

**MINUTES OF THE REGULAR MEETING  
OF THE AVON LAKE MUNICIPAL COUNCIL  
HELD JUNE 14, 2010**

The Regular Meeting of the Avon Lake Municipal Council was called to order on June 14, 2010 at 7:30 P.M. in the Council Chamber with Council President Zilka presiding.

Mr. O'Donnell led the Council, staff, and public in reciting the Pledge of Allegiance.

Present: Council Members Dan Bucci, Jennifer Fenderbosch, David Kos, Larry Meiners, 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.

**APPROVAL OF MINUTES**

The minutes of the May 23, 2010 Regular Council Meeting were approved as prepared and published.

**APPOINTMENT OF A FIREFIGHTER/PARAMEDIC**

Temporary Legislation #9712, AN ORDINANCE CONFIRMING THE APPOINTMENT OF A FIREFIGHTER/PARAMEDIC IN THE FIRE DEPARTMENT, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Rush moved for passage of Temporary Legislation #9712. Mark Walters will fill a vacancy in the Fire Department starting at a Step 1 rate effective June 15, 2010.

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

No: None

Motion carried.

**Ordinance No. 70-2010 adopted.**

Law Director Kerner administered the Oath of Office to Mr. Walters.

**CORRESPONDENCE**

A letter was received from Bob Pocock objecting to any tax money being used for a park adjacent to the Wildberry Subdivision.

The Lorain County Commissioners forwarded the 2009 Community Development Report. It is available in the Clerk's office.

## **MAYOR'S REPORT**

Mayor Zuber made the following announcements.

Relay for Life was held on June 5<sup>th</sup> at the Crushers Stadium in Avon.

The Mayor met with representatives from Laketronics, the company which handles the PEG channels. Avon Lake will be featured on their website.

On June 8<sup>th</sup>, the Economic Development Advisory Board held its first small business session. The next session will take place on July 20<sup>th</sup> at 7:00 P.M. at the Lake House.

The salt contract through the Ohio Department of Transportation will be awarded to Cargill; the price will be \$46.70 per ton.

## **COUNCIL PRESIDENT'S REPORT**

Mr. Zilka made the following announcements.

The next Collective Committee meeting is scheduled for June 21<sup>st</sup>. The next Regular Council Meeting is scheduled for June 28<sup>th</sup>.

The May 4<sup>th</sup> election was certified by the Board of Elections on May 25<sup>th</sup>.

Due to a change in State law, the filing deadline for all local questions and issues has been changed from August 19<sup>th</sup> to August 4<sup>th</sup> at 4:00 P.M.

## **ENGINEERING DEPARTMENT REPORT**

The Engineering Department Update was distributed.

The paving contractor has posted notices in the Stop 45 area and on Belmar for milling and repaving work.

The City's Relay for Life Team raised almost \$600. The Elyria Catholic High School Environmental Club assembled and sold rain barrels; they contributed \$20.00 per barrel to the event.

## **LAW DIRECTOR'S REPORT**

The Law Department Update was distributed.

## **FINANCE DIRECTOR'S REPORT**

Mr. DiLellio announced that a Public Hearing upon the 2011 tax budget will be held at the June 28, 2010 Council Meeting.

## **ENVIRONMENTAL COMMITTEE REPORT**

Mrs. Fenderbosch reported on the following topics discussed at the June 3, 2010 Environmental Committee meeting: prioritization of the sustainability tactics; the NOPEC grant; and “no idling” legislation. The next meeting is scheduled for July 1, 2010.

## **FINANCE COMMITTEE REPORT**

The next Finance Committee meeting is scheduled for June 21, 2010 at 6:30 P.M. in the Council Conference Room.

