

**MINUTES OF THE REGULAR MEETING
OF THE AVON LAKE MUNICIPAL COUNCIL
HELD MAY 24, 2010**

The Regular Meeting of the Avon Lake Municipal Council was called to order on May 23, 2010 at 7:30 P.M. in the Council Chamber with Council President Zilka presiding.

Mr. Meiners 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 10, 2010 Regular Council Meeting were approved as prepared and published.

MAYOR'S REPORT

Mayor Zuber made the following announcements.

The Kiwanis Club hosted the Community Council Awards Ceremony on May 13th.

On May 14th the Mayor attended the Ohio Auto Industry Council meeting in Columbus.

Pride Day was held on May 15th with many Avon Lake groups and individuals participating in volunteer projects.

Great Lakes Publishing will publish the next Avon Lake Magazine which will be available for distribution in the fall.

On May 18th the Mayor and Mr. Reitz met with the Mayor of the City of Lorain regarding NOPEC and grant funds.

A "fly over" of a C130 transport plane will take place as part of the Memorial Day celebration at Veterans Memorial Park.

The Economic Development Advisory Board will hold a workshop for small businesses on June 8th.

COUNCIL PRESIDENT'S REPORT

Mr. Zilka made the following announcements.

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May 31st is Memorial Day and no Council meeting is scheduled. The next Collective Committee meeting is scheduled for June 7th. The next Regular Council meeting is scheduled for June 14th.

The Memorial Day Parade is scheduled for May 31st beginning at 10:00 A.M.

Mr. Zilka attended a leadership roundtable sponsored by the United States Department of Commerce, Economic Development and Administration at Lorain Community College.

ENGINEERING DEPARTMENT REPORT

The Engineering Department Update was distributed.

The pool fund balance is \$258,000; this does not include unspent contingency money.

The Jaycox Road Sewer Project is ongoing. The storm sewer work should be completed by the middle to the end of June, at which time the asphalt repair work will begin.

LAW DIRECTOR'S REPORT

The Law Department Update was distributed.

ENVIRONMENTAL COMMITTEE REPORT

Mrs. Fenderbosch made the following announcements.

A quorum was not available for the May Environmental Committee meeting; sustainability tactics was to be the topic for discussion.

FINANCE COMMITTEE REPORT

Mr. Zilka reported on the following items discussed at the May 17th Finance Committee meeting; March and April financial statements; bond refinancing; Codified Ordinance language regarding competitive quotations and bids; and Jaycox Road repair financing.

HUMAN RESOURCES COMMITTEE REPORT

Mr. Bucci reported on the following topics discussed at the May 18th Human Resources Committee meeting: the appointment of an Assistant Law Director; wage increases for non-bargaining unit employees; the collective bargaining unit contract for the Utilities Department; and the hiring of a part-time employee in the Finance Department.

PUBLIC UTILITIES COMMITTEE REPORT

Mr. Kos reported on the May the 18th Senate hearing on SB 236 regarding the rates for all-electric homes; the bill calls for the reinstatement of all-electric home discounts.

Mayor Zuber stated that First Energy will notify customers of planned outages.

SAFETY COMMITTEE REPORT

Mr. Rush reported on the following items discussed at the May 19th Safety Committee meeting: traffic on Crestwood Drive; officer training for motorcycle duty; repair of Fire Engine #4; disposition of Fire Engine #3; and the hiring of two firefighters.

PLANNING COMMISSION REPORT

Mrs. Fenderbosch reported on the resubdivision preliminary plan for Avon Center Estates which was approved by Planning Commission at the May 11, 2010 Planning Commission Meeting.

RENEWABLE ENERGY TASK FORCE REPORT

The Renewable Energy Task Force met on May 13, 2010 and discussed the NOPEC grant, the Ohio Department of Development grant, the Special Improvement District, and the proposed solar energy ordinance.

