

City of Olmsted Falls
Minutes of a Special Council Meeting
Tuesday, July 11, 2017, at Olmsted Falls City Hall
26100 Bagley Road – Council Chambers, 6:30 p.m.

The Pledge of Allegiance was recited. Mayor Ann Marie Donegan called the Special Meeting to order at 6:30 p.m. Roll call was conducted. Present: Councilmen Linda Garrity, Jim Haviland, Bob Sculac, Ed Gorski, Paul Stibich, Terry Duncan, and Kyle Miller.

Also in attendance: Gregory M. Sponseller, Law Director; Mr. Bruce Rinker, Special Counsel for City of Olmsted Falls; Mike DeSan, Asst. Finance Director; and Gerry Peters, Service Manager
Audience: 20.

MAYOR'S REPORT AND APPOINTMENTS

Mayor Donegan indicated that a special Council meeting generally just has business the city needs to attend to but because of the special ordinances that will be read she added communication from residents.

Project Status - Mayor Donegan indicated that the turnpike bridge appears to be moving along as scheduled and do expect completion to be around the original commitment. She stated that the Bagley Road is open and a dedication is scheduled for Sunday, August 6, 2017 at 2:00 p.m. She stated that Plum Creek Financial, which is the business approved for the third floor, will be on Council's agenda in September. She stated that the city has been waiting for the old library purchase to close and the money deposited into the city's account.

Phase V Update – Mayor Donegan stated that the Board of Equalization will meet with seven property owners on July 24th. This will then complete the process and wrap up the legal requirement. She believes a public meeting would be scheduled sometime in August or September. This public meeting will be to discuss the scope of the project.

She stated that the Clerk distributed information to Council regarding the withdrawal of the appeal from Olmsted Industrial Park.

She stated that during the last meeting with the Baker's Creek area residents we received some feedback regarding perhaps there was some collusion by holding back the notice because the residents did not receive the notice until that day. Unfortunately, we have one secretary for the entire building. We also do not control the Olmsted Falls mail delivery. We decided to hand deliver notices for this meeting with the community officers, which we do on occasion. We received feedback that this was not what a police officer should be doing and this is poor use of taxpayer dollars. She would like to assure the public that this is what community officer's do. Asst. Safety Director Trainee stated that these officer's do a variety of things, from vacation check on homes, dealing with stray dog issues, etc. One has law enforcement experience while the other does not. They do an extraordinary job for the amount they are paid. They work four hours a day one in the morning and one in the afternoon. They save the city and taxpayers a lot of money. Mayor

Donegan stated that for those concerned that we are misusing police officers that statement could not be further from the truth, in fact this is part of their job description. This issue is one of those things that “you are darned if you do and darned if you don’t.”

She stated that Finance Director Presley is not here but she would like to address a few points that he has with regard to the audit. There has been continued rumor and innuendo that there is something wrong with our finances. Obviously the people speaking about that do not understand the complexity of our charter or the checks and balances. These statements not only affect the Mayor’s reputation but also Mr. Presley who has been in municipal finance for 20 plus years. It strikes at the cord of alternative facts or untrue statements. On behalf of Mr. Presley, the city undergoes an annual audit of its books and records by an independent public accounting firm whose audit is then reviewed by the auditor of the State of Ohio. Up until 2014 the city was never timely on its audit, they were six, seven, eight years and a couple of years the city was un-auditable in terms of our records. That has since changed and we are now audited annually. As a part of this annual audit all bank account balances are confirmed and compared to the City’s financial reports. Prior to 2015 the City was on a bi-annual audit cycle, but again there were periods where we did four, five, six years at a time with a couple of those being un-auditable. This administration felt it was in the best interest to move to annual audits which help clean up any issues regarding process or procedures. The city continues to receive “unqualified audit opinions” which is the highest and best opinion available.

