

City of Willoughby Hills

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

Regular Council Meeting

Minutes of October 13, 2011

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 7:10 p.m. by President Kevin D. Malecek

Pledge of Allegiance

Roll Call of Council

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

Absent: Councilman Christopher L. Brio

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

MOTION WAS MADE BY COUNCILWOMAN FELLOWS, seconded by Councilman Fiebig to excuse Councilman Christopher L. Biro from attending the Regular Council Meeting of October 13, 2011.

Roll Call: 6 AYES

MOTION PASSES

President Malecek stated that Councilman Christopher L. Brio has been excused from attending the Regular Council Meeting of October 13, 2011.

Disposition of the Journal Regular Council Meeting of September 22, 2011

MOTION WAS MADE BY COUNCILMAN FIEBIG, seconded by Councilman Germano to approve the Minutes of the Regular Council Meeting of September 22, 2011 as submitted.

Roll Call: 6 AYES

MOTION PASSES

President Malecek declared that the Regular Council Meeting Minutes of September 22, 2011 have been approved as submitted.

Correspondence

- Mayor's Court Monthly Statement to City Council for the month ending September, 2011 (Emailed: October 11, 2011)
- City Engineer's Status Report for October 2011 (Emailed: October 7, 2011)
- Building Department to Administration and Members of Council, dated October 5, 2011 re: Sheriffs Sales in the City of Willoughby Hills (Emailed: October 11, 2011)
- Memo from Mayor's Assistant, dated October 6, 2011 re: General Liability and Automobile Policy Renewal for 2012 (Emailed: October 11, 2011)

Notifications

- Planning and Zoning Commission & Architectural Board of Review Meeting of October 6, 2011 (Emailed: October 3, 2011)
- Recreation Committee Meeting of October 13, 2011 (Emailed: October 10, 2011)
- Rules & Legislation Committee Meeting of October 10, 2011 (Emailed: October 7, 2011)
- Service Committee Meeting of October 10, 2011 (Emailed: October 7, 2011)
- Utilities Committee Meeting of October 10, 2011 (Emailed: October 7, 2011)

Minutes

- Rules & Legislation Committee Meeting Minutes of October 10, 2011 (Emailed: October 11, 2011)

On File

- WH Senior Center Newsletter for October 2011, Issue Number 10

MAYOR'S REPORT – Robert M. Weger

- Area C – update on restoration work being complete
- Eddy Road Update
- Dodd Road Bridge Update
- Camelot Road Update – progressing – working on drainage
- Flu Shots – Available at Community Center on October 18th and November 15th – will process insurance fee of \$22 – come to Senior Potluck and plan to get your flu shot at the same time!
- Chevy Cruze Raffle – decision to refund ticket money
- **Acknowledgements**
 - Congratulations on 30 years of service to the City of Willoughby Hills to Sgt Mike Planisek
 - Congratulations to Firefighter Tim Serazin – Cleveland Clinic's Heroes Award Recipient
 - Dispatcher Amy Scripp – resignation
- **Upcoming Events**
 - Halloween Party – October 22nd
 - Trick or Treat – October 31st
 - Election Day – November 8th
 - Veterans Day Ceremony – November 11th

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

- Law Director Lobe wanted to restate just for Council's edification, in case they don't know, is that the Mayor has twice a month meetings with all the directors and these meetings have become better and better as we have gone along. We meet twice a month starting at 9:00am and go anywhere from 10:00am to 11:00am; the Mayor is there, the Executive Assistant, the Fire Chief, the Police Chief, the Finance Department, the Assistant to the Finance Department, the Building Department, the Clerk of Courts, the Law Department, and even recreation. There is a good flow of information and it is amazing that even in a small City like this is that you have to put everybody in a room and once we go around and talk about our issues, how it impacts everybody else. It has been a good exchange and that is why the issues have been resolved internally because you can't do things by email, or by letter, you have to sit down in a room and that is why things have been very good. Additionally, we also have twice a month meetings with myself, the Mayor and the Engineer, so we also keep abreast of a lot of things that Council hears here, at Council Meetings, except on a more expansive level. Rich goes through all the issues and tries to keep us abreast of the good, the bad and the indifferent and we try to resolve a lot of the issues administratively.
- The Law Director is working with the Building Department and Fred Wyss has been doing a pretty good job in resolving a lot of the issues through meetings; we examine things and we meet with him fairly often and we are getting things done without just sending out harsh letters.
- Lobe requested that if the Members of Council have issues in their respected wards or from a resident, please bring them to Fred's attention, and please copy the Law Director on it.

