

*City of Olmsted Falls*  
**Minutes of a Regular Council Meeting**  
**Tuesday, June 13, 2017, 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 7:59 p.m. Roll call was conducted. Councilmen Linda Garrity, Jim Haviland, Bob Sculac, Ed Gorski, Paul Stibich, and Terry Duncan were present. Mr. Kyle Miller was excused.

Also in attendance: Gregory M. Sponseller, Law Director, Steve Presley, Finance Director, Mike DeSan, Asst. Finance Director, William Traine, Assistant Safety Director, Chad Gluss, Fire Chief, Rosann Jones, Manager Business & Community Services, and Joe Borczuch, Service Director  
Audience: 17.

**Approval of Minutes**

Mr. Sculac moved to **approve** the minutes from the Special Council Meeting of May 8, 2017; Ms. Duncan **seconded**. Poll: 6 ayes; 0 nays. **Motion carried.**

Ms. Duncan moved to **approve** the minutes from the Regular Council Meeting of May 23, 2017; Mr. Gorski **seconded**. Poll: 5 ayes; 0 nays; 1 abstain (Gorski). **Motion carried.**

**Consideration of Amendment to the Agenda**

Mr. Haviland moved to **amend** the agenda to include an executive session to discuss matters of economic development pursuant to ORC 121.22(G)(8); Ms. Duncan **seconded**. Poll: 6 ayes; 0 nays. **Motion carried.**

**Mayor's Report and Appointments**

Mayor Donegan stated that Mr. Chitester was present at the last Council meeting regarding a couple of issues with regard to the Northwood area. She stated that she did vet out the mirror request for the intersection of Northwood and Sprague and the City Engineer has indicated that installing a mirror would create more liability for the city. She does believe that Mr. Borczuch did speak with Mr. Chitester regarding this issue. Mr. Borczuch indicated that if the city were to install a mirror and someone would pull out the city would be named in the lawsuit due to the fact that the mirror was installed. The engineer recommended not putting the city into that type of liability and residents will need to yield as they enter onto Sprague from Northwood. Mayor Donegan indicated that she is sorry to inform Mr. Chitester of those results.

She stated that the city received an annual Housing Center Research & Advocacy publication. The Center reviews all of the city's laws regarding the fair housing laws in Northeast Ohio and in 2017 they noted the city's LGBT Fair Housing language and was pointed out as something very positive.

Health Insurance Advisory – She stated that the city is required by the Collective Bargaining Agreement to have a council member or two present. She indicated that Mr. Gorski will speak with Council President Garrity about this issue. She stated that we are progressing positively and have been meeting monthly. She stated that prior to her administration it was part of the CBA but did not

routinely engage employees in the process. We have taken a different approach and would like to bring wellness to a level higher than the standard EAP. She would request that Council make someone available to attend these meetings. We are getting a head start towards health insurance and need to move towards responsibility of being consumers of health care here and becoming a healthier population. We will be holding meetings throughout the summer. This committee will begin forming sub-committee's to pursue options that will become part of budget discussions.

Annexation – Mayor Donegan reported that Mr. Gill did submit his annexation petition to Lorain County and Mr. Smerigan has forwarded various emails and memos to Council. We will need to begin discussions. He presented that filing to the Clerk on Friday.

Baker's Creek Status Review – She would like to state that the deadline for information to be submitted for Council consideration is June 14<sup>th</sup>. There will be a special meeting on June 19<sup>th</sup> and Council will hopefully have their findings and conclusions with a resolution on the June 27<sup>th</sup> Council agenda. We are also planning for a special council meeting on July 11<sup>th</sup>.

Ethics Ordinance – She reported that the ordinance is in its final draft and will be placed on Council's agenda for first reading on June 27<sup>th</sup>. Her hope is that the ordinance will run three readings and be adopted in the fall. We have not reviewed the ethics ordinance in approximately 25 to 30 years and is part of cleaning up the codified. If you will recall, Council adopted a new permit and fee ordinance in the last six months. This update will make certain that we remain consistent and clear with any ethics violations and make certain that the process is clear.

Miscellaneous – Mayor Donegan stated that a revised Chapter 1460 was distributed to Council, which was unanimously adopted by the Planning & Zoning Commission. She did not receive any phone calls for clarification and would ask that Council adopt.

