

City of Olmsted Falls
Minutes of a Council Work Session
Tuesday, March 12, 2019, at Olmsted Falls City Hall
26100 Bagley Road – Council Chambers, 6:30 p.m.

Council President Stibich called the meeting to order at 6:35 p.m. Roll call was conducted. Councilmen Jim Haviland, Lori Jones, Ed Gorski, Denise Nicolay, Terry Duncan, and Lee Fenrich were present.

Others Present: James Graven, Mayor, and Andrew D. Bemer, Law Director.

Mr. Stibich indicated that our Clerk of Council has a request, our last work session was a little chaotic for transcribing minutes. As you remember there were a lot of firefighters present and a lot of comments from the audience, we did try to get people to identify themselves and there were many times, Council members included, were speaking over other people who were talking therefore, the Clerk is asking when people speak they identify themselves, Council voices she knows, and members of the audience need to speak at the podium and identify themselves. The Clerk does a good job on the accuracy of the minutes and it is hard for the minutes to be accurate if the clerk does not know who is speaking or is able to hear what someone is saying because they are speaking over someone else.

City of Resolution 17-2019 – Baker’s Creek Bridge

Mr. Fenrich indicated that before he begins, we shall respect and listen to all sides, be accountable, seek common ground and work together towards a common goal. He would like to update Council regarding where this issue stands. As everyone is aware, the bridge, which he will call a passageway, 9 out of 10 property owners use and have an easement to use the bridge, the 10th one does not but rather grant the easement to the other nine. There are two people who own part of the bridge and an easement to cross over the bridge. The bottom line is, based on the law as we have come to find out, easements holders, those who travel across the bridge, are required to maintained the bridge not the easement grantor. So, from this point on he is addressing nine residents. The Nylands have two separate issues, they carry insurance to cover liabilities but they are not required to maintain the bridge as they do not use the bridge. By definition, the passageway is not a private road, it is a shared driveway and as such the definition of a shared driveway versus a private road is that each of the residents own a portion of the roadway that comes from the bridge to their homes. The property lines go to the middle of that road. If you decide to turn that into a private drive the residents who have to reset property lines and dedicate that section as an individual piece of property, pay your share of taxes, and form a homeowner’s association and pay dues to maintain this piece of property. As such, as a private driveway the city is not required, nor do they have an obligation to maintain that road, bridge or passageway and is not owned by the City. As a convenience, the city is offering to provide financing to those who are willing to pay for the bridge. The City does not need the bridge to access anyone’s property as we have a city owned emergency access that leads to East Northwood. This belongs to the city and is temporarily being used by the residents until this issue is solved and there will be a deadline imposed, but at this point no notice has been sent out. He would like to discuss new information or solutions but would prefer not rehashing everything that has already been discussed.

Mr. Fenrich indicated that we have met with Mr. Guzik, the representative of the group, a couple of times and he has done a lot of homework on the resident's behalf and is trying his best to come up with a solution. We have discussed repealing the ordinance and he was under the impression that the ordinance would be modified, but the law director has made it clear that modifying the ordinance would be more cumbersome and would create more delays rather than just repealing and starting over again. Therefore, council will repeal the ordinance that indicates the city would be a part of this project, but the city is still offering to finance the project for the residents. He spoke with the City Engineer who has indicated that there is a contingency built into the replacement costs of the bridge and the approximate amount is \$140,000. Mr. Stibich indicated that the ordinance is currently on second reading and will move forward to third reading at which time Council will vote. He understands that Council will discuss the city's options. He also knows that Mr. Fenrich has spoken with Mr. Guzik and many of the residents. It appears that of the nine residents on the east side of the bridge and use the bridge seven are willing to share the costs and two that feel they do not have to share costs. Mr. Fenrich replied at this point that is correct. He stated that he is willing to meet with all the residents again, if needed. Mr. Stibich indicated that if only seven of the residents are willing to share the costs Council needs to determine the city's options. Mr. Fenrich indicated that based on what he has read in the law the city is not permitted to get involved in this and were overstepping our bounds to start with and it is pretty clear that it is between the easement holders. Mr. Stibich indicated this is a private matter. Mr. Fenrich indicated that the city is willing to help with financing because a bank will not loan money to seven residents to build a new bridge. Mayor Graven indicated that the financing would be over 20 years. Mr. Fenrich indicated that the approximate amount per month for \$140,000 in financing would be \$60.00.

