

City of Willoughby Hills

Regular Council Meeting

Minutes of April 26, 2012

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 David A. Reichelt

Pledge of Allegiance

Roll Call of Council

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

Absent: Mayor Robert M. Weger
Finance Director Frank J. Brichacek

Also Present: Law Director Thomas G. Lobe, City Engineer Richard J. Iafelice,
Clerk of Council Victoria Ann Savage

Disposition of the Journal Regular Council Meeting of April 12, 2012

MOTION WAS MADE BY COUNCILMAN BIRO, seconded by Councilman Fiebig to approve the Regular Council Meeting Minutes of April 26, 2012 as submitted.

Roll Call: Fiebig-yes, Germano-yes, Malecek-Abstain, Reichelt-yes, Somich-yes, Biro-yes, Fellows-yes
MOTION PASSES: 6 AYES/1 Abstention

President Reichelt declared that the Regular Council Meeting Minutes of April 26, 2012 have been approved as submitted.

Notifications

- Personnel Relations Committee Meeting of April 26, 2012 (Emailed: April 24, 2012)
- Planning & Zoning Commission and Architectural Board of Review Meeting of April 19, 2012 **Cancelled** for there were no pending projects (Emailed: April 16, 2012)
- Rules & Legislation Committee Meeting of April 23, 2012 (Emailed: April 19, 2012)
- Service Committee Meeting of April 23, 2012 (Emailed: April 19, 2012)
- Utilities Committee Meeting of April 23, 2012 (Emailed: April 19, 2012)

On File

- The State of Fair Housing in Northeast Ohio Report, April 2012

MAYOR'S REPORT – Robert M. Weger

- Mayor Weger was absent; Law Director Lobe presented the following Report:
- **Rogers Road Update** – Marous Brothers awarded the contract; will be closing Rogers Road in the vicinity of 37000 Rogers Road from April 30th until the end of June. CT notified Post Office, Willoughby-Eastlake Bus

Transportation for School Buses and Republic Services for Trash Collection during this construction period to ensure as little inconvenience as possible to the residents. Watch for updates from Mayor on Website & Channel 12.

- **Maple Grove Bridge Update** – Great Lakes construction awarded the contract; this is a State Project by the Ohio Department of Transportation; due to close Maple Grove from Parsons Road west beginning May 4th through October 31st. Correspondence sent to residents in the Maple grove area by Mayor Weger and Councilman Germano, and watch for updates on Website and channel 12.
- **Camelot Court** – grass restoration nearly complete thanks to Eric at CT for continually contacting contractor and keeping residents informed.
- **Consolidation of Building and Service Departments** continuing construction; hope to complete project by end of May.
- **Charitable Gambling – Request for Refund** – Distributed a copy of a Letter from Christian J. Haffey, Managing Member of Northeast Ohio Charity Services, LLC to Robert Weger, Mayor, dated April 23, 2012; the Mayor requested that Council receive a copy for he wanted to solicit Council's comments and/or consideration.
- **Acknowledgements**
Get Well wishes to Finance Director Frank Brichacek
- **Upcoming Events**
Art Gallery Reception featuring 2 new artists – Friday, May 4th from 7-9pm
Captains Day at Classic Park – June 3rd
Shred Day in Willoughby Hills – June 16th

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

- No formal report was given.

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

- The Finance Director was not in attendance; therefore no formal report was given.

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

- Maple Grove Road Closure – Detour Signage
- Cricket Lane Drainage Analysis
- 2012 Sewer Rate – Ordinance No. 2012-12
- Summer Sprinkling Program (Eligible User) – Ordinance No. 2012-17

COMMITTEE REPORTS

President Reichelt asked if there were any Committee Chairs who would like to provide a report. Committees Reports have been listed alphabetically.

PERSONNEL RELATIONS – Kevin D. Malecek, Chair

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

COMMITTEE MEETING OF APRIL 26, 2012

Members Present: Councilman Kevin D. Malecek, Chair, Councilman Raymond C. Somich, Mayor Robert M. Weger (absent)

Also Present: Councilman Christopher L. Biro, Vice President Nancy E. Fellows, Councilman David M. Fiebig, Councilman Frank A. Germano, President David A. Reichelt

Purpose of the Meeting was to discuss Employee Compensation and any other business.

