

**MINUTES OF THE REGULAR MEETING  
OF THE AVON LAKE MUNICIPAL COUNCIL  
HELD APRIL 26, 2010**

The Regular Meeting of the Avon Lake Municipal Council was called to order on April 26, 2010 at 7:30 P.M. in the Council Chamber with Council President Zilka presiding.

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

Present: Council Members Dan Bucci, Jennifer Fenderbosch, David Kos, Martin O'Donnell, Timothy Rush, Gregory Zilka, Mayor Zuber, Law Director William Kerner, Finance Director Tom DiLellio, Engineering Department Manager Joseph Reitz, Clerk of Council Barbara Dopp.

Absent: Larry Meiners

There being no objections, Mr. Meiners' absence was excused.

**APPROVAL OF MINUTES**

The minutes of the April 12, 2010 Regular Council Meeting were approved as amended.

**CORRESPONDENCE**

A letter was received from the Avon Lake Presbyterian Church commending the Avon Lake Utilities Department for their assistance.

Time Warner Cable informed the City that, although they are no longer required to do so by law, they will continue to provide free expanded cable video service to schools, libraries, and police and fire stations.

The Northcoast BIA announced an elected officials reception is scheduled for April 29<sup>th</sup> from 4:30 – 6:30 P.M. at Quaker Steak and Lube.

**MAYOR'S REPORT**

Mayor Zuber made the following announcements.

The new YMCA in the City of Avon was dedicated on April 18, 2010.

The Mayor met with Jason Hamman to discuss options for economic development in Avon Lake.

April 26, 2010 Council Meeting Minutes

The Avon Lake Recreation Department held the second annual "Senior Day" at the Avon Lake Public Library on April 21<sup>st</sup>.

The Mayor met with Grant Thompson, the Metro Park Manager, regarding improvements to the Kopf Family Reservation. By the end of May, the bridge across Gable Creek should be completed. There are plans for further trails and restrooms.

The Tree Commission held an Arbor Day celebration at Veterans Memorial Park on April 25<sup>th</sup>.

The Avon Lake Public Library was ranked number eight in the population category of 10,000 – 25,000 by Hennen's American Library Ratings.

### **COUNCIL PRESIDENT'S REPORT**

Mr. Zilka made the following announcements.

The next Collective Committee meeting is scheduled for May 3<sup>rd</sup>. The next Council meeting is scheduled for May 10<sup>th</sup>.

Election Day is May 4<sup>th</sup>. Issue 13, which poses the question of a 1.5 mill operating levy, will appear on the ballot. This is a renewal levy and will not raise taxes.

### **ENGINEERING DEPARTMENT REPORT**

The Engineering Department Update was distributed.

The progress of the Jaycox Road Sewer Project was interrupted due to the discovery of hard shale. The main line sewer to the pump station at Stoney Brook and Jaycox should be installed by April 30<sup>th</sup>. Beginning May 4<sup>th</sup>, crews will be working on sanitary connections to the new sewer between Electric and Stoney Brook.

### **LAW DIRECTOR'S REPORT**

The Law Department Update was distributed.

### **ENVIRONMENTAL COMMITTEE REPORT**

Mrs. Fenderbosch made the following announcements.

The Environmental Committee met on April 20<sup>th</sup>. The Committee discussed the sustainability tactics based on the sustainability statement.

The Environmental Series was held at the Avon Lake Public Library on April 21<sup>st</sup>. Scott Peters of the Ohio Department of Natural Resources discussed deer

management. The series will continue on May 12<sup>th</sup>; melanoma prevention will be the topic.

### **FINANCE COMMITTEE REPORT**

Mr. Zilka reported on the following topics discussed at the April 19<sup>th</sup> Finance Committee Meeting: the January and February financial statements; the overtime report; CRS donation guidelines; bond refinancing; and amendments to the Codified Ordinances regarding purchasing and bidding practices.

