

City of Olmsted Falls
Minutes of a Regular Council Meeting
Tuesday, March 12, 2019, at Olmsted Falls City Hall
26100 Bagley Road – Council Chambers, 7:30 p.m.

The Pledge of Allegiance was recited. Council President Paul Stibich called the meeting to order at 7:330 p.m. Roll call was conducted. Councilmen Jim Haviland, Lori Jones, Ed Gorski, Denise Nicolay, Terry Duncan, and Lee Fenrich were present.

Also, in attendance: James Graven, Mayor, Andrew D. Bemer, Law Director, Vic Nogalo, Finance Director, Odis Rogers, Police Chief, Joe Borczuch, Service Director, and Paula Accordino, Economic Development Director. Audience: 5.

Approval of Minutes

Mr. Gorski moved to **approve** the minutes from the Regular Council meeting of February 26, 2019; Ms. Nicolay **seconded**. Mr. Gorski and Mr. Haviland indicated grammatical errors. Poll as amended: 7 ayes; 0 nays. **Motion carried**.

Consideration of Amendment to the Agenda - None

Mayor's Report and Appointments

Mayor Graven would like to thank all the law enforcement officers who were involved in the police incident on Lake of the Falls Blvd. Wednesday evening. He is very proud of our police department. He cannot get into the specifics of the matter but does want all the residents and Council to know that our police department did a great job. Thank you for protecting our city and catching the suspect within 48 hours.

He also would like to thank the police departments from Olmsted Township, Lorain County Sherriff's Department who also responded and assisted our officers. The Ohio Bureau of Criminal Investigation and the Cuyahoga County Medical Examiners Office who also helped in the investigation. He would like to thank the East Cleveland Police Department who helped in the capture of the suspect.

He stated that during the fiscal year 2018 the city's general fund did stabilize itself and expenditures have been lower than revenues. The revenues have been up and expenses slightly down. The current administration made some personnel changes and cuts in early 2018, overall gross payroll decreased more than 4% by approximately \$140,000. Each and every department continues to review all of their operations to make them as efficient as possible.

Lastly, he would like to mention taxes as a lot of people seem to think that Olmsted Falls has higher taxes, but the fact of the matter is in Cuyahoga County we are average. For example, our income tax is 1.5% and North Olmsted is at 2%; Berea is at 2%; Middleburg Heights is at 2%; and Fairview Park is at 2% so we are lower than our neighbors. As far as property taxes we are average compared to all the cities in Cuyahoga County our city is approximately in the middle.

Communications from Residents

Garry Thompson, stated that he would like to commend Mr. Fenrich for trying to tackle the East River Road bridge. He wrestled with it for 10 years, four years specifically as ward councilman. We proposed a solution which including the city owning the bridge so we could remove all the problems in the future, but again the residents did not sign on. As to what Mr. Stibich indicated it was back in the late 90's that we had options on East Northwood Property and Ken Knuth was the service director, who approached the residents about extending the roadway and the cost at that time was \$250,000 which would have curb and gutters for the whole street and installing storm sewers, but they dismissed it at that time. As a resident and taxpayer, he is not exactly crazy about financing a public project, from the city's standpoint, but if it solves this problem he would support it. Having dealt with all those residents for many years he is not sure what the solution is and believes the city is taking the best path at this time and supports and commends Council on what they are attempting to do.

Mr. Thompson stated that as many of you know a joint meeting was held with representatives from the school, the city and the township on Monday February 25th. We also had two representatives there one that handles survey's and one that puts together some of the legal stuff and helps process multiple governmental jurisdictions through the ballot box. He believes everyone probably received information from Roetzel Consulting Services which was sent out with the survey from Fallon Research Group, and if not please let him know. The costs came in higher than what was originally thought which is due to the monthly retainer.