Meeting convened at 6:07pm

Order of Business

Entertain a motion to move into Executive Session inviting other Council Members to discuss personnel matters 6:30pm. Somich, Malecek. Reconvened at 6:59pm

Public Portion opened at 7:00pm, no one spoke, adjourned at 7:00pm.

Meeting adjourned at 7:00pm

RULES & LEGISLATION – David A. Reichelt, Chair

Committee Members: Nancy E. Fellows, Kevin D. Malecek

COMMITTEE MEETING OF APRIL 23, 2012

Members Present: President David A. Reichelt, Chair, Vice President Nancy E. Fellows, Councilman Kevin D. Malecek

Also Present: Councilman David M. Fiebig (arrived late), Councilman Frank A. Germano, Councilman Raymond C. Somich

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

Meeting convened at 6:36pm

Order of Business

Ordinance 2012-12 – Sewer Rate Increase - It was the Consensus of the Committee at a previous meeting to recommend this Ordinance for consideration by City Council. It will be read for the Third Time and will be up for Adoption at the Council Meeting on Thursday (April 26, 2012).

Ordinance 2012-17 was approved as to form but will be discussed by the Utilities Committee later tonight (April 23, 2012).

Ordinance 2012-20 was approved as to form but will be discussed by the Service Committee later tonight (April 23, 2012).

Public Portion

Opened: 6:41pm Closed: 6:47pm

The Committee answered general questions from the public regarding the aforementioned issues.

Meeting adjourned at 6:47pm

SERVICE – Nancy E. Fellows, Chair

Committee Members: Frank A. Germano, Kevin D. Malecek

COMMITTEE MEETING OF APRIL 23, 2012

Members Present: Councilman Nancy E. Fellows, Chair, Councilman Frank A. Germano, Councilman Kevin D. Malecek

Also Present: Councilman David M. Fiebig, President David A. Reichelt, Councilman Raymond C. Somich, Mayor Robert M. Weger, Law Director Thomas Lobe, City Engineer Richard Iafelice

Purpose of the Meeting was to discuss (1) Service Department Additional Vehicle/Equipment, (2) Street Improvements and any other business.

Meeting convened at 6:50pm

Order of Business

Addressed Ordinance 2012-20 to direct the Mayor to purchase a 2012 Loader/Backhoe for the Service Department. Funds will be used from the Road Levy. At this time the Mayor has indicated that there are no other large pieces of equipment to be purchased this year. **It is the Consensus of the Service Committee to make a recommendation to Council for the purchase of the Backhoe.**

Roads: The Mayor and Engineer reviewed and evaluated road work needed this year and beyond depending on the pavement condition rating of each street, when the last time a given street was resurfaced or repaired, and funds that are available. We have ~\$270k dollars budgeted for road repairs this year. Currently there are 3 streets on the docket this year to be addressed: Canterbury Court (~\$130-125k), Riviera Ridge from Eddy to Eagle (\$100k) and also Maple Grove on either side of the bridge (\$150-180k). A discussion continued on the best way to spend the dollars we have available and also coordinate this with the timing for the roads to be down?

Currently the Maple Grove Bridge is being repaired by ODOT.

We should keep in mind that futuristically we would be responsible for 20% for any state route improvements.

The Service Department will patch roads and streets throughout the community this year as necessary.

The Service Committee recommends to Council that Council authorize and direct the Mayor go out for bid for the following two road projects:

Repair of Canterbury Court (cement)

Repair of Riviera Ridge from Eddy Road to Eagle Road (asphalt)

Monies to used from the Road Levy

Meeting adjourned at 7:28pm

UTILITIES – Frank A. Germano, Chair

Committee Members:

David M. Fiebig, Raymond C. Somich

COMMITTEE MEETING OF APRIL 23, 2012

Members Present: Councilman Frank A. Germano, Chair, Councilman David M. Fiebig, Councilman Raymond C. Somich

Also Present: Vice President Nancy E. Fellows, Councilman Kevin D. Malecek, President David A. Reichelt, Mayor Robert M. Weger, Law Director Thomas Lobe, City Engineer

Purpose of the Meeting was to discuss Summer Sprinkling Program and any other business.

