

**MINUTES OF THE REGULAR MEETING
OF THE AVON LAKE MUNICIPAL COUNCIL
HELD NOVEMBER 26, 2012**

The regular meeting of the Avon Lake Municipal Council was called to order on November 26, 2012 at 7:30 P.M. in the Council Chamber with Council President O'Donnell presiding.

Mr. James 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.

PUBLIC HEARING

A Public Hearing upon amendments to Planning & Zoning Code Section 1212.03 and Section 1246.02 was called to order at 7:32 P.M.

The definition for indoor commercial recreation will be added to Planning & Zoning Code Section 1212.03, Definition of General Terms.

Indoor commercial recreation will be added to Planning & Zoning Code Section 1246.02 (a) Permitted Uses in Industrial Districts. Indoor commercial recreation will require a conditional use permit and will need approval by Planning Commission and Council.

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

CORRESPONDENCE

Mrs. Fenderbosch received correspondence from Britannia Estates and others regarding leaf pick-up.

Mr. Shondel read the following correspondence dated November 26, 2012 from the Service Department stating that the Service Department may be in the Britannia Estates area by the end of the week if the weather holds, or the beginning of next week as the Service Department is almost finished with the area west of Route 83. They will be moving to the east side of town soon. At this time, the Service Department cannot tell when branch pick-up will occur. One chipper is working on the main roads. After the main roads are finished they will start on the side streets. The Service Department is concentrating on leaves as they cannot be picked up if snow is on the ground. Branches can be picked up and chipped if it snows. When the Service Department is finished with the leaves, more chippers will be sent out.

MAYOR'S REPORT

Mayor Zilka made the following announcements.

A budget meeting will be held on December 1, 2012 at 8:00 A.M. at the Old Firehouse Community Center with Council, the Mayor, and department heads. Department heads will present their budgets for 2013.

The Economic Development Advisory Board is scheduled to meet November 29, 2012 at 6:30 P.M.

Leaf pick-up began on October 29th. A substantial number of leaves dropped at the same time and a substantial number of branches came down as a result of Hurricane Sandy. This has hampered the leaf pick-up schedule for the Service Department. The leaf pick-up schedule is listed daily on the Avon Lake website.

The Mayor and Mr. Shondel will meet with representatives from First Energy and representatives of westshore governments on December 12th to discuss improved response to power outages.

There have been inquiries and complaints regarding noise from a helicopter. The Mayor has been trying to contact the Clinic regarding the path of the helicopter. According to a resident, it is the EMH helicopter flying over Avon Lake residential areas.

COUNCIL PRESIDENT'S REPORT

The next Collective Committee meeting is scheduled for December 3rd. The next regular Council meeting is scheduled for December 10th.

Council will hold a budget meeting on December 1st at the Old Firehouse Community Center. Council will begin reviewing department budgets with the department heads at 8:15 A.M. This meeting is open to the public.

A vacancy exists on the Environmental Affairs Advisory Board. Any resident interested in the position should send a letter of interest and resume to the Clerk of Council at bdopp@avonlake.org or by regular mail to 150 Avon Belden Road, Avon Lake.

ENGINEERING DEPARTMENT REPORT

The Engineering Department weekly update was distributed.

Mr. Reitz asked if anyone has photographs of Lake Erie during Hurricane Sandy to please forward them to him. Mr. Reitz and Service Director Lescher inspected the ditch in the Landings. Trees are down in the area and will be removed by the

Service Department. There is no danger or immediate threat for backups in the ditch.

LAW DIRECTOR'S REPORT

The Law Director's litigation update was distributed.

ENVIRONMENTAL COMMITTEE REPORT

A joint meeting between the Environmental Committee and Safety Committee was held on November 15, 2012. Legislation was introduced proposing a deer management plan for Avon Lake. The plan endeavors to provide the Mayor with several tools to address deer which he may utilize in various degrees within his discretion. The proposal would authorize culling, seek to utilize contraception, permit limited bow hunting with Mayoral approval, and codifies the existing deer management program. The proposed legislation further recognizes the importance of other tools such as education and non-lethal methods such as signage. The joint committees received numerous comments regarding the proposal before considering the legislation and considered several amendments before agreeing to postpone further consideration until the next joint meeting of the Environmental and Safety Committees which is scheduled for December 3, 2012 at 5:45 P.M. in Council Chambers.

