

**MINUTES OF THE REGULAR MEETING
OF THE AVON LAKE MUNICIPAL COUNCIL
HELD OCTOBER 27, 2014**

The regular meeting of the Avon Lake Municipal Council was called to order on October 27, 2014 at 7:30 P.M. in the Council Chamber with Council President O'Donnell presiding.

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

Present: Council Members Dan Bucci, 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.

There being no objections, Mrs. Fenderbosch was excused from attendance at the meeting.

PROCLAMATION

Mayor Zilka presented a Proclamation to Nikki Schroeder for achieving the Division I Girls Golf State Championship.

CORRESPONDENCE

Kopf Builders submitted a letter requesting suspension of the rule requiring three readings and emergency passage of the final plat for Aqua Marine.

MAYOR'S REPORT

Bucky Kopf was honored at the annual Lorain County Alcohol and Drug Abuse Services (LCADA) banquet for his dedication and support for recovery programs dealing with alcohol and drug addiction.

A number of City officials and members of the Zoning Board of Appeals attended the Ohio Planning Association conference on October 17th.

Trick or Treat will be held on Thursday, October 30th from 6:00 – 7:30 P.M.

Election Day is November 4th. Residents may vote early by mail or in person at the Board of Elections or may vote in person on Election Day. Voting locations can be found on the Lorain County Board of Elections website, www.loraincounty.com/election. The phone number is 440-244-3186. Avon Lake has two issues on the ballot which are renewal levies which will not raise taxes. Issue 12 is a three-year levy which supports the paramedic program. Issue 13 is a

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five-year levy which helps support the general operation of Avon Lake including, police, fire, street repair, snow removal, and recreation programs.

Residents are asked to support local businesses on November 29th, Black Friday. For every \$100 spent in independently owned stores, \$68 dollars returns to the community through taxes, payroll, and other expenditures. Through national chains, only \$43 stays in Avon Lake's economy.

COUNCIL PRESIDENT'S REPORT

The next Collective Committee meeting is scheduled for November 3rd and the next regular Council meeting is scheduled for November 10th.

PUBLIC WORKS DEPARTMENT REPORT

The Public Works weekly update was distributed.

Branch collection will end October 31st, as all trucks will be used for leaf pick-up. The leaf pick-up schedule will be posted on the Avon Lake website. The last yard waste collection will be with the November 24th collection and will resume with the first collection in April. Leaves are to be placed on tree lawns and are not to be placed in the street.

The Public Works Department is preparing documents to submit to the Army Corps of Engineers to rebuild the retaining wall at Veterans Memorial Park boat launch. The estimated cost is between \$25,000 - \$30,000.

LAW DIRECTOR'S REPORT

The Law Department litigation update was distributed.

FINANCE DIRECTOR'S REPORT

The Finance Department is working with the Mayor and department heads to compile the 2015 budget in preparation for the November 8th budget meeting.

ENVIRONMENTAL COMMITTEE REPORT

Mr. Shondel read the minutes of the October 22, 2014 meeting of the Environmental Committee. The next meeting of the Environmental Committee is scheduled for November 8, 2014.

Mr. Shondel encouraged the teachers of the four Avon Lake elementary schools to deliver to City Hall any posters their students completed regarding the "Don't Feed the Wildlife" campaign by October 31st.

FINANCE COMMITTEE REPORT

Mr. Meiners stated he has been pursuing financial data regarding the municipal pool for some time. Finance Director Presley submitted a detailed financial report on the pool operation for the last three years.

PUBLIC SERVICE COMMITTEE REPORT

Mr. James reported on the results of the October 27, 2014 meeting of the Public Service Committee.

PUBLIC UTILITIES COMMITTEE REPORT

Mr. Shondel reported on the success of the natural gas aggregation program in Avon Lake. The final statistics from NOPEC are as follows: the total number of households is 9411; the total service by natural gas is 7755; the total number of opt-out letters mailed is 5777; 323 customers chose to opt-out of the program which is 5.6%. The average is 5%. Customers will begin seeing NEXTRA/NOPEC on their Columbia Gas bills during November 2014.

SAFETY COMMITTEE REPORT

Mr. Kos reported on the results of the October 22, 2014 Safety Committee meeting.

ZONING BOARD OF APPEALS REPORT

Mayor Zilka reported on the results of the October 22, 2014 Zoning Board meeting.

MOTIONS

Mr. Bucci moved to confirm the appointment by the Mayor of Jeffrey Coughlin to the Civil Service Commission for a term expiring December 31, 2017.

Mr. Coughlin will fill a vacancy on the Commission due to the resignation of John Morgan. Mayor Zilka reviewed Mr. Coughlin's qualifications.

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

No: None

Absent: Fenderbosch

Motion carried.

LEGISLATION

Third Reading:

Temporary Legislation #10387R, AN ORDINANCE ADOPTING A REVISED JOB DESCRIPTION FOR THE POSITION OF FIRE CHIEF IN THE FIRE DEPARTMENT, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID

POSITION, AND REPEALING ORDINANCE NO. 130-2011, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #10387R. This and the following four ordinances pertain to the restructuring of the Avon Lake Fire Department. The revised job description clarifies the duties of the Fire Chief and who will be reporting directly to him.