Meeting convened at 7:30pm

Order of Business

Discussed Summer Sprinkling Program – City not in compliance with the 1998 City of Euclid Agreement

Vince Cortese spoke in behalf of Steeple Run.

Consensus: The Committee recommended to Council the passage of Ordinance 2012-17; the following changes were to be included in said Ordinance:

“WHEREAS, the City of Euclid has notified Willoughby Hills that Ordinance 2005-54 is not in compliance with the 1998 Agreement noted, its amendments and the Residential Summer Sprinkling Program to permit the inclusion of condominium complexes in the program”;

Adding the wording of “excluding condominiums and apartments” to Section D. Eligible User and an Emergency Clause was to be added.

Public Portion was opened at 8:07pm

Frank Cihula – Summer Sprinkling Program-Rental Properties, Vince Cortese – Status of Contract with Euclid, Bob Kowalski – Effect of Pebblebrook

Public Portion was Closed at 8:17pm

Meeting adjourned at 8:17pm

OTHER COUNCIL REPRESENTATIVE REPORTS

- There were no other Council Representative Reports given.

PUBLIC PORTION

Section 107.08 – Public Meetings of Municipal Bodies of the Codified Ordinances of the City of Willoughby Hills:

(a) All meetings of any municipal body are declared to be public meetings open to the public at all times. All meetings shall provide a reasonable opportunity to hear public opinion.

Public Portion was opened at 7:17pm and with no coming forth from the Public Sector was promptly closed at 7:17pm.

UNFINISHED BUSINESS

- There was no unfinished business brought forth to Council.

LEGISLATION

ORDINANCE NO. 2012-12 – THIRD READING

AN ORDINANCE AMENDING PART NINE – STREETS, UTILITIES, AND PUBLIC SERVICES CODE, TITLE THREE – UTILITIES, CHAPTER 923 – SEWER RATES, SECTION 923.01 – SEWER RATE CHARGES ESTABLISHED, SUBSECTION (c) OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOUGHBY HILLS; AND REPEALING CONFLICTING LEGISLATION.

MOTION WAS MADE BY COUNCILMAN GERMANO, seconded by Councilman Biro to adopt Ordinance No. 2012-12.

Roll Call: 7 AYES - unanimous

MOTION PASSES

President Reichelt declared that Ordinance No. 2012-12 has been adopted.

ORDINANCE NO. 2012-17

AN ORDINANCE AMENDING PART NINE – STREETS, UTILITIES AND PUBLIC SERVICES CODE, TITLE THREE – UTILITIES, CHAPTER 923 SANITARY RATES, SUB-SECTION - 923.01(e)(1)(D), DEFINITION OF ELIGIBLE USER IN THE RESIDENTIAL SUMMER SPRINKLING PROGRAM OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOUGHBY HILLS AND REPEALING ORDINANCE NO. 2005-54.

MOTION WAS MADE BY COUNCILMAN GERMANO, seconded by Councilman Fiebig to suspend the Three Reading Rule for Ordinance No. 2012-17.

Roll Call: 7 AYES - unanimous

MOTION PASSES

President Reichelt declared that the Three Reading Rule for Ordinance No. 2012-17 has been suspended.

MOTION WAS MADE BY COUNCILMAN GERMANO, seconded by Councilman Biro to adopt Ordinance No. 2012-17.

Roll Call: Fiebig-yes, Germano-yes, Malecek-yes, Reichelt–abstain, Somich-yes, Biro-yes, Fellows-yes

MOTION PASSES: 6 AYES/1-Abstention

President Reichelt declared that Ordinance No. 2012-17 has been adopted.

Law Director Lobe requested that before going any further, an opportunity be given to allow Councilman Malecek to change his vote. Councilman Malecek stated that he should have abstained due to a potential conflict.

