

City of Willoughby Hills

Council
CHRISTOPHER L. BIRO
NANCY E. FELLOWS
DAVID M. FIEBIG
FRANK A. GERMANO
RAYMOND C. SOMICH

Special Council Meeting Minutes of March 4, 2010

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.

7:00 p.m. Meeting of Council 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 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

Presentation: Chris LeGros, presented a donation on behalf of the Willoughby Junior Women's Club in the amount of \$1500

Correspondence

- Mayor's Court Monthly Statement to Council, for February 2010
- Letter from President and Vice-President of Fire Fighter's Local 3149, dated February 25, 2010 re: Letter of October 23, 2009 submitted to the Mayor and Members of Council
- Clerk of Council to Robert M. Weger, Service/Safety Director, dated March 1, 2010 re: Ohio Division of Liquor Control – C TRFO 8691486-0010
- Ohio Department of Development to Honorable Mayor Robert Weger (and provided to the legislative authority of the municipality), dated February 24, 2010 re: Ohio Job Creation Tax Credit Program/Relocation of Operations-Required Notice
- City Engineer's Status Report for March 2010
- **FINANCIAL REPORTS: CASH RECONCILIATION, PURCHASE ORDERS AND FUND BALANCE CHANGE ANALYSIS FOR THE MONTH ENDING FEBRUARY 2010**

Notifications

- Recreation Commission Meeting scheduled for Tuesday, March 2, 2010 has been cancelled
- Planning and Zoning Commission & Architectural Board of Review Meeting of March 3, 2010
- Rules & Legislative Committee Meeting of March 1, 2010
- Rules & Legislative Committee Meeting of March 4, 2010

Minutes

- **Finance Committee Meeting of February 17, 2010**
- Rules & Legislative Committee Meeting of February 25, 2010
- **Rules & Legislative Committee Meeting of March 1, 2010**

- **Rules & Legislative Committee Meeting of March 4, 2010**
- **SAFETY COMMITTEE MEETING MINUTES OF FEBRUARY 25, 2010**

MAYOR'S REPORT – Robert M. Weger

- Update of the City-Wide Trash Program – Public Meeting to be held Tuesday, March 9th at 7:00 p.m.
- AARP offering free assistance with Federal and State Income Taxes on Tuesdays from 9:00 a.m. to Noon – Call City Hall to get appointment time
- RITA coming to City Hall one day only (Monday, March 15th from Noon to 7:00 p.m. – No appointment necessary
- National College – Grand Opening
- Acknowledged the passing of former Council Member George Kraincic
- Save the Dates:
March 7, 14, and 21
 Upcoming Pancake Breakfasts, including Chinese Raffle and Boys Baseball and Girls Softball Signups; Kids Print (Photo ID)
Saturday, March 6th (see City Website for details)
 Boys League Reverse Raffle
Saturday, March 6th (see City Website)
 South High School Band Reverse Raffle

LAW DIRECTOR'S REPORT – Law Director Thomas G. Lobe, LLP

- Supports Ordinance No. 2010-13 – Agreed Journal Entry terminating the litigation between the Northeast Ohio Sewer District vs. the City of Willoughby Hills, being one of 62 defendants named

FINANCE DIRECTOR'S REPORT – Joseph G. Mirtel

- Distributed the Financial Reports consisting of Cash Reconciliation, Purchase Orders and Fund Balance Change Analysis for the month ending February 2010
- Supports Ordinance No. 2010-11 – Refinancing of \$1,250,000 in notes that will be due and payable March 31, 2010

CITY ENGINEER'S REPORT – Richard J. Iafelice, P.E., P.S.

- Project Report – Assessment Area “C”
- Bid Opening March 5th for the Maplegrove Slope Failure Project
- ODOT Bid Opening is March 11th for the SOM Center Widening and Signalization Project
- Contractor doing work in Assessment Area “C” is doing excellent work; stewardship
- Receiving quite a few phone calls mainly from property owners who are getting prepared for their laterals and lateral connections; Councilman Reichelt and City Engineering working on putting information on the City's Website to advise property owners and to help communicate some advise
- Though some of the telephone calls, just to let Council know and the Mayor know, they have been very cordially, very courteous and in fact several unsolicited compliments to the City about the Citywide Trash Recycling Program – the fact that the City is saving them money has been noticed, especially those who have been affected by a sewer assessment

FINANCE – Raymond C. Somich, Chair

Committee Members: Nancy E. Fellows, David M. Fiebig

COMMITTEE MEETING FEBRUARY 17, 2010

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

Also Present: Councilman Christopher L. Biro, Councilman Frank A. Germano, Councilman David A. Reichelt, Mayor Robert M. Weger, Finance Director Joseph G. Mirtel, Law Director Thomas Lobe

