

# *Village of Windham, Ohio*

## Minutes of the Special Council Meeting

Held March 1, 2011

At 7:05 PM, the Honorable Mayor Robert W. Donham II called the meeting to order and announced that this is a Special Council meeting called for the purpose of discussing financial matters relating to appropriations, then and now purchase orders, advance from rlf fund to water fund, fund balance adjustments, proportioning of Council pay, renewal of Anthem Vision and Dental Insurance, required training of Fiscal Officer and Water and Sewer rates.

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

Also present Atty: Ted Yates acting as solicitor, Village Administrator Mike Iwanyckyj, Street Superintendent David Fall, Housing Inspector Tom Brett, Francis Ballard, Bill Blevins, Mike & Leslie Strausbaugh, Bruce Rininger

Mayor Donham called on Mrs. Rininger who is the chair of the Finance Committee

Mrs. Rininger read Ordinance O-2011-5 **BEING AN ORDINANCE AUTHORIZING THE AMENDING AND/OR SUPPLEMENTING OF THE PERMANENT APPROPRIATIONS SET FORTH IN ORDINANCE O-2011-1 ON JANUARY 25, 2011 FOR THE VILLAGE OF WINDHAM AS SET FORTH BELOW AND DECLARING AN EMERGENCY**

Mrs. Rininger made a motion to suspend the rules which was seconded by Mrs. Miranda and carried by a 6 – 0 vote of Council. Mrs. Rininger made a motion to adopt Ordinance O-2011-5 which was seconded by Mrs. Meszaros and carried by a 6 – 0 vote of Council.

Mrs. Rininger read Resolution R-2011-6 **A RESOLUTION AUTHORIZING THE VILLAGE FISCAL OFFICER OF THE VILLAGE OF WINDHAM TO CREATE A THEN AND NOW PURCHASE ORDER(S) TO PAY COSE / MEDICAL MUTUAL OF OHIO, PORTAGE COUNTY TREASURER, DOMINION EAST OHIO, STEPHAN P. SHANAFELT AND DECLARING AN EMERGENCY**

Mrs. Rininger made a motion to suspend the rules which was seconded by Mrs. Miranda and carried by a unanimous vote of Council. Mrs. Rininger made a motion to adopt Resolution R-2011-6 which was seconded by Mrs. Miranda and carried by a unanimous vote of Council.

Mrs. Rininger read Resolution R-2011-14 **A RESOLUTION AUTHORIZING THE VILLAGE FISCAL OFFICER OF THE VILLAGE OF WINDHAM TO ADVANCE \$5k000.00 FROM THE REVOLVING LOAN FUND TO WATER OPERATING FUND AND DECLARING AN EMERGENCY**

Mrs. Rininger made a motion to suspend the rules which was seconded by Mr. Garrett and carried by a 6 – 0 vote of Council. Mrs. Rininger made a motion to adopt Resolution R-2011-14 which was seconded by Mrs. Barrett and carried by a 6 – 0 vote of Council.

Mrs. Rininger read Ordinance O-2011-10 **BEING AN ORDINANCE AUTHORIZING THE ADJUSTMENT OF FUND BALANCES AND DECLARING AN EMERGENCY** as a first reading.

Mrs. Rininger read Ordinance O-2011-11 **BEING AN ORDINANCE AUTHORIZING THE PROPORTIONING OF COUNCIL PAY 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. Rininger made a motion to adopt Ordinance O-2011-11 which was seconded by Mrs. Meszaros and carried by a 6 – 0 vote of Council.

Mrs. Rininger read Resolution R-2011-15 **A RESOLUTION APPROVING THE RENEWAL OF VISION AND DENTAL INSURANCE FROM ANTHEM 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 made a motion to adopt Resolution R-2011-15 which was seconded by Mrs. Meszaros and carried by a 6 – 0 vote of Council.

Mrs. Barrett made a motion for the Village Fiscal Officer to attend required training at the 2011 Local Government Officials' Conference April 6-7, 2011 at the Hyatt Regency in Columbus. Mr. Snyder seconded the motion which was passed unanimously by Council.

Mr. Garrett was called upon by the Mayor as chair of the Utilities Committee.

Mr. Garrett read Ordinance O-2011-8 **AN ORDINANCE TO REVISE AND AMEND SECTION 923.03 OF THE VILLAGE OF WINDHAM UTILITY CODE TO ADJUST WATER RATES FOR THE PURCHASE OF WATER FROM THE VILLAGE AND DECLARING AN EMERGENCY** and after considerable discussion the Ordinance was amended and Mrs. Rininger made a motion to approve the amendment. Mrs. Meszaros seconded the motion and Council unanimously passed the motion.

