

**MINUTES OF THE REGULAR MEETING
OF THE AVON LAKE MUNICIPAL COUNCIL
HELD DECEMBER 10, 2012**

The regular meeting of the Avon Lake Municipal Council was called to order on December 10, 2012 at 7:30 P.M. in the Council Chamber with Council President O'Donnell presiding.

Mr. Kos 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.

APPROVAL OF MINUTES

The minutes of the November 14, 2012 Council meeting were approved as amended. The minutes of the November 26, 2012 Council meeting were approved as prepared and published.

CORRESPONDENCE

Jack Hall submitted his letter of resignation from the Civil Service Commission effective December 1, 2012.

Glen Eisenhardt submitted a letter requesting a voluntary reduction in rank from Fire Chief to Lieutenant effective December 18, 2012.

The Mayor received correspondence from Michelle Murphy indicating there is confusion in the community regarding the various maps that have been published pertaining to bow hunting and deer control in Avon Lake. She requested an accurate map showing the intent of the deer management legislation.

Mr. Shondel received correspondence from a constituent at 212 Duff Drive regarding ruts left in the tree lawn by a City vehicle during branch pick-up.

MAYOR'S REPORT

Mayor Zilka made the following announcements.

Mr. Hall resigned from the Civil Service Commission since he moved out of Avon Lake and is no longer eligible to serve on the Commission.

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There are vacancies on the Parks & Recreation Commission, the Tree Commission, and the Historical Preservation Commission. Anyone interested in serving on these commissions should contact the Mayor's office.

Mayor Zilka read the letter from Chief Eisenhardt requesting a voluntary reduction in rank due to personal reasons and family responsibilities.

The Nagle Road interchange will open on December 20th.

Mayor Zilka had discussions with representatives from the Cleveland Clinic and Metro Health Hospital regarding the noise from life flight helicopters at the new Clinic facility. The Clinic flies according to a protocol approved by the Avon Lake Planning Commission using I-90 as a corridor. The Mayor will meet with Clinic officials to discuss the issue further.

Most of the leaves have been picked-up by the Service Department. The final sweep will take place next week. Residents are asked to have all remaining leaves on the tree lawn by December 16th. Branch pick-up will be finalized within the next week.

Engineering Department Manager Joe Reitz passed the Fundamentals of Engineering exam.

COUNCIL PRESIDENT'S REPORT

The next Collective Committee meeting is scheduled for December 17th. A rescheduled Council Meeting will immediately follow the Collective Committee meeting. No meeting is scheduled for December 24th.

Council will hold a Special Council meeting on December 31st at 5:00 P.M. to finalize year-end financial transactions.

Council held a budget meeting on December 1st at the Old Firehouse Community Center. Council interviewed department heads and reviewed their budgets for 2013.

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.

The City of Avon Lake applied for a grant for the third phase of the traffic improvement project related to traffic pattern changes due to the Lear/Nagle

intersection. The Ohio Public Works Commission (OPWC) approved the application which will be forwarded to the State commission. The project is for improvements to the Walker Road/Jaycox Road intersection.

LAW DIRECTOR'S REPORT

The Law Director's litigation update was distributed.

ENVIRONMENTAL COMMITTEE REPORT

Mr. James reported on the joint meeting between the Environmental Committee and Safety Committee held December 3, 2012 at which substitute legislation was introduced regarding a deer management program for Avon Lake. The substitute plan continues to provide the Mayor with several tools to address deer that he may utilize in various degrees within his discretion. The change only permits bow hunting under certain circumstances by the police, City employees, or agents. The legislation continues to offer culling and contraception methods, and codifies the existing deer management program. The proposed legislation further continues to recognize the importance of other tools, such as education and non-lethal methods, such a signage. The joint committees voted 6-0 to move the legislation to the Collective Committee meeting.

HUMAN RESOURCES COMMITTEE REPORT

Mr. Bucci reported on the following items discussed at the December 5, 2012 Human Resources Committee meeting: the Zoning Administrator's salary; performance bonuses for certain employees of the Municipal Utilities; the salary of the electrical inspector; and the current City payroll system.

PUBLIC UTILITIES COMMITTEE REPORT

Mr. Shondel reported on his meeting with Matt Harper, Cleveland Area System Manager for Wide Open West (WOW), regarding recent outages with WOW's cable service and their customer service response time. Any WOW customer with a service or billing issue during the month of December may call Matt Harper directly at 614-226-7065.

There were two short term power outages recently; one was the result of a downed wire at Rt. 83 and Walker Road; another outage occurred December 9th at 4:54 A.M. Residents are asked to report any power outage, no matter how brief, by calling 888-544-4877.

