

City of Willoughby Hills

Regular Meeting of Council Minutes of April 14, 2016

Policy No. 2: 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 wherever possible.

The Regular Council Meeting was held on Thursday, April 14, 2016 at 7:00pm in the Willoughby Hills Council Chamber. President Fellows presided.

Members Present: Vice President John Plecnik, Councilman Christopher L. Biro, President Nancy E. Fellows, David M. Fiebig, Councilman Christopher Hallum, Councilwoman Janet R. Majka

Vice President Plecnik moved to excuse Councilwoman Jennifer Sommers Greer. Councilman Biro seconded.

YEAS: Unanimous.

Others Present: Law Director Thomas G. Lobe, Finance Director Frank J. Brichacek, Jr., City Engineer Pietro A. DiFranco, Clerk of Council Victoria Ann Savage

DISPOSITION OF THE JOURNAL

President Fellows: The next order of business is the Disposition of the Journal, Regular Council Meeting Minutes for March 10, 2016.

Councilman Biro moved to accept the Regular Council Meeting Minutes of March 10, 2016. Councilman Plecnik seconded.

Roll Call: **YEAS: Plecnik, Biro, Fellows, Fiebig, Hallum, Majka**

With six affirmative votes, motion passes.

COMMUNICATIONS

CORRESPONDENCE

City Engineer's Report dated March 17, 2016 (Emailed: March 17, 2016)

City Engineer's Report dated April 7, 2016 (Emailed: April 7, 2016)

WH Community Center Rental Summary Report for March 2016 (Emailed: April 6, 2016)

Interoffice Memo from Mayor's Assistant to the Mayor dated April 5, 2016 re: Recap on March 2016 Public Surplus Internet Auction (Emailed: April 6, 2016)

Mayor's Court Monthly Statement to City Council of Fines and Other Monies Received or Collected for the Month Ended March 31, 2016 (Emailed: April 6, 2016)

Clerk of Council: Also for the record I would like to read in, I did have an additional item to add that I had inadvertently left off this agenda. After our last Council Meeting of March 10, 2016, I received a letter from Gloria Majeski addressed to the Council Clerk and the Council Members regarding Amendments and Clarifications to Personnel Relations Committee Meeting Minutes of March 3, 2016. This was also cc'd to

Mayor Weger, Law Director Tom Lobe, Personnel Relations Committee Members, and Attorney Joseph Kampmann.

Also I received after the agenda was prepared, an email on April 12th from Gloria Majeski to the Members of Council also to the Law Director, the Mayor, Frank Brichacek, and to Mark Grubiss; subject matter being an amendment to Personnel Relations Meeting discussion. She had also asked that the email be provided to the Committee Members of the Personnel Relations that being Linda Fulton, Chris Du Laney, Pam Kurt and Gregory McCarthy and the Council Clerk did provide that to the Members on the same day.

Also after the agenda was prepared, this morning I received a letter from Gloria Majeski, resident to Council Clerk Victoria Savage regarding Public Records Request and again noted that the Mayor received a copy, the Law Director Thomas Lobe received a copy and again Attorney Joseph Kampmann.

Also there was a letter received from a resident Tallula Burns on April 6, 2016 and she was asking about permit information about having a duck. I forward this letter on to the Building Commissioner Fred Wyss and he did respond on behalf of the City; he provided me with a copy of the letter; however, I just wanted it for the record to correct, your letter stated March 7, 2016, I know that it wasn't intentional, Fred, but you put the wrong date on so for the record it should've been April 7th, correct Fred? Okay, so that will be corrected in the minutes.

NOTIFICATIONS

Academy of Continuing Legal Education: Ohio Land Use Law and Groundwater Protection 2016.1 scheduled for June 3, 2016 at Kent Central Gateway, Kent, Ohio (Emailed: April 6, 2016)

Finance Committee Meeting of Council scheduled for April 11, 2016 (Emailed: April 4, 2016)

Personnel Relations Committee of Council Meeting scheduled for April 11, 2016 (Emailed: April 4, 2016)

Planning & Zoning Commission and Architectural Board of Review Meeting of March 17, 2016 (Emailed: March 15, 2016)

Planning & Zoning Commission and Architectural Board of Review Meeting of April 7, 2016 (Emailed: April 4, 2016)

CANCELLATION of the Planning & Zoning Commission and Architectural Board of Review Meeting of April 7, 2016 as the Commission did not have a quorum (Emailed: April 6, 2016)

Willoughby Hills Records Commission Meeting of April 13, 2016 (Emailed: April 10, 2016)

Recreation Committee of Council Meeting scheduled for April 6, 2016 (Emailed: April 1, 2016)

CANCELLATION of the Regular Council Meeting scheduled for March 24, 2016 (Emailed: March 22, 2016)

Rules and Legislation Committee Meeting of Council scheduled for April 11, 2016 (Emailed: April 4, 2016)

Service Committee of Council Meeting scheduled for March 21, 2016 (Emailed: March 14, 2016)

MINUTES

Board of Building & Zoning Appeals Meeting of January 12, 2016 posted on the City's Website

Service Committee of Council Meeting of March 21, 2016 (Emailed: April 6, 2016)

FILE

Willoughby Hills Senior Center Newsletter for April 2016, Issue Number 96

ADMINISTRATION REPORTS & COMMUNICATIONS

President Fellows: The next item on the agenda is the Mayor's Report; the Mayor indicated that he would not be at this evening's meeting and he had no report to send on. The next one would be the Law Director's report, Mr. Lobe.

LAW DIRECTOR LOBE: No formal report, open to any and all questions.

President Fellows: Any questions for the Law Director?

Councilman Fiebig: Tom, who's Attorney Joseph Kampmann?

Law Director Lobe: I know Joseph, I don't why he was copied on that I would have to assume; I don't know I have never talked with Joe about this particular issue. He is an attorney who works for, I forgot now the name; I know Joe Kampmann in downtown Painesville.

Councilman Fiebig: So any ideas as to why we are copying him?

Law Director Lobe: I did not copy him, I do not know, he never contacted me, I never contacted him.

Councilman Fiebig: Okay, all right.

Law Director Lobe: If he does contact me and if I do have a conversation with him, I will report back to this body.

Councilman Fiebig: Okay.

President Fellows: Thank you, any other questions for Mr. Lobe? Thanks, Tom. Seeing none, Finance Director's report, Mr. Brichacek.

FINANCE DIRECTOR BRICHACEK: No report tonight.

President Fellows: Any questions for Mr. Brichacek this evening? Thanks Frank, seeing none our City Engineer's report, Mr. Di Franco.

CITY ENGINEER DI FRANCO: Thank you Madame President, just wanted to mention a few things, the Federal Department of Transportation has officially approved funding for the State Route 91 resurfacing so that is going through the County approval at this time and hopefully that will go out to bid in the near future. And then the Lake County Stormwater Department approved three little projects that Mark Grubiss is going to accomplish in-house; one is the River Road south drainage improvements; he'll be cleaning some storm sewers, adding to inlets and stabilizing a roadside ditch. Also Rockefeller Road just north of Chardon Road, he'll be installing a pipe in the roadside ditch because it has some deep slopes and was causing some erosion. And finally a sinkhole on Red Fox Pass which he has already repaired and he is going to be making some additional improvements to prevent it in the future. And that concludes my report and I am open to questions.

President Fellows: Any questions for the City Engineer?

Councilman Fiebig: I have one. Any progress on the Dodd Road, Chagrin River Watershed issue that they were looking at; has there been anything in the last two weeks either?

Law Director Lobe: I believe...are we talking about... we did provide certain documents to some of the parties that we thought would be interested, hopefully they were left in the box, Mr. Wyss was instructed. We gave information concerning the bridge, the construction of the bridge, when it went in and he even gave aerial maps, I believe, even timed sequenced, things of that nature and there have been some, I think were discussed primarily with Council President Fellows and the others were copied hopefully, okay, if I forgot to copy someone, I apologize because I know that I tried to keep Councilwoman Majka on board and Mr. Biro because they also got a letter from I think Chagrin, Lake County Soil and Water was it or from Chagrin River Watershed Partners...

Councilwoman Majka: It was Watershed Partners.

Law Director Lobe: Okay, once I saw that you were copied on it I really tried to keep both of you the Council Representative and the Alternate, I did not copy the rest of Council but I kept it to these three just because, if that's okay. I think that they are somewhat up to speed. And we basically got all the information that we could to assist the resident who I think has some issues with the County. I don't know if anything that we got is good or bad, I have not talked directly with the resident as yet. I don't know, I don't think that Mr. Wyss has either.