Mr. Garrett then made a motion to suspend the rules which was seconded by Mr. Snyder and carried by a 6 – 0 vote of Council.

Mr. Garrett then made a motion to adopt Ordinance O-2011-8 as amended which was seconded by Mr. Snyder and carried by a 6 – 0 vote of Council.

Inasmuch as half of Council was under the weather the Planning and Zoning as well as all Service Committees which were to be held tonight were rescheduled next Thursday, March 10, 2011 at 5:30 PM. This was so Mr. Garrett could make the WVFD Joint Fire District meeting at 7:00 PM.

Mayor Donham called upon anyone in the audience who wished to address Council.

Mrs. Francis Ballard stood up and said she was in the process of moving back into town. She had some things which she knew that they would not have answers for her tonight; but by the time she comes back to the committee meeting they may. We have some situations going on that I need Council to give me is there a proper protocol once a person's water has been shut off for six months and they come into the office and pay their bill and the water is turned back on without the landlords knowledge. This person is behind on their rent and like I said why wasn't the bill finalized out number one after it had been disconnected for six months. But turning the water back on how is the landlord responsible for that bill when it had been shut off for six months and turned back on without the landlords knowledge? I asked Linda (Rininger) to come to the office when it was discussed so that we had a third party there to help explain. And the exact words were (Terri Gunnoe's words) I don't have to. That kind of...

Mrs. Rininger said when I was in attendance for that meeting there was one form that yes did not get filled out properly and yes it was admitted that it did not get filled out correctly, but it did raise a concern about the fact that the individual's water was off for six months and the landlord was not notified when it was turned back on. So that may be a procedure we need to

look at to correct but in the end it was settled that the individual had the right to have the water back on because it was not closed out properly.

Mrs. Ballard said also your water department is entering into a payment arrangement with these tenants without the landlord's knowledge. When these tenants pack up and go you are going to tack this on to the landlords. Can I call your credit card company and make payment arrangements because you owe me money? No. So how the water department make payment arrangements with a tenant where if they don't meet their payment arrangements someone else is going to be liable for it?

Mayor Donham said we have had this long discussion with ex-Mayor Moore and Mr. Pinti and I will explain to you as short and as brief as I can because everybody wants to get out of here including yourself. We do promissory notes for payment arrangements that are legal. We are allowed to do it. It meets our ordinance and it meets our mission here which is to provide people with potable water at a fair price without getting people shut off and keeping the cash flow and the water going. So we have a very very low turn rate on that. But ultimately it's not the Village's responsibility to police this it is the landlords responsibility.

Mrs. Ballard said exactly, I was on Council then. Mr. Donham said I would recommend and I have told every owner that I recommend that you put it in your own name and you shut it off when you want it off, you turn it on when you want it on.

Mrs. Ballard said you run into a whole additional snare there. You cannot stop a landlord from renting to another tenant if they owe a water bill somewhere else. But two days later, Mr. Straubaugh has purchased the buildings in front of the school. One of his tenants moved out of Portage Woods to move into that building and she (Terri) refused to turn water services on because she owed a back bill. Mayor Donham asked did they want it in their name? Mrs. Ballard clarified that it was going into the landlords name.

Mayor Donham said we will look into it, but if it is as you represent it, she (Terri) is simply wrong.

Mrs. Ballard said but when you make a complaint, retaliation is viscous from the office. I know Terri, I know Lori Lee, but when we walked out of that office from that meeting with Linda, the phone rang. I was still with Ellie at that point, and she said that she had just got done talking with Lori Lee and Lori Lee said because she is not a manager or an owner she is not allowed to sign anymore papers. When did Lori Lee get a legal degree? And the man who does own the property has sent letters (to the office) permitting Ellie to discuss and to handle the matters because he is not here. And so again I am on the phone, and then I guess that was handled. Now, Lori has called and demanded all of the 1099's from Strausbaughs for their subcontractors. Now I live in Warren and I don't work in Windham. If my information is given to this Village office, I am going to have a cow. The old Angel (Ballard) will just seep through the pores.

Mrs. Rininger said before the old Angel comes out, none of this was brought to our attention. Give us the opportunity to check into it and find out what happened and what is going on and why and all of that and see if there is a resolution.

Mayor Donham said I received the first written complaint and I tell everyone who has a complaint to put it in writing. Mrs. Ballard said she is afraid to put it into writing because after she did the last one, now here is a whole other repercussion.