## **HUMAN RESOURCES COMMITTEE REPORT**

Mr. Bucci reported on the following topics discussed at the June 7, 2010 Human Resources Committee meeting: personal days for non-bargaining unit employees; salary increases for certain part-time employees; a wage and benefits package for certain non-bargaining unit Municipal Utilities employees; and the creation of a captain’s position in the Police Department

## **PUBLIC SERVICE COMMITTEE REPORT**

Mr. O’Donnell reported on the Folger Home renovations discussed at the June 14, 2010 Public Service Committee meeting.

## **SAFETY COMMITTEE REPORT**

Mr. Rush announced a Safety Committee meeting is scheduled for June 16, 2010 at the Safety Center at 6:00 P.M.

## **SEWER COMMITTEE REPORT**

Mr. Meiners reported on the progress of the Jaycox Road Sewer Project which was discussed at the June 14<sup>th</sup> Sewer Committee meeting.

## **ZONING BOARD OF APPEALS REPORT**

Mayor Zuber reported on the following results of the May 21, 2010 Zoning Board of Appeals meeting: an area variance was approved for property located at 171 Belmar; an area variance was denied for property located at 32352 Lake Road; an area variance was granted to the Bridgeside PUD Homeowners Association.

## **RENEWABLE ENERGY TASK FORCE REPORT**

Mrs. Fenderbosch reported on the following items.

The Great Lakes Energy Task Force met at the Avon Lake Public Library on June 10<sup>th</sup>. This group represents the New York to Michigan coastline for development of renewable energy; presently they are considering wind energy.

The Renewable Energy Task Force met on June 10<sup>th</sup> and finalized the language for the proposed solar energy ordinance for review by the Zoning Administrator and Law Director. The Committee also discussed the NOPEC grant and the solar array to be installed at Water Edge.

### **ENVIRONMENTAL AFFAIRS ADVISORY BOARD REPORT (EAAB)**

The EAAB had a booth at the Relay for Life event with information regarding melanoma prevention.

### **HISTORIC PRESERVATION COMMISSION**

The first meeting of the Commission is scheduled for June 15, 2010 in the Council Conference Room at 6:00 P.M.

### **AUDIENCE PARTICIPATION**

Jan Sixt, 633 Linsberry Court, expressed her support for the purchase of parkland adjacent to the Wildberry Subdivision.

Mr. Zilka informed the audience that the Audience Participation portion of the meeting is for items on the agenda only. The purchase of parkland is not on the agenda.

### **MOTIONS**

Mr. O'Donnell moved to accept a donation of a bench for Veterans Memorial Park.

The bench was donated in the memory of Margaret Ann Cumberland.

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

No: None

Motion carried.

Mr. Zilka moved that the Mayor and Law Director be authorized to execute the Settlement Agreement and any other document or pleading that may be necessary or appropriate to dismiss with prejudice the appellate case of The City of Elyria vs. Chris Korleski, Director of Ohio EPA, The City of Avon Lake, the Avon Lake Municipal Utilities, and the LORCO Rural Wastewater District, being case number 476379 on the docket of the Environmental Review Appeals Commission for the State of Ohio.

This litigation has been ongoing since the City of Elyria filed objections to the LORCO project to construct, maintain, and operate wastewater facilities from Eaton and Carlisle Townships to Avon Lake.

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

No: None

Motion carried.

## LEGISLATION

### Second Readings:

Temporary Legislation #9699, A RESOLUTION PROVIDING FOR THE SUBMISSION OF A PROPOSED CHARTER AMENDMENT RELATING TO THE SOLICITATION OF COMPETITIVE QUOTATIONS TO A VOTE OF THE ELECTORS OF THE CITY OF AVON LAKE AT THE NEXT GENERAL ELECTION, AND DECLARING AN EMERGENCY, was read by title only.

Charter Section 59A currently requires open competitive quotations for the purchase of supplies, materials, and equipment when the estimated amount does not exceed \$10,000. This is in conflict with Charter Section 59 as a result of a Charter amendment passed by the voters which raised the requirement for competitive bidding to expenditures in excess of \$25,000. The Law Director recommended amending Charter Section 59A to raise the amount to \$25,000 to be in agreement with Charter Section 59.

