

**MINUTES OF THE REGULAR MEETING  
OF THE AVON LAKE MUNICIPAL COUNCIL  
HELD FEBRUARY 25, 2013**

The regular meeting of the Avon Lake Municipal Council was called to order on February 25, 2013 at 7:30 P.M. in the Council Chamber with Council President O'Donnell presiding.

Mr. Kos 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, Engineering Department Manager Joseph Reitz, and Clerk of Council Barbara Dopp.

**APPROVAL OF MINUTES**

The minutes of the February 11, 2013 Council Meeting were approved as prepared and published.

**MAYOR'S REPORT**

Mayor Zilka made the following announcements.

The Ward I town hall meeting was attended by approximately 100 residents on February 20<sup>th</sup> at Learwood Middle School. Brief presentations were made by Fire Chief Huerner, Police Chief Owad, Service/Engineering Manager Reitz, and Chief Utilities Executive Danielson. There was a question and answer period for residents.

The remaining ward meetings are scheduled as follows: Ward II – February 27<sup>th</sup> at Learwood Middle School; Ward III – March 6<sup>th</sup> at Troy School; and Ward IV – March 13<sup>th</sup> at Troy School.

The City's lease of the Folger Home expires on March 31, 2013. The Mayor recommends extending the current lease for a period of time to allow for discussion over the next few months regarding revisions to the lease to make it beneficial to both parties.

The lease with One Link expires on April 1<sup>st</sup>. A lease proposal will be discussed at the March 4<sup>th</sup> Collective Committee meeting.

At the Lorain County Mayors and Managers Association meeting on February 19<sup>th</sup>, there was a conference call with State Representative Henne, the co-sponsor of HB 5. Members of the Association stressed any bill that is not revenue neutral with

regard to income tax collection would be unacceptable to municipalities. Local control was also raised as an issue of concern. The Municipal League has been keeping municipalities informed of the status of the legislation.

The jobs growth incentive checks were distributed to the firms that qualified based on their increase in business when comparing their income taxes for the years 2011 and 2012. The program allows for 25% of the income tax increase to be returned to firms as an incentive to grow their businesses. One of the firms that received a check wishes to donate it back to the Police Department in appreciation for the fine service provided by the police.

The art project and economic development tool called "Follow the Fish" will have an opening kick-off in Avon Lake in May.

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

The next Collective Committee Meeting is scheduled for March 4<sup>th</sup> and the next regular Council Meeting is scheduled for March 11<sup>th</sup>.

Council held a Strategic Planning Session on February 23<sup>rd</sup>.

### **ENGINEERING DEPARTMENT REPORT**

The Engineering Department update was distributed.

The Lear Road/ Walker Road intersection project will begin soon. The Illuminating Company will be relocating poles in the area. All necessary right-of-way has been obtained and staked. The intersection will not have to be closed during the project.

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

The Law Director's litigation update was distributed.

### **ENVIRONMENTAL COMMITTEE REPORT**

The Environmental Affairs Advisory Board (EAAB) is scheduled to meet March 6, 2013 at 6:30 P.M. at the Lake House. The Environmental Committee is scheduled to meet March 13, 2013 at 7:00 P.M. in the Council Conference Room.

### **FINANCE COMMITTEE REPORT**

Mr. Meiners reported on the following items discussed at the February 19<sup>th</sup> Finance Committee meeting: the November and December financial statements; a transfer ordinance; payments of warrants; litigation fees; LORCO debt; the selling of assets via internet auction; the settlement of a lawsuit relative to faulty windows at the Safety Center; and the 2013 budget.

## **HUMAN RESOURCES COMMITTEE REPORT**

The Human Resources Committee is scheduled to meet March 4, 2013. Agenda items include Civil Service Rules revisions, and wage scales for Utilities management positions.

## **PUBLIC SERVICE COMMITTEE REPORT**

Mr. James reported on the following items discussed at the February 25, 2013 Public Service Committee meeting: revisions to Codified Ordinance Chapter 1468; the solid waste contract; emergency generators for City Hall and the Service Department; the landfill contract; and the Folger House lease.

The Public Service Committee is scheduled to meet March 25<sup>th</sup> at 6:00 P.M. in the Council Conference Room.

