

Village of Windham, Ohio
Minutes of the Regular Council Meeting
Held March 20, 2008

At 7:00 PM, the Honorable Mayor Robert W. Donham II called the meeting to order and led in the Pledge of Allegiance.

Roll Call: Rachel Barrett – present, Scott Garrett – present,
 Matt McManus – present, Jodi Minotti – present,
 Linda Rininger – present, Phil Snyder – present

Also present, Village Solicitor Mark Manlove, Village Administrator Maurice Hankins, Fire Chief Clarence Simpson, Kelly Meszaros, Don Jakovich, Eric Breiding, Chris Riggs, Burlin & Linda Groves, Roscoe Burkett, Lisa Roubic, Dan Burns, Bruce Rininger, Jim Moore, Lori Lee, Jim Mitchell and several others

Mayor's update on Jason Lamtman: Mayor Donham said in the matter of Jason Lamtman's current suspension pending termination, the case has been thoroughly examined and inspected. Our Solicitor, Mr. Manlove, has been in contact with Mr. Lamtman's counsel, Lisa Roubic, and with the agreement of Mrs. Roubic and Mr. Lamtman, Mr. Lamtman's appeal hearing will not be held tonight. Due to procedural reasons, the current charges are being withdrawn at this time pending further review of the case. That is all of the update that we have on that. We will not be commenting upon it because it is an internal personnel matter.

The minutes of the February 26, 2008 Regular Council Meeting were reviewed. Scott Garrett made a motion to approve the minutes. The motion was seconded by Rachel Barrett. Ayes: R. Barrett, S. Garrett, M. McManus, J. Minotti, L. Rininger, P. Snyder. Nays: None. Motion carried.

Village Fiscal Officer reports, Lloyd Billman. The Fiscal Officer presented the expenditures for the month of February including checks, charges, etc of \$189,515.88 and the February Bank Reconciliation with an all funds reconciled balance of \$558,684.24 for the month. Check numbers 19895 through 20043 were paid from the primary checking account during the month. Check numbers 19787, 19826 and 19886 were voided from the primary checking account during the month. The permanent appropriation ordinance O-2008-7 will be available for vote during the finance section.

Village Council President, Phil Snyder Phil had no report.

Phil Snyder presented the Dispatchers, Police, Fire and Rescue Squad (EMS) report for the month of February 2008.

Mayor Donham presented the Mayor's report to Council. Mayor Donham gave an update upon the Portage County Water Resources investigative committee and Village Utilities will meet next Wednesday at 4:00 PM. He said this is the first time they have met since 2004. The committee will investigate what role if any Portage County can play in cooperating with the Village in lowering the water rates and the operation and or ownership of both the water and sewer.

Mayor Donham gave an update upon the Arsenal Water and Sewer Project. He spoke with Chuck Kiper, Harold Huff and Congressman Ryan's office. There is grant money available relatively soon for the detailed design, after which we can then move into the construction phase. Financing still needs to be secured for both but both look extremely good at this time. More update will follow.

Prior requests of guests to speak: C. James Moore wanted to comment upon the Income Tax handout talking about the declaration of estimated taxes which he said was not proper. It is a violation of the codified ordinance. Unless the codified ordinance is changed by council, it must be upheld by the Income Tax Administrator and Fiscal Officer. Regarding the declaration of estimated taxes and payment of estimated quarterly tax, the ordinance states anyone owing the Village over \$60 in Income Tax is to file a declaration of estimated taxes for the following tax year. It is the job of the Income Tax Administrator to uphold this ordinance. If your income tax return falls into this category and the estimated portion is not filled out, it is the job of the Income Tax Administrator to fill it out. The declaration amount is divided into four equal payments with the first payment not being due until the end of April, and the remaining payments due at the end of the sixth, ninth and twelfth months. The last three payments are filled and mailed directly to you. Now this sentence here is the one I take exception to; should you wish not to pay the bill, you will not be penalized nor will interest be added and you will not be sued or taken to court. And the next part I take exception to is, you are not required to make the first installment payment at the time you pay your taxes. Should you wish to participate your first installment is due at the end of April. Mr. Moore said he wasn't here to debate this, he just wanted to let us know that it is in violation of the ordinance. It is wrong to tell residents that they don't have to pay or participate in paying their quarterly taxes and that they won't pay any penalty when the ordinance of the Village passed by Council says the opposite. Unless the income tax is changed by Council, it must be enforced by the Mayor whose primary function is to enforce the ordinances. And it must be enforced by the Fiscal Officer and Income Tax Administrator. I don't know how many of you were aware of this, but this incorrect information needs to be corrected. He then passed out copies from RITA which states that the estimate is due By Law and the payments of quarterly estimated tax is not voluntary but required by law if not withheld by your employer. Now this is basically the same language that you have on the ordinance of the Village. Failure to pay is subject to assessment of penalties and interest.