On June 10th, the Great Lakes Energy Task Force will be at the Avon Lake Public Library to announce the awarding of the contract for placement of wind turbines in Lake Erie.

ENVIRONMENTAL AFFAIRS ADVISORY BOARD REPORT (EAAB)

The EAAB helped develop the posters for melanoma prevention which will be used in health classes at the high school. Brochures regarding melanoma prevention are available at City Hall.

CABLE TELEVISION ADVISORY COMMISSION REPORT

The Cable Television Advisory Commission will be on summer recess. The next meeting is scheduled for September 16th.

AVON LAKE COMMUNITY COUNCIL REPORT

Mr. O'Donnell reported that Kay Usher and Betty Kinsner received "Citizen of the Year" awards, and the Avon Lake Garden Club received the "Project of the Year" award. They were recognized at the Kiwanis Club dinner on May 13th.

AUDIENCE PARTICIPATION

Judy Chevrolet, 697 Cranberry Court, expressed her concern regarding the development of Avon Center Estates and Belmont Drive, and the possible future construction of Courtland Drive.

MOTIONS

Mr. Bucci moved to confirm the Mayor's appointment of Rob Capretto, Eileen Donahue, Jeff Schnied, and Joseph Archacki to the Economic Development Advisory Board for terms expiring May 31, 2012.

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

No: None

Motion carried.

Mr. Bucci moved to authorize the Mayor to sign the collective bargaining agreement with United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied-Industrial and Service Workers International Union. The Municipal Utilities Board approved the agreement.

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

No: None

Motion carried.

Mr. Kos moved to confirm the Mayor's appointment of Gerry Paine and Wallace Paine for one year terms, and Christine Burns for a two year term to the Historic Preservation Commission. Mr. Kos reviewed the qualifications of the appointees.

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

No: None

Motion carried.

Mr. O'Donnell moved to authorize the City to advertise for bids for asphalt repairs on Jaycox Road.

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

No: None

Motion carried.

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Mr. O'Donnell moved to authorize the City to consent to the sublease of the Site Lease with Option held by T-Mobile Central to FiberTower Network Services Corporation. The agreement was reviewed by the Law Director.

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

No: None

Motion carried.

Mr. O'Donnell moved to authorize the Mayor to execute the equipment storage lease between the City of Avon Lake and the Avon Lake Youth Baseball Federation. The Federation rents space for equipment at the Bleser Park garage building. The agreement is for three years with a rental fee of \$1.00 per year.

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

No: None

Motion carried.

Mr. O'Donnell moved to authorize the Mayor to execute the concession stand lease between the City of Avon Lake and the Avon Lake Youth Baseball Federation. The Federation will run the concession until the pool opens on June 25th. The lease fee is \$1.00.

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

No: None

Motion carried.

Mr. Meiners moved to authorize the Mayor to execute the contract with Mad Bomber Fireworks Production. The contract amount is \$14,500 for a fireworks display for the July 4th celebration; the funds are budgeted in the Improvement Fund.

Mr. O'Donnell stated that he has supported the fireworks expenditure in previous years, but due to the decline in City revenues, he cannot support it this year. The total estimated expenditure for the arts festival and fireworks display is approximately \$25,000.

Mayor Zuber stated this expenditure is from the Improvement Fund which contains money generated from City investments. Other expenditures from this particular fund include the two studies related to the Fire Department.

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

No: O'Donnell

Motion carried.

LEGISLATION

Third Readings:

Temporary Legislation #9691, AN ORDINANCE ADOPTING THE 2010 COMPREHENSIVE LAND USE PLAN UPDATE FOR THE CITY OF AVON LAKE, was read by title only.

Mrs. Fenderbosch moved for passage of Temporary Legislation #9691. Planning Commission approved the 2010 updates relative to stormwater quality and sustainability practices. The updates are needed to reflect the growth, development, and zoning trends of the City.

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

No: None

Motion carried.

Ordinance No. 59-2010 adopted.