Temporary Legislation #9700, AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 252.02, ENTITLED PURCHASES UNDER \$5000, was read by title only.

Under the current Code Section, requisitions are required for purchases in excess of \$250. This proposed amendment will raise the requirement to purchases in excess of \$1000, providing the purchases are within the budget. This will streamline the purchasing process and will be consistent with the Charter.

Temporary Legislation #9701, AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 252.03, ENTITLED PURCHASES BETWEEN \$5000 AND \$15,000, was read by title only.

This amendment will allow department heads to initiate purchases which cost \$5000 to \$25,000 if appropriations have been provided and if the unencumbered balance of the account is sufficient. This is necessary to be consistent with the Charter.

Temporary Legislation #9702, AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 252.04, ENTITLED PURCHASES OVER \$15,000, was read by title only.

Under the current Code Section, all purchases exceeding \$15,000 shall be made only after advertisement and public bidding. The amendment will raise the amount to \$25,000 to be consistent with the Charter.

Temporary Legislation #9703R, AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 260.06, ENTITLED HOLIDAYS, was read by title only.

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

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

No: None

Motion carried.

Mr. Bucci moved for passage of Temporary Legislation #9703R. By this ordinance, non-bargaining unit full-time employees will receive an additional personal day to be equal to the number of holidays granted to the collective bargaining unit employees.

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

No: None

Motion carried.

**Ordinance No. 66-2010 adopted.**

Temporary Legislation #9705, AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A GROUND SITE LEASE AGREEMENT WITH CLEAR WIRELESS, LLC, A NEVADA LIMITED LIABILITY COMPANY, was read by title only.

Clear Wireless requested authority to lease space on the monopole located behind City Hall. The City will receive \$1500 per month as a rental fee.

Temporary Legislation #9706, AN ORDINANCE APPROVING THE RESUBDIVISION PRELIMINARY PLAN FOR AVON CENTER ESTATES SUBDIVISION, AND DECLARING AN EMERGENCY, was read by title only.

The re-subdivision will create a new Preliminary Plan for a portion of Avon Center Estates along Belmont Drive. The plan will widen the existing 50 foot wide right-of way to 60 feet and will consolidate the existing properties to create frontages ranging in size from 60 to 75 feet in width. The re-subdivision will create 28 new single family parcels in two construction phases. The developer requested the following waivers: minimum lot areas under 10,000 square feet (25 lots); minimum lot width at building line less than 80 feet (25 lots); setbacks of 15 feet from right-of-way for corner lots 17, 18, and 29; and corner lot widths less than 100 feet for lots 17, 18, and 29.

First Readings:

Temporary Legislation #9708, AN ORDINANCE AUTHORIZING AN INSTALLMENT PAYMENT TO LORAIN COUNTY METROPOLITAN PARK DISTRICT FOR LAND ACQUISITION AND CAPTIAL IMPROVMENTS FOR THE NEW AVON LAKE METRO PARK KNOWN AS THE KOPF FAMILY RESERVATION, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Zilka moved for passage of Temporary Legislation #9708. The installment payment of \$100,000 is the final payment of the City's contribution for the Kopf Family Reservation.

June 14, 2010 Council Meeting Minutes

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

No: None

Motion carried.

**Ordinance No. 67-2010 adopted.**

Temporary Legislation #9709, AN ORDINANCE AWARDED A CONTRACT TO DURA MARK, INC. FOR STREET CENTERLINE AND EDGE LINE STRIPING, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. O'Donnell moved for passage of Temporary Legislation #9709. Dura Mark submitted the low bid in the amount \$29,241.91.

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

No: None

Motion carried.

