

# City of Willoughby Hills

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

## Regular Council Meeting

### Minutes of July 24, 2014

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

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

#### *Pledge of Allegiance*

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

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

**Absent:** Vice President Nancy E. Fellows and 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 Councilman Biro to excuse Vice President Fellows and Councilman Hallum from the Regular Council Meeting of July 24, 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 July 24, 2014.**

**MOTION WAS MADE BY COUNCILMAN BIRO**, seconded by Councilman Plecnik to appoint Councilman David M. Fiebig to serve as Vice-President of Council Pro-tem for the Regular Council Meeting of July 24, 2014.

**Roll Call: Somich-yes, Biro-yes, Fiebig-abstain, Germano-yes, Plecnik-yes**

**MOTION PASSES: 4-AYES/1-ABSTENTION**

**President Somich stated that Councilman Fiebig has been appointed to serve as Vice-President of Council Pro-tem for the Regular Council Meeting of July 24, 2014.**

#### **PRESENTATION/PROCLAMATION**

**President Somich stated we have some very special presentations and proclamations to be made by the Mayor.**

1. Swearing in of Patrolmen Mandell Hooks to serve in the position of Probationary Part-Time Officer
2. Presentation to the Police Department for all the hard work they did on the Knoefel Case
3. Presentation to Ron Parmertor for his diligence in the Knoefel Case
4. Presentation to Randy Mullenax who was the first officer who came on the scene in the Knoefel Case
5. Proclamation to Michael Dolinar who has earned the rank of Eagle Scout and completed his project in Willoughby Hills which involved the design and construction of the port-o-let shelter at Garfield Soccer Park and assembly of the Community Bulletin Board at the park.

President Somich also recognized Lake County Prosecutor Chuck Coulson, First Assistant in Criminal Division Karen Kowall, and the great work and outstanding service by the Police Department.

### **Disposition of the Journal**

### **Regular Council Meeting of May 22, 2014**

**MOTION WAS MADE BY COUNCILMAN FIEBIG**, seconded by Councilman Biro to approve the Regular Council Meeting Minutes of May 22, 2014 as submitted.

**Roll Call: 5 AYES – unanimous**

**MOTION PASSES**

President Somich stated that the Regular Council Meeting Minutes of May 22, 2014 have been approved as submitted.

### **Regular Council Meeting of June 12, 2014**

**MOTION WAS MADE BY COUNCILMAN FIEBIG**, seconded by Councilman Germano to approve the Regular Council Meeting Minutes of June 12, 2014 as submitted.

**Roll Call: 5 AYES – unanimous**

**MOTION PASSES**

President Somich stated that the Regular Council Meeting Minutes of June 12, 2014 have been approved as submitted.

### **CORRESPONDENCE**

Email from Mayor's Assistant to Clerk of Council, dated July 16, 2014 re: Charter Review Commission – Items offered for Charter Revision (Emailed: July 16, 2014)

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

### **NOTIFICATIONS**

Cancellation of Finance Committee of Council Meeting scheduled for Monday, July 21, 2014 (Emailed: July 15, 2014)

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

Records Commission Meeting of July 18, 2014 (Emailed: July 11, 2014)

Rules and Legislation Committee Meeting of July 21, 2014 (Emailed: July 15, 2014)

### **MINUTES**

Civil Service Commission Meeting Minutes of June 13, 2014 (Emailed: July 11, 2014)

Charter Review Commission Meeting Minutes of July 8, 2014 (Emailed: July 15, 2014)

Charter Review Commission Meeting Minutes of July 14, 2014 (Emailed: July 16, 2014)

Rules and Legislation Committee Meeting Minutes of July 21, 2014 (Emailed: July 22, 2014)

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

**Thanks to Congressman Joyce** for providing an outstanding Resource Program for veterans

**Charter Review Commission** meetings are underway. Public Hearings were held on Monday, 7/14 and Tuesday 7/15 at 6:30pm to give residents a chance to present any concerns or suggestions they may have regarding the City Charter. The Commission has some good input to begin their review.

