

*City of Olmsted Falls*  
**Minutes of a Special Council Meeting**  
**Tuesday, July, 24, 2018, at Olmsted Falls City Hall**  
**26100 Bagley Road – Council Chambers, 7:00 p.m.**

The Pledge of Allegiance was recited. Mayor James Graven called the meeting to order at 7:16 p.m. Roll call was conducted. Councilmen Paul Stibich, Jim Haviland, Lori Jones, Ed Gorski, Denise Nicolay, and Terry Duncan were present.

Also in attendance: Andrew D. Bemer, Law Director, Vic Nogalo, Finance Director, Joe Borczuch Service Director, Chad Gluss, Fire Chief and Paula Accordino, Economic Development Director. Audience: 42.

**Administer Oath of Office to Ralph Saxer**

Mayor Graven administered the Oath of Office to Ralph Saxer.

Mayor Graven stated that every member of the Olmsted Falls Police Department is doing a great job. After speaking with Chief Rogers and the other members of the police department we all agree to Ralph Saxer will do a great job in his newly appointed Sergeants position. He thanked everyone for attending tonight's ceremony.

Chief Rogers stated that Mr. Saxer was his FTO and trained him. He is always very appreciated at how he was treated. Now that he is the Chief it is comforting for him and very proud that Mr. Saxer received the promotion to sergeant. He knows that Sgt. Saxer will do a great job and very appreciative.

Mayor Graven recessed the meeting at 7:18 p.m. in order to allow those in attendance for the swearing in ceremony to leave.

The meeting reconvened at 7:22 p.m.

**Consideration of Requisitions/Finance Department Requests**

Mr. Borczuch indicated that one of the roof top units broke last week which covers the finance department. This unit is 18 years old and as he has indicated in the past the life cycle of these units is approximately 11 to 15 years. In order to repair the unit the cost would be \$5,200 and a brand new unit would be \$8,750. It makes more sense to purchase a new unit rather than repair.

Mr. Gorski moved to **approve** a requisition to Buzzard Heating and Air Conditioning for a roof top air conditioning unit in an amount not to exceed \$8,750.00; Ms. Jones **seconded**. Mr. Stibich asked which fund would be utilized for the purchase. Mr. Borczuch indicated that it would be the capital improvement fund. He indicated that every year he budgets for a unit and this purchase has been placed in this year's budget as well. Poll: 6 ayes; 0 nays. **Motion carried.**

Mr. Borczuch indicated that he has a requisition for Meritage System which is the software package used during Safebuilt's tenure with the city. He received a quote for one year in the amount of \$3,900. He would like to continue using this software package for the next year but will begin researching other software packages over the winter months.

Mr. Gorski moved to **approve** a requisition to Meritage Systems for a one year agreement for the building department permitting and inspections software package in an amount not to exceed \$3,900.00; Ms. Duncan **seconded**. Mr. Stibich stated that included in the quote is a onetime set up fee. Mr. Borczuch indicated that the setup fee does not apply as it is set up in the building department. Mr. Stibich asked what software the department was currently using. Mr. Borczuch indicated that Meritage has given him a grace period in order to get Council approval. Poll: 6 ayes; 0 nays. **Motion carried.**

Mr. Borczuch indicated that the work on Hickory should be completed within the next week and a half. He stated that tomorrow he will pave Lewis Road, weather permitting. Mayor Graven indicated that the department did a good job sealing the city administration parking lot. Mr. Borczuch indicated that along with the administration building lot he also resealed and restriped East River Park parking lot, and the Village Green.

Ms. Duncan stated that the contractor working on Hickory has done an excellent job and have been very professional. The water from the heavy rains has drained away nicely.

Mr. Nogalo stated that he distributed a memo to Council regarding his agenda items. As previously discussed he would like to get away from check writing and pay vendors with ACH transactions. He will distribute a list of vendors he would like to pay through ACH. He would like to begin paying the sewer district, Cleveland Division of Water, Illuminating Company, Cox Communications and Columbia Gas with ACH payments as a start. These payments will continue to be on Council's monthly statements.

Mr. Stibich moved to **approve** ACH payments to the following utilities: Northeast Ohio Regional Sewer District, Cleveland Division of Water, the Illuminating Company, Cox Communications and Columbia Gas; Mr. Gorski **seconded**. Poll: 6 ayes; 0 nays. **Motion carried.**

Mr. Nogalo stated that the city will retire notes on August 3<sup>rd</sup> of \$625,000, this year we will pay \$50,000 and will issue a new note in the amount of \$2,075,000. The purchaser of the new notes was Tocqueville Asset Management and Cypress Capital Management. The city does not have a bond rating so next year when we issue out notes or bonds he will attempt to receive a municipal rating.

