

**MINUTES OF THE MEETING OF THE COUNCIL  
OF THE CITY OF NORTH OLMSTED  
MAY 18, 2010**

Present: President of Council Limpert, Council Members Barker, Brossard, Jones, Kearney, Orlowski, Williamson.

Also Present: Mayor Kennedy, Law Director Gareau, Clerk of Council Gallo, Safety Director Ritenauer, Planning Director Wenger, Human Resources Director Farver.

Absent: Councilman Mahoney

President Limpert called the meeting to order at 8:00 p.m. in Council Chambers, 5200 Dover Center Road, North Olmsted, Ohio.

Members of the audience were invited to join Council in the recitation of the Pledge of Allegiance led by the Boy Scouts.

The minutes of the Council meeting of May 5, 2010 were approved as written.

President Limpert announced that the following legislation would be considered for passage under suspension of the rules: First Reading – Resolutions 2010-54, 2010-55, 2010-57, 2010-60 and 2010-67.

**SPECIAL LEGISLATION**

Resolution 2010-54 was introduced and placed on first reading by Mayor Kennedy. A Resolution commending the achievement by Aron Kumar Sil of the Eagle Scout award in Boy Scouting. Councilman Barker made a motion to suspend the rule requiring three readings. The motion was seconded by Councilwoman Jones and passed unanimously. Councilman Barker moved for adoption. The motion was seconded by Councilwoman Jones and passed unanimously. Resolution 2010-54 adopted.

Resolution 2010-54 was read in its entirety and presented to Aron Kumar Sil.

Resolution 2010-55 was introduced and placed on first reading by Mayor Kennedy. A Resolution commending the achievement by Sean Covell Sweeney of the Eagle Scout award in Boy Scouting. Councilman Barker made a motion to suspend the rule requiring three readings. The motion was seconded by Councilwoman Jones and passed unanimously. Councilman Barker moved for adoption. The motion was seconded by Councilwoman Jones and passed unanimously. Resolution 2010-55 adopted.

Resolution 2010-55 was read in its entirety and presented to Sean Covell Sweeney.

## **REPORTS**

Mayor Kennedy:

- The spring brush round-up began May 10 and is nearing completion. All streets will have received one pass with the chipper at the conclusion.
- The Service Dept. demolished a small out building on the south side of Springvale. The debris has been removed and Springvale employees will finish the work.
- The seasonal hires for the Service Dept. will be starting their employment over the course of the next two weeks.
- Fleet maintenance began preparing the three new police cruisers with light bars, radios and equipment so that they can be put into service.
- A water line break caused Barton Road to be closed between Lorain and Bradley Roads for a portion of the day on May 11.
- The North Olmsted Police Dept. participated in Operation Medicine Cabinet on May 8. Sixty-two people stopped by the Police Department to drop off expired or no longer needed medications for proper disposal.
- The Fire Dept. responded to Homestead Suites early Saturday morning for a fire caused by someone falling asleep while food was on the stove. No one was injured.
- The Building Dept. is continuing work related to Northwoods Condominiums. On Monday, May 10 the Building Department, Safety Director, contractor and architect were on site at Northwoods for inspections of the decks. On Thursday, May 13 Mr. Fisher delivered written correspondence and pictures of shim and nails to the Building Dept. The Building Dept. will be formally replying to the written correspondence and has forwarded the pictures to the project architect so that they can review this with their structural engineer. Additionally, a punch list containing correction items has been completed by the architect and sent to the contractor. The punch list items must be completed final inspection to close out the permits.
- The City invites everyone to join design consultant, Studio Graphique, for a “Community Brainstorming Session” on Thursday, May 20 at 7:00 p.m. in the City Hall Council Chambers.
- A new Ohio Historical Marker will be dedicated at the Olmsted Unitarian Universalist Church on Sunday, May 30 at 1:30 p.m. All are welcome to attend and help the Church celebrate its 175<sup>th</sup> birthday. Also, on May 30 from 11 a.m. to 4 p.m. is Frostville Museum’s Military Timeline. There will be exhibits of period war pieces and re-enactments. This event is free to the public.
- The city has received \$2,300 in donations for the Food Cupboard so far this month. Macy’s employees donated \$1,175, North Olmsted High School’s Key Club donated \$1,000 and John Knox Presbyterian Church donated \$125.
- The Traffic Diversion Program, launched in January of this year by Chris Allegra, has had 32 cases to date this year. The program has received overwhelmingly

