

**MINUTES OF THE REGULAR MEETING
OF THE AVON LAKE MUNICIPAL COUNCIL
HELD JUNE 23, 2014**

The regular meeting of the Avon Lake Municipal Council was called to order on June 23, 2014 at 7:30 P.M. in the Council Chamber with Council President O'Donnell presiding.

Mrs. Fenderbosch led the Council, staff, and public in reciting the Pledge of Allegiance.

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

APPROVAL OF MINUTES

The minutes of the June 9, 2014 Regular Council Meeting and the June 16, 2014 Special Council Meeting were approved as prepared and published.

PUBLIC HEARING

A Public Hearing upon the Plan of Operation and Governance for the aggregation of competitive retail natural gas was called to order at 7:32 P.M. A draft of the Plan was distributed to Council and the media. It is the same Plan of Operation that other participating communities are operating under. The second required Public Hearing will be held on July 14, 2014 at 7:30 P.M.

The Public Hearing was closed at 7:34 P.M.

MAYOR'S REPORT

The Krebs Road/Lear Road Intersection Project is planned for the end of the paving season.

Swim lessons have begun and the pool will be open from 1:00 P.M. to 8:00 P.M. Monday to Friday, and 11:00 A.M. to 8:00 P.M. on Saturday and Sunday for open swim.

The next summer concert at Miller Road Park will take place on June 29th with Rachel Brown and the Beatnik Playboys providing the entertainment. The Humbuckers will perform on July 6th. The next Movie under the Stars will take place on July 11th with the film "Cool Running."

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Recreation Director Gerrone will submit a report on the first six months of the Recreation Department activities.

Tennis lessons, basketball, Safety Town, Camp Imagine, and the Green Box Program have all begun.

The Independence Day fireworks celebration will be held on July 3rd at Weiss Field. Activities begin at 7:00 P.M.

COUNCIL PRESIDENT'S REPORT

A Special Council Meeting will be held on June 30th. The purpose of the meeting is to consider the second readings of the EMS levy and operating levy ordinances, the deer management ordinance, and the natural gas aggregation ordinance. The special meeting is being held in order for the issues to be voted upon before Council recess.

The next Collective Committee meeting is scheduled for July 7th and the next regular Council meeting is scheduled for July 14th. Council will be on recess from July 15th to August 17th.

Mr. O'Donnell recognized the Avon Lake Waterfront Corporation for the successful Waterfront Wine Fest held June 21st.

PUBLIC WORKS DEPARTMENT REPORT

The Public Works Department weekly update was distributed.

Asphalt work continues at the Lear Road/Walker Road intersection; the intersection will be closed June 23rd and June 24th from 10:00 P.M. until 7:00 A.M. Asphalt paving is being done on various streets throughout the City.

Mrs. Fenderbosch stated that she has received phone calls regarding the Walker Road and Lear Road intersection and the difference in elevation with the road and sidewalks. Mr. Reitz stated that prior to and after the project, Walker Road will set the crown. By bringing it up and setting curbs, positive drainage will be created to prevent standing water.

Portions of Lake Road are closed as part of the Moorewood Sewer Project.

In the event of a natural gas leak, residents should call 911 and get in touch with the Fire Department.

LAW DIRECTOR'S REPORT

The litigation update was distributed.

FINANCE DIRECTOR'S REPORT

Finance Director Presley stated that on June 24th bids will be accepted electronically for the notes for the various projects; bids must be in by 11:00 A.M. The sale of the notes will be awarded to the company with the lowest net interest costs.

ENVIRONMENTAL COMMITTEE REPORT

Mr. Kos stated that he was disappointed to learn that the proposed deer management legislation will make Avon Lake ineligible for the NOACA signage program. He asked Mr. Shondel to consider adding language to the proposed ordinance to allow Avon Lake to participate in the NOACA deer signage program and create a controlled area.

HUMAN RESOURCES COMMITTEE REPORT

The Human Resources Committee is scheduled to meet July 7, 2014 at 6:15 P.M.

PUBLIC SERVICE COMMITTEE REPORT

Mr. James reported the Public Service Committee met on June 23, 2014 and discussed the following items: a Resolution of No Interest; bid advertisement for street striping; the Folger Home lease; and a grant to the Soccer Club. The purchase of property was discussed in Executive Session.

PUBLIC UTILITIES COMMITTEE REPORT

Mr. Shondel reported the first Public Hearing upon the natural gas aggregation program was held earlier in the meeting. After the second required Public Hearing on July 14th and the Plan of Operation and Governance is adopted, all natural gas customers not under a current contract will receive an opt-out letter. A sample of the letter was distributed to Council members.

