

MINUTES REGULAR COUNCIL MEETING

7:20 p.m.

June 13, 2023

Pursuant to Codified Ordinance Chapter 107 and ORC Section 121.22, notice of the following meeting was given on June 9, 2023.

ROLL CALL

Council Members Present: Kary, Merhar, Tomaselli, Anderson, Carr and Garry

Others Present: Mayor Fiala, Law Director Lucas, Service Director Palmisano, City Engineer Lannon, Fire Chief Ungar, Police Chief Schultz, Chief Building & Zoning Inspector Puskas, Parks & Recreation Director Keller, Finance Director Hoffman, Clerk Novak

Absent: Councilwoman Sievers

Motion made and seconded to excuse Councilwoman Sievers from tonight's meeting.

Roll Call 6 yes
 0 no

Motion carried 6 to 0

The meeting was led in Prayer and Pledge of Allegiance by Councilman Tomaselli.

PUBLIC HEARING:

Clerk Novak read the legal notice for the public hearing to be held tonight for the issuance of health care revenue bonds-Ohio Living Communities (see attached).

Those Speaking in Favor- No one spoke.

Those Speaking in Opposition- No one spoke.

Approval of Minutes

Motion made and seconded to approve the Regular Council Meeting Minutes of May 23, 2023.

Roll Call 6 yes
 0 no

Motion carried 6 to 0

STANDING AND REGULAR COMMITTEE REPORTS

Committee of Full, Mr. Carr – No report.

Economic Development Committee, Mr. Anderson – No report.

Environmental Planning Committee, Mr. Kary – Reported the committee met this evening to discuss EAS #3-2-23.

Finance and Audit Committee, Mr. Tomaselli – No report.

Parks & Recreation Committee, Ms. Sievers – Absent.

Personnel Committee, Mr. Anderson – No report.

Safety Committee, Mr. Tomaselli – No report.

Service Committee, Dan Anderson – No report.

WPCC Committee, Mr. Garry – No report.

Planning Commission, Mr. Kary – No report.

CORRESPONDENCE: No correspondence.

PUBLIC PORTION:

Peter Joyce, 39505 Tudor Drive, Willoughby, Ohio – Mr. Joyce stated he owns the property adjacent to the proposed KTE townhouse development. After reviewing Marc Strauss's e-mail dated June 8, 2023 that was a response to his letter to the Planning Commission, it appears the developer doesn't quite know what's to be built. At first he needed to take the berm down 10' in order to shoehorn the structures and their rear entry driveways onto the two proposed lots versus individual driveways directly off of Tudor Drive. Now the design engineer states that reduction in the berm is not necessary. In response, Marc Strauss states his design will not exceed the 37' height, however, the original renderings exceeded the current height restriction. This begs the question, what height is being considered. Mr. Joyce stated the sound and site berm was originally built 15 years ago by the developer to provide just that; protection from I-90 and Route 306. He created the same type of berm along Kirtland Road. There are 25 homes in the community and room for nearly double that. These homes and future homes rely on the berm as a preventative measure against noise and site pollution. He can't imagine any of these homes would have been built without the berm. Mr. Joyce stated reduction of the berm will invite I-90 and Route 306 into the entire community as well as the proposed townhomes. He stated he is for development but wonders what is truly being considered and who will move into the development without the existing sound and site barrier.

Katie Altadonna-Morley, 39479 Tudor Drive, Willoughby, Ohio – Ms. Altadonna-Morley stated she supports everything her neighbor, Mr. Joyce, just stated a few moments ago about the berm. She stated she feels the same confusion when she looks at the plans and e-mails and wonders what is actually being proposed. She asked that the matter be discussed next Thursday (at the Planning Commission meeting). She stated her home is the closest to the proposed townhomes and she has concerns about the berm being removed or any dirt that would be removed. She stated the existing driveway that supports the 4 existing townhomes is to her best knowledge no more than 15' to 20' wide where two cars can't pass each other; adding four more townhomes would add another 8 cars and if all eight townhomes are built that would add 16 more cars making it 24 cars using a one way ingress/egress.

Marc Strauss, 39489 Tudor Drive, Willoughby, Ohio – Regarding his neighbors, Mr. Strauss stated he was at a loss because he took his plans and ideas to his neighbors long before he submitted to the City. He thought their comments and concerns would be addressed to him as opposed to the City. He stated the height restriction in the City is 35' and the only reason why he listed 37' is because he was considering replicating another project in Chagrin Falls. He stated that all matters regarding height restriction that have gone before the Zoning Code of

Appeals in the last three years have been given a 10% to 20% variance on the 35' in a residential situation. Regarding the mounding issue, he wanted to explain to Council why it was changed from reducing the berm to not touching the berm. It was recommended by the Planning Commission to go back to the engineers and move the retaining wall 20' closer to where the proposed driveway would be. He stated the height of the berm will never be an issue. Mr. Strauss stated there is no intention that he will be touching the berm or reducing the height of the berm.