He stated that if Council would reference the letter dated March 7, 2019 it is another estimate that she gave with a fixed amount which is much less than the retainer. Now, having said that, this proposal would put together the steps and a Memorandum of Understanding would be necessary to finance the agreement between the Falls, Township and school board. But, while he was out of town, he received a letter from the school board, (see attached). While the school is still fully in support of this financially, they do not want to be a part of it nor do they want to be a part of the board. They may want to be an ex officio member if the board is formed if the board decides to do that. Basically, at this point they are stepping out of the position of the board. That leaves it between the Falls and Township which is basically what the legislation states because these are the two entities that need to come together to form the district. From his perspective he believes this is a positive because if the board does programs with the schools having two representatives on the board could possibly create a conflict of interest, also with entering into contracts for property that the school board owns and/or leases. He believes it is probably a positive at this point not a negative and they are still very supportive of creating the joint recreational district as they reference in the letter. The entire group wanted to have some type of survey completed and we attempted to obtain proposals for that.

He is requesting that Council table the legislation this evening. He does appreciate the fact that Council moved ahead with this issue and placed it on their agenda as that is what spurred a lot of conversations and work that has taken place in the last couple of weeks. He stated that now there needs to be a discussion as to whether to engage with Roetzel Consulting or to complete a survey itself. He is also investigating the possibility of having a third party make a generous donation to offset the part the school board would have played into this. There is not guarantees but he is exploring a couple of possibilities to help alleviate some of the financial stresses for both the Falls and Township.

Mr. Stibich indicated that the cost from Roetzel of \$4,500 is for legal services and does not need to be initiated until the board is formed. Mr. Thompson stated that the survey can be completed without the legal services. There was a question during the meeting about how the city or township would pay to have the survey completed and it was expressed that a Memorandum of Understanding would be needed between both communities. Mayor Graven asked if that cost was the \$30,000 figure. Mr. Thompson replied no. The survey cost is \$15,000 but he is working on getting that figure reduced. Mayor Graven asked for a total ballpark figure. Mr. Thompson replied if we were to do both the cost would be \$20,000, so \$10,000 a piece. He believes that it is possible, but the decision would be between the law director and county prosecutor, for them to develop the Memorandum of Understanding for the payment of the bills, basically to determine who would they send the bills to. Mr. Stibich asked if it could be a simple matter of the city writing a check for ½ and the township writing a check for ½. Mr. Thompson stated that he would defer that question to either the finance director or law director. Mr. Bemer indicated that he could contact the township's legal representation through the county.

Mr. Fenrich asked if this discussion is regarding the \$4,500 fixed fee or the \$18,000 fixed fee. Mr. Thompson stated that the \$18,000 figure is no longer in existence. Mr. Stibich indicated that Roetzel has replaced that cost with a flat fee of \$4,500. Mayor Graven asked if Mr. Fenrich was referring to the \$20,000 survey cost. Mr. Fenrich stated that he has two documents one showing \$4,500 for a flat fee for initial formation of the district and a cost of \$6,000 a month or \$18,000 maximum, additional expenses will be preapproved by the client. Mr. Thompson stated that Roetzel submitted the \$4,500 flat fee proposal after the \$18,000 proposal. He also believes that the memorandum could possibly be completed in house. Mr. Stibich asked who would perform the survey. Mr. Thompson replied Fallon Research and their quoted cost is \$15,000, at this point. Mayor Graven asked if anyone on the committee discussed the possibility of a fundraiser. For example, if 400 people were to show up at a fundraiser it would indicate that people within our two communities are excited and the money from the fundraiser could pay for the survey. Mr. Stibich replied that Mr. Thompson mentioned that he was going to approach some individuals for donations. Mr. Thompson replied correct. Mr. Stibich stated that he does believe someone mentioned fundraising activities previously. Mayor Graven stated for example, our Vietnam Veteran Memorial had a lot of people excited who then purchased the magnets and made donations. Mr. Thompson stated that it would not be out of the question but he was not trying to create a big buzz about this publicly at this point. We are putting forth the survey because all the parties involved wanted to know what the residents thought. Mayor Graven indicated that if a fundraiser was held and we find out there are hundreds of people excited it would be a good initial gauge. Mr. Thompson stated that he does not believe that will tell us who wants to do this or not. He has talked to other survey companies which would be considerably cheaper. Mr. Stibich indicated that Fallon was chosen because of their affiliation with the schools and the confidence the schools have in their testing techniques and results. Mr. Thompson replied correct, their margin of error is 5% or less based on polling 300 people. The survey is based on the demographics of the community and we are talking about 25,000 residents not just the Falls itself. They have completed several surveys for the schools that he has seen which are very well done and executed. Fallon was spot on for the last survey for the bond issue in 2016. Mr. Stibich stated that at this point Mr. Thompson will speak with Fallon to determine if they could trim down the costs and also look into alternate funding source to reduce the city and townships share. Mr. Thompson we are going to try and reduce the expenses to the city moving along. At this point if we were to continue to engage both parties the costs would be \$10,000 for each. The township has agreed to go ahead with the survey but are bulking a little on the \$4,500 cost. To be honest, if the survey comes back and says that 65% of the people have no interest in this whatsoever, we are done as he is not going to fight a rising river.

