

*Village of Windham, Ohio*  
**Minutes of Council Meeting**

Held January 25, 2011

At 7:30 PM, the Honorable Mayor Robert W. Donham II called the meeting to order and led in the pledge of allegiance to the Flag of our Nation..

Roll Call: Rachel Barrett – present, Scott Garrett – present,  
Kelly Meszaros – present, Jena Miranda – present,  
Linda Rininger – present, Phil Snyder – present

Also present were Atty. Tom Reitz Solicitor, Police Chief Eugene Fixler, Denise Bly, Lynnea St. John, Rob Haeh, Bruce Rininger, Mike Iwanyckyj, Jim Moore and Rev. Fred Youngen.

**The minutes of the December 28, 2010 Regular Council Meeting** were reviewed and on a motion to approve by Mrs. Meszaros and second by Mrs. Barrett and a vote of Council which unanimously affirmed the motion.

**The minutes of the January 4, 2011 Special Council Meeting** were reviewed and on a motion to approve by Mrs. Barrett and second by Mrs. Miranda and a 6 – 0 vote of Council were approved.

**The minutes of the January 13, 2011 Special Council Meeting** were reviewed and on a motion to approve by Mrs. Barrett and second by Mr. Garrett and a 6 – 0 vote of Council were approved.

**The Fiscal Officer's Financial Reports** were presented by Mr. Billman as follows:

The Income Tax total for December year to date is \$464,212.43 of which \$66,335.02 is due to declarations for estimated tax.

The expenditures for the month of December 2010 of \$137,954.42 in checks, charges, etc. Check numbers 25393 through 25442 were paid from the Primary Checking Account during December. Check numbers 25397, and 25414 through 25415 were voided during December 2010.

The all funds December 2010 Bank Reconciliation all funds reconciled balance was \$544,087.77.

**Village Council President's Report** by Mrs. Rininger – Mrs. Rininger said it was brought to my attention by someone in the office that we did not pass an Ordinance or Resolution regarding the Water/Sewer bill being put in the landlords name. I thought that was passed in 2007. Mayor Donham said I will have to look into it in more detail. I'm not positive if it was an Ordinance, Resolution or Regulation. Mrs. Rininger said we would have had to have done some kind of legal action because we assess their property tax do we not? Mayor Donham said there is at the very least Administrator regulations on it that we have adopted, but there should be Council legislation. Mrs. Rininger said I thought maybe a Resolution, they are stating there is nothing and we have someone requesting that right now.

Mrs. Meszaros said the assessing of property taxes, that is according to the O.R.C. But I thought there was something... (passed by Council). Portage Woods transferred all of theirs into their name and I thought it was required. Mayor Donham said it is definitely a requirement, but I'm not sure where it's at. We will address this at the Committee level. It

comes to mind we have had a request before and I think it is not an Ordinance, but a Resolution or a Regulation.

The only other thing that I have was we received an invoice from the library for the first quarter. Now the question that was brought to me was, do we pay the entire month of January because they were in here and they just moved this past week. Are we obligated for the entire month of January? Mayor Donham said, Tom can add to this, but I feel we would be a responsible as they were. So if they had a lease obligation the entire month, then we would pay for the entire month. Tom Reitz said he had a copy of the library lease with the Renaissance Center and stated that it is effective January 1, 2011. I don't know if you want to talk about this now or when we get to the legislation, but the agreement with the library that I have before you is what I drafted, and they came back with a statement saying we would like some massaging done to it and when we get it in the final form, they want to submit it to the County Prosecutor for approval. So I don't want you to act on it tonight if the County Prosecutor is going to review it and it might get changed, so I'm going to ask you to do a first read on it tonight. Without an agreement, it is discretionary on your part whether you make your first quarterly payment now or whether you wait until it is signed.

Mrs. Rininger said I don't know if it would be advisable for us to pay an invoice for legislation that we have not passed yet, even though we are going to. Mayor Donham said we do have legislation that says we will pay even though we don't have all the details worked out yet. We do have legislation that says we will pay up to \$800 per month and that passed. Mr. Reitz said yes, that was passed last month, you agreed to pay up to \$800 per month and you put a couple of conditions on it. The conditions were that they relocate and maintain a branch of the library and a complete discharge from the previous tenancy. And the issues that they asked to have massaged don't have to do with either of those. They have not quarreled or quibbled about a full and final release as to the existing lease and they said \$800 a month is great. They have asked for an opportunity to have it reviewed in the event their expenses go up, but it can't be changed unless it is agreed to by both parties. That is the current status. Mayor Donham said I would rather pay month to month in the absence of an agreement. Mrs. Rininger said yes, I thought that would be a good thing to do. That's all I have at this time.