Mr. Bemer indicated that he does appreciate Councilman Fenrich's overview what has transpired. The litigation is still ongoing and the Nylands attorney, Mr. Resar, is present this evening. He does not believe that we are ready to say that the city overstepped its bounds as there were other predict issues, such as the public nuisance and equalization that have never been adjudicated on the merits. With that being said, based on what he has reviewed this was in effect the 50th anniversary of this ongoing controversy based on article copies. In 2017 what the previous Council completed was extremely noble and a very gracious effort to bring residents together, but has not come to pass. He would like to acknowledge Mr. Guzik for his efforts in bringing the neighborhood together and hopefully there can be some resolution or solution to fund the bridge and repayment through assessment and somehow assess those residents that still get the benefit from the bridge going forward.

Mary School, 9580 East River Road, stated that when Mr. Fenrich met with residents on Sunday, January 13th his proposal was that anyone who wished to participate in the financing of the new bridge could do so. He stated that he was representing the Mayor's directive and that if we could not come to a solution the access road would be closed resulting in of course locking us in. He also stated that the city was pulling its promise of a 10% cost participation and that the city would be removing itself from the entire situation. She does not believe there is any disagreement, he basically reiterated that this evening. She stated that Mr. Fenrich asked for a show of hands as to who would participate and she believes the key is when Mr. Fenrich said anyone who was willing to participate and that was repeated again tonight. Six residents voted yes, Mrs. Haun, herself, and Ruth Kohl voted no, she is unsure if Mr. Tom Norton was contacted and voted in the affirmative because according to her count there are only six people who were willing and Mr. Norton would be the 7th. To her knowledge he has not affirmed or denied and of course the Nylands, bridge owners, were given a pass on having responsibility at all. She stated that Mr. Fenrich recommended that the residents appoint a spokesperson which they did with Mr. Guzik and Mr. Guzik was directed to gather the names of the

people who were willing to participate, present them to the city, who would take of the legal logistics and the process of bridge replacement would begin. She stated in her mind we were done anybody who wished to participate could do so. She stated that a short time later she received a memo stating that East River Road was on longer a private road it was instead a long driveway, the implication being that all residents would have to pay for a new bridge. As an aside, every past administration and past practice has declared this to be a non-dedicated private road and she believes everyone is aware of that. She asked what happened to the offer proposed by Mr. Fenrich, as it seems it just went away. In her opinion this is just the most current example of how the story changes and the details change and the strategies change and how history changes or is being attempted to change. She believes this is being done to keep us confused and intimidated so that the city, the bridge owners, and other interested parties can achieve a singular goal, to force us all to pay for a privately-owned bridge whose owners have deliberately allowed it to fall to ruin, thereby denying us our right to pass, no one considers that, we have the right to pass. She would like to ask why the proposal of the 13th, which Mr. Fenrich offered to voice the city's position has just gone away. Mr. Fenrich replied that what he told her on the 13th was that the city was withdrawing from that proposal, they will not be a part of it. Ms. School replied right. Mr. Fenrich indicated at this point the city does not have a say in who pays for that bridge and asked if Ms. School uses the bridge. Ms. School replied yes, of course. Mr. Fenrich stated she has an easement to the bridge. Ms. School replied correct. Mr. Fenrich replied that the law that states the easement holder must pay for the bridge is wrong? Ms. School replied that is what he is proposing and that is the effort he is making to bring forth, she does not happen to agree with that. Mayor Graven stated that the city does not want to force anyone to pay for the bridge that is why we are asking all the residents to come together as a group and determine a solution and have everyone voluntarily contribute. Mr. Stibich indicated that the fact is this is a problem for the residents but the city is attempting to help solve this issue. Ms. School replied if that is the case then why doesn't the city get out of it. Mr. Fenrich indicated that is what we are doing, that is what this ordinance is about, we are stepping aside and turning it back to the easement holders, which would be Ms. School and the rest of the owners, except for the Nylands, who are the easement grantors. We are turning it over to you to decide who wants to pay for this bridge. If your neighbors are willing to pick up the tab so you can travel the bridge for free that is their decision. The city is not going to force anyone to do anything, we are going to collect through taxes from the people who agree to pay for the bridge. If you feel it is not your responsibility to pay for something that you use, that's up to you. This is a shared driveway and she shares it with eight other people and it is up to those people to come up with a solution, the city will facilitate the loan. Ms. School stated that she is not debating what has been stated, but then her question goes to the law director as to why he said "what steps can be taken to assess people who don't pay." Mr. Bemer indicated that will be up to the property owners. Ms. School stated that if people don't pay you are not going to assess those who choice not to pay. Mr. Bemer indicated that the city is staying out of this. This has been going on for two years as a councilmanic directive but at this point the cost is rising just on legal fees for the city. There are residents that are opposed to this and like he previously stated it was a very noble effort, but at this point it is unfortunate for the residents who want to pay their fair share. Eventually the litigation initiated by the Nylands will be terminated but now this could become a private lawsuit because if there are seven residents who have paid for the bridge they may sue Ms. School for her share because she is receiving a benefit form the bridge, or a toll road with a gate and the seven who have paid will have free passes but everyone else will have to pay. Ms. School stated that she will have to see if that comes to pass. Mr. Bemer replied how can you have seven residents who are willing to pay their fair share to benefit everybody and there are two or three that refuse to pay but want the free pass, that is not fair, equitably, morally, or in the eyes of the law. City Council is stepping away from this and it will be up to the residents to figure out how to move forward. One other point, this came up back in

