

**MINUTES OF THE REGULAR MEETING
OF THE AVON LAKE MUNICIPAL COUNCIL
HELD JANUARY 13, 2014**

The regular meeting of the Avon Lake Municipal Council was called to order on January 13, 2014 at 8:47 P.M. following the Collective Committee meeting 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; Service/Engineering Director Joseph Reitz; Finance Director Nancy Bryan; and Clerk of Council Barbara Dopp.

APPROVAL OF MINUTES

The minutes of the December 23, 2013 Regular Council Meeting and the January 2, 2014 Council Organizational Meeting were approved as prepared and published.

MAYOR'S REPORT

Mayor Zilka made the following announcements.

The Lorain County Alcohol and Drug Administration will open a wellness clinic at 525 Avon Belden Road on January 16, 2014 with an open house at 6:00 P.M.

The next drug abuse forum is scheduled for March 20, 2014. The main speaker will be Rob Brandt, the head of "Robbie's Voice". He will speak about the loss of his son to drug addiction.

The Lorain County Office on Ageing informed the Mayor of a new program called, "My Care Ohio". Eligible Ohioans should have received a letter from the Ohio Medicaid Department with information about the program. It is not part of the Affordable Care Marketplace. Residents can get more information at www.ohiomh.com or by calling 800-324-8680.

The following public meetings regarding the new trash collection contract and cart system are scheduled: January 16, 2013 at 10:00 A.M. at the Old Firehouse Community Center; January 16, 2014 at 7:00 P.M. at Learwood Middle School; and January 23, 2014 at 7:00 P.M. at Troy School. Republic Customers will receive a postcard to fill out indicating the size cart they choose to have delivered. If they do not return the card, the 95 gallon cart will be delivered. The three sizes of cars will be on display at the Avon Lake Service Department.

January 13, 2014 Council Meeting Minutes

The following ward meetings are scheduled: Ward I February 5, 2014 at 7:00 P.M. at Learwood Middle School; Ward II February 12, 2014 at 7:00 P.M. at Learwood Middle School; Ward III February 19, 2014 at 7:00 P.M. at Troy School; and Ward IV February 26, 2014 at 7:00 P.M. at Troy School.

COUNCIL PRESIDENT'S REPORT

In observance of Martin Luther King Day, no Council meeting will be held on January 20th. A rescheduled Collective Committee meeting will be held on Tuesday, January 21st. The next regular Council meeting will be held on January 27th.

ENGINEERING DEPARTMENT REPORT

The Engineering Department weekly update was distributed.

LAW DIRECTOR'S REPORT

The Law Director's litigation update was distributed.

HUMAN RESOURCES COMMITTEE REPORT

Mr. Bucci reported the following items were discussed at the January 13, 2014 Human Resources Committee/Safety Committee joint meeting: the hiring of a police dispatcher; a stipend and salary increase for the Electrical Safety Inspector; a payroll update; and the salary for the new Police Chief. The salary of the incoming Police Chief was set at \$96,000 annually.

PUBLIC SERVICE COMMITTEE REPORT

The Public Service Committee is scheduled to meet January 16, 2014 at 6:00 P.M. to discuss the solid waste ordinances.

SAFETY COMMITTEE REPORT

The Safety Committee is scheduled to meet January 15, 2014 at 6:15 P.M. in the Council Conference Room.

SEWER COMMITTEE REPORT

The Sewer Committee is scheduled to meet February 13, 2014 at 6:30 P.M. in the Engineering Conference Room.

PLANNING COMMISSION REPORT

Mrs. Fenderbosch reported on a site plan for an ice cream store to be located on Lear Road.

AUDIENCE PARTICIPATION

Brian Lamb, 32403 Legacy Point Parkway, spoke in support of a proposed lacrosse field on the Safety Center property. He asked for Council's support of the conditional use permit for the proposed field.

Joe Bosso, 32841 Sorrento Lane, spoke in opposition to the proposed lacrosse field; other fields should be explored.