**Dispatchers, Police, Fire and Rescue Squad (EMS) reports for December 2010 by Mrs. Meszaros.** Mrs. Meszaros said I have reports comparing 2009 and 2010. Thank you Chief. And also as to the reports for December, I make a motion that these be entered into the record as written and if anyone would like a copy, I'm sure the Chief can provide it to you. Mrs. Rininger seconded the motion which was passed by Council unanimously.

### **Mayor's Communication and Correspondence**

Mayor Donham said he wanted to mention a couple of quick items. First the ongoing flower saga with the Village, the Bicentennial. The Hatfields and the McCoys have been hammering out for six months I think they are finally ready to move on. Discussions with Lynnea St John and Linda over the last week and Ms. Gearhart. I would like to get a motion to commit our \$2600 that we spend annually to the Bicentennial to purchase flowers with Ms. Gearhart as the supplier. Mrs. Meszaros said I'll make that motion and Mrs. Miranda seconded the motion. The roll call vote was taken and resulted 6 – 0 in support of the motion.

The other one we mentioned at the committee level about the Community Center what we wanted to do with that, so I just wanted to at least let everybody know that I have talked to Lynnea and some other Historical Society members about it and they seemed excited about the prospect of the Village getting rid of the Community Center to them. In the next month or so, I would like to invite the Historical Society to come in and talk with us at the Committees about what we could do there and what might be a good joint venture and getting the liability off of our hands and getting an asset to them. I think they would do an fantastic job of rehabbing, restoring, and running the Community Center, and I think it can be a jewel, just not for the

Village. Mrs. St. John said we will have to see what it will cost us. Mrs. Miranda said do you think an appraisal would be appropriate in this, in our move forward to doing something with the buildings, at least then we could put a value on it? Mayor Donham said you could do one, but I'm assuming and you could jump in here if you want, the Historical Society isn't going to pay anything for it. We are going to donate it. So I don't know if wasting money on an appraisal is really worth it. Mrs. Miranda said but I was thinking on the whole because if we are supposed to look at our existing and look at our options. Mr. Donham said it wouldn't hurt as part of our study to get an appraisal on this structure, but that one... Mrs. Meszaros said it will cost us less to get rid of it. Mr. Donham said we would love to schedule a walkthrough, take a look at it and schedule some meetings with the Buildings and Properties Committee so we can get moving on that.

**Prior requests of guests to speak.** Rob Haehn of Glacial Energy gave a short presentation about how changing our supplier from Ohio Edison to Glacial Energy will save the Village approximately 19% (approximately \$15,735 annually). Mr. Snyder made a motion to permit the Fiscal Officer and Solicitor to enter into an agreement on a month to month basis with Glacial Energy after the Solicitor has had an opportunity to review the material. The motion was seconded by Mr. Garrett and carried by a 6 – 0 vote of Council.

### **Finance by Linda Rininger**

Mrs. Rininger said before I start reading, there was a rather long discussion this afternoon with Ed Rance the State Auditor regarding concerns about the Water Fund and the change we made to the rates. This is something we are going to have to keep a pretty close eye on. Mayor Donham asked what was his concern? Mrs. Rininger said he is afraid we are not going to be able to meet our debt again like we did a few years back when we had the big increase on the Sewer side. He said he is afraid we are going to have issues on the Water side. Mayor Donham said we can talk about it in committee, we didn't lower the rates. Mrs. Rininger asked if we did a cost analysis, technically we didn't lower the rates but we did change our minimum. Mayor Donham said we did do basically a quantity analysis so that we had to pick a median quantity so that our bill works out the same. Mrs. Rininger said I don't remember did anybody do a cost analysis to see if it could support the fund? Do you know if with this change if it is going to be able to support the water fund? It got kind of tight a couple of times last year, and I think that's what he is expressing as his concerns. Mayor Donham said I think what we did was we took last years and we increased it seven and a half percent for water. Mrs. Rininger said we increased it last year seven and a half percent and we were in trouble a couple of months. Mayor Donham said for this year it is going to be seven and a half percent. We froze sewer again and increased water seven and a half percent. Mrs. Rininger said yes, but we are losing a great deal of the revenue by doing it by the... Mr. Garrett said we are not supposed to be. Mayor Donham said we are not and we shouldn't and if after our first billing; SSI the company which provides the software we use couldn't give us a dead-on analysis because their software couldn't produce it, so what we did was physically go through and hand calculate here's how many gallons we have and here's how many customers we have and here is the median usage which means we had the same number of user using less as we had using more, so that is your break even point which was six thousand gallons. In theory it should come out seven and a half percent more than last year (for the Water rate). Mrs. Rininger asked, do you have that report with your numbers so if I'm asked I can answer them. Mayor Donham said yes, I can dig those up. I have kept Terri real apprised of this and I have definitely talked to the staff about this. Mr. Garrett said at the end of a quarter, if we see that we are losing funds, we can always repeal. Mayor Donham said it's not even a matter of waiting a quarter, after we do the first billing we are going to compare January of this year to January of last year and we'll know. We picked six thousand to err on the side of caution. If we need to go and make five the base rate, we will

