

City of Olmsted Falls
Minutes of a Regular Council Meeting
Tuesday, February 22, 2022, at Olmsted Falls City Hall
26100 Bagley Road – Council Chambers, 7:30 p.m.

Council President Cornel Munteanu called the meeting to order at 7:30 p.m. The Pledge of Allegiance was recited. Roll call was conducted Councilmen Brian Chitester, Lori Jones, Jay McFadden, Sean Wolanin, Yvonne Buchholz and Scott Saari were present.

Also, in attendance: James P. Graven, Mayor, John Castele, Asst. Law Director, Matt Sheehan, Fire Chief, Joe Borszuch, Service Director, Odis Rogers, Police Chief, and Tom Jordan, Economic Development Consultant. Audience: 1.

Approval of Minutes

Mr. Chitester moved to **approve** the minutes from the Regular Council Meeting of February 8, 2022; Ms. Buchholz **seconded**. Poll: 6 ayes; 0 nays; 1 abstain (Jones). **Motion carried**.

Consideration of Amendment to the Agenda - None

Mayor's Report and Appointments

Mayor Graven asked for a motion to appoint Mark McCausland to the Park and Recreation Board.

Ms. Buchholz moved to **appoint** Mark McCausland to the Park and Recreation Board for a five year term to expire 12/31/2026; Ms. Jones **seconded**. Poll: 7 ayes; 0 nays. **Motion carried**.

Mayor Graven thanked Council for the appointment. He stated that he would like to thank the new owners of Clementine's, Mike and Gabby. This afternoon his wife and him had lunch there and were lucky enough to meet the new owners and speak with them for about 20 minutes. He thanked them for investing in the city. The prior owners retired and were going to leave the business and he was worried that the building would be left vacant. He congratulated Mike and Gabby for stepping up and investing in our city. He can say that the sandwich he had for lunch was excellent and his wife's salad was great, they also have some great desserts. He stated that Clementine's will start serving breakfast on the weekends from 9:00 a.m. to 4:00 p.m. If anyone gets the change they should go to Clementine's.

He stated that he spoke with the owner of the old church at Columbia and Sprague and he is investing and will be opening a new coffee and bakery shop. His goal is to open sometime this spring.

He stated that the finances are doing well. Our cash balance is almost at \$2 million; we have approximately \$1.922 million. Our unencumbered balance is approximately \$1.23 million; income taxes look pretty good through January and we are up over last year by \$624,000 versus \$558,000. We did come in lower under 2020's distribution at this time of year which was \$640,000. He stated that Mr. Swaisgood will talk briefly about the finances later.

He would ask that all of Council support the storefront legislation. This program revitalizes building facades that are visible to customers, neighboring merchants and residents. There will be 50% matching grants for businesses to improve their buildings. He has spoken with a lot of business owners over the last several weeks and they are excited about this program. Business owners will be allowed to use this grant for projects such as exterior painting, new windows, awnings, signage, installation of siding. This is a program that he believes a lot of business owners will take advantage of. If the owner spends \$10,000 the city will reimburse them \$5,000 and at this time we have \$50,000 committed to the program.

He stated that he believes that Ms. Jones distributed a letter from Ann Marie Przybys Donegan and he had the opportunity to read the letter 10 minutes before the meeting started this evening. He would like to note that on page 2, towards the bottom, in bold it states, "I am requesting the police report and camera video from that encounter of the exchange with me and Suhail, which is a part of Officer Michelle Litten's body cam." He viewed this body cam video and was shocked at the vulgar and obscene language that was used by Ms. Przybys Donegan during her encounter with one of our officers, Michelle Litten. There is no need for four letter words to be used when you are dealing with one of our officers as our officers have a tough enough job and they shouldn't have to deal with things like that. He would respectfully ask Ms. Jones to tell her friend Ms. Przybys Donegan to please be respectful to our officers and refrain from using vulgar language in the future.

Communications from Residents - None

Approval of Bills:

Mr. Chitester moved to **approve** Pay Ordinance 2022-04; Mr. McFadden **seconded**. Poll: 7 ayes; 0 nays. **Motion carried.**

Officials Reports:

Odis Rogers, Police Chief – No Report

Joe Borczuch, Service Director

Mr. Borczuch stated that he has a few household items that allows the department to complete its in-house work throughout the year. These requisitions are presented to Council every year at this time. The first is for Westview Concrete who were the lowest bidders for our concrete supplies for this season in the amount of \$45,000.