**White Road Asphalt** has begun

**Service Department** continues work on Police Department Emergency Exit Driveway using White Road grindings

**City Hall Departments** are complying with Records Commission guidelines for clean out and destruction of old records

**Thanks to Councilman Somich** for his attempt to bring the Freedom Festival to the Shoppes of Willoughby Hills, but the rain stopped all activities. Fireworks have been rescheduled to the next concert date which is Wednesday, August 20.

### **Acknowledgements:**

**Congratulations to Jonathan Rullis** of Boy Scout Troop 562 on his attainment of Eagle rank

**Condolences to the family of Stella Pizzie** who passed away this week

As Council goes to Recess, I want to acknowledge their hard work throughout the year for our residents

**Events:**

**Saturday, August 9**—Official Garage Sale Day in Willoughby Hills

**Wednesday, August 20**—Country BBQ, roasted sweet corn and Concert at WH Gazebo—rain or shine—will include fireworks, weather permitting

**Saturday, August 23**—Touch a Truck at City Hall Complex—10 to 2pm.

**Councilman Fiebig** asked in regards to the Police Department Emergency Exit Driveway, he knows we are saving some money by using the grindings, but is there an estimate of how much it is costing for the rest of the materials? **The Mayor** replied that it will cost approximately \$10,000 in new asphalt that will come out of the road maintenance budget. **Councilman Fiebig** also asked what methods we are using in getting the information out regarding August 9. **The Mayor** stated it is on the website with all the addresses of the people who are having their goods for sale, in the newspaper, and if they just drive around to the individual residents and buy or purchase any of their goods. **President Somich** added that his favorite radio station is also running ads at no charge.

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

No formal report was given.

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

No formal report was given.

**Councilman Fiebig** asked if he had a chance to review the question that came up regarding the movement of the \$400, the \$100, did he get a chance to review that when talking about the contracts for the Police and Fire. **The Finance Director** stated he has not had a chance to review that email; he just returned from vacation. **Councilman Fiebig** stated some of the conversation that we had was that we were holding, or at least we needed some information to approve the Fire Department Contract and one of the questions was how much that was going to cost in real dollars annually. **President Somich** interjected Councilman Fiebig stating that we are not at the point of approving this. **Councilman Fiebig** stated he just wanted to ask the Finance Director...**President Somich** interjected saying he (Councilman Fiebig) misspoke and stated we are not at the point of approving anything, the negotiations are still in process and it has not come back to City Council to approve. **Councilman Fiebig** replied that Council was waiting for those...**President Somich** stated that Council is not waiting for that. **The Finance Director** stated he has two weeks of emails to go through but he does know that he already provided information, but he can certainly send it out again. **President Somich** clarified the negotiations with the Fire Department are not done by Members of Council, they are done by the negotiation people and that is not the Members of City Council; it will come to City Council for ultimate approval of that but it is not at that point yet. If you would like to ask for that on an individual basis, out of curiosity, you are welcome to do that, but the Council is not waiting formally for that information. **Councilman Fiebig** stated that we did bring that up, or at least he knows he did, and a couple of us brought up the question of if there was that change, how much was it going to cost so we were waiting for Frank to get back to us.

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

The City Engineer was absent; therefore no formal report was given.

**The Law Director** wanted to say something on the City Engineer's behalf. There is an issue on Fowler Drive that might come to your attention. During Phase II of our sewer project, we had an issue with a Fowler Treatment Plant and we thought it was all dug up, etc; we have reports going back from 2005, and this was done in 2003-2004, and when we put in the Sewer's we had to get rid of all the pump stations and the treatment plants and it was a traditional Fowler Treatment Plant; if you recall, for those who were on Council and some of you were, that we had the issue of who that land was going to revert back to, and it reverted back to the Fowlers under some legal documents dating many, many years back and it took them from 2005-2014 and they started digging and they found part of the Treatment Plant. As soon as we learned of it, the Building Department called him, Mr. Wyss inspected it, and you can see the walls and we have pictures of it if you need to see it and we are now in the process of trying to figure out what we are going to do. There is some construction issue, there could be some liability issues that could come back on us; we don't have the fact yet, we are vetting them out. We have contacted everybody who needed to be contacted including CT Consultants who was in charge of that, but these are matters that involve the Ohio EPA, the County Prosecutor, our own Building Department, etc. and we are having a meeting with them next Monday with the owners and the original Fowlers and we are going to see what happens. They are also considering moving, getting a variance

to move the house so there is an issue there, there is a lot of activity, we don't know what is going on, but there are certain walls we thought were gone and they have unearthed some of them. You can see it if you go down, it's not too hard.