### **HUMAN RESOURCES COMMITTEE REPORT**

Mr. Bucci reported on the following items discussed at the April 15<sup>th</sup> Human Resources Committee meeting: fixing Council salaries for 2011; Codified Ordinance Section 256.09 entitled Probation; salary rates for non-bargaining unit employees; and the proposed Employee Policy and Procedure Manual developed by the Human Resources Director.

Law Director Kerner recommended that the Employee Policy and Procedure Manual be adopted by Council.

The Human Resources Committee is scheduled to meet May 3, 2010 at 6:30 P.M.

### **PUBLIC SERVICE COMMITTEE**

Mr. Rush requested permission to abstain from voting on Temporary Legislation #9693, authorizing the purchase of security cameras for the aquatic center, due to a possible perception of a conflict of interest. Mr. Rush had solicited a quote from the vendor who was awarded the contract.

### **PUBLIC UTILITIES COMMITTEE REPORT**

Mr. Kos made the following comments. The discounted rates for all-electric homes have been extended through the next winter season. State Senator Tom Patton introduced legislation that would permanently restore these discounted rates.

On April 21<sup>st</sup>, Mr. Kos, Mrs. Fenderbosch, North Ridgeville Council President Kevin Corcoran, and State Representative Matt Lundy attended a meeting held by the PUCO to discuss First Energy's new Electric Security Plan (ESP); they testified in opposition to the ESP. Mr. Kos read the following information from The Ohio Consumer Council's fact sheet, which was distributed at the meeting. First Energy is seeking approval of a new three-year Electric Security Plan (ESP) to replace the current plan which expires in May of 2011. The Ohio Consumer Council opposes the plan for the following reasons. (1) Replacement of the current delivery system improvement charge, which will be replaced with a new larger delivery capital recovery charge, is set to expire in December of 2011. The new proposal would

allow First Energy to collect up to \$390 million through quarterly increases over the next two and one-half years. (2) First Energy incorrectly claimed, as a benefit of its agreement, that it would not charge customers for certain future transmission related costs. These costs are a result of First Energy's business decision to switch from the current regional transmission organization. (3) Economic development arrangements would cost customers millions of dollars in additional charges. These deals should be reviewed in a separate proceeding which would allow for full disclosure of information and complete PUCO review.

Mr. Kos stated that he is concerned with the timeframe and that the new plan is being rushed through. First Energy submitted its application on March 23<sup>rd</sup> and requested the PUCO's decision by May 5<sup>th</sup>. Under State law, the PUCO has 275 days to reach a decision. The ESP will affect every customer in the State of Ohio.

Mrs. Fenderbosch stated that her testimony was in reference to Senate Bill 221 which provided for electric rates to become stable by expanding the green energy industry for job creation. First Energy was required to replace 25% of 1% of the energy generated with renewable power by 2009. According to SB 221, power companies which did not meet the mandated benchmark for production of renewable energy would be penalized with fines. First Energy was not able to meet the benchmark and petitioned the PUCO to waive the fine and the PUCO granted the waiver. SB 221 also incorporated a system under which rates would be set by the PUCO beginning January 1, 2009 for electric utilities to implement market based pricing. The First Energy proposal requests that they leave the low cost regional transmission organization (MISO), for the higher cost transmission organization (PJM) and leave market based pricing. At the request of First Energy, the PUCO has agreed to not become involved in the purchase of Allegheny Power, which was First Energy's only competition. Therefore, First Energy customers will not have any representation in the purchase.

Mrs. Fenderbosch reviewed a power point presentation which was shown by the PUCO at a meeting in Cleveland, and pointed out confusing and conflicting information.

### **ECONOMIC DEVELOPMENT COMMITTEE REPORT**

The Economic Development Committee is scheduled to meet May 4, 2010 at 6:30 P.M. with Mayor Zuber to review the direction of the Committee regarding economic development.

