

**Village of Waynesville
Council Meeting Minutes
February 6, 2023 at 7:00 pm**

Present: Mr. Brian Blankenship
Mr. Chris Colvin
Ms. Joette Dedden
Mr. Zack Gallagher
Mayor Earl Isaacs
Mr. Troy Lauffer
Mrs. Connie Miller

Village Staff Present: Jeff Forbes, Law Director; Jamie Morley, Clerk of Council

***CLERK’S NOTE-** This is a summary of the Village Council Meeting held on Monday, February 6, 2023.*

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Mayor Isaacs called the meeting to order at 7:00 p.m.

Roll Call – 7 present

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Mayor Acknowledgements

Asked that Chief Copeland be excused from tonight’s meeting. Also, very thankful for Chief Copeland arranging for fuel tanks as a backup as BP tanks have been down.

Attended a cybersecurity session held at Warren County Telecom with Ms. Dedden, Chief Copeland, and Mr. Blankenship. This was very informative and eye-opening.

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Disposition of Previous Minutes

Mrs. Miller made a motion to approve the minutes as written for the Council meeting on January 17, 2023 and Ms. Dedden seconded the motion.

Motion – Miller
Second – Dedden

Roll Call – 7 yeas

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Public Recognition/Visitor's Comments

Rich Cogan, 4480 Classic Drive, approached Council to speak to them about the possible removal of the Waynesville-Corwin low-head dam. Mr. Cogan is the Executive Director of Ohio River Foundation, a regional non-profit conservation organization dedicated to protecting and improving the water quality and ecology of the 14-state 200,000 square mile Ohio River watershed. He proposed the removal of the low-head dam for the following reasons: safety, to become the longest free-flowing river, and ecology. He also stated that this could be done at no cost to the community. His next step would be to get with Chief Copeland and have meetings to get public feedback. See attached for the full speech.

Mr. Gallagher asked if Mr. Cogan could provide the reports and literature about the ecology and the advantages of a free-flowing river. Mr. Cogan stated he would be able to do that.

Mr. Lauffer asked for the main reason Mr. Cogan was proposing the removal of the low-head dam. Mr. Cogan response was for public safety. While there was no evidence that he found about anyone ever being hurt at the Waynesville-Corwin dam, low-head dams create strong turbulence and recirculating currents that can push victims underwater.

Ms. Dedden stated that the dam has a lot of historical importance to the Village of Waynesville.

Mr. Colvin asked how this program would be funded at no cost to the Village. Mr. Cogan said there were two possible grants to pursue. One through the US Fish & Wildlife Service's National Fish Passage Program which is in the second year out of a five-year program. The other option is the Water Restoration Sponsor Program by the State of Ohio.

Mr. Cogan said that if it is okay with Council, he would like to take this issue up with Chief Copeland and stage public meetings to get their feedback on the removal of the dam.

At this time Dave Stubbs, 5323 Wilkerson Lane, approached the dais and handed out a presentation on why he believes removing the dam is not necessary or a good idea. Mr. Stubbs went over the history of the dam and the Old Mill Race. He stated that the EPA did a study and found no negative effects from the dam on ecology or oxygenation. He also wondered what would happen to the Mill Race if the dam were to be removed as the Mill Race is a vibrant ecosystem on its own. He further stated that he does not see any reason to not to keep the dam. The presentation is attached.

Mr. Gallagher asked if Mr. Stubbs could provide the data he used in putting together the presentation. Mr. Stubbs agreed.

Council thanked both Mr. Cogan and Mr. Stubbs for providing informative and well-thought-out presentations.

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Old Business

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Reports

Finance

The Finance Committee is scheduled to meet Thursday, February 23, 2023 at 5:00 p.m., however, the meeting may be canceled as the Finance Director will be on vacation. Ms. Dedden will inform Council at the next meeting.

Public Works Report

Public Works will meet on March 6, 2023 at 6:00 p.m. The public is encouraged to attend.

Special Committee Reports

The Parks and Rec Board will meet on March 20, 2023 at 6:00 p.m.

