

MINUTES REGULAR COUNCIL MEETING

8:05 p.m.

March 17, 2020

Pursuant to Codified Ordinance Chapter 107 and ORC Section 121.22, notice of the following meeting was given on March 13, 2020.

ROLL CALL

Council Members Present: Tomaselli, Anderson, Carr, Garry, McNeill

Others Present: Mayor Fiala, Law Director Lucas, Chief Building & Zoning Inspector Keller (left meeting at 8:10 p.m.), Finance Director Bosley, Clerk Novak

Motion made and seconded to excuse Councilmen Kary and Woodin from tonight's meeting.

Roll Call 5 yes
 0 no

Motion carried 5 to 0

The meeting was led in Prayer and Pledge of Allegiance by Councilman Anderson. A moment of silence was observed in acknowledgement of the nationwide pandemic.

Approval of Minutes

Motion made and seconded to approve the Regular Meeting Minutes of March 3, 2020.

Roll Call 5 yes
 0 no

Motion carried 5 to 0

DIRECTOR'S REPORTS

Building Inspector Keller – Reported the Building Department is doing inspections in most cases, but the inspectors are not going into single family homes that are occupied. Additions can be inspected if the inspector can get to it without going through the main dwelling. Plan submittals will be done electronically going forward. A mass e-mail will be going out to all contractors tomorrow so they are informed.

Parks & Recreation Director Banker – Ms. Banker was absent, however, Councilman Carr said Ms. Banker sent an e-mail out with a status report on the golf course and the senior center operations.

Finance Director Bosley – Ms. Bosley said her department doesn't have the ability to work remotely. She said she talked to her staff, and if anyone feels uncomfortable, she will try to adjust schedules.

STANDING AND REGULAR COMMITTEE REPORTS

Committee of Full, Mr. Carr – No report.

Economic Development Committee, Ms. McNeill – No report.

Environmental Planning Committee, Mr. Kary – Mr. Carr said there are a few items on the agenda this evening.

Finance and Audit Committee, Mr. Tomaselli – Reported there was another committee meeting this evening; there are two items on the agenda this evening.

Parks & Recreation Committee, Mr. Woodin – Absent.

Personnel Committee, Mr. Anderson – Requested a committee meeting in the near future.

Safety Committee, Mr. Tomaselli – No report.

Service Committee, Mr. Woodin – Absent.

WPCC Committee, Mr. Anderson – Reported one item on the agenda this evening.

Clean City Commission, Mr. Garry – No report.

Planning Commission, Mr. Kary – No report.

Shade Tree Commission, Ms. McNeill – Shade Tree Commission was cancelled last evening.

CORRESPONDENCE: Regarding the EAS on a proposed development next to Aspenwood, Mr. Carr said he expected a large crowd which didn't seem appropriate given the current circumstances with the outbreak of COVID-19. He sent out an e-mail to the nearby residents indicating the meeting would still take place and asked them to submit any comments they had in writing.

Mr. Carr read the following comments word for word (except noted otherwise) in regards to EAS #4-3-20 that is for a 56 home subdivision on SOM Center Rd.

Susan Hance -

We are concerned about rezoning said property to R-50. Mr. Millstein purchased property at R-100.

1. What does the current Master Plan include for property on SOM?
2. Why can't owner of property conform to existing zoning?
3. 19 - 20 lots on development plan have less than 50' frontage, 34% of 56 lots will require variances. Is this a good outcome from R-100 to R-50?

Lowering the bar for developers seems to be unfair to existing homeowners both aesthetically and financially.

Deborah Petrick, 35145 Aspenwood Lane -

My name is Deborah Petrick. I reside at 35145 Aspen Wood Lane Willoughby, OH. First, I am grateful that Council is now considering homes as a way to develop the Millstein property north of Aspen Wood and not apartments, nursing facilities or other non-single

family buildings. Regarding the development of the Millstein property on SOM: I would like you to consider the adverse effect that a quick development plan-- in favor of a developer-- would have over the concerns of residents in the surrounding neighborhoods and also the nature of Willoughby as a whole.

1. The home builder must be a reputable builder. One who has a reputation for quality homes that will hold their value long-term. The developer must be one who has been carefully vetted for any Willoughby projects including this one.
2. Consider the character of Willoughby and this neighborhood.
3. This is one of the few remaining sites for home building in Willoughby. Its proper development can be the envy of other communities and bring new life to South Willoughby if carefully planned and considered with proper permits locally, statewide and federally.
4. The Knez homes that front the Millstein property on SOM are nice homes and are zoned R100.
5. It is known that our city is experiencing water problems due to aged sewers and is trying to address this massive problem. The Millstein property is a wet land. Standing water is evident especially at certain times of the year. Photos of the perimeter of the Millstein property show many, large patches of cattails--- evidence of a watery property along with muddy patches, basins and streams.
6. Retention basins, especially near Edison Elem School, are dangerous and will likely attract a population of unwanted geese to the area.
7. Neighborhoods that surround the Millstein property have suffered problems with water in basements. Please proceed with an abundance of caution.
8. It is hard to imagine more traffic on SOM. I would be interested in seeing an exact study. Any amount of new housing will aggravate the traffic problem. We do not need a large number of houses that will only increase a developer's profit margin at the expense of exacerbating existing problems. There are ever increasing times when residents are frustrated with traffic and there is possibility of more traffic accidents in Ward four.