change it to five, but it will be one of those two. Mrs. Rininger said it's just something we need to keep an eye on.

Mr. Garrett made a motion to approve the Fiscal Officers expenditures for the month of December 2010 of \$137,954.42 in checks, charges, etc with check numbers 25393 through 25442 being paid from the Primary Checking Account during December with check numbers 25397 and 25414 through 25415 voided during December 2010. The motion was seconded by Mrs. Miranda and carried by a unanimous vote of Council.

Mr. Garrett made a motion to approve the Fiscal Officers December 2010 Bank Reconciliation with an all funds reconciled balance of \$544,087.77 and the following monthly reports for the month ending December 31, 2010: Fund Summary, Appropriation Summary, Revenue Summary, Payment Register, Charge Register, Expenditure Summary, Cash Summary by Fund. Approval of the following Year to Date Reports through December 31, 2010: Cash Summary by Fund, Comparison of Budget versus Actual Receipts, Comparison of Disbursements and Encumbrances. The motion was seconded by Mrs. Miranda and carried by a 6 – 0 vote of Council.

Mrs. Rininger read Ordinance O-2011-1 **BEING AN ORDINANCE AUTHORIZING THE AMENDING AND/OR SUPPLEMENTING OF THE PERMANENT APPROPRIATIONS SET FORTH IN ORDINANCE O-2010-28 ON NOVEMBER 23, 2010 FOR THE VILLAGE OF WINDHAM AS SET FORTH BELOW AND DECLARING AN EMERGENCY** and made a motion to suspend the rules which was seconded by Mr. Garrett and carried by a 6 – 0 vote of Council. Mrs. Barrett then made a motion to adopt Ordinance O-2011-1 which was seconded by Mr. Garrett and carried by a 6 – 0 vote of Council.

Mrs. Rininger read Ordinance O-2011-2 **AN ORDINANCE APPROVING THE CERTIFICATE OF THE TOTAL AMOUNT FROM ALL SOURCES AVAILABLE FOR EXPENDITURES, AND BALANCES FOR DECEMBER 31, 2010 FOR THE VILLAGE OF WINDHAM, AND DECLARING AN EMERGENCY** and made a motion to suspend the rules which was seconded by Mrs. Barrett and carried by a 6 – 0 vote of Council. Mrs. Rininger then made a motion to adopt Ordinance O-2011-2 which was seconded by Mr. Garrett and carried by a 6 – 0 vote of Council.

Mrs. Rininger read Resolution R-2011-1 **A RESOLUTION AUTHORIZING THE VILLAGE FISCAL OFFICER OF THE VILLAGE OF WINDHAM TO MAKE THE FOLLOWING TRANSFERS BETWEEN THE WATER AND SEWER OPERATING FUNDS, RESPECTIVELY, TO THEIR RESPECTIVE DEBT SERVICE AND DEBT SERVICE RESERVE FUNDS TO MEET CALENDAR 2011 DEBT SERVICE REQUIREMENTS DURING 2011 AND DECLARING AN EMERGENCY** and made a motion to suspend the rules which was seconded by Mrs. Meszaros and supported by a unanimous vote of Council. Mrs. Rininger then made a motion to adopt Resolution R-2011-1 which was seconded by Mrs. Barrett and affirmed by a unanimous vote of Council.

Mrs. Rininger read Resolution R-2011-2 **A RESOLUTION AUTHORIZING THE VILLAGE FISCAL OFFICER OF THE VILLAGE OF WINDHAM TO ADVANCE BACK FROM THE SEWER OPERATING FUND TO THE REVOLVING LOAN FUND IN PAYMENTS OF \$1,651.91 Per MONTH UNTIL THE \$79,291.60 IS REPAYED IN FULL WITH SCHEDULED REPAYMENTS THROUGH DECEMBER 2011 AND DECLARING AN EMERGENCY** and made a motion to suspend the rules which was seconded by Mrs. Barrett. The roll call vote was taken and unanimously affirmed the motion. Mrs. Rininger then made a motion to adopt Resolution R-2011-2 which was seconded by Mrs. Meszaros and unanimously passed by Council.

