

*City of Olmsted Falls*  
**Minutes of a Regular Council Meeting**  
**Tuesday, June 27, 2017, at Olmsted Falls City Hall**  
**26100 Bagley Road – Council Chambers, 7:30 p.m.**

The Pledge of Allegiance was recited. Council President Linda Garrity called the meeting to order at 7:32 p.m. Roll call was conducted. Councilmen Jim Haviland, Bob Sculac, Ed Gorski, and Paul Stibich, were present. Mr. Kyle Miller and Ms. Terry Duncan were excused.

Also in attendance: Gregory M. Sponseller, Law Director, Steve Presley, Finance Director, Mike DeSan, Asst. Finance Director, William Trainee, Assistant Safety Director, Rosann Jones, Manager Business & Community Services, and Joe Borczuch, Service Director Audience: 78.

**Approval of Minutes**

Mr. Gorski moved to **approve** the minutes from the Special Council Meeting of June 5, 2017 (Annexation Meeting); Mr. Haviland **seconded**. Poll: 5 ayes; 0 nays. **Motion carried.**

Mr. Sculac moved to **approve** the minutes from the Special Council Meeting of June 5, 2017 (East River Bridge); Mr. Gorski **seconded**. Poll: 5 ayes; 0 nays. **Motion carried.**

Mr. Gorski moved to **approve** the minutes from the Regular Council Meeting of June 13, 2017; Mr. Haviland **seconded**. Poll: 5 ayes; 0 nays. **Motion carried.**

**Consideration of Amendment to the Agenda**

Mr. Haviland **moved** to place Resolution 36-2017 at the end of the meeting in order to make that discussion the last item and to add an executive session to discuss pending or imminent litigation pursuant to ORC 121.22(G)(3); Mr. Gorski **seconded**. Poll: 5 ayes; 0 nays. **Motion carried.**

Ms. Garrity indicated that Resolution 35-2017 will be removed from Council's agenda. She asked that the attorney for the applicant come forward to speak.

Mr. Dan Linder, 2077 East 4<sup>th</sup> Street, Cleveland, Ohio, indicated that he is the attorney for the applicant Mr. David Gill. Mr. Linder indicated that the applicant is present this evening and will be withdrawing his petition for annexation. Mr. Sponseller stated his understanding is that Mr. Linder will withdraw the application for annexation with the Lorain County Board of Commissioners. Mr. Linder indicated that the application will be withdrawn by Monday.

Mr. Sculac moved to **remove** Resolution 35-2017 from the Council agenda; Mr. Gorski **seconded**. Poll: 5 ayes; 0 nays. **Motion carried.**

Ms. Garrity indicated that Council will allow a four to five minute break in order to allow individuals to leave since the annexation issue will not be discussed this evening. Council recessed at 7:40 p.m.

The meeting resumed at 7:45 p.m.

## **Mayor's Report and Appointments**

Ms. Garrity indicated that the Mayor was temporary unavailable for tonight's meeting and therefore there would be no report.

## **Communications from Residents**

**Mr. Ed Dean, 7594 Mapleway Drive**, indicated that there are two issues he would like to address. He will read his presentation which is directed to the Law Director, the Mayor and Council (see attached). He stated that he hand delivered an updated letter dated June 27, 2017 by previously sent information to Gregory Sponseller with carbon copies to Ann Donegan, Linda, Jim, Charles, Ed Gorski, Paul, Terry Duncan, Kyle Miller and Donald Sheehy. Reference his letter of June 21, 2017 with three requests to the City of Olmsted Falls under the Freedom of Information Act. In addition all five requests two additionally coming, are being made under the act as well as under the Ohio Public Records Law, Section 149.43 of the Ohio Revised Code. He then read the attached letter dated June 27, 2017.

**Mark Porter**, indicated that he will speak when the Resolution he is in attendance for is officially read. He would then ask a couple of questions at that time for clarification.

