

**MINUTES OF THE REGULAR MEETING
OF THE AVON LAKE MUNICIPAL COUNCIL
HELD JULY 14, 2014**

The regular meeting of the Avon Lake Municipal Council was called to order on July 14, 2014 at 7:30 P.M. in the Council Chamber with Council President Pro Tem Meiners presiding.

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

Present: Council Members Dan Bucci, Jennifer Fenderbosch, Rob James, 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.

Absent: Mr. O'Donnell and Mr. Kos

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 7:35 P.M. On June 23, 2014 the first required public hearing was held. The Plan of Operation and Governance was published and available. It is the same Plan of Operation that other participating communities are operating under.

The Public Hearing was closed at 7:37 P.M.

A Public Hearing upon amendments to Planning & Zoning Code Sections 1212.03, 1240.06, 1242.02, and 1250.04 regarding the definition of livestock and the requirements for keeping livestock was called to order at 7:37 P.M. Planning Commission approved the amendments and recommended them to Council for consideration. The amendments define livestock and determine what is considered a household pet. Livestock is defined as animals that are customarily bred, raised, or kept on agricultural property including, but not limited to horses, ponies, sheep, goats, cattle, swine or any other hoofed animal, llamas, alpacas, emus, ostriches, peacocks, chickens, ducks, geese, and dwarf or miniature subcategories of such animals. Household pets are defined as animals not including livestock that are customarily kept for companionship and enjoyment within the home. Livestock is to be kept in agricultural areas. The amendments also include cross references to the definitions.

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The Public Hearing was closed at 7:39 P.M.

EXECUTIVE SESSION

In compliance with Ohio Revised Code Section 121.22, Mrs. Fenderbosch moved to adjourn to Executive Session to discuss collective bargaining matters and the discipline of a public employee.

Yes: Meiners, Shondel. Bucci, Fenderbosch, James

No: None

Absent: Kos, O'Donnell

Motion carried.

Adjournment: 7:40 P.M.

RECONVENING OF COUNCIL MEETING

The Council meeting was reconvened at 8:01 P.M. with Council President Pro Tem Meiners presiding.

Present: 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.

Absent: Mr. O'Donnell

Mr. Meiners stated the Executive Session was recessed and will resume at the conclusion of the Council meeting.

MAYOR'S REPORT

The Independence Day celebration was held July 3rd at Weiss Field. Mad Bomber did not provide the amount of fireworks in the contract and the Mayor will withhold payment until the matter is resolved. Next year the celebration will be held on July 2nd.

COUNCIL PRESIDENT'S REPORT

Council will be on recess from July 15th through August 17th. Council meetings will resume with the Collective Committee meeting on August 18, 2014.

PUBLIC WORKS DEPARTMENT REPORT

The City of Avon Lake contracts with the City of Lorain Health Department for mosquito control and testing for West Nile Virus. Targeted areas in Avon Lake will

be tested beginning next week. Residents should try to eliminate any standing water on their property.

Residents having problems with their bulk trash pick-up should contact Mr. Reitz.

The new bike lane at the Lear/Walker intersection has been placed between the through traffic lane and the turn lane to keep cyclists running parallel with traffic versus having cyclists on the outside of a turn lane to avoid conflicting movement. It follows the Department of Transportation design for safe bicycle traffic.

LAW DIRECTOR'S REPORT

The Law Department litigation update was distributed.

ENVIRONMENTAL COMMITTEE REPORT

Mr. Shondel reported the following topics were discussed at the July 9, 2014 Environmental Committee meeting: the EAAB "Don't Feed the Wildlife" program; an update on the bi-fuel program; and additional amendments to the deer ordinance. The Committee did not vote on the amendments to the deer ordinance suggested by Mr. Kos. Mr. Kos informed the Committee he would meet with the Police Chief to discuss his proposed amendments regarding elevated shooting positions, shooting distances from school buildings, and details for the notification procedure. Mr. Shondel stated he also spoke with Chief Streator, the Mayor, the Law Director, and Geoff Westerfield of the Ohio Department of Wildlife regarding the practical effects Mr. Kos's proposed amendments would have on the implementation of the deer management program.