October when the administration was still looking to help extricate the problem through compromise, we have residents from Northwood where the emergency easement is located and being used, not for their benefit, but for the benefits of those who refuse to get together and pay for the necessary repairs for the bridge and they are being negatively impacted by everybody's vehicle coming within five feet of their house how many times a day. In order to satisfy some residents, the administration has caused major inconvenience and disquiet to those folks and Mayor Graven represents these constituents and it is not fair for that to continue being allowed. This is an emergency access and will be used if there is a need for fire or police but as far as the residents using that has to stop. Mayor Graven indicated that these residents purchased their homes in a cul-de-sac and they have children who play in that cul-de-sac which was the reason they purchased those homes. They did not expect that an emergency easement, to be used by emergency vehicles only, would be used by vehicles. We have to look out for the safety and best interests for all of our residents. Mr. Stibich indicated that when East Northwood was built the city had an option to purchase one of the lots and turn it into an extension of East Northwood into East River and make it a city road and the residents of East River Road turned that option down.

Ms. School stated that she never received that option and believes Mr. Stibich received wrong information. She stated that this discussion has interrupted the flow of her thoughts, so bear with her. She stated that when the bridge was replaced the last time the three owners paid for the replacement of the bridge, the three owners. Mayor Graven asked what year was the bridge replaced. Mr. Haun indicated it was replaced in approximately 1969. Mayor Graven replied 50 years ago. Ms. School stated that she believes past practice is very much a bearing. Mr. Stibich stated that if someone helped paint her house one year it would be expected that he should return the next year. Ms. School replied that is not apples to apples. Mr. Fenrich replied it is. Ms. School asked if the idea is to break this up so that she cannot get her remarks stated. Mr. Stibich asked her to continue.