## **Approval of Bills:**

Mr. Sculac moved to **approve** Pay Ordinance 2017-12; Mr. Stibich **seconded**. Poll: 5 ayes; 0 nays. **Motion carried.**

## **Officials Reports:**

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

**Steve Presley, Finance Director** – *No Report*

## **Joe Borczuch, Service Director**

Mr. Borczuch stated that he provided a requisition for the sewer jet in the amount of \$15,944.66. The fan unit the vac portion of the sewer jet needs to be repaired.

Mr. Stibich moved to **approve** a requisition to Jack Doheny to replace the fan and housing assembly on the sewer jet 218 in an amount not to exceed \$15,944.06; Mr. Sculac **seconded**. Poll: 5 ayes; 0 nays. **Motion carried.**

Mr. Borczuch stated that he would like to clarify the tree purchase made at a previous Council meeting. This issue was discussed with Councilman Stibich as he reported a different dollar amount that he received. The specifications given were not apples to apples to what the city had ordered which is why there was a cost difference. He also received a letter from Schill regarding that difference. The letter includes all the differences in the specifications which he will give to the Clerk for the record.

He stated that with regard to Mr. Dean's concerns regarding stump removal on Mapleway. The list has been given to the contractor and they have begun the work on that list. This is a long list and the department will clean-up after the entire list of stump removals have been completed.

As far as the trees along Mapleway as previously stated this issue will be discussed with the Shade Tree Commission in September as the Commission is on recess. As of right now, no new trees will be planted by any overhead wires. As far as removal of trees on Cranage, he is not aware of any trees removed from private property by the city. There were some removed in the city's right-of-way at least eight years ago by CEI, and obviously no trees will be replaced on Cranage due to the sewer project. Once that project is completed, Shade Tree Commission will make a recommendation to City Council if any trees will be replaced. Ms. Garrity asked if Mr. Borczuch was aware of the date for the Shade Tree meeting in September. Mr. Borczuch indicated that they would meet on September 12<sup>th</sup> and the meeting will begin at 6:30 p.m.

Mr. Stibich asked if Mr. Borczuch could elaborate on the differences with the bid from Schill. As the bid he received from Schill was for a 3" caliber October Glory Maple Trees, planted, mulched, stacked, and asked what extra work they would complete for the city. Mr. Borczuch indicated that the gentleman who gave Mr. Stibich's place of employment a bid did not incorporate the cost for removal of dirt, as he was using existing dirt rather than a compost mix that is planted around the tree, they anchors were not duck bill stakes, and those stakes take two guys approximately 90 minutes to install. When the dirt is removed there is a dumping fee; there was a cost for extra equipment in order to complete the job quicker; and dyed mulch versus a dark mulch. Mr. Stibich asked if the bid from Morton's included all those extras; Mr. Borczuch replied that was correct. Mr. Stibich would like Shade Tree to consider trimming down some of the extra costs, especially the special stakes in order to save costs. It seemed like a lot of money for eight trees. Mr. Borczuch indicated that he would discuss that issue with the Commission.

Mr. Haviland asked if Shade Tree could look into the issue of trees that Mr. Dean spoke about in order to make sure that they were removed by the utility company, so that issue can be closed. Mr. Borczuch indicated that the trees on Mapleway were removed by the city due to the nature of the trees themselves. The trees on Cranage were removed by CEI and were located in the right-of-way under utility lines. They will remove those trees and the city has to grind up the stumps. He stated that it is a benefit to the city because we do not incur the costs of tree removal. He will gather some information together and present to Council.

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

Ms. Jones stated that the first Vintage Marketplace was held on Sunday, it was very well attended. There was a lot of activity for the merchants in the area. One of the food trucks actually ran out of food. There were a lot of individuals from out of the area. The next Vintage Marketplace will be held on July 30<sup>th</sup>. She asked that Council members try to attend the events.