Councilman Fiebig: Okay, if you wouldn't mind keep me posted on that too. Thank you.

Law Director Lobe: I will try to keep you in some of the emails.

Councilman Fiebig: Thanks.

Law Director Lobe: If someone else wants in just speak up.

Councilman Fiebig: Pete, anything?

Law Director Lobe: He coordinated with us...

Councilman Fiebig: Okay thank you.

President Fellows: Any other questions for our Engineer?

Councilman Plecnik: Madame President, Mr. Di Franco given that we've got the Federal Funding approved are we on track to start the project on SOM Center Road this year?

City Engineer Di Franco: Yes.

Councilman Plecnik: Thank you.

President Fellows: Anyone else? Thanks, Pete.

COMMITTEES OF COUNCIL

The next item on the agenda is Committee Reports. I know that we have had a couple of committee meetings prior, since the last Council meeting.

Councilman Plecnik: Madame President, I haven't had time to submit my written minutes given the busy nature of the week so I'll be brief. I think timeliness is more important in this case than detail just so that we get the gist of what happened at the committee meetings. I will submit my full written report at a later date when it's completed. But we had two meetings, or I Chaired two meetings, Finance and Personnel Relations on Monday, April 11th at 6 and 6:30pm respectably.

FINANCE

The Finance Committee Meeting looked at two issues. First the funding for various items that the Service Department is in need of including a truck and a rig for the truck and from discussing with the Finance Director we had enough money in the budget without making any amendments to deal with those two purchases although there are future items such as the possible repair of a snowplow or the purchase of a second snowplow

that are not budgeted for and are going to require further consideration of finance in the future. So the immediate answer was no amendments to the budget are necessary but we may need to look to them later on.

The second issue we considered briefly in Finance and in more detail in Personnel Relations was the Mayor's proposal to give a 3% raise to all the non-union employees with the exception of the Council Clerk and the Finance Director was asked was there money in the budget for this raise and his response was the budget included a 2% raise for the non-union employees as a possibility and so given that the raise would most likely take effect until the middle of the year, the 3% raise would take roughly the same amount of revenue on that annualized basis. I raised the concern that obviously a 3% raise is most likely permanent so it is not really the same of a 2% raise going forward.

PERSONNEL RELATIONS

But from there after we discussed funding issues we closed the Finance Committee and moved into Personnel Relations at 6:30 where we had a more detailed discussion. I don't want to attribute comments to anyone person because I'm not speaking from my notes but the general concerns that were raised from both the committee as well as Council Members is that 3% is very high relative to what other cities are doing certainly relative to what private industry is doing that 3% raises for non-union employees being higher of course than the raises that our unions have received right on the eve of union negotiations could be problematic and simply the general concern is that the budget is tight, it's been tight for years, it's still tight now and we really need to find savings as opposed to spend more money whenever possible because there are so many needs from the Service Department, the Police Department, the Fire Department that need to be dealt with. The concern was also raised that we value not only our non-union employees and our Police Officers but also remember the tax payer that obviously faces substantial burden in Willoughby Hills we pay one of the highest income tax rates in the County given that we don't have a full credit for our income taxes, we obviously have high property taxes all be it that the City receives a small percentage of that relative to other taxing entities and we have what well may be the highest sewer fees in the County so the concern was discussed that we need to remember that the tax payer is footing the bill for all of us and we need to be very, very, very prudent in how we spend that money.

Although no formal consensus was asked for or reached by Personnel Relations, it was expressed by many people on both sides of the debate that there simply wasn't enough information to reach a conclusion on that night and I don't that we've changed our determination between then and now so I would just say in all likelihood this matter is going to continue to be discussed in Personnel Relations and possibly in Finance as well as it goes forward so that we can fully vet the proposal and determine what's ultimately the most far path for employees and the most far path and safest path for our residents as well given fiscal responsibility.

I'm open to any questions and as I said I will submit my written minutes later but I've done my best to very quickly sum up the two meetings based on my recollection. Thank you.

President Fellows: Any questions for Vice President John Plecnik on either one of these committee issues; Finance or Personnel Relations.

Vice President Plecnik would you please provide a report to Council as the Council Representative for the Cuyahoga County Noise Abatement meeting that you went to this morning.

Councilman Plecnik: Absolutely. The Cuyahoga County Airport Noise Abatement...

Councilman Biro: Madame President, I don't mean to interrupt but I thought that we had a different, I thought that we had Ed McKenna was our representative to....

President Fellows: It was my understanding that Mr. McKenna is the representative for Administration and Vice President Plecnik is the representative for City Council.

Councilman Biro: Wow, did we vote on that?

President Fellows: Yes we did. Sometime back.

Councilman Biro: I don't remember that.... I thought...

Councilman Hallum: I remembered that the Mayor came back and said actually he is suppose to appoint someone and not Council. I don't remember or recall what became of that but I just remember that email coming out saying....

President Fellows: My recollection is that Vice President Plecnik is the representative for City Council and Mr. McKenna is the representative for Administration on the Noise Abatement Council.

Councilman Biro: Madame President will we get a chance to get to hear from Ed in terms of...

President Fellows: He can do his report for the Administration at their meetings and John can do the report for Council at our meetings.

Councilman Biro: Okay.

Councilman Hallum: Okay.

Councilman Plecnik: Madame President, if I could speak to this issue briefly, before I go into the substance of the meeting. This was raised and actually I spoke with the Chairman of the Noise Abatement, the Chairwoman, excuse me, of the Noise Abatement Council Cathy Murphy who is the Council President of Highland Heights, last night and at the meeting and she says she intends to continue to recognize me as a member of the Noise Abatement Council, she welcomes another member from Willoughby Hills she thinks the more the merrier, she is happy if other cities want to get involved with the Noise Abatement Council as well. But she does not intend to exclude the Council Representative from Willoughby Hills and so long as Council does not chose someone else I am happy to continue to go to the meetings and to report which I did this morning 10am at the Cuyahoga County Airport.

But with that, on to what really matters, what happened at the Noise Abatement Council Meeting. We covered several significant issues. First of all, we had our Noise Abatement Council Compliant Report. There were only eight complaints for the first quarter of the year which is substantially down from the last quarter, over a hundred. However, if you compare it from the first quarter of last year, complaints actually went up there were seven complaints in the first quarter of last year, there were 18 for the first quarter of this year so more than double and typically the first quarter of the year is very slow if you look over the last eight-year period in terms of operations and consequently complaints. The less planes that go in and out of the airport obviously the less complaints you're likely to have. A lot of the complaints were the result of life flights this time around. The control tower operator and his investigation of the complaints found that even through there's an agreement, a letter of agreement between the Northeast Ohio Low Flyers Association and most of the hospitals and medical institutions are members of that association where they're going to fly a minimum of 2500 feet over the airport airspace, they've been flying about 2,000 feet over the past couple of months and so the control tower operator is going to be attending that meeting in the next week or so to raise the issue of the letter of agreement that they've signed and try to get them to hold to it obviously life flights are critical we want them to go as quickly from point A to point B as possible but when it's not conflicting with safety it's obviously a benefit to the residents when they can maintain a certain height and reduced noise.

There have been some issues with emails and complaints for the Noise Abatement Council. The Council Chairwoman herself said that one of her residents had been complaining that even though she'd sent email complaints she'd not been getting responses back and other residents had expressed to me that they have emailed complaints and not gotten responses back. The Secretary of the Noise Abatement Council assured us that he was replying and that there was some concern that either his email account perhaps or maybe some of the residents email accounts have new sorting features or security features that might have made them incompatible so he is going to take some steps to try to ensure that his emails are getting through and that residents are getting the responses that they are entitled to, to any complaints that they issue but as your Council representative if you've been complaining and you are not getting through please do contact me and I'll do my best to make sure that the problem is resolved.