She stated that we all know there were certain actions and costs associated with the Quiet Zone. She has kept Council updated with railroad blockages and the safety issues and we are having positive movements in this area. But, in the CSX area the residents have continuously complained about the non-adherence to the quiet zone. Due to the lack of record keeping this required a lot of research. What we have found is illuminating and is why decisions made today can have an effect in years to come. It is so important to provide the due diligence with any particular issue. We have kept logs and residents are good about keeping logs. There is an access right-of-way that was given to CSX back in 2011. We stumbled upon those minutes and basically the city granted CSX the right to use that access and pull over their trains, which could be refrigerated or there for 45 days. She indicated that federal law states if you have an access right-of-way and anything is parked there by virtue of the fact that it is parked they always have to blow the horn, so this voids essentially the quiet zone in that area. So, the city spent all the money on the quiet zone yet we gave the right to the access path, and she is sure this was not done purposefully, but here we are left with there is no quiet zone in this particular area because of this right-of-way the city granted in 2011. Our frustration is that a lot of taxpayer money was spent on these quiet zones particularly in that area and she wanted to bring this to Council's attention. This is obviously not acceptable but will have to try to back out of an agreement that was made.

She asked if there were any residents present to speak about the Planning & Zoning Case #06-2017. There was no one present who wanted to speak.

She stated that Mr. Riddle and Ms. Jones did a great job with Evening in the Falls and there will be more summer activities.

### **Communications from Residents**

**Brian Chitester, 9745 E. Northwood Drive**, stated that he has received his property tax bill and it does state E. Northwood. Mayor Donegan stated that she believes the city will be ordering a sign that says East Northwood because the documentation Director Borczuch had did not state East Northwood. Mr. Borczuch stated that Mr. Sheehy contacted the county who informed him that the county has it on record as Northwood. Mr. Chitester stated that his mother is the individual that is more frustrated with the street name. He just wants to see that all records from state to federal are completed property. He wants to be able to order on Amazon and put in his street name for consistency.

He stated that he understands the liability with the mirror. He stated that his parents were informed on Monday during the annexation meeting. He stated that with the Columbia Road bridge being closed traffic has gotten a lot worse and anyway to alleviate traffic would be helpful. Mayor Donegan stated that this is an issue the city will begin working on with the neighboring communities.

Mr. Chitester stated that he has lived across the street from the property on Sprague Road since 1999 and played golf on that course. He stated that the infrastructure around this property is basically impossible to develop the land in the way he has heard people discuss and wants to let the body know and from what many people around the area have said, it is very tough to get out of the area and is very congested, the roads are a hassle, there is always some sort of pot hole so with more cars, more traffic and more people it is going to get worse and worse. This is his perspective and point of view from living in the area consistently 365 days a year, it is not pretty right now and to add to that we will not receive anything from it. From what he has heard from a citizen right now paying into RITA it would be frustrating to see our tax money go to litigations when we could be helping residents on Cranage with the roads. Mayor Donegan stated that Cranage is on the list for Phase V sewers and repaving of the roads. Nothing has been decided as of yet with regard to the annexation, last Monday was an informative meeting for City Council and as soon as the minutes are approved they will be on the website. She stated that misinformation is what makes people go to so many levels. Again, nothing has been decided, the city and city elected officials have an obligation to consider the request.

Mr. Chitester stated that he wanted Council to be aware of his concerns and after having a conversation with the trustees he falls on the same side as them it's not worth our time.

**Ed Dean, 7594 Mapleway Drive, Olmsted Falls** stated that he is going to read a statement into the record. It is title "Some Unanswered Questions to the Mayor and City Council." The statement concerns two areas; (1) trees and (2) sewers. (See attached).

**Mike Musto, 16449 S. Boone Road, Columbia Station** stated that he has no interest in telling Olmsted Falls what to do or how to do it. He understands that the annexation request is very emotional and would like everyone to take that out of it and he would like everyone to make their basis on what you as a city would want to do. You also have to understand that the trustees will do what we have to do also, we cannot speak anymore anyway as we have hired counsel. He wished Council good luck with their decision.

**Dick Heidecker, Columbia Township Trustee**, stated that he would ask that Council consider not passing the annexation or accept the application because the residents of Columbia feel that you are stealing from them and it really hurts. We try to be good neighbors and always we can. He thinks you should ask yourselves why do they want to be annexed by you and not follow our zoning? This is a question that he hopes Council has asked themselves.

