

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

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

Mr. O'Donnell 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, and 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 March 11, 2013 Council Meeting were approved as prepared and published.

MAYOR'S REPORT

Mayor Zilka made the following announcements.

On March 24, 2013, the Mayor attended the grand opening and dedication ceremony of the Buoy Youth Center at the United Church of Christ. The Buoy Youth Center will provide a welcoming place for the youth of Avon Lake to find comfort and camaraderie.

The City sponsored business expo will take place on April 18, 2013 at Hinckley Lighting on Pin Oak Parkway from 2:00 – 7:00 P.M. All proceeds will go toward the Community Improvement Corporation.

The Mayor interviewed Matt Collier for the vacancy on the Tree Commission and requests his confirmation by City Council.

Breakfast with the Easter Bunny was held at American Legion Post 211 on March 24th. The Mayor recognized the efforts of Ellyn Nicholas who organized the event along with Recreation Department Director Gary Gerrone and Recreation Department Secretary Lorrie Bruce, and several Avon Lake residents who volunteered their services.

COUNCIL PRESIDENT'S REPORT

There will be no Council meeting on April 1st, Easter Monday.

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A rescheduled Collective Committee meeting will be held on April 8th at 7:30 P.M. followed by the regular Council meeting.

ENGINEERING DEPARTMENT REPORT

Mr. Shondel referred to Karen Mihalik's comment at the March 11th Collective Committee Meeting that the mill and fill repairs made last year in Britannia Estates have disintegrated. Mr. Shondel toured the streets and stated that the repairs done last summer are very much intact.

LAW DIRECTOR'S REPORT

The Law Director's litigation update was distributed.

ENVIRONMENTAL COMMITTEE REPORT

Mr. Shondel stated that he distributed the minutes of the March 13, 2013 Environmental Committee meeting.

FINANCE COMMITTEE REPORT

Mr. Meiners reported on the March 18, 2013 Finance Committee meeting at which the City's investments were discussed with representatives from Fifth Third Bank. Mrs. Fenderbosch pointed out that the majority of invested funds are from the Municipal Utilities.

PUBLIC SERVICE COMMITTEE REPORT

Mr. James reported that the following items were discussed at the March 25, 2013 Public Service Committee meeting: the 2013 street program; the solid waste contract; amendments to the unsafe buildings ordinance; a change order to the Lear Road intersection project; and purchases for the Service Department.

Mrs. Fenderbosch stated that she will request an amendment to Temporary Legislation #10123 at the legislation portion of the meeting to avoid a conflict with the Planning & Zoning Code.

The next Public Service Committee meeting is scheduled for April 22, 2013 at 6:00 P.M. in the Engineering Conference Room.

PUBLIC UTILITIES COMMITTEE REPORT

Mr. Shondel announced the next meeting of the Public Utilities Committee is scheduled for April 4, 2013 at 7:00 P.M.

SAFETY COMMITTEE REPORT

Mr. Kos reported on the following items discussed at the March 20, 2013 Safety Committee meeting: the purchase of a passenger van and a pick-up truck for the Police Department; and City Hall safety recommendations from the Police and Fire Departments.

SEWER COMMITTEE REPORT

The next meeting of the Sewer Committee is scheduled for April 11, 2013 at 6:30 P.M. in the Engineering Conference Room. Agenda items include discussion of the proposed hiring of an ombudsman by ALMU for the lateral project, and information letters sent to residents regarding the sewer separation project. Residents are encouraged to check for any water leaks in order to conserve water usage.

Funds are available for residents affected by the sewer separation project if they meet the financial requirements. Families of four qualify for the loan if their total annual income is \$50,950.00 or less; a single person qualifies with an annual income of \$35,700.00 or less. Funds are limited so qualified residents should contact the Municipal Utilities as soon as possible.

PLANNING COMMISSION REPORT

Planning Commission is scheduled to meet April 2, 2013. They will discuss revisions to the Historical Preservation Commission rules regarding public hearings, and will also consider a request for a conditional use permit for the space previously occupied by Blockbuster.

ZONING BOARD OF APPEALS REPORT

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

MOTIONS

Mr. Bucci moved to add a motion to the agenda accepting donations from Thogus Products and PNC Bank.

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

No: None

Motion carried.

Mr. James moved to add a motion to the agenda authorizing the Mayor to sign a contract for fireworks.

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

No: None

Motion carried.

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Mr. O'Donnell moved to add a motion to the agenda authorizing the Mayor and Law Director to sign the Consent Judgment in the case of Avon Lake v. Joan Gamer.

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

No: None

Motion carried.

Mr. James moved to withdraw from the agenda the motion authorizing the purchase of a zero turn mower for the Service Department. The Public Service Committee determined that additional information is needed prior to recommending the purchase to City Council.

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

No: None

Motion carried.

Mr. Bucci moved to authorize the Law Director to file the articles of incorporation for the formation of the Community Improvement Corporation (CIC). Formation of the CIC is part of the economic development program. Initially, the CIC will operate a low interest loan or grant program to help retain businesses in Avon Lake and also to attract new businesses. Once the CIC is created, the City will look for talented individuals to serve as directors.

