

**MINUTES OF THE RESCHEDULED MEETING  
OF THE AVON LAKE MUNICIPAL COUNCIL  
HELD OCTOBER 12, 2010**

The rescheduled meeting of the Avon Lake Municipal Council was called to order on October 12, 2010 at 7:30 P.M. in the Council Chamber with Council President Zilka presiding.

Mr. Zilka 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, Law Director William Kerner, Engineering Department Manager Joseph Reitz, Acting Finance Director Dan Eckert, Clerk of Council Barbara Dopp.

There being no objection, Mayor Zuber was excused from attendance at the meeting.

**APPROVAL OF MINUTES**

The minutes of the September 13, 2010 Council Meeting and the September 27, 2010 Council Meeting were approved as prepared and published.

**CORRESPONDENCE**

A letter was received from Benjamin Ockner, outside Counsel for Clear Wire, stating that Clear Wire has agreed, under protest, and with all rights expressly reserved, to accede to Council's request that it deposit an additional \$2500 with the City for payment to the Center for Municipal Solutions for the Addendum to the Agreement with the City, and stating that Clear Wire will not be present at tonight's meeting.

Representative Betty Sutton forwarded a letter to Mr. Kos and Tyler Jeske commending them for raising money for the "Wounded Warrior Project" by participating in the Marine Corps Marathon and the Air Force Marathon.

**COUNCIL PRESIDENT'S REPORT**

Mr. Zilka made the following announcements. Pending the outcome of a motion on tonight's agenda, a Work Session will be held on October 18, 2010 at 7:30 P.M. to review the consultant's report on the proposed Clear Wire telecommunications tower at 407 Lear Road. The next Collective Committee meeting is scheduled for October 18<sup>th</sup>. The next Regular Council Meeting is scheduled for October 25, 2010.

An amendment to Charter Section 59A will appear on the November 2<sup>nd</sup> ballot as Issue 20. The amending language will bring consistency to the Charter regarding the solicitation of bids and quotations for services and purchases.

## **ENGINEERING DEPARTMENT REPORT**

The Engineering Department Update was distributed.

Work on the Jaycox Road Sewer Project is continuing. Connections to the houses on the south side of Lake Road are being completed. Top soil work on Jaycox Road and the driveway apron work on Harvey Parkway are being performed. The Engineering Department is trying to schedule the paving work with the contractor for Electric Boulevard, Lake Road, and Harvey Parkway.

In reference to the Avon Belden/Pin Oak Parkway Traffic Signal Project and the Webber Road Left Turn Lane Project, Mr. Reitz gave the following timeline. After approval of the contract, KS Associates will begin the design work for the projects. Their plans will be completed within 60 days, at which time the Engineering Department will have a final review. The Engineering Department will ask for authorization to advertise for bids for the projects in the first part of 2011. Contracts should be ready for approval by February of 2011. The Traffic Signal Project should be completed by the fall of 2011, and the Webber Road Turn Lane Project should be completed by August of 2011.

Mr. Meiners and Mr. Kos requested that these two projects be placed in the capital budget for 2011.

Mr. Reitz reminded residents that leaves are not to be placed in the street for pick-up. Leaves in the street create a safety hazard and also clog the storm drains resulting in flooding. The leaf pick-up schedule will be posted on the City website.

## **LAW DIRECTOR'S REPORT**

The Law Department Update was distributed.

## **ENVIRONMENTAL COMMITTEE REPORT**

Mrs. Fenderbosch reported on the following items discussed at the Environmental Committee meeting held September 2, 2010; prioritization of the sustainability tactics; the NOPEC grant program; the Public Information/Public Education Program; and the EAAB 2010 strategies and tactics.

Mrs. Fenderbosch reported on the following items discussed at the Environmental Committee meeting held October 7, 2010: energy management; EAAB budget expenditures; EAAB proposed pool and park recycling projects and sunscreen dispenser; "Adopt a Spot" for recycling and "Adopt a Street" programs.

The next Environmental Issues series is scheduled for October 13, 2010 at the Avon Lake Public Library; the topic is "First Energy Speaks Out on the Environment".

## **FINANCE COMMITTEE REPORT**

A Finance/Audit Committee meeting is scheduled for October 18, 2010 at 6:30 P.M.

### **HUMAN RESOURCES COMMITTEE REPORT**

Mr. Bucci reported that the Human Resources Committee met on October 4, 2010 to discuss the candidates for the Finance Director position. The Committee met on October 11, 2010 and recommended Nancy Bryan for the Finance Director position.