Ms. Buchholz moved to **approve** a requisition to Westview Concrete for concrete for the 2022 road repair season in an amount not to exceed \$45,000; Mr. McFadden **seconded**. Poll: 7 ayes; 0 nays. **Motion carried.**

Mr. Borczuch stated that Crossroads is for the stone for the 2022 season. A majority of their stone bids were lower than their competitor and that are located closer to us for delivery and pickup, but we usually bring it in by semi loads, in the amount of \$20,000.

Mr. Chitester moved to **approve** a requisition to Crossroads Asphalt Recycling for stone for the 2022 road repair season in an amount not to exceed \$20,000; Mr. McFadden **seconded**. Poll: 7 ayes; 0 nays. **Motion carried.**

The next requisition is also Crossroads Asphalt Recycling who supply the tack RS for us which is basically the glue that goes under the asphalt in the amount of \$10,000. Crossroads are the only ones that provide this product.

Mr. Chitester moved to **approve** a requisition to Crossroads Asphalt Recycling for the 407 tack for the 2022 road repair season in an amount not to exceed \$10,000; Mr. McFadden **seconded**. Poll: 7 ayes; 0 nays. **Motion carried**.

They have been out and about between snowstorms filling potholes. If anyone happens to see one, please feel free to send him a message. We are attempting to fill them as quickly as possible but with two guys on nights and four guys during the day its hard to get everything taken care of, but we are doing the best we can. We are expecting another snow storm at the end of this week.

There was a sink hole on Bagley Road about a week and a half ago and Regional Sewer assisted us with it. We could not figure out where the gravel and everything under the pavement was going because their line was fine, and our lines are fine, so we got that refilled. Ms. Jones asked where it was located. Mr. Borczuch replied across from Falls Lenox. He is guessing that it was probably due to the trench that was dug when the trunk line was put in back in the mid 90's which probably settled and finally made its way up through. It was a fairly large hole one point, almost six feet deep, that we didn't know about until the asphalt started caving in and they went to fill the hole and discovered there was a big hole under the pavement. which was fun on a Friday.

Matt Sheehan, Fire Chief – No Report

Cory Swaisgood, Finance Director (via speaker phone)

Mr. Swaisgood stated that he knows that on March 1st at the finance committee meeting we will review the January financials but would like to point out, as the mayor stated in his report, as of Friday, the city has an unencumbered balance of \$1.2 million dollars or 24% of annual expenditures. The January financial report that was sent on Friday the unencumbered balance was \$726,000 or 15% of annual expenditures and the difference is mostly due to the purchase orders that were opened in January, as those purchase orders were paid off through February it helped raise the unencumbered balance, which is the main reason for the big difference. Going back to January of 2021 the unencumbered balance was \$678,000 compared to the current \$726,000 which is a good picture for 2022. If Council will recall we had to make a \$276,000 adjustment from the General Fund to the Capital Improvement Fund due to the audit finding at the end of last year and wanted to point out that is also the differences between the years as well. In the fund summary you will notice that there are negative unencumbered fund balances which are mostly due to assessment funds or reimbursement funds, like the Jenkins fund, and as we receive reimbursements and the first property tax settlement, which will be coming soon, those funds will no longer be negative. The income tax analysis shows a 58% increase from January 2021 to 2022 and as the mayor said the February distribution, which we will see in the next monthly report, came in under the 2021 distributions and that \$58,000 will reduce to about 11% difference over year. The main reason appears to be business withholdings and individuals which is a good sign as we start to go through 2022 and the 2022 approved budget.

Tom Jordan, Economic Development Consultant

Mr. Jordan asked if he should wait on his remarks until the ordinance authorizing the storefront renovation program is read. Mr. Munteanu replied that he could wait.

Councilman Jay McFadden, Ward I – No Report

Councilwoman Yvonne Buchholz, Ward III – No Report

Councilwoman Lori Jones, Council-at-Large

Ms. Jones stated that she received an email this morning and printed it out from the former Mayor and she has a Freedom of Information Records Request regarding items related to the development that is going on behind her house. She asked if that could be placed in the council record. Mr. Munteanu replied so noted and would ask that the Clerk place the letter in the council record.