To date there's been no noise complaints from the construction we're actually in Phase 1 right now in the redevelopment of the Cuyahoga County Airport as well as it's runway and according to the Secretary of the Noise Abatement County that the work is 35% complete. Phase 1 is mostly drainage and re-grounding work on the runway. Phase 2 is going to be the substantial work of repaving about half of the runway which is kind of slanted at this point and that's where we're most likely to see residents' concerns and complaints with respect to additional traffic particularly because the immediate past Chair of the Noise Abatement Council the Mayor of Richmond Heights reported to us that there is going to be a major road closing in Richmond Heights in 2017 next year. The bridge at the corner of White and Richmond Road is going to be closed for about four months for repairs and in all likelihood that means Bishop Road will be the only major thoroughfare to bring and to remove large amounts of paving materials for the runway so I live on Bishop Road, I'm anticipating that my neighbors and I are going to have considerably more noise as a result of that during that period but Phase 2 is really the most work intensive part. Phase 1 is scheduled to be completed on time on July 1st before the Republican National Convention. Phase 2 if the grant is approved from the FAA would be beginning shortly after the convention and might be completed at the end of the year if everything goes on schedule. It's been bid out for about 10 million dollars but the FAA still hasn't issued the grant so the timing is not certain at this point. Phase 3 and Phase 4 would simply be adding the EMAS the safety additions to the runway on the Richmond Heights side in Phase 3; on the Willoughby Hills side in Phase 4. But right now we're about a third of the way through Phase 1 in construction.

We've been watching the Joint Statement and its amendment very carefully. We had a report that the proposed amendment to the Joint Statement which would remove single engine planes from the Noise Abatement flight path is under review by the Cuyahoga County Legal Department. I voted against this change, I personally believe in holding to the Joint Statement but at this point the recommendation hasn't been acted on it's still being reviewed by the lawyers for Cuyahoga County.

The last major item that we discussed was the Republican National Convention and the impact that it's likely to have on residents. There's no doubt of course that it's going to make the airport substantially more busy but we had some very interesting facts shared by the General Manager of Cleveland Jet Center who will actually manage most of the flights coming in and out of the airport. And he indicated that based on his experience with the Republican National Convention in 2012 in Tampa the busiest, busiest peck time should be between Thursday evening and Friday morning of that week although the entire week of the convention is likely to have constant travel and it's entirely possible that it could be so busy that the airlines might be dropping off passengers and immediately taking off because there won't be enough place for them to park, so there could be a constant flow of traffic in and out of Cuyahoga. We've certainly gotten the question, why not Burk, it's closer to the convention. Apparently that's absolutely the problem they're in the restricted airspace area so there's far more security to get on and off planes it's essentially federalized for purposes of those flights, where as if you land in Cuyahoga County you can get on, get off no problem and so it is going to be far preferable to the movers and shakers to land at the Cuyahoga County Airport and the Cleveland Jet Center is anticipating about 750 private aircraft coming into Northeast Ohio that week, a great deal of which will be landing at the airport and

RNC related. So that's about all the highlights of the Noise Abatement Council Meeting. I stand open to questions.

Councilman Hallum: Madame President, I just want...not to diminish the complaints from the Willoughby Hills residents because it is certainly important but just for perspective for our residents of the 18 complaints, I believe, 14 or 15 of them were from Willoughby Hills and those all came from 4 of our residents, so just so you have a scale of the complaints. It's not 15 different complaints from 15 different residents; it's 4 residents that are unfortunately within the flight pattern of approaching and departing airplanes. Thank you.

Councilman Plecnik: Madame President, if I could add, Councilman Hallum pointed out that we always post all of our materials publicly shortly after the meeting so that residents can review the complaints and see who made the complaints, what the resolution of them were. Also the Secretary of the Noise Abatement Council is working on a new map which would show, precisely pinpoint where all the complaints over a period of time came from. Although we did discuss that the last time he did the map it showed pretty clearly that the west side of Willoughby Hills had the concentration and then from there a straight line of dots; so it is certainly the case that residents in the flight path suffer the most noise. Thank you.

President Fellows: Thank you. I will report on the Rules and Legislation.

RULES AND LEGISLATION

The Committee met on April 11th at 8:47p.m.

Provided are the written minutes of the meeting as read for the record.

Committee Members: President Nancy E. Fellows, Chair, Vice President John Plecnik, Janet R. Majka

Also Present: Mayor Robert M. Weger

Purpose: Legislation for the upcoming Council meeting of April 14, 2016

Ordinance 2016 – 5 – An Ordinance to define and to determine what constitutes a “justifiable excuse” as well as establishing a procedure for reporting and excusing absences. The Rules and Legislation Committee of Council recommends 3rd Reading and that this Ordinance be adopted.

Ordinance 2016 – 11 – An Ordinance requiring that the City of Willoughby Hills adopt uniform requirements for discharge into the Willoughby-Eastlake Wastewater Collection and Treatment Systems; complying with Chapter 925 of the Codified Ordinance, Sewerage System Regulations. In March 2016 Council adopted Ordinance 2016-34 to comply with and amend the Sanitary Sewerage System Charges, specifically “Surcharge for Extra-Strength Wastes (Cadmium). This Ordinance now comes to Council for an addendum to this agreement by increasing the prices of pounds of excess suspended solids such as phosphorus, oil and grease and C.B.O.D. (Carbonaceous biochemical oxygen demand) a test frequently used to determine the extent a waste stream will contaminate or pollute a receiving stream by depriving the organisms in the stream of oxygen. There is no urgency from Willoughby just compliance. Rules and Legislation Committee of Council recommends that this Ordinance be on 1st Reading.

Ordinance 2016-12 – An Ordinance directing the Mayor to sign any and all necessary documents to secure the purchase of a 2016 1 Ton GMC 5300HD Pickup with plow through the State of Ohio Cooperative Purchasing Agreement with a total purchase of \$37,084.00. 50% (\$15,000) coming from the Sewer Enterprise Fund #610 and 50% (\$15,000) from the Street, Construction, Maintenance & Repair Fund #250 and then the additional \$7,084 from the Capital Improvement Fund #420. The State contract is effective from November 13, 2015 to

October 31, 2016. Rules and Legislation Committee of Council recommends that this Ordinance be on 1st Reading.

Ordinance 2016-13 – An Ordinance directing the Mayor to sign any and all necessary documents to secure the purchase of a Highflow Skid Steer Loader and attachments through the State of Ohio Cooperative Purchasing Agreement with a total purchase of \$71,518.00. 100% of this purchase from the Capital Improvement Fund #420. The State contract is effective from November 1, 2011 to October 31, 2016. Rules and Legislation Committee of Council recommends that the 3 Reading Rule be waived and the Ordinance adopted.

Resolution 2016 – 4 – A Resolution recognizing the City of Willoughby Hills’ broad duty to affirmatively further Fair Housing and the month of April 2016 Fair Housing Month in Lake County, Ohio. The Rules and Legislation Committee of Council recommends the 3 Reading Rule be waived and the Resolution be adopted.

Resolution 2016-5 – A Resolution authorizing submittal of an application to participate in Lake County’s 2016 Community Development Block Grant Program to seek funding for installation of ADA accessible doors for City Hall Police Department. (Application and Resolution 2015-2 prepared for the same project, but not submitted because “the City was not able to secure a significant amount of bids”). Two pieces of legislation are required with the application which are:

- A Resolution supporting fair housing
- A Resolution supporting the filing of the application

The Rules and Legislation Committee of Council recommends the 3 Reading Rule be waived and the Resolution be adopted.

Resolution 2016 – 6 – A Resolution supporting the use of Plan4Health Grant Funding to develop a plan for the Roemisch Complex Wellness Revitalization in collaborative efforts of Cleveland Metroparks, Lake County Planning and Community Development and the Chagrin River Watershed Partners. David Radachy, Director of Lake County Planning and Community Development, has indicated that 13 communities in Lake County will be given a \$10,000 grant. Willoughby Hills will be a recipient of this grant. Monies will be used for planning and design purposes only. Our grant proposal is including the refurbishment of the Roemisch Field Complex. Gloria Majeski shared information from past meetings with collaborative members. As the Council Representative for the Chagrin River Watershed Partners, Councilwoman Janet Majka inquired why she had not been notified of past meetings and has asked that she be included in the future. The Rules and Legislation Committee of Council recommends the 3 Reading Rule be waived and the Resolution be adopted.

Last order of business:

The topic of an increase in salary compensation, recommended by the Mayor, was placed in the Personal Relations Committee for review and recommendation(s) to Council.

Public portion opened at 9:06 p.m. Cheryl Ota inquired as to the percentage of monies coming from the road and sewer funds for the purchase of the service pickup, indicating that she thought too much was being taken from the sewer fund. The Mayor indicated that the Service Supervisor would be using this vehicle and that frequently usage would be aligned with sewer issues.

