

**MINUTES OF THE RESCHEDULED MEETING
OF THE AVON LAKE MUNICIPAL COUNCIL
HELD DECEMBER 17, 2012**

The rescheduled meeting of the Avon Lake Municipal Council was called to order on December 17, 2012 at 7:30 P.M. in the Council Chamber with Council President O'Donnell presiding.

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

A moment of silence was held for the Newtown Connecticut December 14th school shooting tragedy.

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.

APPOINTMENT OF FIRE CHIEF

Temporary Legislation #10089, AN ORDINANCE CONFIRMING THE APPOINTMENT OF CHRISTOPHER HUERNER AS FIRE CHIEF OF THE AVON LAKE FIRE DEPARTMENT, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Bucci moved for passage of Temporary Legislation #10089. Mr. Huerner will fill the vacancy created by the request for voluntary reduction in rank by Glen Eisenhardt. Mr. Huerner scored second on the Civil Service eligibility list for the position of Fire Chief.

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

No: None

Motion carried.

Ordinance No. 163-2012 adopted.

Law Director Lieberman administered the Oath of Office to Mr. Huerner.

Mr. Meiners moved for adjournment to a Work Session.

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

No: None

Motion carried.

Adjournment: 7:40 P.M.

RECONVENING OF COUNCIL MEETING

The Council meeting was reconvened at 9:28 P.M.

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.

MAYOR'S REPORT

Mayor Zilka made the following announcements.

Several items no longer of use to the City were sold on govdeals.com, an internet auction site. The total amount in sales is \$14,222.11. Nine vehicles, an excavator, a dump truck, a Sony stereo system, and a video camera were sold.

Trees are being marked for removal throughout the City by the Service Department; specifically Bradford Pear trees that were damaged during the October storm.

COUNCIL PRESIDENT'S REPORT

Council will hold a special meeting on December 31, 2012 at 5:00 P.M. to deal with yearend financial transactions.

The next Collective Committee meeting is scheduled for January 7, 2013, and the next regular Council meeting is scheduled for January 14, 2013.

ENGINEERING DEPARTMENT REPORT

The Engineering Department weekly update was distributed.

LAW DIRECTOR'S REPORT

The Law Director's litigation update was distributed.

PUBLIC UTILITIES COMMITTEE REPORT

The Mayor and Council President O'Donnell attended the Westshore Mayors Association meeting with First Energy regarding response time after Hurricane Sandy. Mayors from Bay Village, Westlake, Fairview Park, Rocky River, and

Lakewood attended, along with First Energy representatives John Scorey and Karen Kirsch. Based on weather predictions, the storm was to hit the east coast somewhere along New Jersey and progress along the mainland into Pennsylvania. No one predicted the storm would move so far inland until Monday. Based on that information, 50 linemen from the 300 of this service area were sent to New Jersey before the storm hit. The first two days of the storm, the high winds did not permit any work using bucket trucks to restore power. Crews concentrated on taking care of live power lines and trees blocking roads. By day three, 800 line workers were brought in from other states to help the 340,000 customers affected by the storm. Over 60% of the customers were back on line by day three. The established protocol to deal with a major outage is to get as many customers back with power as soon as possible. This involves a concentration on substations that have the potential to get power back to the largest number of people. The strategy is to focus on main trunk lines and work on parts of the grid and move toward a progressively smaller number of customers in the grid. A multi-state storm requires the sharing of resources from neighboring states. Cuyahoga County responded to the storm and provided some help to the cities affected. ODOT was on the scene, but left Tuesday afternoon. Avon Lake issued the first Code Red call at 5:20 P.M. on October 29th before the storm hit, and the second call was issued at 4:30 P.M. on Tuesday advising residents the outage would be a multi-day event. The Fire Department was in constant contact with Lorain County Emergency Agency (EMA). On Wednesday, October 31st, EMA was contacted about providing shelter for residents of Meadow Vista. On Thursday, November 1st, a conference call was made with EMA and safety forces to arrange for shelter with residents in need. The Lorain County Emergency Response Team performed a door-to-door welfare check beginning on November 2nd and completed the task on November 3rd.

The designated contact person for Avon Lake personnel for any outage is Karen Kirsch from First Energy. She was in daily contact with City officials and safety forces. The regional protocol was followed in regard to restoring power to as many customers as soon as possible. First Energy did not see road closings as a primary issue. They made their evaluation of clearing roads based on the above referenced protocol. First Energy defended their protocol by stating that 300,000 customers were with power by day seven.