He stated that the finance department currently banks mostly with PNC and Huntington. There is a First Federal of Lakewood account but there has been no money deposited. He was approached by First Federal of Lakewood and has a presence in Olmsted Township. He believes that he can obtain good rates from them. Also, there is a First National Bank and we would like to add both as possibilities to bank with. He is also looking into obtaining a credit card from one of these institutions.

Mr. Gorski moved to **authorize** the finance department to allow for the inclusion of First Federal of Lakewood and First National Bank as financial institution depositories for the City of Olmsted Falls; Ms. Nicolay **seconded**. Ms. Jones stated that she is assuming when the city deposits money

anywhere we monitor their financial condition and their ratings. She is not overly familiar with the financial conditions of these two banks and asked if Mr. Nogalo checked to see if there is any limit to deposits based on bank ratings. Mr. Nogalo stated that first there is FDIC coverage and the city would not go over that limit. Second, state law requires banking institutions to have specific collateral for municipality deposits and send monthly statements of that specific collateral as back up for the municipality deposit. There are very tough ORC rules and we cannot just bank with a credit union or some other type of banking institution. Mr. Stibich stated that the city has had an open account with First Federal of Lakewood but was never utilized. Mr. Nogalo stated that he believes the account was open but his predecessor never asked Council to designate them as a depository. Mr. Stibich stated that the only bank in town is PNC; will we continue banking with them. Mr. Nogalo stated that for now we will but their fees are quite high. Mr. Stibich asked if there was any other reasons for obtaining additional institutions. Mr. Nogalo stated that he can now compare interest rates between the banks and also solicit proposals for credit cards to determine which one would have the best rate so we can pay vendors with a credit card and receive cashback. Mayor Graven asked what the FDIC coverage would be. Mr. Nogalo believes that amount is \$250,000. Ms. Jones stated that since we have most of our funds with PNC do they do extra projects for us through community reinvestment act. Mr. Nogalo stated that he has not been here long enough to see but Ms. Accordino could entertain them and she may have already approached them. Ms. Jones asked if the new banks would take an interest in Olmsted Falls. Mr. Nogalo stated that First Federal of Lakewood sponsored one of the baseball fields in Lakewood so he knows they do community projects. Ms. Jones stated that was in the Lakewood. Mr. Nogalo stated that he brought that topic up when he spoke with them. Poll: 6 ayes; 0 nays. **Motion carried.**

Mr. Nogalo stated that there is a paper mess in the finance department and file cabinets everywhere so you have to look for documents. He has begun working on a document center and believes he can get a good deal. When he was overseeing the income tax department in Parma Heights we purchased a new document management system in early 2017. Parma Heights paid \$8,900 but never utilized the system as they went to CCA as their income tax agent. The Parma Heights tax department no longer exists, but they still have the rights to this document management system. He spoke to the vendor, GBS, and was informed that they would be willing to transfer the system over to Olmsted Falls if we negotiate a price with Parma Heights. He spoke with the Mayor and we have given an offer to the Parma Heights mayor which was basically a little more than 50% over their cost, he has not responded as of yet. If he does this would come before Council for approval. Ms. Jones asked what the system would be used for. Mr. Nogalo replied all our payments, every check or electronic payment with the invoice, all our receipts, contracts, ordinances, documents, personnel files. There will be security measures in place. The great thing about this system is emailing. For example, you call him and ask for the CEI payments for 2017, if it was scanned, he would click on the check number and hit email which would send to you wherever you are. Ms. Jones stated that when the deal is agreed on there will be maintenance and service agreements because GBS will charge monthly fees for services and asked that Council receive all of those numbers. Mr. Nogalo indicated that once the deal is consummated by Parma Heights there will be software maintenance every year as well as an installation fee, the negotiated amount is just the price of the license. He stated that Parma Heights paid \$8,900 for the license and the total cost which included license, first year maintenance, installation and training was \$13,000 so there will be other costs. Once he knows Parma Heights is agreeable he will present all the other items and costs to Council.

