

**MINUTES OF THE REGULAR MEETING  
OF THE AVON LAKE MUNICIPAL COUNCIL  
HELD AUGUST 24, 2015**

The regular meeting of the Avon Lake Municipal Council was called to order on August 24, 2015 at 7:30 P.M. in the Council Chamber with Council President O'Donnell presiding.

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

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

Absent: Jennifer Fenderbosch, John Shondel

There being no objections, Mrs. Fenderbosch and Mr. Shondel were excused from attendance at the meeting.

**APPROVAL OF MINUTES**

The minutes of the July 13, 2015 Regular Council Meeting were approved as prepared and published.

**PUBLIC HEARING**

A Public Hearing upon an amendment to Planning & Zoning Code Chapter 1212 and Chapter 1214 was called to order at 7:37 P.M.

The amendments deal with multi-family districts and the approval process. Classifications, development areas, minimum lot widths, and approval procedures are set forth in the amendments.

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

**CORRESPONDENCE**

Kopf Construction submitted a letter requesting suspension of the rule requiring three readings and emergency passage of the final plat approval for Waterside Crossing North Cluster #2.

Angelo Tetorakis submitted his notice of retirement effective November 1, 2015.

Barnett Management, managing agents for the Hunt Club HOA, sent a letter regarding concerns for the lack of street and/or traffic lights at Lear Road and the railroad tracks.

August 24, 2015 Council Meeting Minutes

Mary O'Connor Shaver submitted testimony on behalf of the Ohio Voters for Companion Animals Inc. urging Council to reject any proposal that contains breed specific restrictions.

Allie Wadham submitted her letter of resignation from the position of Animal Warden.

## **MAYOR'S REPORT**

Trick or Treat will be held on October 31, 2015.

On August 12, 2015 Ford Motor Company held a gathering of dignitaries from Michigan and Columbus as the first F650 and F750 trucks rolled off the assembly line. Joe Heinrichs, President of Ford of the Americas, praised the cooperative spirit of members of local government, the State of Ohio, and the UAW which worked together to make the new product line a reality at the Ford Assembly Plant. The full-time work force at Ford is at the agreed level of 1400 workers which stabilizes the finances of Avon Lake.

Summer activities in Avon Lake included the Water Fest, the ADA picnic, and outdoor movies.

To celebrate National Recovery Month, Assist Avon Lake, LCADA, and ADAS of Lorain County are sponsoring a recovery workshop on September 29<sup>th</sup> from 6:30 – 8:30 P.M. at the Avon Lake Public Library.

## **COUNCIL PRESIDENT'S REPORT**

August 31<sup>st</sup> is the fifth Monday of the month and no Council meeting is scheduled. In observance of Labor Day, no meeting will be held on September 7<sup>th</sup>. A rescheduled Collective Committee meeting is scheduled for Tuesday, September 8<sup>th</sup>. The next regular Council meeting is scheduled for September 14<sup>th</sup>.

## **PUBLIC WORKS DIRECTOR REPORT**

The Public Works Department update was distributed.

K & S Associates will conduct a traffic study on August 25<sup>th</sup> at Webber Road and Rt. 83. The purpose of the study is to determine if a traffic light is warranted at that location. If warranted, the traffic light would be in the Public Works 2016 budget and bid in March for a spring project.

The sewer project is moving forward. Curbs are being installed on Redwood with asphalt work scheduled for early September.

Once the Walker Road water line connections are complete, tree lawn and driveway restoration will begin and should be completed by early October.

**LAW DIRECTOR'S REPORT**

The Law Department update was distributed.

**HUMAN RESOURCES COMMITTEE REPORT**

A Human Resources Committee meeting is scheduled for September 8<sup>th</sup>.

**PUBLIC SERVICE COMMITTEE REPORT**

Mr. James reported on the topics discussed at the August 24, 2015 Public Service Committee meeting.

A public forum meeting regarding a multi-modal transportation plan will be held September 3, 2015 at 6:30 P.M. in the Council Chamber.

**SAFETY COMMITTEE REPORT**

Mr. Kos reported on the dangerous dog ordinance discussed at the July 13, 2015 meeting of the Safety Committee.

Mr. Bucci stated that he has received a number of complaints about motorists ignoring the stop sign Lakeside and Pondside. He asked Mr. Kos to have this item on the Safety Committee agenda.

**ZONING BOARD OF APPEALS REPORT**

Mayor Zilka reported on the results of the July 22, 2015 meeting of the Zoning Board of Appeals.

**MOTIONS**

Mr. Bucci moved to add a motion to the agenda accepting the resignation of Allie Wadham.

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

No: None

Absent: Fenderbosch, Shondel

Motion carried.

Mr. Bucci moved to accept the retirement of Captain Angelo Teterakis, effective November 2, 2015.

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

No: None

Absent: Fenderbosch, Shondel

Motion carried.

Mr. Bucci moved to accept the resignation of Allie Wadham, Animal Warden.

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

No: None

Absent: Fenderbosch, Shondel

Motion carried.

## **LEGISLATION**

### Second Readings:

Temporary Legislation #10539, AN ORDINANCE AMENDING SECTION 1010.11 OF THE CODIFIED ORDINANCES, AND ADDING SECTION 1010.111 PERTAINING TO TREE LAWNS, was read by title only.

