

City of Olmsted Falls
Minutes of a Regular Council Meeting
Tuesday, November 22, 2016, at Olmsted Falls City Hall
26100 Bagley Road – Council Chambers, 7:30 p.m.

The Pledge of Allegiance was recited. Mayor Ann Marie Donegan called the meeting to order at 7:32 p.m. Roll call was conducted. Councilmen Jay Linn, Linda Garrity, Jim Haviland, Bob Sculac, Paul Stibich, Terry Duncan, and Kyle Miller were present.

Also in attendance: Gregory M. Sponseller, Law Director, Mike DeSan, Asst. Finance Director, and Steve Presley, Finance Director. Audience: 7.

Approval of Minutes

Mr. Sculac moved to **approve** the minutes from the Regular Council Meeting of November 7, 2016; Ms. Duncan **seconded**. Poll: 7 ayes; 0 nays. **Motion carried.**

Ms. Duncan moved to **approve** the minutes from the Special Council Meeting of November 15, 2016; Ms. Garrity **seconded**. Poll: 6 ayes; 0 nays; 1 Abstain (Haviland). **Motion carried.**

Consideration of Amendment to the Agenda - None

Mayor's Report and Appointments

Boards and Commissions – Mayor Donegan stated that approximately one month ago she sent letters to all boards and commission members whose terms will expire at the end of the year and most have responded that they would like to be reappointed. She is discussing another individual joining the Park and Recreation Board and will discuss in detail with Ms. Duncan. She stated that the Charter Amendments were passed by the residents and she sent a memo to Council President Linn, Law Director Sponseller and Asst. Law Director Incorvaia regarding what she would like to see happen with Planning Commission, Board of Zoning Appeals and the Environmental Protection Board. These boards will be combined into one and would like the merger to be effective in March of 2017. She has requested that the new board consist of seven (7) members and she would like to interview anyone interested in serving on the new board. If there are any questions or concerns or give input regarding the new board please forward those to Council President Linn. She will attend the Environmental Protection Board meeting on December 8th. It is integral that we capture all elements of the three boards.

She also requested that Mr. Sponseller send a letter to the JEDD Board as well as all former members of the board. We have positive development opportunities with the JEDD and we have been in a hold pattern because of the records not being maintained adequately. Mr. Haviland asked if the City received a response from Chairman Engelmann. Mayor Donegan replied no. Mr. Haviland asked if there was anything she would like him to do as the current Secretary of the Board. Mayor Donegan asked Mr. Haviland to contact Mr. Engelmann as his term expires at the end of next month and will take us one step further away from getting all the records.

Juniper CRE – Mayor Donegan stated that she is asking Council to expedite this legislation which is on second reading. They have agreed to a lesser amount. Again, the importance of this is that we have some development opportunities with land the city owns, three different large parcels, which are going to turn the tide on what Olmsted Falls looks like in the near future and bring some badly needed economic development. She is data driven and wants to determine the best and highest use. Mr. Sculac stated that under Section One it indicates that the real estate market strategy is for an annual amount of \$7,500.00 and asked if this is a continuous service or one time agreement. Mayor Donegan stated that this is a one time agreement and is to perform an economic and demographic trend analysis, discover the business ease of the community to better serve the residents, and determine the highest and best use for those three properties. One of the exciting things about this is most cities do not own as much land that Olmsted Falls does and that land can actually impact the development that occurs. We are very fortunate that we landed in this role. This will help make certain that whatever Council agrees to put on this land has been done so with a high degree of data and analysis so there is less to complain about in terms of why we put that there but rather decisions based on sound evidence.

Mayor Donegan stated that former Councilwoman Jean Johnson passed away and we will be getting a memorial plaque for her which will part of the Monarch Garden. The unveiling will be in the spring.

Mayor Donegan stated that the Planning Commission/BZA/Shade Tree/Council meeting is scheduled on December 6th regarding the tree preservation proposal.

She stated that there will be no levy renewals next year. We will focus on what Mr. Sculac suggested in finance committee something unique with the Park and Recreation Levy as was attempted many years ago.

She stated that on December 8th we will pay thanks to the volunteers who serve on our Boards and Commissions as well as the Employee Christmas Luncheon on December 15th and we would appreciate seeing as many of your present.

She stated that Mr. Presley has reviewed the budget and distributed copies.

Communications from Residents

Karl Balla, 9196 Willowbrook Court, one of those private streets in the City. He stated that the reason he is present is over the past several weeks now he has learned the significance of the word “private street” and the lack thereof of City services on private streets. Now, one of the things he keeps getting confronted with when he approaches the building department is, “well you knew about that when you moved in” and he is sorry but he did not know to the extent of what is required on a private street homeowner and he does not know if everybody understands. He stated that he now knows that in addition to having to replace a concrete street, he knew about the maintenance of the street but not about the replacement thereof. He now finds out that this city sewer system, the city water system, the city electric system, and the city gas system that comes down the private street are the responsibilities of the association, not the city. Now, he has checked and his tax rate is the same tax rate as a single family on a regular city street so he is asking where is the justice in that? He pays taxes and then he has to again pay association fees to take care of things that he thought would be provided in his property tax, they are not. So, he wanted to start a dialogue here with an understanding and thank you Mrs. Garrity for allowing him to vent some before we started, and make