President Reichelt stated that he would accept a motion to rescind the previous motion to adopt Ordinance No. 2012-17.

MOTION WAS MADE BY COUNCILMAN GERMANO, seconded by Councilman Biro to rescind the Motion to adopt Ordinance No. 2012-17.

Roll Call: 7 AYES – unanimous

MOTION PASSES

President Reichelt declared that the Motion to adopt Ordinance No. 2012-17 has been rescinded and a motion will be required to adopt Ordinance No. 2012-17.

MOTION WAS MADE BY COUNCILMAN GERMANO, seconded by Councilman Biro to adopt Ordinance No. 2012-17.

Roll Call: Fiebig-yes, Germano-yes, Malecek-Abstain, Reichelt–Abstain, Somich-yes, Biro-yes, Fellows-yes

MOTION PASSES: 5 AYES/2 Abstentions

President Reichelt declared that Ordinance No. 2012-17 has been adopted.

ORDINANCE NO. 2012-20

AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO A PURCHASE AGREEMENT WITH SOUTHEASTERN EQUIPMENT CO., INC. FOR A 2012 CASE 580 SUPER N TIER III LOADER/BACKHOE AS PROVIDED THROUGH THE STATE COOPERATIVE PURCHASING PROGRAM FOR A TOTAL COST NOT TO EXCEED \$76,926.10 AND DECLARING AN EMERGENCY.

MOTION WAS MADE BY COUNCILWOMAN FELLOWS, seconded by Councilman Fiebig to suspend the Three Reading Rule for Ordinance No. 2012-20.

Roll Call: 7 AYES - unanimous

MOTION PASSES

President Reichelt stated that the Three Reading Rule for Ordinance No. 2012-20 has been suspended.

MOTION WAS MADE BY COUNCILMAN MALECEK, seconded by Councilwoman Fellows to adopt Ordinance No. 2012-20.

Roll Call: 7 AYES - unanimous

MOTION PASSES

President Reichelt stated that Ordinance No. 2012-20 has been adopted.

NEW BUSINESS

MOTION WAS MADE BY COUNCILMAN SOMICH, seconded by Councilman Germano to authorize the Mayor to hire a new Economic Development Director at an annual salary of \$48,000 which is in the prescribed salary range of \$35,000 to \$50,000.

Vice President Fellows wanted to state for the record that she is one hundred percent in favor of Economic Development in the City; she is not acquainted with this candidate and her vote this evening would purely be represented on the salary.

Councilman Malecek stated that from the Finance Committee's standpoint, this was a budgeted item in this year's budget and we are within the numbers that were budgeted for.

President Reichelt stated that Economic Development has been on the City's radar for quite some time and in fact, it was the single number one point that was discussed at the Work Session held this January as our "Top Priority". President Reichelt further stated that he just wanted to point out how important this concept of Economic Development is for our City.

Roll Call: Fiebig-yes, Germano-yes, Malecek-yes, Reichelt-yes, Somich-yes, Biro-yes, Fellows-no

6 AYES/1-NAY

MOTION PASSES

President Reichelt declared that the Mayor has been authorized to hire a new Economic Development Director at an annual salary of \$48,000 which is in the prescribed salary range of \$35,000 to \$50,000 and the Clerk is to notify the Mayor accordingly.

Law Director Lobe stated that this would be the time if Council wanted to make a motion pertaining to the issue of the Charitable Gambling Internet Café License Application Fee of \$5,000; if Council wants to weigh-in on the matter, either way. Administration is offering Council the opportunity to speak up and give some direction. The applicant paid \$5,000 on April 9th and two weeks later decided to withdrawn it. The permit was in fact issued, but really not delivered because the machines were not there yet. Council weighed-in before on the issue of the Charitable Gambling, did you want to weigh-in now?

Councilman Malecek stated that he viewed the issue as an Administrative/Executive function because it is a permitting function, so whether or not if they choose to refund the licensing fee, even though it is a great deal of money, just like any other permit the City would offer, the Administration would be making the decision. The decision would lie in the purview of the Executive Branch. Councilman Malecek further stated that he didn't feel that Council should cross the boundary between the functions of government.