### **PLANNING COMMISSION REPORT**

Due to Election Day, the May Planning Commission meeting is rescheduled to May 11<sup>th</sup> at 7:30 P.M.

### **AVON LAKE COMMUNITY COUNCIL REPORT**

## April 26, 2010 Council Meeting Minutes

Mr. O'Donnell reported that Kay Usher and Betty Kinsner received "Citizen of the Year" awards from the Avon Lake Community Council. The Avon Lake Garden Club received the Project of the Year award. They will be recognized at the Kiwanis dinner on May 13<sup>th</sup> at 6:30 P.M. at the Avon Lake Public Library.

### **MOTIONS**

Mr. O'Donnell moved to remove from the agenda the motion to award a contract to NexGen. This item was referred to a Collective Committee meeting for further discussion.

Yes: Fenderbosch, Kos, O'Donnell, Rush, Zilka, Bucci  
No: None  
Absent: Meiners  
Motion carried.

Mr. O'Donnell moved to add a motion to the agenda to permit Mr. Rush to abstain from voting on Temporary Legislation #9693.

Yes: Fenderbosch, Kos, O'Donnell, Rush, Zilka, Bucci  
No: None  
Absent: Meiners  
Motion carried.

Mr. Bucci moved to fix Council salaries for the year 2011 at the present level. The Charter requires Council to fix their salaries by June 1<sup>st</sup> of each year.

Yes: Fenderbosch, Kos, O'Donnell, Rush, Zilka, Bucci  
No: None  
Absent: Meiners  
Motion carried.

Mr. O'Donnell moved to reject the bids for janitorial services at City buildings. The administration has concerns with the performance bonds.

Yes: Fenderbosch, Kos, O'Donnell, Rush, Zilka, Bucci  
No: None  
Absent: Meiners  
Motion carried.

Mr. O'Donnell moved to authorize the City to re-advertise for bids for janitorial services at City buildings.

Yes: Fenderbosch, Kos, O'Donnell, Rush, Zilka, Bucci  
No: None

Absent: Meiners  
Motion carried.

Mr. O'Donnell moved to authorize the Mayor to sign for the City, as owner, the Application For Zoning and Building Permit requested by the Avon Lake Preservation Society for the placement of a sign with the words "Folger Home" of A.L.P.S. on the building which is owned by the City and referred to on the City's records as "Assembly Hall" and is leased to the Society and referred to by the Society as the "Folger Home".

The City has a policy in place for the naming of parks and facilities which was adopted by the Parks & Recreation Commission. The name of the facility will not be legally changed to "Folger Home".

Yes: Fenderbosch, Kos, O'Donnell, Rush, Zilka, Bucci  
No: None  
Absent: Meiners  
Motion carried.

Mr. O'Donnell moved to permit Mr. Rush to abstain from voting on Temporary Legislation #9693. Mr. Rush had concerns that there could be a perceived conflict of interest since he solicited a quotation from the contractor who will be awarded the contract for security cameras at the aquatic center.

Yes: Fenderbosch, Kos, O'Donnell, Rush, Zilka, Bucci  
No: None  
Absent: Meiners  
Motion carried.

## **LEGISLATION**

### Second Readings:

Temporary Legislation #9681, AN ORDINANCE IMPLEMENTING A PROGRAM AND SETTING FEES FOR EMERGENCY AMBULANCE TRANSPORT SERVICES PROVIDED BY THE CITY OF AVON LAKE, AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Fenderbosch, Kos, O'Donnell, Rush, Zilka, Bucci  
No: None  
Absent: Meiners  
Motion carried.

Mr. Rush moved for passage of Temporary Legislation #9681. The City established an insurance only billing practice for ambulance service to limit the recovery of such fees from residents and those employed within Avon Lake to the usual and customary charges by their insurers. MediCount Management Inc. will provide the billing services. It is the intent for the program to begin on May 1, 2010.

Yes: Fenderbosch, Kos, O'Donnell, Rush, Zilka, Bucci

No: None

Absent: Meiners

Motion carried.

