

## Minutes of Regular Council Meeting

Held May 26, 2020

At 7:05 p.m. the Honorable Mayor Scott Garrett called the meeting to order and led in the pledge of allegiance to the flag of our country.

Roll Call: Cheryl Belknap – present Lawrence Cunningham – present  
Terrie Altiere – present Cindy Cale – present  
Cheryl Taylor – present Sherri Pennington – present

Also present were: Tom Reitz, Eric Breiding, Elizabeth Derthick, Tom Brett, Debbie Blewitt, Sheila Moore, and Britnee Cunningham.

Mrs. Altiere made a motion to approve the minutes of the April 28, 2020 Regular Council Meeting, which was seconded by Mrs. Cale and carried by a 6 – 0 vote.

Fiscal Officer Taylor gave the Financial Reports as follows: The Income Tax collected year to date April 30, 2020 was \$166,739.51. The expenditures for the month of April 2020 were \$115,155.43 in checks and charges. Check numbers 36032 through 36100 were paid from the primary checking account during April 2020 with check numbers 35713 and 35821, voided during the month. Direct Deposit Vouchers 177-2020 through 205-2020 and 211-2020 through 233-2020 were also paid during the month of April 2020. The all funds reconciled balance for April 2020 was \$1,611,289.47.

Village Council President's report by Terrie Altiere – Mrs. Altiere said congratulations and good luck the Windham High School graduating class of 2020 and even with the unusual circumstances (the pandemic); the Village of Windham came through to support the class of 2020.

Dispatchers Police, Fire and Rescue Reports for April 2020 by Cindy Cale – Mrs. Cale made a motion to accept the Police, Fire, and Rescue Reports for April 2020, which was seconded by Mrs. Taylor and carried by a 6 – 0 vote.

Mayor's Communication by Scott Garrett – Mr. Garrett said he seconds Mrs. Altiere's sentiments on the graduating class of 2020. Mr. Garrett said the guys did a great job putting up the flags and flowers even though there was not a Memorial Day Parade this year. Mr. Garrett wants to revisit the Mayoral Emergency Order. Mr. Garrett wants to revisit the possibility of putting together legislation making business owners responsible for maintaining their parking lots and driveways. Mr. Garrett said the recycling area is a disaster, there are many items that should not be there, so we need to find a way to secure that area, and if this illegal dumping of items continues there may be no alternative than to get rid of it because we do not have the manpower to look through the pictures or to pick up the area.

Prior requests of guests to speak – None

Finance by Cindy Cale

Mrs. Cale made a motion to approve the Fiscal Officer's expenditures for the month of April 2020 as reported. Mrs. Taylor seconded this motion and it carried by a 6 – 0 vote.

Mrs. Cale made a motion to approve the all funds reconciled bank balance for April 2020 in the amount of \$1,611,289.47 as reported. Mrs. Altiere seconded the motion which carried by a 6 – 0 vote.

Safety, Personnel, Rules (SPR) by Terrie Altiere

Mrs. Altiere read Ordinance O-2020-8 **AN ORDINANCE AMENDING THE CURRENT PAY ORDINANCE TO ESTABLISH AND REVISE THE SALARIES AND WAGES OF FULL-TIME AND PART-TIME EMPLOYEES WITHIN THE VILLAGE OF WINDHAM, COUNTY OF PORTAGE AND STATE OF OHIO, REPEALING ALL PRIOR INCONSISTENT ORDINANCES.** This was a third read. Mrs. Taylor made a motion to adopt Ordinance O-2020-8, which was seconded by Mrs. Cale and carried by a 6 – 0 vote.

Utilities by Cheryl Taylor

Mrs. Taylor read Ordinance O-2020-12 **AN ORDINANCE AUTHORIZING A CONTRACT WITH WOODFORD EXCAVATING, LLC FOR THE VILLAGE OF WINDHAM, WATER SYSTEM IMPROVEMENTS – PHASE II PROJECT, IN PORTAGE COUNTY, OHIO AND DECLARING AN EMERGENCY** and made a motion to suspend the rules, which was seconded by Ms. Belknap and carried by a 6 – 0 vote. Mrs. Taylor made a motion to adopt Ordinance O-2020-12, which was seconded by Mrs. Cale and carried by a 6 – 0 vote.