City council is charged with representing the tax payers. Documented figures on noise, water run- off and traffic, etc. are lacking in the EAS. I ask that Council give the Millstein Development Project on SOM their careful and wise consideration. I ask that this EAS for "Abbots Mill" on the Millstein property be rejected. Thank you.

Lori Claire Petrick, 1344 Brooks Drive –

I am the homeowner at 1344 Brooks Drive, Willoughby, OH 44094. I am writing to you to ask that you table or reject EAS #4-3-2020 submitted by Greg Sommers for the proposed Abbott's Mill development at 5363 SOM Center Road.

First, I believe that due to the Coronavirus National Emergency, and the CDC and President's recommendations that citizens avoid gatherings of more than 10 people, that this EAS be tabled until such a time that it is safe for all concerned citizens to make their voices heard in-person. Last night, the Ohio Health Director, Dr. Amy Anton, ordered that polling locations for today's Ohio election be closed because of the "high probability of widespread exposure to COVID-19 with a significant risk of substantial harm." If it is not safe to have an election

today, this matter should be delayed until it is safe to have an open meeting with more than 10 people in attendance.

Second, EAS #4-3-2020 should be rejected because it is insufficient as a matter of law for the following reasons:

1. Sommers provides estimates of the traffic trips generated by the proposed development but does not state the estimating authority. Where did these numbers come from? Has a full traffic study been completed? If so, why was it not attached to this EAS? Given the high-volume of traffic in this area of SOM Center Road, a full traffic study should be completed and reviewed by Planning Commission and Council.
2. Sommers also fails to provide the authority for their responses to the Storm Water portion of the EAS. Has an SWPP been completed? If so, why was it not attached to this EAS? The proposed site contains many wetlands sites, vegetated swales, and a stream. To say that the leveling of 14 acres of trees, constructing homes, building a road, driveways, and sidewalks will not increase storm water runoff is nonsensical.
3. Through my contact at the U.S. Army Corps of Engineers, I understand that Sommers has contracted a consultant to submit a Wetlands Permit Application. Until this permit application is reviewed and approved, no development can proceed. The fact that Sommers has made no mention of the federally protected wetlands, and/or the potential presence of endangered species at 5363 SOM Center Road in this Environmental Assessment Statement is surprising. The City should not ignore that this land is subject to U.S. Federal Law, Ohio State Law, The Clean Water Act, and The Endangered Species Act, in addition to the ordinances of the City of Willoughby.

Finally, I would object to EAS #4-3-2020 being declared an "emergency" to expedite this matter for the owner and developers, especially given that we have been asked not to attend this Council meeting by Councilman Carr in his 3/15/2020 Ward 4 Update Email to respect social distancing. The only emergency here is the pandemic and catastrophic loss of life.

I wish you and your families' good health during this difficult time.

Paul Petrick, heir to property located at 35145 Aspenwood Lane -

I write in support of the correspondence you have received or will receive from members of the Petrick and Prelee families and I share their concerns regarding the EAS before you today (March 17, 2020).

However, there is an additional point that I would like to make. The EAS submitted by the Sommers Group for consideration at this meeting has omitted any response to Section IV of the EAS which deals with the probable time table and proposed schedule of construction of any structures or improvements. Based on the proposed development plan, Section IV is pertinent and should be completed. Please recall that the Sommers Group had a response to this section in the EAS that was under consideration at the last City Council meeting on March 3rd. Since that EAS concerned solely cutting down trees and not the construction of an entire housing development, it is odd that the Sommers Group would provide a response

to Section IV in the EAS that was considered by City Council on March 3rd, but not the EAS that is being considered today. Furthermore, please note that the Section IV of the current EAS is entirely blank and does not even contain anything to allege the inapplicability of this section nor does it contain a reference to an attachment.

A response to Section IV of the EAS is required under Ordinance 1345.01(b)(6) and there is nothing in Ordinance 1345.01(k) that suggests that Section IV could be simply left blank. Here are relevant code sections. **NOTE:** Council President did not read the code sections.

Council should not approve this EAS because it is incomplete in addition to the other objections raised by the Petrick and Prelee families. Thank you.