- positive responses from parents. So far, \$3,200 in traffic fees have been collected.
- Beginning, Tuesday, June 1 the North Olmsted Senior Center will accept Farmer's Market coupon applications. Eligible seniors will receive \$50.00 in coupons. To be eligible, you must be 60 years of age or older and have an annual income of \$20,035 or less. If you are interested and qualify, please contact Jackie or Tiffany at the Senior Center to submit an application. The final date to apply is Thursday, June 17. Market locations will be announced in the near future.
  - Promotional efforts for Springvale are in full swing. A segment about Springvale was taped this week for play on the WNCX 98.5 Golf Show. This will air on June 13.
  - The deteriorated outbuilding on the west side of the Ballroom was demolished and the debris removed last week. The area where it stood will be graded and grass will be planted.
  - The Ballroom and Clubhouse are being power washed and sections are being repainted.
  - The new outdoor grill used for golf outings and large parties has been delivered and is in use at this time.
  - The city has purchased the necessary equipment for the installation of a driving range. A driving range in a nearby municipality has gone out of business and the city was able to purchase their poles and netting for a discounted price. The Service Department will be installing this equipment in the weeks ahead.
  - Springvale is also offering several specials to fill the course during the slower weekday times.
  - Plans for the Memorial Day celebration are under way. The program will begin at 8 a.m. with a short ceremony at City Hall, proceeding to Coe Cemetery, then to Butternut Cemetery and back to City Hall. The parade will begin at 10:30 a.m. leaving the City Hall parking lot and proceeding to the Veteran's Memorial at North Olmsted Park. If there is any resident in North Olmsted that has a relative buried in a city cemetery that is a Veteran, please contact the Mayor's Office so the grave is decorated for this memorial service.
  - The Recreation Center will be hosting the 9<sup>th</sup> annual Ice Show this weekend. This show features skaters from the Cleveland Edges, the North Olmsted Hockey Club, local skaters and children from the City's Learn to Skate program.

Law Director Gareau:

- Surf Shop, as previously mentioned, is the self styled cyber café engaging in internet sweepstakes activities. They received a notice of violating the Zoning Code and Building Code. He received notice today that Surf Shop has filed an appeal with the State of Ohio concerning the infractions relative to the Building Code. A hearing is scheduled for July in Ashland. The Board of Zoning Appeals presently has the Zoning Code issues, which are set for June.
- He met with Gary Johnson, Finance Director Copfer and Human Resources Director Farver to discuss the status of firefighter Collective Bargaining

Agreement. They have received further comments from the IAFF on proposed language.

- He has been working diligently on the re-organization effort as a result of the passage of Issue 34. The theory was to detail the staffing and organization of the City in the Codified Ordinances, as opposed to the Pay Ordinance as is currently done. He thanked Employment Specialist Lisa Kidd for her hard work on this.
- A grievance has been filed by the Fraternal Order of Police relative to the City's refusal to pay accrued sick leave to a police officer upon the departure of that police officer from the force. The Collective Bargaining Agreement provides that sick leave may accrue and be paid out upon death, disability retirement or retirement. The officer is not eligible to retire from the State of Ohio Police and Fire Pension System due to his age. Despite years of paying only when an employee actually retires with the state pension plan and not merely leaving service, the FOP has argued that retirement under the Collective Bargaining Agreement means retirement from the service of the city and not retirement with the State Plan. This particular officer has demanded over \$30,000.00 in taxpayer money the city believes he is not entitled to. The city's position is clear: there is a difference between actually retiring versus resigning and claiming retirement. The city will defend this position.
- Two fair Housing complaints are currently under investigation. He will report on the results of those when they are available.
- The Fair Housing Review Board is planning additional outreach and education events for the remainder of this year including a seminar for realtors on fair housing in September which has been very well attended in the past.
- The Law Department, through Carole Heyward, met with the Safety and Building Depts. The purpose of the meeting was to discuss how best to work together to optimize issues concerning real property maintenance, foreclosures and vacant houses. The plan is to begin meeting on the second and fourth Fridays of the month to discuss problem properties and how to best address issues presented by those properties and maximize results using all available remedies and resources.
- The Fair Housing Review Board also sponsored a continuing legal education event for municipal lawyers at the Cleveland Metropolitan Bar Association on April 23, 2010. Carole Heyward spoke about municipal obligations to make services and buildings accessible under the Americans with Disabilities Act.
- The Fair Housing Review Board just completed its poster contest which was a great success. Gareau presented the following winners with the first and second prize awards:

Jennifer Kilnapp (Grades 11-12) First Prize  
Elizabeth Fitzgerald (Grades 7-8) First Prize  
Maureen Tuley (Grades 7-8) Second Prize  
Ally Keleman (Grades 4-6) First Prize  
Erin Connolly (Grades 4-6) First Prize  
Josh Royak (Grades 4-6) Second Prize  
Mary Kosin (Grades 4-6) Second Prize

He thanked Carole Heyward and his Administrative Assistant, Annie Kilbane, for their hard work on this project.

Councilman Brossard took a moment of personal privilege to congratulate all of the poster finalists. They all did a wonderful job and they should be very proud. He congratulated his neighbor and daughter's best friend, Elizabeth Fitzgerald. He told her parents they should be proud of her concept of diversity in North Olmsted.

Finance Director Copfer:

- The first quarter financial statements were given to Council last Friday. She is cautiously optimistic that the city is within the budget, which is critical. Discretionary spending is down as planned.
- She is pursuing collections on a hotel since they have not paid since August 2008. She is following the process that the Code outlines. The first step is to make an assessment, which she did in January or February. They owe approximately \$22,000 including the tax assessment, penalties and interest.
- There was an article in the National League of Cities weekly update in April regarding the rating agencies moving to recalibrate cities' bond ratings. All three major credit rating services – Fitch, Moody's and Standard and Poor – were moving to rate municipal debt based on the likelihood of default which is what the standard is for corporate debt. Previously municipal securities had been rated on different scales than what corporation ratings were based on. The Wall Street Reform and Consumer Protection Act passed by the House in September, which is currently in the Senate right now, included bond rating parity in the financial services Bill as well. The two benefits for municipalities are many funds have guidelines that will provide a larger pool of people that can buy bonds, making it more competitive and provide better rates; and overall borrowing costs will be reduced.

President Limpert took a moment of personal privilege on behalf of Council to offer his condolences to Councilman Barker whose father passed away the previous week. Councilman Barker thanked the Clerk, his Council colleagues, the Administration, employees, and residents for their help and sympathies.

Councilwoman Jones, Chairwoman of the Building, Zoning and Development Committee:

The BZD Committee met on Tuesday, May 18, 2010 at 7:15 p.m. Present were Committee members Jones and Barker; Council members Kearney, Brossard, Orlowski and Williamson; Council President Limpert; Mayor Kennedy; Planning Director Wenger; Safety Director Ritenauer; and guests.

- The committee met to discuss Ordinance 2010-50 an Ordinance amending Sections 1373.01 and 1373.02 of Chapter 1373 of the Building Code, entitled “Building, Zoning, Property Maintenance and other Nuisance Activities,” in order to provide for the abatement of public nuisances and the recovery of city response costs incurred as the result of the multiple recurrence of such nuisance activities on commercial property located in the City of North Olmsted. This Ordinance is adding commercial property to the Nuisance Activity Ordinance that the city currently has. When the city is called out to a location four times within a one-year time period, the Safety Director may declare the premises to be a nuisance property. At this point, a letter will be issued warning the owner that if the city is called out a fifth time, the city can recoup the response costs by placing a lien on the property. The committee also discussed adding the residential office district to the Ordinance. Councilwoman Jones moved to amend the Ordinance to add this. The motion was seconded by Councilman Barker, and it passed 2-0. Councilwoman Jones made a motion to recommend approval of Ordinance 2010-50. The motion was seconded by Councilman Barker and it passed 2-0. The meeting was adjourned at 7:20 p.m.

Councilwoman Jones made a motion to amend 2010-50 to add 1142 Residential Office District to Chapter 1373.01 under letter (a) number 2 between 1141 and 1145. The motion was seconded by Councilman Orłowski and passed unanimously. Ordinance 2010-50 amended.