**Ordinance 51-2010 adopted.**

Temporary Legislation #9686, AN ORDINANCE AMENDING CHAPTER 208 OF THE CODIFIED ORDINANCES, ENTITLED GENERAL FEE SCHEDULE, was read by title only.

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

Yes: Fenderbosch, Kos, O'Donnell, Rush, Zilka, Bucci

No: None

Absent: Meiners

Motion carried.

Mr. Rush moved for passage of Temporary Legislation #9686. By this Ordinance, the fees for ambulance transport billing will be established. The fees are comparable to those charged by surrounding communities and will be billed to insurance companies. Residents and individuals who are employed in Avon Lake will not be billed for any amount not covered by their insurance companies.

Yes: Fenderbosch, Kos, O'Donnell, Rush, Zilka, Bucci

No: None

Absent: Meiners

Motion carried.

**Ordinance No. 52-2010 adopted.**

Temporary Legislation #9687, AN ORDINANCE AUTHORIZING THE MAYOR TO PREPARE AND SUBMIT AN APPLICATION TO PARTICIPATE IN THE OHIO PUBLIC WORKS COMMISSION STATE CAPITAL IMPROVEMENT AND/OR LOCAL TRANSPORTATION IMPROVEMENT PROGRAM AND TO EXECUTE CONTRACTS AS REQUIRED, AND DECLARING AN EMERGENCY, was read by title only.

The Lear Road/Walker Road Intersection Project will be submitted for the grant. The project includes turn lanes and traffic signal upgrades.

First Readings:

Temporary Legislation #9689, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF ADMINISTRATIVE ASSISTANT IN THE MUNICIPAL UTILITIES DEPARTMENT, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Fenderbosch, Kos, O'Donnell, Rush, Zilka, Bucci

No: None

Absent: Meiners

Motion carried.

Mr. Bucci moved for passage of Temporary Legislation #9689. The Human Resources Director and Human Resources Committee reviewed the proposed job description for the newly created position.

Yes: Fenderbosch, Kos, O'Donnell, Rush, Zilka, Bucci

No: None

Absent: Meiners

Motion carried.

**Ordinance No. 53-2010 adopted.**

Temporary Legislation #9690, AN ORDINANCE CONFIRMING THE APPOINTMENT OF REBECCA HAINES TO THE POSITION OF ADMINISTRATIVE ASSISTANT IN THE MUNICIPAL UTILITIES DEPARTMENT ESTABLISHING THE RATE OF COMPENSATION FOR SAID POSITION, AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Fenderbosch, Kos, O'Donnell, Rush, Zilka, Bucci

No: None

Absent: Meiners

Motion carried.

Mr. Bucci moved for passage of Temporary Legislation #9690. The Board of Municipal Utilities approved the appointment of Rebecca Haines to the position of Administrative Assistant to handle increased administrative duties associated with the LORCO project.

Yes: Fenderbosch, Kos, O'Donnell, Rush, Zilka, Bucci

No: None

Absent: Meiners

Motion carried.

**Ordinance No. 54-2010 adopted.**

Temporary Legislation #9691, AN ORDINANCE ADOPTING THE 2010 COMPREHENSIVE LAND USE PLAN UPDATE FOR THE CITY OF AVON LAKE, was read by title only.

Planning Commission approved the 2010 updates relative to stormwater quality and sustainability practices.

Temporary Legislation #9692, AN ORDINANCE AMENDING CODIFIED ORDINANCE CHAPTER 256.09, ENTITLED PROBATION, was read by title only.

Under the current Code section, newly hired employees are subject to a one year probationary period. The appointing authority may terminate the employee at any time during the probationary period. Recent court opinions have held that employees have a right to due process in such situations. The Human Resources Director recommends an amendment to the Code section to provide for evaluation of newly hired employees every 90 days. If an employee's work is unsatisfactory, the employee will be advised in writing to offer an opportunity for improvement through additional training. Under the proposed amendment, an employee may be removed at any time between days 270 and 360 of the probationary period. This amendment will not affect any collective bargaining contracts because an employee is not eligible to become a member of a union until he has completed the probationary period.