### **PUBLIC UTILITIES COMMITTEE REPORT**

Mr. Kos announced that the PUCO will hold a public hearing regarding the rates for all-electric homes in North Ridgeville on November 17, 2010 at 6:00 P.M. in the North Ridgeville Education Center Community Room located at 5490 Mills Creek Lane, North Ridgeville.

### **SAFETY COMMITTEE REPORT**

The Division of Liquor Control received a request for a liquor license transfer from Moschnles, Inc. to Zak Pak Inc., dba Johnny Malloy's. Originally Chief Owad recommended that the City request a hearing in the matter of the liquor license transfer. After speaking with the owners, Chief Owad has reconsidered his recommendation and does not recommend a request for a hearing.

### **PLANNING COMMISSION REPORT**

Mrs. Fenderbosch reported on the following results of the October 5, 2011 Planning Commission meeting: site plans for a building addition and a new building for Allblend/Applied Specialties were approved. Planning Commission discussed project boundary setbacks within PUD's and fence height regulations. These two items will be discussed at a joint meeting of the Zoning Board of Appeals and Planning Commission on November 9, 2010.

### **PARKS & RECREATION COMMISSION REPORT**

Mr. O'Donnell reported on Recreation Department programs and activities.

### **MOTIONS**

Mrs. Fenderbosch moved to add a motion to the agenda to authorize the Mayor to sign the Addendum to the Agreement with the Center for Municipal Solutions in association with McKenna Associates for the attendance and participation of John Cieszkowski, Jr. at a Work Session on October 18, 2010 to present the revised report.

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

No: None

Motion carried.

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Mrs. Fenderbosch moved to add a motion to the agenda to permit Mr. Meiners to abstain from voting on the motion regarding the Addendum to the Agreement with the Center for Municipal Solutions due to a possible conflict of interest.

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

No: None

Motion carried.

Mrs. Fenderbosch moved to permit Mr. Meiners to abstain from voting on the motion regarding the Addendum to the Agreement with the Center for Municipal Solutions.

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

No: None

Motion carried.

Mrs. Fenderbosch moved to authorize the Mayor to sign the Addendum to the Agreement with the Center for Municipal Solutions in association with McKenna Associates, Inc.

In answer to Mr. Kos, Law Director Kerner stated, and Mr. Reitz confirmed, that the Addendum to the Agreement only covers review of the additional information submitted by Clear Wire that was not included in the original report. The Work Session scheduled for October 18<sup>th</sup> will allow time for Clear Wire to respond to the Center for Municipal Solutions.

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

No: None

Abstention: Meiners

Motion carried.

Mrs. Fenderbosch moved to permit Mr. Meiners to abstain from voting on the second motion regarding the Addendum to the Agreement with the Center for Municipal Solutions due to a possible conflict of interest.

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

No: None

Motion carried.

Mrs. Fenderbosch moved to authorize the Mayor to sign the Addendum to the Agreement with the Center for Municipal Solutions in association with McKenna Associates, Inc. for the attendance and participation of John Cieszkowski, Jr. at a Work Session meeting on October 18, 2010 to present the revised report. The fee is \$730 for a two hour meeting, and \$930 for a three hour meeting.

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

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No: None  
Abstention: Meiners  
Motion carried.

Mrs. Fenderbosch moved to waive the building fees for the Landmark Preservation Society for renovation projects at Assembly Hall, also referred to as the Folger Home. The facility is owned by the City of Avon Lake, but the Landmark Preservation Society will be funding the renovations.

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

Mr. O'Donnell moved to accept a donation from Drug Mart in the amount of \$115.00 for the Recreation Department. Drug Mart held an event and would like to donate the proceeds from refreshment sales to the Recreation Department.

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

Mr. O'Donnell moved to accept the donation of a bench from the Goodwin Family in memory of James Goodwin.

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

Mr. Rush moved to instruct the Clerk of Council to return the form to the Division of Liquor Control stating the City does not request a hearing in the matter of a liquor license transfer. The transfer will be from Moschnles, Inc. to Zak Pak Inc., dba Johnny Malloy's. The Police Chief has no objections to the liquor license transfer request.

Mr. Bucci moved to confirm the Mayor's appointment of Joe Ventura to the Economic Development Advisory Board for a term expiring May 31, 2012.

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

## **LEGISLATION**

### Second Readings:

Temporary Legislation #9741, AN ORDINANCE APPROVING AN AMENDMENT TO THE CONTRACT FOR THE 2010 CONCRETE STREET PROGRAM, AND DECLARING AN EMERGENCY, was read by title only.