Betsy Prelee, 35400 Aspenwood Lane -

Dear Committee members: In reviewing the Proposed EAS#4-3-20 for the proposed development on the East side of Route 91, which abuts my home on Aspenwood Lane, please consider the following concerns:

The fact that this proposal is based on rezoning from R100 to R50 has major impacts on the area due to the density of the homes, so I am opposed to rezoning the land.

1. Aspenwood has 30 homes, this proposal with an R50 zoning change allows for 56 homes, with a possible 100 plus cars. The EAS does not reference a traffic study, so the calculation of 42 Morning peak period trips and 58 evening peak period trips, while already adding a huge traffic burden, appears to be understated. Current traffic levels during peak times is at an all-time high, and now further increased with the Edison school buses and the new approved development on Rte. 91 just northwest of this proposed development. It's just too much traffic to an already congested road.
2. Noise pollution will be greatly increased with the additional cars and removal of trees.
3. The addition of 56 homes with R50 zoning will have an adverse impact on the storm water drainage. Our property is already impacted by the existing water on the land that borders our rear property lines.

My recommendation is that you do a walk about starting on the west end of the driveway along the Edison drive, going East and then continuing south on Karen Isle. I'm sure Ann and Dave McMurray would allow you access to walk through his backyard on Karen Isle into our yard. Debbie and Tom Petrick would be willing to have you walk their parcels if asked. You would be amazed at the water/wetlands. Certainly no decision should be even considered without an inspection from north, east, and south of this property. Once you walk this area you can see for yourself why a statement that there will be no impact by adding 56 homes on the storm water is inconceivable.

Dan Prelee, 35400 Aspenwood Lane

My comments regarding the subject document are as follows:

Item I., paragraph C.

Object to the proposed zoning classification change to R50. All homes must comply with current zoning classification of R100. Too many homes proposed (56).

Item II., paragraph A.

Estimates of amount of traffic (Trips generated) for both the AM Peak in and out are excessive. As is the PM Peak Trips in and out. Again, too many homes proposed (56).

Item II., paragraphs D., E. and F.

Estimates of 400 gal per day per resident (potable and waste water) seems excessive. Again, too many homes proposed (56).

How is the storm water discharge value of 2 CFS calculated? How can the estimated increase in storm water discharge or run-off be "zero"? Need more explanation here. Makes no sense.

Please make our comments part of the record during your upcoming Council Meeting.

Jeff Staats, 35175 Aspenwood Lane –

Please accept this as input for the Tuesday Council Meeting.

In reference to the SOM Center (Millstein Property), we would like to go on record as being totally against any change in the current zoning laws.

It is our opinion, any change in zoning that allows a larger density of homes will result in an intolerable demand for all utilities (including but not limited to Electric and sewers) as well as create a traffic situation that is already maxed out.

Robert and Patricia Terlizzi 35100 Aspenwood Lane –

I strongly oppose the EAS for the proposed Sommers development on the Millstein property which is wetlands. What proof does Sommers have when they state in their application for the EAS that the estimated storm water runoff or discharge is zero? Wetlands act like natural sponges on the landscape absorbing and then gradually releasing storm waters and lessening flood damage. What proof does Sommers have that water will not be seeping back into the basement of the house built on this wetland, or the water will not leak into formerly dry homes of downstream property owners who are taxpayers to the City of Willoughby?

PUBLIC PORTION:

Mark Gerber, 4176 Clark Avenue – Mr. Gerber complimented the City administration and Council on their professionalism. Regarding the EAS for the golf training facility at the Kirtland Country Club, Mr. Gerber said he spoke with an attorney that does work for the City sometimes and said it's not unusual for negotiations to take place. He said he was thinking about possible leverage with regards to the skeet shooting. Mayor Fiala said residents of Kirtland are suing the Kirtland Country Club and the City of Willoughby. Law Director Lucas

said the City is maintaining a united front because the Kirtland residents are challenging the conditional use permit that regulates part of the skeet shooting. Mr. Gerber apologized to the Mayor for accusing him of manipulating the budget in order to get a safety levy on the ballet. Regarding the budget discussed earlier this evening, Mr. Gerber said 2020 will be a difficult year and suggested selling the golf course or lakefront property.

Terry Foreman, 2405 Bunker Lane – Mr. Foreman asked if there was an update on the website. Mayor Fiala said COVID-19 has stalled the website. Ms. Boyd has been working non-stop on the City’s response to the pandemic.

Motion made and seconded that all ordinances and resolutions be read by caption only and that as to legislation not containing an emergency clause, the rules requiring that ordinances and resolutions be read on three separate days be waived.

Roll Call 5 yes
 0 no

Motion carried 5 to 0

NEW BUSINESS:

ORDINANCE NO. 2020-28

An ordinance amending Chapter 913 of the Codified Ordinances of the City of Willoughby, Ohio, titled, “Sanitary Sewerage Systems Charges”; specifically, Section 913.10, titled, “Surcharge for Extra-Strength Wastes”.