A meeting was held with area mayors on November 14, 2012 at Fairview City Hall regarding the power outages as a result of Hurricane Sandy. A follow-up meeting will be held with representatives of First Energy regarding their response to major

disasters. Residents can choose their supplier of electric energy, but they do not have a choice of who provides the power grid.

SEWER COMMITTEE

A joint meeting between the Sewer Committee and Public Service Committee is scheduled for December 12, 2012 in the Council Chamber at 6:30 P.M. The financing of the lateral connection sewer project will be discussed.

AUDIENCE PARTICIPATION

Michelle Murphy, 554 Bayhill Drive, asked if the map that will be forthcoming regarding the proposed deer management program would be similar to the map shown at the last CCM. Mr. O'Donnell stated his interpretation is that it would be similar. Mrs. Murphy is concerned with the part of the proposed deer management legislation that says firearms may be used on any City owned property, and does not exclude parks. She referred to Section No. 2 of the legislation that says bow hunting could occur at the request of a property owner on a parcel of five acres or more. Section No. 2 also says that owners may combine adjacent properties to equal five acres to request bow hunting. Mrs. Murphy asked for clarification regarding which parcels throughout the City would qualify for deer culling.

Ada Wiley, 33200 Lake Road, stated that the Tufts researchers conducting the birth control study and the NOACA signage study both say that hunting could cause the City to be ineligible and would create a barrier to the success of their studies because hunting is a variable they would prefer not to have. She asked why there is a rush to kill the deer before the studies are performed.

Mr. O'Donnell stated that the City has not committed to the Tufts program since the costs have not yet been established, and ODNR has not approved the program. Mr. O'Donnell stated that he believes culling is necessary. The City has been fortunate that there have not been any accidents resulting in fatalities or serious injuries. The City is not rushing into any program, but is taking time to develop a safe solution.

Ms. Wiley stated that if more signage is installed, there would be a reduction in deer vehicle accidents.

Mrs. Fenderbosch stated that Tufts University representatives never said culling is not allowed for the birth control program. Tufts representatives did say they would prefer that culling not take place during the birth control program. They did recognize that Avon Lake has a severe deer problem and understand that there are many options before the City.

Linda Rothman, 33058 Lake Road, asked Mr. O'Donnell why he doesn't support the use of non-lethal means for deer control before using lethal means. Mr. O'Donnell stated that he does support the use of non-lethal strategies; he voted in favor of the

signage proposal. He further stated that more information is needed before moving forward with the birth control program; ODNR did not seem to support the issue, but said they would review it. Mr. O'Donnell stated he is comfortable with the Police Department running the culling program and feels it is necessary to prevent serious accidents.

Ms. Rothman asked if an accurate deer count study has been done. Mr. O'Donnell stated that the spot light study was done. He pointed out that the number of deer vehicle accidents demonstrates there is a problem in Avon Lake. Ms. Rothman suggested enforcing speed limits.

Mr. Bucci pointed out that there are not only deer vehicle collisions, but accidents also occur as a result of swerving to avoid collisions with the possible danger of hitting a pedestrian or cyclist.

Nicky Langer, 32397 Regency Court, asked for clarification in the deer management legislation regarding the term "agent", and the method of notification when culling will take place. She referred to ordinances from the cities of Hudson and Mentor, which do not allow culling in parks. She asked that the ordinance be more specific regarding the Mayor's discretion with the culling program.

Kristy Haude, 316 West Creek Court, asked for clarification regarding the various maps that have been shown regarding the possible culling areas. She requested a map that shows all the potential culling properties. Ms. Haude asked for a definition of "agent" as referred to in the proposed ordinance and asked what qualifications will be required of an agent permitted to cull deer. Ms. Haude asked why bow hunting has to be included in the culling program. She stated that sharp shooting is safer and more humane.

Mayor Zilka made the following comments. After many discussions regarding the qualifications of who would be performing the culling, the administration and drafters of the legislation focused on Avon Lake police officers who have certain proficiency with firearms. There may be other City employees who could be qualified, but a standard of qualifications will be established before anyone is approved for the use of firearms or for bow hunting.

Mr. James stated that he thinks a majority of his colleagues would agree that bow hunting is necessary because, if culling is conducted on public property, it may only have a certain amount of effectiveness. If it is necessary to extend culling beyond City property to private property, sharp shooting may not be acceptable on private property; bow hunting may be a less dangerous method to use on private property.

Mr. O'Donnell stated that a map will be drawn showing all areas where culling would be permitted.

Amy Nasr, 31665 Woodbridge Way, expressed her support for deer culling. She stated that the herd will have to be culled first in order for the birth control program to be effective to maintain a reasonable sized herd. Ms. Nasr pointed out that, as the deer are eating all the saplings, the forests will not be replenished.