She stated that she does not get to see or speak with Council often and understands that they are meeting during their summer recess. There have been a number of issues that have come out and therefore she has a statement she would like to read. The statement is title Ethics and the current climate. In the current toxic environment that our great nation finds itself she has prayed that it would not filter down to our great City of Olmsted Falls. Unfortunately, there are indications that it has. She has watched silent on the sidelines observing misguided individuals and outsiders attempting to ensue chaos by sensualizing, creating false statements, generating alternative facts for political gain, you know the kind of money business that divides a community. We have enough of this on the national level with aggressive hostile abuse of misleading information. She will not tolerate individuals attempting to mirror that toxic environment in our quaint community. Olmsted Falls is a community that encourages exploration, comradery, promotes a deep sense of community, a decent Americana brand. She believes in fostering an environment where we are comfortable raising legitimate issues and concerns without fear of being made fun of or retaliation. Openness leads to improved business performance and inspires greater accountability on behalf of the employees, a content employee base. This all inspires innovation. Over the last decade and a half several of us, her as a council woman, have attempted to revise the ethic laws and reconfirm Olmsted Falls commitment to the ethical delivery of services. As Mayor she has been instrumental in mandating large process based clean up’s of the delivery of service, records retention, adherence to financial accounting to name a few. Work continues to be done in all these areas. The laws are clear and indicate that all elected persons should receive training per term, she can regretfully state that over the years many council persons have not adhered to the law and with the last council we even received a notification from the state auditor’s office indicating such. These violations are of pervious council members that no longer serve. She believes that there are still some outstanding requirements due from current council members. Her administration has shown a commitment to do business with transparency, honesty, integrity and mindful of in being compliant with the law. When you google transparency you find such definitions as openness, accountability and honesty, they define government transparency. In a free society transparencies is government’s obligation to

share information with citizens. It is at the heart of how citizens hold their public officials accountable. Since as a council person taking her seat in 2002 she was not necessarily in the right crowd and information was withheld from her and others for political reasons. She still believes this behavior was a dis-service to her as an elected official and more importantly a dis-service to the people who we were elected to serve. You bet as Mayor she committed to doing everything possible to communicate with everyone on everything, even when she didn't have much to give as far as an update. Her team can attest to transparency through resident letters, financial reports, informative lengthy newsletters, regularly scheduled town hall meetings, well documented availability through one on one's, not to mention Facebook, Twitter and an updated website just to name a few as a good example of transparencies. If that is not transparent she does not know what is. This administration's ability to communicate ongoing directly to the residents contains facts, figures, and project updates as well. Mr. Dean and Mr. Hoca specifically mentioned her commitment to transparency is lacking as late as April 13, 2017 during a council meeting under public comments. Again, for the record transparency is not "well I don't like the direction Council has taken therefore the Mayor is not transparent" transparency is not when an individual refuses to understand or disagrees with government direction. Transparency has occurred regarding the Phase V project in 3 ½ years we have sent over 13 letters and newsletter updates and she personally mentioned Phase V 21 times during a Council meeting since January of 2014 that is transparency. As you may be aware for the first time in our history we have created a five year strategic plan which includes many overlooked for decade legislative revisions, ethics law being one of them. In January of this year and as part of her executive team meetings she requested that the law director update the city's ethics law which is currently under council consideration. Ensuring that the City of Olmsted Falls values are foundational to our work every day we did not spend time, money and energy on developing a core mission, values and believe system which you can see in the corner because we didn't have anything better to do. We developed them because we believed in them as a commitment to one another as co-workers and to the people that we serve. She will be the first to admit that from time to time we must re-evaluate our success when we fall short in reaching our goals it is important to examine and evaluate our short comings as a learning process and strive to do better, how can we improve? People are not perfect and there is always room to grow. She has conveyed a clear message on the importance of integrity in everything we do in her administration doing city business. The ability to deliver quality services makes a positive impact in our community for our city to be consistently success we must all learn the Olmsted Falls ethics law and live out its principals in our daily activities. She takes offense when she hears these misguided individuals minimizing the attempts of our public servants here in Olmsted Falls. The City of Olmsted Falls ethics law further explains how all employees and elected officials should conduct themselves to ensure that their actions are always ethical and on the city's behalf. While the ethic law covers a wide range of business practices and procedures it cannot predict every situation a city employee or elected public official may encounter. For example, and this is specific, when outsiders make serious misrepresentations to the public or residents as to how the city conducts business and we in the know sit back and watch or give credence to the rederic by asking provocative questions or muddling the situation by having memory loss or by trying to bring up some secondary issue that is not even germane to the conversation, we are guilty of unethical behavior. It is our responsibility to clarify and correct the record not fan the fires of deception. A business owner met with me last Monday to provide me a heads up on rumors that have been circulating recently that our service director and service department are allegedly spending money frivolously and unethically. Additionally one of the political candidates was overheard by service at the Music on the Green event that service was "dirty." Oddly enough on that same day another reliable source indicated that a political candidate was making derogatory statements about coming

