

**MINUTES OF THE RESCHEDULED MEETING  
OF THE AVON LAKE MUNICIPAL COUNCIL  
HELD OCTOBER 13, 2009**

The Rescheduled Meeting of the Avon Lake Municipal Council was called to order on October 13, 2009 at 7:30 P.M. in the Council Chamber with Council President Zilka presiding.

Mr. Quinlan led the Council, staff, and public in reciting the Pledge of Allegiance.

Present: Council Members Jennifer Fenderbosch, David Kos, Martin O'Donnell, Timothy Rush, Michael Stanek, Gregory Zilka, Mayor Zuber, Law Director William Kerner, Finance Director Tom DiLellio, Engineering Department Manager Joseph Reitz, Clerk of Council Barbara Dopp.

There being no objections, Mr. Meiners was excused from attendance at the meeting.

**APPROVAL OF MINUTES**

The minutes of the September 14, 2009 Regular Council Meeting were approved as amended.

**CORRESPONDENCE**

The Lorain County Commissioners' office announced that on October 14, 2009 at 9:00 A.M. officials will meet to discuss legislation that will protect property owners while encouraging growth in renewable energy.

Dave McGuire of Lorain County Solid Waste Management informed the City that due to financial reasons they have had to cancel one-day hazardous waste collections. The County will be opening a permanent drive-through Collection Center in Elyria.

**MAYOR'S REPORT**

Mayor Zuber made the following announcements.

IPS is in the process of installing its new equipment and hopes to be operational by 2010.

A recognition wall was installed at Belle Road Park commemorating the Save the Woods organization and supporters who were instrumental in developing the new Metro Park.

The new *Avon Lake Magazine* will be mailed to residents on October 21, 2009.

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Hinkley Lighting plans to move its operation to Avon Lake as soon as its Cleveland property is sold.

A community shred day will take place at the Avon Lake Public Library on November 7, 2009 from 9:00 A.M. until noon.

A hazardous waste collection day is scheduled for November 7, 2009 beginning at 10:00 A.M. at Chemtron Corporation.

The Mayor will attend the NOPEC meeting on November 10, 2009.

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

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

The next Collective Committee meeting is scheduled for October 19<sup>th</sup>. The next Regular Council Meeting is scheduled for October 26<sup>th</sup>.

A candidates forum will be held at the Avon Lake High School on October 21, 2009 at 7:00 P.M. The forum will be moderated by Lori Switaj of the *Avon Lake Ledger*, an on-line newspaper.

### **ENGINEERING DEPARTMENT REPORT**

The Engineering Department Update was distributed.

Leaf pick-up will begin at the end of October. Until then, branch pick-up will continue. Residents are to place leaves on the tree lawn and not in the street. It is important that leaves do not block catch basins.

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

The Law Department Update was distributed.

### **ENVIRONMENTAL COMMITTEE REPORT**

Mrs. Fenderbosch made the following announcements. The Environmental Series will continue at the Avon Lake Public Library on October 14, 2009 at 7:00 P.M.; the topic is *Geothermal Energy*.

### **FINANCE COMMITTEE REPORT**

Mr. Stanek, Chair of the Finance Committee, announced a Finance/Audit Committee meeting is scheduled for October 19, 2009 at 6:00 P.M.

### **PUBLIC UTILITIES COMMITTEE REPORT**

Mr. Kos, Chair of the Public Utilities Committee, requested a Work Session for October 19, 2009; Mr. Calabrese, the CEO of RTA, will give a presentation regarding bus service in Lorain County. A Special Council Meeting will follow the October 19<sup>th</sup> Collective Committee Meeting to consider a payment to RTA for continued service in Avon Lake.

Mr. Kos requested the Work Session and Special Council Meeting to give Council the opportunity to hear further information regarding current and future plans of RTA. The administration hopes to come to a mutual arrangement with the County and neighboring communities to keep public transportation in Avon Lake and Lorain County.

### **SAFETY COMMITTEE REPORT**

Mr. Rush, Chair of the Safety Committee, received a request from the Police Chief for the purchase of two police cruisers. By purchasing the 2009 models, the City will save \$500 - \$700 per vehicle. The total cost is \$44,608.