**Ordinance No. 68-2010 adopted.**

Temporary Legislation #9710, AN ORDINANCE AWARDED A CONTRACT FOR THE ROOF REPLACEMENT ON THE CITY HALL GARAGE, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. O'Donnell moved for passage of Temporary Legislation #9710. West Side Roofing submitted the low bid in the amount of \$15,300. This cost is covered by AT&T as part of the lease agreement for the monopole located behind the building.

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

No: None

Motion carried.

**Ordinance No. 69-2010 adopted.**

Temporary Legislation #9711, A RESOLUTION APPROVING THE USE OF SUBMERGED LANDS, AND DECLARING AN EMERGENCY, was read by title only.

## June 14, 2010 Council Meeting Minutes

A property owner at 31980 Lake Road requested permission from the Ohio Department of Natural Resources to construct a breakwall in Lake Erie. The request has been approved by Department Heads and there are no concerns.

Temporary Legislation #9713, AN ORDINANCE APPROVING THE IMPROVEMENT PLANS FOR AVON CENTER RESUBDIVISION NUMBER ONE, AND DECLARING AN EMERGENCY, was read by title only.

On June 1<sup>st</sup>, Planning Commission approved the improvement plans and recommended them to Council. The first phase of construction will improve Belmont between Avon Belden Road west to just before Woodstock.

Temporary Legislation #9714, A RESOLUTION TO ADOPT AND DECLARE THE TAX BUDGET FOR THE YEAR 2011, AND DECLARING AN EMERGENCY, was read by title only.

The City is required to submit the tax budget to the County Auditor by July 20<sup>th</sup>. A Public Hearing will be conducted at the June 28<sup>th</sup> Council Meeting.

Temporary Legislation #9715, AN ORDINANCE APPROVING A ONE YEAR WAGE AND BENEFIT PACKAGE FOR CERTAIN EMPLOYEES IN THE MUNICIPAL UTILITIES DEPARTMENT, AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners

No: O'Donnell

No: None

Motion carried.

Mr. Bucci moved for passage of Temporary Legislation #9715. The Board of Municipal Utilities approved a one year wage and benefit package for the Biller Bookkeeper I and II positions to include a 1.5% PERS pick-up increase. This will be retroactive to January 1, 2010.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners

No: O'Donnell

Motion carried.

**Ordinance No. 71-2010 adopted.**

### **PUBLIC INPUT**

Pat O'Boyle, 705 Cranberry Court, had questions regarding the Clean Ohio Grant for the purchase parkland.

Mayor Zuber explained that, if the City does not apply for the grant, the funds would go to the other applicants. Any remaining money would revert back to the fund for the next

round. Finance Director DiLellio explained that park maintenance is either charged to the Engineering or Service Departments. Park improvements could be postponed until the City's finances improve or until funds are available.

The following residents addressed Council in support of the purchase of parkland adjacent to the Wildberry Subdivision.

Jan Sixt, 644 Linsberry Court  
Tom Kilbane, 32907 Titus Hill Lane  
Paul Fletter, 756 Wildberry Circle  
Carol Fowkes, 723 Cranberry Court  
Judy Chevrolet, 697 Cranberry Court  
Larry Boudon, 852 Wildberry Circle  
Diane Pascaru, 709 Cranberry Court  
Barb Brady, 637 Linsberry Court

In answer to Mr. Boudin, Mr. Zilka explained that if the City receives the grant for the park and the Wildberry residents pay matching portion, the City would still be responsible for installing the infrastructure for the park, which could be a substantial amount.

Mayor Zuber made the following comments. The Engineering Department estimated the cost of installing the drainage pipe for the park to be \$5700. He further stated there was discussion at the Planning Commission meeting with Mr. Kopf regarding the installation of basins along Woodstock that could tie into the pipe for the proposed park for drainage. This drainage work is similar to what was done at other parks. Other parks need improvements before any infrastructure is done at the proposed park. The process is based on the Land Use Plan.