Ms. School stated that the city has done nothing to require the bridge owners to abate the safety issue caused by their bridge and yet the very same safety issue is the argument you are giving to close the access road and just as an aside, this is not in her remarks, the cul-de-sac is not a playground it is a public road and feels very much to her that this issue of abatement is being implemented in a very discriminatory manner when it comes to closing the access road, the safety issue for those people but disregarding the safety issue for the bridge for us, and a lack of being able to use it, support of the bridge owners, non-support of non-bridge owners and using it as a vehicle to dismiss the Nylands lawsuit against the city. She has been advised that past practice is an important consideration that every Olmsted Falls administration has unanimously recognized our road as a private road from its inception. This cannot be changed on a whim, you just can't say "poof it's a long driveway," "poof it's this" it requires the unanimous consent of all residents on that road via county requirements. She believes and has been advised that it is illegal to tax persons on property that they don't own. She has been advised that it is illegal to jeopardize the safety and health of persons by creating a landlock that will not allow persons to leave or come to their property. The moment a non-bridge owner gives so much as one penny to this bridge, this is important, that resident automatically becomes legally responsible for the bridge and all occurrences on it from that point forward. This is her proposal, recognizing and Mr. Fenrich basically said this, that the proposal offered by Councilmen Fenrich on January 13th be implemented, in other words that anyone who wishes to pay go ahead. She understands that some of those details have changed in terms of the Nylands being removed from responsibility and those are things that would have to be discussed if in fact you are going to walk away from this or, recognizing that in July, 2016 the three bridge owners unilaterally closed that bridge no asking us, no consulting with us, nothing they closed it with the consent and the cooperation

of the city and that the city in turn opened the access road to accommodate that closing. That these parties, the three owners and the city, who put this whole situation in motion be responsible for fixing it, the three owners and the city put it in motion. Every suggestion that the non-owners have offered to this administration and the last have simply been dismissed. This is based on before; the city is being now even ignoring its own proposals which Mr. Fenrich was referencing but he has since clarified. She stated that Ted Haun is here and has worked on the erection of public bridges and has built private bridges of this very same nature, he has tried to give direction but like the rest of our suggestions he has been simply ignored or dismissed. He will be talking about the steps that can be taken to proceed and at a major cost reduction to the owners. She is asking Council to hear those suggestions. As far as she is concerned, the city, the rest of us do not need anymore bad press or anymore lawsuits. Just as a point of consideration, she did some calculations without the 2% interest. She stated that the city proposes a cost of \$140,000 based on 10 people including the Nylands, if we take that down to six and we use the city costs from the city engineer it would be \$97.22 a month for 240 months, plus 2%. If that amount was \$135,000 it would be \$93.75 for 240 months for six people. Now, Mr. Haun believes with his experience behind him and his facts he believes the cost would be probably \$65,000 to address that bridge, she estimated it at \$80,000 for six people which would be \$55.55 a month.

Mr. Stibich indicated that Mr. Guzik and Ms. School are free to speak with the neighbors and if they can come up with a plan to rebuild the bridge for \$80,000 and the city can help or assist with the financing, we will look into that. Right now, there are no quotes stating \$60,000 or \$80,000. Ms. School stated that she is bothered by the fact that we have to keep doing this if you are out of it then let us settle it, stay out. Mr. Stibich replied please do that. Ms. School asked if she has to repeat her statement at the next meeting in order to get it on the record. Mr. Stibich indicated that this meeting is on the record.

Ted Haun, East River Road, stated that we have jumped around to quite a few different points regarding the easement and when the city offered to buy a lot; that did come up and then it was decided it would not happen. One of the property owners gave the city 25 feet for an easement, which happened. Then they turned one lot into two lots which took away six feet of that easement, which cut it down to 18 feet and is one of the reasons the fire trucks cannot make the turn. Mayor Graven indicated that an ambulance can make the turn and the for the record the firefighters were there performing drills and can stretch lines through back yards. Mr. Haun indicated that he does realize they can do that. This point was just brought up and the councilman was not quite as sure as he was or he was not aware of some of the things that actually did take place. These are past administration issues and the current administration is being brought into an issue they had nothing to do with to begin with. Now, it has been stated that all the easement owners are responsible for the bridge because we use it. His understanding, with our deed and easements, is that we are not responsible and everyone keeps telling him it is the description of the easement and that we either don't agree or don't understand. He has looked it up in Webster's dictionary. Mr. Stibich indicated that he would understand the Ohio Supreme Courts definition. Mr. Haun agreed, and this could go to court and be at the point where a judge needs to decide. Mr. Stibich indicated that the city is not here to argue the easement but rather to try and find a solution to help the residents solve this problem and build a bridge. Mr. Haun indicated that he understands; and what was said is that the parties that do not want to participate do not have to participate but the law director does not feel that is fair. Our understanding of our agreement when we purchased our properties, and if he reads it and breaks down the definitions, it really is pretty simple, like you said we can take it to the Supreme Court but don't act like that we are totally disregarding the situation. He will read the definitions which are common