Public portion closed at 9:09 p.m.

President Fellows: I’m open to questions or corrections.

Councilman Fiebig: Madame President can I ask as to why the reading of three was waived on the \$10,000 design services for Roemisch field?

President Fellows: It's all time sensitive in terms of the application that needs to be in within the next few weeks.

Councilman Fiebig: Okay, and the purpose of it was simply for the design of a walkway.

President Fellows: Oh, it's bigger than that.

Councilman Fiebig: Okay.

President Fellows: It's in the "Whereas" of the Ordinance. And my hope is that this will also have an opportunity to discuss this at the Council Retreat on the 23rd.

Councilman Fiebig: Although we're passing it today...the design that is.

President Fellows: No, passing it to get the grant for the \$10,000 so that we can use it for design.

Councilman Fiebig: Apply for the grant, okay.

President Fellows: Gloria, I'm I correct...thank you. Okay, any other questions?

Councilman Fiebig: No.

President Fellows: Okay.

Councilman Biro: Madame President, can I then report on Service?

President Fellows: Sure.

Councilman Biro: Are you done.

President Fellows: I am, I'm so sorry.

Councilman Biro: Okay.

SERVICE

The Committee met on March 21st at 6:00p.m.

Provided are the written minutes of the meeting as read for the record.

Committee Members: Christopher L. Biro, Chair, Christopher Hallum, Janet R. Majka

Also Present: Councilman John Plecnik, Road Superintendent Mark Grubiss, Mayor Robert M. Weger

Purpose: Purchase of Budgeted Service Equipment.

Purchase of Budgeted Service Equipment:

1: 2016 Cat Skid w/ attachments (priced at \$71,518.00) \$80,000.00 budgeted. \$8,482.00 surplus.

2: One Ton Dump 3500 Truck 4X4 (\$37,527.00) w/ Stainless Steel Bed (Henderson \$32,232.00). Truck for entire package \$69,759.00. \$65,000.00 budgeted for vehicle. \$4,759.00 shortfall.

3: 2016 Pick Up One Ton Extended Cab 4X4 Truck to add to fleet because of condition of existing truck. \$37,084.00 price. \$30,000.00 budgeted. Shortfall of \$7,084.00.

4: Mainline Sewer Camera (Protus) w/Trailer not listed on State Procurement List priced around **\$68,000.00**. **Ibak camera and Trailer** which is on State Procurement List is **\$84,000.00**. **\$40,000.00** budgeted. **Shortfall of \$18,000.00 for Protus camera w/ Trailer.**

5: Trailer for New Mainline Sewer Camera. \$10,000.00 budgeted.

Shortfall of roughly \$22,000.00 for all equipment. Need to schedule a Finance Committee meeting to address funding shortfall.

All items are subject to State Procurement List for bidding. **Mayor Weger** added that items not on State Procurement List will have to be bid out and lowest price taken.

Councilwoman Majka asked if we can delay cleaning of sewers of sewers to 3 years instead of 12 to 18 months to save money. **Mr. Grubiss** responded that we need to clean lines more frequent because of grease build up that restricts flow. The problem areas are near restaurants and Loehmann's Plaza. Camera will allow us to identify troubled area along pipes. Will be able to identify exact locations of defects and blockages which will save time and money when excavating and repairing troubled areas. City sewer is not metered so infiltration of sewer lines does not cost city more monies. Mitigation of infiltrates and identification of troubled areas will help in preventing backups of basements and save residents money and aggravation from cleanup costs.

Mr. Hallum asked if possible to rent camera equipment to save monies. **Mr. Grubiss** stated that costs for rental run about \$180.00/hr and cost prohibitive to rent since we have constant need.

Discussion around the need for replacement of 2003 Truck #3, one of our big front and back loader trucks that currently needs about \$28,000.00 in repairs. Lifespan usually around 10 years. Cost around \$170,000.00 like the current one ordered and due to be delivered soon. **Mr. Grubiss** states that we need to order this truck this year since it takes about 10-15 months to procure.

Consensus of Committee was to refer to Clerk of Council for Legislation and shortfall of funds referred to Finance Committee.

Mayor stated that since adequate funds for 2016 Cat Skid were budgeted, we could move quickly on that and get it ordered.

The following people came forth with questions/comments:

Frank Cihula had questions about grease in the sewers. Stated that "he does not put grease down his drains". **Mr. Grubiss** thanked him for being the only one in the City not to.

Linda Fulton asked how much over budget were we on this equipment and where will monies come from? Estimated around \$23K shortfall for service equipment. This issue will move to Finance Committee for funding.

Chery Ota asked **Mr. Grubiss** why Chevy and not Mack Trucks. Mack does not make smaller trucks.

Meeting adjourned at 6:51p.m.

Councilman Biro: I'm open to questions.

President Fellows: Thank you Councilman Biro. Anything else under Committee Reports for this evening?

COUNCIL REPRESENTATIVE REPORTS

There were none.

PUBLIC PORTION

Section 107.08 – Public Meetings of Municipal Bodies

(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 Fellows opened Public Portion at 7:38 p.m.

Mr. Babuder – 2275 River Road. Thank you ladies and gentlemen. As related to logging on my farm, 2275 River Road, just south of Gullybrook Park, south of the riverside. I have made some notes, of various sorts here and on other pieces of paper. On February 15th apparently according to the people that were logging started to log the so called protected area of the farm they said that this is very important a neighbor woman shouting to Dave, is the Amish lumberjack, to stop working in wet lands, this was perceived according to the Amish fellow who was...I was not there. Okay, now by the way, these are not wet lands in a flood zone area. As far as protected area, I must add that I have never heard of that word before this situation...the so called protected area, I don't know how legal, legal value, etc.

Then on February 16th Mr. Wyss came to my farm saying that he had a complaint from the northerly neighbor and as soon as he said a complaint from a northerly neighbor, it was with my door half opened, I said to him, I actually interrupted him, and said if my northerly neighbor had a complaint they should go to court. Meanwhile I said we still have courts in the United States so please use them, they can go to court. Meanwhile please leave and if you don't leave I'll call the police and Mr. Wyss mumbled something not too happy about and he said I'll bring the police. Parted politely, no problem. Okay.

Then February 18th I was not home in the am of that day but the northerly neighbor came and holler at the Amish tree loggers, they said dirty words, you know I don't want to stay neutral on that, the use of language...this was followed by City Building Inspector who came with police escorts, two cops apparently and Hollard dirty names at Amish and turned and walked the property all seventeen acres and this was searched without any kind of warrant and I don't know, I was not there. I came home and called the Mayor, his office approximately 2pm to discuss the neighbor issue and was told that he had help on that issue. You have to understand I have had a not friendly issue with my northerly neighbor even through, you may laugh when I tell you I sold them the property, so that's how it was.

Anyhow, the Mayor told me that could not help me on the issue of unfriendliness of my northerly neighbor and I can understand that. Okay, so they say that I need a permit to do the logging, so I said okay, and he gave me some papers and I signed them, gave him a \$100 for two permits I guess of some sort, I don't know...I assumed for logging permits and that was it. I paid for permits per the Mayor. Okay.

Then we've talking February 22nd about 8:30am Mr. Wyss and three Willoughby Hills Policemen came to my home, one of the Policemen was kind of hidden behind the fence so I couldn't see him, two came together with Mr. Wyss and one showed up when he saw me coming out apparently, I don't know maybe they were worried that I was dangerous or something but I thought that the Police were there to protect me, I presumed, I don't know why...but Mr. Wyss had indicated that apparently that I may be in violation with Ordinance 1167 and I did not know anything about this, before this.

I had met with Mr. Wyss in February of 2015 about after two days after I sold.... timber...again, the northerly neighbor called Mr. Wyss, he seems to be her spokesman telling him these activities that somebody painted one of their trees, well I was not there, I did not see but Mr. Wyss had pictures of it and apparently the logger painted one tree across the line of the northerly neighbor indicating that that's not to be cut and that is still there by the way.

President Fellows: Mr. Babuder, how can we help you, what would you like us to do because...

