

**MINUTES OF THE RESCHEDULED MEETING
OF THE AVON LAKE MUNICIPAL COUNCIL
HELD APRIL 2, 2012**

The rescheduled meeting of the Avon Lake Municipal Council was called to order on April 2, 2012 at 8:02 P.M. in the Council Chamber with Council President O'Donnell presiding.

Mrs. Fenderbosch led the Council, staff, and public in reciting the Pledge of Allegiance.

Present: Council Members Dan Bucci, Jennifer Fenderbosch, David Kos, Rob James, Larry Meiners, Martin O'Donnell, John Shondel, Mayor Zilka, Law Director Abe Lieberman, Finance Director Nancy Bryan, Engineering Department Manager Joseph Reitz, Clerk of Council Barbara Dopp.

CORRESPONDENCE

Barbara Lunt submitted a public records request.

MAYOR'S REPORT

Mayor Zilka received information from Mark Baird of GenOn regarding the proposed closing of the Avon Lake plant in 2015. GenOn is continuing to evaluate the economic viability of additional investment in environmental controls required for new EPA regulations. After further analysis, GenOn determined that the forecasted returns are insufficient to justify the additional investment. The plant will be deactivated in April of 2015. GenOn will evaluate any economic proposal for the facility that makes economic sense and will take action in the best interest of the company. Mayor Zilka stated that it is the objective of the City to keep the power plant open beyond 2015. He has met with various legislators at the state and national level to discuss this matter and the expenditures required for EPA mandated sewer separations projects. Mayor Zilka informed Mr. Baird that the City needs to begin developing a plan for the power plant site after the plant closes.

RITA tax collections are up 3.58% from last year's collections.

Mayor Zilka will attend the economic development workshop in Columbus from April 11th to April 13th.

Community Resource Services (CRS) submitted its quarterly report; they assisted 17 individuals this quarter. The account balance is \$202.15. Mayor Zilka asked that a donation to CRS be discussed at the April 16th Collective Committee Meeting, and that a Special Council Meeting follow the meeting to authorize a donation to CRS.

COUNCIL PRESIDENT'S REPORT

Council President O'Donnell made the following announcements.

No Council meeting is scheduled for April 9th, Easter Monday. The next Collective Committee meeting is scheduled for April 16th; the next regular Council meeting is scheduled for April 23rd.

Council Members were reminded to file their Financial Disclosure Statements with the Ohio Ethics Commission by the April 16th deadline.

ENGINEERING DEPARTMENT REPORT

The Engineering Department weekly update was distributed.

LAW DIRECTOR'S REPORT

The Law Department report on pending litigation was distributed.

ENVIRONMENTAL COMMITTEE REPORT

Mr. James reported on the following item discussed at the March 28, 2012 joint meeting between the Environmental Committee and Safety Committee: a proposal from the Environmental Affairs Advisory Board to prohibit the feeding of deer in Avon Lake.

The Environmental Affairs Advisory Board is scheduled to meet April 4, 2012 at 6:30 P.M. at the Lake House.

The Environmental Issues Series will continue on April 11, 2012 at 7:00 P.M. at the Avon Lake Public Library; Tom Keller, a wildlife biologist, will speak about effective measures for the control of wildlife.

HUMAN RESOURCES COMMITTEE REPORT

Mr. Bucci reported on the employment of a part-time Human Resources Director which was discussed at the April 2, 2012 Human Resources Committee meeting.

PUBLIC UTILITIES COMMITTEE REPORT

Mr. Shondel stated that a public service announcement regarding the Code Red system is posted on the City website.

SAFETY COMMITTEE REPORT

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A Safety Committee meeting is scheduled for May 2, 2012 to discuss the Fire Department dispatch system. The time and location will be announced.

SEWER COMMITTEE REPORT

The next meeting of the Sewer Committee is scheduled for April 12, 2012 at 6:30 P.M. in the Engineering Conference Room.

ECONOMIC DEVELOPMENT COMMITTEE REPORT

The Avon Lake Rotary Club invited Mr. Bucci to speak on economic development initiatives at their April 24, 2012 meeting at 7:30 A.M.

PLANNING COMMISSION REPORT

Planning Commission is scheduled to meet April 3, 2012 at 7:30 P.M. in the Council Chamber.

ZONING BOARD OF APPEALS REPORT

The Zoning Board of Appeals met March 28, 2012 and approved the following: a fence variance for property at 265 Avon Belden Road; an accessory building variance at 449 Cedarwood Road.

AUDIENCE PARTICIPATION

Barbara Lunt, Fay Avenue, commented on the elimination of the trash subsidy and the validity of the City's trash collection contract when the trash subsidy is eliminated.

Mayor Zilka stated that Mr. Kidder of Republic Services informally stated that there wouldn't be any problem with the contract and the rates would remain the same throughout the length of the contract. Mrs. Fenderbosch pointed out that the only item in the contract that could fluctuate is the fuel charge.

MOTIONS

Mr. Kos moved to authorize the City to advertise for bids for a command vehicle for the Fire Department. The bid specifications were reviewed by the Contract Administrator and Council.