after our service director regarding contracts being awarded. This type of behavior does not lend itself to professional leadership. We must be mindful that untrue statements or shall she put it "ethical lapses" tend to snowball and have a rippling effect on morale and she is responsible for morale. Public elected officials and public officials should be role models and both guardians and champions of the ethical culture in our community. As guardians we have a duty to protect the city employees, residents and other elected officials from unethical conduct. The city employees in our community always go that extra mile to provide service to Olmsted residents and give 1,000%. She will not stand by and watch employees with pristine work ethics and reputations be tarnished by past or present elected officials or by public individuals who have an issue with her as Mayor, who might not have the community's best interest at heart but rather use our fine public servants who give selflessly to the City of Olmsted Falls to paint her administration negatively by attempting to create a controversy with false allegations and innuendo's. Just so everyone hears the same information we follow the state bid laws, always, and when bid laws do not apply we obtain competitive quotes and these are generally approved by Council. Now let's go to the heart of the issue because if anyone knows her, if there is an elephant in the room she will give him a name. Let's talk about Morton's Landscaping. In the years 2010, 2011, 2012, 2013 when she was a Council woman and not the Mayor, we provided contracts to Morton's to the tune of \$85,000. Under her administration from 2014 to present they have received approximately \$25,000. Did the prior Mayor collude with Morton's probably not, does Morton's do good work, yes. So to suggest that service is dirty and service is colluding is unfair and wrong, just wrong, so stop. In order to also understand we have occasion to either respond to someone that has passed away and/or send flowers to someone who serves on a board or commission, for the record, Cutting Gardens a florist in our community has received in the last three years \$671.45; Precious Petals has received \$427.68; Schusters Greenhouse has received \$1,040.00; Uncle John's \$2,500.19; and Hansen's Greenhouse \$930.25. If there is a legitimate concern raise it, but to throw up any innuendo even during an election year is uncalled for. This is meant to bring an error of descent. Just one month ago she watched some debating about Shade Tree purchases of trees, "why did you buy those trees at this amount, what's going on here, I got a different quote." When that same Councilman just last year approved a purchase order for money that was more than what was just approved and the only question and concern was "are the trees going to bloom," per the Council minutes. As elected officials or those running to become an elected official we are better than that and if we are not better than that you should be better than that. Just to give you a quick overview of what our one working service director and one working service manager does with six (6) workers: Phase IV sewers, concrete, asphalt, road levy, flags of honor, making stage, Jenkins Place buildout, railroad closures and resurfacing, city hall flooding, installing pumps, cleaning up and organizing city records retention, because you may not know this but when she took office we had not complied with the records retention law since 1993, we literally had piles of paper which was the Jenkins Center, the service department if you query other cities, the service department does not handle records retention, but, our service guys stepped up to help, demo of the old service garage, culvert work to save the city money, main street municipal lot construction, city hall roof, Bagley Road bridge replacement, graduating from CSU Leadership Academy, why because it is important that we all have resources to be better people, Christians in Action replacement at City Hall, purchasing service equipment, monitoring a budget, and also preparing for upcoming culvert replacements, working with ODOT, working with airport, working with City Engineer on Phase V. In short, when we tolerate misconduct or even worse sit back idly for fear of being shunned from a big group of peers or encourage the practice of manipulating the truth for self-gain retaliation of political agenda there is possibility that the end result will be damage to the City of Olmsted Falls brand which she has been working tirelessly with her team and City Council to make certain we have a brand.

Because of these misguided individuals and outsiders our culture of pride in our community will be impacted negatively and create a toxic work environment. You don't think those comments bothered those service workers who work 10 hours a day, selflessly, the lowest paid workers in the city, they were and she takes great offense to that. As she stated in the beginning she welcomes a robust inquiry and a conversation on process and procedure. Now, that we have established the ground rules of how we operate in this wonderful community she has called home for 27 years, serving as a board and commission member, chairman of the cemetery board, 10 year council veteran and now Mayor, let us start to have a robust, spirited dialogue and a respectful, factual environment on vetting each of our visions for the community of Olmsted Falls. We do not need to act like Washington.

COMMUNICATION FROM RESIDENTS

Diana Pistora, 7555 Columbia Road, stated that she is present this evening about her windows. Universal Direct still has her windows in their warehouse. She wants to reiterate that the house at 7555 Columbia is not the 1800 house that was there, her father demolished that home and the house currently there is from 1979 to 1980, so, it should be permitted to get the windows from Universal Direct.