## **Old Business**

### ***Ordinance 34-2018***

AN ORDINANCE AUTHORIZING AND DIRECTING THE SUBMISSION TO THE ELECTORS A PROPOSAL TO AMEND SECTIONS 6.01 AND 6.03 OF ARTICLE VI OF THE CHARTER OF THE CITY OF OLMSTED FALLS TO PROVIDE FOR A NON-PARTISAN PRIMARY ELECTION FOR MAYOR, AND DECLARING AN EMERGENCY  
**Third Reading**

Mr. Gorski moved to **adopt**; Ms. Duncan **seconded**. Poll: 5 ayes; 0 nays. **Motion carried.**

### ***Ordinance 35-2018***

AN ORDINANCE AUTHORIZING AND DIRECTING THE SUBMISSION TO THE ELECTORS A PROPOSAL TO AMEND ARTICLE IV AND ARTICLE V OF THE CHARTER OF THE CITY OF OLMSTED FALLS TO MODIFY THE DUTIES OF MAYOR AND PRESIDENT OF COUNCIL SO THAT THE PRESIDENT OF COUNCIL SHALL NOW PRESIDE AT REGULAR AND SPECIAL COUNCIL MEETINGS, AND DECLARING AN EMERGENCY **Third Reading**

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

### ***Ordinance 36-2018***

AN ORDINANCE AUTHORIZING AND DIRECTING THE SUBMISSION TO THE ELECTORS A PROPOSAL TO AMEND ARTICLE V SECTION 5.01 OF THE CHARTER OF THE CITY OF OLMSTED FALLS TO MODIFY THE TERM OF CITY COUNCIL FROM TWO (2) YEARS TO (4) YEARS AND INCLUDE STAGGERING OF THE NEW FOUR (4) YEAR TERM, AND DECLARING AN EMERGENCY **Third Reading**

Mr. Gorski moved to **adopt**; Mr. Stibich **seconded**. Ms. Jones stated that there was a previous discussion regarding Council placing an amendment to the Charter on the ballot; would it be too late to place an amendment on this year's ballot. For example, someone is elected to a four year term and then resigns six months later then the unexpired term is 3 ½ years without residents voting on their representative and that seems like a long time. Mr. Bemer stated that if this is passed it would go into effect in 2019 and Council would have plenty of time after that to place another amendment on the ballot. Mr. Gorski stated that he believes Mr. Bemer's suggestion is if someone resigns within the first two years of a four year term they would have an election at the mid-point. Ms. Jones stated that if someone resigns at the next general election in November there would be an election. Mr. Bemer stated that makes sense but should wait to see if this amendment is passed by the residents first. Poll: 6 ayes; 0 nays. **Motion carried.**

### ***Ordinance 37-2018***

AN ORDINANCE AUTHORIZING AND DIRECTING THE SUBMISSION TO THE ELECTORS A PROPOSAL TO AMEND ARTICLE XIII OF THE CHARTER OF THE CITY OF OLMSTED FALLS BY ADDING A NEW SECTION TO AUTHORIZE CITY COUNCIL TO REARRANGE THE NUMBERING AND TITLES, CORRECT TYPOGRAPHICAL ERRORS, AND REVISE OBSOLETE LANGUAGE, AND IN THE CHARTER, AND DECLARING AN EMERGENCY **Third Reading**

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

***Ordinance 39-2018***

AN ORDINANCE AMENDING THE ZONING CLASSIFICATION OF PERMANENT PARCEL NOS. 281-22-022; 281-22-021; 281-20-055; 281-17-010; 281-17-011; 281-17-012; 281-17-016; AND 281-17-017 CONSISTING OF APPROXIMATELY 8.64 ACRES AND LOCATED ALONG BROOKSIDE DRIVE FROM P-1 "PROFESSIONAL AND MEDICAL DISTRICT," AND P-2 "PROFESSIONAL OFFICE/MULTI-FAMILY DISTRICT" TO MUTND, "MIXED USE TRADITIONAL NEIGHBORHOOD DISTRICT" AND FURTHER AMENDING THE ZONING MAP OF THE CITY CONSISTENT THERETO **Third Reading**

Mr. Stibich moved to **table**; Mr. Gorski **seconded**. Mr. Gorski asked if this Ordinance should be substituted with its amended version as presented to Council; Mr. Bemmer replied yes. Mr. Gorski **withdrew** his second; Mr. Stibich **withdrew** his motion.