sure that everybody understands when you add the monarchic private street what you are taking away from a citizen. These things are done under appropriate city ordinances and he feels, he is a former developer by the way, the developer probably just fit within whatever codes were here. In the communities that he built in because we are a condoized community the tax rate was reduced because they understand that we were going to take care of our own streets and our own utilities, not so here. He has checked several other streets that he is aware of that are private streets, even one Devonshire which was done by the same developer, its condoized but they have the same tax rate, at least that he can find on the tax record. So, there is no benefits in that. So, having private streets is kind of a second class citizen, he knows you don't like that term, but that's from his standpoint as a taxpaying citizen. He has to pay property tax then he has to pay the association to provide those services that he is already paying for. He does not think it's fair and he will probably continue to make sure that he is a presence here until we have some understanding on how we might justify this or how we can kind of assist the private street homeowner so that we are not stuck. In his old age with having to pay for a new street or a new sewer system he can't afford that. Mayor Donegan stated that she spoke with Mr. Balla last week and private streets we have inherited. Council never gets involved in what determines a private street as that is done with the developer and Planning Commission. She encouraged Mr. Balla to appear before Council because this is something as a Councilwoman she wrestled with in terms of leaf and brush pick up, she thought this would be an opportunity to begin discussions rather than ignore the subject matter.

Mr. Linn stated that he was probably in the process of every approval of every private street in the City. First of all he would like to correct Mr. Balla as there is no second class citizen, some of the most beautiful streets and beautiful homes reside on private streets in the community. He asked Mr. Balla if he knew why there was a trash fee to pick up trash like everyone else in the city, EPA mandated that city sewer the city, no way around it, the city did not have the money to cover those costs which is why there is a trash fee. The trash fee is paid to sewer at this point about three quarters of the city. When a developer came forth there was all kinds of land available in the city at that time, when the developer came forth and wanted to develop the land the city did not have the funds to put in the infrastructure, which included roads, water lines, and everything else. We told the developer that if they wanted to build a development they would need to contain private streets and they would be responsible for all the infrastructure, they would need a write out a covenant and restrictions and a handbook for the homeowner's association that will be distributed to every resident. He asked Mr. Balla if he purchased a new or used home. Mr. Balla replied use. Mr. Linn stated that the handoff was that everyone should have been aware or was made aware at that time of what the covenant and restrictions would be which included, you could not have a shed, or a light pole, clothes line, a fence all of those things pretty much mirror our codified ordinances. He stated that Mr. Balla listed city systems, none of the systems he mentioned are provided by the city, they are all provided by utility companies, every single one, whether its gas, water, street lights, are provided by utility companies the city has nothing to do with that and we do not get involved, we never did with any developer. He stated that when these developments were approved and the time comes for repairs we knew the burden would be unbearable for the city and we did not want to increase taxes on 6,000 other residents to provide a development for new people to move in. That is where the fees come from they drive the private part of the development. He asked if there was a street being replaced that he was unaware of. Mr. Balla stated that there have been major repairs on his street already. Mr. Linn stated that has happened in the city as well. This is all in writing but whether or not Mr. Balla has that it is there. Mr. Balla stated that he does have the covenants now. Mr. Linn stated that Planning Commission reviews the covenant, it is forwarded to the law director who shares it with the city engineer an dplanner, and then is returned to the Planning Commission for final approval, the

developer then hands the covenant off and any attachments to the homeowners association and it then becomes their responsibility. He stated that the homeowner's association should have regular meetings and he does hope that Mr. Balla is airing his concerns at those meetings. Mr. Balla replied yes. Mr. Linn asked if the association was sufficing to his needs. Mr. Balla stated that he does not believe they understand the significance of what he has uncovered over the past couple of months. The covenants do not specifically state that if something goes wrong with a sewer line it is the association's responsibility for that. If he lived on Lakeview, just around the corner, and the sewer line goes, he does not worry about because somewhere along the line the city facilitates the replacement of the sewer, not so on Willowbrook Court. He is sorry Mr. Linn if you do not like the term second class, but to him that is somebody who is paying twice for the same service. Mr. Linn stated that is not true and has argued that point for 20 years, it is not true, you are getting provided a service for what you are paying in your homeowner association dues and those things were agreed upon before a single concrete block was laid. Mr. Balla stated you missed the point, it's not in there, there is nothing, he is sorry but he has been unable to find it. He has not found where the association is responsible for the sewer line coming down the street, he has not found that we are responsible for replacing the entire street should something go wrong, he has not found that the association is responsible for the electric lines and so forth and so on. He is sorry it's not there. Mr. Linn stated that it is there as he has read everyone. Mr. Balla stated that if somebody wants to point it out that's fine but he has the document and it is not there. Mr. Linn stated that it may not be in the wording that Mr. Balla would like, but it is there, it will say specifically nothing but utilities and it will say that utilities and all the substructure of the utilities is the homeowners association responsibility, it will not say water, sewer, or electric lines it will probably say utilities. The common areas, the grass that does not belong to anybody, your retention ponds, which are expensive too and eventually they have to be maintained and rebuilt. Mr. Balla replied understood and he doesn't mind paying separately for those because those are something that is not part of my property tax. Part of his property tax as a citizen of Olmsted Falls is to be protected by the city for large expenses of utilities and to put it into a little neat subparagraph that Mr. Linn just described that he cannot repeat, he thinks is an injustice to everybody moving onto a private street. If, what came out in two sentences comes out to multi millions of dollars in the future for the resident of a private street that a person who is on a public street does not have to worry about that's a problem that he thinks needs to be addressed by the city in their ordinances to protect the citizens. Mr. Linn stated that the city is currently replacing sewers, storm and sanitary, water lines and pavement for 320 residents that live on city streets, not private streets, and they will be assessed for that cost over 20 years and that is currently Phase V Project that we are ready to begin, these residents will get water lines, sewer lines, streets rebuilt, curbs in front of their homes, their yards will be torn up and replaced and they will pay for that for over 20 years. Now, Mr. Balla pays for that through his homeowners association dues and these residents will pay for it through an assessment with Cuyahoga County, so it is tit for tat. This has been like this forever, most of the developments would not be in this town if it wasn't for private streets, homeowner associations, covenant and restrictions and other things, it was the only way to get it done at the time. If these developers wanted to build that was a premise they had to build under.