Ted & Marie Nyland, 9630 East River Road. Ms. Nyland stated that in 1996 Adrian Rini came into her life. She was a member of our church. It was on Valentine's Day that she found out Ms. Rini had pneumonia and as usual she baked cookies to take to her home. As she walked out of Ms. Rini's home that she had as a retirement home in your City of Olmsted Falls really surprised her, it was astounding. Ted and her had never talked about retiring, never talked about leaving, not going to Florida or anything else but this house was awesome, in a lovely setting with mother nature and wildflowers it was her type of house that she never had a chance to have. Anyways, she went home and at Easter time Adrian said "Marie, I'll meet you downstairs and said Marie and Ted these are my kids, my family and she is selling her house." She stated that Ted had already heard her say how beautiful Ms. Rini's home was but hadn't seen it. Unbeknownst to her he had seen Adrian at church, found out the home had a double garage, new roof, two bedrooms, he found more than she did when she walked into the house. So, on Saturday he asked her to go to Adrian house to see more of it. We walked through the home and Ted said what a gorgeous house and he called a realtor and told him that he wanted to offer her asking price. At noon on Sunday, we were the owners of a retirement house and our life has changed since then. We became residents of Olmsted Falls. At the time we signed all the papers there was nothing written about any easements, nothing said except that we knew that the road across the front of our house though it was East River Road North it went across the bridge and that was on our property and yes, we did have to give all of our neighbor's access to their houses, but, nothing about an easement that we were responsible for. There is a road, East River Road North, that goes right to our driveway and that is the only thing that we have to use to get to our house and to enjoy Olmsted Falls which you guys have just made so wonderful for us. Twenty years it's been fabulous. Ted just retired and somehow the city got ahold of Ted and asked him to make all of these wooden things for this room and all the tables. He had nothing to do and it kept him out of her head so he said sure. He had a ball, it kept him busy and it was fabulous. She joined the garden club and that gave her a reason to decorate Olmsted Falls, the city service they told her she couldn't talk to them but the girls were dragging 100 foot hoses and they were 80. She told them there was an easy way to do that and asked if we could talk to Olmsted city service and see if they could help the club with a watering system and they said yes and met us half and half. We have a beautiful watering system at the old Jenkins Center, the flower

garden is gorgeous. But, that wasn't enough you know what the city service department we told them the club was only getting two or three yards of mulch and asked if the club could get more mulch, they just gave us the mulch. They now give us six cubic yards and the club does all the gardens at the old Jenkins Place, they also give wood chips. These gardens are beautiful and an asset to the community and everyone asks who works on them. It is an asset to be a part of this wonderful community where everyone helps each other. She can't say enough about it. Because of that we have more plants, we earn more money, we have given 13 4th grade classes a veggie youth program which changed to another program, we help senior citizens, we give books to the library. We do a lot of things through the garden club for all these lovely people in the city and it has been wonderful. This has taken a back seat to our concern about being asked of us, of having the bridge on our property we are in no need of any monetary easement, we don't have to pay it because it's our property and East River Road North takes us to the front of our property. Ms. Nyland then read the attached letter written by Ted Nyland dated July 11, 2017. She stated that Ted found out that throughout the country from New York to California that it is the people that have the easement that have gone through court and judges that have to pay for the upkeep of the easement it is not the people that have the easement on their property, and 40% of the bridge is on our property. Ms. Nyland stated that we assume the assessment numbers are not set in concrete like the ones sent out before, which indicates 9.09% to everyone. If you proceed with the proposed assessments you are creating a precedent that will lower our property value because everyone that purchases our home in the future will have to pay for that assessment. This results from the fact that future owners will be responsible for some of the expenses associated with the bridge maintenance. She feels that we all need to get back to a loving, caring community of neighbor's who share this remarkable piece of paradise, we each found here when we moved into Olmsted Falls at Baker's Creek. To all of you on Council may you find a speedy and fair solution to the repair and care of our crumbling bridge as Ted and she wrote in the previous letter.

Mr. Nyland stated that he recently looked over the bridge and the southwest corner the foundation has slipped and there is a big crack in it currently and you can actually see the creek through it. Mayor Donegan indicated that was the concern and what has brought us to this point.

Mary School, 9580 East River Road, stated that she has the deepest respect for Mr. and Mrs. Nyland. They are wonderful people, have always been kind and generous to her and Ruth and it also breaks her heart to find us in this situation. Unfortunately, we are in a position that we do not agree. As Mr. and Mrs. Nyland were speaking, she does not understand how if you own property you cannot be responsible for it, it is our duty. Also, she knows that the Nyland's have carried a great deal of insurance on the bridge and she respects that too. Why would you carry insurance on something that you do not feel responsible for to protect people on, it doesn't equate to her. She asked if Council would vote this evening on the resolution. Mayor Donegan stated that generally legislation runs three readings. She is not sure, but does believe that the resolution will advance to the third reading this evening. So, it is not voted on unless Council has other plans. Ms. School stated before Council is asked to vote on the bridge resolution, she would like to supply more information. She stated that Mayor Donegan spoke to her attorney, Mark Porter, on March 28th and Mr. Porter in turn spoke with Mrs. Haun as to a phone call that the Mayor made trying to get a resolution to this issue. The Mayor made a proposal to Mr. Porter that the three bridge owners would pay \$20,000, this was based on the \$100,000 figure in March, Maura Norton, Tom Norton, Mike Abramovich, who no longer owns the property, the new owners are Gary and Michelle Sterkel, and John and Janet Guzik would divide a cost of \$32,000, which would equate to \$6,400 each. She and Ruth would pay \$4,000 and Ruby Haun would pay \$4,000 coupled with the promise

