

*City of Olmsted Falls*  
**Minutes of a Regular Council Meeting**  
**Tuesday, February 27, 2018, at Olmsted Falls City Hall**  
**26100 Bagley Road – Council Chambers, 7:30 p.m.**

The Pledge of Allegiance was recited. Mayor James Graven called the meeting to order at 7:30 p.m. Roll call was conducted. Councilmen Jim Haviland, Paul Stibich, Ed Gorski, Denise Nicolay, Terry Duncan, and Kyle Miller were present.

Mr. Haviland moved to **excuse** Councilwoman Jones, Mr. Gorski **seconded**. Voice Vote: 6 ayes; 0 nays. **Motion carried**.

Also in attendance: Andrew Bemer, Law Director, Vic Nogalo, Finance Director, Joe Borczuch, Service Director, Chad Gluss, Fire Chief and Odis Rogers, Police Chief. Audience: 14.

**Approval of Minutes**

Mr. Gorski moved to **approve** the minutes from the Work Session Meeting of February 6, 2018; Ms. Duncan **seconded**. Mr. Haviland acknowledged that Clerk Mancini did a fabulous job of capturing the meeting in the minutes. He also indicated typographical errors. Mr. Miller also indicated typographical errors. He would also like to echo what Councilman Haviland indicated that the Clerk did a great job with 20 pages of text from what was often times more than one person speaking at the same time. Poll: 6 ayes; 0 nays. **Motion carried**.

Mr. Haviland moved to **approve** the minutes from the Finance Committee Meeting of February 13, 2018; Ms. Duncan **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

Mr. Gorski moved to **approve** the minutes from the Regular Council Meeting of February 13, 2018; Ms. Duncan **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

**Consideration of Amendment to the Agenda** – *None*

**Mayor's Report and Appointments**

Mr. Haviland moved to **appoint** David Neumann to the Charter Review Commission; Mr. Stibich **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

Mayor Graven indicated that Mr. Neumann is present this evening and is an attorney. Mr. Neumann indicated that he is excited to help get his thoughts and attention to the Charter and assist in making it streamlined and effective.

Mayor Graven stated that his first order of importance is his announcement concerning leadership of our police department. He is proud to announce that on February 19, 2018 he promoted Odis Rogers to Olmsted Falls Chief of Police. Chief Rogers participated in the chief's examination that was given on December 16, 2017. He stated that Chief Rogers had the highest score and ranked #1 on the competitive police chief eligibility list. He stated that on February 19, 2018 he also terminated William Traine who was the temporary assistant safety director. It was law firm Walter Haverfield's

opinion that “Mr. Traine may not hold himself out as or otherwise be considered the Olmsted Falls Chief of Police because he was never a member of the classified service of the city thus he does not meet the requirements for the position articulated in the Olmsted Falls Charter and the Civil Service Rules and Regulations. Therefore, Mr. Traine has no standings to file an appeal with Olmsted Falls Civil Service Commission.” The City Charter requires that an Olmsted Falls Chief of Police must be appointed in accordance with the civil service eligibility and examination requirement. All positions above patrol officer shall be filled through competitive promotional testing. Mr. Traine was given the opportunity to take the test in fact he signed up for it but on the day of the exam he failed to show up for the test. Council’s last action regarding Mr. Traine was to appoint him as a temporary assistant safety director and that was back in April of 2017 for six months. He would like all of the citizens to know that as a Mayor he will follow the law, the city charter, the civil service commission rules and all rules relating to city business and procedure. He does not appoint his friends and allow them to circumvent the rules by not taking examinations. While he is Mayor all police and fire promotions shall be done by competitive civil service examinations, that is the purpose of civil service, to remove cronyism, good ole boy politics, favoritism and politics in general. All police and fire promotions during his tenor shall be earned by merit which is by scoring the top on a test and not being friends with the Mayor or Council person.