Mayor Donegan stated that is the historical perspective whether we like it or not, agree with it or not, it is nothing that this Council or the previous Council ever did or agreed to. She stated that over time there seems to be this horrible disconnect from what the homeowners association is collecting that money and what they are supposed to do with that money. She does not feel that will be an easy solve because it is private, does not have anything to do with the city, but, she does believe that as a city we do need to start understanding that a little more and holding them to a higher standard because they are taking the money and the homeowner's do not know what they are doing with it and

believe they are collecting for this protection in the future with all of these major repairs and that is not happening. An unidentified audience member said that is not true that we do not know what we are doing with it. Mayor Donegan stated that she was surmising and if she would like to speak she could approach the podium. She stated that there are homeowner associations all over the city, we get complaints, but she's making a big generalization on homeowner associations, but all she can state is that the residents who purchased on private streets, the city really cannot do anything about it and the city is not ignoring the situation we are a city that will get involved in matters that we should not necessarily be involved in for the rights of the people who live here. In generally speaking, there seems to be a disconnect with homeowner association boards and the residents they are serving, either communication or something else.

Mr. Miller stated that he is a member of his homeowner association, which is a city street, and what the Mayor stated does happen all the time with a homeowner association and a city one thinks the other should be responsible and does agree with the Mayor. This is an elementary question for Mr. Balla, if he does not know he would ask Mr. Linn, approximately how many miles of private streets or citizens are served by private streets within Olmsted Falls. Mr. Balla replied that he does not know. Mr. Linn stated roughly 30%. Mayor Donegan stated that she, Ms. Garrity and Mr. Sculac looked into the private street issue years ago because of brush and leaf pick up but cannot answer that question off the top of her head. Mr. Balla asked how someone who is looking at a home know that they are looking at a home on a private street. Mr. Linn stated that through the homeowners association they are required to make you aware of that fact. You should have received a handbook with the rules and regulations. Mr. Balla stated he received his a week after they closed. Mr. Linn stated that is a problem but is not a problem of the City of Olmsted Falls. Mr. Balla replied sure it is because all the city has to do is under the street that says Willowbrook put "private street." Mr. Haviland stated that the realtor was not responsible or required to provide you with the homeowner association's booklet at that time. Mr. Balla stated that he read afterwards that they were supposed to do that but he did not get it till about a week afterwards. Mr. Haviland stated that if they are required that is something that needs to be enforced.

Mr. Sponseller stated that in all the closing documents, with any transfer of real estate, includes a title commitment from a title company that does the search. In that title commitment typically is a reference to a homeowner's association, a reference to the by-laws recorded with the county recorder, it's not to say that everyone reads them, usually it's in a whole host of closing documents probably 25 or 30 pages and you probably does not even include necessarily all of the documents that Mr. Linn is referring to and all of the agreements. The law would say that a prospective buyer is on notice because it is recorded with the County Recorder. Do they all know, obviously not, but technically it was probably included in the closing documents. Mr. Balla stated that a statement of homeowners association may have but he did not get any documents for about a week, and he believes he asked for them. Mr. Sponseller stated that as a developer he does suspect that Mr. Balla did. You would then have to look at other issues associated namely whether or not there was any failure to disclose materials. Mr. Linn stated that the process of the covenant and restrictions is when the developer comes to Planning Commission and it has been solidified what the developer is handing off to the homeowners association that final document is like a handshake between a developer which says he is done and now it is the associations responsibility. It is the same thing when you purchase anything they should have provided the documents to you, if the realtor did not do it they should of, but it is not the city's responsibility. For example if you are renting in the lease all the do's and don'ts are listed and it is the same thing in the document that should have been passed to each owner of each property.