Councilman Scott Saari, Ward IV – No Report

Councilman Sean Wolanin, Ward II

Mr. Wolanin stated that the Olmsted Falls girls' basketball team won their game this evening by 33 points and beat Brunswick. This now advances the team to the district final which will be Friday at 7:00 p.m. at Valley Forge High School. If you are interested visit the OHSA website to purchase tickets online and they will play the winner of Berea/Strongsville. If the team wins that game they will play on Tuesday and that happens to be the day the finance committee meeting is scheduled and he would ask that this meeting be changed as the game would be played at 8:00 p.m. in Sandusky and his daughter does play for the team.

Councilman Pro-Tempore Brian Chitester

Mr. Chitester asked that he contact him if the team wins, and he will get in touch with Mr. Swaisgood and find another date.

Mr. Chitester asked how the situation was going regarding the Bronson site view. Chief Rogers stated that he did speak with the homeowner. For those who do not know the history of this property, Service Director Boreczuch, the mayor and he started looking at this issue two years ago. We looked at the site triangles and these trees were not within that site triangle. We discussed creating legislation to increase the site triangle distances, but the problem is if you increase the distance of the site triangles you actually end up catching part of the house, which clearly, we could not do. In addition to that, as former council member Gorski pointed out, the law of unintended consequences would have this change apply to every intersection in the city; so before legislation could even be considered you would literally have to go out and look at every intersection in the city and see if there was something within that site triangle that would have to be moved; we are talking about houses, structures, trees and all kinds of things. He stated that the mayor suggested talking to the owner and see if we could come up with some kind of resolution because there is a new owner, and the old owner would not even discuss it with us. To answer the question, he has contacted the owner a couple of times who does work out of town often and he expects to make contact with him again tomorrow. He also contacted the two residents who have talked about this issue, via email, and gave them updates.

Ms. Jones asked what the issue with the tree was. Chief Rogers stated that at the intersection of Bronson and Columbia, when you come off Bronson onto Columbia, it is very difficult to see the traffic coming Southbound and you have to creep out onto Columbia. Over the years we have tried to address the issue with a mirror but the mirror ends up falling down after a while; we tried talking with the former owner of the house because there are a couple of trees in the front lawn that impede, especially if you are turning left, you can't really see. We have had some residents from Bronson and Herb who stated that they have to live there and it's very difficult. The mayor went down and tried to

pull out of there a couple of times and said that this is something we need to look at. Ms. Jones asked if the trees on the tree lawn belonged to the city. Chief Rogers reapplied that the trees are located in the person's front yard. When they were planted a few years ago they were so small that it really wasn't much of an issue, until about two years ago when it started to become a bigger issue and now it's even a bigger issue. Then a couple of times a year we get large snowfalls, and the snow doesn't help. It truly is a poorly designed intersection and thinks we can all agree but the fact of the matter is, and nobody likes to hear this, and he is not insinuating anything by saying this, but there have been zero crashes there. We also talked about trying to get some state funds to redesign the intersection and everybody that he has talked to said that the first thing they will ask is, is it a dangerous intersection, and he would reply yes, then they will ask for the crash statistics but there aren't any which makes it not a dangerous intersection, which begs the question who wants to be the first person to have a crash there so we are doing the best we can trying to find a resolution that can satisfy everybody and most importantly keep everyone safe.

Mr. Chitester stated that Planning and Zoning Commission met yesterday, twice in two weeks, and approved two parts, Phase I and II of the Suhail project. They approved the waiver for the property to be 100% residential with 108 homes. They continue to work on Phase III attempting to remove the riparian setback request.

Councilman President Cornel Munteanu – No Report

John Castle, Assistant Law Director – No Report

Andrew Bemer, Law Director

Mr. Bemer stated that he looks forward to seeing everyone in person but that will not be for another two months as he is still in isolation. This is his first day of being vertical and is certainly great to be seen and able to participate, somewhat, but he must be in isolation for another two months. After that he certainly looks forward to getting completely back in the saddle. He thanked everyone for all their well wishes as it helps a lot.

Old Business

Ordinance 11-2022

AN ORDINANCE AMENDING SECTION 1274.03(a)(2)(A)(1)(b) OF THE OLMSTED FALLS CODIFIED ORDINANCES ENTITLED "FENCES" AND DECLARING AN EMERGENCY **Third Reading (Referred to Planning and Zoning on 01/25/2022)**

Mr. Munteanu stated that Council received the recommendations from the Planning and Zoning Commission. He asked if everyone had the chance to review those recommendations and if they were in agreement with the modifications.