First Energy acknowledged that by not opening closed roads, they helped create the impression that they were not responding to the storm in a timely manner. Road closures will be first priority in the future. Each city will have dedicated mobilized crews and the mayors' offices will be contacted to identify neighborhood locations. In case of a crisis, the National Guard will be requested to mobilize according to proper protocol which will require action from the Governor. First Energy will provide maps of the power grid to local municipalities with the understanding that such information is sensitive. The power grid will not be made available to the public for security reasons.

To place power lines underground, it was estimated that the cost would be \$1 million per mile. Infrastructure is replaced only when a series of outages occur to the inconvenience of many residents. First Energy has an aggressive infrastructure program in place which will be made available to the mayors.

Residents are encouraged to report any power outage, no matter how brief, by calling 1-888-544-4877 to establish a record of power failures.

SAFETY COMMITTEE REPORT

Mr. Kos reported that on December 13, 2012, he met with the Mayor, Council President O'Donnell, Lt. Streator, and Lt. Moore to discuss City Hall safety, including emergency readiness, evacuation plans, and general safety of employees and visitors to City Hall. The Police and Fire Departments will present a plan of action to the Safety Committee within forty-five days.

SEWER COMMITTEE REPORT

Mrs. Fenderbosch reported on the Belmar sewer separation project discussed at the December 12, 2012 joint meeting between the Sewer Committee and Public Service Committee.

The next meeting of the Sewer Committee is scheduled for January 10, 2013 at 6:30 P.M. in the Council Chamber.

PLANNING COMMISSION REPORT

Due to the New Year's Day holiday, the Planning Commission meeting has been rescheduled to January 8, 2013 at 7:30 P.M.

ECONOMIC DEVELOPMENT ADVISORY BOARD REPORT

A joint meeting between the Economic Development Advisory Board and the Economic Development Committee is scheduled for December 20, 2012 at 6:30 P.M. to review a proposal.

AUDIENCE PARTICIPATION

Cheryl Slater, 162 Jamestown Parkway, presented Mr. Kos with a copy of hundreds of names of people who signed an online petition at avonlakedeer.com objecting to hunting in Avon Lake. Mr. Kos passed the document to Mayor Zilka who is the Director of Public Safety.

Dan Haude, 316 West Creek Drive, stated that he provided Council with a list of ten items he felt were lacking in the proposed deer management ordinance. One of the problems he identified deals with trapping, which he feels is unwise and illegal. He

referred to the 2012-2013 ODNR hunting regulations, which permit trapping for the following fur bearing animals: fox, raccoon, opossum, skunk, weasel, mink, muskrat, beaver, and river otter only. Another section called "Allowable Hunting Equipment for Deer", states that while hunting deer, a person in the State of Ohio is permitted to hunt with a long bow, cross bow, muzzle loaded rifle, muzzle loaded shotgun, shotgun, or handgun.

Mr. James encouraged Mr. Haude to call the City of Pepper Pike and discuss their deer trapping program which they do with the authorization of ODNR. He further stated that it is generally illegal to hunt deer with rifles in Ohio, but ODNR will exempt cities from the otherwise applicable deer regulations when they develop a deer management program. Therefore, deer trapping can occur in Ohio just as hunting with rifles provided there is special authorization from ODNR. Mr. James stated he is agreeable to amending the legislation to further clarify that it is not the intention of the City to conduct any trapping of white tail deer.

Michelle Murphy, 5554 Bay Hill, stated that she requested a map at a previous meeting which would parallel the language in the proposed deer management ordinance. Mayor Zilka stated he is working on it with the Engineering Department Manager. Ms. Murphy had questions regarding citizen notification of deer culling.

Mr. O'Donnell stated notification of culling would be done by the Police Department and Mayor's office, but the process has not yet been determined. Mr. O'Donnell stated that he is on record as being in favor of deer culling since there are too many deer in Avon Lake, and it is necessary to prevent any future serious or fatal deer vehicle accidents. He further stated Council is working with the administration to give the Mayor and Police Chief as many options as needed to run an effective program safely.

Ms. Murphy referred to research which shows the most serious deer vehicle accidents occur at speeds of 50 MPH or higher; Avon Lake speed limits are at 25 or 35 MPH. She asked Council to take this into consideration and pursue signage methods as an accident preventive measure. With reference to a pedestrian or bicyclist being struck by a car swerving to avoid a deer, Ms. Murphy referred to a campaign under way in four different states called "Don't Veer for Deer", which says it is better to hit the deer than swerve to get out of the way.