He stated that Olmsted Falls will try to organize to create an economic vibrancy and cultural center in our downtown. Next week on March 7<sup>th</sup> he will meet with leaders of Heritage Ohio which is the managing organization for Main Street along with a group of business and resident leaders to begin the process of becoming a main street organization. Main Street is responsible for most of the highly successful revitalized downtown and historic districts that you see locally and throughout the United States. This approach will help us create a center of community and cultural life in our downtown and will bring a host of other benefits that will have positive affects throughout the city. He spoke with Mayor Summers of Lakewood last week and he remarked that Main Street has been a resoundingly positive move for downtown Lakewood helping to revitalize their city’s economic development efforts. Main Street reports that for every \$1.00 invested a city receives a \$31.00 return on that investment. While there are many affiliate members we in Olmsted Falls have been an affiliate for two years, many other cities are considering becoming full-fledged Main Street’s and we will be asking, in the near future, City Council to approve us to become a full-fledged Main Street. We will obviously give Council time to research any documentation we have will be provided to give Council time to analysis. We believe if we become full-fledged Main Street’s we will have an advantage as the only Southwestern suburb in our area to be a Main Street. It will be a powerful marketing engine for our community. Our Economic Development Director recently had lunch with Main Street Kent leaders and Kent gave credit to the movement for their current vibrancy and renaissance to Main Street. We look forward to reporting on our progress in this important and unique economic driver.

The ALS engine, the advanced life support engine that he previously spoke about, was placed in service earlier this week.

As he previously discussed Alertism is a modern day block watch. He attended a meeting at Southwest Dispatch last week and will be moving forward to implement. This will be at no cost or very minimal cost to the city. He anticipates this will be in service either late March or April.

**Communications from Residents - None**

**Approval of Bills:**

Mr. Stibich moved to **approve** Pay Ordinance 2018-04; Mr. Gorski **seconded**. Poll: 6 ayes; 0 nays.  
**Motion carried.**

**Officials Reports:**

**Joe Borczuch, Service Director**

Mr. Borczuch stated that he distributed a PCR rating for the city streets including costs. This will help Council understand where the city stands with the dollars received. This list was updated with the help of Don Sheehy. Our street replacements are approximately \$54 million dollars and we receive \$260,000 for repairs each year. He also included an equipment list which also shows replacements.

**Chad Gluss, Fire Chief**

Chief Gluss stated that Ladder One has been placed back into service. Last year he indicated that the ladder would be out of service for a significant period of time, but, he is happy to say it is back and is working perfectly.

He stated that this week the firemen will be going to the Fairview Park Fire Department in order to participate in a Swift Water Operations and awareness level class. This is roughly a three hour class per day. We do have a major waterway running through the city and some of the new members of the department have not been exposed to this training.

On March 12<sup>th</sup> he and Fireman Randy Kimbro will attend a meeting at the University of Cincinnati for Community Paramedicine/Quick Response Team, called Best Practices in Ohio, Kentucky and Indiana. We will attempt to get more information for the city's ongoing revamping of the Community Paramedicine.

Mr. Haviland stated that two years the city honored the rescuers of the Kayakers that were caught in the river and believes the Swift Water Operations is an important training. It was also a very emotional evening. Mr. Gluss stated that there is an organization who actually enter the water behind Gibbs and canoe down into the Rocky River area. So, we do have multiple people in the river especially on the weekends during the summer. Mayor Graven stated that currently the river is dangerous and has a swift current.

**Odis Rogers, Police Chief**

Chief Rogers stated that he reviewed some the department's policies with the Mayor. There are three policies that may need some changes, those policies include use of force, vehicle pursuit and harassment. We will continue making changes to those in the next couple of weeks.

Mayor Graven stated that when retired Commander Heffernan helped perform the police department assessment as part of that assessment we identified these policies. He then notified the Chief that he would like to make some changes to avoid liability and strengthen the procedures manual.

**Vic Nogalo, Finance Director**

Mr. Nogalo stated that he is currently still working on the budget and will have a comprehensive budget to distribute to Council by next Tuesday. Mr. Haviland asked if that information could be given to the chairman of finance in advance of the meeting. Mr. Nogalo stated that he is hoping to

get the budget out by Thursday, worst case scenario is next Tuesday; best case scenario is Thursday or Friday of this week. Mayor Graven indicated that if the budget is distributed to Council on Tuesday that would give everyone a week to review before the Council meeting.

**Councilman Kyle Miller, Ward IV – No Report**

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

**Councilman Pro-Tempore, Paul Stibich**

Mr. Stibich stated that a safety committee meeting was held last week which went quite well. Both fire and police chiefs were in attendance along with the Mayor. There seems to be a good synergy among the three of these gentlemen. He was impressed with the protocols and policies that were discussed and have been put into place since Mayor Graven took office, with the approval of both chief's.