Mr. Rush made the following comments. If the grant application is approved for the parkland purchase, he questioned who would pay for Woodstock between Ryeberry and Belmont. Mayor Zuber stated that the developer has agreed to put the street through along with the storm sewers that would be available for drainage of the park. Mr. Rush pointed out that Development Plans change from time to time. Generally, property owners are assessed for the streets and improvements. The developer would have little use for the street and the adjacent property owner would be the City of Avon Lake and the City could be responsible for construction of the street.

Mayor Zuber stated that if the City purchases the parkland, the City would own one quarter of the parcel. He further stated that Mr. Kopf's engineers agreed at the Planning Commission meeting to put the street through at their cost along with the drainage. The two properties to the east are owned by a different party; Mr. Kopf owns the two parcels to the west of Woodstock. Mr. Kopf has agreed to connect to Ryeberry so there is another way out of the area.

Mr. Rush pointed out that if the other two lots are deemed to be unbuildable and the street goes through, the City would be responsible for the cost since the property

owners could not be assessed. The City only has a verbal agreement from the developer.

Mayor Zuber stated that he does not feel the two lots are unbuildable; they are 40 foot lots.

Mr. Zilka stated that he heard the amount for the total drainage for the proposed park would be approximately \$250,000 and not \$5700. Mayor Zuber stated that the numbers were supplied by the Engineering Department.

Mrs. Fenderbosch stated that at the Planning Commission meeting, Mr. Saylor indicated that the developer is in agreement with the wishes of Planning Commission. Ryeberry Lane would connect to Woodstock beyond the stump. Also, according to the Planning Commission minutes, extended sewer lines would be installed. Mr. Zilka stated that he was in attendance at the meeting and said he did not hear any numbers stated. Mrs. Fenderbosch stated that the cost was not given, but it was stated that Ryeberry Lane needs to connect. She further stated that the developer would provide extensions from Woodstock for the drainage. Mr. Zilka stated that he is not convinced that it would handle all the necessary drainage and that is a concern.

Mr. Meiners asked the Mayor to respond to his memo inquiring about what improvements are needed to make the proposed park usable as a park, and what the estimated costs would be without change orders.

Mr. O'Donnell made the following comments. This park would not be proposed if the Wildberry residents did not have an agreement with the developer to pay for the possible installation of a road adjacent to their development. There were never any plans for a park in that area. Other Home Owners Associations have issues and needs also and would like the City to help them out. This park is being considered because of contracts the residents have with their Home Owners Association. The City needs to deal with existing parks and other issues in the City.

Mrs. Fenderbosch stated that she was informed by the Recreation Director that the City does not have a park plan, but follows the Land Use Plan. Until the plans for Avon Center Estates came before Planning Commission, there wasn't land available in the area for the purchase of parkland. Mrs. Fenderbosch further stated that the Clean Ohio Fund is funded by grants, by personal funds, by non-profit entities. It is not funded by tax money.

Mr. Zilka stated that the Clean Ohio Fund is funded by bonds which are eventually paid back by Ohio taxpayers. He said there is tax money involved; it is just a matter of how it is used.

Mr. Kos stated that the issue revolves around when the land became available and the deadline for the grant application. The focus should be on the grant application and acquiring land for a park and not how the proposal evolved. The City will have years to develop the land and install the improvements.

June 14, 2010 Council Meeting Minutes

Mr. Bucci commended the residents of Wildberry along with the Mayor and other Council members for their efforts, but stated that City Council has a fiduciary responsibility to all of the residents of Avon Lake. He stated that he needs further information and definite costs before he could support the proposal.

Mayor Zuber stated that Mr. Kopf is willing to accept the City's offer to purchase his land and is willing to work with the Wildberry HOA to fund the 25% which will not be covered by the grant.

The Mayor requested a Special Council Meeting for June 21, 2010 to consider the first reading of the agreement to purchase parkland.

Mr. O'Donnell moved to adjourn.

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

No: None

Motion carried.

Adjournment: 9:13 P.M.

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

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