

## Minutes of Regular Council Meeting

Held November 26, 2019

At 7:01 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 Phil Snyder – present  
Terrie Altieri – present Cindy Cale – present  
Cheryl Taylor – present Stacy Brown – present

Also present were: Tom Reitz, Debbie Blewitt, Denise Bly, Mac Cunningham, Jim Moore, and Eric Breiding.

Mr. Snyder made a motion to approve the minutes of the October 22, 2019 Regular Council Meeting, which was seconded by Mrs. Altieri and carried by a 6 – 0 vote.

Mr. Snyder made a motion to approve the minutes of the October 31, 2019 Special Council Meeting, which was seconded by Ms. Brown and carried by a 6 – 0 vote.

Mrs. Altieri made a motion to approve the minutes of the November 12, 2019 Special Council Meeting, which was seconded by Mr. Snyder and carried by a 6 – 0 vote.

Fiscal Officer Taylor gave the Financial Reports as follows: The Income Tax collected year to date October 31, 2019 was \$438,339.66. The expenditures for the month of October 2019 were \$159,397.40 in checks and charges. Check numbers 35535 through 35628 were paid from the primary checking account during October 2019 with no checks voided during the month. Direct Deposit Vouchers 519-2019 through 548-2019 and 554-2019 through 576-2019 were also paid during the month of October 2019. The all funds reconciled balance for October 2019 was \$1,691,736.56.

Village Council President's report by Mr. Snyder – Mr. Snyder had nothing at the time.

Dispatchers Police, Fire and Rescue Reports for October 2019 by Mrs. Taylor – Mrs. Taylor made a motion to accept the Police, Fire and Rescue Reports for October 2019, which was seconded by Mrs. Cale and carried by a 6 – 0 vote.

Mayor's Communication by Scott Garrett – Mr. Garrett said Tony Blewitt passed his water test, so he will now be the Water Superintendent. Mr. Garrett wished everyone a Happy Thanksgiving.

Prior requests of guests to speak – None

Finance by Terrie Altieri

Mrs. Altieri made a motion to approve the Fiscal Officer's expenditures for the month of October 2019 as reported. Mr. Snyder seconded this motion and it carried by a 6 – 0 vote.

Mrs. Altieri made a motion to approve the all funds reconciled bank balance for October 2019 in the amount of \$1,691,736.56 as reported. Mr. Snyder seconded the motion which carried by a 6 – 0 vote.

Mrs. Altieri read Ordinance O-2019-19 **BEING AN ORDINANCE AUTHORIZING TRANSFERS AND APPROPRIATIONS 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. Snyder and carried by a 6 – 0 vote. Mrs. Altieri made a motion to adopt Ordinance O-2019-19, which was seconded by Mr. Snyder and carried by a 6 – 0 vote.

Mrs. Altieri read Ordinance O-2019-21 **BEING AN ORDINANCE AUTHORIZING THE AMENDING AND/OR SUPPLEMENTING OF THE PERMANENT APPROPRIATIONS SET FORTH IN ORDINANCE O-2019-4 ON FEBRUARY 26, 2019 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 Ms. Brown and carried by a 6 – 0

vote. Mrs. Altieri made a motion to adopt Ordinance O-2019-21, which was seconded by Mr. Snyder and carried by a 6 – 0 vote.

Safety, Personnel, Rules (SPR) by Phil Snyder

Mr. Snyder read Resolution R-2019-20 **A RESOLUTION AUTHORIZING A CONTRACT WITH THE PORTAGE COUNTY PUBLIC DEFENDER FOR DEFENSE OF INDIGENT PERSONS CHARGED WITH CRIMINAL OFFENSES UNDER THE VILLAGE ORDINANCES AND DECLARING AN EMERGENCY.** This was a second read.

Utilities by Cheryl Taylor

Mrs. Taylor read Resolution R-2019-22 **A RESOLUTION TO AUTHORIZE A CONTRACT WITH THE PORTAGE COUNTY SOLID WASTE MANAGEMENT DISTRICT FOR COLLECTION OF RECYCLABLES.** This was a first read.

Service Committee by Stacy Brown

Ms. Brown read Resolution R-2019-21 **A RESOLUTION AUTHORIZING THE PURCHASE OF A 2019 FORD F – 550 PLOW AND DUMP TRUCK AND DECLARING AN EMERGENCY** and made a motion to suspend the rule, which was seconded by Ms. Belknap and carried by a 6 – 0 vote. Ms. Brown made a motion to adopt Resolution R-2019-21, which was seconded by Mrs. Altieri. Mrs. Cale asked if Kepich is able to give us a backup truck if we need one. Debbie Blewitt said that neither dealership, Fairway or Kepich would be able to provide a backup truck. Mrs. Cale asked when the delivery date for the truck from Kepich would be. Debbie Blewitt said December 16, 2019. Denise Bly asked what the cost of the truck was. Mr. Garrett said \$85, 915.50. Denise Bly asked if the Village had only one other truck. Debbie Blewitt said we have only one truck that spreads salt and two other that can plow. This motion passed by a 6 – 0 vote.

Economic Development by Cindy Cale – Mrs. Cale had nothing at the time.

Parks and Recreation by Cheryl Belknap – Ms. Belknap had nothing at the time.

Planning Commission by Scott Garrett – Mr. Garrett had nothing at the time.

Solicitor's Report by Tom Reitz – Mr. Reitz had nothing at the time.

Mrs. Taylor made a motion to enter into executive session to discuss eminent litigation. This motion was seconded by Mrs. Altieri and carried by a 6 – 0 vote at 7:14 p.m. The Police Chief was invited into executive session.