Councilwoman Williamson, Vice Chairwoman of the Public Safety, Health and Welfare Committee:

The Public Safety, Health and Welfare Committee met Tuesday, May 18, 2010 at 7:10 p.m. Present were committee members Williamson and Kearney; Council President Limpert; Council members Brossard, Barker, Jones, and Orłowski; Mayor Kennedy; Safety Director Ritenauer; and guests.

- Discussed was a liquor permit application for Gary Von Agency dba “Glitz” located at 25700 Lorain Road, first floor and basement. After background checks were made, the Building Dept. concluded no such address exists for said applicant. The Law Director found that no articles exist for said corporation through the Secretary of State. The committee voted 2-0 to object to the liquor permit application. The meeting adjourned at 7:14 p.m.

### **AUDIENCE PARTICIPATION**

David Johns, Silverdale Road asked for the date of the Ice Show. Mayor Kennedy said the Ice Show starts Friday, May 21 through Sunday May 23 at the Recreation Center. The information should be posted on the city’s website.

Harvey Fisher, Northwoods Condominiums 23875 Unit #106 & #205 (resides 28962 Detroit Road, Westlake) In October 12, 2008, the Engineer of record issued a report of his findings after he inspected 7.5% of the 80 balconies at Northwoods Condominiums. The 6 balconies were never load tested or disassembled to view hidden defects. The Engineer has been in Arizona. In his absence, the Architect, Mr. Duber, has been directing the contractor to either replace or sister existing joists/balcony repairs. Mr. Duber is not qualified or licensed as a structural engineer. Most of the photos he took of rotten joists this past winter were taken from the ground looking up, and he did not remove any of the snow. He did not have the joists recertified by a qualified, authorized tester. The terms of the minor change application have been violated – this is for pulling a building permit for this project. It states they must comply with all Zoning, Building and applicable Codes of the city, which this does not. The Ohio Board of Building Standards states that the building official is responsible for the enforcement of the OBC and for making interpretations of language. The individual responsible and authorized to perform these duties is the building official, not the plans examiner or inspector. An owner has the right to build according to approved plans if there is no serious hazard created in the absence of fraud in obtaining the plan approval. The OBC and the Building Dept. was created to protect owners from substandard work. The architect's correspondence with Mr. Mitchell dated March 31, 2010 states that the recommendation for the size and type of the nail that is made by Simpson Strong Tie would be 3.5 inches long. The inspection by the Building Dept. and Mr. Duber failed to mention that the 1 1/16 inch nail and the 2 1/8 inch nail they ended up with; nobody wants to discuss it. The masonry screw that the engineer came up with is not an approved fastener to be used for load bearing applications. They have the wrong metal hanger and they're anchoring non-Code rotten wood to the building with the wrong nails and the wrong screws. Mayor Kennedy said as he stated in his report, the Building Dept. will be responding in writing to Mr. Fisher's written correspondence. The architect sent a punch list to the contractor. The city's building inspector has been out there over thirty times. Mayor Kennedy said he understands the frustration, and the city is doing everything in its power to help. President Limpert requested a time line from Mayor Kennedy regarding this issue.

Charles Dial, 27959 Gardenia said the brush round-up has been a great improvement compared to the way it was handled before. However, since the brush has to be out by May 10, he ended up with a brown spot in his grass (dead grass) because they didn't pick up the brush right away. He suggested creating a zone system in which certain streets will be picked-up on specific dates.

Kathleen Robertson, Northwoods Condominiums, 23871 David Drive said on Monday, May 10 she wrote a note to Continental Management regarding her concerns. Ms. Robertson read the letter. Her letter stated that there is standing water on her balcony after it rains. She is concerned that the excess water will compromise the wood. This also poses a hazard as someone can slip on the wet balcony and the water will freeze in the winter. Jim Duber was out that afternoon conducting what appeared to be an inspection that lasted less than one minute. How can an inspection be completed in one minute? Ms. Robertson finished reading the letter and thanked Council for giving her the opportunity to read it.