**Councilman Plecnik** stated since we are discussing quasi engineering, he has gotten a couple of calls in the past couple of days and he doesn't think he is the only member of Council or City Hall that has heard from the residents on Dixon Road. We are very concerned now in the Clover Development Project where the land behind their property is being re-graded, some trees are being taken down and he had a conversation with our Building Commissioner and he said the 50 ft. buffer zone that is enforced doesn't prohibit landscaping which he (the Building Commissioner) understands to include re-grading and taking down of trees and he just wanted to ask the Law Director if he is familiar with the court orders that created the buffer zone and if he shares the same interpretation that our Building Commissioner does, because he knows a lot of residents are very, very concerned about this issue. **The Law Director** stated he is aware of the court orders, they are very old (he can't remember the specific dates), but the court orders which set forth some development on that property did have a buffer zone, but it also said in the court orders that it can be amended and/or modified by the City. Those matters were in fact modified by the City through the Planning Commission so use of the court order and any dimensions in that court order are misplaced. You have to look at what the Planning Commission did and that's what the Building Commissioner is primarily going on; he (the Building Commissioner) had had some comments, the people on Dixon have an absolute right and he knows they've been looking at it and everybody has Mr. Wyss on heightened attention and concern for this particular matter. If there is anything, he has told Fred (Mr. Wyss) to make sure he goes out there and measures everything, takes pictures, and he has been out there trying to monitor it on an almost every day basis or every-other-day basis, because it is in people's backyards and it's important.

## COMMITTEE REPORTS

The following Reports have been listed alphabetically by Committee.

### RULES & LEGISLATION – Nancy E. Fellows, Chair

Committee Members: David M. Fiebig, Raymond C. Somich

In the absence of Vice President Nancy E. Fellows, Chair of Rules and Legislation Committee, Councilman Fiebig presented the following Rules & Legislation Committee report:

COMMITTEE MEETING OF JULY 21, 2014	
<b>Members Present:</b> Vice President Nancy E. Fellows, Chair, Councilman David M. Fiebig	
<b>Also Present:</b> Councilman John Plecnik	
Purpose of the Meeting was to discuss <b>Pending Legislation</b> and any other business.	
<b>Meeting convened at 6:00pm</b>	
Order of Business	
Legislation for the Council meeting of July 24, 2014:	
<b>Ordinance 2014-53</b> – Appropriations for the Rogers Road Ditching and Culvert Repair Project. Still awaiting approval from the Lake County Storm Water Mgmt. Dept for a Grant. If the Grant is not awarded this Project would not be undertaken. <b>Rules and Legislation recommends this Ordinance be read the 3<sup>rd</sup> time and adopted.</b>	
<b>Ordinance 2014-54</b> – Appropriations for the Curtiss-Wright Parkway catch basin replacement project (18 catch basins). Still awaiting approval from the Lake County Storm Water Mgmt. Dept. If the grant is not awarded this project would not be undertaken. <b>Rules and Legislation recommends this Ordinance be read the 3<sup>rd</sup> time and adopted.</b>	
<b>Ordinance 2014-57</b> – Appropriations for the River Road North Storm Sewer Replacement Project (\$142+). Still awaiting approval from the Lake County Storm Water Mgmt. Dept. <b>Rules and Legislation recommends this Ordinance be on 2<sup>nd</sup> Reading.</b>	
<b>Ordinance 2014-58</b> – An Ordinance authorizing and directing the Mayor to execute an Agreement (contract) between the City of Willoughby Hills and the Willoughby Hills Fire Fighters, Local #3149 of the International Association of Fire	

Fighters, AFL-CIO. **Rules and Legislation recommends this Ordinance be on 2<sup>nd</sup> Reading.** Discussion aligned with the unacceptance of the contract from the Fire Department. There is plan for a meeting this week of July 21st with Administration and Fire representation. Right now we “do not know if the contract will be approved as presented, altered from its present form, rejected by the Union or our Administration, or going to Fact Finding or Arbitration.” – G. Majeski