**Suzanne, Croce, 7451 River Road** thanked Council for listening. She would like to address the inclusion of River Road as part of the Phase V sewer project and she has several reasons why, some of which have been addressed in the past the last time this was to be handled. First of all, the lots on River Road are of sufficient size to handle septic systems. Residents requiring new systems have never been averse to replacing their existing systems. Many times septic systems are more efficient than a sewer system, Cleveland has had multiple problems with untreated sewage going into the lake, the run off from chemicals from lawns and farms has not been addressed and that has caused a lot of problems with Lake Erie. The State of Ohio has a program to help with the cost of either new septic systems or tie ins to sewers, help is available on a sliding scale, this has not been addressed to the citizens of Olmsted Falls. Due to the topography of River Road the cost to sewer the street can be excessive in relation to the other areas in Olmsted Falls. We were quite aware of this five years ago and she thinks it has probably elevated the cost of all citizens. River Road has many century homes with dry laid foundations, no details have been given as to a homeowner's ability to recover costs of repairs if damages occur. She was at the equalization board meeting and Mr. Sheehy indicated that it would not be the responsibility of the city but would be up to the contractor, but, currently no details as to a contractor's responsibilities are known. The trees provide many benefits, shade, pollution reduction, oxygen, the enhanced properties to be cavalier as to the removal, if they are in the way, is damaging to the community. River Road is also a rural road, a county road, even though she knows Olmsted Falls is responsible, Mr. Sheehy said it would be changed but was not specific as to whether or not widening would take place. Right now we have a tremendous problem with non-residents speeding through our street, mostly to avoid two traffic lights, any widening would only exacerbate this problem. Water lines, she understands, are also to be replaced, will homeowners have to replace water lines from the street to their homes, if so, what cost is involved. Although she knows we have chosen a representative form of government she thinks we have an obligation as citizens to question and evaluate the decisions you make on our behalf, change also comes from the bottom up from the citizens directly.

**Walter McClain, 8696 Lewis Road**, stated that he came tonight to speak on behalf of the annexation. He has been a life time resident with only one year of his life spent outside of the Falls and Township. He has watched North Olmsted take some property from Olmsted Township, Berea took some property, he thinks that is a little bit of a sad thing coming from the Falls but at the same time he knows that those properties did quite well for the cities that annexed them as well as the people that owned the property and moved into the properties, whether for businesses along the corridor and North Olmsted has some housing that they built. As far as the Riverside Development is concerned, he can say from personal experience, his family is the owner of Emerald Woods Golf Course and we have been working on getting zoning in Columbia Station to a residential from recreational. Coming from one side, in his opinion, we have bent over backwards to do everything they asked us to do, laying out the prints, making our proposal and we went through the Elyria court system with a magistrate overseeing mediation and came to an agreement only to have it turned down later at the public floor and now we are headed into a lawsuit with them ourselves.

**Diana Pistora, 7555 Columbia Road**, stated that she is present regarding her windows as they are still falling apart. She is hoping to be able to replace them with Universal Windows so that they look better and are efficient.

**William Eichenberg, 26549 Cranage Road**, stated that he was put on the Planning Commission by Mayor Blomquist and Council and then Mayor Donegan renewed it and Council which he thanks everyone for. He has been hearing a few rumors about conflict of interest and wants to make sure Council understands because it means the world that everyone thought enough of him to put him on the Commission in the first place. If you look up the minutes, which states that “Mr. Eichenberg indicated that he owns property on Cranage Road and has been writing the property owner since the 1980’s attempting to purchase some of the property, he then recused himself.” He knows that if Mr. Incorvaia and Mr. Smerigan were present as they were at most of the meetings would know. He told everyone that he had been writing to the property owner because he had been. He showed the original letters he sent to Dairy Pak dated back to August 11, 1998 up to the most recent one. He stated that if you review the minutes and whenever the property came up he would always say the same thing and there were times when people indicated he could stay but he thought it was better to leave the room, which he is glad he did. He showed photos of his property when the storm came through a couple of weeks ago and when the creek floods there is no place for it to so you will notice in the pictures two ducks swimming. This is when the creek gets real full.

The last thing, he had the creek named “Minnie Creek” and found out that this was its original name. He did find out that the land south of us, where Woodgate Farms is located in the Township, all the water flows down and ends up in Minnie Creek and then goes directly to the Rocky River.

He stated that on October 10, 2013 the City had a Falls Pointe flooding adjacent to Woodgate and that is the water that empties into Minnie Creek somewhere along the way. This is some of the reason that we are concerned because he is not quite sure where all the water would go when it goes north of that. Mayor Donegan indicated that the flooding is a big issue that has to be adjudicated with whatever Planning & Zoning does. Mr. Eichenberg stated that Mr. Incorvaia or Mr. Smerigan are always at the meeting and he would always recuse himself when this issue came up.