The Environmental Affairs Advisory Board (EAAB) meeting is scheduled for December 5, 2012 at 6:30 P.M. in the Council Conference Room. A vacancy exists for a resident member on the Board. The EAAB is composed of a group of residents and representatives of Avon Lake industries that advise and assist the City and Council on environmental matters and natural resource matters. The Board meets once a month for about one hour and has an impact on issues and legislation considered by Council. A Board member does not have to be a scientist or environmental expert to serve on the Board.

Mr. Meiners stated that he cannot support any bow hunting in the Long Pointe vicinity.

FINANCE COMMITTEE REPORT

Mr. Meiners reported on the following items discussed at the November 19, 2012 Finance Committee meeting: the transfer of funds, appropriations, and adjustments to estimated revenues; and the debt management policy.

HUMAN RESOURCES COMMITTEE REPORT

The Human Resources Committee has a meeting tentatively scheduled for December 6th at 6:00 P.M.

PUBLIC SERVICE COMMITTEE REPORT

Mr. O'Donnell reported on the following items discussed at the November 26, 2012 Public Service Committee meeting: the propane gas program for City vehicles; trash picker or scavenger legislation; the cloud system; and the Zoning Administrator's report.

PUBLIC UTILITIES COMMITTEE REPORT

Mr. Shondel, Chair of the Public Utilities Committee, and the Mayor will meet with westshore mayors on December 12th to discuss First Energy's response to Hurricane Sandy.

SAFETY COMMITTEE REPORT

Mr. Kos reported on the following items discussed at the November 20, 2012 Safety Committee meeting: traffic safety issues in the Fox Chapel subdivision; the purchase of two police vehicles; reinstallation of a traffic light at Jaycox Road and Electric Boulevard; and City Hall security.

ZONING BOARD OF APPEALS REPORT

The Zoning Board of Appeals met October 26, 2012 with the following results: an area variance for an accessory building at 32039 Lake Road was granted; and an area variance for accessory use regulations at 156 Vanda was granted.

MOTIONS

Mr. Bucci moved to accept the resignation of Service Director Tom Lescher effective December 31, 2012. Mr. Lescher is retiring after 41½ years of service.

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

No: None

Motion carried.

Mr. O'Donnell moved to authorize the advertisement of bids for a new elevator car at City Hall.

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

No: None

Motion carried.

Mr. Kos moved to authorize the Mayor to enter into discussion with NOACA to participate in the deer management pilot study conducted by ODOT for the purpose of reducing deer vehicle accidents in Avon Lake. Representatives from NOACA attended a previous Council meeting to explain the study. The pilot program

involves signage to help reduce deer vehicle accidents. Mr. James stated that he will support the motion and further stated that it is important to address all tools for deer management as one tool probably cannot be completely effective.

Mrs. Fenderbosch stated she will also support the motion. In answer to Mrs. Fenderbosch, Mr. Kos stated that it is not known at this point how many signs will be placed in the accident areas. It will be determined by the locations and types of signs. The amount of the grant and the cost of the signs are also not known at this time. Mr. Reitz stated that the grant application will require the City to determine the types of signs and the locations for placement of the signs.

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

No: None

Motion carried.

Mr. O'Donnell moved to appoint Andrew Perry to the Zoning Board of Appeals effective January 1, 2013 for a term expiring December 31, 2017. Mr. Perry will fill a vacancy that will occur on the Board.

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

No: None

Motion carried.

Mr. O'Donnell moved to adopt the 2013 Council meeting schedule.

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

No: None

Motion carried.

Mrs. Fenderbosch moved to agree with the Board of Municipal Utilities decision to send to the publisher of the Avon Lake Codified Ordinances the Municipal Utilities by-laws and a disclaimer regarding the Municipal Utilities sanitary sewer and water fees.

The fee schedule disclaimer reads as follows: Under Section 51 of the Charter, the Board of Municipal Utilities has the authority to establish rates for utilities. The following rates (which are not a part of the Codified Ordinances) were in effect as of the date of publication of the preceding Codified Ordinances. Current rates may be obtained by contacting the Board of Municipal Utilities.

The by-laws disclaimer reads as follows: Under Section 51 of the Charter, the Board of Municipal Utilities has the authority to make such by-laws and regulations as it may deem necessary for the safe sanitary sewerage treatment works and system, or other similar public utilities when and if owned by the City of Avon Lake. Such by-laws and regulations when not repugnant to the municipal ordinances of the City of Avon Lake, the constitution of the State of Ohio, and to the Charter of Avon Lake

have the same validity as municipal ordinances. The following by-laws (which are not part of the Codified Ordinances) were in effect as of the date of publication of the preceding Codified Ordinances. The Board's current by-laws may be obtained by contacting the Board of Municipal Utilities.