Mr. Moore also wanted to make some comments on the web site – the resolutions and ordinances are not up to date all the way from last year. He said it is important that they be kept up to date. The information on the lawsuit that was filed against the Township Trustees is not on the web site as well. This is information that the Township Residents and Village Residents should have. Win or loose the law suit, the public needs to know what it's all about. The last issue is about the East Elementary School and the Township Trustees have said in the Villager that they don't want anything to do with it. Jim said his recommendation is that we try to do what we can with it since the School is willing to turn it over to the Village and Township. If the Board of Education wants to turn it over to the Village and the Township; obviously it was paid for by the Village and Township monies as well as state monies. If the Township doesn't want anything to do with it, let's figure out a way to handle it, hire a leasing company or whatever.

Mayor Donham said on the declaration on the Income Tax handout, and Linda is working on wording that now. That purple paper is Lori's current policy on how we treat the interest and penalty as far as quarterly billing. It is not an option on whether we fill out the quarterly statement. I think there is some wording in there that could be rearranged so that it reads better, however the policy is pretty clear from Lori's standpoint and it is important to have it in

writing. The State Auditor wants it in writing and the residents need to have a consistent feel for it, and the policy is that interest and penalties on the quarterly billing it's not prudent to go after in court. If those quarterly payments have not been paid, the interest and penalty do not amount to enough to go to court, to send out all of the written certified letters that are required and to prosecute those. So if by the due date of the taxes, April 15th that payment is paid in full, we do not assess interest and penalties. However if that obligation is not met, that discretion is not given to the taxpayers. And it is in the ordinance allowed discretion of the Tax Administrator as far as interest and penalties are concerned. That is how we take care of that and subject to appeal to the Income Tax Board of Review. But we are working on her policy as far as getting a good copy of a written policy. The State Auditor wants all of Lori's policies in writing and this was the most important at the time because it is something that has been in the ordinance for a long time, but has not been enforced. We are now enforcing it and it is causing some confusion so we need to have it in writing. Jim Moore said 'Policy cannot supersede law'. Jim asked that Mark Manlove look at this as well, since this is a policy that just came out recently to see if it violates the law. Jim said the plan was to start the quarterly estimates last year and there was not to be any penalty or interest last year for at least a year. That was the policy last year, and if the policy was changed for some reason, 'you guys need to get together. Policy cannot supersede law.' Council President Phil Snyder said there has been some discussion with the necessity to look at that ordinance and if it needs to be changed it will be done. If the committee feels it needs to be changed it will be done in committee and presented to council and done in three readings. Mayor Donham said that the second part of that is the tax is not due when you make your payment, a lot of people pay their tax before April 15th. The first payment of quarterly tax isn't due until the end of April. The tax is still due by the 15th of April the year following when the monies were earned. Phil said we do intend to follow the ordinance and to change it in the proper manner. Linda said she hopes to have clarification on that for Monday so that Council can review and maybe we can have an explanation for the public so that it makes it a little clearer for them and stays within the guidelines of our ordinance.