that the City would repair her portion of the road. Now that was presented by the Mayor to Mr. Porter who in turn conveyed it to Mrs. Haun who in turn conveyed the information to her. But, now the city is asking ten households to pay the cost of the bridge equally, so that has changed since March. Only three of those households actually own the bridge. For the record, when the March proposal was made she was opposed to it because her own personal feeling is she is not involved in this because she wants to pay no money or the least money, she wants to do the right thing, she wants to do what is legal and what is right. She has previously talked about making donations but she does not feel it is her legal responsibility to pay for property that she does not own. In asking the ten of us to pay the cost of the bridge, and three people actually own the bridge, she noticed in the paperwork sent to the homeowners not one word or provision has been made by the city to require the bridge owners to pay for our part of the road, which has been ruined as a result of this whole process. So, essentially we are being asked to pay for the bridge, which we don't own, then we have to pay for our road, which we do own, but the bridge people have to pay only one portion for their property and nothing on our road and this just doesn't equate to her. The other point she wants to make is something that Mrs. Nyland has referred to that Ruby made her aware of. She lives at the other end and does not see what happens down by the bridge. When Ruby walked her garbage over the bridge last Thursday, July 6th the bridge was fine, but yesterday July 10th as she walked the bridge again a large chunk of the top of the bridge was missing and Mrs. Nyland is correct you can see to the water. She brought a picture of it in case anyone wanted to see. There has been no activity on that bridge since a year ago and to her mind it is so convenient that this big hole has appeared at this time when a vote is coming up. If you walk down there, which she did today, and look at the path of the water it comes nowhere near that area because the weeds are smashed down and the flowers are smashed down where the water comes. She knows you can't understand what she is going to say because she is not going to give anyone information, but she can guarantee this was not nature at work. She is asking Council to meet again with the Mayor before voting to reconsider the position as to who should pay for the bridge and our road and the amount each household should be responsible for. She will repeat what she said before, everyone should be responsible for their own property and if people want to make donations that's fine but everyone should be responsible for their own.

Mayor Donegan stated that she finds it interesting that Mr. Porter was present several different times but never spoke on the issue of this conversation. He was Ms. Haun's attorney and we have worked tirelessly and effortlessly. Again, 10, 20, 30 years have passed and no one has regarded anything for this bridge. As she stated consistently Mr. Scheutzow called her in January, a week or two after she took office, and we have been working and working to bring some sort of resolution to this matter. To intimate that she gave specifics, 20/20/4/4 is inaccurate. She will state with a great deal of confidence, from day one we have had an estimate of construction of that bridge of about \$100,000 and you can see from the information sent to the residents it's been pretty close at \$107,000 with 25% contingency added. She told Mr. Porter that over the years Ms. Haun has spent \$15,000 every so often to re-do the street that everyone takes advantage of and that is not fair to Ms. Haun that she takes the entire responsibility of that entire private street herself and that is the number that Ms. Haun provided.

Mr. Sponseller stated that he can relate his involvement with regard to Ms. School's comments about Mr. Porter trying to address a proper mechanism. Over the course of the past two years there have been at least four or five maybe even a dozen different potential formula's, remedies, some people willing to participate, others not willing to participate, some changing their minds later, others changing their minds later. Mayor Donegan stated that Ruth also contacted us and said

“don’t tell Mary but I’ll give “x” number of dollars to the bridge.” Mr. Sponseller stated that all of this is part of typical negotiations in an effort to bring resolution to a problem. The reality is that we have been unsuccessful at bringing informal resolution by way of agreement among the parties to resolve the problem. The further reality is that based upon the evidence that has been presented and the evidence here before Council and from the engineers its rather clear to him, although it is ultimately Council’s determination, that an unsafe and nuisance condition exists with respect to that bridge. It creates serious issues for the life, safety, health and general welfare of those in the neighborhood including our police and fire, as articulated in the ordinance. It is further clear to him that we want to address this for the benefit not only of the city but for the neighbor’s. The question ultimately before Council is what is the appropriate and equitable remedy under the law; notice he used both equity and legal issues. In response to Ms. School’s comment about information given to Mr. Porter; any information was not etched in stone it was simply the course of negotiations and as you all know negotiations change and terms change based upon people’s various positions. As a result of those changes and positions we are no further along and therefore the matter is being forced to a head before this Council to make its determination.