Due to the July 4th holiday, the July Public Utilities Committee meeting is cancelled. The next meeting of the Public Utilities Committee meeting is scheduled for September 4, 2014.

SEWER COMMITTEE REPORT

The Sewer Committee is scheduled to meet July 10, 2014 at 6:30 P.M. in the Engineering Conference Room.

LEGISLATION

Third Readings:

Temporary Legislation #10343, A RESOLUTION RENEWING RESOLUTION NO. 132-94 ESTABLISHING AND DESCRIBING THE COMMUNITY REINVESTMENT AREA AND DESIGNATING A HOUSING OFFICER TO ADMINISTER THE PROGRAM, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #10343. This ordinance designates the entire City of Avon Lake as the community reinvestment area.

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

No: None

Motion carried.

Ordinance No. 82-2014 adopted.

Temporary Legislation #10344, AN ORDINANCE REVOKING THE COMMUNITY REINVESTMENT AREA AGREEMENT BETWEEN THE CITY OF AVON LAKE AND CHEMTRON CORPORATION/GUENTHER REAL ESTATE LLC, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #10344. In 2007 the City of Avon Lake entered into a Community Reinvestment Area Agreement with Chemtron. Chemtron's business plans have changed and they no longer wish to pursue the tax abatement agreement.

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

No: None

Motion carried.

Ordinance No. 83-2014 adopted.

Temporary Legislation #10345, AN ORDINANCE REVOKING THE COMMUNITY REINVESTMENT AREA AGREEMENT BETWEEN THE CITY OF AVON LAKE AND NATIONAL FLEET SERVICES OF OHIO, LLC, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #10345. In 2008 the City of Avon Lake entered into a Community Reinvestment Area Agreement with National Fleet Services of Ohio, LLC. The company's business plans have changed and they no longer wish to pursue the tax abatement agreement.

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

No: None

Motion carried.

Ordinance No. 84-2014 adopted.

Temporary Legislation #10347, AN ORDINANCE APPROVING THE IMPROVEMENT PLANS FOR LEGACY POINTE PHASE 8, was read by title only.

Mrs. Fenderbosch moved for passage of Temporary Legislation #10347. This phase consists of 18 single family homes connecting to the existing English Turn and creates the new street Turnberry Court.

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

No: None

Motion carried.

Ordinance No. 85-2014 adopted.

Temporary Legislation #10348, AN ORDINANCE APPROVING THE IMPROVEMENT PLANS FOR WATERSIDE CROSSING NORTH, PHASE 2, was read by title only.

Mrs. Fenderbosch moved for passage of Temporary Legislation #10348. This phase creates the new private street Brookcrest Place, east off the turn around, north off Walker Road, and south off Canterbury Road, and creates 31 single family lots.

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

No: None

Motion carried.

Ordinance No. 86-2014 adopted.

Second Readings:

Temporary Legislation #10356, AN ORDINANCE CONFIRMING THE APPOINTMENT OF STEPHANIE BIGGERS AS SENIOR PRODUCTION ASSISTANT FOR THE CITY OF AVON LAKE, ESTABLISHING THE RATE OF COMPENSATION FOR SAID POSITION, AND DECLARING AN EMERGENCY, was read by title only.

The Cable Studio Manager recommended promoting Ms. Biggers from the position of Production Assistant to the position of Senior Production Assistant in the cable studio.

Temporary Legislation #10357R, AN ORDINANCE APPROVING A SALARY ADJUSTMENT FOR CHRISTOPHER HUERNER, FIRE CHIEF, was read by title only.

The Mayor recommended adjusting the salary of the Fire Chief to \$96,920 to make it equal to that of the Police Chief. The increase amounts to \$1629.95. Mr. Kos stated that the ordinance does not have to be an emergency since the salary will be retroactive to January 1, 2014.

Temporary Legislation #10358, AN ORDINANCE AUTHORIZING THE PURCHASE OF TURN OUT GEAR FOR THE FIRE DEPARTMENT, AND DECLARING AN EMERGENCY, was read by title only.

The Fire Chief recommended the purchase of nine sets of turn out gear in the amount of \$2714 each. It was decided that replacement of all turn out gear would be spaced over two years; ten more sets will be purchased next year. The new turn out gear will bring the equipment up to the national standard.

Temporary Legislation #10359, AN ORDINANCE APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PART OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES; PROVIDING FOR THE ADOPTION AND PUBLICATION OF NEW MATTER IN THE UPDATED AND REVISED CODIFIED ORDINANCES, AND DECLARING AN EMERGENCY, was read by title only.