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 6 yes
 0 no

Motion carried 6 to 0

UNFINISHED BUSINESS:

RESOLUTION NO. 2023-57 - Tabled

A resolution approving EAS #3-2-23 for the construction of eight (8) townhomes on single family fee simple envelope lots located on Kirtland Road (Kirtland Tudor Townhomes at Kirtland Tudor Estates).

RESOLUTION NO. 2023-69 – Amended 6/13/23 – Second Reading

A resolution authorizing the first amendment to contract between Browning-Ferris Industries of Ohio, Inc. dba Republic Services of Cleveland and the City of Willoughby for residential municipal curbside solid waste, recyclable and yard waste collection and disposal in the City of Willoughby, and declaring an emergency.

Motion made Councilman Tomaselli to amend Resolution No. 2023-69, adding the verbiage “including those within sub-developments and condominiums within the City (collectively “household units”)” following the verbiage “7,667 residential households” in Section B of the amended contract, deleting Section C in its entirety, striking out the word “residential”, striking out the letter “s” from the word “household” and adding the word “units” to the new Section C (3) of the amended contract, seconded by Councilman Garry.

Roll Call 6 yes
 0 no

Motion carried 6 to 0

Motion made and seconded that the rules of Council requiring three separate readings be suspended and that Resolution No. 2023-69 be declared an emergency measure.

Roll Call 6 yes
 0 no

Motion carried 6 to 0

Motion made and seconded to adopt Resolution No. 2023-69.

Roll Call 6 yes
 0 no

Motion carried 6 to 0

Roll Call 6 yes
 0 no

Motion carried 6 to 0

RESOLUTION NO. 2023-77- Amended 6/13/23

A resolution authorizing an expenditure in the amount of ~~\$90,000~~ \$95,000 for the purchase of six (6) columbariums to be installed in the Willoughby Sharpe Avenue Cemetery and Willoughby Memorial Gardens Cemetery, and declaring an emergency.

Motion made by Councilman Tomaselli to amend Resolution No. 2023-77, striking out \$90,000 and replacing with \$95,000 in both the caption and Section 1 of the resolution, seconded by Councilman Garry.

Roll Call 6 yes
 0 no

Motion carried 6 to 0

Motion made and seconded that the rules of Council requiring three separate readings be suspended and that Resolution No. 2023-77 be declared an emergency measure.

Roll Call 6 yes
 0 no

Motion carried 6 to 0

Motion made and seconded to adopt Resolution No. 2023-77.

Roll Call 6 yes
 0 no

Motion carried 6 to 0

ORDINANCE NO. 2023-78

An ordinance amending Chapter 945 of the Codified Ordinances of the City of Willoughby, Ohio, titled, "Willoughby Cemetery"; specifically, Section 945.01, titled, "Rates and Fees".

Motion made and seconded to adopt Ordinance No. 2023-78.

Roll Call 6 yes
 0 no

Motion carried 6 to 0

RESOLUTION NO. 2023-79

A resolution authorizing the Mayor to enter into a Memorandum of Understanding with Yvonne H. Kirby and the City of Eastlake Necessary to establish easements for the W-E WPCC Watermain Project, and declaring an emergency.

Motion made and seconded that the rules of Council requiring three separate readings be suspended and that Resolution No. 2023-79 be declared an emergency measure.

Roll Call 6 yes
 0 no

Motion carried 6 to 0

Motion made and seconded to adopt Resolution No. 2023-79.

Roll Call 6 yes
0 no

Motion carried 6 to 0

ORDINANCE NO. 2023-80

An ordinance authorizing the sale of real property located on North Beachview Road, consisting of a 0.173 acre lot identified as Permanent Parcel No. 27B056F000690, and a 0.192 acre lot identified as Permanent Parcel No. 27B056F000700 to Mary Digennaro, without public bidding, for the sum of Three Hundred Thousand Dollars (\$300,000), and declaring an emergency.

Motion made and seconded that the rules of Council requiring three separate readings be suspended and that Ordinance No. 2023-80 be declared an emergency measure.

Roll Call 6 yes
0 no

Motion carried 6 to 0

Motion made and seconded to adopt Resolution No. 2023-80.

Roll Call 6 yes
0 no

Motion carried 6 to 0

RESOLUTION NO. 2023-81

A resolution authorizing an expenditure in the amount of \$160,000 for the purchase of a Stageline SL100 Mobile Stage from Stageline Mobile Stage, Inc., and declaring an emergency.

