

**MINUTES OF THE REGULAR MEETING  
OF THE AVON LAKE MUNICIPAL COUNCIL  
HELD DECEMBER 8, 2014**

The regular meeting of the Avon Lake Municipal Council was called to order on December 8, 2014 at 7:30 P.M. in the Council Chamber with Council President O'Donnell presiding.

Present: Council Members Jennifer Fenderbosch, Rob James, David Kos, Larry Meiners, Marty O'Donnell, John Shondel; Mayor Zilka; Law Director Abe Lieberman; Director of Finance Steve Presley; Public Works Director Joseph Reitz; and Clerk of Council Barbara Dopp.

Absent: Dan Bucci

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

**APPROVAL OF THE MINUTES**

The minutes of the November 24, 2014 Council meeting were approved as prepared and published.

**CORRESPONDENCE**

Letters were received from Pin Oak Holdings and ABK Ltd. requesting emergency passage at the second reading of approval of the rezoning of property located on the south side of Webber Road.

**MAYOR'S REPORT**

Mayor Zilka made the following announcements.

The Recreation Department is offering a dinner and Christmas lights tour on December 12, 2014 from 5:00 – 8:30 P.M. The cost is \$12.00 for adults and \$6.00 for children.

The bald eagle nest on the Redwood School property is attracting a great deal of attention. The Recreation Director is working with the principal of the school to monitor the situation. Residents are welcome to view the eagles, but they need remain at a distance.

The piebald deer found in the road is in the hands of a taxidermist. Residents are raising funds to preserve the remains. Love-a-Stray is accepting donations.

Mr. Reitz announced that the Public Works Department is finishing up the fifth round of leaf pick-up. One more complete round will be done with all leaves being collected by Christmas.

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

The next Collective Committee Meeting is scheduled for December 15<sup>th</sup> and the next regular Council Meeting is scheduled for December 22<sup>nd</sup>. That will be the last Council meeting of this year.

A Budget Meeting was held on Saturday, December 6<sup>th</sup>. Council reviewed the capital and operating budgets. The capital budget highlights include the police vehicle changeover, the purchase of police body cameras, \$1.75 million for the street program, \$300,000 for storm water drainage projects, and funds for replacement of an ambulance.

### **PUBLIC WORKS DEPARTMENT REPORT**

Public Works Director Reitz stated that he received notice that the Ohio Public Works Commission (OPWC) notified him that District 9, which includes Lorain County, will be recommended for grant funds. Avon Lake will tentatively receive \$347,100 for the Jaycox Road paving project and replacement of the culvert. The total project is estimated to cost \$890,000.

### **LAW DEPARTMENT REPORT**

The Law Department update was distributed.

### **FINANCE DIRECTOR'S REPORT**

Finance Director Presley announced that once Council adopts the 2015 budget on December 22<sup>nd</sup>, it will be placed on the website.

### **ENVIRONMENTAL COMMITTEE REPORT**

The Environmental Committee is scheduled to meet December 10, 2014 at 6:00 P.M. in the Council Conference Room.

### **FINANCE COMMITTEE REPORT**

The Finance Committee will hold a joint meeting with the Sewer Committee on December 15, 2014 at 6:15 P.M.

### **SAFETY COMMITTEE REPORT**

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A Safety Committee meeting is scheduled for December 17, 2014 at 6:15 P.M. in the Council Conference Room.

A meeting for Legacy Pointe residents is scheduled for December 11, 2014 at 11:00 A.M. at the Safety Center to discuss the traffic on Legacy Parkway.

### **SEWER COMMITTEE REPORT**

The Sewer Committee is scheduled to meet December 11, 2014 at 6:30 P.M. in the Public Works Conference Room.

### **ZONING BOARD OF APPEALS**

Mayor Zilka reported on the results of the December 3, 2014 Zoning Board of Appeals meeting.

### **MOTIONS**

Mr. Meiners moved to accept the retirement of Mark Kopic, effective November 30, 2014.

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

No: None

Absent: Bucci

Motion carried.

Mr. Kos moved to instruct the Clerk of Council to return the form to the Division of Liquor Control indicating the City does not request a hearing in the matter of a new liquor license for Benny's located at 33451 Lake Road. The Police Chief has no objections to the new liquor license.

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

No: None

Absent: Bucci

Motion carried.

### **LEGISLATION**

Mr. Meiners moved to add Temporary Legislation #10432 to the agenda, making appropriations for the fiscal year 2015. The Finance Director prepared the budget for 2015 based on the budget meetings held by Council.