Temporary Legislation #9693, AN ORDINANCE AUTHORIZING THE PURCHASE OF SECURITY CAMERAS FOR THE AQUATIC CENTER, AND DECLARING AN EMERGENCY, was read by title only.

Mr. O'Donnell moved for suspension of the rule requiring three readings.

Yes: Fenderbosch, Kos, O'Donnell, Zilka, Bucci  
No: None  
Abstention: Rush  
Absent: Meiners  
Motion carried.

Mr. O'Donnell moved for passage of Temporary Legislation #9693. Vasu Communications submitted the low quotation in the amount of \$24,558.22.

Yes: Fenderbosch, Kos, O'Donnell, Zilka, Bucci  
No: None  
Abstention: Rush  
Absent: Meiners  
Motion carried.

**Ordinance No. 55-2010 adopted.**

## **MISCELLANEOUS BUSINESS AND ANNOUNCEMENTS**

## April 26, 2010 Council Meeting Minutes

A dedication ceremony of Civil War gravestones will take place May 1, 2010 at 10:00 A.M. at the Lake Shore Cemetery.

On April 28, 2010 Mayor Zuber will participate in a “lock-up” to raise funds for the Muscular Dystrophy Association.

Donations are still being accepted for the Michelle Moschner-Santoro fundraiser. Information can be obtained by contacting Johnny Malloy’s or First Merit Bank in Avon Lake.

On May 23, 2010 the second annual dog walk will take place at Paws by the Lake at 9:00 A.M.; a pet fair will follow the dog walk. All proceeds will go to the American Cancer Society.

### **PUBLIC INPUT**

Ed Bueche, Birchwood Lane, Avon Lake, addressed Council regarding the rates for all-electric homes.

Jan Van Wagner, 118 Hermann Drive, Avon Lake, announced a public information session regarding the EMS billing will air on Channel 99 beginning May 4<sup>th</sup> and will run for one week.

### **EXECUTIVE SESSION**

In compliance with Ohio Revised Code Section 121.22, Mr. O’Donnell moved to adjourn to Executive Session to discuss the hiring of a public employee and pending litigation.

Yes: Fenderbosch, Kos, O’Donnell, Rush, Zilka, Bucci

No: None

Absent: Meiners

Motion carried.

Adjournment to Executive Session: 8:41 P.M.

### **RECONVENING OF THE OPEN MEETING**

The open Council Meeting reconvened at 9:03 P.M. in the Council Chamber with Council President Zilka presiding.

Present: Dan Bucci, Jennifer Fenderbosch, David Kos, Martin O’Donnell, Timothy Rush, Gregory Zilka, Mayor Zuber, Law Director William Kerner, Clerk of Council Barbara Dopp.

April 26, 2010 Council Meeting Minutes

Mr. O'Donnell moved that the Law Director be authorized to execute a stipulation of dismissal with prejudice and any other document or pleading that may be necessary or appropriate to dismiss with prejudice the case of Eaton Township Board of Trustees v. LORCO, the City of Avon Lake, and the Avon Lake Municipal Utilities, being Case Number 10CV66570 on the docket of the Lorain County Common Pleas Court.

Yes: Fenderbosch, Kos, O'Donnell, Rush, Zilka, Bucci  
No: None  
Absent: Meiners  
Motion carried.

Mr. O'Donnell moved to adjourn.

Yes: Fenderbosch, Kos, O'Donnell, Rush, Zilka, Bucci  
No: None  
Absent: Meiners  
Motion carried.

Adjournment: 9:05 P.M.

Approved: \_\_\_\_\_  
Council President

Attest: \_\_\_\_\_  
Clerk of Council