She stated that the city will celebrate Independents Week, July 1<sup>st</sup> through the 7<sup>th</sup>. Posters will be put up around town. This helps people remember to support independent business owners and in Olmsted Falls that is important. She would ask that everyone try to utilize the local businesses during this week.

She stated that Sunday, July 9<sup>th</sup> the Olmsted Community Church will celebrate their 100<sup>th</sup> anniversary. In doing so they have asked the city to utilize the Covered Bridge area for an ice cream social. This event will run from 11:00 a.m. until 2:00 p.m. and will be open to the public.

**William Traine, Asst. Safety Director**

Asst. Safety Director Traine stated that his department ordered the new police vehicle and again thanked Council and the finance department for that approval.

He would like to bring to Council's attention that he will be putting together an award ceremony for those individuals involved in the fire on Brentwood, which was a fire with a fatality. He stated that the body cameras on the patrol officers disclosed what the activities of our fire personnel during this fire. Some true heroic life saving measures. The men on our fire department and those police officers that showed up that evening put themselves in great harm's way in order to save the resident's life. They went into the house during a working fire and brought her out. Everyone should be extremely proud of what these individuals did. The cities of Berea and Strongsville and Olmsted Township were also on scene and performed true heroics and were determined to save a life.

**Councilman Jim Haviland, Council Pro-Tempore – No Report**

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

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

Mr. Sculac moved to authorize the finance department to continue to pay bills through September; Mr. Stibich **seconded**. Poll: 5 ayes; 0 nays. **Motion carried**.

**Councilman Paul Stibich, Ward II**

Mr. Stibich moved to **recess** for the months of July and August; Mr. Sculac **seconded**. Poll: 5 ayes; 0 nays. **Motion carried**.

**Councilwoman Linda Garrity, Council President**

Ms. Garrity moved to **authorize** the Mayor to sign an agreement with Swing City Band for the July 30, 2017 music in East River Park event in an amount not to exceed \$800.00; Mr. Gorski **seconded**. Poll: 5 ayes; 0 nays. **Motion carried**.

**Gregory M. Sponseller, Law Director**

Mr. Sponseller indicated that there is a new draft Ethics Ordinance proposed with Ordinance 34-2017. He would ask Council to review this document over the summer months as there was a lot of new language and obligations added.

He stated that with regard to right-of-way tree clearing within the City, there is a huge difference between trees in the public right-of-way and private property. He believes Mr. Dean mentioned trees in the right-of-way on private property, and that cannot exist as it is one or the other. The City and CEI only address trees in the right-of-way. The exception is if there is a violation of an ordinance with a diseased tree then we may perhaps get involved on private property. Additionally, public records request are submitted ultimately to the records coordinator with the city and get processed as timely as practicable. It is always best to touch base with the records coordinator for a status. The public records act does not provide an opportunity for basically what attorney's call interrogatories, but, it does provide opportunity to request records and we respond to those requests as appropriate.

## **Old Business**

### ***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)**

**Remain on table until July 11, 2017**

### ***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)**

**Remain on table until July 11, 2017**

## **New Business**

### ***Ordinance 34-2017***

AN ORDINANCE UPDATING AND ADOPTING NEW CHAPTER 208, CODE OF ETHICS, OF THE CODIFIED ORDINANCES OF THE CITY OF OLMSTED FALLS AND DECLARING AN EMERGENCY **First Reading**

### ***Resolution 37-2017***

A RESOLUTION ADOPTING THE TAX BUDGET OF THE CITY OF OLMSTED FALLS, OHIO FOR THE FISCAL YEAR COMMENCING JANUARY 1, 2018 AND DECLARING AN EMERGENCY **First Reading**

Mr. Stibich moved to **suspend**; Mr. Sculac **seconded**. Voice Vote: 5 ayes; 0 nays. **Motion carried**. Mr. Stibich moved to **waive** the reading in its entirety; Mr. Haviland **seconded**. Voice Vote: 5 ayes; 0 nays. **Motion carried**. Mr. Sculac moved to **adopt**; Mr. Stibich **seconded**. Poll: 5 ayes; 0 nays. **Motion carried**.