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

Meeting convened at 4:05 p.m.
<i>Order of Business</i>
<p>1. Meeting was called because the seriousness of the situation and proposed tax issue demands more discussion and consideration</p> <p>2. The Chairman, Finance Director and Mayor reviewed the situation. There was concern whether the 2.25% rate would pass and if we could get by with a lesser increase, even if we did not increase the credit for residents to provide a tax decrease for them.</p> <p>3. Council requested a printed list of all expense cuts we have made, and suggested we review more areas that can be cut further. This information must be shared with the community because through excellent efforts, most cuts have not affected the level of service to residents and business. Cuts have been made. Most recent include no Cornfest and Sumer Camps in 2010.</p> <p>4. Councilman David A. Reichelt stated that in comparison to many other safety forces he works with, we are and have been running very lean for many years and in his opinion have already below acceptable standards. Mayor said that any further cuts in the Fire Department will mean we cannot participate in mutual aid – either giving or receiving. Even if we get mutual aid now it could be a 14-28 minute response time.</p> <p>5. In 34 years since an income tax increase, the City has grown and demands on all City Services have greatly increased. This includes administrative requirements for all sewer projects. We also have the most highways and streams and hills per City area of any City around us.</p> <p>6. Nancy Fellows made a motion to change our prior recommendation to Council and to place a 2.0% income tax on the ballot with a 1.5% credit. Councilman David Fiebig seconded. The vote passes 2 for, 1 against. However, in subsequent discussion with remaining Council Members attending, it was determined that this recommendation would not be carried with all of Council, and existing Ordinance would continue.</p>
<i>Public Portion</i>
<p><u>Public Portion commenced at 5:35 p.m. and concluded at 5:45 p.m. with comments made by:</u></p> <p>Frank Cihula (who preferred a 2% rate and does not think Council should give up their right to change the credit in the future) and Robert Kowalski (who suggested limited term property tax levy that would place new revenue in identified areas of need for as long as we need it)</p>
Meeting adjourned at 5:46 p.m.

PLANNING & ZONING – David M. Fiebig, Chair

Committee Members: Frank A. Germano, David A. Reichelt

- The Planning & Zoning Committee has not met; therefore no formal report was given.
- Requested Law Director to review the proposed Ordinance for the Residential Exterior Maintenance Code

RECREATION – Nancy E. Fellows, Chair

Committee Members: Christopher L. Biro, David A. Reichelt

- The Recreation Committee has not met; therefore no formal report was given.
- Noted that there was no information from the Recreation Commission to bring forth to Council

RULES & LEGISLATION – Kevin D. Malecek, Chair

Committee Members: Frank A. Germano, David A. Reichelt

COMMITTEE MEETING MARCH 1, 2010
<p><u>Members Present:</u> President Kevin D. Malecek, Chair, Councilman Frank A. Germano</p> <p><u>Also Present:</u> Councilman David M. Fiebig, Councilman Raymond C. Somich, Mayor Robert M. Weger</p>
<u>Purpose of the Meeting was to discuss Pending Legislation and any other business.</u>
Meeting convened at 6:50 p.m.
<i>Order of Business</i>
<p><u>Ordinance 2010-8: Signs Regulations</u></p> <p>Passed through both Planning and Zoning Commission and Committee – been in the works for months – back and forth through both the Council and the Commission – document that accurately reflects.</p> <p>Recommend to move to Council for Three Reading consideration and Public Hearing – on Third Reading.</p>
<u>Ordinance 2010-9: Permanent Utility Easements for Stark Drive Pump Station</u>

Accepting the easement – never did this component of it – signed document – accepting it.

Recommend waiving Three Readings and Adopting at Council on Thursday

Ordinance 2010-10: Service Department Contract Negotiations

Recommended by Committee on Personnel Relations – similar to other agreements.

One thing was locked in – eliminated the scale – anytime they could have received a raise – what they are today – years of service. Simplified in terms of rates.

Recommend to waive Three Readings and Adopt at Council on Thursday

Ordinance 2010-11: Reissuing Bonds

Amend with Emergency Clause. Retiring the interest – not paying the principal on it right now just the interest.

Consolidating the rest.

Recommend to waive Three Readings and Adopt at Council on Thursday

Ordinance 2010-12: Permanent Appropriations

Consider an FYI this evening – right after Thursday try to find a date so everyone can attend

Remain on First Reading

Public Portion

Linda Fulton – if doing resolution for George Kraincic – at the next meeting on March 25th.