Mrs. Taylor read Resolution R-2020-8 **A RESOLUTION TO APPROVE AN AGREEMENT WITH CORRPRO TO DETERMINE THE CAUSE OF THE FAILURE OF THE EVOQUA FORTY FORTY DISC FILTER DRUMS AND DECLARING AN EMERGENCY** and made a motion to suspend the rules, which was seconded by Mrs. Cale and carried by a 6 – 0 vote. Mr. Reitz explained that this contract is for the corrosion that has occurred on the disc filters at the Sewer Plant that were installed 18 months to 2 years ago. Mr. Reitz said that we do not have a good understanding of what has caused the failure, the design professional that was used on the file indicated there is nothing unusual about the water and the design is appropriate, the manufacturer says it is not their fault, the installer says it was installed perfectly, since all the opposing parties are pointing the finger at each other the Village need an expert that is working exclusively for the Village. Mr. Reitz said CORRPRO are corrosion experts and they are going to investigate and run tests and then provide a report to the Village as to what the problem is with the filters. Mr. Reitz said the Village will share this with the design professionals, the manufacturer, and the installer and expect whoever is responsible for the malfunction to make it whole. Mr. Reitz said he expects push back from these people and this will probably be an extensive investigation. Mrs. Cale asked how much this would cost the Village. Mr. Reitz said the contract price is for \$3,200, if they need to come on site the daily rate is \$1,195 per day, there may be other tests necessary and that's not included in this contract, so the minimum amount will be \$3,200. Mrs. Pennington asked if the \$1,195 covers hotel stays, food, and travel and does that represent one person or multiple people. Mr. Reitz said that includes work, site meetings, and mobilizations and there office is based in Medina, so there would not be a hotel stay and it does include the travel. Mrs. Cale said if we find out it is one of these other parties problem and we agree to that, will the Village be able to recoup any of this money spent on this contract. Mr. Reitz said we will certainly try. Mrs. Taylor made a motion to adopt Resolution R-2020-8, which was seconded by Ms. Belknap and carried by a 6 – 0 vote.

Service Committee by Cheryl Belknap – Mrs. Belknap said the Lions Club has done a wonderful job on the flower boxes around town.

Economic Development by Lawrence Cunningham – Mr. Cunningham said that people's lawns and yards are starting to look better and he will keep Council informed about the properties that people have inquired to him about in the past.

Parks and Recreation by Sherri Pennington – Mrs. Pennington said someone came out to give a quote on batting cages where the tennis courts are. Britnee Cunningham said she has texted them but has not received a response yet as to what the quote price was. Britnee Cunningham said she will continue to look for others to come out and give a quote on the batting cages because this is the second company that has come out and has not gotten back to her with a price quote. Mrs. Pennington said she is looking into putting a picnic area on the other side of the tennis courts in the park and perhaps getting a Farmer's Market there. Mrs. Pennington said she has been talking to Mason, the owner of G&F Mini Mart about potentially opening up the other side of the Mini Mart (which is now the automatic carwash that isn't being used) as a meat market because Mason is a butcher.

Planning Commission by Scott Garrett

Mr. Reitz explained that the Planning Commission meeting was cancelled tonight because the consolidation of the five lots where the new Dollar General is going to be built was already completed last fall. Mr. Reitz said Ordinance O-2020-13 should be the last piece of legislation that needs to be passed in order to sell this site to Dollar General. Mr. Reitz said the attachment shows the original five parcels with diagonal slashes through them, these are old utility easements. Mr. Reitz said the Village has the authority to vacate these easements and this is what Ordinance O-2020-13 does. Mr. Reitz there was a survey done to show there are no actual utilities in these easements. Mr. Reitz said the second thing the legislation does is create a new easement to be retained by the Village after the sale of the land to Dollar General, this is a 12

foot easement. Mr. Reitz said the vacation and acceptance of easements can only be done by the Village Council.