Temporary Legislation #9692, AN ORDINANCE AMENDING CODIFIED ORDINANCE CHAPTER 256.09, ENTITLED PROBATION, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #9692. Under the current Code section, newly hired employees are subject to a one year probationary period. The appointing authority may terminate the employee at any time during the probationary period. Recent court opinions have held that employees have a right to due process in such situations. The Human Resources Director recommends an amendment to the Code section to provide for evaluation of newly hired employees every 90 days. If an employee's work is unsatisfactory, the employee will be advised in writing and offered an opportunity for improvement through additional training. Under the proposed amendment, an employee may be removed at any time between days 270 and 360 of the probationary period.

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

No: None

Motion carried.

Ordinance No. 60-2010 adopted.

Second Readings:

Temporary Legislation #9694, AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER IN AN AFFILIATE COOPERATIVE PURCHASING AGREEMENT WITH SOURCING OFFICE, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

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Mr. Bucci moved for passage of Temporary Legislation #9694. This agreement allows the City to take part in cooperative purchasing programs offered by Sourcing Office.

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

No: None

Motion carried.

Ordinance No. 61-2010 adopted.

Temporary Legislation #9695, A RESOLUTION APPROVING THE USE OF SUBMERGED LANDS, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. O'Donnell moved for passage of Temporary Legislation #9695. A property owner at 32136 Lake Road requested a submerged land lease to construct a breakwall in Lake Erie. A resolution is required by the Ohio Department of Natural Resources. The request has been reviewed by City departments and there are no concerns.

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

No: None

Motion carried.

Ordinance No. 62-2010 adopted.

Temporary Legislation #9696, A RESOLUTION APPROVING THE USE OF SUBMERGED LANDS, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. O'Donnell moved for passage of Temporary Legislation #9696. A property owner at 32304 Lake Road requested a submerged land lease to construct a breakwall in Lake Erie. A resolution is required by the Ohio Department of Natural Resources. The request has been reviewed by City departments and there are no concerns.

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

No: None

Motion carried.

Ordinance No. 63-2010 adopted.

First Readings:

Temporary Legislation #9699, AN ORDINANCE 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 #9703, AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 260.06, ENTITLED HOLIDAYS, was read by title only.

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.

Temporary Legislation #9704, AN ORDINANCE APPROVING WAGE INCREASES FOR CERTAIN NON-BARGAINING UNIT PERSONNEL, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Zilka moved for passage of Temporary Legislation #9704. Mayor Zuber recommended wage increases for non-bargaining unit personnel to be equal with the bargaining unit employees who received a 2.75% wage increase. After numerous discussions by the Human Resources Committee, members voted to recommend a 2% increase to be effective July 1, 2010.

Mr. Zilka stated that he is concerned with the differential between the salaries of bargaining and non-bargaining unit employees; the gap between the bargaining unit employees and their supervisors is becoming less and less. In some cases, employees are being paid more than their supervisors due to overtime compensation.

Mr. Bucci explained his reasons for not supporting the increases due to the present financial climate and the City's budget deficit.

Mr. Kos stated that he decided to support the raises based on a salary comparison of surrounding communities which was supplied by the HR Director; in some cases, Avon Lake Department Heads are underpaid in comparison to their counterparts. He pointed out the 2% increase being considered is a very modest increase, is not retroactive to January 1st, and is not what was originally proposed by the administration. Also, it is less than what the collective bargaining employees received.

Mrs. Fenderbosch pointed out that the comparison sheet provided by the HR Director did not provide census and revenue comparisons; some communities on the comparison sheet have higher revenues than Avon Lake. Mrs. Fenderbosch further explained her reasons for not supporting the raises due to the economy and possible decreasing Ford revenues in Avon Lake.

Mr. Meiners stated that originally would not support anything less than a 2.75% increase for non-bargaining unit employees to be equal with the union contracts. Since his vote will be the deciding vote, Mr. Meiners stated that he will support the 2% increase to ensure that the non-bargaining unit employees receive an increase even though it is less than what he feels they deserve.