Village Manager Report

Chief Copeland was not at the meeting, but Ms. Dedden highlighted several items from his report.

- Attended a meeting with ODOT personnel to go over the traffic light project at the intersection of Route 42 and North Street. The light has been approved. Unfortunately, the project will not be completed until 2025. The project will cost about 1.3 million, of which the Village is responsible for 10% of the project and 100% of engineering costs (about 240K).
- Currently, Warren County is holding CVT funds which currently amount to 190K. Plus, another 24K will be accumulated over the next two years. Asking Council for permission to apply to Warren County to use these funds for the stoplight project.

- Submissions for the Wayne Township Magazine are due March 3. Is anyone on Council interested in submitting an article?

Mr. Blankenship volunteered to write an article for Wayne Township Magazine.

Ms. Dedden made a motion to approve the Village manager to move ahead with the application to use the CVT funding towards the stoplight at the intersection of Route 42 and North Street. This motion was seconded by Mr. Colvin.

Motion – Dedden
Second – Colvin

Roll Call – 7 yeas

Financial Director Report

- December bank rec has been balanced and provided for review.
- Yearend has been completed and all reports filled. 1099s and W2s have been mailed out.

Law Report

None

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New Business

None

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Legislation

First Reading of Ordinances and Resolutions

Resolution No. 2023- 005

A Resolution Amending the Appropriations for the Village of Waynesville for Calendar Year 2023 and Declaring an Emergency

Ms. Dedden made a motion to waive the two-reading rule for Resolution 2023-005 and Mrs. Miller seconded the motion.

Motion – Dedden
Second – Miller

Roll Call – 7 yeas

Mr. Blankenship made a motion to adopt Resolution 2023-005 as an emergency and Mr. Lauffer seconded the motion.

Motion – Blankenship
Second – Lauffer

Roll Call – 7 years

Resolution No. 2023-006

Requesting Information From County Auditor for Purposes of Evaluating and Levying a Tax Exceeding the 10-Mill Limitation and Declaring an Emergency (7 Mill Police Levy Replacement)

Mrs. Miller made a motion to waive the two-reading rule for Resolution 2023-006 and Ms. Dedden seconded the motion.

Motion – Miller
Second – Dedden

Roll Call – 7 years

Ms. Dedden explained this was only to obtain information from Warren County Auditor. It is not to place anything on the ballot.

Ms. Dedden made a motion to adopt Resolution 2023-006 as an emergency and Mr. Colvin seconded the motion.

Motion – Dedden
Second – Colvin

Roll Call – 7 years

Resolution No. 2023-007

Requesting Information from County Auditor for Purposes of Evaluating and Levying a Tax Exceeding the 10-Mill Limitation and Declaring an Emergency (New 1 Mill Police Levy)

Mr. Gallagher made a motion to waive the two-reading rule for Resolution 2023-007 and Mr. Colvin seconded the motion.

Motion – Gallagher
Second – Colvin

Roll Call – 7 years

Mr. Gallagher reiterated this was only to get information from Warren County Auditor.

Ms. Dedden made a motion to adopt Resolution 2023-007 as an emergency and Mr. Blankenship seconded the motion.

Motion – Dedden
Second – Blankenship

Roll Call – 7 years

Ordinance No. 2023-008

An Ordinance Authorizing the Disposal of Obsolete, Unneeded and Unfit for Public Use Personal Property Pursuant to R.C. 721.15 and Declaring an Emergency

Mrs. Miller made a motion to waive the two-reading rule for Ordinance 2023-008 and Mr. Lauffer seconded the motion.

Motion – Miller
Second – Lauffer

Roll Call – 7 yeas

Mr. Lauffer made a motion to adopt Ordinance 2023-008 as an emergency and Mr. Gallagher seconded the motion.

Motion – Lauffer
Second – Gallagher

Roll Call – 7 yeas

Ordinance 2023-009

An Ordinance Adopting Revisions to The Village of Waynesville Personnel Policy Manual and Declaring an Emergency

Ms. Dedden explained that there were several versions of the Personnel Policy floating about the office. This will ensure everyone is working off the same version. One change is the boot allowance went from \$100 to \$120.