Doug Weed, 32021 Gramercy Lane, spoke in support of the proposed lacrosse field for 5th and 6th graders to be used as a practice field for 14 – 15 weeks.

Andrew Perry, 32209 Woodfield, spoke in support of the proposed lacrosse field. He pointed out that this is a practice field and games will be played at school football fields. A field of 100 yards in length is needed since 42 boys will be practicing.

John Triska, 90 Community Drive, expressed his opposition to the proposed lacrosse field.

MOTIONS

Mr. O'Donnell moved to add a motion to the agenda appointing William Heine to the Zoning Board of Appeals.

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

Mr. Bucci moved to accept the resignation of Ian Hessel from the Economic Development Advisory Board effective December 19, 2013. Due to other commitments, Mr. Hessel is no longer able to serve on the Board.

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

Mr. Bucci moved to confirm the Mayor's appointment of David Wolski to the Economic Development Advisory Board for a term expiring May 31, 2014. Mr. Wolski will fill the vacancy created by Mr. Hessel's resignation.

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

Mr. Kos moved to accept the resignation of Police Chief David Owad effective January 17, 2014. Chief Owad is resigning after serving the City over 35 years, 20 years as Police Chief.

January 13, 2014 Council Meeting Minutes

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

No: None

Motion carried.

Mrs. Fenderbosch moved to ratify the submission of an application for a conditional use permit for a lacrosse field adjacent to the Safety Center by the Avon Lake Lacrosse Club acting as an agent of the City of Avon Lake. This will correct an omission in the Planning Commission application process. Mr. Kos read a letter from Shirley Mitchell who owns property bordering the proposed field. The letter stated her objection to the field since it might have a negative impact on the marketability of her property. Mr. Kos stated that he will vote against the motion for ratification since he feels other locations would be more suitable. He further stated that he feels this approval could open the City to litigation since the Planning Commission process was not followed and referred to pending litigation against the City. In answer to Mrs. Fenderbosch, Law Director Lieberman stated that he does not feel there was liability in the previous Planning Commission case regarding the skate park which is pending in the Court. He further stated that the motion before Council will serve as ratification of the procedure and a vote in favor of the ratification will not approve the conditional use permit for the proposed field. Mr. James stated that if the motion is approved, he will refer it to the Public Service Committee to review the proposal since there are many questions that need to be answered. He further stated that his vote on the motion should not be interpreted as any indication as to the propriety of a lacrosse field at the Safety Center. Mr. Bucci stated that the vote on the motion for ratification is not about the merits of a lacrosse field; it is curing a defect in the application process. He further stated that the pros and cons of the proposed field should be discussed in a committee meeting.

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

No: Kos, Meiners

Motion adopted.

Mr. O'Donnell moved to appoint William Heine to the Zoning Board of Appeals. Mr. Heine will fill a vacancy created by a resignation. Mr. O'Donnell reviewed Mr. Heine's resume.

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

No: None

Motion carried.

LEGISLATION

Third Readings:

Temporary Legislation #10238, AN ORDINANCE AMENDING PLANNING & ZONING CODE SECTION 1262.04 ENTITLED MAXIMUM SIGN AREA PERMITTED, was read by title only.

Mrs. Fenderbosch moved for passage of Temporary Legislation #10238. This amendment to the sign ordinance will permit businesses to erect a second sign according to the requirements of the Code if more than one entrance to the shopping area exists.

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

No: None

Motion carried.

Ordinance No. 1-2014 adopted.

Temporary Legislation #10251, AN ORDINANCE AUTHORIZING ALL ACTIONS NECESSARY TO EFFECT AN OPT-OUT NATURAL GAS AGGREGATION PROGRAM PURSUANT TO SECTION 4929.26 OHIO REVISED CODE DIRECTING THE COUNTY BOARD OF ELECTIONS TO SUBMIT A BALLOT QUESTION TO THE ELECTORS, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Shondel moved for passage of Temporary Legislation #10251. At the December 2, 2013 Work Session, representatives from NOPEC gave a presentation on the opt-out natural gas aggregation program. Avon Lake has been participating in an opt-out program for electricity since 2002.