A joint meeting of the Safety and Finance Committees was held October 7, 2009. Presentations were made by three firms offering insurance billing for ambulance service. The Mayor suggested ambulance billing as a revenue generating measure.

Mr. Rush requested a joint Finance/Safety Committee meeting for October 19, 2009 for the purpose of selecting a firm for ambulance billing.

### **PLANNING COMMISSION REPORT**

Planning Commission Representative Zilka reported on the following results of the October 6, 2009 Planning Commission meeting. A modification to the plat for riparian setbacks for Gramercy Place was approved; a wall signage site plan for IPS was approved; discussion on wind energy legislation was postponed.

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

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

### **ENVIRONMENTAL AFFAIRS ADVISORY BOARD REPORT**

Mrs. Fenderbosch reviewed deer safety precautions and acceptable items for the Household Hazardous Waste Collection Day at Chemtron.

### **CABLE ADVISORY COMMISSION REPORT**

Mr. Kos announced a Cable Advisory Commission meeting is scheduled for October 15, 2009 at 7:15 P.M. at the Avon Lake Public Library.

## **AUDIENCE PARTICIPATION**

Jack Koch, 32610 Carriage Lane, Avon Lake, addressed Council regarding the need for the proposed cell tower at City Hall.

James Miller, 2832 Fackler Avenue, Elyria, addressed Council on behalf of AT&T regarding the proposed cell tower to be located at City Hall.

## **MOTIONS**

Mr. Kos moved to remove the motion from the agenda authorizing a \$15,000 expenditure for continued RTA service in Avon Lake.

Mr. Kos will reintroduce this motion at the October 19, 2009 Special Council Meeting after Council has had the opportunity to hear additional information from Mr. Calabrese, the CEO of RTA.

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

No: None

Absent: Meiners

Motion passed.

Mr. Zilka moved, as per Codified Ordinance Section 1256.11(b), that the Mayor be authorized to enter into a contract with a competent expert recommended by the Engineering Department to assist in evaluating and determining the need for the proposed New Cingular monopole tower, antenna, and related wireless telecommunication facilities at the proposed Avon Lake City Hall location.

An evaluation by an independent expert will ensure that the monopole will be located in an area to best fit the needs of the City.

Mr. Rush had concerns that the language in the motion would limit the expert's evaluation to the proposed City Hall site, and that other locations in the City would not be evaluated. He further stated that he thought the purpose of the evaluation was to determine the best location in the City for the tower versus the proposed location at City Hall.

Mr. Zilka stated that the Law Director recommended the language for the motion. He stated that the language gives sufficient room for the expert to evaluate what is being proposed. The City is not looking for locations, but is considering a location proposed by a provider. The motion will allow for the assessment of the monopole location as proposed under the lease agreement.

Mr. Rush stated that he is concerned that the independent consultant will find the exact information that AT&T has found in terms of coverage area by only looking at

the City Hall location, rather than evaluating a location further south which could possibly be a better location for improved coverage.

Mr. Zilka stated that, under the language of the motion, he believes the consultant can expand his assessment beyond the City Hall site to determine the best area for improved service.

AT&T, the applicant, is required to pay the fees of the independent expert according to the Codified Ordinances.

Law Director Kerner made the following comments. He selected the language for the motion because the ordinance states that a particular location is to be evaluated, which is City Hall in this instance. The ordinance contemplates that the consultant will look at the need for the location of a particular tower. Under the ordinance, the consultant is empowered to look at this location and look at the need in the area and determine whether or not this tower will fill that need. If the consultant finds that it will not fill that need, then no demonstration of need exists, and AT&T would fail.

The location and specifics of the proposed tower will be discussed in detail by Planning Commission which will make a recommendation to Council. The Planning Commission process requires the applicant to submit information based on existing towers in the area and compatibility with the applicant's needs.

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

No: None

Absent: Meiners

Motion carried.

## **LEGISLATION**

### Third Reading:

Temporary Legislation #9600, AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN OPTION AND LEASE AGREEMENT WITH NEW CINGULAR WIRELESS, PCS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, was read by title only.