Mr. Babuder: I realize that I am taking a lot of time but what I am trying to say is to ask this Committee, this Council to hear me. It appears to me that the Administration is not hearing me. Okay, I realize that there are some ordinances that I was not aware of but obviously there are ordinances of the City. I have lived in Willoughby Hills since 1966, fifty years. I will almost be 78 years old soon, I would appreciate consideration on these issues. I did not violate any laws, I have never been in any type of trouble for fifty years I've lived in this City before it was a City as a matter of fact, the first Mayor of Willoughby Hills was renting the property it's now in question, the floodplain from my farm Mr. Warner that's about all I can say further now when Mr. Wyss came he has police that's a special thing that I would like to mention has bothered me immensely because that is insulting to my intelligence and to my culture. I remember when I was five years old factious police came to my grandfather blacksmith's shop and they complained that he had the lights on the night before. It was air raids and so on and you weren't supposed to have the light on, he had 25-watt bulb but he didn't have it on and they complained and the dog was barking at them and the dog was tied, his dog was tied and they shot him right there, I was less than five years old and I remember that and when I saw the same policeman come to my house after they were mad at me it reminded me of when I was just about five years old. I would like today, pardon me for getting emotional now but this is how I feel about it and I would appreciate this Council to take in consideration that I am a good American, a taxpayer and I owe nobody in this City nothing forever other than paying taxes. Thank you.

Arnaldo Rodriguez – 3050 Rockefeller Road. I go up Rockefeller Road turn on White Road to go to 91 or Bishop Road whenever I have to go. About a month ago, I'm going up Rockefeller because I was in a hurry to Chardon Road, that light at Chardon Road stayed green for 10 seconds. It took me 10 minutes to go from that creek at Rockefeller all the way to the light. Now I don't know if that was a light malfunction, I don't know if that's a rule but it was around 6:00, 10 after 6. If it's a malfunction I can understand, if it's a rule whoever decided this should have their head examined. Because it shouldn't take me 10 minutes to get from that creek to that light. So somebody needs to look at that. Okay, the other thing that I want to tell you guys, if you guys want to increase revenue the intersection of Rockefeller and White Road, Councilman you live very close to there, I can't tell you how many people roll right through that stop sign. I know that it's hard to put a policeman there but boy if you want to increase revenue there's your revenue right there because when they do stop they stop halfway in the intersection so you might as well let them go. So that's all I got to say, thank you.

President Fellows: Thank you. Could Gloria share with the Mayor about the light; we can follow up with him (Mr. Rodriguez) or Mark.

Road Superintendent Grubiss: That light there is a loop there that's broke and it is in the process of getting fixed but they changed the timing. Have you had an issue since that day?

Mr. Rodriguez: No, I normally don't go that way.

Road Superintendent Grubiss: Okay. That loop that broke that was the cause of that light to do what it did. I got two calls from two residents and also Councilman Hallum and it was addressed the next day and I've never heard another thing about it.

President Fellows: Okay, that helps?

Mr. Rodriguez: I don't normally drive that way.

President Fellows: Anyone else for Public Portion, Linda.

Linda Fulton – 2990 Marcum Boulevard. I just want a clarification, Mr. Plecnik, you stated that Richmond Heights would be closing Bishop next year.

Councilman Plecnik: Not Bishop, the bridge at the corner of Richmond Road and White Road. So not Bishop Road. My concern and the concern actually that Mayor Roche raised, he said there are really two ways to approach the airport with large amounts of materials and one is over that bridge which is going to be closed next year. Presumably some of Phase 2 will be worked on at that point because it's very optimistic to suggest that the whole paving will be done this year. The grant would have to be approved very quickly, work would have to go very quickly, weather would have to allow so in all likelihood this is going to span some of '16 maybe going entirely into '17 and his concern was if our road is closed Bishop Road is going to get all the traffic. So it's not that Bishop Road will close but that a major road in Richmond Heights will.

Linda Fulton: Okay. I thought that it was the other because my question then is what's it going to do like if it's going to create more traffic on to Bishop Road will that be more trucks and everything and what's going to happen to our road.

Councilman Plecnik: Well, more vehicles mean more wear and tear, that's certainly true.

Linda Fulton: I mean is Richmond Heights willing to pay a portion to fix the road?

Councilman Plecnik: I think that's their public portion.

Linda Fulton: Thank you.

President Fellows: Thank you Linda, anyone else for Public Portion this evening? Okay, thank you I will close Public Portion at 7:53 p.m.

UNFINISHED BUSINESS

Councilwoman Fellows: The next order of business is Unfinished Business, any Unfinished Business?

Law Director Lobe: I can reply with regard to Mr. Babuder.

President Fellows: Mr. Lobe, thank you.

Law Director Lobe: As it pertains to Mr. Babuder there has been a contentious neighbor issue, there have been prior issues that are long standing. The City, specifically Mr. Wyss, nor I or Administration and I only presume this Council is not taking anybody's side because it is a true neighbor dispute. The issue that we have is that Mr. Babuder who owns real estate by and through a trust on River Road that is backed on the Chagrin River, cut down anywhere between 50 and 80 large trees. And when I say large trees, I'm talking about trees in diameter that if two of us were there we would have a hard time holding around it. It is about 5 to 6 feet in diameter. It is absolutely in the floodway, the riparian right and possibly the hillside area as defined in our Code 1167 which was adopted in 2008. Further all the trees that were cut down were marked with a pink spray there were various trees marked on the neighbor's property that he has a dispute with that are now marked with an "O" and now with an "X" on it. And I believe that none of the trees on the neighbor's property were cut but there was definitely trespassing on the neighbor's most probably by the contractors, the Amish ones who have a company who I talked to, who also never registered with the City. They also brought large tractors and trucks into the floodway, floodplain and riparian rights and cut dredges while they dragged these large trees from the floodway, floodplain up to and towards River Road which is probably about a 100 yards, the property is really long and it v's out in the back. Mr. Babuder was advised of the...we got advised of this property from the neighbor and to this day all I've asked of Mr. Babuder is to comply with 1167. Mr. Wyss has asked him to

comply with 1167 and he has met with the Mayor and then he has met with the Mayor and myself and I had a meeting also with the neighbor. To this day, he has not complied with 1167. We are asking him to comply, he was supposed to comply by going to the Planning Commission and there is a certain statutory requirement that this Council and the people voted on back in '06 that he has failed to comply with. And specifically and I will allow our Engineer to talk about those failures, that he can't even get to the Planning Commission because he refuses to provide the documentation to do so.

What happened here on Saturday, September 20th at the request of a neighbor who is the party that Mr. Babuder talked about I together with the Mayor and John Clements walked the property of the neighbor. Prior issues had arisen concerning those multiple trees that were cut clearly in a floodway, floodplain area. And when I say that I'm not very good at this, they are clearly in the floodway, floodplain area. No permit had obtained in compliance with before you cut any down you have to ask for permission in the floodway, floodplain so that the plan can be utilized because of the protected area. We caught this after the fact, okay. None of the contractors had registered. The contractor was a J.H. Lumber by and through Jonas Hershberger and John Hershberger of Hershberger Manufacturing. Neither of these contractors pulled the contractors registrations and admitted to us that they failed to pull the permits and that they did not register and at that time, I did tell them to cease operations which they did until they registered and posted the proper bond.

On February 16th by and through the neighbor that had advised us of this we had gone to the property and we had initially contacted Lake County Soil and Water, attention Chad Edgar and we also contacted the Chagrin River Watershed Partners, Keely Davidson-Bennett for advice and consultation on this particular matter. We did not simply just act, and act in that particular matter as described. We sought out the proper parties to give us advice and assistance on this matter and we are always willing to take advice on these environmental sensitive issues.