Mr. Gorski moved to substitute Ordinance 39-2018 with Ordinance 39-2018 (AMENDED); Mr. Stibich **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**. Mr. Gorski moved to **table**; Mr. Stibich **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

***Ordinance 42-2018***

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A SEWER SERVICE AGREEMENT WITH BEREAN ANIMAL RESCUE FUND TO PERMIT THE UTILIZATION OF A PORTION OF THE CITY'S SANITARY SEWER SYSTEM AND DECLARING AN EMERGENCY **Second Reading**

Mr. Stibich moved to **discuss**; Mr. Gorski **seconded**. Mr. Stibich asked if Mr. Borczuch would like Council to adopt this ordinance this evening; Mr. Borczuch replied yes. Mr. Stibich inquired why this should be adopted tonight. Mr. Borczuch indicated that the animal rescue would like to begin building in September and this ordinance would allow them to install the sanitary system. Mayor Graven asked if there would be a cost to the city. Mr. Borczuch indicated that there is no cost to the city as the animal rescue will pay a tap in fee and to monitor the connections.

Mr. Gorski moved to **suspend**; Mr. Stibich **seconded**. Voice Vote: 6 ayes; 0 nays. **Motion carried**. Mr. Gorski moved to **waive** the reading in its entirety; Mr. Stibich **seconded**. Voice Vote: 6 ayes; 0 nays. **Motion carried**. Mr. Stibich moved to **adopt**; Mr. Gorski **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

***Ordinance 43-2018***

AN ORDINANCE DESIGNATING A REVITALIZATION DISTRICT WITHIN THE CITY OF OLMSTED FALLS, OHIO AND DECLARING AN EMERGENCY **Second Reading**

**New Business**

***Ordinance 46-2018***

AN ORDINANCE ADOPTING AND RATIFYING THE SUBMISSION OF A GRANT PROPOSAL TO THE MEMBER COMMUNITY INFRASTRUCTURE PROGRAM (MCIP)

OF THE NORTHEAST OHIO REGIONAL SEWER DISTRICT (NEORS) IN THE SUM OF \$1,090,500.00 FOR THE COOK/COLUMBIA SANITARY SEWER PROJECT (PHASE V) AND DECLARING AN EMERGENCY **First Reading**

Mr. Gorski moved to **suspend**; Mr. Stibich **seconded**. Voice Vote: 6 ayes; 0 nays. **Motion carried**. Mr. Gorski moved to **waive** the reading in its entirety; Mr. Stibich **seconded**. Voice Vote: 6 ayes; 0 nays. **Motion carried**. Mr. Gorski moved to **adopt**; Mr. Haviland **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

**Ordinance 47-2018**

AN ORDINANCE AMENDING THE PERMITS AND FEE SCHEDULE FOR EXCAVATION CONTAINED IN SECTION 1020.01 "PERMIT REQUIRED; FEE; DEPOSIT," AND DECLARING AN EMERGENCY **First Reading**

Mr. Stibich moved to **suspend**; Mr. Haviland **seconded**. Mr. Borczuch stated that this would amend this section to be in compliance with the new fee structure recently adopted by Council. 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. Haviland **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

**Resolution 48-2018**

A RESOLUTION AUTHORIZING THE MAYOR TO SUBMIT AN APPLICATION FROM THE CITY OF OLMSTED FALLS FOR FUNDING FOR A PROJECT TO BE CONSIDERED BY THE CUYAHOGA COUNTY COMMUNITY DEVELOPMENT SUPPLEMENTAL GRANT PROGRAM (CDSG) FOR FISCAL YEAR 2018/2019 AND IF AWARDED, ACCEPTING SUCH GRANT, AND DECLARING AN EMERGENCY **First Reading**

Mr. Haviland moved to **suspend**; Mr. Gorski **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. Haviland moved to **adopt**; Mr. Gorski **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

**Ordinance 49-2018**

AN ORDINANCE ENACTING CHAPTER 1032 OF THE CODIFIED ORDINANCES OF THE CITY OF OLMSTED FALLS, ENTITLED "RIGHT OF WAY ADMINISTRATION," AS FURTHER DESCRIBED IN THE ATTACHED EXHIBIT "A", AND DECLARING AN EMERGENCY **First Reading**

Mr. Stibich moved to **discuss**; Mr. Gorski **seconded**. Mr. Bemer stated that he discussed this legislation at the last Council meeting. This is the municipal right-of-way legislative scheme that includes all use of the right-of-way and includes the prospect of small cell antenna being utilized consistent with HB 478 which goes into effect on July 31<sup>st</sup> of this year. Part in parcel with this legislation scheme are design guidelines which are then authorized if this ordinance passes to identify the specifics of small cell antennas from the heights to location as well as districts where poles would be prohibited such as in strategic areas of our historic district to areas of preference to areas of conditional use. He stated that Ms. Accordino has been addressing this along with Mr. Borczuch in order to have those guidelines in effect as soon as possible once the ordinance comes into effect.