The contractor requested an extension to the project completion date due to reorganization within the company. The new projected completion date is November 30<sup>th</sup>. The contractor is still working to meet the original completion date.

Temporary Legislation #9744, AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 260.01, ENTITLED BONDS, was read by title only.

Currently, the Finance Director has custody of all public official bonds required for certain City employees. Law Director Kerner recommended that Codified Ordinance Section 260.01 be amended with the addition of language stating that the bond of the Finance Director shall be in the custody of the Mayor. This will ensure that the Mayor has evidence that the Director of Finance is properly bonded as required.

Mr. Rush suggested further language be added to allow for the bonds to be presented to Council within a timely fashion after the bonds are in place so Council is aware that the bonds have actually been received. The Law Director stated that a procedure is in place by which the bonding will be in place since the City will have the insurance binder on a temporary basis which is a contract between the surety and the City. The City will subsequently receive the permanent bond after an individual is appointed. He did not recommend any further language to the ordinance. The administration is going to address the bonding of employees who are listed by generic title and not by individual title.

First Readings:

Temporary Legislation#9747, AN ORDINANCE CONFIRMING THE APPOINTMENT BY THE MAYOR OF NANCY BRYAN TO THE POSITION OF FINANCE DIRECTOR, ESTABLISHING WAGES 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: Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell, Rush

No: None

Motion carried.

Mr. Bucci moved for passage of Temporary Legislation #9747. Ms. Bryan was recommended by the Human Resources Committee. Ms. Bryan's qualifications include a degree in accounting, an MBA, years of experience with the State Auditor's Office, preparation of five year forecasts for municipalities and schools, monitoring and assisting municipalities in fiscal emergencies, and training of Finance Directors. Ms. Bryan's effective date is October 25, 2010. Law Director Kerner pointed out that the

hiring ordinance states Ms. Bryan has given a good and sufficient surety bond to the municipality to the satisfaction of and subject to the approval of Council. Law Director Kerner stated that he reviewed the Insurance Binder, issued by Travelers Insurance Company, and listing the hiree for Public Official/Finance Director Bond Coverage in the amount of \$200,000 effective for the temporary period beginning of October 9, 2010 and expiring October 31, 2010 by which time the permanent bond for the period of the hiree's appointment beginning October 25, 2010 will replace the temporary bond.

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

No: None

Motion carried.

**Ordinance No. 105-2010 adopted.**

Temporary Legislation #9748, AN ORDINANCE PROVIDING FOR ADDITIONAL APPROPRIATIONS AND ADJUSTMENTS TO ESTIMATED REVENUES, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Zilka moved for passage of Temporary Legislation #9748. Adjustments are needed for the repair of a fire truck and for design services for recommendations in the Traffic Study. Funds are available for these projects from the refinancing of the Safety Center and CALDP

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

No: None

Motion carried.

**Ordinance No. 106-2010 adopted.**

Temporary Legislation #9749, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL SERVICE AGREEMENT WITH KS ASSOCIATES, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Rush moved for passage of Temporary Legislation #9749. The design services are for the Webber Road/Avon Belden Road Left Turn Lane Project. The contract amount shall not exceed \$14,250.

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

No: None

Motion carried.

**Ordinance No. 107-2010 adopted.**

Temporary Legislation #9750, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL SERVICE AGREEMENT WITH KS ASSOCIATES, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Rush moved for passage of Temporary Legislation #9750. The design services are for the signalization project at Avon Belden Road and Pin Oak Parkway. The contract amount shall not exceed \$23,400.

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

No: None

Motion carried.

**Ordinance No. 108-2010 adopted.**

**MISCELLANEOUS BUSINESS AND ANNOUNCEMENTS**

The Landmark Preservation Society will hold a Chili Cook Off as a fundraiser on November 13, 2010 from 4:00 – 7:00 P.M. at Assembly Hall/Folger Home.

The Lorain County Green Workshop will be held at the Lorain County Community College Spitzer Center on October 13, 2010.

Tucky's Restaurant has opened at the Learwood Square Shopping Center.

**PUBLIC INPUT**

Don Goedde, 396 Harbor Court, expressed his opposition to the proposed telecommunications tower at 407 Lear Road.

Chris Quinlan, 73 Community Drive, Avon Lake, asked when Trick or Treat will be celebrated in Avon Lake.

Trick or Treat will be on October 31<sup>st</sup> from 6:00 – 7:30 P.M.

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Adjournment: 8:48 P.M.

Approved:   
Council President

Attest:   
Clerk of Council