MOTIONS

Mr. Bucci moved to confirm the Mayor's appointment of Scott Orille to the Civil Service Commission for a term expiring December 31, 2013. Mr. Orille will fill the vacancy created by the resignation of Jack Hall and will serve out his term.

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

No: None

Motion carried.

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Mr. O'Donnell moved to confirm the Mayor's reappointment of Lynette Brausch and Jan Van Wager to the Parks & Recreation Commission for terms expiring December 31, 2015. Mr. O'Donnell commended these individuals for their dedicated work on the Commission and for their input on the Master Park Plan and other important issues.

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

No: None

Motion carried.

Mr. O'Donnell moved to confirm the Mayor's appointment of Peter Van Euwen to the Parks & Recreation Commission for a term expiring December 31, 2014. Mr. Van Euwen will fill the vacancy created by the resignation of Andrew Perry.

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

No: None

Motion carried.

Mr. Shondel moved to reappoint John Runyon to the Cable Advisory Commission for a term expiring December 31, 2015. Mr. Shondel reviewed Mr. Runyon's qualifications.

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

No: None

Motion carried.

Mr. Shondel moved to confirm the Mayor's reappointment of Mary Pajak to the Cable Advisory Commission for a term expiring December 31, 2015. Mr. Shondel reviewed Mrs. Pajak's qualifications.

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

No: None

Motion carried.

Mr. O'Donnell moved to confirm the Mayor's reappointment of Celia Bajda, James Schragle, Pat Vinch, and Terry Wyrock to the Tree Commission for terms expiring December 31, 2015. Mr. O'Donnell commended these individuals for their dedication and service on the Commission.

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

No: None

Motion carried.

Mrs. Fenderbosch moved to confirm the reappointment of Jim Simonovich to Planning Commission for a term expiring December 31, 2017. Mrs. Fenderbosch

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stated that Mr. Simonovich helped write the Land Use Plan and is a valued member of the Commission.

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

No: None

Motion carried.

Mr. Kos moved to reappoint Cynthia Sarady to the Avon Lake Historical Preservation Commission for a term expiring December 31, 2014. Mr. Kos commended Ms. Sarady for her dedication and service on the Commission.

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

No: None

Motion carried.

Mrs. Fenderbosch moved to authorize the Mayor to contact the mayors of Avon, Bay Village, and Sheffield Lake to enter into a Memorandum of Understanding for initial number of vehicles converting to propane and propane use at a central Avon Lake location at the Service Center on Route 83. The State of Ohio has offered a loan for the program; repayment is not due until the fourth year. Mrs. Fenderbosch stated that the head of the program advised her not to apply for a State grant because the grant is just for exploring the possibility of propane use for vehicles and Avon Lake has already completed that process.

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

No: None

Motion carried.

LEGISLATION

Third Readings:

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

Mrs. Fenderbosch moved for passage of Temporary Legislation #10073. 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.

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

No: None

Motion carried.

Ordinance No. 157-2012 adopted.

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.

Mrs. Fenderbosch moved for passage of Temporary Legislation #10074. 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.

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

No: None

Motion carried.

Ordinance No. 158-2012 adopted.

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

Mrs. Fenderbosch moved for passage of Temporary Legislation #10075. 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 entirety: 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.

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

No: None

Motion carried.

Ordinance No. 159-2012 adopted.

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

Mr. Meiners moved for passage of Temporary Legislation #10080. At the request of the State Auditor, the Finance Director developed a Debt Management Policy. This will enhance the City's bond rating.

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

No: None

Motion carried.

Ordinance 160-2012 adopted.

Second 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.

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

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

No: None

Motion carried.

Mr. Kos moved for passage of Temporary Legislation #10082. 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.

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

No: None

Motion carried.

Ordinance No. 161-2012 adopted.

Temporary Legislation #10083R, 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.

Temporary Legislation #10084, AN ORDINANCE AMENDING CHAPTER 208 OF THE CODIFIED ORDINANCES, ENTITLED GENERAL FEE SCHEDULE, was read by title only.

This ordinance will place the \$15.00 registration fee for scavengers in the General Fee Schedule.