**Ordinance 2014-59** – An Ordinance to appropriate funds for budget revisions specifically for the Service and Fire Labor settlements. **Rules and Legislation recommends this Ordinance be on 1<sup>st</sup> Reading.** Questions concerning the Service and Fire budget revisions being represented on the same Ordinance. Also, interpretation of the chart attached looks as though \$400 is being taken from 234 Safety Service Fund and being deposited into the 610 Sewer Service Fund and \$100 from the Fire Levy Fund and being deposited into 285 Park Maintenance. While this may be an incorrect interpretation, it appears that funds from Safety and the Fire Levy are being decreased... or, this is where the monies are being found/used to support the “estimated cost of the negotiated labor agreements with the Service and Fire Unions.” – F. Brichacek

Fund		Current Appropriation	Increase/ (Decrease)	Revised Appropriation
110	General Fund	\$6,305,100	\$600	\$6,305,700
234	Safety Forces Fund	\$5,019,100	(\$400)	\$5,018,700
240	Fire Levy Fund	\$653,900	(\$100)	\$653,800
250	Street Construction, Maintenance & Repair Fund	\$1,201,500	\$1,300	\$1,202,800
270	Road Levy Fund	\$737,300	\$1,700	\$739,000
285	Park Maintenance Fund	\$42,500	\$100	\$42,600
610	Sewer Service Fund	\$1,677,200	\$400	\$1,677,600
Total		\$15,636,600	\$3,600	\$15,640,200

**Ordinance 2014-60** – An Ordinance to appropriate funds for budget revisions specifically for Rockefeller Road North Drainage Improvement Project. **Rules and Legislation recommends this Ordinance be on 1<sup>st</sup> Reading.** Even though an application has been submitted to the Lake County Storm Water Mgmt. Dept. for reimbursement, the City has determined to move forward with the project, as it has been started.

**Additional questions that came forth:**

What is the new driveway costing the City that will be used for the Police? – to Finance

Was the individual that purchased Lot 19 on Fowler Drive aware that a Sanitary Sewer Pump Station had been located there? – to Planning and Zoning

A resident on Dixon Road whose lot abuts the new Senior Citizen Development has had trees removed from her property – Building Inspection

Deer concerns – to Safety

***Public Portion***

**Public portion opened at 6:24 p.m.**

Mr. Cihula asked for a review of the Ordinances on the Agenda.

Linda Fulton – Does the Fire Contract have anything to do with the negotiations from the Police Contract? – Chairman answered no. Also, what is the status of the City Motto since the new sign was posted with a different Motto? – Chairman indicated that the new sign would stay, but the Motto would be changed at the bottom to reflect the current City Motto.

Bob Kowalsky – Voiced his concerns with the finances of the City and that Council should take more responsibility when voting for monies to be spent.

**Public portion closed at 6:38 p.m.**

**Meeting adjourned at 6:38pm**

**Councilman Biro** stated in response to the deer, he did see some commentary from the Public about the problem with deer; this is a situation that was addressed a couple years back, we talked to ODNr and Wildlife Services, and there is an active culling program that our Metroparks is involved with. We looked at potentially looking at properties of five acres or more to look at that issue; apparently we came to the conclusion that they would go to the ODNr or the Wildlife Services to get a special permit and he doesn't recall exactly what was resolved from that point, but that is something that Safety can take up again, but it is kind of a slippery subject; he personally has seen deer running around with arrows in their backs and he is opposed to us taking this into our own hands, he would rather get professionals involved, but certainly we can look at that in Safety if we

want to address that again. We do have a culling program with the Metroparks and he knows that other communities are banning together to look at different ideas and that is something we can certainly keep track of and ways to deter the deer, but some part of the documentation mentions that part of our problem is that people are feeding these animals and the more they are fed the more babies they have. If anything, we need to get Public Service to get on board and let this information out that that is probably not the best way to deal with the deer, but certainly we can look at it in Safety.