Everyone in the State of Ohio anticipates a significant round of applications to begin on August 1<sup>st</sup> of this year, without this legislation the city will lose its ability to control the location as well as the distance of the poles and this is the critical element of this legislation. The legislation was borrowed heavily from the City of Dublin based on a seminar that he attended in June. The City of Rocky River recently adopted this ordinance in almost verbatim fashion last evening as has University Heights. He urges City Council to waive the readings and adopt this legislation this evening.

Mr. Gorski moved to **suspend**; Ms. Jones **seconded**. Mr. Haviland asked if this would help the city recover costs in a more efficient way. Mr. Bemer replied that not to a great extent, the statute cannot be deviated; the state law sets a \$250.00 fee schedule but this will give more control over the locations, which is critical. 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**; Ms. Jones **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

### **Any such other business that may come before Council**

Mr. Gorski stated that Ms. Jones and Ms. Duncan were both on the Charter Review Commission and in regards to the comments made about Ordinance 36-2018 were they discussed during the Charter Review meetings. Ms. Duncan stated that not to her recollection but could have been during the very end as she did miss one meeting. Mr. Gorski asked what the deadline was for Charter amendments. Mr. Bemer indicated 90 days before the date of the election. Mr. Gorski stated that if Council were to consider any further remedy to this ordinance it would need to happen relatively quickly in order to meet the deadline. Ms. Duncan stated that as Mr. Bemer pointed out earlier, this ordinance would have to pass first, if it passes then Council can discuss a remedy, as needed. We can't tell the electorate one way or the other and may decide on their own that this would be a good idea and will keep Council terms at two years, which happened before. We are attempting to make this amendment again and hopefully there will be some voter education by the Charter Review Commission, the city, and Council prior to the election in order to make sure the residents understand. Mr. Stibich stated that the subsequent Charter amendment can be drafted by Council before next year's election.

Mr. Haviland stated that as most are aware he has been out on an extended unpaid leave of absence and would like to thank his colleagues, Mayor Graven and his administrative staff and also the Clerk of Council and his wife, who is in the audience, for their patience and support as it was greatly appreciated. In his absence, Councilman Stibich took over the Council President duties, which he greatly appreciated. Given his continued need for recovery and what he believes is in the best interest of his personal health, his family and the residents of Olmsted Falls which is paramount, and would like to thank them as well for their patience and understanding, he will resign this evening as the Council President and would like to nominate Mr. Stibich to take over those duties.

Mr. Haviland **nominated** Mr. Stibich for the office of Council President; Mr. Gorski **seconded**. Mr. Bemer indicated that Article V of the Charter Section 5.02(b) entitled President Pro-Tempore states that the President Pro-Tempore shall succeed to the office of President of Council in the case of a vacancy, temporary or permanent and shall perform such other duties that are assigned him by this Council or this Charter. Mr. Gorski stated that no motion is necessary. Mr. Bemer indicated that he would interpret this as an automatic elevation of President Pro-Tempore to Council President. Mr. Gorski **removed** his second; Mr. Haviland **removed** his nomination.

Ms. Jones **nominated** Jim Haviland for the office of Council Pro-Tempore; Ms. Nicolay **seconded**. Mr. Gorski stated that last year with the resignation of Council President Linn and doesn't think that the Charter has any succession to the office of Council Pro-Tempore. Mr. Bemer indicated that Councilman Gorski is correct, the closest similarity would be to treat this as if a new organizational meeting is being held, Roberts Rules does not address this and he would encourage Council to treat this as a majority vote to fill the position of President Pro-Tempore. Poll: 5 ayes; 0 nays; 1 abstain (Haviland). **Motion carried.**

Ms. Nicolay would like to request an executive for the purpose of personnel matters pursuant to ORC 121.22(g)(1). Mr. Gorski indicated that council would need to amend the agenda in order to permit this request.

Mr. Stibich moved to **amend** the agenda to provide for an executive session; Mr. Haviland **seconded**. Poll: 6 ayes; 0 nays. **Motion carried.**

Mr. Stibich moved to **adjourn into executive session** to discuss matters of personnel pursuant to ORC 121.22(g)(1); Mr. Haviland **seconded**. Poll: 6 ayes; 0 nays. **Motion carried.**

The meeting adjourned at 8:06 p.m.

Mr. Gorski moved to **adjourn into regular session**; Ms. Jones **seconded**. Poll: 2 ayes (Gorski, Jones); 4 nays. **Motion failed.**

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

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

The meeting adjourned at 8:37 p.m.

---

*James Graven, Mayor*

---

*Angela Mancini, Clerk of Council*