Mr. Balla stated that Mr. Linn's states that approximately 30% of the city is private streets, so that's a significant portion, so in the interest of protecting us private street residents could there not be some kind of commission or committee formed to work with our boards to educate us and to perhaps even legalize how we are going to replace these infrastructure as the city has the ability to do and negotiates things and assesses and such, he would be sleeping better at night if he knew that there was a methodology in place that our association had at its disposable to be able to handle a significant event. Mr. Linn stated that honestly, in his opinion and his opinion only, he does not believe the homeowners association wants the city involved, they never have and does not believe they will. We would get zero cooperation out of them. Mr. Balla replied he is sorry he is a dues paying person on the association and he tells the association what to do not the other way around. He thinks we need help. Mayor Donegan stated that Mr. Stibich is part of his homeowners association and asked if he would like to comment.

Mr. Stibich stated that a private drive is just that a private drive, it's no different than his driveway to his house, some people have long driveways and some have short driveways, the Mayor has a long driveway, if the water line from her house to the street goes out she pays for it, the same with the sewer. Mr. Balla's private street as he calls it is not different if that water line goes out it is the association's responsibility to pay for it. Now, the state has laws over associations that require that they reserve monies from the dues in a capital fund and there is minimum requirements for that and your association is supposed to do a capital study of the development and an engineer is supposed write a report on what capital improvements may have to be made in the years to come, how much they will cost, about when they will be due, and how much money should be put into the reserves every year. Unfortunately, a lot of associations under reserve, they do not put enough money in and then when something big happens, streets break up, roof's fall apart, there is not enough money to repair. He does not know that it is the city's responsibility to take care of that. Mr. Linn stated that there was an apartment complex on Sprague Road that had roof's fail on all the buildings within two years and bankrupted two management corporations trying to keep this place above water.

Mr. Stibich stated that Mr. Balla's association should be reserving for these repairs and if it is not there is some negligence there and there are state laws that require minimum funds. Mr. Balla stated that he is not sure that they understand that we have to do the sewer lines and such like that. Mr. Stibich stated that unfortunately, many people get into these situations because they do not want to research, they see the nice house and want but do not bother to research to find out how well funded the homeowners association is and what kind of reserves they have and what repairs need to be done. As Mr. Balla pointed out, they do not realize it is their responsibility, they do not read the documents nor do they receive good advice from their realtor or legal counsel. Mr. Balla stated that everything being discussed still leaves him with the feeling that he is paying twice for many things that he assumed were part of his property tax. Mr. Stibich stated that he does sympathize. Mr. Balla stated that is part of his right and his opinion.

Elizabeth Buxton, 9455 Ravinia Drive, stated that she is not prepared to speak tonight. She is on the board at Falls Pointe Cluster Housing Association 3, which is made up of Ravinia Drive and Willowbrook, soon to be made up of the next phase, which she understands is under negotiation with some buyer. In this phase we will double the number of homes in our association. She is the secretary of her board and has been on the board for 10 months. That 10 months has been a research project for the current board. There are seven members of the board, six of us are brand new to the board and we have done nothing but ask questions. She has been in constant communication over trivial questions with George Smerigan, she appeared here last January or February at a Planning

Commission meeting trying to ask questions and understand in more detail about the association. The association versus the city versus the builder versus what we are responsible for, what we pay taxes for, who, what, where, when, why and how. It has been digging, digging, digging and frustrating, frustrating to get education and to get an understanding of who is responsible for what, what we get, what we don't get, why we get it, why we don't get it. She stated that Mr. Balla's point to us needing education and reaching out to the city we need your help, we would not turn you away, maybe others have in the past but the current board would not. The reason we don't come here, she has tried to come here to get a basic understanding and it was so frustrating she left here frustrated. She has invited people in the association to join her and come here and ask these questions to try and get answers and they are frustrated just in the personal issues that they have dealt with City Hall they don't want to do it, fighting City Hall, so we are just frustrated, we would like to have your help. Ms. Mayor you made some comments at the beginning that the association doesn't do this, does not understand, you are absolutely wrong, that we don't take responsibility or that we don't know what we are doing with our money, wrong. Mayor Donegan stated that she stated it was a generalization. Ms. Buxton stated for Falls Pointe 3 it is wrong. Mayor Donegan stated that there are over 20. Ms. Buxton stated she does not care about the others, she cares about this one. Mayor Donegan replied that she does. She stated that to Mr. Linn's point, the city has never had a homeowners association interested in the city's help because generally it is not ours to help with. Ms. Buxton stated she is not here to talk about the others just hers. It is her understanding that the documentation ensuring that the homeowner documentation gets to the buyer is the responsibility of the seller, it is not the responsibility of the homeowners association to make sure that the homeowner gets the initial documentation. Mayor Donegan replied or the city's responsibility. Ms. Buxton reiterated or the City's. Mayor Donegan stated that Ms. Buxton stated she was fighting City Hall, she does not understand the comment. Ms. Buxton stated that if she is going to "nit" pick every word she says she is done for the evening. She is trying to address some of the statements that have been made, some of the assumptions that are being made on both sides and to try to move forward to get some help to the association to the residents and to the board. Mayor Donegan stated that as Mayor she is attempting to understand what her problem is with City Hall, because she is ultimately responsible. She said that Ms. Buxton made a statement that the board members were having issues, do not microscope her words either, with City Hall and fighting, but she does not know what the issues are. From a City Hall perspective these homes have existed for some time now, they were not planned under her administration and if she does not understand what the issues are she can't help. She has also never heard from Ms. Buxton personally so she cannot help her. She again asked what the issues concerned because Ms. Buxton has been angry for a long time and if she does not know what the issues are she cannot help. Ms. Buxton stated that she is not going to go any further this evening because this is getting into the weeds. Mr. Linn stated that a year or two ago there was flooding issues in this area and we sent our city employees and city equipment to alleviate the flooding problem even though it was not the city's responsibility.