In the PM hours of 2/22, February 22nd Mr. Babuder came to City Hall and requested a second meeting with the Mayor and I attended. The meeting lasted from 3:00 to 4:15. Mr. Babuder indicated specifically that the City of Willoughby Hills has no right and that there is a State preemption and he can do what he wants and he knows what to do and that he owns other properties and that I didn't know what I was talking about and Mr. Wyss didn't know what he was talking about and that he had a right to do what he did and we should not butt in. He told me that if I wanted to learn anything about this that I should call Mr. Aron Cash from Timber Management from the State of Ohio who has a phone number of 440-564-5883. I took Mr. Babuder up on his challenge and in his presence and in the presence of the Mayor, I got on a three-way telephone conversation on speaker phone in my office, right next to the Mayor's Office. Myself, the Mayor and Mr. Babuder, we had Mr. Cash on the phone and he had indicated to me that the property in question is not in a timber management property that Mr. Babuder has another property in Ashtabula that is registered but the property where he did this on...in Willoughby Hills is not registered and as such, Willoughby Hills has the absolute right to enforce the ordinance which I had read to him and that are consistent with the State Ordinances. I had further asked him that even in Ashtabula, Mr. Cash would it be proper that you would cut down trees without a permit, without a plan even in Ashtabula and right next to the river. He answered most properly not ever and at minimum you have to, the same thing like ours, you have to pull a permit, give a plan and there's got to be a process before you do anything of that nature. Mr. Babuder then said that he...I should talk to somebody at the County because he has a farm, it's a working farm and as such again, the City is pre-empted and then the County now, not the State is pre-empting us from taking any action. I took him up on that word and we did in fact have a conversation then with a Mr. Brian Rodgers of the Lake County Auditor's Office, phone call 350-2534. I asked him if this property was a farm property registered properly with the County and Mr. Cash, Mr. Rodgers said absolutely not, it is simply a piece of property and then again they have nothing to do with this and that we can should enforce our ordinances if we so desire. He then...we were then asked by Mr. Cash that we should possibly call Mr. Bob Mulligan from the Division of Forestry who has a 614 number he's from Vincent, Ohio which I don't even know where's he is at and I attempted a speaker phone conversation with him but it resulted in me leaving a voice message to contact this Mr. Mulligan. I did ultimately talk with Mr. Mulligan and he gave me the same

type of answers as before, okay. Mr. Babuder had indicated that this is a working farm I'd asked him if had any documents other than some corporate documents for a domestic liability company indicated as Von Drauf Farms MC LLC which has been in existence 2006. In fact, the property in question is not titled in the name of that LLC but rather in a trust. I specifically inquired if there was any other property that Mr. Babuder wanted...any other people that Mr. Babuder wanted me to contact to indicate that Willoughby Hills has no jurisdiction. He offered no other information and I specifically instructed him, again consistent with what was told to him multiple times by our Building Department, Mr. Wyss to comply with 1167. I am willing and still stand willing to allow this to proceed without taking this to a criminal case because it has always been my thing that I look for compliance, at least substantial compliance.

The Hearing was supposed to take place back in March 16th, he was advised and given all the requirements that are necessary so that he could go to the Planning Commission after the fact, sadly and not before the fact. To this day those requirements have not been met to the satisfaction of our Engineer so that he can at least make a determination and give advice to the Planning Commission. This was supposed to take place back in March and as we sit here in the end of April he still has not complied. We have sent him letters, we have talked with him and I think that the Administration has been very attentive to this matter. I know that other Council people, Ms. Majka also walked the property so she understands what's up. I know that Ms. Majka and Mr. Biro received letters even from Chagrin River Watershed Partners that were a little concerned with what was going on. Mr. Babuder also has an attorney and I asked that his attorney please contact me which to date he has not all be it that he has contacted the neighbor. And I am always willing to work with any resident especially a long standing one. But there has been other action at those properties. So I just everybody to understand that Mr. Wyss has done what he could, it is usually complaint driven. We have the evidence of the multiple trees, it's a clear violation of the protected area it was since 2008, it's not something that just happened, I mean this Council would pass something in 2014 or 15. He told me that he understood the law and he challenged me that we have no rights. So I still sit here open to any interpretation, I still want to proceed but I want everybody to understand the lengths that we have gone to, what occurred and there's pictures of how large the trees were. And I even got a statement from the contractor that at least 50 trees, when I talked with him up to 80 trees. The other problem is we have problems as you know when we talked about what Mr. Fiebig said about property owners that have problems on the Chagrin River because in this case they cut down the big trees and they took off all of the limbs and branches and that they hauled away was the trunks which looked like large telephone poles except that they are probably the girth is two to three times of a telephone pole. They left all the other debris in the floodway floodplain and when it does flood it picks up and goes down river and gets stopped by a bridge or maybe something else, that is the impudence. Now I'm not an expert in floodway, floodplain I'll leave that to our Engineer, I'll leave that to them and I'll leave it to our Planning Commission that they are not in the position of doing. So that is a short summary of what I call the patience, the diligence and the vigilance that the Administration or I on behalf of Council also has taken on this matter and I'm open to criticism, questions, or concerns or you think that I could have done something or done something more or waited or been more patient, I stand open to criticism as I should. I just want everybody to understand what had occurred. Thank you.

President Fellows: Thank you Mr. Lobe.

Councilman Plecnik: If I could just ask one question, I think what would be most helpful to Mr. Babuder is to understand and it may be difficult for someone who isn't familiar with our ordinances and I think that it is pretty clear that Mr. Babuder was not and he said that he was not clear with our ordinances as to what his obligations are could you perhaps restate, say you have asked him to be in compliance with 1167 and to come to Planning and Zoning. Looking at this as a fresh start, if Mr. Babuder is trying his best here what would you ask him to do? How could he comply with 1167?

City Engineer Di Franco: I can answer that.

Law Director Lobe: Go ahead, I know that I could too, but go ahead.

City Engineer Di Franco: Okay, this is about the protected areas ordinance and our concerns like Law Director Lobe stated is to make sure that they don't leave debris that could wash into the river and damage property downstream or cause flooding, make sure that they repair the soil that they have distributed so that it doesn't create erosion or wash the soil away. It's things like that, so we have this protected areas ordinance which is required by the Ohio EPA and which we're going to revise later this year, our Council Clerk is working on it, and there's a permit fee and then there is a permit review deposit and I think that this is about the deposit because once we learned about the trees being cut we immediately went out there, we met with Chagrin River Watershed Partners, Soil and Water Conservation District, we came to an agreement on how to resolve this as quickly as possible after the fact. So we came up with a list of recommendations, I gave it to Mr. Babuder, you know it includes making sure that there is no debris that can be washed down the river, repairing the trenches that they did and Mr. Babuder is very knowledgeable and very cooperative. I think that they did a good job with the logging so I don't think there is any concern or issues so it comes down to the review fee. And if Mr. Babuder doesn't pay it, then everyone in Willoughby Hills has to pay it. Are you asking all of your neighbors to pay your review fee? That's the question, I think.

City Engineer Di Franco: Well I think that's the only unresolved issue.

Law Director Lobe: No, it's not.

City Engineer Di Franco: Okay.

Mr. Babuder: That's correct that's the only issue. I have never, Mr. Lobe have never said that you have no authority in Willoughby Hills, etc., etc., and that it doesn't have authority and only I am the person who has authority, I never said that. Second, I came to the office of Mr. Wyss around the 10th or so of February 2015, two days after...he called me because the lady next door, my friend next door complained that the trees are painted, he calls me in and I told him that I sold the timber. He never told me that I needed a permit or anything else about 1167 or that's why I didn't do anything. Timbering started a year later February of 2016 by the contract with the timber, logger, okay. I have never said...I immediately got the permit when Mr. Mayor, when I came here, I gave the date earlier; I paid a \$100 for the permits and went down to see lady named Julia, I think and she prepared the paper work and I thought that I had the permit covered and that was it. I never refused to pay for the permit after I learned that I needed it and why was I not asked to make a permit a year ago when Mr. Wyss called me into his office when neighbor complained of the trees being painted. Why did I... I will not condemn anyone about anything but that is the truth. Why didn't I, I can't know all of the regulations, I am just an ordinary tax payer and a retired old engineer and that's it. Yes, I work the farm by myself with the help of my daughter and my wife, not much help, not much work but that's my endeavor, I like it. It's America, I planted some of the trees that were harvested, I planted them over 40 years ago, I harvested, I did not do any work; I presumed that the logger got a permit, he had the right documents required by the City, I can't do his work, I do not want to throw the logger under the bus now but...

President Fellows: So where are we now Mr. Lobe?

Law Director Lobe: Well to answer his...we're still nowhere because and the answer to Mr. Plecnik's question more directly at that meeting, just in case, I personally handed him the ordinance, circled the things for the procedures on 1167 and said that you just gotta follow this, it is a little complicated. He said that he had Attorney Spiros Gonakis I said please have Spiro contact me. We've been waiting since March...

Mr. Babuder: I did not say that Sir...