Mayor Donham said that regarding the web site, Lori spent a large portion of today updating it. He realized that we were behind for November and December on web site postings. He also said that Lori Lee who is our Income Tax Administrator is the one who updates the web site and this being tax season is very busy at this time. He said that we have a May deadline to not only get up to date but by the May meeting we will have the Council Agenda posted on the web site the Monday before the meeting and the previous months minutes posted Wednesday after the meeting.

The Mayor said he couldn't agree more on the East Elementary School Issue. The article in the Villager was the first he had heard that the Township isn't interested. He said he needs to get a call back to Brian Miller because Brian has left several messages for Rob. He said the School is something we are extremely interested in and something that is great for the community. Currently we are looking at the possibility of a recreation center and administration offices replacing this building and providing long term stability.

Council President Phil echoed the sentiments that this is too great an opportunity to pass up.

Finance Committee Report by Linda Rininger. Linda made a motion to approve the Fiscal Officers Expenditures for February of \$189,515.88 in checks and charges, etc. Check numbers 19895 through 20043 were paid from the primary checking account during the month. Check numbers 19787, 19826 and 19886 were voided from the primary checking

account during the month. The motion was seconded by Matt. Ayes: R. Barrett, S. Garrett, M. McManus, J. Minotti, L. Rininger, P. Snyder Nays: None. Motion carried.

Rachel then made a motion to approve the February 2008 Bank Reconciliation with an all funds reconciled balance of \$558,684.24. This was seconded by Scott. Ayes: R. Barrett, S. Garrett, M. McManus, J. Minotti, L. Rininger, P. Snyder. Nays: None. Motion carried.

Phil made a motion to suspend the rules on Ordinance O-2008-7 AN ORDINANCE APPROVING AND ADOPTING THE PERMANENT APPROPRIATIONS FOR 2008 FOR THE VILLAGE OF WINDHAM, CALLED FOR IN THAT BUDGET, AND DECLARING AN EMERGENCY. Scott seconded the motion and the roll call was taken. Ayes: R. Barrett, S. Garrett, M. McManus, J. Minotti, L. Rininger, P. Snyder Nays: None. Motion carried. Rachel moved to adopt the ordinance and Scott seconded the motion. Ayes: R. Barrett, S. Garrett, M. McManus, J. Minotti, L. Rininger, P. Snyder. Nays: None. Motion carried

Phil made a motion to suspend the rules on Ordinance O-2008-4 AN ORDINANCE AMENDING SECTION 921.01 OF THE CODIFIED ORDINANCE OF THE VILLAGE OF WINDHAM TO INCREASE THE MINIMUM MONTHLY CHARGE SET FORTH THEREIN EFFECTIVE APRIL 1, 2008 (FOR THE MAY 1 BILLING) AND REFLECTING THE 5% INCREASE TO DATE DECLARING AN EMERGENCY AND REPEALING ALL PRIOR OTHER INCONSISTENT ORDINANCES. The motion was seconded by Scott. Ayes: R. Barrett, S. Garrett, M. McManus, J. Minotti, L. Rininger, P. Snyder Nays: None. Motion carried. Phil made a motion to adopt the ordinance and Scott seconded the motion. Ayes: R. Barrett, S. Garrett, M. McManus, J. Minotti, L. Rininger, P. Snyder Nays: None. Motion carried.

Scott made a motion to adopt resolution R-2008-14 A RESOLUTION AUTHORIZING THE VILLAGE FISCAL OFFICER OF THE VILLAGE OF WINDHAM TO CREATE A THEN AND NOW PURCHASE ORDER NUMBER 279-2008 TO AGRI_SLUDGE, INC IN THE AMOUNT OF \$6615.00 FOR HAULING SLUDGE ON JANUARY 8, 2008 AND DECLARING AN EMERGENCY. The motion was seconded by Matt. Ayes: R. Barrett, S. Garrett, M. McManus, J. Minotti, L. Rininger, P. Snyder Nays: None. Motion carried.