American Legal Publishing has completed the updating of the Codified Ordinances, and this ordinance will accept and adopt the revisions.

Temporary Legislation #10360, A RESOLUTION TO ADOPT AND DECLARE THE TAX BUDGET FOR THE YEAR 2015, AND DECLARING AN EMERGENCY, was read by title only.

This is the first step in preparing the budget for the year 2015. The City is required to submit the tax budget to the Lorain County Auditor.

Temporary Legislation #10361, AN ORDINANCE AUTHORIZING A PAYMENT TO NORFOLK AND SOUTHERN RAILWAY COMPANY FOR DESIGN REVIEW, AND DECLARING AN EMERGENCY, was read by title only.

As part of the Krebs Road/Lear Road Intersection Project, new traffic lights will be installed and it is necessary to coordinate the lights with the railroad. Norfolk and Southern has submitted an estimate of \$15,389 to review the engineering project design.

First Readings:

Temporary Legislation #10362, A RESOLUTION SUBMITTING THE QUESTION OF A RENEWAL OF A TAX LEVY FOR THE PURPOSE OF PROVIDING AMBULANCE AND EMS SERVICES TO THE CITY OF AVON LAKE PURSUANT TO OHIO REVISED CODE SECTION 5705.19 (I), AND DECLARING AN EMERGENCY, was read by title only.

The County Auditor certified the estimated dollar revenues would be \$1,550,263 with the passage of the EMS renewal levy. This is a three year levy. If approved, this levy will become effective January 1, 2016. This renewal levy will be placed on the November ballot rather than on the ballot next May since the general election usually has a larger turnout and the expense to the City is lower in a general election. Finance Director Presley explained that the State of Ohio subsidizes property taxes by 10% for residential property and 2.5% for owner occupied properties. For every

dollar that is levied on owner occupied property taxes, the State is actually paying 12.5%. If the renewal levy is changed in any way, the subsidy will be reduced.

Temporary Legislation #10363, A RESOLUTION SUBMITTING THE QUESTION OF THE RENEWAL OF A TAX LEVY FOR THE PURPOSE OF PROVIDING FOR THE CURRENT EXPENSES OF THE CITY OF AVON LAKE, PURSUANT TO OHIO REVISED CODE SECTION 5705.19 (A), AND DECLARING AN EMERGENCY, was read by title only.

The County Auditor has certified that the amount of estimated dollar revenues that would be generated by a renewal levy is \$920,260. The renewal is a five year levy which will begin with the fiscal year 2016. The current levy is in place for the year 2015. This renewal levy will be placed on the November ballot.

Temporary Legislation #10364, AN ORDINANCE APPROVING THE EXECUTION OF THE CONTRACT FOR THE MOOREWOOD AREA COMBINED SEWER SEPARATION PROJECT, AUTHORIZING THE CITY TO PAY UP TO \$2,600,000 TOWARD THE PAYMENTS REQUIRED UNDER SUCH CONTRACT, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. Meiners moved for passage of Temporary Legislation #10364. The Municipal Utilities will award the contract for the project and this ordinance will approve the execution of the contract and authorize payment of the City's portion of the project. The sale of notes to finance the project was previously approved by Council.

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

No: None

Motion carried.

Ordinance No. 87-2014 approved.

Temporary Legislation #10365, AN ORDINANCE TO ALLOW THE CITY AND PRIVATE CITIZENS TO MANAGE THE WHITE TAILED DEER POPULATION WITHIN THE CITY OF AVON LAKE, REPEALING CURRENT SECTION 618.12 OF THE CODIFIED ORDINANCES AND ORDINANCE NO. 4-2013, AND ENACTING NEW SECTION 618.12 OF THE CODIFIED ORDINANCES.

Mr. Shondel made the following comments. The current Codified Ordinance Section 618.12 proved to be ineffective to manage the white tailed deer for several reasons. The main reason is that after all the detailed safety restrictions were written into the ordinances, there were almost no locations within the City that would permit deer

shooting. The new ordinance will allow the taking of deer by bow hunters as prescribed under Ohio Revised Code Section 1501:31-15-11 and operating under a Deer Damage Control Permit issued by the Department of Wildlife and a Municipal Deer Control Permit issued by the Avon Lake Police Chief, or his designee. Site visits will be required before either permit is issued. All shooters listed on the Deer Damage Control Permit must possess a valid Ohio Hunting License and must have completed the Ohio Hunter Education Course.

