

**MINUTES OF THE REGULAR MEETING  
OF THE AVON LAKE MUNICIPAL COUNCIL  
HELD JUNE 25, 2012**

The regular meeting of the Avon Lake Municipal Council was called to order on June 25, 2012 at 7:30 P.M. in the Council Chamber with Council President O'Donnell presiding.

Mrs. Fenderbosch 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, Clerk of Council Barbara Dopp.

**APPROVAL OF MINUTES**

The minutes of the June 11, 2012 Regular Council Meeting were approved as prepared and published.

**PUBLIC HEARING**

A Public Hearing was called to order at 7:31 P.M. upon an amendment to Planning & Zoning Code Sections 1262.02 and 1262.04 defining and describing the regulations for historic plaques, and an amendment to Planning & Zoning Code Section 1268.06 regarding the placement of plaques indicating the designation of historic landmarks in the City of Avon Lake.

At their May 1, 2012 meeting, Planning Commission voted unanimously to approve the above referenced amendments to the Planning & Zoning Code. The amendments to the Code set the maximum permitted sign area for historic marker plaques, and the procedure for establishing historic districts or landmarks. The amendment will allow for official markers on sites that have been approved as historic property.

The Public Hearing was closed at 7:34 P.M.

**PROCLAMATION**

A Proclamation by the Mayor was presented to Cameron Hosier for his fundraising efforts for the Police Department K-9 unit.

**CORRESPONDENCE**

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A letter was received from Richard Dils expressing his concern with a possible location of an asphalt plant in Avon Lake.

### **MAYOR'S REPORT**

Mayor Zilka made the following announcements.

June 27<sup>th</sup> is Avon Lake Day at the Crushers game. Discount tickets are available to Avon Lake residents.

June 29<sup>th</sup> is the All American Cookout at Veterans Memorial Park.

The Independence Day celebration will take place on July 3<sup>rd</sup> at Weiss Field. There will be an opening ceremony at 6:30 P.M. with the American Legion Post 211 Color Guard, followed by musical entertainment performed by two bands. Fireworks will begin at approximately 9:45 P.M.

The farmers market will continue on Thursdays at Veterans Memorial Park.

The Peter Miller House received the first historic landmark plaque in the City of Avon Lake.

The City is refinancing \$4.2 million of bonds to receive a lower interest rate. Moody's assigned a AA2 rating to Avon Lake. The sale of the bonds will take place on June 27<sup>th</sup>.

Avon Lake beaches were closed on Monday due to dangerous rip tides.

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

Council President O'Donnell made the following announcements.

The next Collective Committee meeting is scheduled for July 2<sup>nd</sup>. The next Council meeting is scheduled for July 9<sup>th</sup>. Council will be on summer recess from July 10<sup>th</sup> through August 19<sup>th</sup> with meetings resuming on August 20<sup>th</sup>. Council members are asked not to schedule committee meetings during summer recess.

All pending business should be handled at the July 2<sup>nd</sup> CCM and the July 9<sup>th</sup> Council meeting. Special Council meetings will not be scheduled during summer recess unless an emergency arises.

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

Two resumes have been received for the Planning Commission vacancy. Interviews will be held Monday, July 2<sup>nd</sup> beginning at 6:45 P.M. in the Council conference room.

### **ENGINEERING DEPARTMENT REPORT**

The Engineering Department weekly update was distributed.

The Avon Lake Relay for Life team raised \$1444.00 at the June 9<sup>th</sup> event.

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

The Law Department report on pending litigation was distributed.

### **FINANCE COMMITTEE REPORT**

Mr. Meiners reported that RITA revenue is up approximately 4.5% over last year's receipts.

### **SAFETY COMMITTEE REPORT**

Mr. Kos reported on the following items discussed at the June 13<sup>th</sup> Safety Committee meeting: the purchase of a back-up server for the Police Department; the proposed no boating restriction at Miller Road Park; the opening of Groveland Drive; and the repeal of the vicious dog ordinance.

Police Chief Owad explained that a resolution in support of a no boating restriction behind the GenOn plant is necessary to pursue a Federal Navigational Aids Grant. A letter was sent to the Water Craft Division of the Ohio Department of Natural Resources (ODNR) requesting boating restrictions in the discharge area behind the GenOn plant. There are safety concerns due to accidents caused by dangerous currents in Lake Erie. If the navigational restrictions are approved, navigational markers will be funded by the grant.