Mr. Stibich stated that Mr. Eichenberg is a life long resident of the city and is one of the town’s many historians and through a lot of research that he did he was able to convince the U.S. Geological Survey to change the name of Busby Ditch back to its original name of Minnie Creek. He has deep roots in this community.

### **Approval of Bills:**

Mr. Sculac moved to **approve** Pay Ordinance 2017-11; Ms. Duncan **seconded**. Poll: 6 ayes; 0 nays.  
**Motion carried.**

### **Officials Reports:**

#### **Rosann Jones, Manager Business & Community Services**

Ms. Jones stated that she recently set up a series of morning learning programs that will run one Friday a month from now until September. The first one has been scheduled for June 16<sup>th</sup>. Breakfast will be served at the Grand Pacific Hotel. This program will involve experts that will speak with the business community. She that one topic will be regarding the protected class’s legislation that caused

a nervousness with the business community. One expert is from Mansour Gavin and the other is from Margolius and Margolius, one on the side of labor and the other on the side of individuals who feel they were discriminated against. Her hope is that business owners will learn what they need to do in order to feel prepared and comfortable.

She stated that the Summer Solstice at the French Restaurant is Wednesday, June 21<sup>st</sup>. While this is a private event it is unique and fun for the community. You do not have to go into the restaurant to enjoy the music. The solstice begins at 11:00 a.m. and runs through midnight.

She stated that the first Vintage Market Place will be on Sunday, June 25<sup>th</sup> from noon to 5:00 p.m. There will be over 50 vendors present. This is a wonderful event for the community and the business community does well on that day as well.

She stated that she received a call from the planner who work with the City in preparing the newly adopted Master Plan. She was informed by him that the State of Ohio American Planning Association gives out awards every other year and the County will submit our Master Plan for outstanding master plan for communities under 100,000 people. She is reviewing the plan now to refresh her memory because this plan does not sit on a shelf as the city has begun implementing portions of that plan before it was finalized. She will meet with County Planning to review what the city has done or is doing. She will also gather letters of support to be submitted. This is a working document and not one collecting dust.

Mr. Haviland asked if the NOACA Board took any action regarding any new TLCI grants the city submitted. Ms. Jones replied no. Mayor Donegan indicated that the city received two out of the three grants applied, first time in our history.

**Joe Borczuch, Service Director**

Mr. Borczuch stated that he would request Council approval for requisitions. He stated that the first one is for manhole castings as there are several that are non-compliant.

Mr. Gorski moved to **approve** a requisition to EJ USA, Inc., for manhole castings, lids, monument boxes, compliant storm drain lids in an amount not to exceed \$12,737.65; Mr. Stibich **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

Mr. Borczuch indicated that bids were opened on Friday for the 2017 concrete program and CVE reviewed them and forwarded the results. There was a discrepancy of \$2,000 with the apparent low bidder and would take longer to complete the work. He stated that CVE has indicated that Fabrizi is the lowest bidder and recommends them for the program. He indicated that he spoke with Mr. Presley regarding increasing the requisition to \$225,000 in order to permit some additional work in another development.

Mr. Sculac moved to **approve** a requisition to Fabrizi Trucking for the 2017 concrete program in an amount not to exceed \$225,000; Mr. Haviland **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

Mr. Borczuch stated the department has used the temporary traffic signals during street work and they work fantastic.