Mayor Donegan stated additionally Mr. Porter was not available for any conversation whatsoever or any follow up whatsoever. She, as Mayor in an attempt to bring a resolution to this said that the cost of a new bridge be capped at 100 and anything over 100 the city will pay. It was not fair that Mr. Porters client, not Ms. School but Ms. Haun, paid for the street and maybe we could resolve some other issues by maybe paving the street. To articulate that this was a proposal given by the Mayor is not factual. Ms. School stated this was a joke and Mr. Porter is her attorney and Mrs. Haun pays for a portion of the road. Again, her attorney as well this is a joke.

Mr. Haviland stated that the resolution before Council that Ms. School has asked us to sit down with the Mayor and discuss, there has been hours of dialogue. The Mayor did not unilaterally come up with this resolution Council helped. Ms. School indicated she did not make that statement. Mayor Donegan asked Ms. School not to yell back at Council as Mr. Haviland has the floor to speak. Ms. School stated she would leave as this is pointless. Mr. Haviland stated that the point he is trying to make is that he is trying to take some of the pressure off the Mayor and let Ms. School know. Ms. School interrupted Mr. Haviland indicated that was his job. Mayor Donegan indicated to Ms. School that she was being unfair as this is a Council decision. Ms. School replied she is not unfair as the Mayor will not even acknowledge that Mr. Porter is her attorney. Mayor Donegan stated that on March 28th Mr. Porter did not represent himself as her attorney he represented himself as Ms. Haun’s attorney. She then asked Officer Brewer to remove Ms. School from the meeting. Ms. School replied “give me a break.” Mr. Haviland continued indicated that he wanted to make it clear that Council had the responsibility of helping craft the resolution and he wants the concerns to be directed to Council and not just the Mayor. Council spent hours and hours on this issue. Mayor Donegan stated that this is not a pleasant issue and Council has a tough decision to make. To intimate that there is some sort of conspiracy that the Nyland’s are taking rocks out or the Scheutzow’s are removing rocks is ludicrous and part of the alternative fact narrative that she discussed earlier this evening.

Ted Haun, stated that he has no animosity of the city officials, this is just a problem we are trying to get fixed, it is not personal as far as he is concerned. He is not quite thrilled how the Mayor handled the previous situation but that is beyond the point tonight. Mayor Donegan stated that this is a City Council Chamber and is not a Jerry Springer show with a lot of back and forth. So, when someone cannot get control of themselves they need to either leave or catch a couple breaths, but,

you do not address these people who worked very hard including the law director, clerk, and herself like a Jerry Springer show. Mr. Haun indicated that he does agree. He would like Council to take into consideration some points. As far as the Nyland's, they have always been good neighbors, they have had a lot of civic pride in the community. We do not get much support through the city for what we do down there. All you have to do is look at their property and see that they put time and labor into it as well as money, so, there are no problems with their situation. Now, for 50 years prior to the current owners, the previous owners maintained the property the way it should have been maintained, which includes the bridge. We have maintained our section of the road as our easements and right-of-way's dictate. He is not sure why no one explained to the current owners when they purchased their property that they had easements and right-of-way's, he is not sure why they had no understanding. That should not be the other property owner's responsibility to inform them of their responsibilities. The new owners have put no labor or money into the maintenance of their properties or the bridge. Everyone else on the street being good neighbors have all maintained our properties, that means we put money into them and actual labor into them. They have let this bridge disintegrate to the point that we are now in this situation. It should not be the other property owner's fault's because they choose not to maintain their properties. He does not know if it was because they had no knowledge of what it means to live on a private street. Prior to this situation with Council and civic leaders, since you have gotten involved, they believe, and he does not know why they have this understanding, that now with the city support that they let the bridge get to the point that it is a safety hazard so we can all be forced to pay for it. He does not understand and does not see how the city got involved because prior to that for 50 years the Mayor has told us it was always our responsibility to maintain this property. Mayor Donegan stated that statement is not true as Mr. Thompson, Mayor Blomquist, Councilman Binder were involvement trying to reconcile this issue of a deteriorating bridge for over 30 years. Mr. Haun stated that was news to him and will not say that they didn't. His understanding was when they came down and spoke to us on a few occasions they said it is private and you must maintain it as a private road. All of us being civic minded people in our private community have maintained our properties. They claim that they didn't understand that they had responsibilities because they didn't know there were easements they didn't know that people had right-of-ways. The city says it has one bid for this bridge and its \$100,000 and have added 25% in case it goes up, he is not sure how that works he would think there should be more than one bid. Mayor Donegan stated that was an engineer's estimate which is very different than a bid. Mr. Haun stated that no contractors have given the city a price. Mayor Donegan replied not yet, that is our engineer's estimate and has always been relied upon as such. Mr. Haun stated that he thought the city was at the point where they received an estimate from a contractor. Now, you are also getting into violating our constitutional rights life, liberty and the pursuit of happiness. Our deeds say we can come back and forth freely it does not specify that we have to maintain it to come back and forth. As far as the pursuit of happiness, you have no idea the animosity that has been created on this street, people's yards are barricaded, people aren't talking to each other anymore, it's ridiculous, the whole neighborhood has gone downhill completely. It is basically because a few individuals have chosen not to put nothing into our community which is a private community. That is the issue we have and we don't feel that we should be responsible for taking care of that, he wishes Council would take that into consideration. For 50 years that was not the situation but since these new owners have taken over and put nothing back into it they now expect everyone else to make up for it; why the change.