Scott moved to adopt resolution R-2008-15 A RESOLUTION AUTHORIZING THE VILLAGE FISCAL OFFICER OF THE VILLAGE OF WINDHAM TO APPROPRIATE THE NECESSARY FUNDS IN THE AMOUNT OF \$6000.00 IN ORDER TO TRANSFER OUT OF FUND 5701 THE E. CENTER ST. SEWER LINE FUND AND INTO THE SEWER OPERATING FUND AND DECLARING AN EMERGENCY. Rachel seconded the motion. Ayes: R. Barrett, S. Garrett, M. McManus, J. Minotti, L. Rininger, P. Snyder Nays: None. Motion carried.

Phil moved to adopt resolution R-2008-16 A RESOLUTION AUTHORIZING THE VILLAGE FISCAL OFFICER OF THE VILLAGE OF WINDHAM TO CREATE A THEN AND NOW PURCHASE ORDER NUMBER 183-2008 TO HUNTINGTON NATIONAL BANK IN THE AMOUNT OF \$8886.36 FOR LEASE OF 2006 FORD F350 TRUCK WHICH WAS AUTOMATICALLY DEDUCTED FROM OUR PRIMARY CHECKING ACCOUNT ON FEBRUARY 1, 2008 AND DECLARING AN EMERGENCY. Scott seconded the motion. Ayes: R. Barrett, S. Garrett, M. McManus, J. Minotti, L. Rininger, P. Snyder Nays: None. Motion carried.

Phil moved to adopt resolution R-2008-17 A RESOLUTION AUTHORIZING THE VILLAGE FISCAL OFFICER OF THE VILLAGE OF WINDHAM TO APPROPRIATE THE NECESSARY FUNDS IN THE AMOUNT OF \$6924.00 IN ORDER TO PURCHASE THE USED 2005 FORD POLICE INTERCEPTOR APPROVED BY RESOLUTION R-2008-9 AND DECLARING AN EMERGENCY. Scott seconded the motion. Ayes: R. Barrett, S. Garrett, M. McManus, J. Minotti, P. Snyder. Nays: L. Rininger. Motion carried.

Phil moved to adopt resolution R-2008-18 A RESOLUTION AUTHORIZING THE VILLAGE FISCAL OFFICER OF THE VILLAGE OF WINDHAM TO TRANSFER APPROPRIATIONS WITHIN STREET CONSTRUCTION MAINTENANCE IN ORDER TO PAY OUR BUREAU OF WORKERS COMPENSATION PAYMENT AND DECLARING AN EMERGENCY. Rachel seconded the motion. Ayes: R. Barrett, S. Garrett, M. McManus, J. Minotti, L. Rininger, P. Snyder. Nays: None. Motion carried.

Rachel moved to adopt resolution R-2008-19 A RESOLUTION AUTHORIZING THE VILLAGE FISCAL OFFICER OF THE VILLAGE OF WINDHAM TO TRANSFER APPROPRIATIONS WITHIN ENTERPRISE DEPOSIT FUND IN ORDER TO PAY AN UNUSED DEPOSIT PAYMENT OF A LANDLORD FOR VACANT APARTMENTS AND DECLARING AN EMERGENCY. Phil seconded the motion. Ayes: R. Barrett, S. Garrett, M. McManus, J. Minotti, L. Rininger, P. Snyder. Nays: None. Motion carried.

Safety / Personnel / Rules Committee by Phil Snyder. Phil said the minutes have been distributed.

Phil made a motion to adopt resolution R-2008-21 A RESOLUTION APPOINTING TERRY GUNNO AS PART-TIME UTILITIES CLERK FOR THE VILLAGE OF WINDHAM AT \$9.50 PER HOUR EFFECTIVE MARCH 24, 2008 AND DECLARING AN EMERGENCY. The motion was seconded by Rachel. Ayes: R. Barrett, S. Garrett, M. McManus, J. Minotti, L. Rininger, P. Snyder. Nays: None. Motion carried.