sense and is really self-explanatory. Mr. Stibich indicated that he understands that Mr. Haun and Ms. School feel strongly about their position and frankly some disagree. Mr. Haun stated that basically what is being said is that our understanding is that we have to go to court to settle the matter and get a court order taking us out of the picture because now the city has said they are out of the picture. As far as the city putting a loan together that is a realistic point, because it would be hard to get someone to bid on a project unless the financing is there. As far as what Ms. School discussed regarding the cost of the bridge, his understanding at the last council meeting is that the bridge will be built to the conditions of the job site but he does not know the exact design because no one is showing us and he does not know the builder that will be used because nobody has told us. He assumes the city has somebody in mind they would build it at that cost but it should be open to bid even with the city putting the money up because these prices are high. Mr. Stibich indicated that it will be bid but we do need a starting place. Mr. Haun agrees and believes for material and labor you could build that bridge for about \$75,000 to \$80,000 and \$75,000 is a pretty good profit for somebody on that small of a project. Most builders in the City of Cleveland would love to have that opportunity because it is a good profit. One position is that we are not responsible if we do not want to participate, that is fine, but he would ask if we do not participate, and we have to discuss this with our neighbors, and they let us out of this there will not be no attempt to put a lien on our property for the taxes because that is basically what has been said two or three times. Mr. Stibich indicated that the city will not have any part in that. Mr. Haun stated that it has been said that the homeowners would have to sue us personally. Mr. Stibich replied yes that could happen. Mr. Haun replied that he understands, the same as we could sue them because we feel that we are being taken advantage of because one of the Councilmen last week told him that they didn't understand how our easement was written or the meaning of it and that we needed to look into the matter and sue. We don't want to sue anyone, he does not think that Olmsted Falls or the residents have enough money to be dragged into lawsuits and we don't want to drag homeowners into lawsuits but, if that is where it goes then that is where we all be; just like you are stuck here in this situation now. So, he is asking, are we out of it if we choose not to participate. Mr. Stibich replied that all he can say is that the city will have nothing to do with it other than arrange the financing. Mr. Haun stated that he is asking the legal department. Mr. Bemer stated that if City Council makes a decision that they will go forward and repeal the former legislation the city is out of it. Mr. Haun replied with the abatement issue. Mr. Bemer replied yes. It is not an acknowledgment that the Nylands were correct in their position it is just becoming expensive for the taxpayers in general, so if the city is out of it and the homeowners decide to enter an agreement with each other, with the Nylands, to improve the property that would be wonderful. Mr. Haun stated that is what a lot of us want. Mr. Bemer stated the city engineer was asked for an estimate and he will do that estimate based on prevailing wage, based on the responsibility of public bidding and so forth, so if you can do it in a cheaper fashion that complies with the Ohio Building Code, wonderful. Mr. Haun stated that he understands but he also understood that some of those codes would be gone around and that was also discussed at the last meeting but he is unsure of that statement because he was not in attendance at that meeting. As far as the cost goes, that is open to interpretation, even though the city is putting up the money to save the homeowners, whoever pays for it, should be put up for bid. Mr. Stibich replied it will. Mr. Bemer indicated that is the law. Mr. Haun stated that it is not a flat rate of \$140,000 with a 10% override, if you get an estimate for a lower price, but the city will put up the money so when the look for contractors to come in and give a price and give a definition as well as how they will build it and it passes all city and county ordinances it could be built. Mr. Bemer replied that he believes City Council is giving that option. Mr. Haun stated that he is trying to get an idea as to where this whole issue is at because it changes quite a bit. A lot of those changes had nothing to do with this administration.