Motion made and seconded that the rules of Council requiring three separate readings be suspended and that Resolution No. 2023-81 be declared an emergency measure.

Roll Call 6 yes
0 no

Motion carried 6 to 0

Motion made and seconded to adopt Resolution No. 2023-81.

Roll Call 6 yes
0 no

Motion carried 6 to 0

MAYOR’S REPORT – Regarding the architect selection for the new Police Station, Mayor Fiala stated two firms were interviewed on May 30th. The interview team consisted of Council President Carr, Councilman Garry, Chief Building and Zoning Inspector Puskas, Police Chief Schultz, Assistant Police Chief Tartaglia, Economic Development Director Thielman and himself. Both firms presented very well and he received additional information this afternoon from one of those firms. Discussion will take place regarding the selection and he would like to make the selection and prepare the contract for approval at the July 11th meeting.

Regarding the recent supreme court decision on the Environmental Protection Agency’s (EPA’s) waterway, Mr. Anderson asked if the City has spoken to the property owners of Riverside Commons regarding the development. Mayor Fiala stated the case Mr. Anderson is referring to is the Sackett case which reestablished the bar with the EPA (in regard to wetlands).

Law Director Lucas stated he would defer to City Engineer Lannon. Mr. Lannon stated the ruling was sold as a black and white readable opinion but if a wetland is connected to a waterway, he believes that is open to interpretation. He stated there will still be Ohio EPA opinions that will still be valid. He stated everything the City does has to go through the Army Corps of Engineers and the Ohio EPA. Mr. Lucas stated the property owners are looking at that case in support of a more rapid building than they would have without the case. Mayor Fiala stated the developer seemed optimistic they will be able to move forward and asked the City to engage along with them, but the City has been hesitant until the City's issues with the EPA is fully resolved.

DIRECTOR'S REPORTS

Law Director Lucas – No report. Mr. Carr asked when the City would start to receive the initial proceeds from the Residential Improvement District (RID). Mr. Lucas stated that some of the calculations haven't been completed even though they are in effect per say. He stated he is working on it and will get an answer.

Service Director Palmisano – Mr. Palmisano thanked Council for the passage of Resolution No. 2023-69 and thanked Law Director Lucas for his work on the contract with Republic. He also thanked Council for the passage of Resolution Nos. 2023-76 and 2023-77 and Ordinance No. 2023-78. He reported that the Ohio Department of Transportation (ODOT) salt contract has been awarded to Morton Salt for Lake County at \$51.99 per ton. The price went up \$7.84 per ton compared to last year. Mr. Tomaselli asked if the paving on Kirtland Road is complete. Mr. Lannon stated the surface course is on as well as the guard rails and paint; he can't think of anything else that needs to be completed.

City Engineer Lannon – Mr. Lannon stated he is still waiting on a schedule for the road program contract. Regarding a missing guardrail on Rt. 84 (near Shankland) Mr. Lannon stated that spot is being monitored closely; he will be asking ODOT to fund the repair in that area.

Fire Chief Ungar – Chief Ungar thanked Council for the passage of Resolution No. 2023-75.

Police Chief Schultz – Chief Schultz reported that the department has started their bike patrol and foot patrol downtown making officers more visible in the public. The department has been awarded an Aftermath K9 Grant of \$250. Chief Schultz reported on an incident last Thursday at Emerald Village Apartments involving stolen vehicles. Mr. Carr asked if the Patrol Officers out on bike patrol or foot patrol are additional resources. Chief Schultz stated those are additional resources and that regular patrol units are out. Mr. Anderson stated he noticed new black SUV's at the Police Station and asked if the department was changing colors. Chief Schultz stated the department is changing the color to black SUV's partly because they were available and are cheaper than the white.

Building Inspector Puskas – No report.

Parks & Recreation Director Keller – Ms. Keller reminded everyone that the car cruise-in is this Saturday. The Great Ohio Bicycle Adventures (GOBA) will be in town on Tuesday with 650 campsites at Todd Field and next Wednesday is the first sunset concert at Osborne Park. She reported the pools and camps are running smoothly.

Finance Director Hoffman – No report.

COUNCILMEN REPORTS

Ms. Sievers – Absent.

Mr. Kary – No report.

Mr. Tomaselli – No report.

Mr. Merhar – No report.

Mr. Garry – No report.

Mr. Anderson – No report.

Mr. Carr – Reminded Council that two members of Council will be absent for the July meeting. Any scheduling issues need to be addressed quickly.

The Regular Council Meeting adjourned at 8:13 p.m.

