City of Olmsted Falls  
Minutes of a Regular Council Meeting  
Tuesday, April 9, 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 7:31 p.m. Roll call was conducted. Councilmen Lori Jones, Ed Gorski, Denise Nicolay, Terry Duncan, and Lee Fenrich were present. Councilmen Jim Haviland was excused.

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: 3.

Approval of Minutes
Mr. Gorski moved to approve the minutes from the Finance Committee Meeting of March 26, 2019; Ms. Duncan seconded. Poll: 5 ayes; 0 nays; 1 abstain (Jones). Motion carried.

Mr. Fenrich moved to approve the minutes from the Regular Council meeting of March 26, 2019; Ms. Duncan seconded. Poll: 5 ayes; 0 nays; 1 abstain (Jones). Motion carried.

Consideration of Amendment to the Agenda - None

Mayor’s Report and Appointments
Mayor Graven indicated that he would like to share some good news, the county has awarded our city a grant of $50,000 for a Wayfinding Community Branding and Navigation study. This will be significant for both economic development and safety as it will help our residents and visitors to be better oriented to the important parts of the city including the business district, parking, schools, government buildings and medical facilities. This will also help people be more aware of their surroundings and help them know whether they are in the City of Olmsted Falls or Olmsted Township. This has been an issue in some emergency situations. Based on the study, we will also develop a coordinated brand, identify gateways into our city and announce our community’s assets including our historic downtown, the water falls, and parks. We will also have an eight (8) person citizens steering committee to provide input and will begin meeting in May. The study should be complete by September.

Also, our City has learned that we will be the recipients of an additional $193,000 from the Ohio Department of Transportation which will be directed toward road repairs and our Service Director is very pleased. We should receive some of this money late Summer or early Fall.

He stated that the Community Reinvestment Area (CRA) legislation that is being introduced this evening is the city’s first true economic investment incentive and is a critically important tool for our community to attract new business and also support the existing businesses to stay within our community. Our community is about the only Northeast Ohio city that does not use a CRA in its tool kit to attract business and will also help current homeowners make substantial improvements to their
homes with tax abatement. The CRA is directly in line with our community’s master plan and can be found on page 122 of the Master Plan listed as Goal #2 within the housing section. It states that designation of a CRA for the neighborhoods around downtown, including homes in the historic district. It is also a tool that will help with preservation and maintenance while serving to increase the long-term real estate values in our community. It is also in line with our new zoning and the CRA is designed to work in conjunction with zoning and other legislative ways that will enhance and protect our community for long term sustainability.

Finally, the lawsuit that was filed by former Acting Assistant Safety Director William Traine versus the City we have good news about. The presiding judge has ruled in favor of the city and read part of the journal entry written by Judge Gaul. Mayor Graven stated that this is a direct quote from Judge Gaul “The Ohio Supreme Court recognizes that the goal of civil service laws and rules is to remove politics from public service employment, even lawful authority may not be exercised to circumvent civil service protections. The Olmsted Falls City Charter states that a police chief must be appointed following a competitive promotional exam. In addition, a classified service position shall be filled from an eligible list established by a competitive promotional exam and that the position of police chief is subject to an exam. Appointments to all positions in the classified civil service shall be made only from those persons whose names take rank order on an eligible list and no employment shall be otherwise given in the classified service. Former Mayor Donegan enlisted the advice of the Littler Mendelson Law Firm to determine whether Plaintiff Traine held the position as police chief in a permanent classified capacity, that the Mayor was subsequently provided with correspondence outlining the potential applicable laws hereinafter called the Littler letter. Per the Littler letter “under normal circumstances appointments and promotions in the civil service of cities shall be made according to merit and fitness as is practical by competitive examination.” Prior to Plaintiff Traine’s permanent appointment former Mayor Donegan requested the examination be administered which it was, but instead of choosing a proper candidate for police chief from individuals who took the exam Mayor Donegan choose to ignore civil service law and ignore the exam results in favor of appointing Plaintiff Traine. The Plaintiff’s theory creates an impermissible situation whereby placing an individual into a temporary position for extended periods of time automatically leads to permanent employment, which would effectively circumvent the very rules promulgated to ensure that promotions are based on merit and not on political affiliation. Plaintiff Traine failed to properly obtain his position as police chief so he cannot be afforded the protections of being a classified employee. Considering an unclassified employee is terminable at will Mayor Graven had the authority to fire Plaintiff at his discretion.”