Ms. Garrity asked if there was any way to find out what kind of repairs were made on the bridge prior. Mayor Donegan stated there is no documentation regarding that. Mr. Rinker indicated he has not received any information regarding repairs.

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)**

Mr. Haviland moved to **remove** from table; Ms. Duncan **seconded**. Poll: 6 ayes; 1 nay (Garrity).
Mr. Haviland moved to **discuss**; Mr. Stibich **seconded**.

Mr. Haviland stated that he respects the work of Chairwoman Tomasch and the Architectural Board of Review very much. In this case, he continues to see that there were inconsistencies in the way that we have applied our ordinances to homeowner's that have made applications for repairs like this in the past. Some have not gone through any permitting, some have not even gone before ABR, some have been given approval while others have had their applications rejected. He is very sensitive to historic designations, with his job for 16 years in Midtown there were historic districts in Prospect and other areas of the City of Cleveland with a lot of historic homes and millionaire's row and he understands that you have to maintain the integrity. But, a letter of opinion was rendered by Alex Pesta, the city architect, that provides assistance to the ABR and in this case his opinion was that there is not going to be anything that destroys historic value of the home or the area. After reviewing this case through he is inclined to reverse ABR's decision on Ms. Pistora's appeal. He wants to make it clear that it was City Architecture's opinion that helped shape his opinion. He believes it would be a pleasure working with ABR, the Mayor and others to see how we can apply these types of issues uniformly. He is satisfied that he does not believe this will cause any irreparable damage to what we are trying to do in Olmsted Falls and will allow Ms. Pistora to proceed with the repairs that she has been patiently waiting for the administration to go through this process.

Ms. Garrity stated that she sat on the ABR board for a number of years and the only thing that confuses her about this letter is that about a year or two ago a gentleman from River Road came in with the same issue about wooden windows. Those windows were in the rear of his property and did not even face the street and Council denied his appeal. She is very confused; because after reading this letter, Mr. Pesta states that from the street view there would be no apparent difference with the vinyl windows. So, to be honest she is just so confused. She sat on ABR for eight years and she is not sure that standing from the street how that plays into the decision in how ABR looks at these requests. She thought there was a much more reasoning as to why wooden windows were the preference. The only other concern she has is that she's been on Council for 10 years; do you know how many people we have turned down in that 10 years with residents not desiring to place wooden windows but rather vinyl. The last person that came to Council lives near the junction and she still sees those people in the street and they refuse to speak to her because she didn't vote for the vinyl windows. How do we rectify all of the people we have turned down in the last 10 years? She is not sure if you stood at the street and looked at the houses you could tell a difference and does not know why we are using that as a criteria now. After spending all this time on ABR and listening to the wooden window debate this just doesn't solve the problem. She also is wondering what ABR's response is to the letter because they are the ones that come here and meet twice a month sometimes they are here until almost 11:00 p.m. so they put their hearts and souls into the historic nature of our city and this to her just does not seem to rectify why we should allow vinyl windows.

Ms. Duncan asked if ABR reviewed Mr. Pesta's letters. Mayor Doengan indicated that she does not know who the ABR liaison is but will say that we have talked about Council getting more involved in this decision. There is a reason that Council sits on boards and commissions and it is not to just necessarily sit there but to do the work of the people which includes the question of is there any truth to an alteration of a historic district by windows having a detrimental effect on the certification of our historic district in general. From what she understands the answer is no but there is a lot of work to be done in this area and she would certainly be appreciative if Council would have a robust debate about finding out what is fact and what is fiction and attempt. She stated that sitting on Council for the past 15 years she will state that there are people that do not come for permits that put whatever windows in that they want and nothing is done to them. There are people who have purchased doors and windows that have gone to ABR and said please let me install them and the Masons are one of them who had a \$3,000 door that they bought and stated that they did not know they were in the historic district and were allowed to install it. There were windows that have been approved and there have been a host of them that have not been approved. She has indicated over the past several years as Mayor that a robust conversation needs to be held by Council by holding work sessions or giving some direction. Additionally if there were any questions with Mr. Pesta's letter nothing was directed to her prior to now and Council is free to pick those phones up. She believes it is time to give Ms. Pistora an answer on her home since the deadline has been far outweighed.

