

**MINUTES OF THE REGULAR MEETING  
OF THE AVON LAKE MUNICIPAL COUNCIL  
HELD FEBRUARY 11, 2013**

The regular meeting of the Avon Lake Municipal Council was called to order on February 11, 2013 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, Larry Meiners, Martin O'Donnell, John Shondel, Mayor Zilka, Law Director Abe Lieberman, Finance Director Nancy Bryan, Clerk of Council Barbara Dopp.

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

**APPROVAL OF MINUTES**

The minutes of the January 28, 2013 Regular Council Meeting and the February 4, 2013 Special Council Meeting were approved as amended.

**RESOLUTION OF GRATITUDE AND APPRECIATION**

Temporary Legislation #10104, A RESOLUTION OF GRATITUDE AND APPRECIATION FOR TOM LESCHER, was read in its entirety.

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

Yes: James, Kos, Meiners, O'Donnell, Shondel, Bucci, Fenderbosch  
No: any  
Motion carried

Mr. O'Donnell moved for passage of Temporary Legislation #10104. Mr. Lescher retired after 41 ½ years of service with the City of Avon Lake. Mr. O'Donnell, Mrs. Fenderbosch, Mr. Meiners, and the Mayor commended Mr. Lescher on his service as an Avon Lake employee. Mr. Shondel pointed out that Mr. Lescher also served as the City Sexton.

Yes: James, Kos, Meiners, O'Donnell, Shondel, Bucci, Fenderbosch  
No: None  
Motion carried  
**Ordinance No. 10-2013 adopted.**

**CORRESPONDENCE**

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Mr. Shondel reported that WOW is instituting a rate increase effective March 1, 2013 of \$8.01 per month. Each WOW customer will receive a letter detailing the new rate. There are alternative cable providers available in Avon Lake through Time Warner or Director TV.

### **MAYOR'S REPORT**

On February 8, 2013, the Mayor attended an assembly at Learwood Middle School featuring Josh Gunderson who spoke on the dangers of social media and bullying.

The Mayor acknowledged the efforts of the Police and Fire Departments which came to the aid of a boy who was struck by a car in November. There will be a fundraiser, *A Night for Noah*, at Avon Oaks Country Club on March 9, 2013. Tickets can be purchased by contacting Joe Lombardi at [joelombardi@acuschnetgolf.com](mailto:joelombardi@acuschnetgolf.com) for tickets.

The Mayor was invited to attend a COSE meeting as a panel member with the Mayors of Lakewood and South Euclid. The panel discussion focused on small businesses and local government. Mayor Zilka passed out 27 brochures explaining Avon Lake's jobs growth incentive plan. There was also discussion regarding House Bill 5 which is the newest proposal to collect city income taxes at the State level. The small businesses are concerned about streamlining the tax process and standardizing the forms to make it easier for small businesses to operate. The Ohio Municipal League looks at it from the perspective of possibly losing revenue and losing local control now enjoyed by charter cities.

The pilot trash pick-up program uses larger, heavier trash cans that withstand high winds and help keep trash from blowing around neighborhoods. The trash contract expires at the end of the year and the Mayor asked the Public Services Committee to discuss the process of going out for bids for the next contract. Automated trash pick-up and recycling are strong priorities of the present administration. The Mayor would like the contract to be bid before May 1<sup>st</sup> so the contract can be awarded before Council summer recess.

The 2013 budget will be discussed at the February 19<sup>th</sup> Collective Committee meeting, with the second reading at the February 25<sup>th</sup> Council meeting and passage at the March 11<sup>th</sup> meeting.

The Avon Lake Business Expo will take place on April 18, 2013 at Hinckley Lighting on Pin Oak Parkway. Council is asked to distribute applications to local businesses for participation in the event.

Mr. Meiners stated that he is receiving calls from residents regarding the upcoming sewer separation and lateral connection program. Mr. Danielson will be available at the upcoming ward meetings to answer questions. The ward meetings are scheduled as follows: Ward I – February 20<sup>th</sup> at Learwood Middle School; Ward II –

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February 27<sup>th</sup> at Learwood Middle School; Ward III – March 6<sup>th</sup> at Troy School; Ward IV – March 13<sup>th</sup> at Troy. Mayor Zilka stressed that each project and each house in each project can be different so specific definitive answers to fit every situation cannot be given at a general meeting. Affected residents need to contact the Municipal Utilities at 933-6226. Mrs. Fenderbosch explained that affected property owners need to do the following. The first call should be to Avon Lake Municipal Utilities to arrange for someone to come to the house to evaluate what needs to be done and have it put in writing. If a property owner needs to have work done, the second call should be to the Engineering Department Manager to determine if there is storm water involvement. The third phone call should be to the Building Department to get information regarding the contractors which will be of assistance. Affected property owners who are required to have work performed may qualify for assistance. A family of four with an annual income of \$50,950 or a single person with an annual income of \$35,700 or less qualifies for the grant.