**Communications from Residents** - None

**Approval of Bills:**
Mr. Fenrich moved to **approve** Pay Ordinance 2019-07; Mr. Gorski **seconded**. Mr. Stibich stated that there is a $21,165 payment to Chagrin Valley Engineering and asked if this payment was part of the Phase V Sewer Project and asked if the city would be reimbursed from bond funds. Mr. Nogalo replied that most of the invoice was for Phase V but there was a portion for another project. He will provide the spreadsheet for Chagrin Valley invoicing to Council tomorrow. Mr. Stibich stated that there is also a check to Kotecki Monuments for $1,375.00 for the Vietnam Memorial. He stated that as he recalls Kotecki is giving the city special pricing for this monument. Ms. Accordino indicated that they are donating 50% of the monument. We raised above and beyond our initial goal so the
bench is an extra piece and this is the downtown payment for that bench. Poll: 6 ayes; 0 nays. Motion carried.

**Officials Reports:**

**Odis Rogers, Police Chief – No Report**
Mr. Stibich thanked Chief Rogers for his efforts regarding the traffic enforcement on West Road.

**Joe Borczuch, Service Director – No Report**

**Paula Accordino, Economic Development Director**
Ms. Accordino stated that today was the first day of a three series partnership that the city has developed with the Ohio SBDC which is the business education segment of the Small Business Association. We are doing a partnership with the Olmsted Chamber for business education and today was the digital marketing session that was attended by ten people. She is excited about this project to help with business education.

We are out in full force on both the business expansion and retention efforts talking to existing manufacturers to let them know about the potential of the CRA and there is some interest. One of the manufacturing companies is planning an HVAC project and potentially is looking in the next year to expand the footprint of their building and possibly adding another shift with six more employees. This is already building some momentum just with the prospect of this so good things are on the horizon.

**Vic Nogalo, Finance Director – No Report**

**Councilwoman Denise Nicolay – No Report**

**Councilman Ed Gorski, Ward I**
Mr. Gorski stated that he would like to know if there would by any objection to the introduction line of Ordinance 27-2019 being changed to Mayor James Graven and Council as a Whole to show Council as a sponsor as well. There were no objections.

**Councilwoman Terry Duncan, Ward III**
Ms. Duncan stated that Scott McDonald has resigned from the Park and Recreation Board. Mayor Graven indicated that he has thanked Mr. McDonald for his service. Ms. Duncan indicated that Tony Campanalie resigned from Shade Tree Commission this evening. Therefore, there are two open positions.

She stated that the Park and Recreation Board has begun reviewing the master plan in addition to the programming that they do throughout the year and the current status of playground equipment at the Village Green. She stated that it is nice to see volunteers getting interested in our parks and taking it a step beyond just programming. She advised that there will be some requests from the board for the parks. They have also asked that the parks be included in the wayfinding study as it is difficult to find all of Fortier Park.
Councilman Lee Fenrich, Ward IV
Mr. Fenrich indicated that a letter has been sent to the Bakers Creek Bridge residents and as of June 14, 2019 the access road will be closed unless we hear something from the residents regarding replacing the bridge. He sent an email to Mr. John Guzik asking him for a progress report, but he has not received a response. He knows that Mr. Guzik is feverishly working on a solution.

He stated that a fundraiser is being held for K9 Officer Gauge and this would be a great opportunity to meet the new K9 at Tony K’s the cost is $25.00 per ticket. He stated that this would be a great thing for all of us to attend to show Council support. The event will take place on Saturday, June 1st from 7:00 p.m. until 10:00 p.m.

Lastly, this Sunday is the Kiwanis Pancake Breakfast at the Olmsted Falls High School. If you have not seen the renovated high school it is worth the cost to get into the breakfast just to see the new cafeteria. The breakfast will take place from 8:00 a.m. until 12:30 p.m.

Councilwoman Lori Jones
Ms. Jones stated that she was reading the Council minutes from the meeting she missed and was wondering if there is anybody in the service department that will be surprised that they are not part of civil service. Mr. Bemer indicated that during a Civil Service meeting while reviewing the rules and comparing them with the ORC and the City Charter Chairman Smith indicated that he did not believe the service department part was right and believed there was a charter amendment and it was removed. The next day we engaged the Clerk to do background research and we found a charter amendment from 2002 that indicated there was indeed a proposition to modify some of the things in Section 10.05 and everybody thought it included removing service department workers from civil service. There was a reference in a City Council meeting in March of 2003 that we reviewed that indicated that the civil service rules should be modified to reflect the electorate’s decision and it seemed liked it was a positive vote; well it was not. When we reviewed the ballot language it identified removing the secretary from the civil service commission and changing the definition of full-time hours but did not address the service workers regarding their status in civil service. At the same time, with Ms. Mancini’s help, we reviewed all the old collective bargaining agreements to see what they said and the one through 2005 which covers the period of 2003, 2004 and 2005 still included the service garage workers as being part of civil service. From 2006 forward they were removed and not identified as part of civil service. He has not completed any extensive research but it seems that this is one of those items that some one in the past determined that by contract the workers could change their status from civil service and that was a determination made 13 years ago and how it has continued to be treated historically since that time. Ms. Jones asked Service Director Borczuch if there were any employees in the service garage that are part of civil service. Mr. Borczuch replied that there are only two that have taken a civil service test.