Ms. Buchholz moved to **amend** the current Exhibit "A" with a new Exhibit "A" that includes the modifications made by the Planning and Zoning Commission; Mr. Chitester **seconded**. Poll: 7 ayes; 0 nays. **Motion carried**. Ms. Buchholz moved to **adopt**; Mr. Chitester **seconded**. Poll: 7 ayes; 0 nays. **Motion carried**.

Ordinance 13-2022**AN ORDINANCE AUTHORIZING ADOPTION OF AN OLMSTED FALLS STOREFRONT PROGRAM (OFSP) Second Reading**

Mr. Chitester moved to discuss. Mr. Jordan stated that attached to the legislation is a description of the storefront renovation rebate program. Many of the city's storefronts are occupied by non-owners and non-owners are reluctant to make exterior repairs because they do not own the building. This program is trying to incentivize enhancements and resolve any code violations that might exist in a lot of the older commercial structures. Basically, if you invest \$10,000 in exterior repairs the grant will reimburse you \$5,000. The repairs could range from window replacement to painting the building to replacing a sign. Signs are very frequently a subject where the tenant is responsible for them and not the owner of the building and a lot of times it says a lot about the quality of the building as signage is very important. The idea of the grant program is for people to invest whether you they are the tenant or the owner in some of the older commercial structures in the city and incentivize. The source of the funds is ARPA which is an allowed use of the federal money. The idea overall with the federal money is to try and get some of these commercial businesses back on their feet after having a very rough period during COVID and many of them are retail based or restaurant industry which were badly affected by COVID. Ms. Jones asked if this was a targeted area that we are looking at. Mr. Jordan replied that it is available to any commercial building within Olmsted Falls. Ms. Jones asked if the building was in the historic district would they have to go to ABR. Mr. Jordan replied that if the improvement requires it to go to ABR then yes they would, but the grant program in and of itself does not require it.

Mr. Chitester moved to **suspend**; Ms. Buchholz **seconded**. Voice Vote: 7 ayes; 0 nays. **Motion carried**. Mr. Chitester moved to **waive** the reading in its entirety; Ms. Buchholz **seconded**. Voice Vote: 7 ayes; 0 nays. **Motion carried**. Mr. Chitester moved to **adopt**; Ms. Buchholz **seconded**. Poll: 7 ayes; 0 nays. **Motion carried**.

Ordinance 14-2022

AN ORDINANCE AMENDING THE ZONING CLASSIFICATION OF PERMANENT PARCEL NOS. 281-34-003 AND 281-34-004 CONSISTING OF APPROXIMATELY 0.563 ACRES AND LOCATED AT THE SOUTHWEST CORNER OF LEWIS AND BAGLEY ROADS FROM D-2 "SINGLE FAMILY DWELLING DISTRICT," TO P-1 "PROFESSIONAL AND MEDICAL DISTRICT" AND FURTHER AMENDING THE ZONING MAP OF THE CITY CONSISTENT THERETO Second Reading

Mr. Munteanu stated that the public hearing was scheduled during the last Council meeting on March 9th at 7:30 p.m.

New Business - None

Miscellaneous New Business - None

Such other business that may come before Council - None

Ms. Buchholz moved to **adjourn**; Mr. Chitester **seconded**. Poll: 7 ayes; 0 nays. **Motion carried**.

The meeting adjourned at 8:04 p.m.

Cornel Munteanu, Council President

Angela Mancini, Clerk of Council

Hon. Ann Marie Przybys Donegan

Dr. Polcar reading on behalf of the Honorable Ann Marie Donegan, Ann regrets that she cannot be at this last minute called meeting.

February 20, 2022

Re: Suhail Development

Description of recent events, Questions / FOIA requests to L. Radigan and Law department

Dear Chairman Planning and Zoning and Members,

Acting Law Director, Members of Council,

Greetings!

It appears, based on what I have heard, read, and experienced, it is an excellent time to request a reset on the Suhail development as I believe Suhail has asked for an acceleration of the approval process of the development of his property.