**President Somich** asked that Councilman Biro put this issue back into Safety and call a meeting. There is no immediate rush on it, because it will probably take us a long time to act, if we do act. The Mayor has informed him that it has come up at the Mayor's Association, they are debating it because this problem is very, very strong here in our area, both at the East side and West side of Willoughby Hills; there is the largest population that we have ever experienced. While it hasn't been much of a safety issue yet, it very well could be. He thinks we have been very fortunate that we have not had any major traffic accidents to this point, but it is a safety issue with no easy solution, but he asks that Councilman Biro does call that meeting in the near future.

**Councilman Plecnik** echoed President Somich's comments and stated he really felt it is a serious issue; while we do have culling in the Metroparks, that is more effective on the East side of Willoughby Hills than on the West side. His very own neighbor went over to the fence and banged on it and said that he had heard Council was discussing just preliminarily issues about deer overpopulation and he has totaled a car hitting a deer, they have terrorized his private garden and trees and said if there was a Council meeting or Committee meeting, he wants to come. He (Councilman Plecnik) has heard from many residents who share these concerns.

## **OTHER COUNCIL REPRESENTATIVE REPORTS**

There were no other Council Representative Reports presented to 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 7:43pm**

1. Gerda Vandyck  
34955 Dixon Road

Re: Expressed her distress at what was supposed to be a buffer zone is now being destroyed and she has been out there measuring it and what should be a buffer zone of 50 feet, she now has a buffer zone of 11 ft (at the widest point) and 5 ft (at the smallest point). Six trees were removed and the builder denied they removed any trees, just vines and brush. She took pictures of a pile of trees that averaged 12-16 inches in diameter. This buffer zone was supposed to be green space and protect us from the noise and now this space is no longer protecting us. She would like new trees to be planted in this space.

2. John Kucmanic  
35025 Dixon Road

Re: He came to the meeting when we were discussing this project going up and the 50 feet buffer zone was mentioned and was supposed to be taken care of. We didn't really have an idea that they were going to go in and just disrupt that whole area or start disrupting that area. The majority of this is affecting his back view and it appears that they've done probably 50-60 ft. of this intensive excavating and re-leveling and then they stopped and created...they went to the buffer zone and then created another level right below that so now it is kind of uneven and he doesn't have any idea what they are going to do, if they're going to try and even it out, keep the trees or what, but he thinks once they started they should complete it and then be forced to replant the trees. They took the trees out, there were trees there, there are more trees they could remove to make it even. To him, it's halfway done. They should be forced to make it even across the back of his whole property and be forced to replant the trees to recreate that buffer.

3. Don Snyder  
35055 Dixon Road

Re: They have not come to tear down the trees on his property at this point in time and the trees behind his property are the largest of the trees so he is hoping and praying that they leave those trees alone. The oaks and maples are at least 2 ft. in diameter whereas some of the other trees in the area were only 16 inches. He would assume that the Building and Zoning Commission really didn't have a definitive plan and he was at all the meetings and it was very vague what was mentioned. He's not sure if there is any revision that could be made to know exactly what is in the plan. He is a 50 year resident and this is very disturbing.

4. Robert Kowalsky  
2585 Timberline Drive

Re: Fire Department Contract is still uncompleted after Mayor's negotiations, Council's Executive Sessions behind closed doors on the matter to still have the contract unresolved. He wants the Fire Personnel happy. What is the conflict in this contract?

**Public Portion was closed at 7:55pm**

## **UNFINISHED BUSINESS**

**The Law Director** stated for those residents on Dixon, there is some new activity that has occurred so he is going to suggest that we get a meeting together with the residents and the Clover people so that they can get all the facts. He knows that on Monday (July 28) they have a meeting on the Fowler issue at 5pm, he is just suggesting that so time doesn't lapse, but he can possibly get the Building Department Representative and he can be there and if the residents can bring their pictures at 4pm, but if not, at least send somebody, maybe a spokesperson; if they recall, the Mayor's Executive Secretary can be reached at 918-8730 so he can get their names, numbers, and at least all the pictures and if someone can at least come so that he can review it for the Council and Administration to make sure that whatever is going on, what's supposed to be happening is happening. If we can do this earlier rather than later so if somebody, or more people, attend the meeting, he can make it at 4pm, but he doesn't want this to go to next Tuesday or two weeks from now, he wants to grab it; he knows there have been some concerns, but this is the first time Council has heard this in public. We can also meet earlier in the morning, he has met with residents at 7:30 in the morning or 5 o'clock at night, we can do that; he would at least like the City Engineer and the Building Department Representative minimum so that we can understand each and every one of their specific concerns and we will vet out the facts and see where that takes us. I just offer that and if it can't be Monday we can make some other arrangements. Please call Ms. Majeski or leave a message and we'll get back with you.