In answer to Mrs. Fenderbosch, Mr. O'Donnell stated that he would consider raising the \$15.00 fee to help cover the City's cost of the required sign to be posted by the scavengers.

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 establishes a comprehensive deer management plan which involves three components; a culling program on City property and the possibility of bow hunting on certain property by agents of the City, an effort to secure authorization to conduct a contraception program, and the codification of the existing 2004 deer hunting program.

Mr. Kos stated he decided to withhold his amendment to the ordinance to place a moratorium on bow hunting to discuss the language of "wooded and undeveloped land" with the Police Chief and Mayor.

Mr. Kos moved to amend Temporary Legislation #10087 by adding the following language: vii. The Director of Public Safety shall consult with the Ohio Department of Natural Resources, Division of Wildlife and other persons or organizations knowledgeable in the safe and effective use of archery in an urban environment to develop and implement qualification standards for any designated member(s) of the Avon Lake Police Department, qualified employee(s) or contractual agents(s) of the City of Avon Lake. Such qualifications shall include but not be limited to demonstrating an understanding of the specific guidelines for culling of deer inside Avon Lake, the laws applying to bow hunting in the State of Ohio, as well as proficient use of any hunting implement intended for use inside city limits.

Mr. Kos stated that this amendment will address concerns regarding the specific qualifications of the persons performing culling in Avon Lake.

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Mr. James stated he will support the amendment and pointed out that as legislation is developed it is sometimes necessary to introduce amendments. The proposed amendment balances the requirement for qualifications and also provides the Mayor with discretion to determine what the qualifications should be. Over time, qualifications and circumstances can change.

Mr. Meiners stated that he supports any reduction of the deer population outside bow hunting.

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

No: Meiners

Motion carried.

Mr. James moved to amend Temporary Legislation #10087R to insert the word "contractual" before every use of the word "agent".

Mr. James stated this amendment is in response to a number of concerns that non-professionals would be permitted to cull deer in Avon Lake. By specifying that the agents are contractual, there is clarification that all culling will be performed by individuals under the control of the City of Avon Lake.

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

No: Meiners

Motion carried.

Mr. James moved to amend Temporary Legislation #10087R, Section 1 (b) as follows: "Except as otherwise provided by and excepting white-tailed deer, hunting by use of traps shall not be prohibited." The purpose of the amendment is to further clarify that the City does not intend to conduct its culling program through the use of traps, but will maintain the availability of trapping for other beneficial purposes.

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

No: None

Motion carried.

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

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

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

No: None

Motion carried.

Mr. Bucci moved for passage of Temporary Legislation #10088R. Mr. Bucci made the following comments. The Zoning Administrator's current salary is \$23.49 per hour. There have been protracted discussions regarding the duties and pay of the Zoning Administrator. The topic was first raised by the previous administration and former Law Director Kerner. On several occasions Mr. Kerner recommended that the City award the position PERS pick-up of the employee's contribution. Council did not act on the recommendation during the Zuber administration, and the City has since ended the practice of PERS pick-up for City employees. In February, Mayor Zilka recommended to the Human Resources Committee that the Zoning Administrator be granted a considerable salary increase to approximately \$72,000 per year retroactive to January 1, 2012. He also recommended that the Zoning Administrator be separated from the Law Department and report directly to the Mayor. The job description duties and responsibilities were to remain unchanged under Mayor Zilka's proposal. While there was agreement that the position required a salary adjustment, the Human Resources Committee did not consider the Mayor's proposal and did not formally act upon it. In light of the Committee's decision to not act on the Mayor's proposal, the HR Committee and Council felt they should work to find a middle ground solution that ties an appropriate level of compensation to the Zoning Administrator position. Therefore, the Council President and Mr. Bucci, as Chair of the Human Resources Committee, met on numerous occasions with Mayor Zilka, Engineering Manager Reitz, Law Director Lieberman, and former Human Resources Director Wintermeyer. They also reviewed documents prepared by the current Zoning Administrator. Mr. O'Donnell met with the Zoning Administrator on at least two occasions. Mr. Bucci stated he made the conscious decision not to meet with the Zoning Administrator. He said it has been his practice since becoming Chair of the Human Resources Committee to work through the Mayor and various department heads to gather information to make decisions that he feels are best for the residents, the operation of the City, and employees. Mr. Bucci stated he does this to remain objective and look at the position rather than the individual. After the Council President and Mr. Bucci held meetings and conducted a review of the job description, they made a recommendation to the Mayor that the position report to the Engineering Department Manager, and that drafting code provisions and documents to be used in court be done by the Law Director. Also, in an effort to alleviate time constraints, certain administrative functions could be tasked elsewhere. Mr. Bucci stated that it has been suggested that the Zoning Administrator is being punished by taking away these purely administrative duties and asking the Law Director to draft legal documents. Mr. Bucci stated that was not the intent. Mr. Bucci stated that he and the Council President recommended the salary be increased to \$56,000 per year. He said the Mayor supported these measures, and specifically the salary figure. The HR Committee considered only the salary at its December 5, 2012 meeting, at which time Mr. Bucci moved to increase the salary to \$26.93 per hour, or just over \$56,000 per year. That vote was deadlocked at 2-2 with Mr. Kos and Mr. Bucci voting in favor and Mr. Shondel and Mr. Meiners opposing. Mr. Shondel moved to increase the salary to \$29.50 per hour, or slightly more than \$61,000 per year. That vote was also tied 2-0 with the votes reversed. In an effort to allow Council to make a determination on both measures, Mr. Bucci stated he is proposing