### **ECONOMIC DEVELOPMENT COMMITTEE REPORT**

Mr. Bucci reported that the Economic Development Committee met on June 20, 2012 to finalize the legislation regarding the job growth incentive program and refer it to Council.

### **PLANNING COMMISSION REPORT**

The Mayor reported that an individual presented a proposal to Planning Commission for an asphalt plant in Avon Lake. Questions were asked regarding noise and pollution. A formal application for approval of the plant has not been filed.

Mrs. Fenderbosch stated that the proposed plant is not the same type of asphalt plant that is located in Lorain. The Lorain plant processes stone with a petroleum product in it. The petroleum product has to be removed from the stone by a process which causes an odor. The proposed Avon Lake plant would not use that process since the petroleum product would be removed before the stone arrives at the plant. In Lorain, the plant grinds the stone to make it into a smaller size. The proposed Avon Lake plant would use smaller stone, thus eliminating the grinding process.

## **AUDIENCE PARTICIPATION**

Dan Haude, 316 Westview Court, Avon Lake, thanked Council for considering the repeal of the vicious dog ordinance.

## **MOTIONS**

Mr. James moved to accept the resignation of Philip Amato from the Environmental Affairs Advisory Board effective June 4, 2012.

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

Mr. O'Donnell moved to confirm the Mayor's appointment of Jeffrey Brausch and John Sebastian to the Community Reinvestment Area Housing Council for terms expiring June 30, 2015.

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

Mr. O'Donnell moved to appoint Bradley Donahue and Carl Dyczek to the Community Reinvestment Area Housing Council for terms expiring June 30, 2015.

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

Mr. Kos moved to authorize the purchase of an exchange backup server from DataCore Consulting for the Police Department in the amount of \$12,451.92.

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

Mr. O'Donnell moved to accept a donation from GenOn in the amount of \$250.00 for costs related to the Independence Day celebration.

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

No: None

Motion carried.

Mr. O'Donnell moved to accept a donation from Lubrizol in the amount of \$300.00 for costs related to the Independence Day celebration.

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

No: None

Motion carried.

## **LEGISLATION**

### Third Readings:

Temporary Legislation #9999, A RESOLUTION TO ADOPT AND DECLARE THE TAX BUDGET FOR THE YEAR 2013, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Meiners moved for passage of Temporary Legislation #9999. This is the first step in the 2013 budget process. The City is required to submit the tax budget to the County Auditor by July 31<sup>st</sup>. The County Budget Commission reviews the tax budget and sets the tax rates.

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

No: None

Motion carried.

**Ordinance No. 87-2012 adopted.**

Temporary Legislation #10004, AN ORDINANCE AMENDING AVON LAKE CODIFIED ORDINANCE CHAPTER 1060, AND REPEALING ORDINANCE NO. 25-2008, was read by title only.

Mrs. Fenderbosch moved for passage of Temporary Legislation #10004. This ordinance is required by the Federal EPA and Ohio EPA for stormwater mandates.

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

No: None

Motion carried.

**Ordinance No. 88-2012 adopted.**

Temporary Legislation #10005, AN ORDINANCE AMENDING THE CODIFIED ORDINANCES OF THE CITY OF AVON LAKE BY ADOPTING CHAPTER 1058, ENTITLED EROSION AND SEDIMENT CONTROL, was read by title only.

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Mrs. Fenderbosch moved for passage of Temporary Legislation #10005. This ordinance is required by the Federal EPA and Ohio EPA for sediment and erosion control related to new construction.

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

No: None

Motion carried.

**Ordinance No. 89-2012 adopted.**

Second Readings:

Temporary Legislation #9993, AN ORDINANCE AMENDING CHAPTER 1262 OF THE PLANNING & ZONING CODE, ENTITLED SIGN REGULATIONS, was read by title only.

This amendment to the Code sets the maximum sign area for historic landmark plaques.

Temporary Legislation #9994, AN ORDINANCE AMENDING CHAPTER 1268 OF THE PLANNING & ZONING CODE, ENTITLED HISTORIC PRESERVATION REGULATIONS.