**The Law Director** commented that if anyone in the audience thinks that this Council did anything improper or illegal by going into Executive Session, as the last statement indicates, he can assure everybody that that is absolutely not a proper legal statement; he doesn't think it was intended to be, but it had some ramifications that the Council did something wrong by going into Executive Session. It is standard, it's ordinary, it's one of the seven reasons why Ohio Law allows us to go back there and he thinks it's the first time, and only time, that Council has even done this on any negotiations so any implication that Council is doing something wrong or allegedly behind closed doors...yes, it's behind closed doors, but it is absolutely permissible specifically for negotiations and he doesn't want any type of misconstructions of position by some statements here that Council did anything wrong is a matter of law. In fact, they follow the law to a tee.

**Councilman Plecnik** stated he speaks for all of Council when he says they absolutely do support our Fire Department and although they do not participate in the day-to-day negotiations, we certainly want to impress our negotiators that we do support the Fire Department to the extent that the differences are not miles apart; we want to bend over backwards to do what we can to help our firefighters, we absolutely support our department, we are grateful for all the work that they do.

**Councilman Plecnik** addressed the Dixon Road concerns and said he has a lot of close personal friends that live on Dixon Road and it has been one of the most beautiful neighborhoods in Willoughby Hills; although, he was not on Council at the time, he thinks it is pretty well known he didn't support the Clover Development Project. He foresaw there would be a lot of difficulties, but here we are today and we need to work with the situation at hand. He hopes that by meeting with the Law Director and the Building Commissioner something can be done to prevent the loss of some beautiful trees and the quiet space that we've all come to enjoy in Willoughby Hills.

**President Somich** added that we prove that there is trust and respect for our safety services just about 55 minutes ago when we had presentations made to Members of our Police Department and welcomed our new patrolman into the City. We have great respect and there is great trust between all of the members of our safety forces and our

City Council and Administration. Negotiations are just that; the nature of the word means that there are always two parties that have to come together and one of City Council's biggest difficulties is meeting the budget and that means making sure the expenses and the revenues are equal. It's always a challenge, but we look to the challenge and we certainly know that the safety of our community is of utmost importance.

## **LEGISLATION**

**President Somich** reminded Members of Council that without two of our Members present this evening, if there is a suggestion of any Motion for waiving the Three Reading Rule on some of these pertinent Ordinances, it would take all five of Council to vote for that this evening. For the other items, it's a simple majority.

### **ORDINANCE NO. 2014-53 – THIRD READING**

**1<sup>st</sup> Reading:** June 26, 2014

**2<sup>nd</sup> Reading:** July 10, 2014

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**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 ROGERS ROAD DITCHING AND CULVERT REPAIR PROJECT AND REPEALING CONFLICTING LEGISLATION.**

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**MOTION WAS MADE BY COUNCILMAN BIRO**, seconded by Councilman Germano to adopt Ordinance No. 2014-53.

**Councilman Plecnik** asked the Mayor if we have any sense of what contractor will be handling the project for 2014-53? **The Mayor** replied no. **Councilman Plecnik** suggest we move to amend that piece of legislation to ensure that it states that no immediate relative or no company owned by an immediate relative of a Member of Council or any other elected official for the City of Willoughby Hills can take the contract. Do I have a Second? **Councilman Fiebig** seconded.