Chris Turner, 115 Parkwood, commended Council for addressing the deer population. He has concerns with the disposal of deer carcasses and asked that the carcasses be used as a food source. He cautioned against using birth control to manage the deer population since chemicals will be injected into a possible food source. Also, since deer are free ranging herds, it would be difficult to monitor the results.

MOTIONS

Mr. Bucci moved to accept the resignation of Glen Eisenhardt from the position of Fire Chief and voluntary reduction in rank effective December 18, 2012. Mr. Eisenhardt requested a voluntary reduction in rank to Lieutenant due to personal reasons and family responsibilities.

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

Mr. Bucci moved to accept the resignation of Jack Hall from the Civil Service Commission effective December 1, 2012. Mr. Hall moved to another community and is no longer eligible to serve on the Commission.

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

Mr. O'Donnell moved to confirm the Mayor's appointment of Zach Arnold, Bob Brooks, William Heine, Susan Poole, and Timothy Rush to the Charter Review Commission effective January 1, 2013. According to the Avon Lake Charter, the Mayor shall appoint five members to the Charter Review Commission to serve in 2013.

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

Mr. O'Donnell moved to appoint Ronald Kaminski, Sandi Schickel, Crawford Tyree, and Steven Vass to the Charter Review Commission effective January 1, 2013. According to the Avon Lake Charter, Council shall appoint four members, one from each ward, to the Commission.

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

No: None

Motion carried.

LEGISLATION

Third Readings:

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.

Mrs. Fenderbosch moved for passage of Temporary Legislation #10060. 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.

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

No: None

Motion carried.

Ordinance No. 151-2012 adopted.

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.

Mr. Bucci moved for passage of Temporary Legislation #10067. The job description for this position was revised to accurately reflect the current qualifications and duties for the position.

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

No: None

Motion carried.

Ordinance No. 152-2012 adopted.

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.

Mr. Bucci moved for passage of Temporary Legislation #10068. The job description for this position was revised to accurately reflect the current qualifications and duties for the position.

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

No: None

Motion carried.

Ordinance No. 153-2012 adopted.

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.

Mr. Bucci moved for passage of Temporary Legislation #10069. This relates to a new part-time position created to assist the Mayor with economic development and retention and expansion of local businesses.

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

No: None

Motion carried.

Ordinance No. 154-2012 adopted.

Second 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.

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

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

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

No: None

Motion carried.

Mr. O'Donnell moved for passage of Temporary Legislation #10079. 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.

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

No: None

Motion carried.

Ordinance No. 155-2012 adopted.

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.

First Readings:

Temporary Legislation #10081, AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 668.06 ENTITLED NONCOMPLIANCE WITH NOTICE; REMOVAL BY CITY, AND SECTION 668.07 ENTITLED ASSESSMENT OF COST BY MUNICIPALITY, AND DECLARING AN EMERGENCY, was read by title only.

The Zoning Administrator recommended an amendment to Codified Ordinance Section 668.06 which deals with nuisance properties, particularly yard mowing. After proper notification, the City can go onto properties and mow when high grass is present. The City recoups the funds by filing a lien with the Auditor's office which is then placed on the tax duplicate. Due to foreclosures and other factors, the City

often does not recoup the funds for some time. The proposed amendments would provide for a more timely repayment and will provide the opportunity to bill the owner for the cost of the mowing. If there is no response from the property owner, the City can still go ahead and file the lien. The amendment also provides a surcharge of 15% to cover the administrative costs.

Temporary Legislation #10082, AN ORDINANCE AUTHORIZING THE REFURBISHMENT OF THE FIRE DEPARTMENT LADDER TRUCK, AND DECLARING AN EMERGENCY, was read by title only.

The Fire Chief recommended refurbishment of the present ladder truck rather than purchasing a new truck as a cost effective measure. Chief Eisenhardt recommended acceptance of the bid of Kovatch Mobile Equipment Corporation in the amount of \$364,446.00. A new truck was scheduled to be purchased in 2016 with an approximate cost of \$1.5 million. The refurbishment should extend the life the current truck until 2022.

Temporary Legislation #10083, AN ORDINANCE ENACTING CHAPTER 844 OF THE CODIFIED ORDINANCES TO PROVIDE FOR THE LICENSING AND REGULATION OF SCAVENGERS, was read by title only.

There have been concerns about scavengers going through trash and retrieving items put out for trash collection. One of the concerns is that items have been removed from yards that are not intended for trash collection. There have also been concerns about safety and who is driving around the neighborhoods and possibly casing properties. The legislation will not eliminate trash picking or scavengers, but will require scavengers to register with the City and pay an annual registration fee of \$15.00. A license will not be required for anyone who has permission from the owner to remove items left for trash pick-up.

