

# City of Willoughby Hills

## Regular Council Meeting Minutes of July 10, 2008

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.

7:02 p.m. Meeting called to order by President of Council Kevin D. Malecek

### *Pledge of Allegiance*

### Roll Call of Council

**Members Present:** Councilman Raymond C. Somich, Councilman Christopher L. Biro, Councilwoman Nancy E. Fellows, Councilman David M. Fiebig, Councilman Frank A. Germano, President of Council Kevin D. Malecek, Vice President David A. Reichelt

**Also Present:** Mayor Robert M. Weger, Law Director Thomas G. Lobe, Finance Director Joseph G. Mirtel, City Engineer Richard Iafelice, Clerk of Council Victoria Ann Savage

**Absent:** Councilman David M. Fiebig (arrived at 7:05 p.m.)

**MOTION WAS MADE BY COUNCILMAN GERMANO**, seconded by Councilwoman Fellows to excuse Councilman David M. Fiebig.

**Roll Call: 6 AYES**

**MOTION PASSES**

President Malecek stated that the Councilman David M. Fiebig has been excused from this evening's meeting.

### PUBLIC HEARING

#### **ORDINANCE NO. 2008-51**

**AN ORDINANCE ADOPTING A TAX BUDGET FOR THE FISCAL YEAR 2009 FOR THE CITY OF WILLOUGHBY HILLS AND DECLARING AN EMERGENCY.**

President Malecek opened the Public Hearing at 7:03 p.m. by stating the members of the public are invited to address Council with respect to **Ordinance No. 2008-51**.

1. Robert Kowalsky  
2585 Timberline Drive

Re: Finance Director has done a timely job and appreciates everyone now understanding what is happening after all these years.

With no further commentary, President Malecek closed the Public Hearing at 7:05 p.m.

**Let the record show that Councilman David M. Fiebig arrived at 7:05 p.m.**

## **Disposition of the Journal     Regular Council Meeting of June 26, 2008**

**President Malecek stated that the minutes of the Regular Council Meeting of June 26, 2008 will be addressed at the next Regular Council Meeting scheduled for July 24, 2008.**

### ***Correspondence***

- Mayor's Monthly Statement to Council for the Month of June, 2008
- Richard Iafelice, City Engineer to Honorable Robert Weger and Members of Council re: July Status Report

### ***Notifications***

- Charter Review Commission Meeting of July 9, 2008
- Finance Committee Meeting of July 7, 2008
- Planning & Zoning Commission and Architectural Board of Review Meeting of July 3, 2008
- Public Hearing Notice to consider the proposed Tax Budget for the Year 2009
- Rules & Legislation Committee of Council Meeting of July 7, 2008
- ***BOARD OF BUILDING AND ZONING APPEALS MEETING OF MAY 13, 2008***
- ***RECREATION COMMISSION MEETING OF JUNE 3, 2008***

### ***Minutes***

- ***Finance Committee Meeting of July 7, 2008***
- Planning and Zoning Commission & Architectural Board of Review Meeting of June 5, 2008
- Planning and Zoning Commission & Architectural Board of Review Meeting of June 19, 2008
- Recreation Commission Meeting of April 1, 2008
- ***Rules and Legislation Committee Meeting of July 7, 2008***
- ***Service Committee Meeting of June 3, 2008***

### ***On File***

- Draft of the 2009 Tax Budget for The City of Willoughby Hills, Ohio
- Letter to Central Collection Agency, dated June 27, 2008 re: The City of Willoughby Hills – Tax ID #34-6003085
- Willoughby Hills Senior Center Activity Pages
- Cities & Villages for May/June 2008
- ***LETTER FROM RITA TO THE HONORABLE ROBERT M. WEGER, DATED JULY 2, 2008 RE: REGIONAL INCOME TAX AGENCY/CITY OF WILLOUGHBY HILLS***

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

- **Residents First Program**
  - Community Day 2008 – Rain Out
  - Run for the Hills – Sponsored by Lions Club
  - Assessment Area C – offering a tap-in discount of \$500; deadline is July 15<sup>th</sup>
  - Eddy Road Storm Sewer
  - Charter Review Commission
  - Heavy Trash Pickup Program – Bid Opening
  - Chardon Road Resurfacing
  - So Long to Sahara Celebration – Building will be coming down
  - Chagrin River Rescue - Recognized Peter Kamis, the Police Department and the Fire Department for their efforts
- **Upcoming City Events**
  - **July 15<sup>th</sup>** – Willoughby Hills Red Cross Blood Drive – Free T-Shirts and Willoughby Hills Cookbook offered to anyone who donates blood
  - **July 19<sup>th</sup>** – Cool Car Show at the Maplegrove Alliance Church
  - **July 21<sup>st</sup> – August 1<sup>st</sup>** – Willoughby Hills Safety Town

- **September 13<sup>th</sup>** - First Annual Steak and Corn Roast to be held in conjunction with the City Flea Market, the ever-popular Touch-a-Truck and Fireworks!