Mr. Linn stated what scares him is when you see sub-associations under sub-associations and each street having a different association. This City, through the planning of these developments, never approved any sub-associations or sub-boards. Ms. Garrity stated that in Falls Pointe there are multiple sub-associations. Mayor Donegan stated that the City has always been helpful and go out of its way to help. She stated that she knows Ms. Buxton has been here before and body language has shown that she was angry but if she does not know what the issues are, she cannot help. If you are trying to solve something that was developed many years ago she has to understand the issues.

Ms. Duncan asked if the city could outlaw a private subdivision being built in the City. Mr. Linn stated that the Planning Commission could. Ms. Duncan stated that if the City were to outlaw private streets within the City by a developer we could hold them to the same standards for private streets as we do for public streets and understands that is currently being done. If we were to say that developers cannot come in, on what little property is available, we would potentially run into lawsuits by the private developer because under state law they have a right to do what they want, within certain limitations of state law. Basically, we cannot tell the developers that they cannot put in private drives and we haven't done that.

Mr. Balla stated that all he wants is address the issue of tax you tax him the same as a single family street and he does not, he is sorry Mr. Linn, he does not get the same service they get. Mayor Donegan stated that 30% of the city has already been built under private streets and we are not going to be able to say now we are going to change the tax code for private streets, its private/public issues. Mr. Balla replied that if 30% of the citizenry came to you as a whole and said we are not going to pay this anymore. Thank you. Mr. Linn stated that it is a little after the fact as Mr. Balla's street would not be there today if it was not private neither would his home. Mr. Balla replied \$3.5 million dollars worth of real estate on Willowbrook alone if you didn't have private streets. Mr. Linn stated you would not have that private street or the development if we did not allow it to be built that way. Mr. Balla replied right.

Mayor Donegan asked Ms. Buxton to outline her questions and issues or she would be more than happy to set up a conference call between her, Ms. Buxton, Mr. Vogel and whomever needs to be involved to at least tick away at some of the questions or issues she has. She would also welcome anyone from Council to be a part as well. This homeowner association issue has been an issue for a very long time and she does not know how we can change that.

Mr. Sculac asked if the city had any of the homeowner association's rules and regulations. Mr. Linn stated that they should be in the building department. Mayor Donegan stated that as Council is aware we have been challenged with our records and we uncovered all the sub-associations during the Allied Waste issue. She stated that the finance department has a good handle on but it is not updated, she does not agree with not keeping updated, the city should know the homeowners association and who the board members are and the covenants. Mr. Stibich indicated that there are management companies that do manage homeowners association and there are law firms that specialize in condo law and homeowners associations. If these individuals are lacking guidance he would certainly look to a management company.

Ms. Buxton stated that she wants to make it very clear Falls Pointe Cluster Housing Association 3, Willowbrook and Ravinia, the board is not confused about the finances, we have the fees that are collected well monitored by the board, it is managed by a separate management company, we get the monthly documentation of money in and money out, we have total understanding of what comes in where it goes, we are challenging and questioning with the management association, we know exactly to the penny what is in reserves, we understand why it is there and what it is needed for. Mr. Stibich asked if they had a capital study for the future. Ms. Buxton stated that the board has been discussing that for the past 10 months since this new board came on board. We are trying to get educated, what a capital study is, what it costs, what's involved, why do you do it, is it necessary, there's a million questions the board has been going over and that's just one of a 100 different things that we have looked at in the 10 months that we have been on board. Mr. Stibich stated that those are the right questions to ask. Ms. Buxton stated that we are not out of control, we are not in the dark, we are