The Belmar/Ashwood meetings regarding the sewer project are available on ALCTV at 5:00 and 11:00 A.M. and P.M.

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

In observance of President's Day, a Collective Committee meeting will not be held on Monday, February 18<sup>th</sup>. A rescheduled Collective Committee meeting will be held on Tuesday, February 19<sup>th</sup> at 7:30 P.M. The next regular Council meeting is scheduled for February 25<sup>th</sup>.

A Walker Road Park Ad Hoc Committee meeting was held on February 11, 2013 with committee members from Bay Village. They discussed tree removal and deer management in the park.

The nominations for Citizen of the Year and Project of the Year are due March 15<sup>th</sup>. Nomination forms can be picked up at City Hall, the Old Firehouse Community Center, and the Avon Lake Public Library and are available at [www.avonlake.org](http://www.avonlake.org).

There is still a vacancy on the Environmental Affairs Advisory Board. Interested candidates should send a resume and letter of interest to the Clerk of Council at 150 Avon Belden Road or by e-mail to [bdopp@avonlake.org](mailto:bdopp@avonlake.org).

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

The Law Director's litigation update was distributed.

### **HUMAN RESOURCES COMMITTEE REPORT**

Mr. Bucci reported on the following items discussed at the February 6, 2013 Human Resources Committee meeting: an amended job description for the Zoning Administrator, a job description for the manager of Engineering and Service Departments, a performance bonus for Municipal Utility workers, Utility management

wage ranges, an RFP for human resource consultant services for negotiations, and amendments to the Civil Service Rules.

### **PUBLIC SERVICE COMMITTEE REPORT**

Mr. James reported on the following items discussed at the January 30, 2013 meeting: department consolidation, and a multi-modal transportation grant. The Committee adjourned to Executive Session to discuss real estate.

The next meeting of the Public Service Committee is scheduled for February 25, 2013 at 6:00 P.M. in the Council Conference Room. The Committee will meet regularly on the fourth Monday of every month.

### **PUBLIC UTILITIES COMMITTEE REPORT**

WOW still has not resolved e-mail issues with sending messages to Hotmail customers.

### **SAFETY COMMITTEE REPORT**

The Safety Committee is scheduled to meet February 13, 2013 at 6:30 P.M. in the Council Conference Room.

### **SEWER COMMITTEE REPORT**

The Sewer Committee is scheduled to meet on February 14, 2013 at 6:30 P.M. in the Engineering Conference Room.

### **ECONOMIC DEVELOPMENT COMMITTEE REPORT**

At an Economic Development Committee meeting there was discussion regarding charity poker in Avon Lake. Mr. Shondel had an update from Senator Manning's office regarding the legality of charity poker in Ohio. The Attorney General's office informed Ms. Manning's office that City Council is restricted and if they have not been holding charity poker events, they may be restricted from doing so. Charity poker is legal in Ohio, but the specific answer is whether it is legal at any one time or place which depends on the facts and circumstances. The Ohio Attorney General's charitable law section policy 201states the following. The games of chance may only be conducted by a charitable organization which has received from the IRS a determination letter stating the organization is exempt from Federal income taxation under subsection 501 (a) and described in subsection 501 (c) (3) of the Internal Revenue Code. The only expenses that may be deducted from the games of chance are the prizes paid out and they have to be paid to a 501 (c) (3) charity. The Attorney General's charitable law section adopted policies with respect to the interpretation of the provisions of Ohio Revised Code Section 2915.02.

**PLANNING COMMISSION REPORT**

Mrs. Fenderbosch reported on the following item discussed at the February 5, 2013 Planning Commission meeting: a revision to the general development plan for Legacy Pointe.

**ZONING BOARD OF APPEALS REPORT**

The Zoning Board is scheduled to meet on February 27, 2013.