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

No: None

Absent: Bucci

Motion carried.

Mrs. Fenderbosch moved to add Temporary Legislation #10433, to vacate a portion of a utility easement at 33128 Lake Road. She made the following statements.

The property owner at 33128 requested the City to vacate 20 feet of a 50 foot easement. In 1968, the City was approached by the State of Ohio regarding a proposed rerouting of I-76. To achieve that, property needed to be purchased. On October 14, 1968, Council decided to purchase an easement to obtain a storm sewer outlet from the rerouted I-76 to Lake Erie. The property was approximately 425 feet deep with 100 foot footage with a house and garage located on the property. The seller would have the right to occupy the premises until January 15, 1969 with the usual conditions for each party to pay half of the escrow fee with the seller paying the real estate commission. There was an attempt to obtain an easement, but the property owner in 1968 did not wish to impair his chances to sell the property. There was an offer to purchase the property with the storm sewer easement for \$24,000; with the escrow fee, the City purchased the property for \$31,000. On November 13, 1972, Council spoke at their meeting about selling the property. It would be necessary that the easement be prepared in order that a storm sewer outlet to Lake Erie be installed and maintained. Mr. Hausrod moved to authorize the Engineer to prepare the necessary easement for a future storm water outlet. In 1974, Mr. Hausrod said the property at 33128 Lake Road had been reappraised at \$25,000. They went out for bids and three bids were received. The winning bid was in the amount of \$28,010 and was awarded to the Joneses; the Joneses trust is now in control of the property. This was filed March 12, 1975. The Public Works Director has said that a 30 feet easement is sufficient.

From 1973 to the present, 23 easements have been vacated by the City of Avon Lake and none of them involved a monetary value. In one instance, the developer agreed to pay \$5000 as a contribution to the bike path through Resatar Park. In another case, the property owners at 220 and 228 Duff Drive were required to install curbs, sidewalks, landscaping, topsoil and seeding of the property; there was no financial exchange. There have been 9,300 square feet of property vacated, along with Westwinds Block D, without any transfer of money. Over 5 acres of land were vacated by the City in 1994 along Knickerbocker Road and the railroad tracks to create a development without any exchange of money. In 2013 every Council person was part of the vacation approval. On September 9, 2013, the City vacated a 152 square foot portion of a retention basin in Coronado Cove with no exchange of money. Easements on personal property are difficult to trace because of the way they are titled. An example is on Gable Lane. There was a utility easement running from Gable Lane straight through two properties to Monaco Place. The developer chose to bring the utilities through Jaycox. The two adjacent property owners approached the City and the easement was vacated without an exchange of money. Mrs. Fenderbosch stated that her concern is twofold. Should the City give up property? Many Council members agree that it should benefit the entire community and not vacate property. However, is this the appropriate time during a transaction

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and penalize an individual when the City has a history of vacating easements without any financial reimbursement.

Mr. O'Donnell stated that he has concerns. The legislation being added to the agenda grants the vacation, but does not address the monetary value. He asked the Law Director what is the best way to handle the issue from a legal standpoint since the financial aspect has not been determined. The Law Director stated that he would feel more comfortable if both issues were handled in one ordinance. If the easement is to be granted, he recommends that the value be determined. By having an ordinance that would authorize the vacation without knowing if the City will expect a dollar amount, would seem that Council would be delegating its authority to the Finance Committee.

Mrs. Fenderbosch stated that the buyer and seller approached the City last August and the bank has given them until December 31, 2014 to close the transaction.

Mr. O'Donnell stated that he recommends following the Law Director's recommendation and suggested scheduling a joint meeting between the Sewer Committee and Finance Committee. Mr. Lieberman agreed that a joint meeting would be appropriate. He further stated that he has no input as to how much the City should charge or if there should be any charge for the easement. If there is to be a value, he recommends it be stated in the ordinance granting the easement.

Mrs. Fenderbosch asked if Council would like to have a City-wide policy in place for future requests for vacations of easements. Mr. O'Donnell agreed that it is something Council should discuss and develop.

Mr. James referred to the 2013 easement vacation Mrs. Fenderbosch referred to in her report. He said that, in that case, the easement recommendation came out of the Public Service Committee. The Public Service Committee was advised by the administration that vacation of easements is not something the City regularly does, but in that specific instance the administration recommended it because it involved a physically disabled individual. The easement was vacated as an accommodation for that individual. Mr. James stated that context is particularly important when Council considers vacating property.