Councilman Fiebig concurred with Councilman Malecek's assessment, in that it seems to be an Administrative function; the service wasn't provided, the Mayor has the ability to return the fee and to make sure that the City return the licensing fee to the right people.

President Reichelt asked, in order to provide the Mayor with some direction, is there anyone on Council that has a strong objection to the returning of the deposit?

Councilman Germano stated that he does have an objection to returning the licensing fee, the reason being is when someone puts in an application for a license or registration in the City and it has been approved, and they did not do any work in the City, do we return their license and money back? If we start doing this, of giving money back, then anyone who takes out a license or registration to work in the City and does not work in the City will have a right to request their money back because they didn't do work in the City. We are opening up a can of worms.

President Reichelt responded by referencing what Councilman Malecek presented in that it is an Administrative decision and Council is merely offering their opinion to the Mayor and shall be recorded as such.

Councilman Somich stated that he has already communicated to the Mayor's Assistant his thoughts on the subject; he agrees with his colleagues, this should not be a Council decision and it should be an Administrative one. Since Councilman Germano has strongly presented his opinion, Councilman Somich felt compelled to express an opposing opinion, in so much that he feels it is different, a company that you are referring to that pays a fee to be able to come into people's homes, do their driveways, or sewer projects, or whatever, the nature of that is they have to do that in order to perform work in the City and it is understood that it is a qualification to be able to do work in the City and they run the risk of never using the permit over the twelve month period. This is an entirely different case, this is a part of the Charitable Gambling Event Center's business that they were intending to use and they quickly decided not to. Councilman Somich has heard from many constituents in the area stating that the City does not need another cyber café in that area. This would be a benefit to the residents and businesses in the area not to have another cyber café and it also distinguishing the type of business that they intend to have which is a charitable gambling operation, not a gambling operation. Councilman Somich again stated that this is an Administrative decision, not one to be made by Council.

President Reichelt said that if the Mayor needs further direction or has any questions, he can contact the members individually.

MOTION WAS MADE BY COUNCILWOMAN FELLOWS, seconded by Councilman Fiebig to authorized and direct the Mayor to seek bids for the repair of Canterbury Court.

Roll Call: 7 AYES – unanimous

MOTION PASSES

President Reichelt declared that the Mayor has been authorized and directed to seek bids for the repair of Canterbury Court.

MOTION WAS MADE BY COUNCILWOMAN FELLOWS, seconded by Councilman Germano to authorize the Mayor to seek bids for the repair of Riviera Ridge from Eddy Road to Eagle.

Roll Call: 7 AYES – unanimous

MOTION PASSES

President Reichelt declared that the Mayor has been authorized and directed to seek bids for the repair of Riviera Ridge from Eddy Road to Eagle Road.

FOR THE GOOD OF THE ORDER

Councilwoman Fellows along with the Members of Council wished the Clerk a Happy Birthday and thanked her for all that she does, it is greatly appreciated.

Councilman Somich: Arbor Day Weekend – Holden Arboretum
In celebration of Arbor Day, Admission to Holden is free all weekend
Corning Visitor Center
Saturday, April 28th and Sunday, April 29th
10:00am to 4:00pm

Inaugural Regional RoboBot Competition
Lakeland Community College – Athletic Center
8:00am Saturday, April 28, 2012

Councilman Reichelt: Willoughby Hills Art Gallery – Grand Opening May 4th for two new artists

ADJOURNMENT

MOTION WAS MADE BY COUNCILMAN FIEBIG, seconded by Councilwoman Fellows to adjourn the Meeting.

Roll Call: 7 AYES - unanimous

MOTION PASSES

President Reichelt declared the Regular Council Meeting of April 26, 2012 to be adjourned at 7:37pm

APPROVED:

May 10, 2012
Date

ATTEST:

Victoria Ann Savage
Victoria Ann Savage, CMC
Clerk of Council

David A. Reichelt
David A. Reichelt
President of Council