Law Director Lobe: I am going to stand by my own words here I can tell you I know Spiros Gonakis, Spiros Gonakis has represented him in the past so I know Spiros. Spiros is an attorney in Euclid Ohio and I know Spiros. The bottom line is I heard that he had Spiros and I know that he has engaged Spiros Gonakis as it pertains to this issue not with us so, let me put that on the table. I think that we're far from field, but Mr. Plecnik, I always try to do that, we always try and say to anybody here is the ordinance, if you have a hard time...I also said now listen if you can't get everything together this thing has already occurred if it takes you two weeks, if it takes you three weeks, if it takes you a month we're going to wait for you, I've got no problem, we're going to try and wait, we're going to be patient but as I understand, it still hasn't been done and it just ...and you're just got to comply with this stuff. We have to make sure that it doesn't happen and the neighbors are quite upset, the other side that we didn't even do more. So, and Mr. Wyss and I, this Council and the Administration, we try not to take any sides especially on his neighbors. So, that's all I can say but I did try to talk to him and we're still waiting. And I'm trying to be patient, so I'm glad that he came here. So that I could tell exactly, and I probably only gave you a summary of what we did.

Councilman Plecnik: Mr. Di Franco, what's the amount of the deposit that's required?

City Engineer Di Franco: I think that it was between 5 and 6 hundred dollars.

Law Director Lobe: I also want to point out that he was paid handsomely for these trees. You're got the contract. Just so you know.

Councilman Fiebig: Were any trees cut down off the neighbor's property?

Law Director Lobe: We believe not, they were marked and then they were remarked and the neighbors were upset because she complained so much, that I think that they remarked them. They were marked for cutting.

Councilman Fiebig: Were they complaining because there was tractors and things...that was the source of their complaint, not that they took trees of them.

Law Director Lobe: No. It's the entire operation.

Mr. Babuder: The loggers did not cross the northerly neighbor's property line.

Councilman Fiebig: His property on 2275 land use is agricultural this Mr. Rogers at the Auditor's Office said this wasn't?

Law Director Lobe: That is just every time anything...there is a formal one where you can apply if you're in an agricultural district pursuant to the Ohio Revised Code, that is not what occurred. What the County does is have it where it's over 10 acres, they say it is potentially that. But that's not how it is, it's a designation. But to get it an agricultural district you have to comply with the Ohio Revised Code Chapter 925, I forgot the number but that did not occur. So a designation on the County Auditor's, County Treasurer's for that real estate does not equate with having it formally listed with the State of Ohio through the Department now of Forestry which has taken over this jurisdiction which I just learned from the Ohio Department of Natural Resources it's a subdivision and may be Ms. Majka probably knows more than me, she is looking at me, and hopefully I am saying it right so that is not what they obtained. So if it's on there even when I talked with Mr. Rodgers there at the County, he said that is a destination so that we know that it is over 10 acres and that is all it means, nothing more. It does not mean it's a farm, it doesn't get any benefits, he doesn't get tax credits. At the County, the property in Ashtabula is so listed with the Department of Forestry, this one is not.

Mr. Babuder: I never said that it is listed with the Department of Natural Forestry, it is a farm that is in the County Records of the Auditors in Painesville.

Councilman Hallum: I just want to...Mr. Babuder came before the Planning and Zoning Board while I was present at that Board and I just want to confirm that we had this long conversation and it was very well explained to him is that all that we are really asking of him is that he clear away the debris, repair any issues if there are if any and pay the \$500 fee that anybody would have to pay if they were doing that, that's it. Just come into compliance with anybody, if you would have gone along the normal path he would have paid the same thing so we are not asking for more than any other person would have done if they had wanted to do it, we are not fining he in any way, shape or form, we're just asking him to comply with what he would have done if he had followed the process, that's it.

President Fellows: Mr. Wyss you had your hand up.

Building Commissioner Wyss: Thank you for the opportunity to respond. There have been several accusations, I'd like to clarify some of them and also add to some of the things that have been discussed here. First and foremost, we not to get into a contentious argument with Mr. Barburder he has different recollections of the year before. The year before when the trees were missed marked on the neighbor's property I responded immediately to the resident and she had already taken photographs at the time that this happened I attempted to get out to where the trees were marked, there was two feet of snow as you all well know I have an aorta value replacement and it was not advisable for me to go any further out into the floodplain then I did. I took her photographs as evidence and unlike the recollection of Mr. Barburder he did not come to my office, I did not ask him to come to my office, we have always had a good relationship ever since I inspected his addition; I knocked on his door. And I informed him at that time that trees were mismarked on his property and it was in a protected area. It is my contention that in...a year ago 2015 when the mismarked trees were happening I informed Mr. Babuder that any activity such as logging in a protected area would have been in violation of the ordinance if he did not get a permit. It is not something that is precluded the ordinance is very clear it is not intended to prevent silviculture on private property. But as Mr. Hallum said he has come to the meeting, it was not on the agenda because he had not fully complied with the ordinance, I did not want to extend Mr. Di Franco's time and create a bill to the City without the deposit for engineering review being deposited as stated in the ordinance that he received this year. The ordinance states a \$1,000 deposit. I had conversations with Mr. Di Franco and he graciously extended to me that we could lower that to \$600. Since that time, since all of his review is pretty much exhausted he has informed me that the extent of his bill at this time is a \$140. I've always informed all the clients that I'm telling has to deposit an engineering deposit that it's subject to refund if any funds are not used. So that is where we stand right now, it's my understanding that we have completed our review, we're waiting for a final agenda to be placed on Planning Commission to have Mr. Babuder's permit officially voted on but I am not going to have a vote taken unless everything is in compliance with our ordinance. The only additional item that I would like to extend to the Council that we would require is so that we could access his property, we have never accessed his property, we have always done this through the neighboring property that gave us permission. The only time that I've ever come to his house I stood at the road in the right-of-way other than the time that I had knocked at his door informing Mr. Babuder again at that point and time we had a friendly relationship. So I've always stayed off the property, I have to do that I don't have a search warrant, I can't go marching on to private property and inspect what we have now since scene as photographic evidence.

Councilman Plecnik: Mr. Wyss if your review is nearly complete and the amount expended is pretty clearly about a \$140 I understand that the gestor has already been made by lowering it from a \$1,000 to \$600, I don't know if there are other items that Mr. Di Franco that would still have to do that would justify a larger deposit so maybe it's possible to ask for an even lower amount if you know that it's going to cost a \$140, I'm just asking the question.

Building Commissioner Wyss: What I was further going to say is that the only other thing that has to happen is that we would want access to the property to inspect the property after he has stated to us that he has complied with the protected area requirements.

City Engineer Di Franco: Just clarify it, I don't recall the \$140 dollars, I thought that it was around 4 to 5 hundred dollars.

Building Commissioner Wyss: Okay, all right if it was different or I misinterpreted what was said. But that's why we have a deposit. You know and if Mr. Di Franco or his representative wants to accompany me to make sure that the compliance....

City Engineer Di Franco: Well my work is complete. So that is the final bill.

Councilman Fiebig: Did you go to his house with police officers?

Building Commissioner Wyss: To address that issue, I am a one-man show here, I do you zoning, I do your building inspection and I do...

Councilman Fiebig: Could you please just answer the question.

Building Commissioner Wyss: No, it's pertinent to the question, Mr. Fiebig.

Councilman Fiebig: Please, yes or no.

Building Commission Wyss: Of course I went to his house with police.

Councilman Fiebig: Okay.

Building Commissioner Wyss: Because I am a one man show and if ever I see that I could be into a situation that would put the City into liability or more importantly myself, I'm going to ask for assistance from the Police Department.

Councilman Fiebig: You felt that you needed protect?

Building Commissioner Wyss: As a witness, as a witness.

Councilman Fiebig: Okay, you felt that you needed that?

Building Commissioner Wyss: Absolutely, absolutely. I will always try to get a witness when I have this kind of a situation where I have to enforce our ordinances. I mean I would assume that the Police Department is here to enforce all of our ordinances, not just getting a traffic ticket.

Councilman Fiebig: Absolutely. But you didn't mention it and I just want to clarify it, and then you know, you've obviously answered the question, that yes you did need that.

Building Commissioner Wyss: At the second visit, when we were making sure that the Amish were complying with what we had already told them to do, I wasn't aware that the Police Officers had gone on to the property any further than to talk with Mr. Babuder and I came at that time and they were already up at his home. So I don't know what happened any time before that.

Law Director Lobe: I could add a little more to that Dave...

Councilman Fiebig: If I could just finish where you are with this because obviously resolving this is where we all want to get to. Mr. Babuder needs to put a \$500 deposit down, is that about right? And he needs to...does he need to do an application to appear in front of the Planning and Zoning?

