repeat that although it is on the tape if I by chance should get it wrong.

You are making a motion to Council to reply to the public records request from this attorney to reject or deny for being overly broad and to encourage him to re-file a revised public records request. **Councilman Fiebig:** That is more specific. **President Somich:** That is more specific, okay.

President Somich: That is the motion made by Councilman Fiebig and seconded by Councilman Plecnik, I think that we have had discussion, we will call then for a vote, **Madame Clerk:** Fellows – abstain, Fiebig – yes, Hallum – yes, Plecnik – yes, Somich – no, Biro – no.

Councilman Hallum: Mr. President before we get too far, I just want a point of clarification from the Law Director. My understanding was that we cannot abstain from a vote unless we have a conflict of interest and that... **Law Director Lobe:** I was going to raise that because I wanted to ask if Plecnik and Fiebig had the conflict of interest and not Nancy but...**Councilwoman Fellows:** I don't understand it; I mean I don't understand what is going on. **Law Director Lobe:** Well then, okay, technically, unless you have a conflict you're not suppose to abstain you either have to say yes or no. **Councilwoman Fellows:** Well I thought that you could abstain if you don't have enough knowledge of what you are voting on as well. **Law Director Lobe:** Not necessarily true. You are really suppose to then either ask for a contingency or do something else; abstention is truly just if you have a conflict and I agree with that point and I know that is just one of the trains of thought but it is not one hundred percent accurate; it has been utilized in the past and I have always discouraged abstentions for that reason. **Councilwoman Fellows:** Then I don't understand and I've been on Council for I don't know how many years and my understanding was if you didn't understand or you hadn't enough knowledge to make an educated vote then you could abstain from it because I don't understand what this means. **President Somich:** Well we are kind of defining the rules for the vote here and the motion passed. I didn't actually pass the gavel here, I didn't have a chance to do that before we had this discussion because as that was just pointed out to me earlier that is what needs to be done before it is finalized so I don't know, Mr. Law Director, where are we on that; I'm confused myself because I am hearing that the abstention was due to... **Law Director Lobe:** She is allowed to make her vote as to her position, okay, I have always given out different, but you still can abstain, I've always given out the advice whether her understanding and trust in Nancy's sincerity in this particular point, I get that, okay, but her vote is her vote now, okay. **Councilman Hallum:** My other concern which is can Councilman Fiebig and Councilman Plecnik vote on something that directly affects them, would that be a conflict of interest? **Law Director:** I thought that it would be or least it is something that should be considered by them and again, they are the ones with the potential conflict and they are the ones that have to say that even if they have a conflict, I am still going to make the motion, okay, they are the ones that made it so I assume they don't think that they have a conflict in spite of that. That's their decision, they have to determine if there is a conflict.

Councilman Fiebig: I don't understand where you're....saying that there would be a conflict and why wouldn't you have brought that up prior to the vote, if there were perhaps a conflict and are we perhaps being sued and you have knowledge of that? **Law Director Lobe:** I have no knowledge of that, not at all and let's not get carried away with phantom scares this is just a simple public records request; we have never done this particular procedure in the past, I've told you that, I'm doing that anyways, whatever this motion is on Council, trust me, I'm doing that anyway so; guys vote, everybody on this Dais vote the way you want, I'm going to proceed accordingly. And that is why we are communicating with him and I am going to continue to communicate with him on that same thing and get it down. But I will say this, that in spite, if there is partial compliance that you are aware of you should at least give up those records; you can't just deny because something is vague or overly broad and say that I'm not giving up anything. That's not the way the law reads and that's not the purpose of the public so if there is even a partial compliance, give it up; if you think that something else is overly broad, fine that's how I've utilized it, that's the most practical aspect of that but you should not just say that I'm not giving up

anything because I see one aspect that is overly broad. If something is specific then get on those specifics and at least give that up and then work with the requestor for whatever else you may consider overly broad. That's how I plan on approaching it so I appreciate the vote here but that's how it is going to go and I think that it will be consistent with what the vote is. So I'm not overly concerned with the vote or this decision, okay but I will comply of course because that is what I was going to do anyways. I hope that's clear enough.

Councilman Hallum: That is why I was kind of pausing anyway because I was thinking of all that. Law Director Lobe: There still should be partial compliance that is why I am a little against with what is going on here because eventually if there is some clarity with some of the request you should give those up, okay. We'll get to that, Vicki and I will absolutely work on this together as we have, okay.

President Somich: Motion passes by a vote of three to two with one abstention.

Councilman Fiebig: Mr. President, I would also like to be present when you are working with the Council Clerk on this request so that I can help to facilitate it. Whenever you meet with the Council Clerk...**President Somich:** Are you talking to me? **Councilman Fiebig:** I'm talking to Law Director Lobe. Whenever you meet with Council Clerk...**Law Director Lobe:** I can't guarantee it, **Councilman Fiebig:** I can't guarantee it that I would be there either, but could I please be notified when you are meeting with her, then...or she could notify me, I would appreciate it. **Law Director Lobe:** I will absolutely try, the Clerk and I meet sporadically, sometimes I say that I will be there at 2:00 and I end up there at 3:30 or something, we will try and do that to the best that we can, absolutely, I have no problem and in fact so that everybody is aware, just like today, it was Councilwomen Fellows who had an issue that she wanted and I tried to get her involved but because of scheduling couldn't get it. I've always done that and I will always do that, I have no problem with that.

FOR THE GOOD OF THE ORDER

President Somich asked if there were any items that the Members wanted to share that were for the Good of the Order; there were none.

ADJOURNMENT

MOTION WAS MADE BY COUNCILMAN BIRO, seconded by Councilman Hallum to adjourn the Special Council Meeting of January 28, 2015.

Roll Call: 6 AYES - unanimous

MOTION PASSES

President Somich declared the Special Council Meeting of January 28, 2015 to be adjourned at 8:37pm.

APPROVED: March 12, 2015
Date

Raymond C. Somich
Raymond C. Somich
President of Council

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