

**MINUTES OF THE MEETING OF THE COUNCIL
OF THE CITY OF NORTH OLMSTED
DECEMBER 21, 2010**

Present: President of Council Limpert, Council Members Barker, Brossard, Jones, Kearney, Mahoney, Orłowski, Williamson

Also Present: Mayor Kennedy, Director of Law Gareau, Director of Finance Copfer, Clerk of Council Gallo, Director of Human Resources Farver, Director of Public Safety and Public Service Ritenauer, Director of Planning and Development Wenger

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.

The minutes of the Council meeting of December 7, 2010 were approved as written.

The following legislation will be considered for passage under suspension of the rules: Second Reading – Ordinances 2010-147 and 2010-155 & Resolutions 2010-159 and 2010-160; First Reading – Resolution 2010-162.

REPORTS

Mayor Kennedy:

- He wished everyone a Happy Holiday and a great New Year. He reminded all about the New Year's Eve celebration at the Recreation Center.

Director of Law Gareau:

- He received notice today from the IAFF Local 1267 that they will be arbitrating a grievance that was denied in the step process. The grievance is filed on behalf of Anthony Havel and all IAFF Local 1267 members and is related to separation pay. Havel made it clear that he was resigning when he left the city. He now believes that he retired from the City, and he believes he is entitled to tens of thousands of dollars in accumulated sick leave time. It is the position of the Mayor and the Law Dept. that he forfeited the right to require the taxpayers of the City of North Olmsted to pay over to him the money that he now demands.
- The City of North Olmsted was named as a defendant in the matter of *Andrew Mazzolla vs. the City of North Olmsted* in the Cuyahoga County Court of Common Pleas. The primary complaint is excessive use of force.

- He attended another meeting with Squire, Sanders and Dempsey concerning the upcoming legislation to address the sewer rate modifications.
- Assistant Director of Law, Bryan O'Malley, attended a status hearing in the matter of *Randall Thorne vs. The City of North Olmsted, Ohio BZA*. The City filed its brief on December 13, 2010 and is awaiting a ruling from the court.
- All civil rights complaints filed by Todd A. Klingman against the City of North Olmsted have been dismissed by the Civil Rights Commission.
- There are two new commercial and two new residential property maintenance referrals to the Law Dept. for prosecution.
- He wished everyone a Happy Holiday season.

Director of Finance Copfer:

- She wished everyone a Merry Christmas and a Happy New Year.

Councilman Barker, Chairman of the Finance Committee:

The Finance Committee met on Tuesday, December 14, 2010 at 8:29 p.m. Present were committee members Barker, Jones and Kearney; Council President Limpert; Council members Brossard, Mahoney, Orłowski and Williamson; Mayor Kennedy, Director of Law Gareau, and Director of Finance Copfer.

- 2010-147 is an Ordinance to make appropriations for current expenses and other expenditures for the City of North Olmsted for the year ending December 31, 2011. This is an annual Ordinance so that the City can operate in the first quarter of 2011. The committee voted 3-0 for approval and suspension of Ordinance 2010-147.
- Ordinance 2010-155 is 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, as amended. This is the end of the year appropriations Ordinance to cover minor, unexpected expenses. The committee voted 3-0 for approval and suspension of Ordinance 2010-155. In caucus today, 2010-155 was discussed again. It needs to be amended for PERS pension shortcomings and some payroll adjustments.

Councilman Barker made a motion to amend Ordinance 2010-155 as discussed in caucus. The motion was seconded by Councilman Mahoney and passed unanimously. Ordinance 2010-155 amended.

- 2010-159 is a Resolution dispensing with a formal RFP process and authorizing the Mayor to enter into a contract with Richard L. Bowen & Associates, Inc. to provide engineering consulting services to the City of North Olmsted, and declaring an emergency. This will renew the contract with Richard L. Bowen & Associates with a two-year extension and no increase in rates. The committee voted 3-0 for approval and suspension of Resolution 2010-159.

- 2010-160 is a Resolution authorizing the Director of Finance to pay funds to Relmec Mechanical, LLC for various repairs undertaken and services provided at the Recreation Center, and declaring an emergency. Invoices were audited to make sure the work was necessary and completed, and to also make sure the billing was fair for the services rendered. The amount is \$52,994.08. The committee voted 3-0 for approval and suspension of Resolution 2010-160.

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

The BZD Committee met on Tuesday, December 14, 2010 at 7:05 p.m. Present were committee members Jones, Barker and Mahoney; Council members Kearney, Brossard, Orłowski and Williamson; Council President Limpert; Director of Planning and Development Wenger and Assistant Director of Law O'Malley.