Building Commissioner Wyss: The application is there and ready to go...deposit...

Councilman Fiebig: A \$500 deposit, come to the next agenda meeting, Mr. Babuder is that acceptable to you?

Mr. Babuder: I would like to make some comments on that, it is not acceptable; however, I was in Mr. Wyss office after lady next door complained about trees being painted a year ago about 10th of February.... (speaking from the audience, not in front of microphone)

President Fellows: Mr. Babuder what I think is important instead of restating, going over all the history, is to move forward for resolution and if you could think about coming to the Planning and Zoning Committee Meeting, paying your fine or...it's not a fine, I'm sorry what is it...an Engineering Deposit and then have your attorney call Mr. Lobe so that we can finalize this.

President Fellows: At this point I would really like to cease this conversation for Council this evening, thank you.

Mr. Babuder: I would like to have one more comment about Mr. Wyss when I came to his office a year ago...

President Fellows: You shared that with us.

Mr. Babuder: No, not this one comment. When the lady next door complained who's going to wash the paint off my tree he told me that he told her the rain will

President Fellows: Thank you, thank you.

Mr. Babuder: It's still there by the way.

President Fellows: Thank you everybody for sharing valuable information about a difficult situation. Thank you. All right, our next order of business is our legislation.

LEGISLATION

Ordinance No. 2016-5 –THIRD READING

An ordinance amending Part One – Administrative Code – Title Three – Legislative, Subsection 121 – Council, Section 121.01 – Rules of Council of the Codified Ordinances of the City of Willoughby Hills and repealing conflicting legislation.

Councilman Biro moved for passage. Councilwoman Majka seconded.

Roll Call: **YEAS: Plecnik, Biro, Fellows, Fiebig, Hallum, Majka**
With six affirmative votes, motion passes.

Ordinance No. 2016-11

An ordinance amending Part Nine – Streets, Utilities and Public Services Code, Title Three – Utilities, Chapter 925 – Sewerage System Regulations, Section 925.06 – Fees, Sub-Section (c) of the Codified Ordinances of the City of Willoughby Hills, Ohio and repealing conflicting legislation.

President Fellows: Rules and Legislation recommended that this remain on First Reading.

Ordinance No. 2016-12

An ordinance directing the Mayor to sign any and all necessary documents to secure the purchase of a 2016 GMC 3500HD Pickup through the State of Ohio Cooperative Purchasing Agreement Contract with said purchase being exempt from competitive bidding pursuant to Section 125.04(c) of the Ohio Revised Code and declaring an emergency.

President Fellows: Rules and Legislation recommended that this remain on First Reading.

Ordinance No. 2016-13

An ordinance directing the Mayor to sign any and all necessary documents to secure the purchase of a new Caterpillar Model 262D DCA3 Skid Steer Loader through the State of Ohio Cooperative Purchasing Agreement Contract with said purchase being exempt from competitive bidding pursuant to Section 125.04(C) of the Ohio Revised Code and declaring an emergency.

Councilman Biro moved to suspend the 3-Reading Rule. Councilman Hallum seconded.

Roll Call: **YEAS: Plecnik, Biro, Fellows, Fiebig, Hallum, Majka**
Motion passed.

Councilman Biro moved for passage. Councilman Hallum seconded.

Roll Call: **YEAS: Plecnik, Biro, Fellows, Fiebig, Hallum, Majka**
With six affirmative votes, motion passes.

Resolution No. 2016-4

A resolution recognizing the City of Willoughby Hills' broad duty to affirmatively further Fair Housing and the Month of April 2016 Fair Housing Month in Lake County, Ohio.

President Fellows: The Rules and Legislation Committee had recommended waiving the 3-Reading Rule and Adopting.

Councilman Biro moved to suspend the 3-Reading Rule. Councilman Hallum seconded.

Roll Call: **YEAS: Plecnik, Biro, Fellows, Fiebig, Hallum, Majka**
Motion passed.

Councilman Biro moved for passage. Councilman Hallum seconded.

Roll Call: **YEAS: Plecnik, Biro, Fellows, Fiebig, Hallum, Majka**
With six affirmative votes, motion passes.

Resolution No. 2016-5

A resolution authorizing the submittal of an application to participate in Lake County's 2016 Community Development Block Grant Program to seek funding for the installation of ADA accessible doors for City Hall Police Department and declaring an emergency.

Councilman Hallum moved to suspend the 3-Reading Rule. Councilwoman Majka seconded.

Roll Call: **YEAS: Plecnik, Biro, Fellows, Fiebig, Hallum, Majka**
Motion passed.

Councilman Hallum moved for passage. Councilman Biro seconded.

Roll Call: YEAS: **Plecnik, Biro, Fellows, Fiebig, Hallum, Majka**
With six affirmative votes, motion passes.

Resolution No. 2016-6

A resolution supporting the use of Plan4Health Grant funding to develop a plan for the Roemisch Complex Wellness Revitalization by and through the collaborative efforts of Cleveland Metroparks, Lake County Planning & Community Development and Chagrin River Watershed Partners.

Councilman Biro moved to suspend the 3-Reading Rule. Councilwoman Majka seconded.

Roll Call: YEAS: **Plecnik, Biro, Fellows, Fiebig, Hallum, Majka**
Motion passed.

Councilman Biro moved for passage. Councilwoman Majka seconded.

Councilman Fiebig: I have a couple of quick questions on that. Pete, have you been involved with decisions about doing planning for this?

City Engineer Di Franco: Well, yeah, my Assistant Dan Collins has attended a couple of meetings with Gloria and had been filling me in so I'm aware of it.

Councilman Fiebig: Okay, so you'll be involved with some of the planning and some of these funds that will be used for it as I understand are going to be used for design, right.

City Engineer Di Franco: Right, \$10,000 is only for design and planning. Our firm has to submit qualifications to Lake County and Lake County selected six consultants which we are one of, so now if the City chooses to use us as their consultant we are qualified.

Councilman Fiebig: Okay, nothing in the Ordinance says that this is for design though, in the ordinance it's just saying to go out for the grant in the amount of \$10,000.

President Fellows: I think the grant application itself says that Councilman Fiebig.

Councilman Fiebig: Okay, then the grant it is specifically stated in the grant that this is only for design services.

Councilman Fiebig: Now we're not bound to use you, you had said that there were six other firms.

City Engineer Di Franco: A total of six.

Councilman Fiebig: Okay.

President Fellows: Any other questions on that motion? Seeing none...

Roll Call: YEAS: **Plecnik, Biro, Fellows, Fiebig, Hallum, Majka**
With six affirmative votes, motion passes.

NEW BUSINESS

There was no new business.

FOR THE GOOD OF THE ORDER

President Fellows: Just wanted to remind everybody that the Council Treat is Saturday, April 23rd at the School of Innovation, beginning at 8 am probably going until Noon or 1 pm. I am developing an agenda that I will be sharing with everybody and if you have any thoughts about things that you would like to discuss please send them my way and I'll put them on the list. It's a public meeting so obviously it is open to the public as well.

And the other thing that I would like to share...I want to share that one of our colleagues is being recognized in a significant way for his leadership since our last meeting. Our Vice President John Plecnik was officially appointed Intern Associate Dean of the College of Graduate Studies at Cleveland State. The College of Graduate Studies oversees all circulate at the graduate level and as Intern Associate Dean John plays an intricate role in resolving student petitions and grade disputes, determining which faculty are eligible to teach graduate level courses and approving course and degree program reforms.

John is part of the youngest tenured professors at Cleveland State and this is a remarkable honor and we are bested that John has chosen to share his time and talent with Council, this is something that I hear all the time from our residents, so congratulations, John on your appointment.

FOR THE GOOD OF THE COMMUNITY

President Fellows: Anything for the Good of the Community?

Councilman Biro: Give blood.

President Fellows: Do I hear a motion for adjournment?

ADJOURNMENT

Motion was made by Councilman Hallum to adjourn. Councilman Plecnik seconded.

YEAS: Unanimous.

The Regular Council Meeting of April 14, 2016 was adjourned at 8:36 pm.

APPROVED: April 28, 2016
Date

Nancy E. Fellows
Nancy E. Fellows
President of Council

ATTEST: Victoria Ann Savage
Victoria Ann Savage, CMC
Clerk of Council