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

No: None

Motion carried.

LEGISLATION

Mr. Kos moved to add Temporary Legislation #10082 to the agenda authorizing the purchase of two police vehicles.

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

No: None

Motion carried.

Mr. Meiners moved to remove from the agenda Temporary Legislation #10081 eliminating outstanding advances. The State Auditor requested the language be changed in the ordinance. The ordinance will be revised and resubmitted to Council at the December 10, 2012 Council meeting. The ordinance must be approved by December 31, 2012.

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

No: None

Motion carried.

Third Reading:

Temporary Legislation #10064, AN ORDINANCE AUTHORIZING THE DONATION OF UNCLAIMED PROPERTY IN THE POLICE DEPARTMENT, was read by title only.

Mr. Kos moved for passage of Temporary Legislation #10064. The Police Department has been collecting unclaimed bicycles for the past three years. The Police Chief requested authority to donate the bicycles to the Oberlin Bike Co-op, a non-profit organization.

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

No: None

Motion carried.

Ordinance No. 145-2012 adopted.

Second Readings:

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Temporary Legislation #10060, AN ORDINANCE AMENDING PLANNING & ZONING CODE SECTION 1212.03, ENTITLED DEFINITIONS OF GENERAL TERMS AND PLANNING & ZONING CODE SECTION 1246.02, ENTITLED PERMITTED USES IN INDUSTRIAL DISTRICTS (a), was read by title only.

A Public Hearing was held earlier in the meeting regarding this ordinance.

Temporary Legislation #10067, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF CLERK OF COUNCIL, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND REPEALING ORDINANCE NO. 121-2003, was read by title only.

The job description for this position was revised to accurately reflect the current qualifications and duties for the position.

Temporary Legislation #10068, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF ASSISTANT CLERK OF COUNCIL, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND REPEALING ORDINANCE NO. 92-2001, was read by title only.

The job description for this position was revised to accurately reflect the current qualifications and duties for the position.

Temporary Legislation #10069, AN ORDINANCE ESTABLISHING THE POSITION OF BUSINESS LIAISON FOR THE CITY OF AVON LAKE AND ADOPTING A JOB DESCRIPTION ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, was read by title only.

This relates to a new part-time position created to assist the Mayor with economic development and retention and expansion of local businesses.

Temporary Legislation #10070, AN ORDINANCE ESTABLISHING THE POSITION OF COMMUNITY OUTREACH SPECIALIST FOR THE AVON LAKE MUNICIPAL UTILITIES, AND ADOPTING A JOB DESCRIPTION AND ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND REPEALING ORDINANCE NO. 4-99, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Bucci moved for passage of Temporary Legislation #10070. This relates to the new part-time position in the Municipal Utilities. The job description accurately

describes the duties for the position. The duties of the position have changed and have expanded since a similar position was covered under Ordinance No. 4-99.

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

No: None

Motion carried.

Ordinance No. 146-2012 adopted.

First Readings:

Temporary Legislation #10073, AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 208, ENTITLED FEE SCHEDULE, was read by title only.

According to Charter Section 51, the Board of Municipal Utilities has the authority to assess and collect utility rent charges of sufficient amount and in such manner as it may deem most equitable upon all tenements and premises supplied with its utility services. Therefore, the Board has the sole authority to establish sanitary sewer charges. If the Board changes its sewer rates, those rates would be in conflict with the rates specified by Section 208.1(g) of the Codified Ordinances, which is the reason for removing the sewer rates from Codified Ordinance Section 208, the General Fee Schedule.

Temporary Legislation #10074, AN ORDINANCE AMENDING SECTION 1052.01 OF THE AVON LAKE CODIFIED ORDINANCES, ENTITLED PERMIT REQUIRED APPLICATION; APPLICATION FEE, was read by title only.

The last line of Codified Ordinance Section 1052.01 will be eliminated since it refers to fees set forth in Chapter 208, which have been eliminated from the chapter.

Temporary Legislation #10075, AN ORDINANCE AMENDING AVON LAKE CODIFIED ORDINANCE SECTION 1056, ENTITLED SEWER RENTAL CHARGES, was read by title only.