HUMAN RESOURCES COMMITTEE REPORT

Mr. Bucci reported the following items were discussed at the July 7, 2014 Human Resources Committee meeting: a Police Dispatcher resignation; a Public Works Department retirement; and the salary for the full-time Judge of the Avon Lake Municipal Court.

PUBLIC SERVICE COMMITTEE REPORT

Mr. James reported the Public Service Committee met on July 14, 2014 and discussed the increased fees from Norfolk and Southern for the design review contract.

The next meeting of the Public Service Committee is scheduled for August 25, 2014.

PUBLIC UTILITIES COMMITTEE REPORT

Mr. Shondel reported the second required Public Hearing upon the natural gas aggregation program was held earlier in the meeting. After 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.

The next meeting of the Public Utilities Committee meeting is scheduled for September 4, 2014 at 6:00 P.M. The Committee will continue efforts regarding Home Owner Association registration and remedies for the disrepair of utility company pedestals.

Safety instructions for residents who smell natural gas have been posted on the Avon Lake website.

SEWER COMMITTEE REPORT

Mrs. Fenderbosch reported on the following items discussed at the July 10, 2014 Sewer Committee meeting: an update on the sewer separation lateral project and sump pump program for the Belmar Combined Sewer Separation Project and the Moorewood Project; an update on secondary water source progress; the Watershed Storm Water Management; and an update on Water Fest 2014.

The next Sewer Committee meeting is scheduled for September 11, 2014 at 6:30 P.M.

PLANNING COMMISSION REPORT

Mrs. Fenderbosch reported on the results of the July 1, 2014 Planning Commission meeting.

ZONING BOARD OF APPEALS REPORT

Mayor Zilka reported on the results of the June 25, 2014 Zoning Board of Appeals meeting.

AUDIENCE PARTICIPATION

Elaine Hilliard, 32611 Carriage Lane, expressed her opposition to the proposed deer management ordinance and the discharge of lethal weapons in residential neighborhoods.

Ken Kaminski, 234 Avon Belden Road, expressed his support for the deer management ordinance.

Margaret Artin, 297 Bayview Drive, expressed her opposition to the deer management ordinance and asked the following questions.

Will shooter's marksmanship be tested? Is there any tracing process in place to identify who shot the arrow? Should a wounded deer cause property damage, injury or death, how will accountability be determined? How will permitted culling be differentiated from poaching?

Mr. Meiners asked the administration to address Ms. Artin's questions.

MOTIONS

Mr. Bucci moved to add a motion to the agenda relative to United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied-Industrial and Service Workers International Union AFL-CIO & CLC, Local 836.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Mrs. Fenderbosch moved to continue the Executive Session following the Council meeting to discuss the discipline of a public employee.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Mr. Bucci moved to accept the resignation of Adrienne Maes from the position of Police Dispatcher effective June 2, 2014.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Mr. Bucci moved to accept the retirement of Mark Kopic from the position of Laborer in the Public Works Department effective December 31, 2014. Mr. Kopic is retiring after 30 years of employment with the City.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Mr. Bucci moved to accept, approve, and authorize the Mayor to execute effective as of July 1, 2014 the collective bargaining agreement tentatively agreed to between the Administration of the City of Avon Lake and the United Steel, Paper and

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Forestry, Rubber, Manufacturing, Energy, Allied-Industrial and Service Workers
International Union AFL-CIO & CLC, Local 836-1.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Mr. Bucci moved to accept, approve, and authorize the Mayor to execute effective as of July 1, 2014 the collective bargaining agreement tentatively agreed to between the Administration of the City of Avon Lake and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied-Industrial and Service Workers International Union AFL-CIO & CLC, Local 836.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

LEGISLATION

Third 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.

Mr. Bucci moved for passage of Temporary Legislation #10356. 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.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Ordinance No. 88-2014 adopted.

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

Mr. Kos moved for passage of Temporary Legislation #10357R. 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.

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Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Ordinance No. 89-2014 adopted.

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.

Mr. Kos moved for passage of Temporary Legislation #10358. 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.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Ordinance No. 90-2014 adopted.

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.