He would not even be approaching this if he did not think it was possible. The cost to each resident, depending on what is built, is not that great because it would be spread over the whole community not just the Falls or the Township. He does know costs are but will not put that information out publicly at this point but the numbers came in much lower than he thought. As the Mayor previously stated our taxes are average as he also received the informational sheet from the county in the mail which contains all the effective tax rates of the city, township and everyone around us and yes we are right in the middle. He knows everyone complains about our taxes and to be honest he thinks that is why the school is a little concerned because as you know they get 68% or 70% of the tax dollars collected in this community. Mr. Nogalo replied 60%. Mr. Thompson replied it use to be 68% so the schools are very sensitive to that and he is sensitive to that as well. He also knows that the schools are planning on an operating levy sometime in the very near future, whether that is 2019 or 2020 he does not know. Mr. Stibich replied that he is sure all those factors went into their decision not to participate. Mr. Thompson replied that they deliberated quite a bit and this was not a decision they made easily but they are very pleased that the Falls and Township are working cooperatively together to address the issue.

He stated that he wanted to update Council and will review the legislation; should this move forward the legislation would need to be amended to eliminate the two representatives from the school board. The board would still consist of five members, two from Falls, two from Township and they would then probably still elect their third member as the chairperson, if everyone agrees. We will get back to Council once we try to get some of the costs abated. He is all in favor of saving money but does believe the survey is needed before fundraising.

Approval of Bills:

Mr. Gorski moved to **approve** Pay Ordinance 2019-05; Mr. Haviland **seconded**. Poll: 7 ayes; 0 nays.
Motion carried.

Officials Reports:

Odis Rogers, Police Chief

Chief Rogers stated that he would like to echo the Mayor's comments and the efforts of the police department. He stated that the he and the Mayor had the opportunity to speak with the victims family and expressed the city's condolences, the department's condolences and how we would be moving forward. He and the Mayor expressed to the family of the victim how we would be moving forward and what it was about and that it was about their loved one. Having said that, he would also like to thank all the members of the police department, not just the officer's involved that night and the pursuing nights executing search warrants, etc. The officers that came in to back fill and cover shifts because when an incident like this occurs in a city everything else still happens, we still have neighbor disputes, car crashes, and things that need to be done and a lot of times very serious things that need to be done. He is very proud of the department and how well the officer's responded.

Joe Borczuch, Service Director

Mr. Borczuch indicated that he has a few requisitions that will need to be approved.

He stated that the first on is to United Survey which is in addition to the \$10,000 that was previously approved by council to line the storm sewer on Columbia Road.

Mr. Gorski moved to **approve** a requisition to United Survey to line 200' of storm sewer in an amount not to exceed \$3,200.00; Mr. Haviland **seconded**. Voice vote: 7 ayes; 0 nays. **Motion carried.**

Mr. Borczuch indicated that the street sweeping bids were opened. Street sweeping is performed two to three times a year on curbed streets. The bid last year was \$106.00 per hour and this year it is \$110.00 per hour and is the only bid received.