## **LEGISLATION**

Ordinance 2010-45 introduced by Mayor Kennedy on behalf of himself and the entire City Council was given its third reading. An Ordinance amending Section 111.01 of the Administrative Code for the purposes of exempting advertising contracts from its application and to grant authority to the Mayor or his designee to issue park concession permits. Councilman Barker moved for adoption. The motion was seconded by Councilwoman Jones. Roll Call: Barker, yes; Jones, yes; Brossard, yes; Kearney, yes; Williamson, yes; Orłowski, yes with comment. I hope all funds raised through advertising will be placed in a defined fund and Council will review the content and style of the advertisement. Ordinance 2010-45 adopted.

Ordinance 2010-48 introduced by Councilwoman Williamson and Councilman Orłowski was given its third reading. An Ordinance amending the Traffic Control File of the City of North Olmsted to provide for prohibiting the standing or parking of motor vehicles on the south side of Palm Drive and Birch Lane (from 24163 Palm Drive through 23967 Birch Lane) between the hours of 8:30 – 9:30 a.m. and 3:15 – 4:15 p.m., and declaring an emergency, as amended. Councilwoman Williamson moved for adoption. The motion was seconded by Councilman Orłowski. Roll Call: Williamson, yes; Orłowski, yes with comment. I believe it is good legislation to have the parking restriction include the entire school zone for the safety of all. Roll Call continued: Kearney, yes; Barker, yes; Brossard, yes; Jones, yes. Ordinance 2010-48 adopted.

Resolution 2010-49 introduced by Mayor Kennedy was given its third reading. A Resolution authorizing the Mayor, on behalf of the City of North Olmsted, to enter into an agreement with the Board of Cuyahoga County Commissioners for cooperation and financial assistance with the full depth recycle and overlay of Columbia Road (CR-290) from Butternut Ridge Road to Lorain Road. Councilman Brossard moved for adoption. The motion was seconded by Councilman Kearney. Roll Call: Brossard, yes; Kearney, yes; Jones, yes; Barker, yes; Williamson, yes; Orłowski, yes with comment. Columbia Road is in dire need of a full depth resurfacing, and I hope the Administration considers and reviews the storm water drainage on the road and the need to widen the through lane from Brookpark Road south to at least Moonlight Drive to expedite the flow of traffic and lessen the stacking of vehicles at this intersection. The intersection of Lorain Road and Columbia Road experiences the same problem. However, the infrastructure in this location may be more problematic than at the Brookpark Road location. Resolution 2010-49 adopted.

Ordinance 2010-53 introduced by Councilman Orłowski was given its third reading. An Ordinance amending Section 947.01 of the North Olmsted Codified Ordinances in order to prohibit unsafe activities, regulate overweight trucks, and to permit supervised campfires in North Olmsted parks. Councilman Orłowski moved for adoption. The motion was seconded by Councilman Kearney and passed unanimously. Ordinance 2010-53 adopted.

Ordinance 2010-56 was introduced and placed on first reading by Mayor Kennedy. An Ordinance to make and transfer appropriations for current expenses and other expenditures for the City of North Olmsted for the year ending December 31, 2010.

Resolution 2010-57 was introduced and placed on first reading by Mayor Kennedy. A Resolution recording objection to the issuance of liquor permit no. 3061538 to Gary Von Agency, Inc., DBA "Glitz" for nightclub formerly located at 25700 Lorain Road, North Olmsted, Ohio, and declaring an emergency. Councilwoman Williamson made a motion to suspend the rule requiring three readings. The motion was seconded by Councilman Kearney and passed unanimously. Councilwoman Williamson moved for adoption. The motion was seconded by Councilman Kearney and passed unanimously. Resolution 2010-57 adopted.

Resolution 2010-58 was introduced and placed on first reading by Mayor Kennedy. A Resolution accepting a Conservation Easement to the City of North Olmsted for preservation of Riparian Floodplain pursuant to North Olmsted Codified Chapter 926, and declaring an emergency.

Resolution 2010-59 was introduced and placed on first reading by Mayor Kennedy. A Resolution authorizing the Mayor to advertise for bids for the transportation and disposal of bio-solids from the Waste Water Treatment Plant and, subject to approval by the Board of Control, authorizing the Mayor to enter into an agreement.