Mr. Garrett read Ordinance O-2020-13 **AN ORDINANCE ACKNOWLEDGING A REPLAT ESTABLISHING S/L 51-R2 VACATING AND ESTABLISHING UTILITY EASEMENTS**. Mrs. Cale made a motion to suspend the rules, which was seconded by Mrs. Altieri and carried by a 6 – 0 vote. Mrs. Cale made a motion to adopt Ordinance O-2020-13, which was seconded by Mrs. Altieri and carried by 6 – 0 vote.

Solicitor's Report by Tom Reitz – Tom Reitz said wanted to be to Council's attention the action that has taken place regarding the passage of Ordinance O-2020-3 (Amending Section 505.15 of the Village's Codified Ordinance). Mr. Reitz said citizens circulated a referendum petition, which is a petition that states before this change goes into effect the citizens want this placed on the ballot to be voted on by the citizens. The petitioners needed 10% of registered voters that voted in the last general election to sign this petition (49 signatures), they got 71 signatures that were validated by the Board of Elections, so now the Board of Elections is obligated to place this on the ballot in November. The Board of Elections sent a letter asking if Council would like this placed on the ballot, it's really not discretionary because the petitioners received the required amount of signatures, however Council does have the option to repeal Ordinance O-2020-3 tonight. If Council chooses not to repeal Ordinance O-2020-3, then it will be placed on the ballot in November and the changes made in O-2020-3 will not take effect until this matter has been voted on by the residents. Mr. Garrett asked if Council has heard any feedback from the residents on this matter. Debbie Blewitt said she heard that people thought residents would ask for a variance and anyone would be able to have chickens, that includes everyone in the new homes and in the projects. Debbie Blewitt said she believes that the people have been misled, Tresino's, Mangus', and the couple on the corner of Wolf Road and Horn Road have has chickens for years and there have never been any complaints, and she said once she explained this to people they said that's not what they were told, so Ms. Blewitt believes there is not as much kickback as there needs to be if residents are learning the truth. Tom Brett said O-2020-3 changes the criminal code, not the zoning code so he doesn't think a variance can be granted and Mr. Reitz confirmed that the variance procedure is not available to citizens when it comes to the criminal code. Tom Brett asked what should be done enforcement wise until after this is on the ballot and voted on. Mr. Garrett said he thinks that once misinformation is out there it is not easy to walk back, and will people really understand the Ordinance at the ballot box or will they come in with their preconceived ideas through misinformation, and he understands that people do not want to see chickens running rampant throughout the New Homes and throughout the Village, but that is not the intent nor would that happen, but if that's the perception of what will happen it may be tough to stop it. Mr. Cunningham said he was told that people were swaying people to believe certain things, he doesn't think people understand what it really is. Mr. Garrett said if you look at the property needed to qualify to have chickens, he doesn't believe anyone would qualify for that in the New Homes. Mr. Garrett said there are only a few properties on the outskirts of town that would qualify to have chickens. Mr. Garrett said this was brought about because there is currently an Ordinance stating that it is not allowed and it was challenged, and there are several people that have had chickens for a decade or so, and if Council didn't do anything we would have to ask them to get rid of their chickens, so Council came up with an Ordinance that said if you have a certain amount of property then you can have chickens. Mr. Reitz confirmed that there is no cost to the Village for this referendum to go on the ballot. Mrs. Pennington asked how to educate the citizens if they are being misled. Mr. Reitz said if citizens feel like they have been misled, then it is there obligation to go to the Board of Elections and file a complaint. Mr. Reitz the Council can provide accurate information to the citizens, which should remove any misunderstandings that might have occurred. Mr. Reitz said it is not a campaign for or against the referendum, but to make information available to the citizens that makes the legislation easily understood. Mrs. Taylor asked if we could put a letter in the water bills and Mr. Reitz said as long as it is informational and not advocating for the legislation one way or another. Mr. Garrett said we could also put something on our website. Debbie Blewitt compared this to an increase in income tax and the fact that the Village would want the citizens to know why we needed the increase, why can't Council go and say "this is why we would like to allow chickens". Debbie Blewitt said you can only have a certain amount of chickens on .9 acres, people need to know the truth and why isn't it Council's responsibility to provide people with that. Mr. Reitz said you can provide the truth. Debbie Blewitt asked if Council could have a campaign informing people that what they are being told isn't exactly the truth. Ms. Belknap said people will see the truth once they understand it. Debbie Blewitt said at least they will have the option. Mr. Garrett said putting a letter out and putting it on the website, with an explanation as to why this came about and putting in plain words what this Ordinance is going to do and what it is not going to do. Debbie Blewitt said if there are citizens that want to go door to door and be truth tellers then they can