Mr. James moved for passage of Temporary Legislation #10359. American Legal Publishing has completed the updating of the Codified Ordinances and this ordinance will accept and adopt the revisions.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Ordinance No. 91-2014 adopted.

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.

Mr. Miners moved for passage of Temporary Legislation #10360. 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. The tax millage for 2015 is the same millage being collected in 2014; there are no changes in the rates of taxation.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Ordinance No. 92-12014 adopted.

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

Mr. James moved for passage of Temporary Legislation #10361R. 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 originally submitted an estimate of \$15,389 to review the engineering project design. Since that time the railroad has revised its estimate to \$29,972. These fees are dictated by the vendors and contractors of Norfolk & Southern necessitating an increase in the fees.

Mr. Bucci noted that the increased fee had not been noted in the "Whereas" clause.

Mr. James moved to amend the fourth "Whereas" clause in Temporary Legislation #10361R to reflect the amount of \$29,972.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

The roll was called on passage of Temporary Legislation #10361R.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Ordinance No. 93-2014.

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.

Mr. Meiners moved for passage of Temporary Legislation #10362. 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.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Ordinance No. 94-2014 adopted.

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.

Mr. Meiners moved for passage of Temporary Legislation #10363. 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.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Ordinance No. 95-2014 adopted.

Temporary Legislation #10365R2, 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 moved for passage of Temporary Legislation #10365R2. He made the following comments. This ordinance has been discussed for six months. The Police Chief, Geoff Westerfield of the Division of Wildlife, the Mayor, and Law Director Lieberman have all worked with the Environmental Committee as they developed the deer management ordinance. They are available to answer Council's questions if concerns still exist.

Mr. Kos moved to amend Temporary Legislation #10365R2 to add Section (e) to read as follows: "A Municipal Deer Control Permit shall not be issued for use on property that is within one hundred (100) yards of a school building unless the Chief of Police or his designee, in his discretion, determines that shooting may safely be conducted on such property." Mr. Kos stated this is similar to the language in the current legislation in effect and creates a safe zone around the school area. Recognizing that there may be issues in the future in which the schools may want to allow the taking of deer on school property, the amendment loosens the restrictions while still allowing the Chief of Police to have the ultimate decision. Mr. Kos stated that Chief Streater suggested the 100 yard setback in their discussions.

Mr. Shondel stated that he is opposed to the amendment for the following reasons. If the School Board does not want any deer taking activity on their property, they simply would not apply for a Deer Damage Control Permit from the Department of Wildlife. If the Board does apply for a permit, the Chief of Police would use his judgment as to the safe distance culling can take place. The amendment does not serve a purpose because the City cannot force the School Board to apply for a Deer Damage Control Permit.

Mr. Meiners asked Chief Streater to give his opinion on the amendment proposed by Mr. Kos. Chief Streater stated that there was discussion regarding the school property itself as opposed to the school building itself. Chief Streater stated that he foresees very few circumstances that he, his designee, or any future Chief would allow culling within 100 yards of a school building. He stressed that the City cannot start the process on school property. The property owner, which in this case would be the School Board, would start the process to obtain the necessary permits to allow any culling on their property.

Mr. Kos stated that his amendment is not about the School Board, but about property owners whose property abuts school property. He referred to Redwood School. If you travel 100 yards from the school building, you would be on private property. His amendment would prohibit a resident from obtaining a permit if his property is less than 100 yards from a school building.

Mrs. Fenderbosch stated that the Environmental Committee studied the proposed ordinance for six months and Mr. Kos was not part of the process until the legislation came before Council. She stated that Chief Streater or his successor and Mr. Westerfield will not permit anything that would harm people or property. She stated that the Police Department does not need internal rules in the legislation. The ordinance as written makes culling safer because every property will be evaluated on a case by case basis. She further stated that she does not see a need for the amendment.

Mr. Bucci stated that he is struggling with the practical impact of the amendment since the Chief already has the discretion to determine whether it is safe to engage in culling on a property. Mr. Kos stated it identifies the standards and allows the

Chief to roll back the requirement if necessary. It is a communication issue. There are concerns from residents because this is not communicated well. By establishing criteria, there is better communication to the public.