## **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.

Mr. Sponseller stated that Ordinances 31, 32 and 33 were tabled until July 11, 2017. He would suggest that Council recognize that the ordinances have been tabled until that meeting. He informed Council that this issue will be moot as the reconsideration of the Planning & Zoning Commission has occurred but the formal order has not yet been received by Council.

***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 **Second 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 **Second 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 **Second Reading**

**Tabled until July 11, 2017**

**Such other business that may come before Council**

***Resolution 36-2017***

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLMSTED FALLS MAKING FINDINGS AND CONCLUSIONS FROM THE PUBLIC HEARING AUTHORIZED BY RESOLUTION 16-2017 AND RELATED TO THE PRIVATE BRIDGE OVER BAKER'S CREEK ON THE PRIVATE DRIVE OF EAST RIVER ROAD, ORDERING THE ABATEMENT OF NUISANCE CONDITIONS RELATED THERETO BY AUTHORIZING AND DIRECTING THE CITY ENGINEER TO PROCEED WITH PLANS AND SPECIFICATIONS FOR THE REPLACEMENT OF THE BRIDGE, AUTHORIZING AND DIRECTING THE MAYOR TO ADVERTISE FOR BIDS AND ENTER INTO ONE OR MORE CONTRACTS FOR THE SAME, AUTHORIZING AND DIRECTING THE COLLECTION OF THE COSTS OF THE SAME FROM AFFECTED PROPERTY OWNERS, AND DECLARING AN EMERGENCY **First Reading**

Ms. Garrity indicated that this issue will also be discussed at the July 11, 2017 meeting.

Ms. Garrity moved to discuss and asked Mr. Porter to come to the podium.

Mark Porter indicated that he represents Ruby Jean Hahn, Mary School and Ruth Koehl regarding the East River Road bridge issue. He would like to know the dimensions of the replacement bridge and what Council envisions. Mr. Sponseller indicated that nothing has been etched in stone. If Council makes a finding regarding remedying the bridge, the details and specifications will be drawn up by the City Engineer and advertised for bids. The discussions in the past have been that it would be a replacement bridge. It will clearly not meet right-of-way standards. Mr. Porter asked if the bridge would be a single lane. Mr. Sponseller indicated that he thinks it may be slightly larger but does not

know that specifically we would get that information from the engineers report. Mr. Porter asked if Council could provide a definition of the term “effective property owners” does that mean the people who own the bridge or whose land the bridge is on or is that everyone who uses East River Road. Mr. Sponseller indicated that we cannot answer that question as of yet. It is among the reasons for executive session. Mr. Porter asked if Council envisions addressing this issue again on July 11<sup>th</sup> definitively. Mr. Sponseller indicated that would ultimately be up to Council. The Resolution does have an emergency clause and can be suspended and adopted if that is Council’s choice or, it could go to third reading.

Mr. Sponseller stated that Council will adjourn into executive session and when it comes out of executive session no further action is anticipated at this time.

Ms. Garrity moved to **adjourn** into executive session to discuss pending, imminent or threatened litigation pursuant to ORC 121.22(G)(3); Mr. Gorski **seconded**. Poll: 5 ayes; 0 nays. **Motion carried.**

The meeting adjourned at 8:16 p.m.

Mr. Sculac moved to **adjourn in regular session**; Mr. Stibich **seconded**. Poll: 5 ayes; 0 nays. **Motion carried.**

Mr. Stibich moved to **adjourn**; Mr. Gorski **seconded**. Poll: 5 ayes; 0 nays. **Motion carried.**

The meeting adjourned at 9:32 p.m.

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*Linda Garrity, Council President*

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*Angela Mancini, Clerk of Council*