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

No: None

Motion carried.

Ordinance No. 2-2014 adopted.

Second Readings:

Temporary Legislation #10262, AN ORDINANCE FOR THE SUBMISSION TO THE ELECTORATE OF AN AMENDMENT TO CHAPTER XIII, SECTION 67 OF THE MUNICIPAL CHARTER TO PROVIDE FOR A TEMPORARY REPLACEMENT FOR OFFICIALS HOLDING ELECTIVE OFFICE CALLED INTO ACTIVE MILITARY SERVICE, AND DECLARING AN EMERGENCY, was read by title only.

The amendment was recommended by the Charter Review Commission. It will clarify the process of replacing an elected official called to active military duty.

Temporary Legislation #10263, AN ORDINANCE FOR THE SUBMISSION TO THE ELECTORATE OF AN AMENDMENT TO CHAPTER IV, SECTION 20 OF THE MUNICIPAL CHARTER TO CHANGE THE DEADLINE FOR ADJUSTING THE SALARY OF THE MAYOR, AND DECLARING AN EMERGENCY, was read by title only.

The Charter Review Commission recommended this amendment to establish a new deadline for adjusting the Mayor's salary. This amendment will allow all residents

considering running for the office of Mayor to know what the salary will be before filing their petitions. The salary will be fixed for the course of the term.

Temporary Legislation #10264, AN ORDINANCE FOR THE SUBMISSION TO THE ELECTORATE OF AN AMENDMENT TO CHAPTER V, SECTION 24 OF THE MUNICIPAL CHARTER TO CHANGE THE QUALIFICATIONS FOR THE DIRECTOR OF FINANCE, AND DECLARING AN EMERGENCY, was read by title only.

This amendment was recommended by the Charter Review Commission to establish qualifications for the Finance Director. Currently the Charter only requires the Finance Director to be a resident of Avon Lake. Residence requirements have been determined to be unconstitutional by the Ohio Supreme Court. The current Finance Director will be exempt from the requirements if the voters approve the amendment.

Temporary Legislation #10265, AN ORDINANCE FOR THE SUBMISSION TO THE ELECTORATE OF AN AMENDMENT TO CHAPTER II, SECTION 9A OF THE MUNICIPAL CHARTER TO CHANGE THE DEADLINE FOR FILING WITH THE BOARD OF ELECTIONS ORDINANCES AND RESOLUTIONS COUNCIL DESIRES TO REFER TO THE ELECTORS, AND DECLARING AN EMERGENCY, was read by title only.

This amendment was recommended by the Charter Review Commission to be consistent with the requirements of the Board of Elections for filing deadlines.

Temporary Legislation #10268, AN ORDINANCE AMENDING ORDINANCE NO. 13-2013, AND DECLARING AN EMERGENCY, was read by title only.

In Ordinance No. 13-2013, the City of Sheffield Lake was named in the application for the propane vehicle program. The Law Director recommended that the legislation be amended to remove the name of the City of Sheffield Lake since Sheffield Lake no longer desires to participate in the program. The loan will be used for the propane conversion project which will begin in 2014.

First Readings:

Temporary Legislation #10271, AN ORDINANCE ADOPTING A RECOMMENDATION OF THE HUMAN RESOURCES COMMITTEE CHANGING THE WAGE RATE OF THE ELECTRICAL SAFETY INSPECTOR, AND DECLARING AN EMERGENCY, was read by title only.

David Gunsalus was hired as the Electrical Safety Inspector with the contingency that he would receive a \$3000 salary increase upon acquiring two certifications. Mr. Gunsalus has acquired the second license and will receive a \$1500 stipend for the year 2013 and a \$1500 increase effective January 1, 2014 for acquiring the commercial building inspector license.

Temporary Legislation #10272, AN ORDINANCE ESTABLISHING THE POSITION OF GIS ANALYST IN THE AVON LAKE MUNICIPAL UTILITIES, AND DECLARING AN EMERGENCY, was read by title only.