Mr. Fenrich moved to **approve** a requisition to Southwest Sweeping for the 2019 street sweeping season in an amount not to exceed \$10,000; Mr. Gorski **seconded**. Voice Vote: 7 ayes; 0 nays. **Motion carried.**

Mr. Borczuch indicated that the miscellaneous pavement marking bids were opened. He stated that he received two bids. One was for \$16,835.26 and the other bid was for \$22,500.00. Last year's prices were \$15,961.00.

Mr. Gorski moved to **approve** a requisition to JD Striping and Service for miscellaneous pavement markings for the 2019 season in an amount not to exceed \$16,835.26; Mr. Fenrich **seconded**. Voice vote: 7 ayes; 0 nays. **Motion carried.**

Mr. Borczuch indicated that as a point of reference last year at this time we used 1,000 tons of salt and is exactly where we are this year.

Paula Accordino, Economic Development Director – No Report

Vic Nogalo, Finance Director – No Report

Councilwoman Denise Nicolay, Ward II – No Report

Councilman Ed Gorski, Ward I – No Report

Councilwoman Terry Duncan, Ward III

Ms. Duncan stated that the Park and Recreation Board have finalized at least through the summer their activities, kicking off with Memorial Day, three concerts at East River Park, and an Ice Cream Social in conjunction with the veteran's memorial at the Village Green on June 22nd. However, the board has decided not to pursue a 4th of July parade this year because it falls in the middle of the week and those are generally poorly attended, they will help if Heritage Days needs assistance.

Councilman Lee Fenrich, Ward IV – No Report

Councilwoman Lori Jones, Council-at-Large

Ms. Jones asked Mr. Nogalo if the February financial statements would be ready for the next monthly. Mr. Nogalo replied that Ms. Novak has been ill the last few days and that he would get copies to Council as soon as possible.

Ms. Jones indicated that there would be a finance committee meeting prior to the next Council meeting on March 26th at 6:45 p.m.

Council Pro-Tempore Jim Haviland – No Report

Council President Paul Stibich

Mr. Stibich indicated that the Interim Fire Chief submitted a requisition to replace a furnace in the fire station. One of the three original furnaces in the fire station's living area needs to be replaced.

Mr. Gorski moved to **approve** a requisition to Buzzard Heating and Air Conditioning for a new furnace, labor and installation for the fire department in an amount not to exceed \$3,733.52; Mr. Fenrich **seconded**. Voice Vote: 7 ayes; 0 nays. **Motion carried**.

Mr. Stibich indicated that the Clerk received a letter and invoice from an organization called NOISE and is a national aviation noise organization that advocates in Washington D.C. on behalf of locally elected officials. The city has been a member of this organization in the past and as many of you know we have had issues and needed resources and help with the airport in the past but it is his understanding that the city has not been a member for a few years. Neither he nor the Mayor are in favor of paying the dues to be members for the 2019 year and would like to know if any Council members have any questions or disagrees with that decision. Mr. Haviland asked what was the cost of dues. Mr. Stibich replied \$385.00 which is minimal but the organization is of no benefit to the city. Mr. Fenrich asked what the purpose was of the organization. Mr. Stibich replied that they are advocates in Washington, D.C. on national aviation noise.

Mr. Stibich stated that the Olmsted Falls Basketball Team will be playing in the regional semi-finals on Thursday night. This is the Sweet 16 and will play against St. Vincent/St. Mary's. He stated that the team had a tremendous victory Saturday evening. Again, a little town with small resources working hard and doing a good job. He congratulated the team and wished them best of luck in Akron. He stated that when his son was a senior in high school the basketball team also made it to the regionals and the big man on the team was Mike Ganzy and he now works for the Cavaliers as a recruiter and believes he was in Miami when Lebron James was there. He stated that Mike Ganzy was a senior the year Lebron James was a freshman and Mr. Ganzy was the candidate coming into the season for Ohio Mr. Basketball and lost out to Lebron James.

Andrew D. Bemer, Law Director

Mr. Bemer stated that the Gilles/Battaglia case the city was involved in was a breach of contract and it has been reported to us that judgment on the pleadings were granted to the city on the Gilles claim, the rest of the litigation continues.