Robert Kowalsky – what was the last resolution – going to have a Finance Committee Meeting – on Thursday are you going to read the Finance Meeting Minutes? Somich: previous meeting was submitted to the Clerk, the last one – minutes are prepared and reported at the meeting on Thursday. Voting during absent – no responsibility. You should have your meeting just like the President – take it and be as wide open on TV as you can be – you guys are the ones that said – they don't understand what we have done – should have called all those people in the beginning – what is the story with your garbage – I don't like the garbage thing. I would like to see the legislation and minutes.

Meeting adjourned at 7:05 p.m.

COMMITTEE MEETING MARCH 4, 2010

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

Also Present: Councilman Christopher L. Biro, Councilman David M. Fiebig, Law Director Thomas Lobe, Mayor Robert M. Weger

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

Meeting convened at 7:38 p.m.

Order of Business

Ordinance 2010-13: Northeastern Ohio Regional Sewer District

Involves record of our conversations with the NEO Sewer District – Judgment Entry – only two properties in the City under this – Swagelok Companies – Agreed Judgment Entry by Mr. Lobe and Director of Law for NEO Regional Sewer District – only two properties in the District – no other properties in the City of Willoughby Hills – so we are covered. Member Community in the District – Court will retain jurisdiction – between plaintiff and defendant in Willoughby Hills – part of the Court Record. Advising Swagelok of litigation – do not consent, but are not objected – may intervene in the lawsuit.

Recommend waiving Two Day Notification, Three Reading Rule and Adopt at Council this evening.

Resolution 2010-1: Resolution Honoring George J. Kraincic

Recommend waiving Three Reading Rule and Adopt at Council this evening

Public Portion

Robert Kowalsky – what does the court case want? Mr. Lobe will give copy of the complaint – present matters involving stormwater and fee attached to it. Council not to forget – sewer pipe from Swagelok to Willoughby Hills.

Meeting adjourned at 7:00 p.m.

SAFETY – David A. Reichelt, Chair

Committee Members:

Christopher L. Biro, David M. Fiebig

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

SERVICE – Christopher L. Biro, Chair

Committee Members: Nancy E. Fellows, Frank A. Germano

- The Service Committee has not met; therefore no formal report was given.
- Announced Public Meeting to be held Tuesday, March 9th at 7:00 p.m. for the City-Wide Trash/Recycling Program

UTILITIES – Frank A. Germano, Chair

Committee Members: Nancy E. Fellows, Raymond C. Somich

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

PERSONNEL RELATIONS – Christopher L. Biro, Chair

Committee Members: Raymond C. Somich, Mayor Robert M. Weger

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

WORKING COMMITTEE OF COUNCIL – Kevin D. Malecek, President of Council

- The Working Committee of Council has not met; therefore no formal report was given.

OTHER COUNCIL REPRESENTATIVE REPORTS

- No other Council Representative Reports were brought forth to Council.

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 7:24 p.m.

1. Robert Kowasky

2585 Timberline Drive

Re: Lack of response to a previous question

Public Portion was closed at 7:27 p.m.

President Malecek stated that the Unfinished Business portion of the Agenda was inadvertently omitted, and without any objections would like to call for any unfinished business from Council.

UNFINISHED BUSINESS

- Law Director Lobe clarified for the record that he tried to respond to Mr. Kowalsky's questions last week and stated that he would again be happy to respond to his questions following this evening's meeting.
- Councilman Reichelt stated for the record that he too tried to respond to Mr. Kowalsky's questions and Mr. Kowalsky declined Mr. Reichelt's answer as well.

LEGISLATION

ORDINANCE NO. 2010-8 – THIRD READING

AN ORDINANCE AMENDING PART ELEVEN – PLANNING AND ZONING CODE, TITLE NINE – SIGNS, CHAPTER 1151 – SIGN REGULATIONS, SECTION 1151.05 – SIGNS IN NONRESIDENTIAL DISTRICTS, SECTION 1151.06 – PROHIBITED SIGNS AND CHAPTER 1103 – DEFINITIONS, SECTION 1103.02 - DEFINITIONS, OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOUGHBY HILLS; AND REPEALING ANY AND ALL CONFLICTING LEGISLATION.

President Malecek declared that Ordinance No. 2010-8 would remain on Third Reading.

ORDINANCE NO. 2010-9

AN ORDINANCE ACCEPTING PERMANENT UTILITY EASEMENTS AND A TEMPORARY WORK AGREEMENT FOR THE STARK DRIVE PUMP STATION IMPROVEMENT PROJECT AND DECLARING AN EMERGENCY.