This amendment will allow for official historic landmark plaques to be installed on sites that have been approved as historic sites.

Temporary Legislation #10001R, AN ORDINANCE PROVIDING FOR THE RENEWAL OF THE HEALTH SERVICES CONTRACT WITH THE LORAIN CITY HEALTH DEPARTMENT AND AUTHORIZING THE MAYOR TO SIGN SAID CONTRACT, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. O'Donnell moved for passage of Temporary Legislation #10001R. The health services contract with the City of Lorain expires on July 31<sup>st</sup>. According to the current contract, the City of Avon Lake pays \$73,700 per year for health services. Mayor Ritenauer of Lorain informed Mayor Zilka that the City of Lorain can no longer provide services at that amount due to rising costs. The one year renewal contract is in the amount of \$88,000. The Lorain County health department is funded 1% by millage on property taxes. If the City of Avon Lake were to be part of the Lorain County health district and pay the millage, the cost would be \$826,000.

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

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No: None

Motion carried.

**Ordinance No. 90-2012 adopted.**

First Readings:

Temporary Legislation #10014, AN ORDINANCE AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT WITH \_\_\_\_\_ FOR A COUNTY-WIDE DISPATCH SYSTEM, AND DECLARING AN EMERGENCY, was read by title only.

The City is waiting to receive information from Lorain County naming the party with whom the agreement will be signed.

Temporary Legislation #10015, AN ORDINANCE AUTHORIZING THE MAYOR TO SIGN A MEMORANDUM OF UNDERSTANDING WITH THE LORAIN COUNTY BOARD OF COMMISSIONERS FOR A COUNTY 911 DISPATCH SYSTEM, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Meiners moved for passage of Temporary Legislation #10015. This ordinance approves a five year low interest loan from Lorain County in the amount of \$115,000 for Avon Lake to join the County 911 central dispatch system to improve the response time in emergency situations.

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

No: None

Motion carried.

**Ordinance No. 91-2012 adopted.**

Temporary Legislation #10016, A RESOLUTION IN SUPPORT OF A NO BOATING RESTRICTION TO THE NAVIGATIONAL WATERS OF LAKE ERIE, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

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Mr. Kos moved for passage of Temporary Legislation #10016. The Police Chief recommended this resolution since hazardous conditions exist in Lake Erie behind the GenOn plant.

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

No: None

Motion carried.

**Ordinance No. 92-2012 adopted.**

Temporary Legislation #10017, AN ORDINANCE PROVIDING FOR TRANSFERS OF FUNDS, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Meiners moved for passage of Temporary Legislation #10017. The Finance Director determined certain transfers of funds are needed for the immediate expenses of the City.

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

No: None

Motion carried.

**Ordinance No. 93-2012 adopted.**

Temporary Legislation #10018, AN ORDINANCE APPROVING PAYMENT OF A PROMISSORY NOTE TO NOEL ILG FOR LAND ACQUISITION, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Meiners moved for passage of Temporary Legislation #10018. This payment in the amount of \$20,000 is the second installment payment for land purchased from Mr. Ilg for park purposes. There is one more installment payment in the amount of \$20,000. Seventy-five percent of the total purchase price of the land was funded by a Clean Ohio grant.

Mr. Bucci pointed out that there is a discrepancy in the dollar amounts in the legislation. Mrs. Fenderbosch stated that the first installment was in the amount of \$24,500, and the second and third installments are in the amount of \$20,000 each.

Mr. Meiners moved to amend Temporary Legislation #10018, to include the language "second installment" in the fourth paragraph.

Mayor Zilka recommended that Temporary Legislation #10018 be considered for a first reading to clarify the language and the dollar amounts. The payment is not due until July 28<sup>th</sup>.

Mr. Meiners moved to withdraw his motion to amend.

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

No: None

Motion carried.

Temporary Legislation #10019, A RESOLUTION AUTHORIZING THE MAYOR TO SIGN A PARTICIPATION AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION FOR THE PURCHASE OF SODIUM CHLORIDE (ROAD SALT), AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. O'Donnell moved for passage of Temporary Legislation #10019. This ordinance will allow the City to participate in the road salt purchasing program for the 2012/2013 season. The purchase price has not yet been determined by the State.

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

No: None

Motion carried.