The matter of Thompson vs. City of Olmsted Falls is an allegation of a wrongful termination of a probationary part time employee in the police department. As you see, we are \$364.00 away from meeting our deductible and the insurance company has become involved and has recommended a settlement of the case in the amount of \$7,000 which would be paid by the insurance company. He does not believe Council needs to take any action this is just a notice to all of us.

The Civil Service Commission met last Wednesday and reviewed the notice for the fire chief's test. As you may recall the test was postponed due to injury of the testing individual. During the meeting a revision was made to the notice to identify that indeed there is a written component and is now specifically stated in the notice. The written component was always a part of the test as they routinely give to both police and fire chief's but this provides a clear notice to everyone. According to Ms. Mancini both the posting and the publication of the new notice will be executed this coming

Thursday the 14th of March and exist for two weeks. The new testing date is April 13th here at the Jenkins Center. He would like to thank Chief Rogers who has been very participatory in the Civil Service Commission process lending his field of experience.

This past week he had an occasion to have a good and productive discussion with Councilwoman Jones regarding some of the issues that came up with civil service during the last councilmanic meeting. This discussion was a very healthy exchange of ideas and information, very constructive participation, he believes on both parts, and he wanted to thank Councilwoman Jones for her efforts in keeping on top of everything.

Old Business

Ordinance 09-2019

AN ORDINANCE AUTHORIZING AN INCREASE OF FIFTEEN DOLLARS (\$15.00) TO THE OLMSTED FALLS MAYOR'S COURT COSTS, AND EARMARKING SAID INCREASE TO THE PURCHASE OF CITY POLICE DEPARTMENT VEHICLES, AND DECLARING AN EMERGENCY **Third Reading**

Mr. Gorski moved to **adopt**; Ms. Duncan **seconded**. Mr. Nogalo indicated that a separate fund will be made exclusively for this new revenue source and legislation will be presented to Council. Poll: 7 ayes; 0 nays. **Motion carried.**

Resolution 14-2019

A RESOLUTION TO FORM THE OLMSTED JOINT RECREATION DISTRICT BETWEEN THE CITY OF OLMSTED FALLS AND OLMSTED TOWNSHIP AND DECLARING AN EMERGENCY **Third Reading**

Mr. Gorski moved to **table**; Mr. Fenrich **seconded**. Poll: 7 ayes; 0 nays. **Motion carried.**

Resolution 17-2019

A RESOLUTION REPEALING RESOLUTION 36-2017 WHICH PROVIDED FOR THE ABATEMENT OF NUISANCE CONDITIONS BY THE REPLACEMENT OF THE BRIDGE OVER BAKER'S CREEK WITH CONTRACTED SERVICES AND THE ASSESSMENT OF CONTIGUOUS PROPERTY OWNERS **Second Reading**

New Business

Resolution 19-2019

A RESOLUTION AUTHORIZING THE MAYOR TO SUBMIT AN APPLICATION FROM THE CITY OF OLMSTED FALLS TO THE HARDING FAMILY TRUST FOR MAINTENANCE OF THE CHARLES HARDING MEMORIAL BRIDGE, AND IF AWARDED, ACCEPTING SUCH GRANT, AND DECLARING AN EMERGENCY **First Reading**

Mr. Gorski moved to **suspend**; Ms. Duncan **seconded**. Voice Vote: 7 ayes; 0 nays. **Motion carried.**
Mr. Gorski moved to **waive** the reading in its entirety; Mr. Fenrich **seconded**. Voice Vote: 7 ayes; 0

nays. **Motion carried.** Mr. Gorski moved to **adopt**; Mr. Haviland **seconded**. Poll: 7 ayes; 0 nays. **Motion carried.**

Resolution 20-2019

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CERTAIN LEASE AGREEMENT WITH OLMSTED COMMUNITY EMERGENCY RESPONSE TEAM (CERT) FOR CONSTRUCTION OF A STORAGE FACILITY TO BE LOCATED IN THE FIRE DEPARTMENT PARKING LOT PROPERTY, AND DECLARING AN EMERGENCY **First Reading**