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

- No formal report was given.

#### **FINANCE DIRECTOR – Joseph G. Mirtel**

- Recommend Passage of Ordinance No. 2008-51 and Ordinance No. 2008-52
- Reported on Pre-paid Assessments - \$ 120,000 – represents (48) \$2,500

#### **CITY ENGINEER – Richard J. Iafelice, P.E., P. S.**

- Referenced Status Report of July 2008
- City received the Grant and Loan from Ohio Public Works Commission – the Agreement was received and executed by the Mayor – funding available to assist with Assessment Area C
- Chardon Road Update

#### **COMMITTEE REPORTS**

##### **FINANCE – Raymond C. Somich**

##### **COMMITTEE MEETING OF JULY 7, 2008**

**Members Present:** Chairman Raymond C. Somich, Councilwoman Nancy E. Fellows, Councilman David A. Reichelt

**Also Present:** Councilman Christopher L. Biro, Councilman David M. Fiebig, Councilman Frank Germano, Council President Kevin D. Malecek, Mayor Robert M. Weger, Finance Director Joseph Mirtel

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

**Meeting convened at 6:41 p.m.**

- Discussed and reviewed the 2009 Tax Budget.

**It was the consensus of the Committee to recommend to Council, by way of Ordinance No. 2008-51 passage of said budget.**

- The Committee discussed Ordinance No. 2008-52 - an Ordinance allowing the Mayor to accept and/or receive any gifts up to \$10,000 without pre-approval of Council; however he would have to report any and all gifts over \$500.00.

**It was the consensus of the Committee to recommend to Council passage of Ordinance No. 2008-52.**

- The Committee discussed the amount of funding required to complete the Dispatch Center Project.

**A Motion of Council will be required to authorize legal counsel to draft legislation for a note to acquire funding.**

- Finance Director Mirtel informed the Committee that he will be requesting an ordinance in the near future to put all, or to couple all of the City's depositories into an approved status from Council by one Ordinance so it can be done perhaps once every five years instead continuing to do individual and/or multiple Ordinances when each depositories comes due.
- Appropriations are being reviewed for the transfer of funds between some accounts relative to budgeting.
- Process of reviewing and recommending the release of some accounts as of the end of the year.
- Finance Department continues to work with the State Auditors relative to closing 2006.
- Councilman Fiebig inquired about Account 460 which will allow the Recreation Department to have faster and/or quicker access to some funding for City fundraising activities.

**Public Portion was opened and Mr. Kowalsky inquired about the funds obtained from NOPEC and how they were spent.**

**Meeting Adjourned at 7:10 p.m.**

##### **PLANNING & ZONING – David A. Reichelt**

- The Planning & Zoning Committee has not met; therefore no formal report was given.

## **RECREATION – David M. Fiebig**

- The Recreation Committee has not met; therefore no formal report was given.

## **RULES & LEGISLATION – President Kevin D. Malecek**

### **COMMITTEE MEETING OF JULY 7, 2008**

**Members Present:** Chairman Kevin D. Malecek, Councilman Frank A. Germano, Vice President David A. Reichelt

**Also Present:** Councilman Christopher L. Biro, Councilwoman Nancy E. Fellows, Councilman David M. Fiebig, Councilman Raymond C. Somich, Mayor Robert M. Weger

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

#### **Meeting Convened at 7:11 p.m.**

Continued discussion on Ordinance 2008-49; additional received comments from Chief Collins and Mayor's Executive Assistant regarding noise complaints for construction and other practices.

Collins: Ruckus, noise, neighborhoods, live bands. New construction is a problem - new condo areas at Pine Ridge - no time frame for construction companies to start and stop. Policies from other cities. The ordinance we have works for parties, ruckus, disturbing the peace - broad interpretation - few complaints dealing with noise - more so dealing with construction companies. Skyline resident cuts grass at 9pm or 10pm at night - can respond to under ordinance.

Majeski conferred with Janeen in Finance who also get calls re. noise disturbances. She agrees that we receive about 6 or 8 calls per week and all generally complain about: Construction work start times, Landscape start times, and a few regarding dirt bikes and the two regarding the oil/gas well pump at Warner's Nursery.