Mr. Kos asked Mr. Shondel if there was an attempt to have the Engineering Department produce a map showing properties with reduced setbacks and acreage. Mr. Shondel stated that he relied on the Mayor's report that the current legislation is ineffective.

Mr. Kos referred to the Whereas clause that contains contraception as a tool to manage deer. Mr. Kos stated that this is no longer a realistic option and asked Mr. Shondel to consider removing it from the legislation. Mr. Shondel stated that he agreed with Mr. Kos and that there appears to be little likelihood that the State of Ohio will approve a contraceptive program. He stated that he will consider removing the contraceptive language from the ordinance.

Mayor Zilka stated that the safety of the residents is his primary objective. He further stated that, as the ordinance is implemented, he has complete confidence in the good judgment of the Ohio Department of Wildlife and the Avon Lake Police Chief who will have a very important part in enforcing the legislation. Conditions will exist where a safe deer reduction program can take place on a specific piece of property under certain specific guidelines. There has been a second incident in Avon Lake of a deer jumping through a resident's window causing severe damage. There is concern with deer/vehicle accidents which have increased dramatically. This is a long term program and significant change may not be seen for several years, but eventually there will be a decline in the deer population resulting in a manageable herd.

Mr. O'Donnell asked Chief Streater to give background on the development of the legislation. Chief Streater made the following comments. The Police Department did play a role in the development of the legislation along with the Mayor and Mr. Shondel. They learned that with the restrictions in the current deer management ordinance, there is little that can be done. In the proposed ordinance, the residents will have an opportunity to take care of a deer problem if they choose to do so. Common sense will rule when granting a Deer Management Permit and the safety of residents will not be put in jeopardy.

Mr. Kos stated that some residents are concerned for the safety of residents whose property borders property where deer shooting may take place. He stated that he has confidence in Chief Streater, but there should be specific guidelines in the legislation that will be upheld by Chief Streater's successor. Chief Streater stated that safety is the number one concern of the Police Department. He further stated

that he is confident that whoever replaces him would have the same philosophy. Ultimately, Council would approve the hiring of the new Chief. Chief Streator further stated that the Police Department is not going to create a problem for themselves or any person in the administration.

Mr. Kos asked if Chief Streator would consider it a positive step if the Police Department created an internal standardized operating procedure. Chief Streator stated that there will definitely be guidelines, but not a step by step procedure. Since every property is different, it would be impossible to create an exact procedure. Procedures can be adjusted as the process moves along. It would be easier to adjust procedures than legislation; legislation should give a broad idea of what to do rather than give the exact procedures. Different situations call for different procedures. If the legislation is too specific, it ties the hands of the Police Chief.

Mr. O'Donnell stated that the Police Chief needs to develop the procedure; it should not be legislated. He further stated there are safety issues that need to be addressed such as the increase in deer/vehicle accidents, poachers, and Lyme disease.

Mrs. Fenderbosch stated that the proposed ordinance gives property owners their property rights. According to Chief Streator, he will not cause conflict between neighbors. The proposed ordinance is about management and not restraints.

Temporary Legislation #10366, AN ORDINANCE APPROVING THE PLAN OF OPERATION AND GOVERNANCE FOR THE NOPEC GAS AGGREGATION PROGRAM FOR THE PURPOSE OF JOINTLY ESTABLISHING AND IMPLEMENTING A GAS AGGREGATION PROGRAM, AND DECLARING AN EMERGENCY, was read by title only.

The Plan of Governance was distributed to Council. It is the same Plan governing all the other member communities.

MISCELLANEOUS BUSINESS AND ANNOUNCEMENTS

The Water Fest will be held August 9, 2014 from noon until 8:00 P.M. at Miller Road Park. There will be various water related activities.

PUBLIC INPUT

Jay Seaton, 608 Treeside Lane, thanked Council for pursuing the gas aggregation program.

EXECUTIVE SESSION

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In compliance with Ohio Revised Code 121.22, Mr. Meiners moved to adjourn to Executive Session to discuss collective bargaining matters.

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

No: None

Motion carried.

Adjournment: 8:45 P.M.

RECONVENING OF OPEN COUNCIL MEETING

The Council meeting was reconvened at 10:30 P.M.

Present: Council President Marty O'Donnell; Council Members Dan Bucci, Jennifer Fenderbosch, Rob James, David Kos, Larry Meiners, John Shondel; Mayor Zilka; Law Director Abe Lieberman.

Mr. James moved for adjournment.

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

No: None

Motion carried.

Adjournment: 10:31 P.M.

Approved:


Council President Pro Tem

Attest:


Clerk of Council