Mr. Snyder made a motion to return from executive session. This motion was seconded by Mrs. Altieri and carried by a 6 – 0 vote at 7:25 p.m.

Mr. Reitz explained that the state legislature recently amended a section of the Ohio Revised Code, section 9.68, which is entitled the right to bear arms and a challenge to law. It is a finding that this law is a law of uniform application across the entire state, it is a general law of the state and this is significant because a general law in the State of Ohio preempts a local government from making a law that contradicts the general law. The specific provision that 9.68 talks about is the right to bear and discharge firearms in the Village and currently the Village's code is much more restrictive that what section 9.68 is going to be enacted and it is going to take effect on December 28, 2019. Mr. Reitz said he has been monitoring this for some time. Mr. Reitz said he prepared a memorandum on this and sent it to the Police Chief and the Mayor suggesting that certain provision in the Village's current code should be amended and others that need to be repealed. The Police Chief responded to this as a terrible idea and Mr. Reitz agreed with him, but not making these changes is not a risk free course of action. Mr. Reitz said that if the Village chooses not to make the changes to their code to be in compliance with the Ohio Revised Code, then a person may bring a civil action against the Village seeking damages from the Village and any damages awarded against the Village, shall be paid by the Village and if the person wins the lawsuit or the Village changes their law to comply with the Ohio Revised Code during the lawsuit, then the Village will have to pay that person's attorney fees. The Police Chief said that these changes are not desirable for the Village because that means that anyone can go in their back yard within the Village limits and shoot their guns, and this is undesirable because the background of their target would be

someone else's house. The Police Chief also said that the demographics of the Village, except for a section on 303, there is nowhere to go that you are not within 1,000 feet of a school. Mr. Garrett said the crazy part about this legislation is that some bullets can travel several thousand feet and that is scary with how close the houses are in the Village and Mr. Snyder agreed with this. Mr. Reitz said he agreed with the Police Chief, but if you don't change the Village Code you are leaving yourself open to being sued by a disgruntled person and that carries a real liability. Mr. Reitz said this law gives you the right to discharge the firearm within the Village; however it does not free you from the consequences of that action, so if you do fire the gun and you haven't taken the proper precautions and it hits someone or someone's property you will be held accountable for that action. Mr. Reitz said Council needs to decide whether or not to change the code or not change the code, however there are possible consequences for both actions and Mr. Reitz does not want to sway the Council one way or the other. Mr. Reitz said that he can put legislation together that states that the Council thinks these changes are a bad idea but they are making the changes to comply with the Ohio Revised Code. Mr. Reitz said he can provide the Council with the names of the people that introduced this bill and voted for it and Council can pass a Resolution in opposition of this change. Mr. Reitz said his recommendation is to repeal the sections of the Village Code that violate this new law because he sees some real liability with this if the Village's Code is not repealed. Mr. Reitz said the Village's liability insurance would not cover any lawsuit associated with this because it would be a willful act, not an accident, if the Council does not repeal the code. The Police Chief said the second part of the State's legislation will also change the Village Code that hunting with a gun inside the Village will now be allowed. There was discussion among Council, with Debbie Blewitt and Mrs. Taylor agreeing that most hunters are responsible and know where they can safely fire a gun and the Police Chief and Mrs. Cale said the concern is not with the majority it is with the minority. Mr. Garrett and Mrs. Altieri agreed that the Village has to comply with the law and hopefully this will be overturned. Mr. Garrett said he is in favor of Mr. Reitz writing legislation that will keep the Village in compliance with the new law and in the meantime write some letters to our legislators opposing this change. Mr. Reitz said he thinks a good course of action would be to prepare legislation to comply with the new law, share the memo with Council that has already been provided to the Mayor and Police Chief, and provide the names of the elected officials at the State level that voted in favor of this change in law. Mr. Reitz said he can also draft a Resolution indicating that the Village Council would like these elected officials that are in favor of this change in law to change their minds. Council agreed that this would be the best course of action.

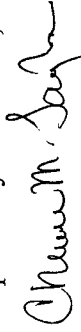
Guest Recognition – Denise Bly asked about Resolution R-2019-20 and asked if this was mandated. Mr. Reitz said yes, it is mandated to pay for defense for indigent people charged with crimes under the local ordinance, for example drunk driving within the Village, then the Village has to pay for that defense attorney. Mr. Reitz said the Public Defender offers this contract to every municipality and it is a bargain. Denise Bly asked if she would be able to get a copy of the Committee Minutes so that she knows what was discussed at the Committee level. Mr. Garrett said yes, we could provide her with a copy of the Committee Minutes.b

Last Chance of Council to Speak on Any Subject – There was nothing at the time.

Council looked at the calendar for December. The Committee meetings (Parks & Recreation and Committee of the Whole) will be Tuesday, December 10, 2019 at 6:00 p.m. The Council Meeting will be Tuesday, December 17, 2019 at 7:00 p.m.

Mrs. Taylor made a motion to adjourn the meeting which was seconded by Mrs. Cale and by unanimous vote the meeting was adjourned at 7:55 p.m.

Respectfully submitted,



Cheree M. Taylor, Clerk of Council

Attest,

Scott Garrett, Mayor

  
**DIRECTION OF COUNCIL\*\***

**\*\* NOTE: THESE MINUTES ARE SUMMARY BY DIRECTION OF COUNCIL\*\***  
All Council & Committee Meetings will be held in Windham Council Chambers, unless otherwise noted.