**MOTION WAS MADE BY COUNCILMAN PLECNIK**, seconded by Councilman Fiebig to amend Ordinance No. 2014-53 as stated.

**The Law Director** stated that as a matter of law, they are trying to do something more than the Ethics Commission will allow. As a matter of law, they could get it and that was a part of the controversy that he discussed. He just wants everybody to know that the Ohio Ethics Commission, depending on the underlying facts, can allow it because it all goes with the influence. They are asking for something more than the Ohio Ethics Commission and the laws require. **President Somich** passed the gavel and commented that this has been discussed many, many times and we have the word of our Administration that the questionable issue which would be, of course, that Frank Germano and any related company would be involved in this; we have been assured that that will not happen and that we can be assured that there will be no payments made to any related company and he trusts that. He thinks it would be unnecessary to include that in every piece of legislation when we do have the word of the Administration that that is not going to be done and it is easy to follow up on that and make sure that it hasn't been done. He just thinks that it is trivial and unnecessary.

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

**MOTION FAILS: 3-NAYS/2-AYES**

**President Somich** declared that the Motion to Amend Ordinance No. 2014-53 fails.

**Roll Call on Original Motion:**

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

**MOTION PASSES: 4-AYES/1-NAY**

**President Somich** declared that Ordinance No. 2014-43 has been adopted.



**ORDINANCE NO. 2014-54 – THIRD READING**

**1<sup>st</sup> Reading: June 26, 2014**

**2<sup>nd</sup> Reading: July 10, 2014**

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

**MOTION WAS MADE BY COUNCILMAN BIRO**, seconded by Councilman Fiebig to adopt Ordinance No. 2014-54.

**Councilman Fiebig** believed there was some discussion previously that this was quoted out by DiFonzo Excavating or DiFonzo Construction was the name so we already had that discussion, if memory serves. **The Mayor** stated it wasn't DiFonzo, he did the River Road or the Rogers Road; it hasn't been decided because it hasn't been approved. **Councilman Fiebig** replied we had a quote perhaps. That's where we came up with the figure for what we were going to appropriate, but it hasn't been awarded or decided because we don't have it, but the quote was from DiFonzo, if memory serves. **Councilman Plecnik** stated given that like 2014-53 it is uncertain where 2014-54 will go and given that he does not share President Somich's trust for the Administration, although he does support the legislation, he can see that Council won't amend it as they didn't amend 2014-53 and he won't waste Council's time, but he can't vote for an Ordinance awarding a sewer project without the absolute sureness that it will not go to an immediate family member of one of our elected officials or to a company owned by immediate family members. That is his position so while he supports it in principle, without knowing where it will go, he can't vote for it. **The Law Director** commented that Councilman Plecnik has sent a 17 page letter, or a 15 page letter, to the FBI, State Auditor, State Ethics Commission, the County Prosecutor, and other representatives questioning the legality of it. He just wants to make sure that it's not just his opinion, but that has been...he takes it by their silence that all of those public agencies that do all of the review on these particular matters have not come back and done anything so he just wants it to be known that it's not just Tom Lobe's opinion, but they went outside and around his opinion and so far, it's been four months, all of those governmental agencies, both federal, state, and local, have been given this issue and none of them have come back and said that it is improper. He's not saying Councilman Plecnik doesn't have the right to vote on this thing, but he doesn't want a misconception that there is something wrong going on or that it's this opinion or this Law Director's solely or this Council or some majority of Council. He has asked Councilman Plecnik numerous times as to whether or not any of those agencies, any of them, have come back and said that it's improper, illegal or unethical and so far the answer has been no, no, no. This matter has been fully vetted, fully reviewed, not only by him but primarily by the agencies submitted by Councilman Plecnik in a multiple page document specifically sent to them. If I'm wrong, please correct me. **Councilman Plecnik** responded that there are many things he is not at liberty to say, but it would be foolish to suggest that the FBI not reaching a conclusion within four months means that they have decided there is nothing to find or that the Ohio Ethics Commission by virtue of not acting on it in four months says there is nothing to find. He would also remind the Law Director that investigations by the Ohio Ethics Commission are confidential and if there were an ongoing investigation, he would not be at liberty to comment on it. **The Law Director** retorted that he (Councilman Plecnik) is allowed to comment on it. They (The Ohio Ethics Commission) are not allowed to comment on it. Councilman Plecnik is a councilman, he did not do this through formal channels, or Council, he did it through private means so for him to imply right now that he cannot comment on it is absolutely false. If he made the claim, he can comment on it. They can't, but he can and he (The Law Director) is not asking them (The Ohio Ethics Commission), he is asking Councilman Plecnik. Do not misquote the law or positions in this regard. That's an absolute false legal statement. **Councilman Plecnik** said to correct, he was not the only Member of Council on this specific complaint being referenced and he would disagree with the Law Director. If an agency requests you to be quiet on the matter, perhaps there is no law that requires you to be, but that doesn't mean it's prudent to say anything. **The Law Director** replied he was just talking law; there is no question, it's a matter of law. What's prudent for Councilman Plecnik and what's law may be two different things. He (Lobe) is up here to give the law and any implication that that is the law that he (Councilman Plecnik) can't is false and wrong and he is misguided in making that statement. He is not talking politically or otherwise, he is just referring to it legally. So now we're talking that it may not be prudent for Councilman Plecnik to answer which he (Lobe) did say is his (Councilman Plecnik's) prerogative. **Councilman Plecnik** corrected the Law Director and