Mr. Haviland stated that one opportunity to revisit this and how we are applying it uniformly could be to go back and look at last year's applications and see what decision was made and if that was the right decision and how can we improve. Mayor Donegan stated that the Vanyo case goes back at least 10 years, the Vanyos live at Brookside and Mill and wanted to put new windows in their home so they could be able to live there longer as they were getting older. ABR approved everything except two windows; they appealed to Council and she was on Council and that time and we overturned that decision and allowed them to put consistent windows in all around their home. We are also working on a letter to all historic district residents that will indicate to them that they are living in the historic district therefore they must follow certain procedures. The policy has not been applied consistently in terms of those who put it in windows or doors on the weekend and then came in after the fact or those that somehow plow through it and don't get approved. She believes that government serves a lot of purposes and one is to be fair and consistent with some of these laws and this is something that she thinks needs a robust discussion with Council.

Ms. Garrity asked if ABR or the Chair saw this response as she would like to see a comment or response from ABR. Mr. Haviland stated that he does not have the answer to that question. Ms. Garrity stated that she believed Mr. Haviland volunteered to follow up with this and was going to contact ABR, if not, she would be happy to, in fact she would tonight. Mayor Donegan stated that it would be helpful if Council met as a whole more than two Council meetings to have these discussions because everyone is doing a lot of things and it's only fair that the work be spread around.

Mr. Gorski indicated that he does agree with the Mayor and Mr. Haviland that this is an excellent opportunity for Council to review this process and make revisions, if necessary, he believes at this point Council has to look at the situation in front of us now. He does not believe it serves any purpose to stall this decision right now and given the opinion of City Architecture he does not see any reason to not move forward.

Mr. Stibich stated that he would like to be clear before voting, ABR denied the applicant's request to install vinyl windows and Ms. Pistora has appealed that decision to Council and Ordinance 23-2017 will affirm that decision and deny Ms. Pistora's rights to install the windows and if Council wants to approve the windows Ordinance 24-2017 needs to be adopted and Ordinance 23-2017 would have to be denied. Mayor Donegan indicated that he was correct.

Mr. Sponseller stated that this is an appeal from an administrative body to Council any reversal or modification of an order of Council would require five votes. Ordinance 23-2017 on affirming the decision, if that is Council's decision, would require four, a simple majority. Ordinance 24-2017 reversing the decision would require five votes. Mr. Stibich stated that if Ordinance 23-2017 fails and Ordinance 24-2017 does not receive five votes, a super majority, would that constitute a denial. Mr. Sponseller indicated that was correct.

Mr. Stibich moved to **adopt**; Ms. Duncan **seconded**. Poll: 2 ayes (Garrity, Stibich); 5 nays. **Motion failed**.

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)**

Mr. Sculac moved to **remove** from table; Mr. Stibich **seconded**. Poll: 7 ayes; 0 nays. **Motion carried**. Mr. Sculac moved to **adopt**; Mr. Gorski **seconded**. Poll: 5 ayes; 2 nays (Garrity, Stibich). **Motion carried**.

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 **Second Reading**

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 **Second Reading**

Mr. Gorski moved to **discuss**; Mr. Miller **seconded**.

Mr. Gorski stated that with this particular issue, given some of the public comment received this evening, he believes it would be in Council's best interest to keep this on the agenda until third reading for the benefit of taking into account all the comments received tonight to evaluate. Mayor

Donegan indicated that an executive session will take place after tonight's meeting in order for Council to have a more robust conversation.

Mr. Sponseller indicated that Council has the engineer's estimate, which is rather detailed, again this is just an estimate and not based upon bids or anything along those lines. The estimated amount of \$107,500 will be inserted into the findings and conclusions. Additionally, Council has a letter from property owners Mr. and Mrs. Nyland, we have additional comments from other property owners, as reflected in the record, and unless there is other substitutive discussion it may be appropriate for Council to consider moving into executive session to further discuss this matter pursuant to ORC 121.22(g)(3).

Ms. Duncan moved to **adjourn** into executive session pursuant to ORC 121.22(G)(3); Mr. Sculac **seconded**. Poll: 7 ayes; 0 nays. **Motion carried**.

The meeting adjourned at 7:46 p.m.

Mr. Gorski moved to **adjourn** into regular session; Ms. Duncan **seconded**. Poll: 7 ayes; 0 nays. **Motion carried**.

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

Meeting adjourned at 8:45 p.m.

Ann Marie Donegan, Mayor

Angela Mancini, Clerk of Council