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

No: None

Motion carried.

Mr. James moved to authorize the advertisement of bids for the 2013 street striping program. The street striping will be done on the major thoroughfares in Avon Lake.

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

No: None

Motion carried.

Mr. James moved to authorize the advertisement of bids for the 2013 concrete street program. The administration has recommended that all streets rated 4 on the street repair rating system be repaired. The streets to be repaired are Britannia Parkway, Captains Galley, Hickory Lane, Pin Oak Parkway and culvert, Regency Court, Spinnaker, Sycamore Circle, and Woodstock.

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

No: None

Motion carried.

Mr. Bucci moved to accept a donation from Thogus Products in the amount of \$1000.00 and a donation from PNC Bank in the amount of \$330.63. These companies received checks from the City as part of the jobs growth incentive program and they wish to return the money to the City. Thogus Products designated

their donation for the Police Department, and PNC Bank designated their donation for the Community Improvement Corporation.

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

No: None

Motion carried.

Mr. James moved to authorize the Mayor to enter into a contract in the amount of \$14,000.00 for a fireworks display. The administration and the Fireworks Committee recommended Pyrotechno for a fireworks display for an Independence Day celebration to be held on July 3, 2013. Quotes were received from three companies.

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

No: None

Motion carried.

Mr. O'Donnell moved to authorize the Mayor and Law Director to sign the Consent Judgment in the case of the City of Avon Lake v. Joan Gamer. A suit was filed relative to the use of a property located in a single family zoning district. The judgment entry will establish how the property can be used beginning June 1, 2013. The property owner and her attorney have signed the Consent Judgment.

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

No: None

Motion carried.

LEGISLATION

Third 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 moved for passage of Temporary Legislation #10112. Mrs. Fenderbosch reviewed the amendments. Section 1058.04 defines any conflict between this provision and Chapter 1060 indicating the most stringent regulations will prevail. Section 1052.07 places the burden of compliance on the applicant and not the City. Section 1058.11 (e) (1) states the storm water program manager has the right to review specific maintenance requirements in all HOA covenants and restrictions. Section 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. Section 1058.16 mirrors the penalties outlined in Chapter 1060.

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

No: None

Motion carried.

Ordinance No. 25-2013 adopted.

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

Mrs. Fenderbosch moved for passage of Temporary Legislation #10113. This mirrors Chapter 1058 and addresses storm water borne debris generated disturbances.

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

No: None

Motion carried.

Ordinance No. 26-2013 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 NO. 80-2013, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #10116. 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.

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

No: None

Motion carried.

Ordinance No. 27-2013 adopted.

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

Mr. Bucci moved for passage of Temporary Legislation #10117R. The Board of Municipal Utilities approved performance stipends for certain Municipal Utilities employees for increased and higher level duties associated with the LORCO project. A stipend of \$2500.00 will be granted to five positions for work performed on the LORCO Project in 2012.

Mrs. Fenderbosch stated that normally she would not vote in favor of something like this, but she is voting for the stipends because they cover work performed last year and the stipends were approved by the Board of Municipal Utilities back in August. The Board committed to paying the stipends to the employees covering January through December of 2012. She further stated that this practice is not something that will be done every year.

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Mayor Zilka requested that the language “to be paid in two installments” be stricken from the ordinance. It would be more efficient for the Finance Department if the stipends could be paid in one check for the full amount.

Mrs. Fenderbosch stated that she understands the Mayor’s request, but this issue has been considered since August of 2012 and has had several committee discussions. The legislation was previously revised, and if the Board of Municipal Utilities wanted this to be paid in one check, it should have been in their original request.

Mr. Bucci stated that he supports the change to facilitate the work of the Finance Department.

Mr. Bucci moved to amend Temporary Legislation #10117R by deleting the language “to be paid in two installments” from Section No. 1.

Yes: O’Donnell, Shondel, Bucci, James, Kos, Meiners

No: Fenderbosch

Motion carried.

Mr. James stated that this is an example of City Council exercising its legislative authority over City employees and stressed the importance of discussing such matters in an open forum.

Mr. Meiners stated that he was originally opposed to the stipends, but after discussions and changing the original language of “bonus” to “stipend” on advice from the Law Director, he decided to support the stipends. Additionally, compensation for the additional work is part of the collective bargaining contract. Mr. Meiners stated that he probably will not support any such stipends in the future.

Mr. Kos pointed out that, if additional personnel had been hired to perform the additional work, it would have cost more than the stipends.

Mr. Shondel stated that the legislation limits the stipends to one year and the additional work is being taken into consideration in the Municipal Utilities labor negotiations for a better long term solution.

The roll was called on passage of Temporary Legislation #10117R.

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

No: None

Motion carried.

Ordinance No. 28-2013 adopted.

Second Readings:

Temporary Legislation #10119, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL PROFESSIONAL AGREEMENT WITH ONELINK

TECHNICAL SERVICES LLC FOR INFORMATION TECHNOLOGY MANAGED SERVICES, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Meiners moved for passage of Temporary Legislation #10119. OneLink submitted the low bid in the amount of \$52,428.00 for information technology services. The City has been satisfied with the services OneLink has been providing to the City under their current contract.