He also indicated that he spoke to Mr. Stibich regarding the trees that were approved at the last Council meeting for Coopers Turn. He also spoke with Schill who indicated that the price quote given to Mr. Stibich was not accurate as some of the information could have been miscued. Anyone bidding on trees do not have them in stock so there is a lot work in the processing including warranties and pricing is also dependent on which crews are sent out to install. He stated that every year the city plants trees and the prices range from \$5,000 up to \$17,000. He also indicated that Shade Tree Commission wanted larger trees installed in this area which will require a larger area for planting and new compost in and around the trees. Mr. Stibich stated that his comment was he believed the quote was too much and he received a quote from Schill for \$2,000 less than what the city paid for the eight trees, he then distributed a copy of the quote. The quote consists of the exact same purchase, 8 3" caliper October Glory trees. He does not know why the city would get a quote from Schill for \$6,700 and John Public gets a quote for \$3,700. He stated that is quote contains, mulching, edging, and staking. He indicated that Schill has not contacted him saying they made a mistake. He would ask that the city use some sort of reasonable test to make sure we are not paying double. This makes him wonder if there is not some sort of collusion between the landscapers and they see us coming, he does not want to see the city taken advantage of. He does not understand Schill's explanation and again stated that it was a lot of money for trees. He stated that Schill was the highest bid as Morton's was the lowest at \$5,700 and still \$2,000 more than the quote he received. Mayor Donegan asked how many years the city has been purchasing and planting trees. Mr. Borczuch indicated that the city has purchased trees since he has been an employee. The department use to plant the trees themselves but with the amount of work and current employees this is something that has to be outsourced, which helps his department complete more street repair work. Mr. Stibich stated that for the quote the city received he would not be helping them plant the trees. Mr. Borczuch indicated that his department does not help in the plantings. He examines the trees in order to make sure they are a quality tree and properly installed. Mr. Stibich indicated that he does not know what could be done to keep the landscapers honest.

Mr. Sponseller stated that the city could require a non-collusion affidavit signed by the entities because we cannot allow this to happen nor will we tolerate it. Mr. Borczuch stated that he also spoke with Mr. Stibich regarding a one year warranty, which could help reduce costs. Mr. Stibich stated that if the city is paying double for a one year warranty he believes that is money not well spent. Mayor Donegan indicated that if these are issues then the parameters should be given to the Shade Tree Council liaison to discuss with the board. Mr. Stibich would ask that the administration look into the issue and take precautions against things like this as suggested by Mr. Sponseller.

### **Chad Gluss, Fire Chief**

Chief Gluss stated that he distributed a memorandum to Council indicating that in the past his department has utilized the National Fire Safety Council. This organization sends out letters to local businesses requesting donations. This also provides coloring books for our fire prevention programs when the children go through Safety Town. He stated that he will be discontinuing the program as he does not feel that the local businesses should be petitioned for donations. There is also one business who funds more than half the costs so we do not get a great response from the other businesses. Mayor Donegan asked if the department would continue handling out the coloring books with those costs being in absorbed into the department's budget; Chief Gluss replied yes.

Chief Gluss indicated that the department has received 507 calls within the first six months of the year which is 36 more than last year at this time and is approximately a 1% increase. The fire department is moving along nicely with training, which he brought to Council's attention when he

was first promoted. We completed training in Fairview, Lakewood and next week training will take place in North Royalton. We have been accepted into the State Fire Academy which will be held in the Township. He has approached Asst. Safety Director Traine and the Mayor regarding training through the National Fire Academy for new chief's and leadership courses, he was applied but has not been notified of acceptance as of yet.

**William Traine, Asst. Safety Director**

Asst. Safety Director Traine stated that he would like to remind Council about the new police vehicles as the department still has repair issues and would ask Council to consider that purchase.

Mayor Donegan stated that the city has received some calls of concern regarding the turnpike bridge closure and individuals being creative and turning around when they are heading either East or West on Sprague and sometimes do not yield the right-of-way. The turnpike will be placing additional signs in that area.

**Steve Presley, Finance Director**

Mr. Presley stated that at this point the income tax receipts are down about 7 ½% or \$105,000 across the board. If Council would like to approve the purchase of one vehicle he would be in agreement. The current legislation commits the city to purchase another vehicle in the fall and he is not comfortable with Council taking that action at this point in time. Again, if Council is willing, or would like to move this forward he would request that Council amend the purchase to one vehicle, otherwise, he would request that the legislation be tabled and revisited in another two weeks.

**Mike DeSan, Asst. Finance Director – No Report**

**Councilman Ed Gorski, Ward I – No Report**

**Councilman Paul Stibich, Ward II**

Mr. Stibich stated that if the City were to purchase one vehicle the Capital Fund would be utilized which would save repair costs. Asst. Safety Director Traine indicating that was correct plus purchasing now would hold the 2017 price. In late October the 2018 models will come out and could be a price increase. Mr. Stibich asked if the Capital Fund could cover the purchase of two vehicles. Mr. Presley indicated that he would prefer not utilizing all of the funds for this purchase due to the fact that if an issue comes up that needs to be addressed that fund would be committed to the purchase of two vehicles. Mr. Haviland asked if purchasing one vehicle now jeopardize the cost of two vehicles, for example, is there a savings by purchasing two vehicles or would the price remain the same per vehicle. Asst. Safety Director Traine indicated that the price would remain the same through October, if ordered after October 30<sup>th</sup> the 2018 pricing would come into effect. He stated that he has also been submitting forfeiture requests on vehicles and the department has already received one of those vehicles.