do that. Tom Brett said he would be able to determine how many properties were .9 acres or more in the Village and provide Council with that information. Cheree Taylor confirmed with Mr. Reitz that there was no motion vote needed because Council was not repealing O-2020-3 and Mr. Reitz confirmed that a motion vote is only needed if repealing, and gave the go ahead to send the letter to the Board of Elections.

Guest Recognition – (This recording is very broken, I tried my best to transcribe what was understandable) Sheila Moore said when you do a referendum every person that passes around a petition has a certified copy of the Ordinance that was passed by Council and provided by the Fiscal Officer so that people can look at the legislation that was passed before signing the petition. Sheila Moore said if anyone had questions, the petitioners had the Ordinance in black and white for people to read and all the petitioners had copies of all the required documents when asking for signatures. Sheila Moore said she took extra copies to leave with people so that they could look at them at their leisure. Sheila Moore said no one knocked on doors because of the COVID lockdown, so the petitioners were handicapped because they did not want to put themselves or the residents at risk. Sheila Moore said Sammy called all his people ahead of time and made appointments with people to sign the petition as did Ms. Moore. Sheila Moore said everything was done as safely as possible, had it not been for COVID 19 there would have been more signatures. Sheila Moore said so for someone to say that they were negligent during a time of crisis, that did not happen. Sheila Moore said she counted 81 properties that would qualify to have chickens in a 2 mile square area, she is not happy with that. Sheila Moore said there is also a problem with this when it comes to economic development because you can have up to 10 chickens, ducks, or turkeys and people are not going to want to buy a house next to that and by her count there are two properties in the New Homes. Sheila Moore said she really doesn't care for the "misinformation" comments, she and the other petitioners did not misrepresent anything, they passed the petition around and were as honest as possible and gave people their feelings on the matter and let the citizens make up their own minds. Sheila Moore said if the Council wants to send out some kind of solicitation on this, fine, but it seems a little frantic for the Village to do that. Sheila Moore said for it to be mentioned that there were some requirements that were not done correctly by the petitioners, she was curious to know what that was. Debbie Blewitt said she has multiple calls about Sandy Patti approaching cars during the COVID crisis to obtain signatures and people were asking her to please step back from the car, it's during a pandemic, why would anyone approach a car. Sheila Moore said she can't talk for Sandy. Debbie Blewitt said Sandy is part of Sheila's committee. Sheila Moore said she's not here to defend herself either. Debbie Blewitt said she actually called Sandy Patti and asked her. Mr. Garrett said he sees both sides of this issue, but Council's intent was to try to preserve the people that have has chickens for over a decade without any problems. Sheila Moore said the vote will be what the vote will be. Mr. Garrett said that was true, Council was just trying to help out some longtime residents. Mr. Garrett asked Sheila Moore, out of those 81 properties, how many people would actually want chickens. Sheila Moore said she doesn't know that answer (then Mr. Garrett and Sheila Moore were both talking at the same time and the tape was not decipherable.) Mr. Garrett said the Village has never enforced this chicken law, so his point is if people wanted to have them they already would. Sheila Moore said according to the Record Courier on May 22<sup>nd</sup>, municipalities should be receiving money due to COVID 19 and she was wondering how much Windham would be getting. Cheree Taylor said she has not received any kind of communication on this matter and has not received any kind of check other than the normal checks every month. Debbie Blewitt asked Cheree Taylor if she applied for the CARES act. Cheree Taylor said she did what she was told to do and has not heard anything back.