Mr. O'Donnell moved for passage of Temporary Legislation #9600. This lease agreement would authorize the City to lease space adjacent to the garage at City Hall for the installation of a cellular tower along with space within the garage for storage of related equipment. The City will receive a monthly fee of \$1700, and according to the agreement, the company will install a new roof on the garage.

Mr. Rush pointed out that there are blank spaces in the agreement, especially in Exhibit 1. Law Director Kerner stated that portions of the agreement will be filled in

before the Mayor signs the agreement. The plans of the proposed tower are available at City Hall.

The final version of the agreement will be attached to the ordinance.

Yes: O'Donnell, Stanek, Zilka, Fenderbosch, Kos

No: Rush

Absent: Meiners

Motion carried.

**Ordinance No. 101-2009 adopted.**

First Readings:

Temporary Legislation #9610, AN ORDINANCE APPROVING A WAGE INCREASE FOR RANDALL BALMERT, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Absent: Meiners

Motion carried.

Mr. Rush moved for passage of Temporary Legislation #9610. The Board of Municipal Utilities approved a 2.5% wage increase for the retired WPC Plant Manger effective January 1, 2009 until the date of his retirement. Mr. Balmert's name was inadvertently omitted from the wage increase recommendations previously submitted to Council.

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

No: None

Absent: Meiners

Motion carried.

**Ordinance No. 102-2009 adopted.**

Temporary Legislation #9611, AN ORDINANCE CHANGING THE WAGE RATE OF THE COURT SECURITY OFFICER, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Absent: Meiners

Motion carried.

Mr. Rush moved for passage of Temporary Legislation #9611. Since his employment as of January 2009, Mr. Garcia has been erroneously receiving \$12.00 per hour as the Security Officer in the Avon Lake Municipal Court. Mr. Garcia's wage rate should be \$16.00 per hour as agreed upon at the time of his employment.

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

No: None

Absent: Meiners

Motion carried.

**Ordinance No. 103-2009 adopted.**

Temporary Legislation #9612, AN ORDINANCE APPROVING CHANGE ORDER #2 TO THE CONTRACT FOR THE AQUATIC CENTER PROJECT, AND DECLARING AN EMERGENCY, was read by title only.

A change order to the contract with Seitz Builders was requested for stone backfill under the pool and pool deck to replace poor soil and clay; the amount of the change order is \$194,592. The additional work will stabilize the foundation. The project is still approximately \$400,000 below budget.

Temporary Legislation #9613, AN ORDINANCE AWARDED A CONTRACT FOR LANDSCAPE BUFFERING AT THE AQUATIC CENTER, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Absent: Meiners

Motion carried.

Mr. O'Donnell moved for passage of Temporary Legislation #9613. Hubert's Landscaping submitted the low bid of \$35,598.20; thirteen bids were received.

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

No: None

Absent: Meiners

Motion carried.

**Ordinance No. 104-2009 adopted.**

## **MISCELLANEOUS BUSINESS & ANNOUNCEMENTS**

Lorain County Community College received a \$380,000 grant to assist displaced workers with career planning.

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Love-A-Stray will hold a fundraiser on October 18, 2009 at noon at Paws on the Lake.

Lorain County Metro Parks will hold its annual Halloween festival at the Carlisle Township Park on October 17<sup>th</sup> and every Friday and Saturday until Halloween.

K & C Meats opened in the Avon Lake Plaza on Walker Road and Moore Road.

**PUBLIC INPUT**

Daryl Ludwig, 233 Inwood Drive, Avon Lake, expressed his support for the continuation of RTA service in Avon Lake.

Jack Koch, 32610 Carriage Lane, Avon Lake, addressed Council regarding the independent study to determine the need for the proposed cell tower at City Hall.

Jan Van Wagner, 118 Herrmann Drive, Avon Lake, commented on the Avon Lake stormwater management mascot, "Al E. Gator".

Chris Quinlan, 73 Community Drive asked for clarification regarding AT&T and Cingular Wireless.

**ADJOURNMENT**

Mr. O'Donnell moved to adjourn.

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

No: None

Absent: Meiners

Motion carried.

Adjournment: 9:07 P.M.

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

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