Resolution 2010-60 was introduced and placed on first reading by Mayor Kennedy. A Resolution authorizing the Director of Public Safety on behalf of the city to apply for a 2010 Assistance to Firefighters Grant for the purpose of receiving funds to obtain equipment and training for the Division of Fire; further authorizing the Mayor, if the application is granted, to enter into an agreement with the appropriate agency to accept said grant funds, and declaring an emergency. Councilwoman Williamson made a motion to suspend the rule requiring three readings. The motion was seconded by Councilman Kearney and passed unanimously. Councilwoman Williamson moved for adoption. The motion was seconded by Councilman Kearney and passed unanimously. Resolution 2010-60 adopted.

Ordinance 2010-61 was introduced and placed on first reading by Mayor Kennedy. An Ordinance repealing Ordinances 78-31, 83-129, 2003-67, 2004-93, 2004-145, 2005-131 and 2005-171, which collectively establish Chapter 163 of the Administrative Code entitled "Department of Community Life Services", for the purpose of abolishing Chapter 163 of the Administrative Code of the City of North Olmsted, and declaring an emergency.

Ordinance 2010-62 was introduced and placed on first reading by Mayor Kennedy. An Ordinance amending and re-establishing Chapter 131 of the Administrative Code entitled "Mayor" in order to provide for the organization thereof, and declaring an emergency.

Ordinance 2010-63 was introduced and placed on first reading by Mayor Kennedy. An Ordinance amending and re-establishing Chapter 179 of the Administrative Code entitled "Department of Planning" in order to re-characterize the Department of Planning as the Department of Planning and Development and to provide for the organization thereof, and declaring an emergency.

Ordinance 2010-64 was introduced and placed on first reading by Mayor Kennedy. An Ordinance amending and re-establishing Chapter 167 of the Administrative Code entitled "Department of Human Resources" in order to provide for the re-organization thereof, and declaring an emergency.

Ordinance 2010-65 was introduced and placed on first reading by Mayor Kennedy. An Ordinance amending and re-establishing Chapter 141 of the Administrative Code entitled "Department of Public Service" in order to provide for the re-organization thereof, and declaring an emergency.

Ordinance 2010-66 was introduced and placed on first reading by Mayor Kennedy. An Ordinance amending and re-establishing Chapter 139 of the Administrative Code entitled "Department of Public Safety" in order to provide for the re-organization thereof, and declaring an emergency.

Resolution 2010-67 was introduced and placed on first reading by Mayor Kennedy. A Resolution extending the city's contract with Richard L. Bowen + Associates, Inc. to provide consulting and engineering services, including provision of a City Engineer and Assistant City Engineer; and declaring an emergency. Councilman Barker made a motion to suspend the rule requiring three readings. The motion was seconded by Councilwoman Jones and passed unanimously. Councilman Barker moved for adoption. The motion was seconded by Councilwoman Jones and passed unanimously. Resolution 2010-67 adopted.

Ordinance 2010-68 was introduced and placed on first reading by Mayor Kennedy. An Ordinance establishing and amending the range of compensation rates and salary ranges for administrative and legislative personnel to allow for support personnel in the Department of Planning, Division of Information Technology and Division of Building; and otherwise re-state the compensation rate ranges and descriptions for various administrative and legislative personnel for the year 2010, and declaring an emergency.

### **MISCELLANEOUS BUSINESS**

Councilman Barker scheduled a Finance Committee meeting for 7:00 p.m. on Tuesday, May 25, 2010 to discuss Ordinances 2010-56 and 2010-68. The Mayor, Finance Director and Law Director are asked to attend.

Councilman Orłowski scheduled an Environmental Control Committee meeting for 7:15 p.m. on Tuesday, May 25, 2010 to discuss Resolutions 2010-58 and 2010-59. The Safety Director, Planning Director and Law Director are asked to attend.

Council President Limpert scheduled a Committee of the Whole for 7:30 p.m. on Tuesday, May 25, 2010 to discuss Ordinances 2010-61, 2010-62, 2010-63, 2010-64, 2010-65 and 2010-66. The Mayor, Law Director, Planning Director, Human Resources Director and Safety Director are asked to attend.

Councilman Kearney made a motion to excuse the absence of Councilman Mahoney. The motion was seconded by Councilman Orłowski and passed unanimously. Councilman Mahoney excused.

With the agenda being completed and there being no further business to come before Council, President Limpert adjourned the Council meeting at 9:04 p.m.

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Marie Gallo, Clerk of Council

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Duane K. Limpert, President of Council