Mrs. Rininger read Resolution R-2011-3 **A RESOLUTION AUTHORIZING THE VILLAGE FISCAL OFFICER OF THE VILLAGE OF WINDHAM TO CREATE A THEN AND NOW PURCHASE ORDER(S) TO PAY DOMINION EAST OHIO, LOVE INSURANCE, TREASURER OF STATE OF OHIO AND DECLARING AN EMERGENCY** and made a motion to suspend the rules which was seconded by Mrs. Barrett and carried by a 6 – 0 vote of Council. Mrs. Rininger then made a motion to adopt Resolution R-2011-3 which was seconded by Mrs. Miranda and passed unanimously by Council.

Mrs. Rininger read Resolution R-2010-53 **A RESOLUTION ESTABLISHING A POLICY OF THE VILLAGE OF WINDHAM WITH RESPECT TO LANDLORDS WHO FAIL TO REPORT TENANT MOVEMENTS AS REQUIRED BY SECTION 181.091 OF THE WINDHAM CODIFIED ORDINANCES** as a third reading and made a motion to adopt which was seconded by Mr. Garrett. The roll call vote was taken as follows: Mrs Barrett – Abstain, Mr. Garrett – Yes, Mrs. Meszaros – Abstain, Mrs. Miranda – Yes, Mrs. Rininger – Yes, Mr. Snyder – Yes. The motion was declared to be passed.

Mrs. Rininger read Resolution R-2010-5 **A RESOLUTION ACCEPTING A PROPOSAL FROM ROTATING EQUIPMENT SERVICES AND DECLARING AN EMERGENCY** and made a motion to suspend the rules which was seconded by Mrs. Meszaros and unanimously passed by Council. Mrs. Rininger made a motion to adopt Resolution R-2010-5 which was seconded by Mrs. Barrett and also unanimously passed by Council.

Mrs. Rininger made a motion to approve payment to Triple Diamond who has been seriously delinquent in providing quotes and invoices. The total on six different invoices during 2010 was \$3,107.50 (six purchase orders were created from which to pay this amount). Mrs. Barrett seconded the motion and all were affirmative on the vote of Council.

#### **Safety / Personnel / Rules by Kelly Meszaros**

Mrs. Meszaros made a motion to accept the resignation of Loretta Workman effective January 31, 2011 which was seconded by Mrs. Rininger and passed by unanimous vote of Council. Mrs. Meszaros added a thank you for Loretta's exemplary performance and congratulated her on accepting a position with the Ohio State Patrol

Mrs. Meszaros made a motion to enter into executive session to fill the vacancy left by Mrs. Workman and invite Chief Fixler into the executive session. The motion was seconded by Mrs. Rininger and carried by a 6 – 0 vote of Council. Council entered executive session at 8:15 P.M. Mrs. Rininger made a motion to return from executive session which was seconded by Mrs. Meszaros and carried by a unanimous vote of Council at 8:29 P.M.

Mayor Donham made the appointment of Mary Geraci to the position of full-time dispatcher. Mrs. Meszaros made a motion to promote Mary Geraci to the position of full-time dispatcher effective January 30, 2011.

Mrs. Rininger made a motion to advertise for part time dispatcher which was seconded by Mrs. Miranda and carried by a 6 – 0 vote of Council.

Mrs. Meszaros read Resolution R-2011-4 **A RESOLUTION APPROVING A CONTRACT WITH THE PORTAGE COUNTY DISTRICT LIBRARY FOR A BRANCH OF THE LIBRARY TO BE LOCATED WITHIN THE VILLAGE OF WINDHAM AND DECLARING AN EMERGENCY** as a first reading.

Mrs. Meszaros said it has come to my attention that we have a couple of people retire from the Fire Department. Rich Gano put in his resignation and George Bengston who also is a member of the board put in his resignation from the Fire Department. I believe that Council should formally thank both of them for their years of service. Mrs. Meszaros made a motion that Council formally thank these men for their years of service. Mrs. Rininger seconded the motion which was affirmed by a 6 – 0 vote of Council.

**Utilities by Scott Garrett**

Mr. Garrett said the minutes have been passed out.