**Ordinance No. 94-2012 adopted.**

Temporary Legislation #10020, A RESOLUTION DECLARING THE CITY OF AVON LAKE'S SUPPORT FOR THE CREATION OF A COUNTYWIDE LAND BANK AND AUTHORIZING THE MAYOR TO ENTER INTO DISCUSSIONS WITH COUNTY GOVERNMENT AND OTHER MUNICIPAL PARTNERS TO DEVELOP AND IMPLEMENT A COUNTYWIDE LAND BANK, AND DECLARING AN EMERGENCY, was read by title only.

Mrs. Fenderbosch stated that according to her research of the Ohio Revised Code, this resolution needs to be an ordinance. The County Commissioners have created a land bank which was certified by the State of Ohio. Five percent is taken from the penalty fees for any delinquent real estate taxes; the land bank will take an additional five percent to fund the land bank. If the City does not join the land bank,

it will not have any input as to how the land bank funds are dispersed. Whether or not Avon Lake joins the land bank, the monies will still be taken from Avon Lake.

Mr. O'Donnell stated that he and other members of Council have concerns that the eastern communities of the County do not have representation on the land bank board. Mrs. Fenderbosch stated that the board is still defining its rules and there could be representation in the future.

Temporary Legislation #10021, AN ORDINANCE REPEALING CODIFIED ORDINANCE SECTION 618.16, ENTITLED DANGEROUS AND VICIOUS DOGS, AND DECLARING AN EMERGENCY, was read by title only.

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

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

Mr. Kos moved for passage of Temporary Legislation #10021. The State legislature has removed the pit bull breed from the definition of a dangerous or vicious dog. It is the recommendation of the Safety Committee to repeal Codified Ordinance Section 618.16, entitled Dangerous and Vicious Dogs, and follow the State law.

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

**Ordinance No. 95-2012 adopted.**

Temporary Legislation #10022, AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 208.01(b) (2) L, ENTITLED PLAN REVIEWS – COMMERCIAL AND INDUSTRIAL, AND DECLARING AN EMERGENCY, was read by title only.

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

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

Mr. O'Donnell moved for passage of Temporary Legislation #10022. The Building Official recommended amendments to the Fee Schedule to raise the fees for commercial and industrial plan review to be equal with the fees in the State code.

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

**Ordinance No. 96-2012 adopted.**

Temporary Legislation #10023, AN ORDINANCE AMENDING CHAPTER 1410.01 OF THE CODIFIED ORDINANCES, ENTITLED 2005 EDITION ADOPTED, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. O'Donnell moved for passage of Temporary Legislation #10023. The Chief Building Official recommended repealing this ordinance and adopting the 2011 Building Code to be in compliance with the State Building Code.

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

No: None

Motion carried.

**Ordinance No. 97-2012 adopted.**

Temporary Legislation #10024, AN ORDINANCE AUTHORIZING THE MAYOR TO SIGN A MUTUAL COOPERATION AGREEMENT WITH LORAIN COUNTY COMMUNITY COLLEGE, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Shondel moved for passage of Temporary Legislation #10024. The purpose of this ordinance is to work cooperatively with Lorain County Community College to advance the connectivity of local governments for a high-speed fiber optic broadband network. The result will achieve the best possible practice of delivery of municipal services in the most efficient, cost effective manner. LCCC agrees to act as the fiscal agent for the allocation of funds and will submit grant updates and reports.

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

No: None

Motion carried.

**Ordinance No. 98-2012 adopted.**

Temporary Legislation #10025, AN ORDINANCE ESTABLISHING A JOB CREATION INCENTIVE PROGRAM.

The Economic Development Committee developed a job growth incentive program which is one piece of the five prong strategy to enhance economic development initiatives and activities in Avon Lake.

**MISCELLANEOUS BUSINESS & ANNOUNCEMENTS**

The 60<sup>th</sup> anniversary of the Korean War will take place in 2013. The Department of Defense is trying to locate Korean War veterans to participate in a ceremony.

The Avon Lake Waterfront LLC will sponsor the All American Family Cookout on June 29<sup>th</sup> at Veterans Memorial Park. This event is sponsored by local businesses and private donations.

Mr. Meiners moved for adjournment.

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

No: None

Motion carried.

Adjournment: 8:58 P.M.

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

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