**MOTIONS**

Mr. Shondel moved to authorize the Mayor to sign a proposal for historical landmark designation by the Avon Lake Historical Landmark Preservation of the City owned Lake Shore Cemetery.

Lake Shore Cemetery was established as early as 1820 with the earliest recorded burial being that of Edmond Towner of Vermont. Many streets in Avon Lake are named after early settlers who are buried in the cemetery, including Beck Avenue, Duff Drive, Curtis Drive, Herrmann Drive, Jaycox Road, Moore Road, and Walker Road. On October 26, 2005 the cemetery was designated as a historic landmark by the Lorain County Historical Society. Eleven U.S. military veterans are buried in the cemetery and the latest burial was that of Elizabeth G. Tominek who was born on June 29, 1899 and died May 26, 1991. Only two more unused graves exist.

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

Mr. James moved to authorize a no cost cooperative services agreement to prepare an application for a TLCI grant with NOACA for a multi-modal transportation plan for Avon Lake with the intent to connect to the Cleveland Clinic facility in Avon.

If the grant is awarded Beheinke Associates will be the firm to assist the City with the grant.

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

Mr. O'Donnell moved to authorize a donation in the amount of \$5,828.00 to the Avon Lake Swim Team.

The Parks & Recreation Commission approved and recommended this donation which is the same amount as last year's donation. The Swim Team has approximately 332 team members ranging in ages 5 to 18 and employs

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approximately 16 young adults. The Swim Team hosts the Avon Lake Invitational which draws approximately 400 swimmers to Avon Lake. Their sources of funding come from the City donation, registration fees in the amount of \$15,590, and concession profits which were \$2,502 last year. The Invitational brings in approximately \$4000.00.

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

No: None

Motion carried.

Mr. O'Donnell moved to accept a donation in the amount of \$500.00 from LifeShare Community Blood Service.

The organization makes an annual donation to the City for use of the Old Firehouse Community Center for blood drives.

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

No: None

Motion carried.

Mr. O'Donnell moved to confirm the Mayor's appointment of Rob James as Council representative to the Parks & Recreation Commission for a term expiring December 31, 2013.

Mr. O'Donnell has stepped down as the Council representative to the Parks & Recreation Commission creating a vacancy.

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

No: None

Motion carried.

### **LEGISLATION**

Mrs. Fenderbosch moved to add Temporary Legislation #10110 to the agenda.

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

No: None

Motion carried.

Mrs. Fenderbosch moved to add Temporary Legislation #10111 to the agenda.

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

No: None

Motion carried.

### **Second Readings:**

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Temporary Legislation #10100, AN ORDINANCE PROVIDING FOR COUNCIL TO AUTHORIZE THE DRAWING OF WARRANTS FOR PAYMENT OF AMOUNTS DUE, AND DECLARING AN EMERGENCY, was read by title only.

This will authorize an outstanding payment in the amount of \$13,246.75 for the Lorain County Drug and Alcohol and Drug Abuse Program through the Avon Lake Municipal Court.

Temporary Legislation #10101R, AN ORDINANCE APPROVING THE AVON LAKE MUNICIPAL UTILITIES SEWER SEPARATION PROJECT AND LATERAL CONNECTION PROGRAM, AND DECLARING AN EMERGENCY, was read by title only.

This ordinance is in reference to the 2400 properties involved in the sewer separation project. The chart outlines the timeline for the separation project and lateral program. The EPA is requiring that all sewers be separated by the year 2020.

Temporary Legislation #10102, AN ORDINANCE PROVIDING FOR A TRANSFER OF FUNDS, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Meiners moved for passage of Temporary Legislation #10102. The Finance Director determined a certain transfer of funds is necessary for the immediate expenses of the City.

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

No: None

Motion carried.

**Ordinance No. 9-2013 adopted.**

First Readings:

Temporary Legislation #10105, AN ORDINANCE AWARDED A CONTRACT FOR THE MILLER ROAD PARK SAND DREDGING PROJECT, AND DECLARING AN EMERGENCY, was read by title only.

Huffman Equipment submitted the lowest and best bid of \$42,725.00 for the annual sand dredging of the boat launch area at Miller Road Park.