We have on the agenda today an ordinance to appoint the Safety Director and it seems to him that the city has never had a more qualified person to serve as safety director for the city. There has been a lot of discussion on Council about the salary of the safety director and a lot of it is in conjunction with the Mayor's salary, but as far as he is concerned the Mayor's salary has nothing to do with the safety director's salary. If we go outside and hire a person as qualified as Mayor Graven to serve as safety director who was not an employee of the city the law would require us to pay in the range of \$30,000 to \$45,000 per year. But, because the Mayor is an employee of the city that range is cut in half so we will be voting tonight to give him between \$15,000 to \$22,500 a year for safety director salary. It is a bargain no matter how you look at it.

**Councilman Jim Haviland, Council President**

Mr. Haviland stated that he attended a JEDD meeting last evening at which time there was a discussion regarding a joint work session meeting scheduled for March 12<sup>th</sup>. This work session will include the Olmsted Township Trustees and his fellow council members. The meeting will give everyone an update on the JEDD; where we are planning to go; and what has happened over the last few years. He hopes everyone will attend. He acknowledged that he did receive his March 7<sup>th</sup> invitation to participate with Heritage Ohio who are represent Main Street. He will attempt to attend as this is a good program.

**Councilwoman Denise Nicolay, Ward II – No Report**

**Councilwoman Terry Duncan, Ward III**

Ms. Duncan stated that the legislation committee met last week and considered two pieces of legislation. The committee decided not to update Ordinance 10-2017 which was passed in 2017 and deals with the compensation of the employees that are not part of the union's or civil service. The committee also considered another piece of legislation from NOPEC the "Do Not Knock Registry" and will have that placed on the agenda as soon as Mr. Bemer reviews it.

**Andrew Bemer, Law Director**

Mr. Bemer stated that late this afternoon he received correspondence from a law firm concerning potential litigation and will ask Council to entertain an executive session in order to discuss.

## **Old Business**

### ***Ordinance 08-2018***

#### **AN ORDINANCE ESTABLISHING THE APPOINTMENT AND THE COMPENSATION OF THE SAFETY DIRECTOR AND DECLARING AN EMERGENCY *Third Reading***

Mr. Stibich moved to amend the salary of \$15,000 to \$22,500.00 and retroactive to January 1, 2018; Ms. Duncan **seconded**.

Ms. Duncan stated that she has been making this argument for weeks. She agrees with Mr. Stibich that we have a well-qualified safety director in the Mayor. However, the salary of the Mayor was raised to \$80,000 from \$55,000 in the last couple of years which was to be effective with the new Mayor, as you cannot change the Mayor's salary during the term and was specifically to make sure we had a qualified individual at the helm. Traditionally the Mayor has served as the safety director of this community and as such their priority is obviously directing police, fire as well as the service director in safety and security of the community. The second thing they do is budget, but of course the Mayor does the budget. She is having difficulty, not because she does not believe that the position, whoever holds it, should have some qualifications but she also believes that the position has to be beholden to the taxpayers as far as the amount of money that they spend for the salary. We are a community of 9,000 people who will be funding a Mayor that makes over \$100,000 a year if we go with Mr. Stibich's amendment and she is sorry but believes that is too much. She think that is way on the high side. She does not believe that we would ever hire a safety director at \$45,000 because the Mayor, not only the current Mayor is well qualified, but prior Mayors have been able to do the job with good civil service and good service director's and they have been able to do the job fairly well. She is having a real hard time with \$22,500 and was even having a real hard time at the lower end of that at \$15,000 which is what the ordinance currently states and she was actually going to offer an amendment of \$10,000, but be that as it may she did second Mr. Stibich.