Mr. O'Donnell explained that he will not support the raises due to the economy and decline in City revenues. He pointed out that the City has had to take measures, such as ambulance billing, to enhance revenue. The taxpayers have also approved levies in the past two years.

Mr. Kos pointed out the proposed 2% increase applies to only 15 full-time and 8 part-time employees. The total amount for the next six months is \$13,800.

Mayor Zuber pointed out that past Council's have always granted the non-bargaining unit employees the same two-year increases that the unions received. He further stated that he is concerned that more City employees will now want to join the union which will cost the City more money; there are several employees who are eligible to join the union.

Yes: Meiners, Rush, Zilka, Kos

No: O'Donnell, Bucci, Fenderbosch

Motion carried.

Ordinance No. 64-2010 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.

If future development to the south of Belmont occurs and abuts Wildberry Subdivision, there will be an impact on the residents of Wildberry. According to an agreement between the City and the developer of Wildberry, the residents of Wildberry would be required to pay for the improvements on Courtland and Spruce, which would be approximately \$500,000.

Law Director Kerner pointed out that any possible future development of Courtland and Spruce is not relevant to approval of the re-subdivision preliminary plan of Avon Center Estates which is before Council for consideration. Mr. Kopf, the developer of Avon Center Estates, was not involved in the agreement between the City and Mr. Romes and Lake Point Construction, the developer of Wildberry.

Temporary Legislation #9707, AN ORDINANCE CONFIRMING THE APPOINTMENT BY THE MAYOR OF DAVID M. GRAVES TO THE POSITION OF ASSISTANT LAW DIRECTOR, ESTABLISHING THE DUTIES AND COMPENSATION FOR SAID POSITION, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: Meiners

Motion carried.

Mr. Bucci moved for passage of Temporary Legislation #9707. The Law Director reviewed Mr. Graves' qualifications. This is a part-time position with a salary of \$14,500 per year. Mr. Graves' duties include acting as the alternate Law Director, Zoning Board of Appeals matters, Enterprise Zone Agreements, parking violations bureau, and collection of delinquent trash accounts.

Mr. Meiners stated that he will not support Mr. Graves' appointment based on the salary which is an increase over the salary of the Assistant of two years ago, who handled the same duties assigned to Mr. Graves.

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

No: Meiners

Motion carried.

Ordinance No. 65-2010 adopted.

PUBLIC INPUT

The following residents addressed Council regarding the development of Avon Center Estates and the adverse impact on Wildberry Subdivision.

Robert Bain, 730 Cranberry Court
Larry Boudon, 852 Wildberry Circle

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Judy Chevrolet, 697 Cranberry Court
Carolyn Remington, 701 Waterbury Court
Tom Fowkes, 723 Cranberry Court
Carol Fowkes, 723 Cranberry Court

EXECUTIVE SESSION

In compliance with Ohio Revised Code Section 121.22, Mr. O'Donnell moved to adjourn to Executive Session to discuss the purchase of land.

Yes: Kos, Meiners, O'Donnell, Rush, Zilka, Bucci, Fenderbosch
No: None
Motion carried.

Adjournment to Executive Session: 10:00 P.M.

RECONVENING OF THE OPEN COUNCIL MEETING

The open Council Meeting reconvened at 11:02 P.M. in the Council Chamber with Council President Zilka presiding.

Present: Dan Bucci, Jennifer Fenderbosch, David Kos, Larry Meiners, Martin O'Donnell, Timothy Rush, Gregory Zilka, Mayor Zuber, Law Director William Kerner, Engineering Department Manager Reitz.

Mr. O'Donnell moved to adjourn.

Yes: Kos, Meiners, O'Donnell, Rush, Zilka, Bucci, Fenderbosch
No: None
Motion carried.

Adjournment: 11:03 P.M.

Approved: _____
Council President

Attest: _____
Clerk of Council