the legislation with the \$56,000 level and expects an amendment to increase it to \$61,000. This way the seven members of Council can decide how they wish to break the 2-2 ties. Mr. Bucci stated he urges his colleagues to support the ordinance as drafted and the salary level of \$56,000 per year. This figure was the result of a fair amount of research, a comprehensive analysis of the job description, and the duties performed. It was also the amount the Mayor supported going into and during the December 5th HR Committee meeting.

Mr. Shondel moved to amend Temporary Legislation #10088R, adjusting the salary of Ruth Booher, Zoning Administrator, to \$29.50 per hour effective January 1, 2013. Mr. Shondel stated that this issue has a long history. It was first brought to the attention of Ms. Booher's immediate supervisor, then Law Director Kerner, and then HR Director Wintermeyer, and former Mayor Zuber. The matter was not resolved under the previous administration and brought to the HR Committee last spring. After much debate, research, and fact gathering, there is an opportunity to bring the matter to conclusion. Mr. Shondel stated he believes his amendment does so in an equitable manner to all concerned parties.

Mr. O'Donnell stated that the figure of \$56,000 was based on documents that he and Mr. Bucci prepared. He stated he has not received any documents from the administration outside of the job description as far as the percentage of work the individual performs. The individual has done a good job and Council is trying to reach a reasonable salary. Mr. O'Donnell stated that he feels an increase from \$48,000 to \$56,000 is a reasonable and fair number. He further stated that in discussion with the Law Director, a Zoning Administrator from another City earns around \$53,000 per year. He further stated that no documentation exists to define an additional increase of \$5000 above the recommended adjustment to \$56,000 when the Mayor was comfortable with the increase to \$56,000.

Mr. Shondel stated that he saw documents showing a range of salaries for the position. He further stated that he is not a human resource expert, but realizes there was quite a range and the number of \$61,000 that he picked was about half-way between the current salary and the high number in the range of similar jobs. In some communities of the same size, there may be more than one person performing the duties of Zoning Administrator.

Mr. O'Donnell stated that his concern is that he has not seen any documentation defining what other cities do that carries over to Avon Lake to justify the additional increase, and whether or not other employees in the City handle some of the responsibilities taken on by the Zoning Administrator. Mr. O'Donnell further stated that he has never seen a Council request a salary higher than what the administration requested. He said the City has responsibilities to other employees and should not make decisions based on feelings without documentation.

Mayor Zilka stated a study had been done by former HR Director Wintermeyer of various similar jobs throughout the area. The range was from \$55,000 – \$75,000.

Another study was done by the HR Director which showed a similar situation. The Mayor stated his original recommendation was based on those numbers. He agreed to the \$56,000 because he thought it was a small step in the right direction. He also stated that if the \$56,000 was approved, Council would be back several months later arguing the same situation. When the Zoning Administrator accepted the job several years ago, the job description was substantially smaller than what she actually does.

Yes: Meiners, Shondel, Fenderbosch, Kos
No: O'Donnell, Bucci, James
Motion carried.