- Discussed first was CMS10-31 Giant Eagle Pharmacy located at 24264 Lorain Road – This proposal consists of modifications to the existing building and site to accommodate a new pharmacy entrance and drive-through. The committee voted 3-0 for approval of CMS10-31 Giant Eagle Pharmacy.

Councilwoman Jones made a motion to approve CMS10-31 Giant Eagle Pharmacy located at 27264 Lorain Road including the conditions set forth by the Boards and Commissions. The motion was seconded by Councilman Barker and passed unanimously. CMS10-31 Giant Eagle Pharmacy approved.

- CMS10-33 Get-Go Fuel Station located near 27264 Lorain Road Giant Eagle. This proposal consists of a new Get-Go fuel station at Water Tower Square. The committee voted 3-0 for approval.

Councilwoman Jones made a motion to approve CMS10-33 Get-Go Fuel Station located near 27264 Lorain Road Giant Eagle. The motion was seconded by Councilman Barker and passed unanimously. CMS10-33 Get-Go Fuel Station approved.

- Conditional Use Permit for Suburban Collision Center located on Brookpark Road Extension – This issue has been before Council since 2005 when a temporary conditional use permit was granted to this entity. In 2008, Council granted another two-year extension. In 2009, the EPA held a public hearing and granted Suburban Collision Center a permit stating that they were impressed with this business owner. This leads up to the committee meeting held last week in which Suburban Collision and the Law Dept. had asked for Council to consider granting a permanent conditional use permit. The City will retain the right to address any odor issues that may come about make sure the business owner has done his part in trying to eliminate those odors. In fact, he had been working with the residents throughout the years. The committee voted 3-0 for approval of the conditional use permit.

Councilwoman Jones made a motion to approve the conditional use permit for Suburban Collision Center with the following conditions: maintain full compliance with state and local law, particularly with respect to Ohio EPA permit requirements and regulation of air pollution control systems, as well as North Olmsted Code 521.09 which prohibits Noxious or Offensive Odors; provide the Building Commissioner with copies of all reports generated for and filed with the Ohio EPA, as well as any citations issued by Cleveland Air; provide the Building Commissioner with the identity of and contact information regarding all service providers for automotive spray paint booth, together with copies of such maintenance schedules and documentation of filtration replacement; and provide the Building Commissioner with written communication immediately following any odor nuisance complaints that may be received from neighboring residents. The motion was seconded by Councilman Mahoney. Roll Call: Jones, yes; Mahoney, yes; Kearney, yes; Williamson, yes; Orłowski, yes; Brossard, yes with comment. Since Suburban's open house walk-through in August 2009, which detailed their ventilation improvements, I have had no resident complaints regarding odor directed to me personally. So, I'm satisfied that this business is doing just about everything they can to coexist with its residential neighbors. Roll Call continued: Barker, yes. Suburban Collision Center conditional use permit approved.

Councilman Mahoney, Chairman of the Public Safety, Health & Welfare Committee:

The Public Safety, Health & Welfare Committee met Tuesday, December 14, 2010 at 7:45 p.m. Present were committee members Mahoney, Kearney and Williamson; Council President Limpert; Council members Orłowski, Jones, Barker and Brossard; and Director of Safety and Service Ritenauer.

- 2010-158 is an Ordinance amending the Traffic Control File of the City of North Olmsted to provide for the placement of "Left Turn Yield on Green" sign at the traffic light for Porter Road southbound at the intersection of Lorain Road in the City of North Olmsted. Director of Safety and Service Ritenauer gave a brief presentation during the committee meeting. This Ordinance is a result of a safety study that had been conducted by Ritenauer, the Police Chief and the City Engineer. It is thought by all that safety would be improved and enhanced by placing that particular sign on Porter Road heading southbound. The committee voted 3-0 for approval of Ordinance 2010-158.

Councilwoman Williamson, Chairwoman of the Intra-Governmental Relations Committee:

The Intra-Governmental Relations Committee received a request by the Mayor for two re-appointments to boards and commissions.

Councilwoman Williamson made a motion to approve the re-appointment of Robert Parry to the Planning and Design Commission for the term January 1, 2011 through December 31, 2015. The motion was seconded by Councilwoman Jones and passed

unanimously. Robert Parry re-appointed to the Planning and Design Commission for the term January 1, 2011 through December 31, 2015.