The property in question is located west of St. Joseph Church and just northwest of the asphalt path at Bicentennial Park.

Mr. Kos pointed out that he recalls voting on two easement vacations, one of which was for a business, and there was no discussion of financial compensation.

In view of the Law Director's recommendation, Mrs. Fenderbosch withdrew her motion to add Temporary Legislation #10433 to the agenda. The issue will be discussed at the joint meeting between the Sewer and Finance Committees on December 15, 2014 at 6:15 P.M.

Third Readings:

Temporary Legislation #10401, AN ORDINANCE AMENDING PLANNING & ZONING CODE SECTION 1268.03 (a), was read by title only.

Mrs. Fenderbosch moved for passage of Temporary Legislation #10401. This item was first recommended to Planning Commission by Council. Planning Commission approved the recommendation to reduce the composition of the Avon Lake Historical Preservation Commission from seven to five members, three members who will be appointed by Council and two members who will be appointed by the Mayor.

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

No: None

Absent: Bucci

Motion carried.

**Ordinance No. 153-2014 adopted.**

Temporary Legislation #10402, AN ORDINANCE AMENDING PLANNING & ZONING CODE SECTION 1268.06 (d), was read by title only.

Mrs. Fenderbosch moved for passage of Temporary Legislation #10402. This item was first recommended to Planning Commission by Council. Planning Commission approved the recommendation to waive the Planning Commission agenda fee for applications for historic designation.

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

No: None

Absent: Bucci

Motion carried.

**Ordinance No. 154-2014 adopted.**

Temporary Legislation #10418, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL SERVICE AGREEMENT WITH JAMES G. ZUPKA, C.P.A., INC., AND DECLARING AN EMERGENCY, was read by title only.

Mr. Meiners moved for passage of Temporary Legislation #10418. The Finance Director recommended hiring James G. Zupka, C.P.A. for the GAAP and CAFR audits for the years 2014 through 2016. James G. Zupka has worked well for the City in previous years.

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

No: None

Absent: Bucci

Motion carried.

**Ordinance No. 155-2014 adopted.**

Temporary Legislation #10419R, AN ORDINANCE APPROVING WAGE INCREASES FOR PART-TIME NON-BARGAINING UNIT PERSONNEL, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Meiners moved for passage of Temporary Legislation #10419R. This Ordinance will approve 2% wage increases for all part-time non-bargaining unit employees effective July 1, 2014, 2015, and 2016. This is the same increase agreed to in the collective bargaining unit contracts.

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

No: None

Absent: Bucci

Motion carried.

**Ordinance No. 156-2014 adopted.**

Second Reading:

Temporary Legislation #10421, AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CRA TAX INCENTIVE AGREEMENT WITH TOWNE CENTER APARTMENTS, LTD AND TOWNE CARE CENTER LLC WITHIN THE COMMUNITY REINVESTMENT AREA, AND DECLARING AN EMERGENCY, was read by title only.

This tax abatement request is relative to the final phase of Towne Center to include construction of a 62 unit congregate care facility. There was an original abatement approved in 2008, but due to the economy that phase of the project was not realized and the abatement agreement was never used. This abatement request is for a renewal of the 2008 agreement. The project is for a \$6.2 million investment creating 32 additional jobs and an annual payroll of \$760,000 per year.

First Readings:

Temporary Legislation #10426, AN ORDINANCE TO REZONE PROPERTY ON THE SOUTH SIDE OF WEBBER ROAD, AND DECLARING AN EMERGENCY, was read by title only.

Mrs. Fenderbosch referred to a projected map illustrating the areas for proposed rezoning. This and the next ordinance would authorize the rezoning of two parcels from light industrial to multi-family. The first parcel encompasses 13.81 acres of land. One of the benefits of the rezoning is that it would effect buffering between the industrial zoning and R-1 single family zoning. Another benefit is that it would expand the adjacent 1634 acres of the R-2 multi-family zoned area in a contingent and logical pattern that will decrease the perception of spot zoning. Since the current amount of land that is zoned as R-2 multi-family is a very small percentage of the residential land within the City, the addition of more R-2 multi-family land will allow for a more balanced mix of residential housing types. The proposal to rezone

to R-2 multi-family residences is in accordance with the Land Use Plan's development policies. The Land Use Plan states that one of the three fundamental residential goals of the Plan is to offer greater opportunities for diverse housing types and values so that newly married couples, as well as older residents, can remain in Avon Lake. The Land Use Plan also identifies acceptable locations for higher densities. The proposed location for the rezoning falls within the definition of acceptable location for higher density. The two requests for rezoning are for adjacent properties. The proposed rezoning was approved unanimously by Planning Commission at the December 2, 2014 Planning Commission meeting.