## **PUBLIC UTILITIES COMMITTEE REPORT**

The Public Utilities Committee is scheduled to meet March 7, 2013 at 7:00 P.M. in the Council Conference Room.

## **SAFETY COMMITTEE REPORT**

Mr. Kos reported on the following items discussed at the February 13, 2013 Safety Committee meeting: a liquor license transfer request; the Fire Department annual report; conversion to Lorain County 911 service; clothing allowance for the Police Chief; and the software service agreement for the Police Department.

## **SEWER COMMITTEE REPORT**

Mrs. Fenderbosch reported on the following items discussed at the February 14, 2013 Sewer Committee meeting: the sewer separation project; and the storm water management updates.

The Sewer Committee is scheduled to meet March 14, 2013 at 6:30 P.M. in the Engineering Conference Room. Agenda items include discussion regarding the sewer separation project update and recommended contractors for the project.

## **ECONOMIC DEVELOPMENT COMMITTEE REPORT**

Mr. Bucci reported on the Community Improvement Corporation (CIC) discussed at the February 21, 2013 Economic Development Committee meeting

## **ZONING BOARD OF APPEALS REPORT**

The Zoning Board is scheduled to meet on February 27, 2013 at 7:00 P.M. in the Council Chamber.

### **ECONOMIC DEVELOPMENT ADVISORY BOARD REPORT**

The Economic Development Advisory Board is scheduled to meet February 28, 2013. A business expo will take place at Hinckley Lighting to give area businesses an opportunity to advertise their services. The proceeds will go toward the Community Improvement Corporation.

### **CABLE ADVISORY COMMISSION**

Mr. Shondel announced ALCTV will air a new program called "Issues and Opinions" on March 6, 2013 at 4:00 and 10:00 A.M. and P.M. for one week. The initial show will feature Dr. Sylvia Rim, psychologist and author, Superintendent Bob Scott, and Paige Baublitz Watkins, Director of Menlo Academy. The topic will be bullying and cyber bullying. A future show is planned focusing on the legal aspects of bullying and cyber bullying and will feature experts from the Police Department and schools.

### **MOTIONS**

Mr. Kos moved to add a motion to the agenda to appoint Catherine Nowak to the Avon Lake Historical Preservation Commission.

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

No: None

Motion carried.

Mr. Kos moved to instruct the Clerk of Council to return the form to the Division of Liquor Control indicating the City requests a hearing in Lorain County in the matter of a liquor license transfer for property located at 182-84 Lear Road.

The Police Chief requested a hearing due to a legal issue the property owner had in Oberlin. Within 30 days of receipt of the request for a hearing, a date will be set. There is no requirement to notify residents in the area outside of the announcement at the Council meeting.

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

No: None

Motion carried.

Mr. Kos moved to authorize the Mayor to enter into a service agreement with TAC Computers Inc. in the amount of \$11,438.76 for software in the Police Department.

This service agreement is for computer software updates for computers in police vehicles.

February 25, 2013 Council Meeting Minutes

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

No: None

Motion carried.

Mr. Kos moved to accept the resignation of Cynthia Sarady from the Avon Lake Historical Preservation Commission effective February 19, 2013.

Due to other commitments, Ms. Sarady is no longer able to serve on the Commission.

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

No: None

Motion carried.

Mr. Bucci moved to authorize the City to solicit Requests for Proposals for human resources consulting services.

The consulting services will be used for union contract negotiations.

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

No: None

Motion carried.

Mr. Kos moved to appoint Catherine Nowak to the Avon Lake Historical Preservation Commission for a term expiring December 31, 2014.

This appointment will fill the vacancy created by Ms. Sarady's resignation. Mr. Kos reviewed Mrs. Nowak's resume.

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

No: None

Motion carried.

## **LEGISLATION**

### Third Readings:

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.

Mr. Meiners moved for passage of Temporary Legislation #10100. This will authorize a payment in the amount of \$13,246.75 for the Lorain County Drug and Alcohol Abuse Program through the Avon Lake Municipal Court.

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

No: None

Motion carried.

**Ordinance No. 14-2013 adopted.**

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.