Items prepared from Willoughby, Wickliffe, and Middlefield regarding their noise practices – distributed to Council.

Somich – felt this should still be a personal issue – people having the ability to cut their lawn – in terms of start doing something at a certain time of the morning. Had never received a complaint from a resident in regards to noise starting early and late. Surprised to hear Mayor's assistant is getting that many complaints a week. Two neighbors complained to me about Bishop Road resident building a shed, cutting wood early on Sunday morning – calling and leaving voice messages on Building Inspector's voicemail.

Reichelt – our role here cues from enforcement/executive branch. Police Chief came and said we need something on the books – helpless in many circumstances – both indicated they want us to do this.

Germano – Willoughby's is quite restrictive – probably too much for us.

Fellows – construction – utilize as much daylight as they can? No, trying to miss the traffic and avoid heat of day.

Construction is temporary. Reichelt – Classic was cooperative, but technically hard to enforce without something.

Fellows – what about road construction? Fellows – what will the fine be? Discretion of the Officer of the fine?

Reichelt - looking for a definition here to streamline and further define the noise ordinance. Biro – my complaints are more from people regarding not cutting their lawns. Fellows – property maintenance only as a component of the noise ordinance. Reichelt – this may never get used, probably would get a warning. Biro – there is an appeal process. Weger – police force will use discretion – not looking to give tickets, trying to make City safe and livable.

Germano – 509.11b – Mayor may waive restrictions for businesses, etc – authorize people alright – can amend to say “for any reason.” Could grant it or not grant it. Biro – are people compliant? No Ordinance to back them up.

Reichelt – all for this – move it forward. Germano – Mayor should have restriction right for private use too – 509.11 (b) to “the Mayor may waive the restrictions in Section 509.11 (a) for any reason.” Somich – trusts Executive Branch to enforce the right way.

- Public Records Policies, Property Maintenance Matters in future before and perhaps after recess.

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

Robert Kowalsky – what if I am the call who calls? Police comes and walks away – favoritism on what – there is another side to this – you are able to call you – police is able to come to neighbor you don't like – repeat offender “mucho bucks” – what is good for the city bids – to place that on the permit – a lenient time. What you are saying to write in – Police can go there and judge – remember that – not saving people – forget that whole paragraph – got enough in there – take care of construction permits. No other calls on Classic – they've started early – before 7:00am – if it is repeat offense that is when the hammer can come down.

Linda Fulton – a long time ago, 8:00pm that things couldn't start – the sewer project – they warm-up the machinery for at least 45 minutes – 9pm and 7am is the limitation. It's not all year round – people that work various hours of the day.

Joyce Grady – have heard various lawyers tell people that laws should be made on laws and not for personal reasons

– some policeman that were nasty – they didn't care – tone it down a little bit – very uncomfortable putting in restrictions on private things. Sending a policeman out – strictly on complaint of the neighbor – determines if person is breaking the law. Very careful on laws to keep the calm, quiet community.

**Meeting adjourned at 8:04 p.m.**

#### **SAFETY – David A. Reichelt**

- The Safety Committee has not met; therefore no formal report was given.

#### **SERVICE – Nancy E. Fellows**

##### **COMMITTEE MEETING OF JUNE 3, 2008**

**Members Present:** Chair Nancy E. Fellows, Councilman Christopher L. Biro, Councilman Frank A. Germano

**Also Present:** President Kevin D. Malecek, Vice President David A. Reichelt, Mayor Robert M. Weger, City Engineer Richard Iafelice

**Purpose of the Meeting was to review Sanitary Sewer Planning Issues and any other business.**

**Meeting convened at 6:26 p.m.**

- Discussed Strategies for OPWC Funding of Capital Projects.
- Discussed Maplegrove slope failure and Bishop Road improvements from Evergreen to the City's southerly border.

#### **The following people came forth with questions/comments:**

Just a friendly reminder, residents that have specific concerns aligned with a committee, if it is an issue not on the agenda, please contact the appropriate individual, i.e. Mayor, City Engineer to discuss your concerns so the specific individual can be prepared to answer your questions efficiently and effectively.

**Linda Fulton** – Inquired when Bishop Road would be stripped? The Bishop Rd project is not completed, bridge being painted, some road surfacing needs to be addressed, stripping will follow. Still waiting for ditches to be cleaned and pitched by the City in the Marcum and Parkview area.

**Frank Cihula** – I.e. Bishop Rd heading north to the bridge for west (left) turn to City. Signage does not appear to give drivers enough time to align themselves with the turn lanes and the straight lane. Also, concerns with drainage and curbs at City Hall and the Fire Station intersection.