Councilman Fiebig asked that if you ever wanted to invite a Member of Council to the meetings, perhaps on a routing basis, he is sure that the Members would be interested in perhaps sitting and listening in.

The Mayor let the Members know that they are welcome to attend. Meetings begin at 7:00am every Tuesday.

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

- No formal report was given.

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

- Referenced Status Report for October 2011.
- Both the Utilities and Service Committees met this past Monday (October 10th); encouraged both Committees to establish a standing meeting date and time – combining both meetings on the same night actually worked out fairly well.
- Updated Sewer Project – going through the contract documentation closeout and securing a proper maintenance bond security for two years; undoubtedly the contractor will return in the Spring
Obligated under the conditions of the loan to do a one-year performance certification; OEPA requires the retesting of the pipe
There will be continued interim services to be proved on the project over the next year until the actual professional services are completed and secured to comply with the terms of the loan.

COMMITTEE REPORTS

FINANCE – Raymond C. Somich, Chair

Committee Members:

Nancy E. Fellows, David M. Fiebig

COMMITTEE MEETING SEPTEMBER 26, 2011

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

Also Present: Councilman Frank A. Germano, Vice President David A. Reichelt, Finance Director Frank Brichacek

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

Meeting convened at 5:04 p.m.

Order of Business

- Meeting called to order. Reviewed July reports and August. We discussed a few items with negative balances in budget. **Consensus of the Committee was to accept reports.**
- Finance Director updated several areas:
 - (1) Income Tax Revenue up after 9 months by 8% over 2010. If last quarter is even with 4th Quarter 2010, will be \$150,000 up
 - (2) Safety Levy Revenue after 9 months equals our projection for 12month revenue. This could be \$200,000 excess after 12 months.
 - (3) Property Tax Revenue should be equal or up slightly.
 - (4) Court Revenue expected to be down \$70,000 for the year.
 - (5) Recycling Expense higher than expected.
 - (6) Police and fire overtime higher than budgeted due to recent crime investigations
 - (7) Some unexpected property improvements were needed.
 - (8) Wary of Salt Budget, if we have bad early winter.
 - (9) Bill paying current through September.
- Second topic was proposed non-profit gambling center in VF Outlet building, with concerns for City lease liability and demand on City safety services, also overall image relative to vacancies in this area.

Public Portion opened at 5:44 p.m.

Christian Haffey, 2871 Camelot, Willoughby Hills, Ohio is the one who presented the proposal. Believes the expressed concerns can be remedied by letter from property owner as to liability, and their own safety efforts. Suggests City

establishes Committee to determine which non-profit groups are approved, and then will pay a registration fee. Linda Fulton expressed her past satisfaction with Nautica's Charities operation experiences. She believes this project "could be a good thing".

With no one else coming forth from the public sector to speak, Public Portion was closed at 5:54 p.m.

- Finance Director then discussed next audit cycle, and for the City to consider every 2 years instead of annual state audit. Historically, for 2009, City spent \$36,000 on the audit for 1100 billable audit hours. For 2010, City spent \$27,000 on audit for 800 hours. Lesser hours is due to improved efficiencies. Bi-annual audit would save City approximately 90%. The main disadvantage is delay in finding problems faster (if any) and we are not eligible for awards from the State.
- Also, compilation office had 3 year contract with City for their work. Finance Director suggests we spend \$2,000 per year to get more valuable schedules to use. **Consensus to o to bi-annual audit and spend more to get reports.**

MOTION WAS MADE BY COUNCILMAN FIEBIG, SECONDED BY COUNCILWOMAN FELLOWS TO MOVE TO EXECUTIVE SESSION TO DISCUSS POSSIBLE LAND ACQUISITION, INVITING COUNCIL, THE FINANCE DIRECTOR, AND THE MAYOR'S ASSISTANT WITH SAID SESSION LIMITED TO 10 MINUTES.