Councilwoman Williamson made a motion to approve the re-appointment of Jennifer Rudolph to the Board of Zoning Appeals for the term January 1, 2011 through December 31, 2015. The motion was seconded by Councilwoman Jones and passed unanimously. Jennifer Rudolph re-appointed to the Board of Zoning Appeals for the term January 1, 2011 through December 31, 2015.

AUDIENCE PARTICIPATION

Jim Burns, 3978 Dover Center Road announced that the University of Akron won the NCAA Division I National Championship in soccer, and he believes one of their three finalists for the Herman Trophy is a graduate of St. Ed's.

LEGISLATION

Resolution 2010-141 introduced by Mayor Kennedy was given its third reading. A Resolution authorizing and directing the Director of Public Safety to make application on behalf of the City of North Olmsted for participation in, and grant funding for, the 2011 "Click it or Ticket Overtime Grant"; and further authorizing the Mayor to accept the grant if awarded and to execute a contract for the same, and declaring an emergency. Councilman Mahoney moved for adoption. The motion was seconded by Councilman Kearney and passed unanimously. Resolution 2010-141 adopted.

Resolution 2010-142 introduced by Mayor Kennedy was given its third reading. A Resolution authorizing and directing the Director of Public Safety to make application on behalf of the City of North Olmsted for participation in, and grant funding for, the 2011 OVI Task Force Overtime Grant; and further authorizing the Mayor to accept the grant if awarded and to execute a contract for the same, and declaring an emergency. Councilman Mahoney moved for adoption. The motion was seconded by Councilwoman Williamson and passed unanimously. Resolution 2010-142 adopted.

Ordinance 2010-144 introduced by Mayor Kennedy was given its third reading. An Ordinance authorizing the Mayor to enter into a lease and amended easement with the City of Cleveland and a lease with Clear Wireless, LLC. providing for the location of certain cellular telecommunication equipment on city owned property, and declaring an emergency. Councilwoman Jones moved for adoption. The motion was seconded by Councilman Mahoney and passed unanimously. Ordinance 2010-144 adopted.

Ordinance 2010-150 introduced by Mayor Kennedy and the entire City Council was given its third reading. An Ordinance to revise the Codified Ordinances by adopting current replacement pages, and declaring an emergency. Councilman Barker moved for

adoption. The motion was seconded by Councilman Kearney and passed unanimously. Ordinance 2010-150 adopted.

Ordinance 2010-147 introduced by Mayor Kennedy was given its second reading. An Ordinance to make appropriations for current expenses and other expenditures for the City of North Olmsted for the year ending December 31, 2011. 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. Ordinance 2010-147 adopted.

Ordinance 2010-155 introduced by Mayor Kennedy was given its second reading. 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. 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. Ordinance 2010-155 adopted.

Ordinance 2010-158 introduced by Mayor Kennedy on behalf of himself and Councilwoman Jones was given its second reading. An Ordinance amending the Traffic Control File of the City of North Olmsted to provide for the placement of "Left Turn Yield on Green" sign at the traffic light for Porter Road southbound at the intersection of Lorain Road in the City of North Olmsted.

Resolution 2010-159 introduced by Mayor Kennedy was given its second reading. A Resolution dispensing with a formal RFP process and authorizing the Mayor to enter into a contract with Richard L. Bowen & Associates, Inc. to provide engineering consulting services to the City of North Olmsted, 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 2010-159 adopted.

Resolution 2010-160 introduced by Mayor Kennedy was given its second reading. A Resolution authorizing the Director of Finance to pay funds to Relmec Mechanical, LLC for various repairs undertaken and services provided at the Recreation Center, and declaring an emergency. Councilman Barker made a motion to suspend the rule requiring three readings. The motion was seconded by Councilman Kearney and passed unanimously. Councilman Barker moved for adoption. The motion was seconded by Councilman Kearney and passed unanimously. Resolution 2010-160 adopted.

Resolution 2010-162 was introduced and placed on first reading by Mayor Kennedy. A Resolution authorizing the Mayor to enter into a one-year renewal contract with TAC Computer, Inc. in order to provide maintenance and repair services to computer hardware and software in the North Olmsted Police Department, and declaring an emergency.

Councilman Mahoney made a motion to suspend the rule requiring three readings. The motion was seconded by Councilman Kearney and passed unanimously. Councilman Mahoney moved for adoption. The motion was seconded by Councilman Kearney and passed unanimously. Resolution 2010-162 adopted.

MISCELLANEOUS BUSINESS

With the agenda being completed and there being no further business to come before Council, President Limpert adjourned the Council meeting at 8:36 p.m.

Marie Gallo, Clerk of Council

Duane K. Limpert, President of Council