Motion made and seconded to adopt Ordinance No. 2020-28.

Roll Call 5 yes
 0 no

Motion carried 5 to 0

RESOLUTION NO. 2020-29

A resolution to make appropriations for the current expenses and other expenditures of the City of Willoughby, Ohio during the period ending December 31, 2020, and declaring an emergency.

Motion made and seconded that the rules of Council requiring three separate readings be suspended and that Resolution No. 2020-29 be declared an emergency measure.

Roll Call 5 yes
 0 no

Motion carried 5 to 0

Motion made and seconded to adopt Resolution No. 2020-29.

Roll Call 5 yes
 0 no

Motion carried 5 to 0

RESOLUTION NO. 2020-30

A resolution approving Change Order No. 1-Final in the 2018 Concrete Pavement Repair Program – contract with Karvo Companies, Inc., and declaring an emergency.

Motion made and seconded that the rules of Council requiring three separate readings be suspended and that Resolution No. 2020-30 be declared an emergency measure.

Roll Call 5 yes
 0 no

Motion carried 5 to 0

Motion made and seconded to adopt Resolution No. 2020-30.

Roll Call 5 yes
 0 no

Motion carried 5 to 0

RESOLUTION NO. 2020-31

A resolution approving EAS #1-1-20 for the grading and filling of property located at 30817 Euclid Avenue.

Motion made and seconded to adopt Resolution No. 2020-31.

Roll Call 5 yes
 0 no

Motion carried 5 to 0

ORDINANCE NO. 2020-32

An ordinance providing for the Manning Levels and Compensation of Elected and Appointed Officials and Salaried and Non-Union Employees of the City of Willoughby, Ohio; repealing any and all other ordinances or parts thereof which may be inconsistent herewith or which may be redundant hereto; and declaring an emergency.

Motion made and seconded that the rules of Council requiring three separate readings be suspended and that Ordinance No. 2020-32 be declared an emergency measure.

Roll Call 5 yes
 0 no

Motion carried 5 to 0

Motion made and seconded to adopt Ordinance No. 2020-32.

Roll Call 5 yes
 0 no

Motion carried 5 to 0

RESOLUTION NO. 2020-33

A resolution amending the meeting schedule of the Council of the City of Willoughby, Ohio, for the month of April, 2020, and declaring an emergency.

Motion made and seconded that the rules of Council requiring three separate readings be suspended and that Resolution No. 2020-33 be declared an emergency measure.

Roll Call 5 yes
 0 no

Motion carried 5 to 0

Motion made and seconded to adopt Resolution No. 2020-33.

Roll Call 5 yes
 0 no

Motion carried 5 to 0

MAYOR'S REPORT – Reported that beginning tomorrow morning, City Hall will be closed to the public. Permit applications can be dropped off in drop boxes outside and Ms. Banker is working with her staff to receive phone and on line applications for pool passes, etc. He said one thing the pandemic has done is force the City to look at a lot of the policies and procedures across the board. He also noted that Zoning Board of Appeals and the Planning Commission will only meet once a month. Several meetings are coming up with items on the agendas and those will take place, but after next week, Design Review, Sign Review Board, Ingress/Egress meetings will stop and Zoning Board of Appeals and Planning Commission will go on one month schedules.

Law Director Lucas – Mr. Lucas wished everyone a Happy St. Patrick's Day. Mr. Anderson asked what his opinion is on using "reply all" with regards to e-mails. He said he attended a conference hosted by the Ohio Municipal League and was told to not hit reply all on e-mails due to the Sunshine Law. Mr. Lucas said it was a fact sensitive question noting you should pause before hitting reply all. He suggested using a "pause and click" approach.

COUNCILMEN:

Mr. Garry – No report.

Mr. Anderson – Reported he had a great Ward 5 meeting.

Mr. Tomaselli – No report.

Ms. McNeill – Ms. McNeill thanked Ms. Bosley for taking the time to review the budget with her.

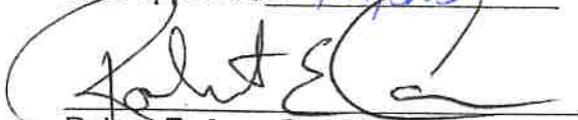
Mr. Carr – No report.

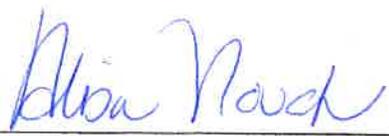
Mr. Woodin – Absent.

Mr. Kary – Absent.

The Regular Council Meeting adjourned at 8:57 p.m.

Date approved 4/21/2020


Robert E. Carr, President


Clerk of Council

Robert A. Fjala, Mayor