Phil made a motion to adopt resolution R-2008-20 A RESOLUTION APPOINTING ERIC BREIDING AS PART-TIME SERGEANT FOR THE VILLAGE OF WINDHAM EFFECTIVE MARCH 23, 2008 AT A PAY RATE SET FORTH IN THE PAY ORDINANCE AND DECLARING AN EMERGENCY. The motion was seconded by Scott. Ayes: R. Barrett, S. Garrett, J. Minotti, P. Snyder. Nays: M. McManus, L. Rininger.. Motion carried.

Phil moved to adopt Ordinance O-2008-2 AN ORDINANCE ADDING SECTION 155.14 TO THE CODIFIED ORDINANCE OF THE VILLAGE OF WINDHAM IN ORDER TO PROVIDE AN EDUCATIONAL INCENTIVE FOR FULL TIME VILLAGE EMPLOYEES DECLARING AN EMERGENCY AND REPEALING ALL PRIOR INCONSISTENT ORDINANCES. Scott seconded the motion. Ayes: S. Garrett, M. McManus, J. Minotti, P. Snyder. Nays: R. Barrett, L. Rininger. Motion carried.

Phil moved to adopt Ordinance O-2008-3 AN ORDINANCE ADDING SECTION 155.051 TO THE CODIFIED ORDINANCE OF THE VILLAGE OF WINDHAM IN ORDER TO DEFINE SERVICE TIME AND EARNED TIME FOR VILLAGE EMPLOYEES IN ORDER TO CLARIFY VILLAGE POLICY DECLARING AN EMERGENCY AND REPEALING ALL PRIOR INCONSISTENT ORDINANCES. Scott seconded the motion. Ayes: S. Garrett, P. Snyder. Nays: R. Barrett, M. McManus, J. Minotti, L. Rininger. Motion defeated.

Service Committees: (Utilities, Street & Sidewalks, Housing Code, Buildings & Properties)

Utilities

Utilities report by Scott Garrett. Scott said that the minutes have been passed out. Scott made a motion to suspend the rules on ordinance O-2008-5 AN ORDINANCE AMENDING SECTION 923.03(C) OF THE CODIFIED ORDINANCE OF THE VILLAGE OF WINDHAM TO REMOVE THE INCOME REQUIREMENT FROM THE SENIOR CITIZENS DISCOUNT ON WATER CHARGES EFFECTIVE APRIL 1, 2008 DECLARING AN EMERGENCY AND REPEALING ALL PRIO INCONSISTENT ORDINANCES. Phil seconded the motion. This was an amended language on the original ordinance. Ayes: R. Barrett, S. Garrett, M. McManus, J. Minotti, L. Rininger, P. Snyder Nays: None. Motion carried. Phil moved to adopt the ordinance and Scott seconded the motion. Ayes: R. Barrett, S. Garrett, M. McManus, J. Minotti, L. Rininger, P. Snyder Nays: None. Motion carried.

Streets and Sidewalks report by Jodi Minotti. Jodi said a letter will be sent out to all residents to clear obstructions overhanging sidewalks. She said the committee also discussed setting up a contract for trash removal and billing the residents for the service.

Housing Rental License Code by Phil Snyder. Phil gave the first reading on Ordinance O-2008-6 AN ORDINANCE AMENDING SECTION 1341.08(C) OF THE CODIFIED ORDINANCE OF THE VILLAGE OF WINDHAM TO INCREASE LICENSING FEES FOR HOUSING LICENSES AND INSPECTION EFFECTIVE MAY 1, 2008 REPEALING ALL PRIOR OTHER INCONSISTENT ORDINANCES AND DECLARING AN EMERGENCY.

Village Buildings and Properties by Matt McManus. Nothing to report at this time.

Planning and Zoning Commission by Matt McManus. Matt said there is no report for this month.