Yes: Fenderbosch, James, Kos, Meiners, O'Donnell, Shondel, Bucci

No: None

Motion carried.

Mr. Shondel moved to authorize the Avon Lake Cable Studio to activate the Facebook page.

Yes: Fenderbosch, James, Kos, Meiners, O'Donnell, Shondel, Bucci
No: None
Motion carried.

LEGISLATION

Third Readings:

Temporary Legislation #9957, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF POLICE OFFICER IN THE POLICE DEPARTMENT, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND REPEALING ORDINANCE NO. 160-88, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #9957. This and the following three job descriptions were recommended by the Human Resources Director and the Police Chief to bring them up to date and properly reflect the duties of the positions. The job descriptions were reviewed by the bargaining unit.

Yes: Fenderbosch, James, Kos, Meiners, O'Donnell, Shondel, Bucci
No: None
Motion carried.

Ordinance No. 52-2012 adopted.

Temporary Legislation #9958, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF CHIEF IN THE POLICE DEPARTMENT, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND REPEALING ORDINANCE NO. 45-87, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #9958.

Yes: Fenderbosch, James, Kos, Meiners, O'Donnell, Shondel, Bucci
No: None
Motion carried.

Ordinance No. 53-2012 adopted.

Temporary Legislation #9959, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF LIEUTENANT IN THE POLICE DEPARTMENT, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND REPEALING ORDINANCE NO. 46-87, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #9959.

Yes: Fenderbosch, James, Kos, Meiners, O'Donnell, Shondel, Bucci

No: None

Motion carried.

Ordinance No. 54-2012 adopted.

Temporary Legislation #9960, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF SERGEANT IN THE POLICE DEPARTMENT, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND REPEALING ORDINANCE NO. 47-87, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #9960.

Yes: Fenderbosch, James, Kos, Meiners, O'Donnell, Shondel, Bucci

No: None

Motion carried.

Ordinance No. 55-2012 adopted.

Temporary Legislation #9961, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF FINANCE CLERK IN THE FINANCE DEPARTMENT ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND REPEALING ORDINANCE NO. 161-85, AMENDED BY ORDINANCE NO. 36-86, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #9961. This job description was recommended by the Human Resources Director and the Finance Director to bring it up to date and properly reflect the duties of the position.

Yes: Fenderbosch, James, Kos, Meiners, O'Donnell, Shondel, Bucci

No: None

Motion carried.

Ordinance No. 56-2012 adopted.

Second Readings:

Temporary Legislation #9969, A RESOLUTION PURSUANT TO SECTION 5705.19 (I) OF THE OHIO REVISED CODE SUBMITTING THE QUESTION TO THE ELECTORATE OF A 1.25 MILL REPLACEMENT LEVY, WITH A .75 INCREASE TO EQUAL A 2.0 MILL LEVY FOR THE PURPOSE OF PROVIDING AMBULANCE AND EMS SERVICES, AND DECLARING AN EMERGENCY, was read by title only.

The Finance Committee recommended placing a 2.0 mill levy on the August 7th special election ballot. The current levy expires December 31, 2012. The levy is based on property values, which have decreased. Therefore, the amount of funds collected at the current rate is less than the amount that was collected three years ago at the rate of 1.25. According to the present property values the present millage will no longer cover the cost of the number of 911 calls coming into the Fire

Department. The paramedic levy covers the cost of eight paramedics and equipment.

Mrs. Fenderbosch stated that Chief Eisenhardt informed her that the Fire Department received 1,459 EMS calls and 1,280 for transport.

Temporary Legislation #9970R, AN ORDINANCE REPEALING ORDINANCE NO. 45-92, AND ALL SUBSEQUENT ORDINANCES RELATED TO FEES FOR GARBAGE AND RUBBISH COLLECTION SERVICES, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Kos moved for suspension of the rule requiring three readings.

Yes: Fenderbosch, Kos, Meiners, O'Donnell, Shondel, Bucci

No: James

Motion carried.

Mr. Kos moved for passage of Temporary Legislation #9970R. In 1992 City Council passed an ordinance granting a subsidy to property owners for garbage and rubbish collection services when the municipal income tax was increased. Due to budget constraints and drastic cuts in State funding through the Local Government Fund and inheritance taxes, the City of Avon Lake can no longer afford to subsidize the trash collection fees. The City of Avon Lake pays approximately \$700,000 per year for subsidizing trash collection services. If the subsidy is not eliminated, there will be layoffs and dramatic cuts in City services.

Mr. Bucci stated that he cannot support the elimination of the subsidy since residents are going to be asked to support an increase in the paramedic levy as well as increases in utility fees and a possible future school levy.

Mr. Meiners agreed with Mr. Bucci and stated that he cannot support elimination of the subsidy. He pointed out that the City will still be paying for residents who meet the poverty level through the Community Resource Services program.