Mayor Donegan indicated that the department has been doing a great job of foot patrol in the parks. Asst. Safety Director Traine indicated that there have been 20 drug arrests in 14 days within the parks.

**Councilwoman Terry Duncan, Ward III**

Ms. Duncan stated that the Park and Recreation Board would like to thank Mr. Borczuch and his department for removing the graffiti in the parks.

She has received some interest from the Christ Church United regarding the Monarch Watch as they are working on a pollinator garden and are interested to see if that would assist in the Mayor's Monarch Watch.

**Councilwoman Linda Garrity, Council President – No Report**

**Councilman Jim Haviland, Council Pro-Tempore**

Mr. Haviland indicated that the JEDD Board will meet on June 19, 2017 at 7:30 p.m. at the City Administration Building in Council Chambers.

**Councilman Bob Sculac, Council-at-Large**

Mr. Sculac reminded Council that a brief finance committee will meet on June 27<sup>th</sup> at 7:00 p.m. He indicated that presuming that Council recesses for the summer he will ask that Council authorize the finance department to pay bills.

Mr. Sculac moved to **acknowledge** receipt of the monthly Mayor's Court report for May, 2017; Mr. Stibich **seconded**. Voice Vote: 6 ayes; 0 nays. **Motion carried**.

Mr. Stibich moved to **acknowledge** receipt of the Statement of Cash Position dated 05/31/2017 in the amount of \$1,142,727.94; Mr. Gorski **seconded**. Mayor Donegan indicated that starting 2014 with \$340,000 less and the amount of activity, services and improvements the city has made and continue to maintain the balance is noteworthy. Mr. Sculac indicated that the city is stable. He stated that he agrees with Mr. Presley regarding the purchase of police vehicles since revenues are down. He does believe it is wise to purchase one call and revisit the purchase of another vehicle in the fall. Poll: 6 ayes; 0 nays. **Motion carried**.

Mayor Donegan also agrees with the police vehicle purchase recommendation. She stated that the city is also in the process of signing the library agreement and that money will be utilized for upstairs infrastructure, so, the promises made will come to fruition.

Mr. Sculac asked Mr. Borczuch for an update on the administration building roof replacement. Mr. Borczuch replied that they are currently working on the lower roof over finance. Once that is completed they will need to finish the cap around the entire building, then the cold tar and gravel. He would estimate that, weather permitting, he is hopeful the project will be completed before the 4<sup>th</sup> of July.

**Gregory M. Sponseller, Law Director**

Mr. Sponseller stated that the OVI laws were significantly modified back in April. One of the provisions under the OVI law is that on a third offense within 10 years the operator of the vehicle is also the owner of the vehicle that the vehicle may be subject to forfeiture. He has had discussions with Asst. Safety Director with respect to drug busts and other criminal violations where an automobile may be used as a criminal tool and may be subject to forfeiture. We are trying to be creative in looking at the fair and just way of removing the vehicle in compliance with the law. The department has been aggressively pursuing these forfeitures.

He stated that he is finalizing the old library contract as authorization was previously granted by Council. One of those provisions includes that the City retain the right of reacquisition of the property in the event of certain circumstances.

He stated that under Miscellaneous New Business there is an appeal from the Planning & Zoning Commission decision regarding Case #06-2017. He spent this afternoon speaking with counsel for the appellant in this matter and he and the appellant's attorney have agreed on a joint motion asking Council to consider tabling this item until the July 11<sup>th</sup> Special Council meeting and remanding the matter back to the Planning & Zoning Commission for further consideration at its June 21, 2017 meeting and dispensing with all the time limitations that might otherwise be imposed on Council to render a decision. In light of this, he would request that 31-2017; 32-2017; 33-2017 be tabled to July 11, 2017 and send back to the Planning & Zoning Commission to be heard at their June 21, 2017 meeting. Mr. Stibich asked if it would be necessary to table the legislation due to the fact that they are on first reading. Mr. Sponseller stated that the concerns were that the city nor the appellant wanted to put any objector in the position of not being able to continue the appeal. There are strict time limitations within which Council is required to act on appeals from Planning & Zoning Commission and those limits will not be met if remanded to Planning & Zoning. He would ask that Council table the legislation in light of these concerns.