Mr. Haun stated he would like to discuss the abatement issue because last week he asked a question about it and was told that no one understood about it and he brought up the fact that it could have been used to have the bridge repaired before but it wasn't but now you will use the abatement to get out of a lawsuit, which he understands it can be used for that. Mr. Bemer replied that the abatement was to abate the nuisance. Mr. Haun asked if that would release the Nylands. Mr. Bemer indicated that is still a point of legal dispute and is all part of the lawsuit. Mr. Haun stated that if you can get the Supreme Court to say the city is right then it is right. Mr. Bemer indicated like he previously stated the city is interested in getting out of the lawsuit and incurring any additional legal expenses. Mr. Haun indicated he understands and does not blame the city for wanting to get out of the lawsuit as they should have never been in it to begin with. Past administrations, except the one prior to this administration, stayed out of it and understood it was private property and should have never gotten involved. The past administration did help in the decision to close the bridge and do no maintenance on it or try to improve it in the hopes that the city would pay for and that didn't work out so now it is the homeowners, this administration had not control and neither did the residents. His question regarding the abatement issue, last week when he was leaving one of the Council members asked him about it and informed him to look into it and good luck with what is found. He is curious as to what the problem was, as you do not have someone point that out.

Mr. Fenrich indicated that he did not tell anyone to sue anyone. Mr. Haun replied that was an option he was left with. Mr. Fenrich replied that he would have never left him with that option. He would advise, at this point, that Mr. Haun seek an attorney because obviously he does not believe what the city tells him. He would suggest an impartial attorney and ask him to define the easement laws then speak with his fellow neighbors. Mr. Stibich indicated that his best advise is for Mr. Haun to work with his neighbors to get this resolved. Mr. Haun indicated that he just wanted to see where this issue is at and it was explained that the residents were not responsible and the city would not tax us.

Ms. Jones stated that she would like some clarification. There is a bridge and if you do not cross that bridge Mr. Haun cannot get to their homes. Mr. Fenrich replied correct. Ms. Jones stated that this is not a city street. Mr. Stibich replied correct. Ms. Jones stated that the easement road is not intended to be a city street and if they do not come to a resolution the easement road will be closed. Mayor Graven indicated that it will only be open to emergency vehicles. Mr. Gorski asked if this was an easement or access road. Mr. Stibich indicated that it is an emergency access area and there is an easement on it.

Ruby Haun stated that when she purchased her home the whole area was owned by one individual. She stated that we found out that it was being sold by Cleveland Trust Bank and we went out to look at it, we saw the bridge and the whole area being owned by one individual. We had it researched and rented for one year with an option to buy in order to pay to have it researched to see if it had any liens on it, the easements, the bridge and everything else. The documents go back all the way to the Quarry's. We had an easement to come and go with a horse and buggy or anything. As far as the road, the driveway is hers and is on her deed, the whole thing. On the deeds the road is supposed to be 25 feet wide, when we moved in the road was wider at the bridge up to where the old window and door factory was located. The road was there for them to use the business. When she moved in her property had no road there were just tracks for the house next door. They have an easement over her driveway and she gave the lady she purchased her home from an easement to build their first house in the back, then she gave an easement to build Mary School's house. So, she owns the entire street but it has always been called East River Road, when it was Westview, since its been Olmsted Falls and when she first moved in and is how it is worded in the deeds. She paid rent for a year in order to have

her property researched so that she would not be responsible for anything which is the reason she feels the way she does. She has paid for her driveway so that the other people have a decent road to come in and out on, the last time she did work to the driveway it cost \$6,000. She has put money in for 60 years and now somebody wants her to start, since she took care of hers for the other people that had to come through her property, to pay for somebody else's property. It is not her fault if they bought without checking it out because it does cost quite a bit of money to have property researched to see if it has any liens or anything it was quite expensive even back then. Mayor Graven stated that the Councilwomen asked when Ms. Haun purchased her property was she ever concerned about what would happen if the bridge ever went out. Ms. Haun replied the owners built the last bridge she did not pay a penny on it because the attorney told her that when you pay on it to expect that she would be helping them out the rest of the time because you will make yourself responsible for the bridge and of course she had to pay him to tell her that. She has lived there for 61 years and knows all about when the easement was given, who gave the easement, and how wide the easement was, because when she moved in the area was a cornfield.