MOTION WAS MADE BY COUNCILMAN GERMANO, seconded by Councilman Biro to suspend the Three Reading Rule for Ordinance No. 2010-9.

Roll Call: 7 AYES – unanimous

MOTION PASSES

President Malecek declared that the Three Reading Rule for Ordinance No. 2010-9 has been suspended.

MOTION WAS MADE BY COUNCILMAN GERMANO, seconded by Councilman Biro to adopt Ordinance No. 2010-9.

Roll Call: 7 AYES – unanimous

MOTION PASSES

President Malecek declared that Ordinance No. 2010-9 has been adopted.

ORDINANCE NO. 2010-10

AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF WILLOUGHBY HILLS AND THE CITY, COUNTY, AND WASTE PAPER DRIVERS UNION, LOCAL 244 AND DECLARING AN EMERGENCY.

MOTION WAS MADE BY COUNCILMAN BIRO, seconded by Councilman Fiebig to suspend the Three Reading Rule for Ordinance No. 2010-10.

Roll Call: 7 AYES – unanimous

MOTION PASSES

President Malecek declared that the Three Reading Rule for Ordinance No. 2010-10 has been suspended.

MOTION WAS MADE BY COUNCILMAN BIRO, seconded by Councilman Germano to adopt Ordinance No. 2010-10.

Roll Call: 7 AYES – unanimous

MOTION PASSES

President Malecek declared that Ordinance No. 2010-10 has been adopted.

ORDINANCE NO. 2010-11

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED \$1,250,000 NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING A PORTION OF THE COSTS OF (I) IMPROVING, IN COOPERATION WITH THE OHIO DEPARTMENT OF TRANSPORTATION, U.S. ROUTE 6 IN THE CITY BY RESURFACING AND INSTALLING AND REPLACING CURB RAMPS THERETO, TOGETHER WITH THE NECESSARY APPURTENANCES AND WORK INCIDENTAL THERETO, AND MAKING OTHER IMPROVEMENTS AS DESIGNATED IN THE PLANS APPROVED OR TO BE APPROVED BY COUNCIL AND (II) RENOVATING, IMPROVING AND EQUIPPING THE CITY'S EXISTING FIRE AND POLICE COMMUNICATIONS CENTER AND DECLARING AN EMERGENCY.

MOTION WAS MADE BY COUNCILMAN SOMICH, seconded by Councilman Reichelt to suspend the Three Reading Rule for Ordinance No. 2010-11.

Roll Call: 7 AYES – unanimous

MOTION PASSES

President Malecek declared that the Three Reading Rule for Ordinance No. 2010-11 has been suspended.

MOTION WAS MADE BY COUNCILMAN REICHELT, seconded by Councilman Biro to adopt Ordinance No. 2010-11.

Roll Call: 7 AYES – unanimous

MOTION PASSES

President Malecek declared that Ordinance No. 2010-11 has been adopted.

ORDINANCE NO. 2010-12

AN ORDINANCE ADOPTING PERMANENT APPROPRIATIONS NECESSARY TO MAINTAIN CITY SERVICES FOR THE FISCAL PERIOD BEGINNING JANUARY 1ST THROUGH DECEMBER 31ST OF 2010; REPEALING CONFLICTING LEGISLATION AND DECLARING AN EMERGENCY.

President Malecek declared that Ordinance No. 2010-12 would remain on First Reading.

ORDINANCE NO. 2010-13

AN ORDINANCE AUTHORIZING THE MAYOR AND LAW DIRECTOR TO EXECUTE AN AGREED JUDGMENT ENTRY IN THE CASE TITLED NORTHEAST OHIO REGIONAL SEWER DISTRICT VS. BATH TOWNSHIP, OHIO, ET AL; CUYAHOGA CASE NO. CV-10-714945 AND DECLARING AN EMERGENCY.

MOTION WAS MADE BY COUNCILMAN FIEBIG, seconded by Councilwoman Fellows to suspend the Two Day Notification Rule for Ordinance No. 2010-13.

Roll Call: 7 AYES – unanimous

MOTION PASSES

President Malecek declared that the Two Day Notification Rule for Ordinance No. 2010-13 has been suspended.

MOTION WAS MADE BY COUNCILMAN FIEBIG, seconded by Councilwoman Fellows to suspend the Three Reading Rule for Ordinance No. 2010-13.

Roll Call: 7 AYES – unanimous

MOTION PASSES

President Malecek declared that the Three Reading Rule for Ordinance No. 2010-13 has been suspended.

MOTION WAS MADE BY COUNCILMAN FIEBIG, seconded by Councilwoman Fellows to adopt Ordinance No. 2010-13.