MOTION PASSED UNANIMOUSLY.

6:20 p.m. The Committee reconvened.

MOTION WAS MADE BY COUNCILMAN FIEBIG, SECONDED BY COUNCILWOMAN FELLOWS TO MOVE PROPOSAL FORWARD TO COUNCIL FOR FURTHER CONSIDERATION.

MOTION PASSED UNANIMOUSLY.

Meeting adjourned at 6:06 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.

RECREATION – Nancy E. Fellows, Chair

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

COMMITTEE MEETING OCTOBER 13, 2011

Members Present: Councilwoman Nancy E. Fellows, Chair, Vice President David A. Reichelt

Also Present: Councilman David M. Fiebig, Councilman Frank A. Germano, President Kevin D. Malecek, Mayor Robert M. Weger, Recreation Coordinator Anne Hassoldt-Fenoff

Purpose of the Meeting was to discuss Use of Public Property and any other business.

Meeting convened at 6:31 p.m.

Order of Business

(1) Use of Public Property – discussion concerning use of our sport fields from non-WH residents. In the past charged to stripe the fields, no fees as such for use of the field. Concerning field charges – Recreation Coordinator and Administration have indicated that field usage and requests for using our fields have increased by non-Willoughby Hills residents. A fee study was completed in 2009, still likely applicable today. Action item: Administration and the Recreation Coordinators will look to identify rates for the soccer and baseball fields based on current information from outside sources and bring to the Recreation Committee and then on to Council for legislation.

(2) Addendum to Ordinance 941.01 Premises Available for Private Recreation and Civic Purposes, to charge a minimum fee of \$25.00 or \$10.00 monitor fee to cover the monitor's expenses? Past working hours (4:30 p.m. and weekends) there is a monitor hired to take care of the event. Discussion on fee for room versus monitor fee discussion. Looking to charge \$10.00 per hour for monitor during off hours on non-for-profit groups. Weigh the options carefully because it is a community center. This would be an addendum to our current Ordinance. This topic will continue at a Recreation Committee meeting to be held prior to the next Council meeting in 2 weeks on October 27, 2011 at 6:30 p.m.

Public Portion

The following individual came forth with questions/comments:

Bob Kowalsky – suggests monitor / coordinator fee built into all the fees. Non-profit groups should be guest of our non-profit. Frank Cihula – describe different not-for-profit organizations. Linda Fulton – should not discriminate against any non-profit organizations, residents or not, fair for all.

Meeting adjourned at 7:07 p.m.

RULES & LEGISLATION – Kevin D. Malecek, Chair

Committee Members:

Frank A. Germano, David A. Reichelt

COMMITTEE MEETING OCTOBER 10, 2011

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, Councilman Raymond C. Somich, Law Director Thomas G. Lobe

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

Meeting convened at 6:40 p.m.

Order of Business

Continued Discussion on **Ordinance 2011-56: Contractor Registration**

Law Director Lobe – prior contractor that we had some issues with - BZA had language amendment – good causes from Building and Zoning Inspector – give tools to the building department to say if you should be working in our jurisdiction – they have been sued or gone bankrupt – if we know that, we have a duty to prevent those contractors from coming in – there is an appeals process to the BZA – gives latitude to Building Department.

Many people on the street don't know that has not seen – all the same principle and getting by and get a new corporation. There needs to be a first line of defense – revocation and suspension – if you knew the guy was a child molester. Would you grant him a certificate? Give you the most extreme example – knew the company went bankrupt four times. When we do the bidding process - not the lowest bid – have they gone bankrupt? Projects letting people have it – go to our citizenry – very liberal and very sweeping. Rather give our people the tools to do it –and there is an administrative remedy. Ounce of prevention. Somich – do like erring on behalf of residents – when a contractor is registered – guarantee it that – I'd rather be cautious on that side – if we restrict a corporation from doing business and we establish that criteria – are we opening up liability? Lobe – we still have immunity – we revoke them and suspend them – everything done with rational and reasonable basis – reasonable appeal process in the city – previous building department – suspend somebody that we thought – bankrupt a few times – fine him rather than suspend him. Close some loopholes – administrative decision-maker too much authority unbridled.