When difficult decisions arise that impact so many people and the environment, it is time to take stock that government is by its nature a slow and deliberate body. Meaning the process of making decisions is one of contemplativeness with strict adherence to the application of the law.

I also want to clarify for the record any misconceptions on development in general; my team and I were instrumental in creating and passing a charter change which enabled the combining of the Planning and Zoning board, which created a streamlined approach to residents and developers. We were also instrumental in creating the MUTND district due to a court order regarding the Boyer property and the creation of a new master plan. This MUTND and master plan received accolades from the American Planning Association in Ohio.

All of us on Columbia Road have been mindful that at some point in time that the property behind our homes would be developed, however we were under the natural assumption that the law would be followed and at the very least, the City would treat us with courtesy and respect, sadly, none of which has occurred.

I understand that Suhail has expressed the fact that he has performed all tasks "above board". I want to remind all of you that his narrative is not based in fact. Just because someone says, something does not mean it's true. I want to think that I am 30, but the sad reality is that I am much older.

Hon. Ann Marie Przybys Donegan

Last February ish 2021, until I finally called the building department in maybe late April/May, Suhail was deep in his property, cutting down trees and removing brush. Having the luxury of working from home, I can verify that fact. This action is not above board and was contrary to law. **Was Suhail fined?, as in the case of others over the years? If not, why?**

In May 2022, my dog started barking to alert me to something in the backyard; men were on my property without permission, it turned out to be Suhail and others, and he indicated that my neighbor had permitted him to be on my property, as I am almost sure he is aware, a neighbor cannot grant authorization for another neighbor without express written approval. Therefore, this action was not above board or even professionally acceptable. I also shared with Suhail that I was aware of his tree and brush cutting during the winter months, and I told him this was not an act of someone honorable as he exclaimed he was.

I was unhappy, and I think I stated, "gentleman, what the hell are you doing on my property"? I felt disregarded invaded upon with no support from the community I served for 20 years and have paid taxes to for over 35 years. I wonder what a man would think if this happened to him?

When someone is on your property, it is reasonable to feel off-put. When I questioned Suhail about the property stakes he placed in my back property, he indicated that the survey was a guess since he could not get around the properties well. A professional surveyor is guessing, very interesting.

Having hired George Smerigan and having a professional relationship, we texted one another. We even had a phone call that May, 2021 in which George assured me that Suhail would be required to obtain a professional property survey. I received nothing from the City, which would be expected should customer service or stakeholder communication be of top priority for this administration especially given the nature of the development, certainly something I would have mandated.

Fast forward to February 8, 2022, I contacted the police as Service Director Borczuch would not speak with me. Officer Michelle Litten responded; spoke with me, Suhail and then me again, in which he (Suhail) indicated, per the officer, that he did not complete a thorough property survey, I said to Officer Litten, he said what? She replied, yes he admitted to not doing a property survey. I understand that a stamped survey is onsite within the service department. How can this be if he allegedly admitted that a proper survey was incomplete?

I am requesting the police report and camera video from that encounter of the exchange with me and Suhail, which is a part of Officer Michelle Litten's body cam.

When was MUTND officially established? I am requesting that legislation.

When was the Boyer property rezoned to MUTND? I am requesting that legislation.

When was the Suhail property rezoned to MUTND? I am requesting that legislation.

Hon. Ann Marie Przybys Donegan

If the essential elements of a MUTND, especially the green space and commercial aspect, are not followed, what is the legal procedure to eliminate those requirements from the MUTND legislation?

Is the City considering taking Suhails' wetlands for greenspace? If so, how is this adding value to the City?

Is Planning considering changing the zoning requirements to residential only, and if so, is there a legal process for this?

If so, what does the codified outline as the legal procedure for rezoning?

How is water run off being managed? How are the constant flooding issues on Columbia Road being addressed?

How is Suhails' noncompliance with the tree management stipulations brought to the building departments attention a week or so ago being addressed? Has he been fined, and if not, why?

I am requesting any and all current and future portions of the minutes (Board and Commission and or any other meeting) in which approvals are sanctioned for the Suhail property.

Lastly, I am not expecting an immediate response to the questions tonight. However, out of respect for the residents, I wish that I receive the FOIA requests responses and answers to my questions in a timely manner.

Thank you for your time and service.

Respectfully Submitted,

Hon. Ann Marie Donegan

Former Mayor of Olmsted Falls