

**MINUTES OF THE REGULAR MEETING  
OF THE AVON LAKE MUNICIPAL COUNCIL  
HELD AUGUST 27, 2012**

The regular meeting of the Avon Lake Municipal Council was called to order on August 27, 2012 at 7:30 P.M. in the Council Chamber with Council President O'Donnell presiding.

Mr. James led the Council, staff, and public in reciting the Pledge of Allegiance.

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

Mr. Shondel arrived at 8:10 P.M.

There being no objections, Mr. Meiners was excused from attendance at the meeting.

**APPROVAL OF MINUTES**

The minutes of the June 25, 2012, July 9, 2012, and July 23, 2012 were approved as prepared and published.

**MAYOR'S REPORT**

Mayor Zilka made the following announcements.

The Board of Elections certified the results of the August 7, 2012 special election and found that Issue #3, the EMS levy, fell within the margin required for an automatic recount. The recount will be conducted and certified on August 30<sup>th</sup>. The issue failed by six votes at the August 7, 2012 special election.

The Service Department is working to install a storm sewer on Hunter Road, a paper street, which is parallel to Belle Road. The objective is to reduce flooding on the south side of Belle Road. A 30 foot path of trees was removed to allow access for equipment. The area will be seeded and filled in at the end of the project.

A vineyard in Avon has been using air cannons to scare off wildlife from the crops. Farmers in Avon are exempt from the noise ordinance since they are using the noise to preserve agriculture production. Avon Lake residents are disturbed by this noise that continues throughout the day and night. Mr. Bucci stated that the air cannons are being discharged every 50 seconds and asked the Law Director to see if there is any relief for citizens to pursue.

School is back in session and residents are requested to drive carefully and observe all speed limits.

The Lorain City Health Department requested the City of Avon Lake to accept modifications to the health services contract which was approved by Council on June 25, 2012 and signed by Mayor Zilka and the Mayor of Lorain. Mayor Zilka will contact the Mayor of Lorain to discuss the issue.

According to the Avon Lake Zoning Code, political signs are not to be placed in yards sooner than 30 days before the election. However, the Ohio Supreme Court ruled sign restriction to be unconstitutional because it violates an individual's freedom of speech. Law Director Lieberman stated that political signs are protected by the First Amendment.

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

Council President O'Donnell made the following announcements.

In observance of Labor Day, no Council Meeting will be held on September 3<sup>rd</sup>. The next regular Council meeting is scheduled for September 10<sup>th</sup>. If needed, a Collective Committee Meeting will be held prior to the Council Meeting.

As required by Charter Section 72, a Charter Review Commission shall be appointed for the year 2013. Five members shall be appointed by the Mayor and four of the members, one from each ward, shall be appointed by Council. The Mayor and Council President O'Donnell would like to appoint the Commission by the end of 2012.

A vacancy will exist on the Zoning Board of Appeals beginning January 1, 2013, and there are two current vacancies on the Environmental Affairs Advisory Board.

Anyone interested in the above positions should contact the Clerk of Council.

### **ENGINEERING DEPARTMENT REPORT**

The Engineering Department weekly update was distributed.

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

The Law Department report on pending litigation was distributed.

### **SAFETY COMMITTEE**

Mr. Kos reported on the following items discussed at the Safety Committee meeting held August 21<sup>st</sup>, 2012: a donation from the Ohio Department of Public Safety for

EMS training and equipment; renewal of the Code Red contract; and a citywide siren weather alert system.

### **SEWER COMMITTEE REPORT**

The Sewer Committee is scheduled to meet September 13, 2012 at 6:30 P.M.

### **ZONING BOARD OF APPEALS**

The Mayor reported on the following cases reviewed by the Zoning Board of Appeals at the August 22, 2012 meeting: variances for properties at 32210 Electric Boulevard, 32222 Dakota Run, and 117 Beck Road were approved; and a variance for property at 32858 Titus Hill was denied.

### **MOTIONS**

Mr. Bucci moved to add a motion to the agenda to accept the resignation of Carl E. Lowe.

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

No: None

Absent: Meiners, Shondel

Motion carried.

Mr. O'Donnell moved to authorize the purchase of two dump bodies from Newell Equipment in the amount of \$12,074.00. The equipment will be used to replace old equipment on the snow removal trucks.

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

No: None

Absent: Meiners, Shondel

Motion carried.

Mr. Kos moved to accept a donation in the amount of \$2500.00 from the Ohio Department of Public Safety for EMS training and equipment.

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

No: None

Absent: Meiners, Shondel

Motion carried.

Mr. Bucci moved to accept the resignation of Carl E. Lowe from the Service Department effective August 31, 2012. Mr. Lowe was employed as a part-time Dial-a-Bus driver. The City advertised to fill the position.

### **LEGISLATION**

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First Readings:

Temporary Legislation #10037, AN ORDINANCE PROVIDING FOR TRANSFERS AND AMENDMENTS TO PERMANENT APPROPRIATIONS, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Absent: Meiners, Shondel

Motion carried.

Mr. Bucci moved for passage of Temporary Legislation #10037. The Finance Director determined that certain transfers and transactions are necessary for the current and necessary expenses of the City.

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

No: None

Absent: Meiners, Shondel

Motion carried.

**Ordinance No. 115-2012 adopted.**

Temporary Legislation #10038, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL SERVICE AGREEMENT WITH THE STATE AUDITOR'S OFFICE TO AUDIT THE BASIC FINANCIAL STATEMENTS FOR THE YEAR ENDED DECEMBER 31, 2011, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Absent: Meiners, Shondel

Motion carried.