Mr. Bucci stated that if you look at the rules of interpreting legislation and statutes and specifically innumerate this piece of discretion for the Chief in this situation, you could make the argument that the Chief does not have that same discretion in every other circumstance.

Mr. Kos stated that in that case, a mistake was made when the platform language was approved at the last meeting. Mrs. Fenderbosch stated that she was not present, but would have voted against the elevated stand amendment because this is dealing with a safety matter and has to be at the discretion of the safety forces. Mrs. Fenderbosch asked for permission to ask Mr. Westerfield a question. Mr. Kos called for a point of order. He asked if he could call a member of the audience up to defend his side if Mrs. Fenderbosch is permitted to ask for input from Mr. Westerfield.

Law Director Lieberman suggested that each side be given a certain time period to speak.

Mr. James objected to Mr. Lieberman's suggestion. He stated there is a procedure in place for audience participation. He further stated that there is general consent that the Chair may invite whoever he wishes to the podium, but that it should be a brief conversation limited to administration officials; the cutoff should be members of Council and administrative officials. He further stated that, with all due respect, Mr. Westerfield is not a member of the administration. Mr. James stated he does not feel it is appropriate to open audience participation since it is against the rules of procedure.

Mrs. Fenderbosch stated that her question is one that every objector has asked. She stated that she will direct her question to the Chair and he can determine if the questions should be posed to Mr. Westerfield.

Mr. Meiners stated that he asked the Police Chief for clarification on David's amendment and would like to leave it at that. Mr. Meiners ruled that Mr. Westerfield is a guest and did not pose the question to him.

Mayor Zilka stated it is Council's decision whether this is a substantive amendment which could delay the vote on the ordinance. He further stated that he is frustrated because the process began last January by the Environmental Committee and these substantive amendments are being proposed at the eleventh hour throwing off the process.

Mr. Bucci stated that he would argue that it is not a substantive change as the Police Chief already has the authority throughout the ordinance. Mr. Kos agreed.

Mr. Lieberman stated that if Council decides the amendment is substantive, the vote on the ordinance would have to be postponed to a later meeting. If Council determines the amendment is not substantive and the amendment is adopted, the ordinance can be voted upon at tonight's meeting. Mr. Lieberman agreed that the amendments do not appear to be substantive because they do not change the impact of the legislation.

Mr. Shondel pointed out that the substantive issue only applies if the amendment passes. If the amendment passes, then the vote can be taken on the substantive issue.

Mr. Kos stated that it has been mentioned by some Council members and the administration that having too many Council members who are not members of the committee at committee meetings can sometimes slow down committee business. He stated he chose not to attend the Environmental Committee meetings because he wanted to see what the Committee brought forward. Mr. Kos stated that his amendments are all things discussed and approved by Council in the current legislation. By doing it during the reading process, Mr. Kos stated he does not feel he has violated any Council code or ethics by waiting to see what the Committee brought forward before he introduced his amendments.

Mr. Kos repeated his motion to add Section (e) to read as follows: "A Municipal Deer Control Permit shall not be issued for use on property that is within one hundred (100) yards of a school building unless the Chief of Police or his designee, in his discretion, determines that shooting may safely be conducted on such property."

Yes: Kos, Meiners, James

No: Shondel, Bucci, Fenderbosch

Absent: O'Donnell

Motion failed.

Mr. Kos stated that he will reintroduce the failed motion when Mr. O'Donnell is present and there is a full complement of Council for a vote.

Mr. Kos moved to amend Codified Ordinance Section 618.12 by adding Section (f) to read as follows: (f) Prior to the issuance of a Municipal Deer Control Permit, the Chief of Police or his designee shall personally notify the occupants of properties that share a common boundary with any portion of the Subject Property, Subject City Property, Control Property, or Control City Property, as the case may be, that an application for a Municipal Deer Control Permit for use on such Subject Property, Subject City Property, Control Property or Control City Property has been received unless the Chief of Police or his designee, in his discretion, determines that such notification is unnecessary or impractical. The failure of the Chief of Police or his

designee to provide such notification shall not invalidate a Municipal Deer Control Permit.