The last line of Codified Ordinance Section 1056.03, entitled Declaration of Necessity; Use of Moneys, will be eliminated. The following Codified Ordinance Sections will be eliminated in their entity: 1056.03, Sewer Service Charges; 1056.04, Sewer Service Charges; 1056.07, Trunk Sanitary Sewer Charges; and 1056.08, Temporary Lift Station Charges. These charges will be put into a special section.

Temporary Legislation #10076, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL SERVICE AGREEMENT WITH CDM ENGINEERING, AND DECLARING AN EMERGENCY, was read by title only.

Mrs. Fenderbosch moved for suspension of the rule requiring three readings.

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

No: None

Motion carried.

Mrs. Fenderbosch moved for passage of Temporary Legislation #10076. CDM Engineering will update the Stormwater Master Plan, which has not been updated since 1982. Chapter 59 of the Avon Lake Charter allows the awarding of a contract for personal services without public bidding. The contract shall not exceed \$75,000.00.

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

No: None

Motion carried.

Ordinance No. 147-2012 adopted.

Temporary Legislation #10077, AN ORDINANCE FIXING THE PAY RANGE FOR THE POSITION OF PART-TIME COMMUNITY OUTREACH SPECIALIST IN THE AVON LAKE MUNICIPAL UTILITIES, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Bucci moved for passage of Temporary Legislation #10077. The Board of Municipal Utilities approved a pay range of \$20.00 - \$40.00 per hour for the part-time position of Community Outreach Specialist. Mrs. Fenderbosch pointed out that non Civil Service positions are assigned pay ranges.

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

No: None

Motion carried.

Ordinance No. 148-2010 adopted.

Temporary Legislation #10078, AN ORDINANCE PROVIDING FOR TRANSFERS, AMENDMENTS TO PERMANENT APPROPRIATIONS, AND ADJUSTMENTS TO ESTIMATED REVENUES, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Meiners moved for passage of Temporary Legislation #10078. The Finance Director determined that certain financial transactions are necessary for the immediate expenses of the City.

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

No: None

Motion carried.

Ordinance No. 149-2012 adopted.

Temporary Legislation #10079, AN ORDINANCE AWARDED A CONTRACT FOR ENERGY EFFICIENT WINDOW REPLACEMENTS AT THE FIRE DEPARTMENT, AND DECLARING AN EMERGENCY, was read by title only.

The Engineering Department Manager recommended Lakeland Glass which submitted the only acceptable bid of \$15,961.00. The cost of the project will be fully covered by the NOPEC grant.

Temporary Legislation #10080, AN ORDINANCE ADOPTING THE DEBT MANAGEMENT POLICY, AND DECLARING AN EMERGENCY, was read by title only.

At the request of the State Auditor, the Finance Director developed a Debt Management Policy.

Temporary Legislation #10082, AN ORDINANCE AUTHORIZING THE PURCHASE OF TWO VEHICLES FOR THE POLICE DEPARTMENT, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Kos moved for passage of Temporary Legislation #10082. Two new police utility vehicles will be purchased through the State Purchasing Program from Statewide Ford in the total amount of \$54,940.00. The bid is only valid until the end of the month. The SUV's will be more practical than the new sedans which are too small to accommodate the necessary equipment and individuals being transported.

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

No: None

Motion carried.

Ordinance No. 150-2012 adopted.

MISCELLANEOUS BUSINESS AND ANNOUNCEMENTS

Mr. Shondel urged residents to register with Code Red, the City's emergency alert system, by calling 933-8305. Prior to Hurricane Sandy, approximately 8,250 telephones were registered; since the storm, 10,249 phones are now registered. Mobile phones and land lines can be registered. In order to be prepared for disasters, residents can obtain information from the FEMA website on how to plan for, prepare, and mitigate the effects of national disasters.

PUBLIC INPUT

Chris Quinlan, 73 Community Drive, asked about airing commercials on ALCTV. Mr. Shondel stated that the Cable Advisory Commission has explored the idea of commercials on ALCTV without any success. They will revisit the issue to determine if there have been any new rulings.

Mr. Quinlan asked if a teen center could be built adjacent to the Lake House. Mayor Zilka stated that a teen center was established at the Old Firehouse without success since it was not attended by the local teens. Mayor Zilka further stated that he would be reluctant to build anything on lakefront property.

ADJOURNMENT

Mr. Meiners moved for adjournment.

Adjournment: 8:54 P.M.

Approved: _____
Council President

Attest: _____
Clerk of Council