Ms. Jones moved to **discuss**; Mr. Gorski **seconded**. Ms. Jones asked what is considered their parking lot. Mayor Graven indicated that it would be located between the fire station and service garage. Mr. Borczuch indicated that the building will be in the spot where the dumpsters are located in the fire department parking lot. There is a utility pole that can be used for the electric for the building. This will give them 24-hour access as well as lighting in the parking lot. Mr. Stibich asked if the electricity would be separately metered. Mr. Borczuch indicated that there is a separate meter on the pole that would be used for the building in order to easily monitor. He does not believe that there were any major electrical costs. He stated that the CERT trailer is also covered under the city's insurance. Ms. Duncan asked if this was the area that was discussed for a community garden. Mr. Borczuch replied no.

Mr. Gorski moved to **suspend**; Ms. Duncan **seconded**. Voice Vote: 7 ayes; 0 nays. **Motion carried.** Mr. Gorski moved to **waive** the reading in its entirety; Mr. Fenrich **seconded**. Voice Vote: 7 ayes; 0 nays. **Motion carried.** Mr. Gorski moved to **adopt**; Ms. Duncan **seconded**. Poll: 7 ayes; 0 nays. **Motion carried.**

Ordinance 21-2019

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A HYDRANT AGREEMENT WITH THE RURAL LORAIN COUNTY WATER AUTHORITY TO INSTALL AND MAINTAIN 79 FIRE HYDRANTS AT AN ANNUAL COST OF \$59.16 PER HYDRANT AND DECLARING AN EMERGENCY **First Reading**

Ms. Duncan moved to **suspend**; Mr. Haviland **seconded**. Voice Vote: 7 ayes; 0 nays. **Motion carried.** Ms. Duncan moved to **waive** the reading in its entirety; Mr. Fenrich **seconded**. Voice Vote: 7 ayes; 0 nays. **Motion carried.** Ms. Duncan moved to **adopt**; Mr. Fenrich **seconded**. Ms. Jones asked if more hydrants would be installed or providing maintenance for existing hydrants. Mr. Borczuch indicated that this is for maintenance. There are currently 79 hydrants that serve in the Southeast quadrant of our city. They will also install one if a hydrant is broken and there is a current broken one on Grist Mill which would cost the city \$5,000 to \$7,000 without this agreement. Mr. Stibich indicated that Rural Lorain is flushing them and making sure they are operable and if not repairing the issue. Mr. Fenrich stated that the agreement states the Lorain County Water does not guarantee the flow or pressure at the hydrant to be sufficient for purposes of firefighting and asked if that was common. Mr. Borczuch indicated that most water departments make the same statement as they cannot guarantee that and then takes the liability off of Rural Lorain Water. Poll: 7 ayes; 0 nays. **Motion carried.**

Miscellaneous New Business

Ms. Duncan stated that she has Alertizen however, her and her husband both wondered why the shooting that happened around the corner from her home never made Alertizen. Chief Rogers indicated that during the set-up process we were able to pick what would go out to the community and he had a couple of concerns during the initial stages, one was vigilantism and the other was nosey people. We knew that there were certain POC codes, or police call codes that we were not going to send out for the safety of residents. He understands that Ms. Duncan may think that with a shooting everyone in the neighborhood should know, but if you think about it logically the people closest to the incident should already know and the last thing, we want people to do it to start sticking their heads out their doors and windows. He stated that this POC code is homicide and is not one of the codes that goes out to the residents.

Ms. Jones asked if there was a civil service meeting on the 20th. Mr. Bemer replied yes civil service will meet next Wednesday the 20th at 4:15 p.m.

Such other business that may come before Council - None

Mr. Gorski moved to **adjourn** into executive session to discuss economic development matters pursuant to ORC 121.022(G)(2) and pending litigation pursuant to ORC 121.22(G)(3); Mr. Fenrich **seconded**. Poll: 7 ayes; 0 nays. **Motion carried**.

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

Meeting reconvened at 9:11 p.m.

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

The meeting adjourned at 9:11 p.m.

Paul Stibich, Council President

Angela Mancini, Clerk of Council