Mr. Haviland stated that he appreciates both perspectives, Councilman Stibich and Duncan, and we had a robust conversation about this at our work session. On February 6<sup>th</sup> we discussed our stated goal of financial responsibility and prudence by the Mayor, we also discussed recent reductions in staffing that occurred. In the eyes of court of public opinion we are looking at an increase in the position of safety director and the Mayor. However, when we asked the Mayor to present his qualifications he did and effectively. Again, as Councilman Stibich, and chair of the safety committee, stated there is no question there is a lot of skill sets and again the idea was the ability for Olmsted Falls to have a qualified Mayor and qualified Safety Director and that is what we are looking at. When we discussed this issue with the Mayor we talked about \$22,500 and the Mayor agreed to lower that to \$15,000, which he thought was an indication of a good faith effort. The Mayor also stated that if there is financial problems on the horizon he would be willing to look at that even further. From that point of view, he feels as though the ordinance as it stands right now is a sound one.

Mr. Stibich asked the Law Director if we are required by the Charter to have a safety director. Mr. Bemer replied yes it is part of the Charter. Mr. Stibich stated that the law passed last year set the salary range for the safety director at \$30,000 to \$45,000, it is not a question of paying less than that range or more we have to pay within that range is that correct. Mr. Bemer stated that he would adopt that interpretation. Mr. Stibich asked if we did want to pay less than that range we would have to

amend the legislation that was passed last year. Mr. Bemer replied that he would also concur with that. Mr. Stibich asked Ms. Duncan if her problem is so much with the safety director's salary or with the Mayor's salary. Did we pay too much; did we allow too much for the Mayor's salary a couple of years ago. Ms. Duncan replied we may have. Mr. Stibich stated that Ms. Duncan did approve that \$80,000 salary, correct. Ms. Duncan replied she did. Mr. Stibich stated that someone at that Council meeting pointed out that with the \$22,500 salary for the safety director the Mayor could potentially earn over \$100,000 a year. Ms. Duncan replied yes you did Mr. Stibich. Mr. Stibich stated that everyone was ok with that and now we have a Mayor who is qualified beyond belief for Safety Director and now it's not such a good idea. He stated that he does not understand.

Mr. Gorski stated to get back to the issue he understands that this is sort of a nuance conversation that has been perpetuated many times over the past several years, or at least since the Mayor's salary was increased. However, the issue of the safety director's salary he tends to agree with Council President Haviland's interpretation and thinks where the legislation is set at \$15,000 is sort of the perfect middle point of maintaining some sort of fiscal responsibility with this position but also getting what we are paying for. As he stated at the work session this is not an issue of qualifications, he echo's what everyone else said and believes Mayor Graven is perfectly qualified for this position, but we have to consider the affect this salary is going to have on our budget. He believes that getting Mayor Graven to agree to go down to \$15,000 was the proper move on our part and the proper move on his part therefore, he does not see himself being in favor of anything being amended on the legislation.

Mr. Stibich stated that he would like to point out that the previous Safety Director was paid \$22,500 a year. This was approved in April of last year and made retroactive to January 1<sup>st</sup> and that salary was not approved by Council; we just approved making the Mayor the Safety Director; it was the Safety Director and Mayor's own personal choice to pay themselves \$22,500 a year.

Mr. Miller stated that he fully understands the conversation and has to say that this is not an argument about qualifications, as the Mayor knows we all think very highly of him for this particular position. With that being said, he asked if Mr. Stibich would be open to amending the ordinance in a slightly different way, similar to what we did before, which is to vote to name the Mayor the safety director and then allow the Mayor to name the salary within the range, which would be similar to what we previously did. Mr. Stibich stated that is kind of what we did last year, although we didn't give the Mayor the authority to name her salary as the safety director last year. He believes a vote should be taken on the amendment to \$22,500 and if that fails it stands at \$15,000. Mr. Miller stated that within every other position that we have Council votes for the person to go into that position and then the Mayor, which he has said many times is the CEO of the city, is then able to make the decision of where that person goes, any director level position, within the range. Mr. Stibich stated there is a little bit of conflict of interest which is why it is best for Council to say what it is going to be. Mr. Miller stated that he is fully aware of that conflict but wanted to make that suggestion, ultimately it is a \$7,500 difference. He then asked the finance director if that amount would "break the bank" for us this year and does understand that he has not put the finishing touches on the budget as of yet. Mr. Nogalo replied that based on the totality of the budget it would be an immaterial amount.

Ms. Nicolay asked if there was a way to meet halfway between the amounts. Mr. Stibich replied that would be entirely up to Council. The motion on the floor is \$22,500. Mr. Haviland stated that Council needs to vote on that motion first.