learning. There has been some assumptions made, some statements made by this group of people that are incorrect and that is what she came up to straighten out. Mr. Linn asked how many sub-associations were in Falls Pointe. Ms. Buxton stated that there are six or seven in Falls Pointe. If you ask her questions about all of them she cannot answer because that is not where her focus is. Mr. Linn stated that in his purview that is probably the number one inherit problem no one knows what everybody else is doing. Ms. Buxton stated she cannot comment and it is not her focus. Mayor Donegan asked what her focus was with the City. Ms. Buxton stated that she started by saying she's not prepared to stand here tonight. Another time. Mr. Sculac stated that he would suggest that, as the Mayor indicated, to put these things down in writing and maybe a couple of individuals can help. Ms. Buxton stated that she has been trying to get a handle on that since she came to the Planning Commission meeting in February, she is working on that, but she is one of 49 residents and it is not just her. She wants to make it clear, it is not just Karl, Harlow and myself, it is the entire association Falls Pointe 3. Mr. Sculac asked how many residents live in the association that she deals with. Ms. Buxton replied 47 homes, there are two currently under construction and should be finished by February, then it will be 49. As the new owners get educated and they get their bills and tax bills, they are coming to the board and asking questions. We do not have answers and we are trying to get educated and would like to turn to the City to help get educated. It is difficult to turn to the City so we don't know who to turn to or the questions to ask. She knows that you are a wealth of history, understanding and knowledge and she has said that to some of the residents. We are trying to formulate how we can sit down and communicate with City Hall to try and get educated and get the information that we need without the type of confrontation that we just went through this evening. She left here in February and has been working on it, she will continue to work on this and will try to do it in a somewhat organized fashion. Mr. Linn stated that his cell phone is listed on the city website. Ms. Buxton replied that she knows who is he and where he is and has his card. Mayor Donegan stated with all due respect she has not heard from Ms. Buxton at all but continues to say that she is fighting and not getting information from City Hall. Ms. Buxton replied that she did not say she is not getting information from City Hall you are being antagonistic and she does not appreciate it and will not talk any more this evening. Mr. Sculac stated that was exactly what Ms. Buxton said. He again suggested placing her issues in writing. He stated that this Mayor is probably the most people oriented that he has seen in the City for a long time and he's been around for 30 years. He believes that if there was something in writing as to what the concerns were he believes those could be addressed. Ms. Buxton stated that she came up to the podium to address particular things and was interrupted by the Mayor and got off track and kept trying to get back on track, she did not do successfully, professionally, or well. She tried not to get into all of this conversation tonight and Karl addressed one particular key question and we still don't have an answer to it and don't know if we ever will but it is the same question that 47 residents at Falls Pointe 3 why are we paying the same tax base that everyone else in the city is paying and we are not getting the same services simple question. Mr. Sculac indicated that is an issue that needs to be addressed. Mayor Donegan stated that is easy, because you are on a private street and are taxed the same amount of money. That is how private streets have been developed for decades around here. If you want to challenge the way it has been done for the last 30 years then she is the one to help challenge. As she has explained to Mr. Balla over the last week if you want to challenge this she is open to challenging how we do business. Private street residents are taxed as any other resident and the city will not give a differential because that is how private streets were developed. Mr. Linn stated that there was nothing put in place at any time ever or even discussed on what your terming as an un-level playing field, the tax rates were the same, the developer never asked for a reduction in taxes, the homeowner's association never asked, and the city is not going to offer.

Approval of Bills:

Mr. Sculac moved to **approve** Pay Ordinance 2016-21; Ms. Garrity **seconded**. Poll: 7 ayes; 0 nays.
Motion carried.

Officials Reports:

Mayor Donegan stated that the city app is under development and we are looking for its release the beginning of next year. The turnpike bridge went out for bid and the extra aesthetics part of the bridge will cost an additionally \$20,000. The roof grant for the covered bridge has been submitted to the Harding Fund which is about \$40,000 or \$50,000. The ongoing troubleshooting with the railroad continues.

Steve Presley, Finance Director

Mr. Presley stated that he has distributed copies of the revised general fund budget which includes three changes. The first change was a transfer of \$40,000 from the general fund to the accrued sick benefit fund because were several years of balance remaining in the fund. He also reduced the amount payable to Safebuilt out of the building department. The third change was to review the revenues. He found that the projected total general fund revenues was not transferred to the cover page in the correct amount. He stated that after making these three changes the budget went from a deficit to roughly an \$11,000 surplus for 2017. He is more conservative on the revenue side than others would like. He also distributed the attachment for the appropriation ordinance.

He stated that since the fire renewal was passed by the residents during the election, Council has a revised tax rate resolution that will need to be adopted this evening.

Mike DeSan, Asst. Finance Director – No Report

Councilman Kyle Miller, Ward IV – No Report

Councilman Jim Haviland, Council-at-Large

Mr. Haviland stated that he will be discussing in more depth with the Mayor possible candidates for the JEDD board position that will be vacant at the end of this year.

Councilman Bob Sculac, Ward I – No Report

Councilwoman Terry Duncan, Ward III – No Report

Councilwoman Linda Garrity, Council Pro-Tempore

Ms. Garrity stated that there will need to be an insurance committee once she is notified of the vendors for health care. Mayor Donegan stated that she will keep Ms. Garrity notified once information is received in order to have a meaningful committee meeting with the CBA's. She stated that Mr. Presley added 15% to the budget for health care costs and she is going to try and narrow that gap so the \$11,000 surplus becomes more like \$20,000 or \$30,000.

Councilman Paul Stibich, Ward II

Mr. Stibich thanked Mr. Presley and Mr. DeSan for the financial reports, he knows it is a lot of work and the format distributed is very informative.

He stated that with regard to the summary sheet for the general fund budget, he does find it more informative to compare the 2017 budget with an annualized 2016 actual. He is aware that it would be more work but, in his mind, he wants to know where the city currently stands and what we believe will happen in 2017 and if there be enough to cover those costs. He also thanked Mr. Sculac for chairing the committee and for his insights into the budget. As far as the budget is concerned like Mr. Miller, he is sickened by the legal fees as they are too high but we need to give the Mayor what she needs to operate the city. As far as economic development he believes it is more than he would like to see spent. His only caution is that he does not want to see the city become the biggest landlord in town, he does not mind creating an environment where businesses can thrive and would want to come to Olmsted Falls so residents can get what they need but he does not want to become the biggest landlord. With regard to the \$500.00 education expenses for Council he feels that as Councilman we need to pay for our own mileage expenses in preparing ourselves for this position and believes it is unnecessary.