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

No: None

Absent: Fenderbosch

Motion carried.

Ordinance No. 123-2014 adopted.

Temporary Legislation #10388, AN ORDINANCE ESTABLISHING THE POSITION OF ASSISTANT FIRE CHIEF IN THE FIRE DEPARTMENT AND ADOPTING A JOB DESCRIPTION ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #10388. Two Assistant Chiefs will be named as part of the department restructuring. The designated Assistant Chief will assume the duties of the Chief in his absence. Under the current structure there is no one to assume that role.

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

No: None

Absent: Fenderbosch

Motion carried.

Ordinance No. 124-2014 adopted.

Temporary Legislation #10389, AN ORDINANCE ESTABLISHING THE POSITION OF CAPTAIN IN THE FIRE DEPARTMENT AND ADOPTING A JOB DESCRIPTION, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #10389. The position of Captain is being created as part of the Fire Department restructuring. The Lieutenants will fill the Captain positions.

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

No: None

Absent: Fenderbosch

Motion carried.

Ordinance No. 125-2014 adopted.

Temporary Legislation #10390, AN ORDINANCE ADOPTING A REVISED JOB DESCRIPTION FOR THE POSITION OF LIEUTENANT IN THE FIRE DEPARTMENT, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND REPEALING ORDINANCE NO. 131-2011, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #10390. With the creation of the position of Captain, the duties of the Lieutenants will change and the revised job description will clarify the new duties and responsibilities.

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

No: None

Absent: Fenderbosch

Motion carried.

Ordinance No. 126-2014 adopted.

Temporary Legislation #10391, AN ORDINANCE SETTING THE SALARY FOR THE POSITION OF ASSISTANT FIRE CHIEF, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #10391. The salary for the position of Assistant Fire Chief will be set at \$3,471.65 bi-weekly.

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

No: None

Absent: Fenderbosch

Motion carried.

Ordinance No. 127-2014 adopted.

Temporary Legislation #10392, AN ORDINANCE ESTABLISHING THE POSITION OF PUBLIC WORKS DIRECTOR AND ADOPTING A JOB DESCRIPTION, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND REPEALING ORDINANCE NO. 141-2013, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #10392. With the establishment of the Public Works Department, it is necessary to establish the position of the Director and adopt a job description to accurately define the duties of said position.

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

No: None

Absent: Fenderbosch

Motion carried.

Ordinance No. 128-2014 adopted.

Temporary Legislation #10393, AN ORDINANCE PROVIDING FOR THE APPOINTMENT OF JOSEPH REITZ TO THE POSITION OF PUBLIC WORKS DIRECTOR, 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 #10393. With the formation of the Public Works Department it is necessary to appoint a department director. Mr. Reitz has been serving as the Director of Service and Engineering.

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

No: None

Absent: Fenderbosch

Motion carried.

Ordinance No. 129-2014 adopted.

Temporary Legislation #10394, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF DIRECTOR OF FINANCE, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND REPEALING ORDINANCE NO. 80-2008, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #10394. The Finance Director will assume the duties of Contract Administrator and therefore, the Finance Director job description needs to be revised to reflect the new duties.

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

No: None

Absent: Fenderbosch

Motion carried.

Ordinance No. 130-2014 adopted.

Temporary Legislation #10395R, AN ORDINANCE APPROVING WAGE INCREASES FOR FULL-TIME NON-BARGAINING UNIT PERSONNEL, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #10395R. This ordinance will approve 2% raises for all full-time non-bargaining unit employees effective July 1st of 2014, 2015, and 2016. This is the same increase that was approved in the bargaining unit contracts. These employees have not received wage increases for the past three years. The health care contribution for these employees will increase to 10% of the premium cost.

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

No: None

Absent: Fenderbosch

Motion carried.

Ordinance No. 131-2014 adopted.

Temporary Legislation #10397, AN ORDINANCE AUTHORIZING THE PURCHASE OF PROPANE GAS, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Shondel moved for passage of Temporary Legislation #10397. This ordinance will approve a contract with AmeriGas for the purchase of propane fuel for City vehicles at the price of \$1.35 per gallon, plus the spot price published weekly at Mont Bellvieu, Texas in the Wall Street Journal; the current price is \$0.88 per gallon.

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

No: None

Absent: Fenderbosch

Motion carried.

Ordinance No. 132-2014 adopted.

Temporary Legislation #10398, AN ORDINANCE AMENDING CODIFIED ORDINANCE CHAPTER 274.02, ENTITLED MEMBERSHIP, TERMS OF OFFICE, COMPENSATION, was read by title only.

Mr. Shondel moved for passage of Temporary Legislation #10398. The Environmental Affairs Board (EAAB) recommends amending its membership structure to remove the requirement of six members from industry to "up to six industry members" and allow for the appointment of an additional resident member to fill the fourteen member compliment.

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

No: None

Absent: Fenderbosch

Motion carried.