Ms. Garrity moved to **refer** Planning & Zoning Case #06-2017 back to the Planning & Zoning Commission for consideration on its agenda of June 21, 2017 and table the appeal by the appellant to July 11, 2017, waiving all time limitations imposed by city code with respect to the disposition on any appeals; Mr. Haviland **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

## **Old Business**

### ***Ordinance 70-2016***

AN ORDINANCE ADOPTING CHAPTER 1469 OF THE CODIFIED ORDINANCES OF THE CITY OF OLMSTED FALLS TO ESTABLISH EROSION AND SEDIMENT CONTROL AND DECLARING AN EMERGENCY **Tabled on Third Reading (01/10/17)**  
(Referred to Planning & Zoning Commission – awaiting recommendation)

Mr. Stibich moved to **remove from table**; Ms. Garrity **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**. Mr. Stibich moved to **adopt**; Mr. Gorski **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

### ***Ordinance 23-2017***

AN ORDINANCE RATIFYING AND AFFIRMING THE DECISION OF THE ARCHITECTURAL BOARD OF REVIEW IN ABR DOCKET NO. 06-2017, AND DECLARING AN EMERGENCY **Tabled on Third Reading (05/23/2017)**

## **Remained on table**

Mr. Haviland requested point of personal privilege; Mayor Donegan granted.

Mr. Haviland stated that he appreciates Ms. Pistora's comments regarding her appeal. He also appreciated the comments of Chairman Tomash and the ABR Board. During this appeal there was a discussion regarding how we uniformly apply Chapter 1444.01. Since that discussion we received an opinion from the city architect regarding Ms. Pistora's appeal which was compelling but we have not had a chance to speak with Ms. Tomasch or the ABR to discuss that opinion. He would like to request that this matter remain on table in order to have the opportunity to speak with Ms. Tomasch. Mayor Donegan indicated that the city architect indicated that in his opinion there would not be an

issue for the windows. But, there have been inconsistencies since ABR has been in existence and she believes Council is conflicted about how to uniformly approve these types of appeals. She also believes Council also wants to understand Mr. Pesta's perspective that this issue would not have any bearing on the historic district proper. Ms. Pistora would like Council to bear in mind that the house was built in 1979 and she is more historic than the home. Mayor Donegan indicated that as a Council person there were times when work was completed and Council had to say yes but no to another request which puts these issues into conflict. Ms. Pistora indicated that the windows were installed into the home in 1979 and are not historic windows.

Mr. Haviland moved to **grant** an extension to Ms. Pistora's appeal until the Special Council meeting on July 11, 2017; Mr. Gorski **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

***Ordinance 24-2017***

AN ORDINANCE REVERSING THE DECISION OF THE ARCHITECTURAL BOARD OF REVIEW IN ABR DOCKET NO. 06-2017, AND DECLARING AN EMERGENCY  
**Tabled on Third Reading (05/23/2017)**

**Remained on table.**

***Ordinance 25-2017***

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$145,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF ACQUIRING REAL ESTATE TO ADD TO THE CITY HALL BUILDING COMPLEX CURRENTLY HOUSING ADMINISTRATIVE OFFICES AND OTHER MUNICIPAL FUNCTIONS, AND DECLARING AN EMERGENCY **Third Reading**

Mr. Stibich moved to **adopt**; Ms. Duncan **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

***Ordinance 26-2017***

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$480,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY COSTS OF REMODELING, RENOVATING AND OTHERWISE IMPROVING A CITY BUILDING WHICH WILL HOUSE ADMINISTRATIVE OFFICES AND OTHER MUNICIPAL FUNCTIONS AND IMPROVING THE SITE THEREOF, AND DECLARING AN EMERGENCY **Third Reading**

Mr. Stibich moved to **adopt**; Ms. Duncan **seconded**. Mr. Presley indicated that this legislation is the annual financing of the acquisition and improvements for the administration building that continues to be paid down since 2000. He believes this year we will pay off \$75,000. Poll: 6 ayes; 0 nays. **Motion carried**.