**Joyce Grady** – Inquired re-definition of homes aligned with idea of a roundabout at White and Bishop Roads.

**Bob Kowalski** – Suggest PA system in Community Center for future meetings. Announcement for committee start time incorrect on Channel 12. Question damage from drainage on Chardon Rd. City Engineer addressed.

**Jim Berg** (Marcum Blvd.) – Concern with swale between his properties. Resident to call City Engineer.

**Meeting adjourned at 7:14 p.m.**

#### **UTILITIES – Frank A. Germano**

- The Utilities Committee has not met; therefore no formal report was given.
- **Announced that there will be a Utilities Committee Meeting scheduled for Saturday, July 19<sup>th</sup> . (NOTE: At the direction of the City Engineer, the meeting was not scheduled).**

#### **PERSONNEL RELATIONS – Christopher L. Biro**

- The Personnel Relations Committee has not met; therefore no formal report was given.
- **Announced that an issue has come up for the Committee to review and will be calling for a meeting in the near future.**

#### **WORKING COMMITTEE OF COUNCIL – President Kevin D. Malecek**

- The Working Committee of Council has not met; therefore no formal report was given.
- **Announced that Council will be holding the date of Thursday, August 21<sup>st</sup> at 6:00 p.m. (immediately preceding the Planning and Zoning Commission Meeting) for a Special Meeting of Council to address any and all business that might come before Council during the recess period.**

## **OTHER COUNCIL REPRESENTATIVE REPORTS**

- Councilman Biro thanked all the members of the Charter Review Commission and announced that there will be a Charter Review Commission Meeting held on Tuesday, August 5<sup>th</sup> at 7:00 p.m.
- Councilman Biro also announced that additional meetings will be called to discuss the proposed Charter Amendments.
- President Malecek announced that a Special Council Meeting will be scheduled for Thursday, August 21<sup>st</sup> to review the Charter Amendments.
- Councilman Reichelt announced that the proposed Charter Amendments will be available for viewing on the City's Website.

## **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.**

President Malecek opened public portion at 7:25 p.m.

1. Robert Kowalsky

2585 Timberline Drive

Re: Ordinance No. 2008-49 – dealing with distributing the peace, and the time frame in which lawns can be cut; Issue of CCA – Airport and the need for Meeting(s) to aid in negotiation

With no further commentary coming forth from the public, President Malecek closed Public Portion at 7:29p.m.

## **UNFINISHED BUSINESS**

- President Malecek passed the gavel to Vice President Reichelt in order to respond to Mr. Kowalsky's comments regarding **Ordinance No. 2008-49**. President Malecek also responded to Mr. Kowalsky's comments with respect to the issue of the Cuyahoga County Airport.
- Councilman Reichelt passed the gavel back to President Malecek. Councilman Reichelt provided commentary on **Ordinance No. 2008-49**.

## **LEGISLATION**

### **ORDINANCE NO. 2008-49 – Third Reading**

AN ORDINANCE AMENDING PART FIVE – GENERAL OFFENSES CODE, CHAPTER 509 DISORDERLY CONDUCT AND PEACE DISTURBANCE OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOUGHBY HILLS BY THE ADDITION OF SECTION 509.11 – DISTURBING THE PEACE; CONSTRUCTION AND LAWN CUTTING HOURS AND DECLARING AN EMERGENCY.

**MOTION WAS MADE BY COUNCILMAN REICHELT**, seconded by Councilman Germano to adopt **Ordinance No. 2008-49**.

Councilman Somich thought that additional feedback would be forthcoming from the Police Chief and that perhaps further research could be done with respect to this issue. Councilman Somich stated that he was not prepared to vote on this issue and if he had to vote on this Ordinance this evening, he would be opposed.

Councilwoman Fellows was in concurrence with Councilman Somich's sentiments and she too would be voting no.

Councilman Germano questioned the Mayor, asking him if the Police Chief approved as to how the Ordinance was written and if the Police Chief approve of the Ordinance; the Mayor replied yes, that was correct.

Councilman Fiebig questioned if the President could state the current change and questioned if this Ordinance would be complaint driven.

Councilman Reichelt stated that in light of the concerns, he would be willing withdraw his motion and requested that the Police Chief be called into a meeting to further discuss this issue. President Malecek questioned Councilman Germano as to if he would be willing to withdraw his second. Councilman Germano questioned if this Ordinance would be coming before Council at the next Regular Council Meeting, President Malecek replied absolutely and with that Councilman Germano complied.

President Malecek stated that the motion has been withdrawn and Ordinance No. 2008-49 will remain on Third Reading and will be reviewed at the Rules and Legislation Committee Meeting scheduled for July 21<sup>st</sup>.