Temporary Legislation #10106, AN ORDINANCE ALLOWING WINE TO BE SOLD, SERVED, DISPENSED, AND CONSUMED AT A ONE-DAY FESTIVAL TO BE

HELD AT VETERANS MEMORIAL PARK ON JULY 13, 2013, AND DECLARING AN EMERGENCY, was read by title only.

This ordinance will permit the City to apply for a one-day liquor permit to hold the second annual wine festival at Veterans Memorial Park. The event is sponsored and fully funded by the Avon Lake Waterfront Corporation.

Temporary Legislation #10107, AN ORDINANCE AUTHORIZING THE MAYOR AND LAW DIRECTOR TO ACCEPT THE SETTLEMENT OFFERED BY THE AMERICAN INSURANCE COMPANY AND THE TRAVELERS INDEMNITY COMPANY TO RESOLVE LITIGATION ARISING OUT OF DEFECTS IN THE WORK PERFORMED BY SPAULDING CONSTRUCTION, INC. ON THE AVON LAKE SAFETY CENTER PROJECT, AND DECLARING AN EMERGENCY, was read by title only.

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

Mr. James moved for passage of Temporary Legislation #10107. The Mayor and Law Director have agreed to a settlement in the amount of \$250,000.00 to resolve liability in relation to faulty windows at the Safety Center. By this ordinance all claims of Avon Lake against various entities will be dismissed.

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

No: None

Motion carried.

**Ordinance No. 11-2013 adopted.**

Mr. James moved to withdraw Temporary Legislation #10108 from the agenda. With the adoption of Temporary Legislation #10107, this ordinance is no longer necessary to authorize the Law Director to continue with litigation.

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

No: None

Motion carried.

Temporary Legislation #10109, AN ORDINANCE APPROVING A REVISION TO THE GENERAL DEVELOPMENT PLAN FOR LEGACY POINTE.

The revision to the general development plan for phase seven of Legacy Pointe was approved by Planning Commission at the February 5, 2013 meeting. The revision will expand the subdivision to create 17 additional sublots on an additional 7.94 acres. Mr. Meiners asked the Law Director if he should abstain from voting on this ordinance since his son lives in the area being considered. Law Director Lieberman stated that he does not see a conflict of interest.

Temporary Legislation #10110, AN ORDINANCE AUTHORIZING THE MAYOR TO SIGN A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF AVON LAKE AND THE CITY OF SHEFFIELD LAKE FOR PARTICIPATION IN A PROPANE GAS CONVERSION PROGRAM, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mrs. Fenderbosch moved for passage of Temporary Legislation #10110. The ordinance will permit the City of Avon Lake and the City of Sheffield Lake to partner in a program to convert city owned vehicles from gasoline to a bi-fuel of gasoline and propane as a clean fuel alternative. Avon Lake will convert five vehicles in 2013 and three vehicles in 2014. Sheffield Lake will not convert any vehicles in 2013 due to budgetary constraints, but is committed to converting three vehicles in 2014.

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

No: None

Motion carried.

**Ordinance No. 12-2013 adopted.**

Temporary Legislation #10111, AN ORDINANCE AUTHORIZING THE MAYOR TO SIGN A LOAN APPLICATION WITH THE LOCAL GOVERNMENT FUND OF THE OHIO DEPARTMENT OF DEVELOPMENT FOR A PROPANE GAS PROGRAM, AND AUTHORIZING THE MAYOR TO ACCEPT THE LOAN, IF APPROVED, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mrs. Fenderbosch moved for passage of Temporary Legislation #10111. This ordinance authorizes the City to apply for a zero interest loan with the Ohio Department of Development to fund the propane gas program and accept the loan if granted. The funds will allow for the conversion of vehicles, installation of fuelling stations at the Service Department, and a computer tracking program. It is projected that savings will be generated before the first loan payment is due. The loan application deadline is March 1, 2013.

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

No: None

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Motion carried.

**Ordinance No. 13-2013 adopted.**

**PUBLIC INPUT**

Chris Quinlan, 73 Community Drive, asked why Temporary Legislation #10110 and #10111 were not listed on the agenda. Mrs. Dopp explained that the legislation was added to the agenda at tonight's meeting.

Jan Van Wagner, 118 Herrmann Drive, announced the Jan & Jean Show will feature Todd Danielson, Chief Utilities Executive, to explain the sewer separation and lateral connection project.

Mr. Meiners moved for adjournment.

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

No: None

Motion carried

Adjournment: 8:10 P.M.

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

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