Parks and Receptions by Matt McManus. Matt announced there will be a Park Beautification Day on May 3rd with a rain date of May 10th. He is waiting to hear back from some possible guest speakers. He is also working on sending out letters to local businesses to see if we can obtain donations for trees, plants, flowers mulch and soil. He is trying to get the school, Hot Stove and the Village involved in a hot dog lunch. We already talked about picnic tables and possibly grills and having them ready for that date. There is also a grant which will provide \$2 for every \$1 we raise to repair permanent restrooms and pavilion improvement. He also suggested a memorial basketball tournament as a fund raiser after the end of baseball season. We need to provide concessions and restrooms for an August 16th throw back baseball game. Carol Kropenack, the Superintendent of Schools, said she is unsure about the status of East Elementary School at that time. An open cut grass field is needed for this. They play with no gloves and a little bigger ball.

Jodi said we have a very special guest who has been using the Windham area for her dancing. She is interested in getting something started as far as talent here in Windham. Ashley Gadd said she would like to ask permission to use the Community Building and stage for an all agent community talent show as a fund raiser for All-Star Pee Wee Football Team. Rob asked what dates she would be interested in. She said she would like to target a late weekend in April.

The Hot Stove is asking for money to help with portable toilets and dirt for the field. They would like \$75 per month for three months and three portable toilets for a total of \$675.00 and \$500.00 for dirt for the field. If we get the permanent restrooms refurbished they may only need two portable toilets instead of three.

Rob asked Maurice what we do with junk tires. Maurice said we have no way of getting rid of tires which are placed by the dumpster.

Bicentennial Committee by Kelly Meszaros – Kelly said she attended the last meeting and talked about a blackstocking game to be held this side of the county. They have the travelling bi-centennial road show and if we would like it for the firemen's parade, that could be possibly arranged. They submitted three names for the memorial recognition which will be held, I believe, on May 17th. They are Benjamin Higley, Huber King and Shorty Griswald. There will be plaque at the cemetery. They are looking for a commitment for a parade entry by May 15th. We will host the religious event which will not be a Bicentennial sponsored event, but we are trying to promote it as a county wide thing. The Portage County Bicentennial Day at the Indians is July 25th with tickets at \$17 each. There will be information on the web site.

Economic Development and Long Range Planning by Jodi Minotti. – Nothing at this time.

Tax Incentive Review Committee by Scott Garrett – They met March 19, 2008 and renewed the tax abatement agreement with Harbison Walker for another year. They currently employ 128 people at a full time rate and have met their economic pledge to us. He also wanted to thank Linda and our Village Representative Barb Edder for their time as well.

Records Commission by Scott Garrett. – No report at this time.

Village Solicitor report by Mark Manlove. – No report.

Guest Recognition.

Francis Ballard said she had a few things. There was nothing addressed from the safety committee meeting where there was a very large attendance from the community with only four vacant chairs. There were several concerns from the community and none of the concerns were addressed in the minutes so that the members of council who were not in attendance for the safety committee meeting could be informed of the issues. As far of the promotion, Ed Perdian did read part of the Ohio Revised Code but it also states in paragraph two that all patrolmen desiring the rank of sergeant must have been employed as a patrolman full time by the Village of Windham for a period not less than two years and it has to be beneficial to the public. We have other officers that have been here – Tom Denvir has been here twenty-five years and knows everybody in this town. I think this is going to cause a lot of chaos that you are not ready for.

She also asked if the Village has adopted a new Standard Operating Procedure book for the Police Department. Mayor Donham said we have a newer standard operating procedure than 1987. Francis then asked why were the copies removed from the police officers and dispatchers and locked in the Chief's office. If the copies have been removed and a new one hasn't been adopted, then what standards are we going by.

The Mayor said it sounds like a departmental procedural issue and if she would like to make a complaint to the safety committee and they would look into it.

Lori Lee said that the web site is up to date and has been updated with ordinances and resolutions.

Dan Burns said that the Hot Stove puts a lot into the park each year, and perhaps that could be counted toward the grant money. Scott Garrett indicated that we could have fund raisers to help with contributions.

Jason Lamtman said he wanted to thank the Mayor, Council and Chief for withdrawing the charges and he is looking forward to returning to work.

There being nothing further and all in agreement the meeting was closed at 8:31 PM.

Respectfully submitted,

Attest

Lloyd C. Billman, Clerk of Council

Robert W. Donham II, Mayor