#### **ORDINANCE NO. 2008-51**

AN ORDINANCE ADOPTING A TAX BUDGET FOR THE FISCAL YEAR 2009 FOR THE CITY OF WILLOUGHBY HILLS AND DECLARING AN EMERGENCY.

**MOTION WAS MADE BY COUNCILMAN BIRO**, seconded by Councilman Fiebig to suspend the Three Reading Rule for Ordinance No. 2008-51.

**Roll Call: 7 AYES - unanimous**

**MOTION PASSES**

President Malecek stated that the Three Reading Rule for Ordinance No. 2008-51 has been suspended.

**MOTION WAS MADE BY COUNCILMAN BIRO**, seconded by Councilman Fiebig to adopt Ordinance No. 2008-51.

**Roll Call: 7 AYES - unanimous**

**MOTION PASSES**

President Malecek stated that Ordinance No. 2008-51 has been adopted.

#### **ORDINANCE NO. 2008-52**

AN ORDINANCE AMENDING PART ONE – ADMINISTRATIVE CODE, TITLE FIVE – ADMINISTRATIVE, CHAPTER 135 – DEPARTMENT OF FINANCE OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOUGHBY HILLS BY THE ADDITION OF SECTION 135.30 – ACCEPTANCE OF GIFTS.

**MOTION WAS MADE BY COUNCILMAN FIEBIG**, seconded by Councilman Germano to suspend the Three Reading Rule for Ordinance No. 2008-52.

**Roll Call: 7 AYES - unanimous**

**MOTION PASSES**

President Malecek stated that the Three Reading Rule for Ordinance No. 2008-52 has been suspended.

**MOTION WAS MADE BY COUNCILMAN SOMICH**, seconded by Councilwoman Fellows to adopt Ordinance No. 2008-52.

**Roll Call: 7 AYES - unanimous**

**MOTION PASSES**

President Malecek stated that Ordinance No. 2008-52 has been adopted.

#### **NEW BUSINESS**

**MOTION WAS MADE BY COUNCILMAN GERMANO**, seconded by Councilman Somich to declare various supplies and equipment as detailed in the Mayor's Memo of July 8, 2008 to Council President Kevin Malecek with all items being under a \$1,000 value. (Note that said Memo will be a part of Council's Journal for the Regular Council Meeting of July 10, 2008).

**Roll Call: 7 AYES – unanimous**

**MOTION PASSES**

President Malecek stated that the motion passed declaring the various supplies and equipment detailed in the Mayor's Memo of July 8<sup>th</sup> to Council President with all items being under a \$1,000 value.

**MOTION WAS MADE BY COUNCILMAN REICHELT**, seconded by Councilman Fiebig to authorize the Mayor to contract with the law firm of Squire, Sanders and Dempsey to acquire a short term note (\$450,000) for the Information Technology and Dispatch Project.



Roll Call: 7 AYES - unanimous

MOTION PASSES

President Malecek stated that the Mayor is hereby authorized and directed to contract with the law firm of Squire, Sanders and Dempsey for the purpose of acquiring a short term note for the Information Technology and Dispatch Project.

**FOR THE GOOD OF THE ORDER**

- Councilman Somich wanted to mention that the Lake Metro Parks is holding an event "All America - America the Beautiful" - this coming Sunday, July 13<sup>th</sup> - the event will start at 6:30 p.m. and in honor of the Lake Metro Parks 50<sup>th</sup> Anniversary this event is free.

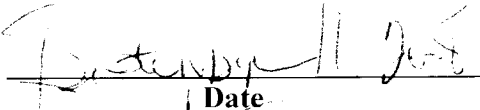
MOTION WAS MADE BY COUNCILMAN REICHELT, seconded by Councilman Fiebig to adjourn.

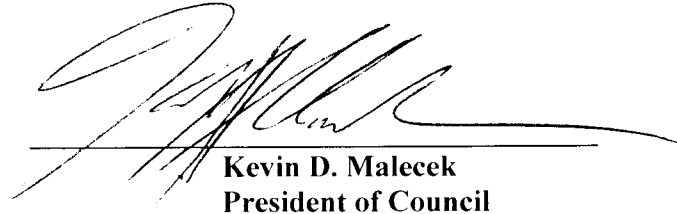
Roll Call: 7AYES – unanimous

MOTION PASSES

Meeting adjourned at 7:45 p.m.

APPROVED:

  
Date

  
Kevin D. Malecek  
President of Council

ATTEST:

  
Victoria Ann Savage  
Clerk of Council