Ms. Dedden made a motion to waive the two-reading rule for Ordinance 2023-009 and Mr. Lauffer seconded the motion.

Motion – Dedden
Second – Lauffer

Roll Call – 7 yeas

Mr. Colvin made a motion to adopt Ordinance 2023-009 as an emergency and Mr. Blankenship seconded the motion.

Motion – Colvin
Second – Blankenship

Roll Call – 7 yeas

Ordinance No. 2023-010

An Ordinance Authorizing A One-Time Partial Abatement Of Income Tax Penalties For Wayne Local School District

Mr. Colvin asked about the amount of income tax that RITA says Wayne Local Schools still owes by an amount of \$1,451.97. He said if you look at the bottom column of the RITA report attached to the Finance Committee minutes, RITA claims the school owed \$51,100.89 and has

only paid \$49,649.02. Ms. Crockett stated she needs some clarification from RITA on the numbers and would research this further. Mr. Colvin explained that the ordinance is only to consider reducing the current penalties of \$24,621.30, which is a 50% penalty to a 15% penalty. It does not forgive the interest or the inconsistency in December 2019.

Ms. Crockett said that she does not believe the school would be responsible for paying the penalties but rather whomever the auditor finds responsible. A withholding penalty is 50% of the taxes paid. Whereas if an individual were responsible for paying their taxes late, it would only be a 15% penalty. This is why she suggested the reduction of penalties from 50% to 15%. Ms. Crockett suggested the school could pay the penalties but believes that the auditor would then make this a finding for recovery because government agencies are not supposed to pay penalties and late fees. She also reiterated that the 50% withholding penalty has been mandated by the state and a municipality can abate or reduce the penalty at their discretion on a case-by-case basis. Mayor Isaacs asked if Council will be asked to do this again as there seem to be more penalties that are not addressed by this ordinance. Ms. Crockett agreed it was a good possibility the school will seek another abatement in the future.

At this time, Mr. Gallagher stated he had a conflict of interest as his wife was on the Wayne Local School Board and he will be abstaining and not commenting on this topic. Mr. Lauffer asked why. Mr. Forbes clarified that according to the Ethics Law, it is a conflict of interest if you, your immediate family, or business associates would be directly affected by the way he would vote. So, it is best for Mr. Gallagher to recuse himself and not participate in this issue. He further added that Council does not know how the auditor will rule on who is responsible for the penalties. It is not Council's role to consider who is responsible only to consider if they want to reduce the penalty.

Mr. Forbes stated there has been a request for an abatement for penalties through June 2022. Council is only deciding on this request. If there are more penalties, then the school will need to ask for another abatement. Mr. Forbes added that Council should not be considering possible future abatements but only what is addressed in Ordinance 2023-010. Council is considering a one-time abatement. No municipality has the authority to make a permanent change to the penalty provision in the tax code. Abatement requests must be considered on a case-by-case basis. Mr. Forbes suggested only looking at the specifics of Ordinance 2023-010.

Ms. Dedden stressed that this is only a first reading and the votes tonight will not make or break the ordinance.

Al Porter introduced himself as the Interim Treasurer at Wayne Local Schools. He began on November 1st. He stated that the taxes Wayne Local School pays to RITA is a collection of all taxes paid to different municipalities and the penalties would not all go to the Village of Waynesville. He suggested that the Village would only receive a sliver. The school will have to ask the other entities for an abatement for their portion of the penalties. Mrs. Miller asked if the school has done this yet. Mr. Porter stated that there is a plan to draft a letter similar to Mr. James's letter to ask for an abatement of penalties from the other municipalities. Ms. Crockett stated she believes the majority of the RITA tax payments were paid to the Village of Waynesville income tax. Mr. Porter will pull out what each payment was and have the breakout to each municipality down to the dollar.