Ken Resar, stated that he is an attorney with the firm of Riley, Resar and Associates, 520 Broadway, Suite #200, Lorain, Ohio and represents the Nylands. With respect to some of the comments that have been made this evening, he has spoken with Mr. Guzik regarding the need to develop actual written easement agreements between the Nylands, the other owners of the bridge property and the other property owners who are willing to contribute. We would like to get this matter resolved once and for all so there is a document in place that spells out who's responsibility it is to maintain the property and so there are certain rights to cross over the property. Also, so that everyone is protected moving forward and the property owners know that they have a right of access and know what their obligations will be and whose duty it will be. In his discussions with Mr. Guzik, and in emails and other documents, there is an easement, they have a right to use that as it is a prescriptive easement and certainly our position is that because they have the right to use it they certainly have the obligation to maintain it also. With respect to the comment that the bridge has been closed unlawfully, it is his understanding that the bridge actually hasn't been closed, it is still open to pedestrian traffic and people still walk across it and take their garbage cans out so they still have the right to use that bridge and the easement area. If the bridge gave out, they would still have the right to drive their cars right through the river and go up the other side so no one is stopping them from doing that. The only reason the bridge "has been closed" is because of a determination by the city and the property owners that it was not safe and it is a safety reason and if the property owners who actually use the easement and use that bridge fixed it then the Nylands certainly would not be doing anything to prevent those people from using that easement. Any issue here that was raised that they were somehow unilaterally closing the bridge and preventing people from using it and blocking the use of that easement he does not believe is correct. Also, he would like to inform Council that the Nylands are certainly in a position and willing to work with the willing owners to work out written agreements and put them in place so that this bridge can actually get fixed and can be done in a relatively timely manner. Based on the people involved and that agreement, whether it is one or two, he would most probably try and lay out some easements that govern the bridge itself and also the driveway. Mr. Stibich indicated that he is sure Council would support all those efforts for the residents to work this out themselves. Mr. Resar stated that whether Council is involved or not, based on his understanding of the law, certainly those property owners that use the bridge, if they agree to pay for the construction, they would certainly have a claim against the non-contributing partners for their respective share of the cost of the bridge and for any future maintenance costs and if it that gets litigated then it gets litigated. Obviously, we know in litigation no attorney can ever guarantee the outcome but we can certainly look at what the existing law is and have a pretty good idea of what the outcome will be. Mr. Stibich stated that the

cost of litigation is almost as much or maybe more than the respective shares of the bridge. Mr. Resar replied that unfortunately litigation can get very expensive.

Ms. Jones asked the what the plan was for the emergency access road. Mayor Graven indicated that it is not a road, it is an easement only to be used for emergency vehicles. Ms. Jones asked if a gate would be put up. Mr. Stibich stated that the plan has always been to keep the emergency easement in a condition that it is able to be used in an emergency and we have maintained it by putting gravel down, leveling it out or whatever was needed. There has always been a locked gate and that gate was left open when the bridge was condemned as a convenience for the residents in the hopes that they would come up with a way to repair the bridge and that has not happened. Mr. Borczuch stated that even when the gate was up, it used to be cut and side posts pulled out so they could drive through there. Mr. Stibich stated that the lock or chain would be cut and the gate opened illegally.

Mr. Haviland stated that she believes what Ms. Jones is asking is a timing question, the ordinance will be on third reading in two weeks and Council will take action and is probably the point in which we will decide when that access road will be closed. Mayor Graven replied correct.

Discussion Regarding Hiring Outside Individual and/or Firm to Review Olmsted Falls Civil Service Process

Mr. Stibich indicated that this could be discussed at another meeting and asked if there was any urgency. Mr. Gorski replied no. Ms. Jones replied no as well.

Adjournment

Mr. Gorski moved to **adjourn**; Ms. Nicolay **seconded**. Voice Vote: 7 ayes; 0 nays. **Motion carried**.

The meeting adjourned at 7:40 p.m.

Paul Stibich, Council President

Angela Mancini, Clerk of Council