Ordinance No. 133-2014 adopted.

Second Reading:

Temporary Legislation #10400, AN ORDINANCE CHANGING THE RANK OF CERTAIN MEMBERS FO THE AVON LAKE FIRE DEPARTMENT, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Absent: Fenderbosch

Motion carried.

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Mr. Bucci moved for passage of Temporary Legislation #10400. With the creation of the rank of Captain in the Fire Department, there will be a change of rank. The current Lieutenants will become Captains under the reorganization.

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

No: None

Absent: Fenderbosch

Motion carried.

Ordinance No. 134-2014 adopted.

First Readings:

Temporary Legislation #10405, AN ORDINANCE APPROVING A CHANGE ORDER TO THE CONTRACT WITH CLEMANS, NELSON, AND ASSOCIATES, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Absent: Fenderbosch

Motion carried.

Mr. Bucci moved for passage of Temporary Legislation #10405. The City retained Clemans Nelson & Associates to help with Human Resource issues and collective bargaining negotiations. The costs have exceeded the retainer by \$5000. This ordinance will authorize the change order to the contract.

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

No: None

Absent: Fenderbosch

Motion carried.

Ordinance No. 135-2014 adopted.

Temporary Legislation #10406, AN ORDINANCE APPROVING THE FINAL PLAT FOR AQUA MARINE SUBDIVISION, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Absent: Fenderbosch

Motion carried.

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Mr. O'Donnell moved for passage of Temporary Legislation #10406. This plat is for the subdivision of three parcels from the original platted parcel for the construction of condominiums and apartments.

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

No: None

Absent: Fenderbosch

Motion carried.

Ordinance No. 136-2014 adopted.

Temporary Legislation #10407, 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: James, Kos, Meiners, O'Donnell, Shondel, Bucci

No: None

Absent: Fenderbosch

Motion carried.

Mr. Meiners moved for passage of Temporary Legislation #10407. The Finance Director determined certain appropriations are needed for the current expenses of the City.

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

No: None

Absent: Fenderbosch

Motion carried.

Ordinance No. 137-2014 adopted.

Temporary Legislation #10408, AN ORDINANCE WAIVING ANY CONFLICT OF INTEREST RESULTING FROM THE ENGAGEMENT OF THE LAW FIRM PORTER, WRIGHT, MORRIS AND ARTHUR LLP, AND THE APPOINTMENT OF MARGARET KOESEL AND TRACEY TURNBULL AS SPECIAL ASSISTANT LAW DIRECTORS IN THE CASE FILED BY JAMES E. PIETRANGELO II, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Absent: Fenderbosch

Motion carried.

Mr. O'Donnell moved for passage of Temporary Legislation #10408. Mr. Pietrangelo filed a suit in the Trial Court and in the Court of Appeals to have the skate park closed. Mr. Pietrangelo sought to disqualify the City's outside counsel, Ms. Koesel and Ms. Turnbull, claiming there was an unlawful interest in a public contract or a conflict of interest. The Trial Court determined there is no such conflict and the City is within its rights to retain Ms. Koesel and Ms. Turnbull. Mr. Pietrangelo has raised the issue on other occasions, and therefore, the Law Director has recommended this ordinance to prevent such further action by Mr. Pietrangelo.

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

No: None

Absent: Fenderbosch

Motion carried.

Ordinance No. 138-2014 adopted.

Temporary Legislation #10409, AN ORDINANCE INTERPRETING THE OBLIGATIONS OF THE LAW DIRECTOR, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Absent: Fenderbosch

Motion carried.

Mr. O'Donnell moved for passage of Temporary Legislation #10409. This arose out of the Pietrangelo litigation. One of the ways Mr. Pietrangelo sought to disqualify the outside counsel was to argue that since they were appointed as Special Assistant Law Directors, they are required to serve in that position full-time with the exclusion of any other employment. The Trial Court ruled against Mr. Pietrangelo. To prevent any further motions on that basis, the Law Director recommended that Council interpret the section of the Charter dealing with the position of Law Director to specifically indicate that the Law Director and Assistant Law Director need not be full-time positions.

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

No: None

Absent: Fenderbosch

Motion carried.

Ordinance No. 139-2014 adopted.

MISCELLANEOUS BUSINESS AND ANNOUNCEMENTS

As part of the Art Beautification Project, art work from local artists is displayed at the Old Firehouse Community Center and at City Hall.

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Due to the recent discovery of the chronic wasting disease that affects deer and elk, the Ohio Department of Natural Resources is recommending that hunters have venison tested by the Ohio Department of Agriculture. Information of available on the ODNR website.

The Storybook Trail at the Avon Lake Public Library and the Unknown Seaman Memorial Marker Project were finalists in the Community Service category at the "Lorain County Beautiful" awards ceremony.

PUBLIC INPUT

Margaret Eberly, 4943 Green Ash Trail, Medina, presented plans for the Hampshire Highlands development which will be located on Webber Road.

Mr. Meiners moved for adjournment.

Adjournment: 8:35 P.M.

Approved: _____
Council President

Attest: _____
Clerk of Council