Ms. Duncan asked if this was something that would be part of that administration correction to our charter. Mr. Bemer replied yes this would be a good item for Council action to make the necessary correction in the Charter.

Council President Paul Stibich – No Report
Andrew D. Bemer, Law Director
Mr. Bemer indicated that the litigation regarding Traine is about 80% complete. There is one count regarding age discrimination that continues to pend but the opinion that we received from Judge Gaul is clearly a victory for the civil service process. Probably the best part of this whole issue is the legacy of the case when Odis Rogers happened to take the police chief’s test a year ago December and he prevailed to be the number one candidate. He stated that in the last 15 or 16 months he has been serving the City of Olmsted Falls he has not met a more dedicated committed professional public servant; the things the Chief has done in the police department in providing guidance is just immeasurable and he believes the Chief is probably the best thing that has come along for this city in the last year and a half. There is an end to the means, this Friday and Saturday we have another civil service promotional test for fire chief. We have 17 candidates and 16 are outside candidates we have a good reason to hope that we land a person as a new fire chief that will rival Chief Rogers in the same dedication. Ms. Jones asked if they are all paramedics. The Clerk responded yes.

Old Business

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 Tabled on Third Reading (3/12/19)

Remained Tabled.

New Business

Resolution 24-2019
A RESOLUTION APPROVING RENEWAL APPLICATIONS TO PLACE CERTAIN LANDS INTO AGRICULTURAL DISTRICTS First Reading

Mr. Stibich indicated that Council must hold a public hearing regarding this resolution. Therefore, a public hearing will be scheduled for May 14, 2019 at 7:25 p.m.

Ms. Jones asked what makes them agricultural. Mr. Stibich indicated that there are benefits that they receive from the County and to continue the district the resolution has to be adopted by Council.

Resolution 25-2019
A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING (AGREEMENT) WITH CUYAHOGA COUNTY OFFICE OF EMERGENCY MANAGEMENT TO PARTICIPATE IN THE “READY NOTIFY” EMERGENCY ANNOUNCEMENT PROGRAM First Reading

Mr. Gorski moved to suspend; Mr. Fenrich seconded. Voice Vote: 6 ayes; 0 nays. Motion carried.
Mr. Gorski moved to waive the reading in its entirety; Mr. Fenrich seconded. Voice Vote: 6 ayes; 0 nays. Motion carried. Mr. Gorski moved to adopt; Ms. Jones seconded. Poll: 6 ayes; 0 nays. Motion carried.
Ordinance 26-2019
AN ORDINANCE ESTABLISHING A POLICE VEHICLE FUND AND DECLARING AN EMERGENCY  First Reading

Ordinance 27-2019
AN ORDINANCE ADOPTING PROVISIONS OF SECTIONS 3735.65 THROUGH 3735.70 OF THE OHIO REVISED CODE TO ESTABLISH AND DESCRIBE THE BOUNDARIES OF A COMMUNITY REINVESTMENT AREA IN THE CITY OF OLMSTED FALLS, DESIGNATING A HOUSING OFFICER TO ADMINISTER THE PROGRAM, CREATING A COMMUNITY REINVESTMENT HOUSING COUNCIL, AND A TAX INCENTIVES REVIEW COUNCIL, AND DECLARING AN EMERGENCY  First Reading

Ms. Jones asked if Council would have anything to do with the housing council. Mr. Gorski indicated that Council has appointing power for two members of the housing council. Mr. Stibich indicated that the ordinance indicates that two members are appointed by City Council, one member is appointed by the Planning Commission and the majority of these members will appoint two additional members who are residents within the area. Ms. Jones asked if the housing officer would be someone currently on staff with the city. Mr. Stibich indicated that the housing officer is designated in the legislation as the Mayor.

Miscellaneous New Business - None

Such other business that may come before Council - None

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

The meeting adjourned at 8:03 p.m.

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Paul Stibich, Council President   Angela Mancini, Clerk of Council