Mr. Kos stated that the amendment requires that a border property owner where a Deer Damage Permit is issued shall be personally notified by the Chief of Police or his designee and also allows the Chief of Police the opportunity to determine if the notification is unnecessary. The Police Chief indicated to Mr. Kos that there are instances in which notification would not be necessary such as with vacant or abandoned property. The amendment will give residents the assurance that they will be advised if a neighbor will be given a permit to cull deer. It will also give residents an opportunity to ask questions and relate any concerns to the Police Chief.

Mr. Bucci stated that the proposed amendment distributed to Council members is worded differently than the amendment read by Mr. Kos; there is a huge difference. Mr. Kos stated that the revised amendment which he read was sent in an e-mail this afternoon. The word "personally" replaced the phrase "by ordinary mail" The word "occupant" replaced the word "owners".

Mayor Zilka stated it would be burdensome for the Police Chief to personally contact every adjacent property owner. The Police Chief and Mr. Westerfield have said safety is their main concern. This amendment would create a situation similar to the current legislation and will result in the inability to do anything about the deer problem.

Mr. Kos stated a personal notification or a knock on the door is a courtesy and a peace of mind issue for residents and will not affect the overall program. There is language in the amendment giving the Chief of Police discretion. The amendment sets the standard and gives the Police Chief the authority to waive the requirement if he determines it is impractical.

Mayor Zilka stated that personal notification would usually involve notification to four adjacent property owners. Having to personally contact the owners may be burdensome since the owners may not be home at the time of notification. He further stated that the City is trying to maintain safety and still be practical to implement the program in a reasonable manner with the safety and the rights of property owners while staying within the Police Department operating budget.

Mr. Kos stated that this is a new program involving high powered weapons in close proximity. It would be reassuring to residents if elected officials want them to be personally notified.

Mr. Bucci asked Mr. Kos if he would be willing to amend his amendment to go back to the original amendment of notifying residents by ordinary mail. He stated that residents should be notified and ordinary mail would be sufficient which was in his original amendment and not what is being presented tonight.

Mr. Kos suggested the option of having the amendment state that notification should be by personal notification or ordinary mail as determined by the Police Chief.

Mr. Meiners stated he is very concerned about safety. He said he does not have a problem with personal notification, but he is looking at the amended legislation that was distributed which is different from what Mr. Kos is now proposing in his motion. Mr. Meiners stated he is prepared to vote on what was distributed to Council members and not on the amended language in Mr. Kos's motion. Mr. Meiners stated that he did not receive Mr. Kos's e-mail with the new language.

Mr. Kos stated that at 3:55 P.M. he e-mailed all Council members the corrected wording and followed it up with a text to Mr. Bucci. Mr. Kos stated that he is willing to withdraw the motion referencing Section (f).

Mrs. Fenderbosch pointed out that there are other options available to Mr. Kos through the Safety Committee by which he can propose amendments.

Mr. Kos withdrew his motion.

Mr. Kos moved to amend Codified Ordinance Section 618.12 by adding Section (f) to read as follows: (f) Prior to the issuance of a Municipal Deer Control Permit, the Chief of Police or his designee shall personally notify or notify by ordinary mail the occupants of properties that share a common boundary with any portion of the Subject Property, Subject City Property, Control Property, or Control City Property, as the case may be, that an application for a Municipal Deer Control Permit for use on such Subject Property, Subject City Property, Control Property or Control City Property has been received unless the Chief of Police or his designee, in his discretion, determines that such notification is unnecessary or impractical. The failure of the Chief of Police or his designee to provide such notification shall not invalidate a Municipal Deer Control Permit.

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Yes: Kos, Meiners, Bucci, James

No: Shondel, Fenderbosch

Absent Mr. O'Donnell

Motion carried.

Mr. James referred Section A. (1) (a) (7) of the proposed deer management ordinance which was added as an amendment at the meeting of June 30, 2014. He further stated that he presumes it was the intention of Mr. Kos to carry that amendment throughout the remaining sections in the ordinance. Law Director Lieberman stated that he moved the location of the amendment regarding shooting from an elevated position to another more appropriate section, new paragraph (d), which applies to all the permits. It does not have to be restated. It is one provision that applies everywhere.