Appeals process for the BZA was outlined. Fiebig – argue position passionately – extend on 90 day suspension – he will revoke it. They will suspend it – he can revoke it. Look at C. When this guy applies – how is he going to do this? Going to do a better business bureau such? Pay their fee and they are in – breaks in the first line of defense. Good, rational basis. Do some research and they find it. Fred was approached with this. Responsibility still falls on the homeowner, but they do look to the city for some guidance. Reichelt – could be appealed to higher court? Is there a possibility we could be fined? Lobe – still have sovereign immunity it – ten bad contractors come through – not foolproof – this is a good one. That guy – 90 day suspension – time and effort on that particular – 15 to 20 residents. Every case was different.

Cihula – two wording changes – **Section 2 (d): change “Where” to “when. Past performance change to “any failure to resolve previous suspensions or revocations.”**

Section C – contractor is suspended in last 90 days of the year – all registration renewed at the beginning of the year – holder of license – reinstate certificate. Five cases that were cited – building inspector has previously worked. Did not have any jurisdiction. Showed not a good worker. Decision would have been different. Appeals process all the way to a court of law. Have faith in fire department, etc. Make inspections. City hires a contractor – solicit references up and down. Fiebig – should review bond and 90 day suspension.

Deer Management Discussion

Reichelt – going to take some thought – there was some news story about the State moving on contraception – sensitive issue – get reactive about – Solon is a good example. Comprehensive plan for culling and prevention – group from Toledo – Deer Preservation Act – if any one kills a deer – whistleblower retaliation. Somich – why we don't allow for bow hunting – am with Ellen Foley Kessler – they have had great discussions with Lake Metroparks – something needs to be done – serious problem.

Consensus to list on the agenda for first reading on Thursday with amendments as highlighted.

Snowplowing at next meeting on October 24th – Councilman Germano to coordinate with Clerk.

Public Portion

Frank Cihula – great majority of the people – misfortunate of being in a vehicle with a deer hitting it – three people that hit them. Civilization – no natural predators for the deer. Cleveland Metroparks culling deer for years. **Linda Fulton** – first of all, in favor of contractors go – would it hold up in court – as long as you are not arbitrary and capricious. Totally misapplies it – don't anticipate it going that far. Good police officers. We have a situation on Marcum/Parkview – tree went down and cut out electricity – if that goes, falls onto the wires – is there anything. City can go in there and do the work – ordinance in place – easy for city to go in there and do it. **Robert Kowalsky** – I take it is legal to have bow and arrow on property – send a resolution to the state of Ohio and say it would be great to do a bit of drug on this deer – lets get back to the bad guys – going to be doing C and protect those people. How about a questionnaire? Make a statement and everything – no one reads that – can't expect them to go by those rules – what subs will be involved – and also, the employees – you know – will you ah, hire child molesters – will you hire anyone indicted or convicted of any kind of felony. If they say yes, he actually has cause – drugs, roofers wanted drug test. That guy knows and that guy don't want him – person applying going to be in jeopardy. Tricked me on a minute. Hope you would kind of figure this out without killing yourselves with bad legislation.

Meeting adjourned at 8:03 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

- Councilman Biro was not in attendance; therefore no formal report was given.

UTILITIES – Frank A. Germano, Chair

Committee Members:

Nancy E. Fellows, Raymond C. Somich

COMMITTEE MEETING SEPTEMBER 26, 2011

Members Present: Councilman Frank A. Germano, Chair, Councilwoman Nancy E. Fellows, Councilman Raymond C. Somich

Also Present: President Kevin D. Malecek, City Engineer Richard Iafelice and Erich Haibach

Purpose of the Meeting was to discuss ECTW –Sanitary Sewer Assessment Area “C” and any other business.