Mayor Zilka stated that elimination of the subsidy is not a tax; residents will be required to assume the full cost of a service which they receive. He stated that if the subsidy is not eliminated, layoffs will begin at the end of 2012 as the City will no longer be able to provide the current level of services. Mayor Zilka asked that language be added to the legislation stating that the effective date of the elimination of the subsidy is July 1, 2012. As the legislation reads, the subsidy would be eliminated immediately upon passage of the ordinance. The Law Director agreed that the legislation should be amended.

Mr. Kos moved to amend Temporary Legislation #9970R to add the words "effective July 1, 2012" to the end of Section No. 1 of the ordinance.

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Yes: Fenderbosch, Kos, O'Donnell, Shondel, Bucci

No: James, Meiners

Motion carried.

Mr. O'Donnell stated that the legislation is being presented as an emergency measure since there have been numerous discussions and meetings on the issue. If the measure should fail, the Mayor needs time to plan for layoffs and cuts in services.

The roll was taken for passage of Temporary Legislation #9970R.

Yes: Fenderbosch, Kos, O'Donnell, Shondel

No: James, Meiners, Bucci

Motion carried.

Ordinance No. 57-2012 adopted.

Temporary Legislation #9972, AN ORDINANCE FOR THE SUBMISSION TO THE ELECTORATE OF AN AMENDMENT TO CHAPTER IX SECTION 49 OF THE MUNICIPAL CHARTER TO ALLOW THE BOARD OF MUNICIPAL UTILITIES TO MEET IN EXECUTIVE SESSION, AND DECLARING AN EMERGENCY, was read by title only.

Under the Charter, the Board of Municipal Utilities does not have authority to adjourn to Executive Session. The Board requested the amendment to permit them to adjourn to Executive Session to discuss the permitted topics outlined in Ohio Revised Code Section 121.22. According to the Charter, Council is permitted the privilege of meeting in Executive Session and the Board of Utilities is asking for the same privilege.

Temporary Legislation #9973, AN ORDINANCE FOR THE SUBMISSION TO THE ELECTORATE OF AN AMENDMENT TO CHAPTER XII SECTION 62 OF THE MUNICIPAL CHARTER TO MODIFY THE PROCEDURE FOR CONDUCTING ELECTIONS, AND DECLARING AN EMERGENCY, was read by title only.

The Charter Review Ad Hoc Committee recommended this amendment. Currently, Section 62 requires the winning candidate to receive 50% of the votes plus one. In the event there are three or more candidates running for the position of Mayor or Ward Council, the amendment would require a non-partisan primary to be held prior to the November election. After the primary, the two candidates receiving the most votes would advance to the November election. This does not affect the Council at Large positions since according to the Charter the three candidates who receive the most votes win the seats. The purpose of the amendment is to avoid another run-off election which was difficult for the candidates because they had to extend their campaigns and it was confusing for the residents. The runoff election also did not allow for a smooth transition of the new term and delayed reorganization. There was

a substantial financial impact on the City since the City was responsible for paying for the special election.

First Readings:

Temporary Legislation #9978, AN ORDINANCE AMENDING THE CODIFIED ORDINANCES OF THE CITY OF AVON LAKE BY REPEALING CODIFIED ORDINANCE CHAPTER 1090.09, ENTITLED RECYCLABLES, was read by title only.

The Law Director recommended repealing Codified Ordinance Chapter 1090.09 since it is no longer relevant; the dates cited in the section regarding trash fees are no longer in effect.

Temporary Legislation #9979, AN ORDINANCE CONSENTING TO THE ASSIGNMENT OF THE DEVELOPER'S RIGHTS AND DELEGATION OF THE DEVELOPER'S OBLIGATION UNDER A COMMUNITY REINVESTMENT AREA TAX INCENTIVE AGREEMENT PERTAINING TO THE AQUA MARINE PROPERTY, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Bucci moved for suspension of the rule requiring three readings.

Yes: Fenderbosch, James, Kos, Meiners, O'Donnell, Shondel, Bucci

No: None

Motion carried.

Mr. Bucci moved for passage of Temporary Legislation #9979. This legislation is a confirmation of a tax incentive agreement in place for the Aqua Marine property; the confirmation is required for re-financing of the property. The new construction planned for this development will bring new jobs into the City of Avon Lake. The amount of the current abatement will not be affected.

Yes: Fenderbosch, James, Kos, Meiners, O'Donnell, Shondel, Bucci

No: None

Motion carried.

Ordinance No. 51-2012 adopted.

PUBLIC INPUT

Barbara Lunt, Fay Avenue, commented on the Charter amendment to modify the procedure for election and expressed her opposition to the amendment.

Chris Quinlan, 73 Community Drive, Avon Lake, had questions regarding the appearance of personal Facebook pages.

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Jean Sekulic, 68 North Point Drive, expressed her support for the elimination of the trash subsidy.

ADJOURNMENT

Mr. Meiners moved for adjournment.

Yes: Fenderbosch, Kos, James, Meiners, O'Donnell, Shondel, Bucci

No: None

Motion carried.

Adjournment: 9:20 P.M.

Approved: _____
Council President

Attest: _____
Clerk of Council