Temporary Legislation #10427, AN ORDINANCE TO REZONE PROPERTY ON THE SOUTH SIDE OF WEBBER ROAD, AND DECLARING AN EMERGENCY, was read by title only.

This rezoning request was covered in the previous ordinance discussion. The developer has stated that he will pay for his portion of Webber Road improvements, and will install curbs and drainage. Additionally, he will install either a multi-modal path or will deposit an additional \$150 per residence into the recreation fund.

Temporary Legislation #10428, AN ORDINANCE PROVIDING FOR THE DESIGNATION OF FIRST MERIT BANK, LORAIN NATIONAL BANK, US BANK, FIFTH THIRD BANK, KEY BANK, HUNTINGTON NATIONAL BANK, AND FIRST FEDERAL OF LAKEWOOD AS PUBLIC DEPOSITORIES OF THE CITY AND AWARDED THE DEPOSIT OF ACTIVE FUNDS FOR THE PERIOD COMMENCING JANUARY 1, 2014 AND ENDING JANUARY 31, 2020, AND DECLARING AN EMERGENCY, was read by title only.

The Finance Director has recommended these banks as the depositories for the City's funds.

Temporary Legislation #10429, AN ORDINANCE AUTHORIZING THE ASSISTANT LAW DIRECTOR TO ENTER INTO A CONSENT JUDGMENT ENTRY AND SETTLEMENT AGREEMENT IN LORAIN COUNTY CASE NO. 08CV158796, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Absent: Bucci

Motion carried.

Mr. O'Donnell moved for passage of Temporary Legislation #10429. There is a proposed Settlement Agreement in the Jack Redilla lawsuit involving a decision by the Zoning Board of Appeals. This case has been before the Court of Common Pleas and the Court of Appeals several times. The parties have reached a

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Settlement Agreement which involves an exchange of property and an increase in frontage. Assistant Law Director David Graves recommends the Settlement Agreement and requests that Council approve the Agreement. The Consent Judgment would adjust the property lines between the Redilla's property and their neighbor's property. Both parties have signed the Consent Judgment Entry.

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

No: None

Absent: Bucci

Motion carried.

**Ordinance No. 157-2014 adopted.**

Temporary Legislation #10430, AN ORDINANCE AMENDING ORDINANCE NO. 152-2014, 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, Fenderbosch, James, Kos

No: None

Absent: Bucci

Motion carried.

Mr. Meiners moved for passage of Temporary Legislation #10430. The Finance Director met with the City's bond counsel and the City's financial advisors relative to the refinancing of the water system bonds which has been previously approved. The Chief Utilities Executive decided to shorten the duration of the financing and raise the cap. This ordinance will approve the amendments.

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

No: None

Absent: Bucci

Motion carried.

**Ordinance No. 158-2014 adopted.**

Temporary Legislation #10431, AN ORDINANCE PROVIDING FOR TRANSFERS, 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, Fenderbosch, James, Kos

No: None

Absent: Bucci

Motion carried.

Mr. Meiners moved for passage of Temporary Legislation #10431. The Finance Director determined certain transfers of funds are necessary for the immediate expenses of the City.

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

No: None

Absent: Bucci

Motion carried.

**Ordinance No. 159-2014 adopted.**

Temporary Legislation 10432, AN ORDINANCE TO MAKE APPROPRIATIONS FOR THE CURRENT AND OTHER EXPENDITURES OF THE CITY OF AVON LAKE FOR THE FISCAL YEAR 2015, AND DECLARING AN EMERGENCY, was read by title only.

This ordinance establishes the budget for the year 2015. It is reflective of the budget meetings held by Council.

#### **MISCELLANEOUS BUSINESS AND ANNOUNCEMENT**

Toys will be accepted for the "Toys for Tots" program until December 15<sup>th</sup>. Drop off locations are at City Hall, the Safety Center, the Avon Lake Public Library, Avon Lake Water, and Ridge Cleaners on Pin Oak Parkway.

#### **PUBLIC INPUT**

Chris Quinlan, 73 Community Drive, asked why Temporary Legislation #10432 was not listed on the agenda.

Mrs. Dopp explained the agenda was published before she received instructions to prepare the ordinance and therefore, it was added to the agenda by motion.

Adjournment: 8:55 P.M.

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

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