***Resolution 27-2017***

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO CONTRACTS UNDER THE STATE PURCHASING CONTRACT PROGRAM FOR THE PURCHASE OF TWO (2) POLICE VEHICLES AND RELATED EQUIPMENT, APPROPRIATING FUNDS THEREFOR, AND DECLARING AN EMERGENCY **Third Reading**

Mr. Stibich moved to **amend** the purchase to one police vehicle; Ms. Duncan **seconded**. Poll: 6 ayes; 0 nays. Motion carried. Mr. Stibich moved to **adopt as amended**; Mr. Gorski **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

***Resolution 29-2017***

A RESOLUTION IMPOSING, RATIFYING, AFFIRMING AND EXTENDING A MORATORIUM ON THE ISSUANCE AND PROCESSING OF ANY PERMITS ALLOWING RETAIL DISPENSARIES, CULTIVATORS, OR PROCESSORS OF MEDICAL MARIJUANA WITHIN THE CITY OF OLMSTED FALLS, OHIO, AND DECLARING AN EMERGENCY **Second Reading**

Mr. Stibich moved to **suspend**; Mr. Haviland **seconded**. Mr. Stibich indicated that he does not see a reason not to adopt. Mayor Donegan indicated that it depends on if Council abides by the three reading rule. Mr. Stibich indicated that no member of Council has expressed any opposition and does not see a reason to keep on the agenda. Mayor Donegan stated again it is hard to predict when Council will abide by the three reading rule or not. Voice Vote: 6 ayes; 0 nays. **Motion carried**. Mr. Stibich moved to **waive** the reading in its entirety; Mr. Haviland **seconded**. Voice Vote: 6 ayes; 0 nays. **Motion carried**. Mr. Stibich moved to **adopt**; Ms. Duncan **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

***Ordinance 30-2017***

AN ORDINANCE AUTHORIZING AND DIRECTING THE DIRECTOR OF FINANCE TO CERTIFY TO THE FISCAL OFFICER OF CUYAHOGA COUNTY UNPAID CHARGES AND/OR OTHER MISCELLANEOUS CHARGES APPLICABLE TO DELINQUENT OWNERS OF LAND FOR LEVY AND COLLECTION ACCORDING TO LAW, AND DECLARING AN EMERGENCY **Second Reading**

Mr. Stibich moved to **suspend**; Mr. Gorski **seconded**. Mr. Stibich asked if adopting now would help Mr. Presley. Mayor Donegan indicated that finance waits until August to get all the invoicing together. Mr. Presley indicated that it is neither advantageous to adopt now but does clean up the docket. However, he does not have a list for Council as the Mayor indicated he will wait until the end of August to gather the information since the deadline is the first week of September. He indicated that he also waits for the refuse bills until August in order to make sure there is an accurate Homestead Exemption list. Poll: 6 ayes; 0 nays. **Motion carried**. Mr. Stibich moved to **waive** the reading in its entirety; Mr. Gorski **seconded**. Voice Vote: 6 ayes; 0 nays. **Motion carried**. Mr. Stibich moved to **adopt**; Mr. Gorski **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

**New Business - None**

**Miscellaneous New Business**

An appeal from Olmsted Industrial Park LLC of the Planning & Zoning Commission decision on May 3, 2017 in Planning & Zoning Commission Case No.: 06-2017 regarding approval, with conditions, of the Tree Preservation & Management Plan submitted.

***Ordinance 31-2017***

AN ORDINANCE RATIFYING AND AFFIRMING THE DECISION OF THE PLANNING AND ZONING COMMISSION IN CASE NO. 06-2017, AND DECLARING AN EMERGENCY **First Reading**

**Tabled until July 11, 2017**

***Ordinance 32-2017***

AN ORDINANCE REVERSING THE DECISION OF THE PLANNING & ZONING COMMISSION IN CASE NO. 06-2017, AND DECLARING AN EMERGENCY **First Reading**

**Tabled until July 11, 2017**

***Ordinance 33-2017***

AN ORDINANCE REVERSING AND MODIFYING THE DECISION OF THE PLANNING & ZONING COMMISSION IN CASE NO. 06-2017, AND DECLARING AN EMERGENCY **First Reading**

**Tabled until July 11, 2017**

**Such other business that may come before Council - None**

Mr. Gorski moved to **adjourn** into executive session to discuss matters of economic development pursuant to ORC 121.22(G)(8); Ms. Duncan **seconded**. Poll: 6 ayes; 0 nays. **Motion carried.**

The meeting adjourned at 8:59 p.m.

Mr. Sculac moved to **adjourn in regular session**; Mr. Gorski **seconded**. Poll: 6 ayes; 0 nays. **Motion carried.**

Mr. Sculac moved to **adjourn**; Mr. Haviland **seconded**. Poll: 6 ayes; 0 nays. **Motion carried.**

The meeting adjourned at 9:23 p.m.

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*Ann Marie Donegan, Mayor*

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*Angela Mancini, Clerk of Council*