Date approved 7/11/23

John Tomaselli
John Tomaselli, Vice-President

Alisa Koch
Clerk of Council
Robert A. Fiala
Robert A. Fiala, Mayor

Public Hearing Notice

Notice is hereby given that the City of Willoughby, Ohio will hold a Public Hearing on Tuesday, June 13, 2023, at 7:10 p.m. at City Hall, B and C Rooms, 1 Public Square, Willoughby, Ohio, to discuss the possible issuance by the County of Franklin, Ohio, acting by and through the Franklin County Hospital Commission (the "Issuer") of health care facilities revenue bonds (the "Bonds") in one or more series, in one or more issues from time to time pursuant to a plan of finance, in an aggregate principal amount currently estimated not to exceed \$500,000,000, pursuant to Chapter 140 of the Ohio Revised Code (the "Act"). The Bonds will be qualified 501(c)(3) bonds, as defined in Section 145 of the Internal Revenue Code of 1986, as amended (the "Code"), issued to finance and refinance capital expenditures for use as or in senior living facilities, and the proceeds thereof will be applied particularly to (1) finance or refinance the acquisition, construction, equipping and installation of "hospital facilities", as defined in the Act, at the following senior living and healthcare communities of Ohio Living Communities ("OLC"), an Ohio nonprofit corporation: Ohio Living Westminster-Thurber ("Westminster"), located at 717 Neil Avenue, Columbus, Ohio 43215; Ohio Living Rockynol ("Rockynol") located at 1150 West Market Street, Akron, Ohio 44313; Ohio Living Breckenridge Village located at 36855 Ridge Road and 5665 Grace Woods Drive, Willoughby, Ohio 44094; Ohio Living Cape May ("Cape May"), located at 150 Cape May Drive, Wilmington, Ohio 45177; Ohio Living Llanfair ("Llanfair"), located at 1701 Llanfair Avenue, Cincinnati, Ohio 45224; Ohio Living Dorothy Love ("Dorothy Love"), located at 3003 West Cisco Road, Sidney, Ohio 45365; Ohio Living Mount Pleasant ("Mount Pleasant"), located at 225 Britton Lane, Monroe, Ohio 45050; Ohio Living Lake Vista ("Lake Vista"), located at 303 N. Mecca St., Cortland, Ohio 44410; and Ohio Living Swan Creek ("Swan Creek"), located at 5916 Cresthaven Lane, Toledo, Ohio 43614 (collectively, the "Ohio Living Facilities"), including without limitation, (a) routine capital expenditures including but not limited to building renovations and equipment purchases at one or more of the Ohio Living Facilities and (b) the construction, equipping and installation of buildings at Westminster and Breckenridge (the assets described in clause (a) and (b) collectively the "New Money Projects"); (2) refinance certain bonds or other indebtedness (collectively, the "Prior Debt") previously issued for the benefit of, and/or other indebtedness incurred by, OLC, the proceeds of which were used to finance the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, equipping and furnishing special care, skilled nursing care, assisted living care and independent living care facilities at one or more of the Ohio Living Facilities (collectively, the "Prior Debt Projects"); (3) fund one or more reserve funds to secure the payment of all or a portion of the Bonds; (4) pay capitalized interest on the Bonds; (5) pay any termination payments related to interest rate swap agreements entered into in respect of any of the Prior Debt; and (6) pay costs of the issuance of the Bonds, including any initial cost of credit enhancement for the Bonds (collectively, the "Project"). The maximum amount of the Bonds allocable to Westminster is \$180,000,000; Rockynol is \$60,000,000; Breckenridge is \$203,000,000 (\$165,000,000 to 36855 Ridge Road and \$38,000,000 to 5665 Grace Woods Drive); Cape May is \$39,000,000; Llanfair is \$36,000,000; Dorothy Love is \$28,000,000; Mount Pleasant is \$65,000,000; Lake Vista is \$36,000,000; and Swan Creek is \$37,000,000.

THE BONDS SHALL NOT REPRESENT OR CONSTITUTE A DEBT NOR PLEDGE OF THE FAITH AND CREDIT OR THE TAXING POWER OF THE ISSUER, THE STATE OF OHIO OR ANY POLITICAL SUBDIVISION OF THE STATE OF OHIO. The initial owner and principal user of each of the Ohio Living Facilities, including all assets financed or refinanced with proceeds of the Bonds, will be OLC, or an affiliate of OLC or Ohio Living, an Ohio nonprofit corporation. Interested persons are invited to attend this public hearing and will be given an opportunity to express their views concerning the proposed issuance of the Bonds. Written comments may also be given by submitting them prior to the public hearing to the Clerk of Council, 1 Public Square, Willoughby, Ohio 44094, Attention: Alisa Novak and clearly marked "RE: County of Franklin, Ohio Health Care Facilities Revenue Bonds (Ohio Living Communities)." This notice is given pursuant to Section 147(f) of the Code.

/s/ Alisa Novak
Clerk, City of Willoughby, Ohio