Mr. Bucci stated that he understands and respects the intent of the legislation, but will not support it since he is philosophically opposed to it and feels there are laws in place with deal with the issues contained in the legislation.

Temporary Legislation #10010084, AN ORDINANCE AMENDING CHAPTER 208 OF THE CODIFIED ORDINANCES, ENTITLED GENERAL FEE SCHEDULE, was read by title only.

This ordinance will place the registration fee for scavengers in the General Fee Schedule.

Temporary Legislation #10085, AN ORDINANCE PROVIDING FOR TRANSFERS, AMENDMENTS TO PERMANENT APPROPRIATIONS, AND ADJUSTMENTS TO ESTIMATE REVENUES, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Meiners moved for passage of Temporary Legislation #10085. The Finance Director determined certain financial transactions are necessary for the immediate expenses of the City.

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

No: None

Motion carried.

Ordinance No. 156-2012 adopted.

Temporary Legislation #10086, AN ORDINANCE AMENDING RESOLUTION 87-2012 TO MAKE APPROPRIATIONS FOR THE CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF AVON LAKE FOR THE YEAR ENDING DECEMBER 31, 2013, AND DECLARING AN EMERGENCY, was read by title only.

This establishes a budget for the year 2013 as required by the County Auditor.

Temporary Legislation #10087, AN ORDINANCE ESTABLISHING TOOLS TO MANAGE THE WHITE TAIL DEER POPULATION WITHIN THE CITY OF AVON LAKE, AND REPEALING ORDINANCE NO. 165-2004, was read by title only.

This ordinance is based on a recommendation from the Environmental Affairs Advisory Board. The first section requires the Mayor to develop a deer management plan that would cull deer in the City and would require him to investigate and implement a possible contraception program. The second portion contains a provision that allows only the Avon Lake police, employees of the City, or agents of the City under the direction of the Mayor to perform culling. The ordinance also codifies the deer management ordinance that was adopted in 2004.

Mr. Kos stated that he intends to make a motion to amend the ordinance at the next Council meeting to add some safety and education requirements for the persons who will perform the culling. Mr. Kos asked for an explanation of the term "agent" in the proposed ordinance.

Mr. Meiners stated that he will not support the legislation because he is opposed to bow hunting and is opposed to hunting in the parks.

Temporary Legislation #10088, AN ORDINANCE APPROVING A WAGE INCREASE FOR RUTH BOOHER, ZONING ADMINISTRATOR, AND DECLARING AN EMERGENCY, was read by title only.

At the December 5, 2012 Human Resources Committee meeting, there was a motion to increase the salary of the Zoning Administrator to \$56,000 per year; the vote was 2-2. Another motion was made to increase the salary to \$29.50 per hour, or a little over \$61,000 per year; the vote was 2-2. The legislation contains a wage of \$26.93 per hour, a little over \$56,000 annually, which was the initial proposal. An amendment is expected at the second reading to increase the amount to \$29.50 per hour.

MISCELLANEOUS BUSINESS AND ANNOUNCEMENTS

On December 2, 2012, Mr. Shondel sent out an "Operations Fly the Flag" half-staff alert for Pearl Harbor Remembrance Day which is observed on December 7th. This and Patriots Day are the two days of the year when the flag is flown at half-staff from sunrise to sunset. On Memorial Day, the flag is flown at half-staff from sunrise until noon. On December 7th, Mr. Shondel observed that all flags at city owned buildings or properties were at half-staff. The flags at the school administration building, GenOn, Poly One, Commercial Benefits Group, Busch Funeral Home, Learwood Middle School, and St. Joseph's School were also at half-staff. The flags at Towne Center, Wendy's, Conrad Tires, and the Avon Lake Public Library were not. Anyone who has questions about flag protocol can contact John Shondel at osujohn@mac.com or at 930-6838.

PUBLIC INPUT

Doug Miller, 344 Crestwood Drive, expressed his support for the EMS levy. He further expressed his support for future funding of the EMS program through the general fund.

Mike Sweeney, 572 Bridgeside Drive, expressed support for deer culling to balance the herd. He stated that deer are responsible for more human deaths in the United States each year than any other animal. Deer are responsible for approximately 100 deaths each year, and \$1 billion of damage. The objective of the deer management program is the safety of the residents.

ADJOURNMENT

Mr. Meiners moved for adjournment.

Adjournment: 9:23 P.M.

Approved: _____
Council President

Attest: _____
Clerk of Council