Mr. Bucci moved for passage of Temporary Legislation #10038. The City is required to have the annual audit performed by the State Auditor. The total cost of the audit is \$34,850.00.

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

No: None

Absent: Meiners, Shondel

Motion carried.

**Ordinance No. 116-2012 adopted.**

Temporary Legislation #10039, AN ORDINANCE AWARDDING A CONTRACT FOR THE 2012 CONCRETE STREET REPAIR PROGRAM PHASE 2, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Absent: Meiners, Shondel

Motion carried.

Mr. O'Donnell moved for passage of Temporary Legislation #10039. The contract in the amount of \$76,780.00 will be awarded to Denes Concrete.

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

No: None

Absent: Meiners, Shondel

Motion carried.

**Ordinance No. 117-2012 adopted.**

Temporary Legislation #10040, A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF AVON LAKE TO FILE AN APPLICATION AND ENTER INTO AN AGREEMENT WITH THE LORAIN COUNTY BOARD OF COMMISSIONERS THROUGH THE LORAIN COUNTY SOLID WASTE MANAGEMENT DISTRICT FOR THE PURPOSE OF ACQUIRING FUNDS THROUGH THE 2012 RECYCLING/COMPOSTING GRANT PROGRAM PURSUANT TO THE LORAIN COUNTY SOLID WASTE PLAN, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Absent: Meiners, Shondel

Motion carried.

Mr. O'Donnell moved for passage of Temporary Legislation #10040. The grant funds will be used for the purchase of boardwalk materials for Veterans Memorial Park, park benches, and recycling containers for the parks.

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

No: None

Absent: Meiners, Shondel

Motion carried.

**Ordinance No. 118-2012 adopted.**

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Temporary Legislation #10041, AN ORDINANCE APPROVING THE IMPROVEMENT PLANS FOR GRAMERCY PLACE PHASE 3, AND DECLARING AN EMERGENCY, was read by title only.

Mrs. Fenderbosch moved for suspension of the rule requiring three readings.

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

No: None

Absent: Meiners, Shondel

Motion carried.

Mrs. Fenderbosch moved for passage of Temporary Legislation #10041. This item was recommended to Council by Planning Commission at their September 4, 2012 meeting. This is the final phase of the development.

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

No: None

Absent: Meiners, Shondel

Motion carried.

**Ordinance No. 119-2012 adopted.**

Temporary Legislation #10042, AN ORDINANCE APPROVING THE CHELLEMI LEAR ROAD RE-SUBDIVISION PLAT NO. 2, AND DECLARING AN EMERGENCY, was read by title only.

Mrs. Fenderbosch moved for suspension of the rule requiring three readings.

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

No: None

Absent: Meiners, Shondel

Motion carried.

Mrs. Fenderbosch moved for passage of Temporary Legislation #10042. This item was recommended to Council by Planning Commission at their September 4, 2012 meeting.

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

No: None

Absent: Meiners, Shondel

Motion carried.

**Ordinance No. 120-2012 adopted.**

Temporary Legislation #10043, AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CRA TAX INCENTIVE AGREEMENT WITH IMOD MANAGEMENT GROUP LLC/ DESIGN ENGINEERING, INC. TO ALLOW FOR THE EXPANSION OF IMOD MANAGEMENT GROUP LLC/DESIGN ENGINEERING INC'S

OPERATIONS WITHIN THE COMMUNITY REINVESTMENT AREA, AND DECLARING AN EMERGENCY, was read by title only.

IMOD Management requested 75% tax abatement for the expansion of its operations on Moore Road to include construction of a 12,000 square foot building. The total project investment is \$755,000 with five new jobs being added. The Board of Education approved the abatement.

Temporary Legislation #10044, A RESOLUTION APPROVING THE USE OF SUBMERGED LANDS, AND DECLARING AN EMERGENCY, was read by title only.

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

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

Mr. O'Donnell moved for passage of Temporary Legislation #10044. The request is for modification of an existing submerged land lease at Veterans Memorial Park.

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

**Ordinance No. 121-2012 adopted.**

Temporary Legislation #10045, AN ORDINANCE AUTHORIZING THE DRAWING OF WARRANTS AND THE PAYMENT OF AMOUNTS DUE, AND DECLARING AN EMERGENCY, was read by title only.

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

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

Mr. Bucci moved for passage of Temporary Legislation #10045. Certain purchases were made and invoiced before the required purchase order was approved. The Finance Director has certified that the funds are available and have been appropriated. This Ordinance will authorize the payment of the amounts due.

Yes: Kos, O'Donnell, Bucci, Fenderbosch, James  
No: None  
Absent: Meiners, Shondel

Motion carried.

**Ordinance No. 122-2012 adopted.**

**MISCELLANEOUS BUSINESS & ANNOUNCEMENTS**

The Avon Lake Heritage Festival will take place on August 31<sup>st</sup> at Veterans Memorial Park.

**PUBLIC INPUT**

Barbara Lunt, Fay Avenue, Avon Lake, expressed her opposition to the EMS/Ambulance levy.

Chris Quinlan, 73 Community Drive, Avon Lake, announced the dog swim will take place at the Avon Lake municipal pool on September 8, 2012. On September 29, 2012 a fishing derby will take place at the municipal pool.

Adjournment: 8:21 P.M.

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

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