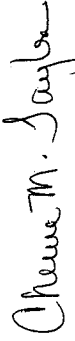
Last Chance of Council to Speak on Any Subject – Mrs. Cale said she received an email from Mark and Zach (owners of Windy Oaks Apartments) about \$10,000 they donated to the Village or the school and she wanted to know if anyone knew anything about that. Debbie Blewitt said they asked her about places to donate money and she gave them the Renaissance Center and the Food Cupboard at the school. They did donate to the Food Cupboard and asked that that information not be shared, they don't want the public to know they donated, however Debbie did not know the amount. Cheree Taylor said you realize that the information has now been released because this meeting is public record. Mr. Garrett said if they would like to be recognized, then Council would absolutely do something. Mrs. Altieri said we do not have to say the amount in the minutes, because we don't know. Cheree Taylor asked if the amount was stated in the email. Mrs. Cale said she would forward the email to Cheree Taylor and Debbie Blewitt. Mr. Garrett said our recycle bins look like a dump site, people overflow them then the wind blows the stuff out of them and people are dumping things there that shouldn't be recycled. Mr. Garrett said he thinks Council should get the word out to the public that if this continues we will get rid of recycle because the Village does not have the staff to maintain it in its current condition. Debbie Blewitt said we share the cost of recycle with the Township and

they did go down and clean it up once. Debbie Blewitt said the dumpsters are emptied twice a week but they don't get out of the trucks, so anything that is stacked on the ground has to be picked up and put in the dumpsters. Debbie Blewitt said she wants Council to consider possibly fining people for junk and garbage in their yard. Mr. Garrett asked Mr. Reitz if there was any reason to keep the Declaration of Emergency now since the state is starting to open up. Mr. Reitz said that Council could rescind the Declaration of Emergency that contains the curfew and the Resolution would remain in effect, with the necessary restrictions still in place. Mr. Garrett said the Village buildings are opening on June 1<sup>st</sup>. Mrs. Altieri asked if we were doing anything with the bars and social distancing. Chief Breiding said the County Health Department is enforcing that. Mrs. Altieri made a motion to rescind section 5 of the Mayoral Proclamation dated April 13, 2020, which was seconded by Mrs. Taylor and carried by a 6 – 0 vote. Mr. Garrett asked Mr. Reitz to draft legislation for businesses to have safe entrances and exits into and out of their businesses and to give the Village the ability to fine the business (property owner) if they do not comply. Mr. Reitz said he has already put together some samples of this and will put together legislation for the Council to consider, however the legislation must be enforced equally across the board. Mr. Garrett said this won't solve everything, however it is a first step and shows that Council is doing something about this issue. Mr. Reitz asked some questions to get a clearer idea of what Council wanted for this legislation, Council wants this legislation to mirror the grass mowing legislation and assessment process. Debbie Blewitt asked Mr. Reitz about opening the Community Building for rentals and Mr. Reitz said he would send the Mayor, Council, Chief Breiding, and the Village Administrator the most recent Director of Health's order. Mr. Garrett said we should wait to see the most recent order from the Director of Health and then make a decision, because there is a lot of conflicting information.

Council looked at the calendar for June 2020. The Committee meetings (Parks & Recreation and Committee of the Whole) will be Tuesday, June 9, 2020 at 6:00 p.m. The Council Meeting will be Tuesday, June 23, 2020 at 7:00 p.m. There will be a Zoning Board of Appeals Meeting on Tuesday, June 23, 2020 at 6:30 p.m. All meetings will be virtual meetings on Zoom.

Mrs. Taylor made a motion to adjourn the meeting which was seconded by Mrs. Altieri and by unanimous vote the meeting was adjourned at 8:40 p.m.

Respectfully submitted,

  
Cheree M. Taylor, Clerk of Council

Attest,

  
Scott Garrett, Mayor

**\*\* NOTE: THESE MINUTES ARE SUMMARY BY DIRECTION OF COUNCIL \*\***

All Council & Committee Meetings will be held in Windham Council Chambers, unless otherwise noted.