Another issue that came to his attention is that Ms. Garrity, as Council President-Pro-Tempore, and Mr. Linn witnessed it as Council President, filed a complaint with the Elections Commission against several residents. He would like to find out if the law director was aware of that and if he has been able to review it. Mayor Donegan stated she does not believe that has anything to do with the city. Ms. Garrity stated that anyone can file a report with the Elections Commission in Columbus. The vote no on the charter changes signs, even though there were not many of them they were placed strategically throughout the city, and did not contain a disclaimer on the bottom indicating who paid for the signs or what committee or Pac. The only thing the sign contained was the printers name and address. So, being the person she is she went and spoke with the owner of the print company and he said that he felt that he had obeyed the law by not applying the disclaimer. While she was in his shop in person she told him that she was going to check with the Elections Commission in Columbus to find out if the law applied. The owner was very amicable that day and said that he welcomed the Elections Commission calling him and that he would answer any questions. We then talked about his puppy and his health because she runs into him quite a bit outside of Olmsted Falls. She feels that this was her right because it was meant to influence the election. She was puzzled by the vote no on 81, 82, 83, 84 by why somebody would want a blanket no statement because they weren't even similar issues. She stated that when she went to the Elections Commission last December she did not communicate with Mr. Sponseller about it. Mr. Sponseller stated that he was not aware of any complaint being filed. Mr. Stibich stated that he would like to make the point that when you file a complaint and you use your title as Council leadership it gives the impression that you are doing so on behalf of the City or that the City is behind you. Ms. Garrity indicated that she does not agree. Mayor Donegan stated that she does not think there is any difference than former Mayor Blomquist or Council President Fenderbosch at the time filing an elections complaint, it has nothing to do with this body. Mr. Stibich stated that he wants to point out that if somebody construes it to be the city being behind this it really should have the review of the law director and even asking Council "do you mind if I use my position when I file this complaint," because it looks like you are doing it on behalf of this city. Ms. Garrity replied that is who she is and does not agree at all. Mayor Donegan stated that clearly there are laws with the Elections Commission if residents are saying those things its residents and you cannot control what residents say or don't say and Mr. Caterino has been very vocal about it and there are rules not unlike other rules and laws that govern elections and they should have been aware of them. This body does not need to be concerned with whatever is filed at the Elections Commission nor should the law director get involved with the Elections Commissions or any other election things. Mr. Sponseller stated that he is only involved with the review for charter amendments and ballot language.

Councilman Jay Linn, Council President

Mr. Linn asked Ms. Garrity how old Falls Pointe was. Ms. Garrity indicated that she was the 4th house in 1997. Mr. Linn stated that is 20 years and now major expenses are coming for things that wear out in 20 years, for example streets, curbs, lawns, water lines and sewers. He believes that is what all of this discussion was about this evening. It is not about what we did 20 or 30 years ago with the covenant and restrictions or the homeowners association it is about the major expenses that are forthcoming. Mayor Donegan stated that she can tell visibly that Ms. Buxton is angry with her for some reason but she has not had a conversation with her and people make themselves available. Mr. Linn stated that his contact information is listed on the city website and anyone can talk to him.

Gregory M. Sponseller, Law Director – No Report

Old Business

Ordinance 49-2016

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY TO CHANGE THE ZONING CLASSIFICATION OF PERMANENT PARCEL NO. 281-14-001 CONSISTING OF APPROXIMATELY 53 ACRES AND LOCATED WEST OF MAPLEWAY DRIVE FROM I-2 “INDUSTRIAL MANUFACTURING DISTRICT,” TO MUTND, “MIXED USE TRADITIONAL NEIGHBORHOOD DISTRICT” **Third Reading (referred to Planning Commission 09/27/2016)**

Mr. Linn stated that the Planning Commission’s public hearing has been scheduled for December 14th and would appreciate any Council members that can attend.

Remained on table

Resolution 53-2016 (AMENDED)

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A AGREEMENTS WITH AUTHORIZED HEALTH CARE INSURANCE PROVIDER(S) IN ORDER TO IMPLEMENT HEALTHCARE INSURANCE COVERAGE FOR ELIGIBLE EMPLOYEES OF THE CITY, AND DECLARING AN EMERGENCY **Tabled on Third Reading (11/07/2016)**

Remained on table

Ordinance 54-2016

AN ORDINANCE AMENDING CHAPTER 1218, TREE PRESERVATION AND MANAGEMENT; AND SECTION 1232.06(C)(5) OF THE CITY’S PLANNING AND ZONING CODE TO PROVIDE FOR LANDSCAPING AND TREE PRESERVATION AND REPLACEMENT REQUIREMENTS IN THE CITY FOR CERTAIN DEVELOPMENT OF LANDS IN EXCESS OF TWO ACRES **Third Reading** (referred to Planning Commission and Shade Tree Commission on 10/24/16)

Mr. Linn moved to **table**; Ms. Garrity **seconded**. Poll: 7 ayes; 0 nays. **Motion carried**.

Mayor Donegan stated that the joint meeting is scheduled for December 6th at 7:00 p.m. and she would appreciate if all of Council could attend.