Poll on amendment: 3 ayes; 3 nays (Gorski, Duncan, Haviland). **Motion failed.** Mr. Stibich moved to **adopt**; Mr. Gorski **seconded**. Poll: 6 ayes; 0 nays. **Motion carried.**

### **New Business**

#### ***Ordinance 11-2018***

AN ORDINANCE ESTABLISHING COMPENSATION FOR KEVIN SPELLACY AND VINCE RUFFA AS CO-MAGISTRATES OF THE OLMSTED FALLS MAYOR'S COURT, AND DECLARING AN EMERGENCY **First Reading**

Mr. Stibich moved to **amend** to include "retroactive to January 1, 2018"; Mr. Haviland **seconded**. Voice Vote: 6 ayes; 0 nays. **Motion carried.** Mr. Stibich moved to **suspend**; Mr. Haviland **seconded**. Voice Vote: 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** as amended; Mr. Gorski **seconded**. Mr. Haviland stated that the idea of having co-magistrates gives more flexibility, if someone is on vacation or is in a trial, we have the ability to have the magistrate there when needed. Mayor Graven stated that was correct and for the record the previous magistrate was paid \$1,650.00 a month which equated to \$825.00 per session, these co-magistrates will be paid \$650.00 per session. Poll: 6 ayes; 0 nays. **Motion carried.**

#### ***Ordinance 12-2018***

AN ORDINANCE TO APPROVE CURRENT REPLACEMENT PAGES TO THE OLMSTED FALLS CODIFIED ORDINANCES, AND REPEALING ALL LEGISLATION INCONSISTENT HEREWITH **First Reading**

Mr. Stibich moved to **suspend**; Ms. Duncan **seconded**. Mr. Stibich stated that we discussed the Charter Review Commission getting incorrect Charter rules and so he sees no reason to delay this legislation. Mr. Bemer replied to Mr. Stibich's reference that Walter Drane is a company that reviews the changes in the Ohio Revised Code on all criminal statutes, they take it upon themselves to recommend to various legislative authorities, of Charter communities, to adopt any changes in the Ohio Revised Code to criminal cases so that your city ordinances are consistent with state statute. It may seem redundant but it is not because it has to do with how fines are then allocated, whether it's a state violation or city violation, in order for the city to receive the monies collected as fines of these criminal violations. He stated that Walter Drane encourages each municipality to adopt their version of the state changes so there is a legitimate reason to follow along with the recommendations of Walter Drane. Mr. Stibich indicated that this has no relationship to the errors that were distributed to the Charter Review Commission, these are changes that need to be made. Mr. Bemer replied that was correct. Voice Vote: 6 ayes; 0 nays. **Motion carried.** Mr. Gorski moved to **waive** the reading in its entirety; Mr. Haviland **seconded**. Voice Vote: 6 ayes; 0 nays. **Motion carried.** Mr. Gorski moved to **adopt**; Mr. Miller **seconded**. Poll: 6 ayes; 0 nays. **Motion carried.**

#### ***Ordinance 13-2018***

AN ORDINANCE AUTHORIZING ALL ACTIONS NECESSARY TO ACCEPT NORTHEAST OHIO PUBLIC ENERGY COUNCIL (NOPEC) ENERGIZED COMMUNITY GRANT(S) AND DECLARING AN EMERGENCY **First Reading**

Mr. Stibich moved to **suspend**; Ms. Duncan **seconded**. 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**; Mr. Gorski **seconded**. Mr. Stibich stated that this is to obtain a grant. Mayor Graven replied yes. Mr. Haviland stated that in these types of matters when we can move items along and remove them from the Council docket he believes makes sense. He added that clearly not everything will be suspended. Poll: 6 ayes; 0 nays. **Motion carried**.

**Miscellaneous New Business - None**

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

Mr. Haviland moved to **adjourn into executive session** to discuss matters of pending or imminent litigation pursuant to ORC 121.22(G)(3) and to discuss matters of personnel pursuant to ORC 121.22(G)(1); Mr. Gorski **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

The meeting adjourned at 8:15 p.m.

Ms. Duncan moved to **adjourn into regular session**; Ms. Nicolay **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

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

The meeting adjourned at 9:12 p.m.

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*James Graven, Mayor*

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*Angela Mancini, Clerk of Council*