said he didn't mean to say that it would not be prudent for him to answer; he said it would not be prudent for the agencies in question. **The Law Director** said that is correct, but Councilman Plecnik can still do it.

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

**MOTION PASSES: 4-AYES/1-NAY**

**President Somich declared that Ordinance No. 2014-54 has been adopted.**

#### **ORDINANCE NO. 2014-57 – SECOND READING**

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

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

**President Somich declared that Ordinance No. 2014-57 would remain on Second Reading.**

#### **ORDINANCE NO. 2014-58 – SECOND READING**

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

**AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF WILLOUGHBY HILLS AND THE WILLOUGHBY HILLS FIRE FIGHTERS, LOCAL #3149 OF THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, AFL-CIO AND DECLARING AN EMERGENCY.**

**President Somich declared that Ordinance No. 2014-58 would remain on Second Reading.**

#### **ORDINANCE NO. 2014-59**

**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 SERVICE AND FIRE LABOR SETTLEMENTS AND REPEALING CONFLICTING LEGISLATION.**

**President Somich declared that Ordinance No. 2014-59 would remain on First Reading.**

#### **ORDINANCE NO. 2014-60**

**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 ROCKEFELLER ROAD NORTH DRAINAGE IMPROVEMENT PROJECT AND REPEALING CONFLICTING LEGISLATION.**

**President Somich declared that Ordinance No. 2014-60 would remain on First Reading.**

#### **NEW BUSINESS**

**Councilman Fiebig** made the suggestion since they did receive a letter and had a comment regarding the City Motto that we create a Resolution that recognizes it was 25 years ago that that Motto was created.

**President Somich** stated that would originate in the Rules & Legislation Committee if he would like to bring it forth since he is on that Committee; that would be the place to recommend that.

**MOTION WAS MADE BY COUNCILMAN BIRO, seconded by Councilman Germano** to declare as surplus the items as listed in the Mayor's Interoffice Memo to President Raymond Somich and Council Clerk, dated July 18, 2014. All the items listed in the Interoffice Memo are used, outdated, are no longer of any use as City assets and are available for viewing in the Service Department Garage.

**Roll Call: 5 AYES – unanimous**

**MOTION PASSES**

**President Somich declared those items as surplus.**

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

### **Councilman Biro:**

Donate blood and good things will happen to you! Call 1-800-Red Cross

### **Mayor Weger:**

Benefit for retired Fire Captain Chris Niess—Sunday, July 27 from 1:00pm-5:00pm—at Local Tavern. There will be beer, burgers, brats, and bands. 100% of the cost will go to cancer treatment to help him and his family.

## **ADJOURNMENT**

**MOTION WAS MADE BY COUNCILMAN FIEBIG**, seconded by Councilman Biro to adjourn the Regular Council Meeting of July 24, 2014.

**Roll Call: 5 AYES - unanimous**

**MOTION PASSES**

**President Somich declared the Regular Council Meeting of July 24, 2014 to be adjourned at 8:17pm**

**APPROVED:**

September 11, 2014  
Date

Nancy E. Fellows  
Nancy E. Fellows  
President of Council Pro-tem

**ATTEST:**

Victoria Ann Savage  
Victoria Ann Savage, CMC  
Clerk of Council