Mr. Garrett read Ordinance O-2011-3 **AN ORDINANCE TO REVISE AND AMEND SECTION 921.01 OF THE VILLAGE OF WINDHAM UTILITY CODE AND DECLARING AN EMERGENCY** and made a motion to suspend the rules which was seconded by Mrs. Rininger and carried by a 6 – 0 vote of Council. Mr. Garrett made a motion to adopt Ordinance O-2011-3 which was seconded by Mrs. Rininger and carried by a unanimous vote of Council.

Mr. Garrett read Ordinance O-2011-4 **AN ORDINANCE REPEALING SECTION 923.03(c) OF THE VILLAGE OF WINDHAM UTILITY CODE AND DECLARING AN EMERGENCY** and made a motion to suspend the rules which was seconded by Mrs. Rininger and carried by a 6 – 0 vote of Council. Mr. Garrett made a motion to adopt Ordinance O-2011-4 which was seconded by Mrs. Meszaros and carried by a 6 – 0 vote of Council.

Mayor Donham explained that Council has voted on this and he didn't like the way it was being voted on because it was a necessary evil. It seems like Council has voted to remove a discount when in fact the rates have changed and are less for all low end users so they are receiving a better rate than with the discount. We got rid of the minimum fee since we are now billing per thousand gallons of water usage. This was a discount on the minimum fee. Although we are striking this for clarity, I want the record to show that we are not voting to remove a discount for senior citizens. We have improved the rate.

Mayor Donham explained that the water tower inspections have already been scheduled.

**Streets and Sidewalks by Rachel Barrett**

Mrs. Barrett had nothing to report.

**Housing Rental License Code by Rachel Barrett**

Mrs. Barrett said the license fee applications have been mailed out.

**Village Buildings and Properties by Jena Miranda**

Mrs. Miranda said the committee is soliciting input from other Council Members and residents. The next meeting is February 1, 2011. I was asked to mention that the door to this building, the Council Chambers should be probably replaced. We cannot get it to open. Mayor Donham said that we need to have a quarter inch cut off the bottom of the door. Dove Fall is supposed to be handling that.

**Parks and Recreation by Phil Snyder**

Mr. Snyder had nothing since the committee was unable to meet.

**Planning and Zoning by Phil Snyder**

Mr. Snyder said he had nothing.

**Solicitor's Report by Atty. Tom Reitz**

Mr. Reitz said he had no report.

Mayor Donham appointed Mrs. Miranda to Parks and Recreation in place of Randy Slusher. Mrs. Meszaros made a motion to approve the appointment which was seconded by Mr. Garrett and carried by a 6 – 0 vote of Council.

Mayor Donham appointed Mike Whan to the Planning and Zoning Committee. Mrs. Meszaros made a motion to approve the appointment which was seconded by Mrs. Miranda and carried by a 6 – 0 vote of Council.

Mayor Donham said he drafted the Resolution for the Engineering Contract to save money and didn't have Lloyd put it on the agenda which is a good thing because it is at my house. He said there will be a Special Council Meeting on Tuesday, February 1, 2011 at 7:00 P.M. for the purpose of discussing Water Plant Improvements.

### **Guest Recognition**

Jim Moore questioned the ordinances O-2011-3 and O-2011-4 and why they were not on the agenda for this evening. It was explained that they came in at the last minute and the Mayor further explained the legislation.

Rev. Fred Youngen asked about the Johnson property on Wilverne. The trailer is getting worse with snakes, ground hogs and rats around it. Mr. Snyder said we are taking steps to notify the property owner. Mayor Donham said he didn't think we are more than six weeks from yanking the trailer. Atty Ted Yates is catching up where Atty Chad Murdock left off.

Denise Bly questioned the status on the School Resource Officer. Mayor Donham said since Officer Jon Price left the Sheriff's Department has been filling in. Chief Fixler said he sees the need and is reviewing it with our current staffing level at the present time. Mayor Donham said he doesn't know if we will have someone ready by the end of the school year; if we do, it will only be for a short period of time.

Lynnea St. John said she wanted to thank the board for coming to an agreement for the flowers. The money has been raised for the Bicentennial and we are now in the planning stages. Mayor Donham inquired tongue in cheek if there were any committees that get a lot of spotlight and don't do a lot of work.

Mrs. Meszaros made a motion to adjourn the meeting which was seconded by Mrs. Miranda.  
Vote of Council: Ayes: Mrs. Barrett, Mr. Garrett, Mrs. Meszaros, Mrs. Rininger, Mr. Snyder.  
Nays: None. Motion carried and Council was adjourned at 9:00 PM.

Respectfully submitted,

Attest

Lloyd C. Billman, Clerk of Council

Robert W. Donham II, Mayor