Ordinance 59-2016

AN ORDINANCE APPROPRIATING FUNDS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF OLMSTED FALLS, OHIO, FOR THE PERIOD COMMENCING JANUARY 1, 2017 AND ENDING DECEMBER 31, 2017 AND DECLARING AN EMERGENCY **Second Reading**

Resolution 60-2016

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH JUNIPER CRE SOLUTIONS FOR ECONOMIC DEVELOPMENT AND REAL ESTATE DEVELOPMENT MARKETING STRATEGY FOR THE CITY OF OLMSTED FALLS, OHIO, AND DECLARING AN EMERGENCY **Second Reading**

Mr. Sculac moved to **suspend**; Mr. Haviland **seconded**. Mr. Stibich asked if this resolution needed to be adopted this evening.

Mayor Donegan indicated that she does not want to be the biggest landlord either and if she has given him that impression it was a mistake. She stated that she and Mr. Russo had a conference call yesterday with developers who would like the property and she does not want to sign any agreements until the city receives the data to support its decision for 100 years. She would ask for adoption this evening. Mr. Haviland stated that this go along with what he previously mentioned when he asked Council to consider “for sale” options with Mr. Russo because again, if the city can sell some of this real estate there will be no holding costs and this will help the city do both. Mayor Donegan stated that Council will have a lot of decisions to make next year that will impact this community for 100 years and she wants that decision based on the best information she can give Council.

Voice Vote: 7 ayes; 0 nays. **Motion carried**. Mr. Haviland moved to **waive** the reading in its entirety; Mr. Stibich **seconded**. Voice Vote: 7 ayes; 0 nays. **Motion carried**. Mr. Haviland moved to **adopt**; Ms. Garrity **seconded**.

Mr. Sculac moved to **amend** Resolution 60-2016 to delete the word “annual” and insert “the” from Section one; Ms. Duncan **seconded**. Voice Vote: 7 ayes; 0 nays. **Motion carried**. Poll to adopt as amended: 7 ayes; 0 nays. **Motion carried**.

Ordinance 61-2016

AN ORDINANCE CONSENTING TO A PROJECT AND AUTHORIZING THE MAYOR TO ENTER INTO A COOPERATION AGREEMENT WITH CUYAHOGA COUNTY FOR THE REPLACEMENT OF THE LINDBERGH BOULEVARD CULVERT C-00.93, AND DECLARING AN EMERGENCY **Second Reading**

Mayor Donegan indicated that this project will performed in 2018 and the city will have match funds which will be contained in the 2018 budget.

Resolution 63-2016

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH SENIOR TRANSPORTATION CONNECTION FOR THE PROVISION OF SENIOR TRANSPORTATION SERVICES AND DECLARING AN EMERGENCY **Second Reading**

Mayor Donegan stated that she would like Mr. Presley to present a comparison of the old rates and the new rates.

Ordinance 65-2016

AN ORDINANCE AUTHORIZING, RATIFYING AND AFFIRMING THE MAYOR TO ENTER INTO ANY AND ALL AMENDMENTS TO, AND EXTENDING THE TERM OF AGREEMENTS WITH THE CITY OF STRONGSVILLE FOR THE PROVISION OF REGIONAL DISPATCH SERVICES BY STRONGSVILLE FOR THE CITY OF OLMSTED FALLS, ALL TO PROVIDE FOR EMERGENCY DISPATCH SERVICES IN THE SOUTHWEST AREAS, REPEALING ALL LEGISLATION INCONSISTENT HEREWITH, APPROPRIATING FUNDS THEREFOR, AND DECLARING AN EMERGENCY **Second Reading**

Mayor Donegan stated that she attended a dispatch meeting last week in which Chief Trainee, Asst. Chief Gluss and Deputy Rogers attended. She contacted Mayor Perciak as she has noticed that we are up to 11% now of utilization.

New Business

Resolution 67-2016

A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY FISCAL OFFICER **First Reading**

Mr. Stibich moved to **suspend**; Mr. Linn **seconded**. Voice Vote: 7 ayes; 0 nays. **Motion carried**. Mr. Stibich moved to **waive** the reading in its entirety; Mr. Linn **seconded**. Voice Vote: 7 ayes; 0 nays. **Motion carried**. Mr. Stibich moved to **adopt**; Mr. Linn **seconded**. Poll: 7 ayes; 0 nays. **Motion carried**.

Miscellaneous New Business - None

Such other business that may come before Council

Mr. Miller thanked the young men in the audience as it is very rare that he and Mr. DeSan are the only two millennials in the room. He indicated that the young men are welcome back any time.

Mr. Linn moved to **adjourn into executive session** for purposes of pending and/or threatened litigation pursuant to O.R.C. 121.22(g)(3); Mr. Miller **seconded**. Poll: 7 ayes; 0 nays. **Motion carried**. The meeting adjourned at 8:50 p.m.

Mr. Linn moved to **adjourn into regular session**; Mr. Stibich **seconded**. Poll: 7 ayes; 0 nays. **Motion carried**.

Mr. Linn moved to **adjourn**; Ms. Duncan **seconded**. Poll: 7 ayes; 0 nays. **Motion carried**. The meeting adjourned at 9:25 p.m.

Ann Marie Donegan, Mayor

Angela Mancini, Clerk of Council