Meeting convened at 6:24 p.m.

Order of Business

Discussed the Progress of Area “C”

Restoration as a whole is going smoothly. Fabrizi and Ronya are cooperating completely with residence and the City. The pre con video has proved very beneficial for all parties. Fabrizi has until October 7th to finalize. As of September 26th, overall, the project is under budget.

Public Portion

The meeting was opened to the public for commentary at 7:16 p.m. Linda Fulton questioned the hole on bishop, who will repair and to remove construction signs. With no one else coming forth from the public section, Public Portion was closed at 7:17 p.m.

Meeting adjourned at 7:17 p.m.

COMMITTEE MEETING OCTOBER 10, 2011

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

Also Present: Councilman Christopher L. Biro, Councilman David M. Fiebig, President Kevin D. Malecek, Vice President David A. Reichelt, Law Director Thomas G. Lobe, City Engineer Richard Iafelice

Purpose of the Meeting was to discuss ECTW –Sanitary Sewer Assessment Area “C” and any other business.

Meeting convened at 7:10 p.m.

Order of Business

Fabrizi completed the project by October 7th
Assessment Area C is closed and under budget
The two year maintenance bond will be activated soon

Public Portion

At 7:15 p.m. the meeting was opened to the public for commentary; with no one coming forth from the public section, Public Portion was promptly closed.

Meeting adjourned at 7:15 p.m.

PERSONNEL RELATIONS – Christopher L. Biro, Chair

Committee Members:

Raymond C. Somich, Mayor Robert M. Weger

- Councilman Biro was not in attendance; 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

- There were no other Council Representative Reports presented.

PUBLIC PORTION

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

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

Public Portion was opened at 7:30pm

1. Robert Kowalsky

2585 Timberline Drive

Re: Audit-Finance Committee/Income Tax Legislation Credit/Administrative Meetings open to the public?

Public Portion closed at 7:34pm

UNFINISHED BUSINESS

- There was no unfinished business to be addressed by Council.

LEGISLATION

ORDINANCE NO. 2011-56

AN ORDINANCE AMENDING PART THIRTEEN – BUILDING CODE, TITLE THREE – LOCAL BUILDING PROVISIONS, CHAPTER 1373 – REGISTRATION OF CONTRACTORS, SECTION 1373.08 – REVOCATION AND SUSPENSION OF REGISTRATION OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOUGHBY HILLS.

President Malecek declared that Ordinance No. 2011-56 would remain on First Reading.

NEW BUSINESS

MOTION WAS MADE BY COUNCILMAN GERMANO, seconded by Councilman Reichelt to adjourn into Executive Session at the conclusion of “For the Good of the Order” for the purpose of discussing property acquisition; inviting the Members of Council, the Mayor, the Law Director and the Finance Director.

Roll Call: 6 AYES

MOTION PASSES

President Malecek stated that there will an Executive Session immediately following “For the Good of the Order” with said Session to be 5 to 7 minutes.

FOR THE GOOD OF THE ORDER

- President Malecek mentioned that the Willoughby Hills City Music Concert is scheduled for Friday, October 14th – concert to begin at 7:30pm at St. Noel Church
- Councilman Somich announced the following events:
Willoughby Area Chamber of Commerce and the Willoughby Rotary will host the Annual Candidates & Issues Luncheon on Monday, October 24th. Anyone interested in attending may register through the Willoughby Area Chamber of Commerce's website.

At 7:38pm President Malecek excused the City Engineer and announced that the Members of Council along with the Mayor, the Law Director and the Finance Director would now adjourn into Executive Session.

Council reconvened at 7:55pm with all Members of Council, the Mayor, the Law Director and Finance Director present.

ADJOURNMENT

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

Roll Call: 6 AYES – unanimous

MOTION PASSES

President Malecek declared the Regular Council Meeting of October 13, 2011 to be adjourned at 7:55 p.m.

APPROVED: _____

Date

Kevin D. Malecek
President of Council

ATTEST: _____

Victoria Ann Savage, CMC
Clerk of Council