The Avon Lake Municipal Utilities (ALMU) wishes to create a new position for a GIS Analyst. The new position will benefit both ALMU and the Service/Engineering Department with the GIS mapping system to create a master file of any improvements within the City.

Temporary Legislation #10273, AN ORDINANCE AUTHORIZING THE REPAIR OF TRUCK 134, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Motion carried.

Mr. James moved for passage of Temporary Legislation #10273. Truck 134, a 5-ton dump truck, was sent to Rush Truck Center for noticeable engine problems. The engine needs to be rebuilt at a cost of \$21,742.76. This is an emergency repair since the truck is needed for snow plowing. Since the truck only has 23,600 miles, the City will seek any appropriate remedies after the repair is completed.

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

No: None

Motion carried.

Ordinance No. 3-2014 adopted.

Temporary Legislation #10274, AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT FOR OUTDOOR SEASONAL SALES AT LEARWOOD SHOPPING CENTER.

This conditional use permit was recommended by Planning Commission with conditions. Fencing around the outdoor merchandise will not be required and the merchandise will be permitted up against the building.

Temporary Legislation #10275, AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT FOR A LACROSSE FIELD.

Planning Commission recommended the conditional use permit with the following conditions: the Lacrosse Club is required to include the City of Avon Lake on their insurance policy; they are required to construct a fence three feet high and 60 yards long on the north side of the field; the field must be returned in the same condition as it was at the beginning of the season; parking will only be permitted in the spaces designated by the Police Department and is not permitted on the grass areas or in the access road; port-a-potties are not permitted; participants are to use the

restroom facilities at the Safety Center; and the permit is temporary for one season of 14 weeks. If any of the conditions set by Planning Commission are changed, the Lacrosse Club would have to go back to Planning Commission.

Mrs. Fenderbosch referred to a section of the Planning & Zoning Code which states that once Council has been given written documentation of a recommendation from Planning Commission, it needs to be voted upon at the second reading. Mrs. Fenderbosch questioned whether it would meet that standard if the ordinance is referred back to a committee. Law Director Lieberman stated that for a conditional use, there are a certain number of days Council has to veto Planning Commission's decision or it automatically becomes effective. There would be adequate time to refer it to a Committee. Mr. Lieberman recommended delaying the second reading in order for the Public Service Committee to review the issue. If the Public Service Committee recommends a modification, the item would have to go back to Planning Commission. Mr. James stated that, although the Public Service Committee may not be able to modify Planning Commission's decision, Council can enter into a private contractual agreement with the Lacrosse Club. In order to consent to a private contractual agreement, Council can require any conditions Council feels are necessary.

Mr. James moved to refer Temporary Legislation #10275 to the Public Service Committee. The discussions from tonight's meeting have demonstrated that there are many open questions that need to be studied and answered.

Mr. Reitz stated that in this instance, Planning Commission is recommending the conditional use; they are not approving the conditional use.

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

No: None

Motion carried.

Temporary Legislation #10276, A RESOLUTION OF GRATITUDE AND APPRECIATION FOR GARY FELL, was read in its entirety.

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

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

No: None

Motion carried.

Mr. Fenderbosch moved for passage of Temporary Legislation #10276. Mr. Fell served the City of Avon Lake for 23 years. He served as Chair of Planning Commission since 1998. Due to term limits, Mr. Fell is no longer permitted to serve on Planning Commission.

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

No: None

Motion carried.

EXECUTIVE SESSION

In compliance with Ohio Revised Code Section 121.22, Mr. Meiners moved to adjourn to Executive Session to discuss the purchase of land.

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

No: None

Motion carried.

Adjournment: 10:09 P.M.

RECONVENING OF OPEN COUNCIL MEETING

The Council meeting was reconvened at 10:28 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. Meiners moved for adjournment.

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

No: None

Motion carried.

Adjournment: 10:30 P.M.

Approved: _____
Council President

Attest: _____
Clerk of Council