Mayor Donham said let me address one issue at a time. I tell everyone to put it in writing because that is how I can follow up if I do have a disciplinary problem in the administration, so complaints hold much more weight if they are in writing. than the he said she said sort of thing. So I got the first one; I asked Linda to sit in on that personnel review. We discussed it, I think we all agree it was handled amicably. I did receive another complaint via the Council people today about something that happened. We are still looking into that, but I do want to assure you and certainly everyone here that retaliation for complaints will simply not be tolerated here at all. If anyone is found retaliating, you know giving different treatment to different people based upon the amount of complaints they receive my recommendation is going to be a very very strong discipline up to and probably including termination, because I just don't think that that type of personal behavior is acceptable. And that isn't the type of character that we even want to try to change in the individual. We just get rid of people that do that in public offices.

Mrs. Ballard clarified that she is the utility liaison for the Strausbaughs and the Village. I will be dealing with all of the utility issues.

Mrs. Rininger said the one request I do have Mrs. Ballard is this complaint needs to be put in writing. Mrs. Ballard said ok. Mrs. Rininger said as he (Mayor Donham) told you in order for us to do any kind of action on this, we need to have it put in writing. Mrs. Ballard asked if there is some way when we go in to make a request, the landlords aren't getting copies of their requests to turn water off. They should get a copy for themselves which is date stamped when they requested the water to be turned off, so from that point on they are not liable for the utilities if they are not shut off. And how long do you wait if someone's water has been shut off to final out the bill, six months is ridiculous. Mayor Donham said Z'ing out an account is not necessarily, and a shutoff doesn't mean an account is closed. A lot of time we keep an account open because we are collecting. These are accounts we keep in the system, we are cross-referencing the names and so forth. The real concern with me is and that situation we talked about specifically this really goes down to the owner management – I'm glad Mrs. Ballard that you are now the liaison and will be handling this specifically because I have confidence that you are going to do a much better job than this has been done in the past. Because what you should be doing for instance in that case where you have someone who has been shut off for six months, if you don't know your tenant doesn't have water for six months sham on you. Shame on you if you don't know your tenant is running without utilities for six months. You should have evicted them by then, or found out what the problem was and tried to get them help and get their utilities turned back on or whatever the case may be, but the Village is not a landlord. We do not step into the tenant role, we don't do that. As far as utilities we want them to have utilities. We are going to work with them on payment to make sure it is ok. Once it has spiraled out of control, the last thing is shutoff. And if they become current, we will turn them right back on unless the owner says no, I don't want this utility in my name. No we wouldn't have contacted them because the owner didn't request it to be shut off.. This is an area where a tenant had a bill, they got behind on it and we shut them off, they paid it and we turned them on. We wouldn't notice anyone. Mrs. Ballard asked what is the minimum balance owed before they are shut off. Mayor Donham said there isn't any, there is a time requirement. There is no required shut off. The shut off is a may be shut off, it is not shall be shut off. We reserve the right to shut them off if the department deems it necessary. Mrs. Ballard said when this person lives here in this town and rents from someone else and has a \$583 water bill, she still lives here in this town and yet it was tacked onto the property owner. Was there any action taken to try to retrieve the money from her?

Mayor Donham said I can't tell you any specifics on this. We do make good faith effort to collect, but this has been a policy for us for about two and a half to three years that owners need to be responsible for their bills and we do a good faith effort to collect from the tenant, but just

Page 4 of 5

like you talked about Mr. Strausbaugh bought this apartment and he wants to move a tenant that has an old bill and he wants to put it in his name, then that's his prerogative. He can move this person in and you are now talking the reverse scenario. It's not in our policy to refuse service to an owner who wants water in his name. Mike has no liability for someone who has a previous bill somewhere else unless it was his bill. Mrs. Ballard said that's what I wanted to hear.

Mike Strausbaugh said I had a disagreement with Terri. I told her to turn this person's water off and I got stuck with two months bill because she didn't listen to me. Mrs. Ballard said that's why you get a copy of the shutoff order.

Mayor Donham said some of the owners have we can't do that, it is against Ohio law. That is none of the Village's responsibility, priority or even business. Mrs. Ballard said I was on Council when we dealt with that. Mr. Donham said I'm glad somebody was on Council that remembers.

Mrs. Ballard said I will try to get to the Utilities Committee Meeting. Mayor Donham said thank you Mrs. Ballard.

Mrs. Meszaros made a motion to adjourn the meeting which was seconded by Mrs. Rininger. Vote of Council: Ayes: Mrs. Barrett, Mr. Garrett, Mrs. Meszaros, Mrs. Miranda, Mrs. Rininger, Mr. Snyder. Nays: None. Motion carried and Council was adjourned at 7:55 PM.

Respectfully submitted, Attest

Lloyd C. Billman, Clerk of Council Robert W. Donham II, Mayor