Roll Call: 7 AYES – unanimous

MOTION PASSES

President Malecek declared that Ordinance No. 2010-13 has been adopted.

RESOLUTION NO. 2010-1

A RESOLUTION HONORING GEORGE J. KRAINCIC FOR HIS MANY YEARS OF SERVICE TO THE CITY OF WILLOUGHBY HILLS.

MOTION WAS MADE BY COUNCILMAN REICHELT, seconded by Councilman Biro to suspend the Three Reading Rule for Resolution No. 2010-1.

Roll Call: 7 AYES – unanimous

MOTION PASSES

President Malecek declared that the Three Reading Rule for Resolution No. 2010-1 has been suspended.

MOTION WAS MADE BY COUNCILMAN REICHELT, seconded by Councilwoman Fellows to adopt Resolution No. 2010-1.

Roll Call: 7 AYES – unanimous

MOTION PASSES

President Malecek declared that Resolution No. 2010-1 has been adopted.

President Malecek requested a moment of silence in honor of former Councilman George J. Kraincic for his many years of service to the City of Willoughby Hills.

NEW BUSINESS

- There was no new business brought forward for the consideration of Council.

FOR THE GOOD OF THE ORDER

- Councilwoman Fellows: as a fellow Councilman, once being on City Council in Eastlake, and then a Chardon Township Trustee, she just thought that she would share with all of you that Don Welker on

Tuesday, beat out six individuals running for two seats in Angel Fire New Mexico with a whopping 171 votes beating an incumbent for a population of about 900 people...you go Don!

- Councilman Somich stated that he had United Way of Lake County Supper Raffle Tickets available for anyone who would like to support the United Way of Lake County
- Councilman Somich announced that we are just two weeks away from the United Way of Lake County's Celebrity Server which takes place on St. Patrick's Day, Wednesday, March 15th, information about this event is available on the website
- Mayor Weger announced that tomorrow night is going to be an Art Show Reception held across the street at the WH Community Center, we do this every month, the paintings are hanging for the entire month, and the two featured artists this month are Eddie Mitchell and Martha Germano – information available on Channel 12 and the City's Website
- President Malecek announced that tomorrow evening there is a fundraiser for a friend of his Jeff Steinmetz, a Teacher in the Willoughby-Eastlake School System, being held at Panini's in Willoughby to aid in his fight to overcome cancer. Jeff plans to continue his battle at the Sloan Kettering Hospital in New York.
- Law Director Lobe responded to Mr. Kowalski's position and question: just for the record, Law Director Lobe stated that he has offered to address Mr. Kowalski's question six times, of which he had declined; Mr. Lobe further stated that he treats all the residents the same way; Mr. Kowalski wants it officially on the record, so Law Director Lobe stated that the abstention by Councilman Reichelt at that time was because Council President is a renter from him in Pebblebrook and in an over abundance of caution, after the Law Director's legal research on this particular matter and after consultation with the Ohio Ethics Commission, and again with an over abundance of caution, the Law Director advised Councilman Reichelt to abstain.
- Councilman Reichelt stated that since Law Director Lobe brought this up, he would like to read one paragraph from a letter from the Ohio Ethics Commission to yourself (President of Council) dated June 4, 2009, signed by Jennifer Hardin, Chief Advisory Attorney of the Ohio Ethics Commission in which in her conclusion she said: *"as explained more fully above, provided that you rent or purchased the property for a fair market value, as a result of an arm's length transaction, under a contract with customary terms, the Ethics Law does not prohibit you from renting or purchasing the property from a fellow Council Member. If you decide to rent the property, the law will prohibit you and any other Council Member due to the ongoing nature of business relation between you from participating in certain matters affecting of one other's interest."*
- Councilman Reichelt further stated that this had been cleared from the State of Ohio.
(with) – corrected 03/25/10

ADJOURNMENT

MOTION WAS MADE BY COUNCILMAN BIRO, seconded by Councilman Reichelt to adjourn the Meeting.

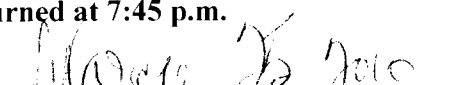
Roll Call: 7 AYES – unanimous


MOTION PASSES

President Malecek declared that this Meeting of Council is adjourned.

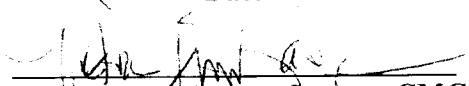
Meeting adjourned at 7:45 p.m.

APPROVED:


Date


Kevin D. Malecek
President of Council

ATTEST:


Victoria Ann Savage, CMC
Clerk of Council