Mr. Forbes wanted to clarify. Council cannot abate taxes that have not been paid or waive interest. Council is only considering the question of reducing the penalty. He further suggested that Council does not think about specific dollar amounts, RITA will figure out the numbers. The school is asking to waive the penalty completely. The Ordinance is not to waive the penalty but to reduce the penalty from 50% to 15%. This would reduce the penalty to what a regular taxpayer would pay if they were late on their tax payment.

Mr. Forbes stated this is only a first reading and in two weeks Council will have a discussion and must decide to adopt or fail the ordinance. Mr. Lauffer asked if the dollar amount should then be struck. Mr. Forbes stated that when Council considers the adoption of the ordinance this will be the opportunity to strike the number if desired.

Mayor Isaacs asked if the school is asking for no penalties. Mr. Porter agreed that that is the most desired outcome because the obligation to pay the penalties falls on the school district and then it is up to the auditor to decide who is ultimately responsible for paying the penalties.

Mayor Isaacs asked if everything is up to date with payments to RITA. Mr. Porter confirmed that the bills have been paid and the school is up to date.

Mr. Lauffer asked who is responsible if the treasure goes on vacation and a check is not sent out. Mr. Porter stated that ultimately the Treasure is responsible. He elaborated that there are checks and balances in place and ways to check everything at the end of the month to ensure things have been paid. Mr. Lauffer stated he is having a hard time understanding how the RITA situation happened.

Mr. Forbes stated he felt Council is starting to get into the auditor's role. It is not Council's place to question the financial workings of the school. If there is an issue with the audit. It is between the school and the auditors. The auditor has a process with findings. Mr. Forbes stated that findings are not surprises. The auditor gives the entity an opportunity to respond about a possible finding and then the auditor will make its decision. It is not Council's job to investigate. Council should not be taking into consideration who would be responsible for paying if there is a finding. They should only be considering the reduction of penalties.

Mr. Colvin asked if Mr. Porter could give the correct numbers of how much of the RITA income taxes were paid to the Village. Mr. Porter agreed that he would be able to do that. Mr. Colvin asked Ms. Crockett if Mr. Porter's input changed her recommendation. Ms. Crockett stated that it did not.

At this time, Council asked if anyone else wanted to address Council on this subject.

Mr. Forbes explained why for a normal taxpayer the late penalty is 15% and an employer withholding penalty is 50%. If a taxpayer does not pay his income taxes, that is his money. An employer has already taken the money from the employee and is withholding that money. The employer is not withholding their own money, but withholding other people's money. The penalty is high because, in the past, employers have withheld taxes and disappeared. This is clearly not the case in this situation but is the reason for the 50% penalty.

Danny McCloud, 595 Old Stage Road, approached the podium. He has been a school board member for 18 years and stated that this has never happened before. He said that over the past 1 ½ years there have been bumps and he apologizes. He asked that Council consider changing the penalty to 0%. This was not done intentionally, things happen, and the school is moving forward and improving.

Mr. Lauffer asked how this happened and can Mr. McCloud ensure it will not happen again. Mr. McCloud said that several positive steps have been put in place.

Ms. Dedden stated that she felt it is not just one person to blame, that the finance director, the payroll person, and the school board should all be found at fault. She also stated that she feels the board should have more internal controls in place to monitor employees. Mr. McCloud stated that they are aware of shortfallings and are working on improving.

Mr. Forbes stated that there has not been a vote for the first reading. This is only to acknowledge that the ordinance has had a first reading. A positive or negative vote does not signify how the Council member plans to vote at the next Council meeting. Even if everyone votes no, the ordinance will still be back at the next Council meeting for a vote on adoption.

Mrs. Miller made a motion to have the first reading for Ordinance 2023-010 and Mr. Lauffer seconded the motion.

Motion – Miller

Second – Blankenship

**Roll Call – 6 yeas (Isaacs, Lauffer, miller, Blankenship, Colvin, Dedden)
1 abstain (Gallagher)**

Second Reading of Ordinances and Resolutions

None

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Tabled Ordinances and Resolutions

None

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Executive Session

None

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All were in favor to adjourn at 8:37 pm.

Date: _____

Jamie Morley, Clerk of Council