Mr. James pointed out that no legislative action has occurred to renumber paragraph 7 to paragraph (d) at the end of the ordinance. He further stated that he believes someone needs to make a motion to re-order paragraph 7 as paragraph (d), re-number the motion just made by Mr. Kos to paragraph (e) and keep the remaining paragraphs as (f) and (g). Mr. Lieberman agreed with Mr. James.

Mr. James pointed out that Council is looking at a piece of legislation that was amended by the Law Director which is not the legislation Council will be voting upon; it contains language suggested by Mr. Lieberman that has not been voted upon by Council. Council will be voting upon the piece of legislation in the agenda packet.

Mr. Shondel stated that he intends for Council to vote tonight on the legislation in the packet as is or as amended.

Mr. James stated that, in the interest of finality, he would make a motion for drafting purposes to make the legislation accurate to reflect the motion of Mr. Kos.

Mr. James moved to amend the legislation starting with Section A. (1) (7). to renumber such section (B) (d), and renumber the amendment passed this evening to Section (e) and renumber existing Section (c) to Section (f) and renumber existing Section (d) to (g), and renumber existing Section (e) to (h). The point is to reflect Council's decision to add a section (A) (1) (7) and put it in a proper place so it is consistent throughout the legislation and the remaining portions of the motion are simply to renumber them accurately.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

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No: None

Motion carried.

The roll was called on passage of Temporary Legislation #10365R2.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: Mr. O'Donnell

Motion carried.

Ordinance No. 104-2014 adopted.

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.

Mr. Shondel moved for passage of Temporary Legislation #10366. This legislation affirms that the City of Avon Lake, after approval by the voters on May 6, 2014, wishes to establish a natural gas aggregation opt-out program similar to the electric program which has been in place for 12 years. After the legislation is passed, all Avon Lake natural gas customers not under current contract will receive an opt-out letter that will require them to either opt-out of the aggregation program or to be eligible to become part of the program when they are otherwise eligible.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Ordinance No. 96-2014 adopted.

Second Reading:

Temporary Legislation #10349, AN ORDINANCE AMENDING PLANNING & ZONING CODE SECTION 1212.09, 1240.06, 1242.02 AND 1250.04.

These amendments deal with the definition of livestock and the requirements for keeping livestock and what is considered a household pet. The required Public Hearing was held earlier in the meeting.

First Readings:

Temporary Legislation #10367, A RESOLUTION APPROVING THE USE OF SUBMERGED LANDS, AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Mr. James moved for passage of Temporary Legislation #10367. A property owner at 31836 Lake Road requested permission to construct a concrete modular breakwall with steel cribbing. Department heads indicated they have no objections. The Resolution of No Interest for the submerged land lease is required by the Ohio Department of Natural Resources.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Ordinance No. 97-2014 adopted.

Temporary Legislation #10368, AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AMENDMENT TO THE COMMUNITY REINVESTMENT TAX INCENTIVE AGREEMENT BETWEEN THE CITY OF AVON LAKE AND POLYONE CORPORATION AS TO REFLECT THE NEW PERMANENT PARCEL NUMBER, AND DECLARING AN EMERGENCY, was read by title only.

PolyOne received tax abatement for the construction of the engineered materials segment building located on a parcel of their property. Since that time, the parcel has been divided as PolyOne sold a portion of the business to Mexichem Specialty Resins. As a result, two parcels were created. The tax abatement is granted according to parcel numbers. The auditors informed the City the tax abatement would become null and void unless corrective measures are taken. PolyOne requested that the Community Reinvestment Area Tax Incentive Agreement be transferred to the new parcel number. This would allow PolyOne to continue to receive the full ten-year tax abatement.

Temporary Legislation #10360, AN ORDINANCE ADOPTING THE REVISED COMMUNITY DISASTER PLAN FOR THE CITY OF AVON LAKE, was read by title only.

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

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

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Absent: O'Donnell

Motion carried.

Mr. Kos moved for passage of Temporary Legislation #10360. The Fire Chief is required to develop a Community Disaster Plan. Chief Huerner has updated and revised the plan.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Ordinance No. 98-2014 adopted.

Mr. Shondel was excused at 10:00 P.M. by general consent.