Mrs. Fenderbosch moved for passage of Temporary Legislation #10101R. The U.S. EPA mandated that all sanitary sewers be separated from storm sewers by the year 2020. This will eliminate the flow of sanitary waste into Lake Erie. To be in compliance with the EPA mandate, the Avon Lake Board of Municipal Utilities has determined that it is necessary to install new sanitary sewers in Avon Lake. There are 2400 residential properties in Avon Lake that either have been separated or still need to be separated. The owners of those properties will be required to install the laterals on their properties to connect to sewers and bear the cost of installation. The Avon Lake Board of Utilities has created a project timeline for the sewer separation project to give the affected property owners advance notice of project deadlines.

Mr. Kos suggested that each affected property owner who received a letter from the Municipal Utilities should contact them and have a Utilities employee come to their home to evaluate their situation and determine what work needs to be completed for the project.

Mr. James pointed out that even if Council adopts this ordinance, it will not be the last time Council will have to deal with the issue. If a property owner does not have the necessary work completed, the City will arrange to have it completed and have an assessment placed on the tax duplicate, which will require Council action. This project will affect every ward.

Mr. Meiners stated that he cannot support this legislation because of the financial burden it puts on residents, especially those on a fixed income. There are many residents who cannot afford to have the laterals installed. Installation of laterals can be extensive and can involve driveways and landscaping.

Ms. Bryan confirmed that the City's revenue is \$9.8 million. The Jaycox Road sewer separation project was approximately \$3.5 million. Mrs. Fenderbosch stated that, although the separation project in the 45's district is scheduled as a one year project, the City can take two years to complete it in 2018 and 2019 as was done with the Jaycox Road project. All projects before that will cost the City between \$1 - \$1.5 million. The City is being forced by the U.S. EPA to have all sewers separated. If the City does not meet the EPA mandates, Avon Lake will be fined \$30,000 per day. Council asked the Municipal Utilities to have a special rate for the project which they

rejected. If they would have gone forward with the rate, it would have been less costly for residents. Options are available to residents through a grant to help with the cost.

Mr. Kos stated that he recognizes the financial hardship this will place on residents, but some of these residents are the same people who have had basement flooding which resulted in property damage and loss of property. He further stated that this project will not eliminate all future flooding, but it will greatly diminish it.

Mr. O'Donnell stated that this project is the best solution to alleviate basement flooding and meet the mandates of the EPA to keep waste water out of Lake Erie. Payment options have been offered to affected property owners.

Mr. Shondel stated that in 1969 the Cuyahoga River caught fire. In 1972 the Clean Water Act was passed, and now the time has come to solve the problems of pollution. If the Municipal Utilities does not pump only clean water into Lake Erie, the potential fine is \$37,500 per day or \$13.6 million per year, and the City will still be required to do the work.

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

No: Meiners

Motion carried.

**Ordinance No. 15-2013 adopted.**

Second Readings:

Temporary Legislation #10086R, AN ORDINANCE AMENDING RESOLUTION NO. 87-2012 TO MAKE APPROPRIATIONS FOR THE CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF AVON LAKE FOR THE YEAR ENDING DECEMBER 31, 2013, AND DECLARING AN EMERGENCY, was read by title only.

This ordinance establishes the budget for the year 2013 as required by the County Auditor. A vast portion of the budget belongs to the Municipal Utilities and includes major projects. The revenue in the general fund is approximately \$15 million, and approximately \$3.2 million in capital improvement responsibilities. The City is paying off particular bonds for infrastructure improvements. Currently there is a \$103,000 shortage in the general fund and a \$619,000 shortage in the capital improvement fund. Approximately \$700,000 will be moved from the income tax transfer fund to balance the budget. The amount of money in the income tax transfer fund is the amount needed to keep the City's bond rating up; that fund will go down to \$3.8 million which is a reasonable amount to keep a good bond rating to keep interest rates at a reasonable level.

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

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

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

No: None

Motion carried.

Mr. James moved for passage of Temporary Legislation #10105. 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.

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

No: None

Motion carried.

**Ordinance No. 16-2013 adopted.**

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 #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.

First Readings:

Temporary Legislation #10112, AN ORDINANCE AMENDING AVON LAKE CODIFIED ORDINANCE CHAPTER 1058 AND REPEALING ORDINANCE NO. 89-2012, ENTITLED EROSION AND SEDIMENT CONTROL, was read by title only.