Mr. James stated that he supports making the small step articulated by the Mayor. The person in the position deserves the small step. He further stated that the Mayor has indicated that a larger step should be taken to avoid arguing the same situation in a few months. Mr. James asserted that the Mayor is incorrect on that point. Council will be back arguing similar issues in a few months anyway because the job description has not been updated and needs to be updated. The Mayor brings up valid points about whether a full-time employee should be reporting to a part-time employee. The person in the current position may deserve the salary of \$61,000, but Mr. James stated he is concerned with setting a precedent and making decisions without relevant documentation such as an updated job description. In 2013 there will be an excellent opportunity to make a review of the departments and how they are organized and consider where the Zoning Administrator position should be contained within the organization and who she should report to. This can be done quickly in 2013 and will demonstrate to the residents that the decision is being made with additional information.

The roll was called on passage of Temporary Legislation #10088R with the amendment.

Yes: Meiners, Shondel, Fenderbosch, Kos
No: O'Donnell, Bucci, James
Motion carried.

Ordinance No. 162-2012 adopted.

First Readings:

Temporary Legislation #10090, A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES, AND DECLARING AN EMERGENCY, was read by title only.

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

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

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Motion carried.

Mr. Meiners moved for passage of Temporary Legislation #10090. The City is required to accept the necessary tax levies since the paramedic levy was approved by the voters and the election was certified by the Board of Elections.

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

No: None

Motion carried.

Ordinance No. 164-2012 adopted.

Temporary Legislation #10091, AN ORDINANCE AMENDING ORDINANCE NO. 132-2012, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mrs. Fenderbosch moved for passage of Temporary Legislation #10091. It was discovered there was an error in the name of the contractor in Ordinance 132-2012 approving a contract for the Drug Mart Plaza sewer connection. The ordinance will be amended to change the name Kendera Construction to Kendera Enterprises, Inc.

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

No: None

Motion carried.

Ordinance No. 165-2012 adopted.

Temporary Legislation #10092, AN ORDINANCE AUTHORIZING THE LAW DIRECTOR AND ASSISTANT LAW DIRECTOR TO APPEAR AS LEGAL COUNSEL ON BEHALF OF THE CITY OF AVON LAKE, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Meiners moved for passage of Temporary Legislation #10092. The Law Director requested authority to represent the City in a zoning case. Legal fees shall not exceed \$10,000.

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

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No: None

Motion carried.

Ordinance No. 166-2012 adopted.

Temporary Legislation #10093, A RESOLUTION TO ADOPT AND DECLARE A TEMPORARY BUDGET FOR THE YEAR 2013, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Meiners moved for passage of Temporary Legislation #10093. The temporary budget will allow the City to operate for the first quarter of 2013 until the permanent budget is approved.

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

No: None

Motion carried.

Ordinance No. 167-2012 adopted.

Temporary Legislation #10094, AN ORDINANCE PROVIDING FOR TRANSFERS, 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: Meiners, O'Donnell, Shondel, Bucci, Fenderbosch, James, Kos

No: None

Motion carried.

Mr. Meiners moved for passage of Temporary Legislation #10094. The Finance Director determined certain financial transactions are necessary for the immediate expenses of the City.

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

No: None

Motion carried.

Ordinance No. 168-2012 adopted.

PUBLIC INPUT

Chris Turner, 115 Parkwood Avenue, expressed his concerns with the deer management ordinance and the lack of requirements for disposal of the carcasses.

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He asked Council to take action to ensure carcasses are preserved and utilized and not simply disposed of.

Mr. James stated that the disposal of deer will be up to the discretion of the Mayor according to the proposed ordinance.

Mr. Kos stated that there is opportunity to amend the proposed ordinance if needed and that he will explore additional language to define the disposal process.

Mrs. Fenderbosch stated that, during a culling program, the meat can only be harvested through a processor. There is a USDA approved processor in Lorain County that charges \$75.00 per deer. If the City assumes that cost, then the City could guarantee the meat goes to the community or a charitable organization. Additionally, the animals must be field dressed immediately to preserve the meat. A plan for disposal should be in place.

Mayor Zilka stated that he will not approve of any culling program unless the proper and positive use of the meat is determined.

Chris Quinlan, 73 Community Drive, wished everyone a Merry Christmas.

John Uptmor, 32623 Admirals Way, asked Council to consider facts, and not emotions, when considering the deer management ordinance, and expressed his support for the culling program.

ADJOURNMENT

Mr. Meiners moved for adjournment.

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

No: None

Motion carried.

Adjournment: 11:25 P.M.

Approved: _____
Council President

Attest: _____
Clerk of Council