Temporary Legislation #10370, AN ORDINANCE AUTHORIZING A SPORTS AFFILIATE GRANT TO THE AVON LAKE SOCCER ORGANIZATION, AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Kos, Meiners, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell, Shondel

Motion carried.

Mr. James moved for passage of Temporary Legislation #10370. The Parks & Recreation Commission recommended a sports affiliate grant to the Avon Lake Soccer Club in the amount of \$17,200.

Yes: Kos, Meiners, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell, Shondel

Motion carried.

Ordinance No. 99-2014 adopted.

Temporary Legislation #10371, AN ORDINANCE AUTHORIZING A SPORTS AFFILIATE GRANT TO THE AVON LAKE WRESTLING CLUB, AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Kos, Meiners, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell, Shondel

Motion carried.

Mr. James moved for passage of Temporary Legislation #10371. The Parks & Recreation Commission recommended a sports affiliate grant in the amount of \$1000 to the Avon Lake Wrestling Club.

Mr. Shondel returned to the meeting at 10:03 P.M.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Ordinance No. 100-2014 adopted.

Temporary Legislation #10372, AN ORDINANCE ESTABLISHING THE RATE OF COMPENSATION FOR THE JUDGE OF THE AVON LAKE MUNICIPAL COURT, AND DECLARING AN EMERGENCY, was read by title only.

The Avon Lake Municipal Court will transition to a full-time court with a full-time Judge. Therefore, Judge Bilancini's salary needs to be adjusted accordingly. Pursuant to Ohio Revised Code, the Judge's salary will be \$114,100. The City is responsible for 3/5 of the salary and the County is responsible for 2/5.

Temporary Legislation #10373, AN ORDINANCE PROVIDING FOR THE RENEWAL OF THE HEALTH SERVICES CONTRACT WITH THE LORAIN CITY HEALTH DEPARTMENT AND AUTHORIZING THE MAYOR TO ENTER INTO SAID CONTRACT, AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Mrs. Fenderbosch moved for passage of Temporary Legislation #10373. The contract amount is \$80,000 for the year which is the same as last year's rate. The City of Lorain Health Department provides a variety of services including inspections and immunization clinics. The existing contract expires on July 31, 2014.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Ordinance No. 101-2014 adopted.

Temporary Legislation #10374, AN ORDINANCE TO AMEND APPROPRIATIONS FOR THE CURRENT AND OTHER EXPENDITURES OF THE CITY OF AVON LAKE FOR THE FISCAL YEAR 2014, AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Mr. Meiners moved for passage of Temporary Legislation #10374. This ordinance will amend the appropriations for adjustments to various funds in order for Council approved appropriations to come into agreement with what has or will be posted to the general ledger. The general fund will be adjusted by reducing it by \$93,025.70 and reducing all funds by \$697,418.30.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Ordinance No. 102-2014 adopted.

Temporary Legislation #10375, 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: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Mr. Meiners moved for passage of Temporary Legislation #10375. The Finance Director determined certain transfers of funds are necessary for immediate and necessary expenses.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Ordinance no. 103-2014 adopted.

EXECUTIVE SESSION

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In compliance with Ohio Revised Code Section 121.22, Mrs. Fenderbosch moved to adjourn to Executive Session to discuss the discipline of a public employee.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Adjournment: 10:15 P.M.

RECONVENING OF OPEN COUNCIL MEETING

The Council meeting was reconvened at 10:46 P.M.

Present: Council Members Dan Bucci, Jennifer Fenderbosch, Rob James, David Kos, Larry Meiners, John Shondel; Mayor Zilka; Law Director Abe Lieberman, Finance Director Steve Presley.

Mr. Meiners moved that City Council accept the resignation of Elizabeth Gedeon from her position of Secretary to the Mayor effective July 15, 2014.

Mayor Zilka stated Mrs. Gedeon submitted her letter of resignation on July 14, 2014 due to family demands that make it necessary for her to be at home.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Mrs. Fenderbosch moved for adjournment.

Yes: Kos, Meiners, Shondel, Bucci, Fenderbosch, James

No: None

Absent: O'Donnell

Motion carried.

Adjournment: 10:50 P.M.

Approved: _____
Council President Pro Tem

Attest: _____
Clerk of Council