Mrs. Fenderbosch reviewed the amendments. 1058.04 defines any conflict between this provision and Chapter 1060 indicating the most stringent regulations will prevail. 1052.07 places the burden of compliance on the applicant and not the City. 1058.11 (e) (1) states the storm water program manager has the right to review specific

maintenance requirements in all HOA covenants and restrictions. 1058.15 (c) states that in cases where a violation notice has been issued for a site, the owner/agent shall be granted a reasonable amount of time, not to exceed five calendar days, to respond in writing and provide a timeline to complete the necessary corrections; the storm water program manager shall review and approve the appropriate time line as he feels is appropriate. 1058.16 mirrors the penalties outlined in Chapter 1060.

Temporary Legislation #10113, AN ORDINANCE AMENDING AVON LAKE CODIFIED ORDINANCE CHAPTER 1060 AND REPEALING ORDINANCE NO. 88-2012.

This mirrors Chapter 1058 and addressed storm water-borne debris generated disturbances.

Temporary Legislation #10114, AN ORDINANCE PROVIDING FOR TRANSFERS AND AMENDMENTS TO PERMANENT APPROPRIATIONS, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried

Mr. Meiners moved for passage of Temporary Legislation #10114.

The Finance Director determined certain transfers and amendments to permanent appropriations are necessary for the immediate expenses of the City.

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

No: None

Motion carried

**Ordinance No. 17-2013 adopted.**

Temporary Legislation #10115, AN ORDINANCE PROVIDING FOR COUNCIL TO AUTHORIZE THE DRAWING OF WARRANTS AND PAYMENT FOR AMOUNTS DUE, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried

Mr. Meiners moved for passage of Temporary Legislation #10115.

February 25, 2013 Council Meeting Minutes

Certain expenditures were made before the proper purchase order was approved. This ordinance authorizes the following payments: Otis Elevator Co. - \$4,014.68; Great Lakes Petroleum Co. - \$11,913.40. Mr. James asked Mr. Meiners if the Finance Committee has an explanation to support approval of these "then and now" certificates. Mr. Meiners said he does not have an explanation, but will discuss it with the Finance Director. Mayor Zilka stated that at the beginning of the year he and the Finance Director processed over 300 purchase orders, and these expenditures were inadvertently overlooked in the process. The Finance Director and administration are working to avoid this in the future.

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

No: James

Motion carried

**Ordinance No. 18-2013 adopted.**

Temporary Legislation #10116, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF ZONING ADMINISTRATOR, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND REPEALING ORDINANCE 80-2033, was read by title only.

The Human Resources Director recommended adoption of a revised job description for the Zoning Administrator position to more accurately reflect the duties of the position. The Law Director has reviewed the revised job description.

Temporary Legislation #10117, AN ORDINANCE FIXING PERFORMANCE BONUSES FOR CERTAIN AVON LAKE MUNICIPAL UTILITIES EMPLOYEES, was read by title only.

The Board of Municipal Utilities approved performance bonuses for certain employees for increased and higher level duties associated with the LORCO project. A bonus of \$2500.00 would be granted to five positions.

Temporary Legislation #10118, AN ORDINANCE PROVIDING FOR THE CONTINUED DEFENSE OF THE CITY OF AVON LAKE IN AN ACTION FILED BY JACK REDILLA ET AL., AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried

Mr. Meiners moved for passage of Temporary Legislation #10118. This involves a lawsuit resulting from a decision of the Zoning Board of Appeals. The Assistant Law Director is requesting an additional \$1000.00 to continue his defense.

February 25, 2013 Council Meeting Minutes

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

No: None

Motion carried

**Ordinance No. 19-2013 adopted.**

**MISCELLANEOUS BUSINESS AND ANNOUNCEMENT**

On February 27<sup>th</sup>, ALCTV will air the second "Report from Washington" featuring Congresswoman Marcy Kaptur at 9:30 and 3:30 A.M. and P.M.

Mr. James will testify before the United States House of Representatives Judiciary Committee on February 28, 2013 regarding the closure of the GenOn plant and its impact on Avon Lake.

Mr. Meiners moved for adjournment.

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

No: None

Motion carried

Adjournment: 8:55 P.M.

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

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