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

No: None

Motion carried.

Ordinance No. 29-2013 adopted.

Temporary Legislation #10120, AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 208.01 (f) (14), ENTITLED POOL FEES, AND DECLARING AN EMERGENCY, was read by title only.

The Parks & Recreation Commission recommended increasing daily admission pool fees by \$1.00 after comparing the fees of comparable pools in the area. The fee increase will not apply to residents under the age of two or over the age of 60.

Temporary Legislation #10122, AN ORDINANCE ADOPTING THE REVISED RULES OF THE CIVIL SERVICE COMMISSION OF THE CITY OF AVON LAKE, AND DECLARING AN EMERGENCY, was read by title only.

The Human Resources Committee reviewed and recommended the Civil Service Rules as revised by the Civil Service Commission.

Mrs. Fenderbosch asked if language regarding a drug free workplace would be added to the revised rules as was discussed at the Human Resources Committee meeting.

Mr. Bucci stated that he will discuss the additional language with the Law Director before the final reading.

Temporary Legislation #10123, AN ORDINANCE ESTABLISHING THE POSITION OF INTERIM DIRECTOR OF THE SERVICE AND ENGINEERING DEPARTMENTS FOR THE CITY OF AVON LAKE, AND ADOPTING A JOB DESCRIPTION ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, was read by title only.

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

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

Mr. Bucci moved for passage of Temporary Legislation #10123. The interim director position is being established while the administration considers consolidation of City departments to run the City more efficiently.

Mrs. Fenderbosch moved to amend Temporary Legislation #10123 by deleting the phrase "directs the planning function for the City" under the General Responsibilities section of the job description. That phrase is in conflict with Planning & Zoning Code Section 1214.06 (a), which states that the Zoning Administrator shall "enforce the provisions of this Code and interpret the meaning and application of its provisions."

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

The roll was called on passage of Temporary Legislation #10123.

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

Ordinance No. 30-2013 adopted.

First Readings:

Temporary Legislation #10126, AN ORDINANCE PROVIDING FOR TRANSFERS, AND DECLARING AN EMERGENCY, was read by title only.

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

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

Mr. Meiners moved for passage of Temporary Legislation #10126. The Finance Director determined certain transfers of funds are necessary for the immediate expenses of the City.

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

Ordinance No. 31-2013 adopted.

Temporary Legislation #10127, AN ORDINANCE AMENDING CODIFIED ORDINANCE CHAPTER 1468, ENTITLED UNSAFE BUILDINGS, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. James moved for passage of Temporary Legislation #10127. This ordinance provides the City of Avon Lake with additional tools to address buildings that are unsafe or have become a nuisance. The ordinance provides the following: a procedure for the Building Department to provide notice to the owners or other interested individuals such as renters of unsafe buildings and what they need to do to remedy the problems; an appellate process by which owners may file an appeal if they disagree with the findings of the Building Department; a procedure by which the City can take action to address the problems through repair or demolition; and criminal penalties for failing to abide by the order of the Building Department.

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

No: None

Motion carried.

Ordinance No. 32-2013 adopted.

Temporary Legislation #10128, AN ORDINANCE AUTHORIZING A PAYMENT TO THE AVON LAKE SOCCER ORGANIZATION, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. James moved for passage of Temporary Legislation #10128. The Parks & Recreation Commission recommended the donation to the soccer organization. The amount is \$17,200.00, which is the same amount as last year's donation.

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

No: None

Motion carried.

Ordinance No. 33-2013 adopted.

Temporary Legislation #10129, AN ORDINANCE AWARDING A CONTRACT FOR CITY HALL ELEVATOR IMPROVEMENTS, AND DECLARING AN EMERGENCY, was read by title only.

Otis Elevator Company submitted the low bid of \$51,036.70 for upgrades and repair to the City Hall elevator. The administration hopes to have the elevator repaired

during Council break to cause the least inconvenience to residents who wish to attend public meetings.

Temporary Legislation #10130, AN ORDINANCE AUTHORIZING THE PURCHASE OF A JOHN DEERE MOWER FOR THE SERVICE DEPARTMENT, AND DECLARING AN EMERGENCY, was read by title only.

The Engineering/Service Director recommended purchasing the mower from Polen Implement through the State Purchasing Program. The amount is \$23,645.94.

MISCELLANEOUS BUSINESS AND ANNOUNCEMENTS

Mrs. Fenderbosch announced that the State of Ohio has a program called “Ohio’s Restoring Stability Program” which provides grants to avoid home foreclosures. To qualify, a property owner must have experienced an involuntary loss of income of 10% or more of the gross household income, or a significant medical expense of 7.5% or more of the gross annual income. Information is available at www.savethedream.ohio.gov or by calling 888-404-4674.

ADJOURNMENT

Mr. Meiners moved for adjournment.

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

No: None

Motion carried.

Adjournment: 8:36 P.M.

Approved: _____
Council President

Attest: _____
Clerk of Council