This ordinance will provide a licensing process to allow certain encroachments in City rights-of-way. This is necessary to resolve issues mainly on Lake Road to obtain State and Federal funding for repaving.

Temporary Legislation #10541, AN ORDINANCE AMENDING PLANNING & ZONING CODE CHAPTER 1212, ENTITLED DEFINITIONS, AND CHAPTER 1242, ENTITLED MULTI-FAMILY RESIDENTIAL DISTRICT REGULATIONS, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Absent: Fenderbosch, Shondel

Motion carried.

Mr. James moved for passage of Temporary Legislation #10541. This will clarify definitions of multi-family residential districts and the approval process for such districts.

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

No: None

Absent: Fenderbosch, Shondel

Motion carried.

**Ordinance No. 106-2015 adopted.**

### First Readings:

Temporary Legislation #10544, AN ORDINANCE AUTHORIZING THE PURCHASE OF TWO FORD SUV INTERCEPTORS FOR THE POLICE DEPARTMENT, AND DECLARING AN EMERGENCY, was read by title only.

August 24, 2015 Council Meeting Minutes

The Police Chief recommended the purchase of two Ford SUV Interceptors from Lebanon Ford in the total amount of \$52,224.00. This will be through the State Purchasing Program.

Temporary Legislation #10545, AN ORDINANCE TO ADOPT THE SOLID WASTE MANAGEMENT PLAN FOR THE LORAIN COUNTY SOLID WASTE MANAGEMENT DISTRICT, AND DECLARING AN EMERGENCY, was read by title only.

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

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

Mr. James moved for passage of Temporary Legislation #10545. Periodically, the Solid Waste Management District revises its rules and participating communities are required to approve the changes.

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

**Ordinance No. 107-2015 adopted.**

Temporary Legislation #10546, AN ORDINANCE APPROVING THE FINAL PLAT FOR WATERSIDE CROSSING NORTH C NO. 2, AND DECLARING AN EMERGENCY, was read by title only.

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

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

Mr. James moved for passage of Temporary Legislation #10546. Planning Commission recommended approval of the final plat.

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

**Ordinance No. 108-2015 adopted.**

Temporary Legislation #10547, AN ORDINANCE AMENDING PLANNING & ZONING CODE SECTION 1217.04 REGARDING CONDITIONAL USE PERMITS, AND DECLARING AN EMERGENCY, was read by title only.

This ordinance will clarify a conditional use designation. There are several conditional use areas that have not been designated as such since the conditional use permit regulations did not come into effect until 1999. The proposed revision designates those uses in existence before 1999 are automatically granted a conditional use permit to include all schools, churches, and City parks.

Temporary Legislation #10548, AN ORDINANCE AMENDING PLANNING & ZONING CODE SECTIONS 1212.03, 1244.02, 1246.02, 1250.03 AND 1250.04 REGARDING SELF-SERVICE STORAGE FACILITIES, AND DECLARING AN EMERGENCY, was read by title only.

Self-service storage facilities will be clearly defined and the regulations will be established.

Temporary Legislation #10549, AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 208.01 (e) (16), ENTITLED LAKE HOUSE AND REPEALING ORDINANCE NO. 90-2015, AND DECLARING AN EMERGENCY, was read by title only.

City Council approved a new fee schedule for Lake House rentals since alcohol will be permitted with rental of the facility. The incorrect fee schedule was incorporated into the legislation. The Recreation Director has since proposed a new fee schedule that he feels is a better schedule. It has not yet been considered by the Parks & Recreation Commission or the Public Service Committee.

Temporary Legislation #10550, AN ORDINANCE AMENDING SECTION 1216.11 OF THE CODIFIED ORDINANCES TO MODIFY THE STANDARDS FOR OBTAINING A WAIVER FROM PLANNING COMMISSION AND ALLOWING THE PLANNING COMMISSION TO DELIBERATE IN PRIVATE AS TO WHETHER TO GRANT A WAIVER, AND DECLARING AN EMERGENCY, was read by title only.

The Law Director recommended these amendments to allow Planning Commission to grant waivers and to deliberate in private regarding the granting of waivers. Language regarding the burden of proof and the type of evidence required to obtain a waiver has been added.

Law Director Lieberman stated that the Courts have determined that deliberations of a quasi-judicial body are not meetings for purposes of the Sunshine Law. Planning Commission would be permitted to vote during deliberations, but a record of the vote would have to be recorded with a basis of the decision. The ordinance does not actually grant Planning Commission the right to deliberate in private because the body already has that right. The language was put into the ordinance to make it clear and remind Planning Commission that they have the right. Courts of Appeals,

Zoning Boards of Appeal, and Boards of Revision all have the right to deliberate in private as quasi-judicial bodies.

Temporary Legislation #10551, AN ORDINANCE AMENDING CODIFIED ORDINANCE CHAPTER 618 WITH THE ADDITION OF SECTION 618.17, NUISANCE, DANGEROUS, AND VICIOUS DOGS - DEFINITIONS, SECTION 618.18, DESIGNATION OF NUISANCE, DANGEROUS, AND VICIOUS DOGS, SECTION 618.19, SEIZURE OF A DOG FOR PUBLIC SAFETY, SECTION 618.20, CONFINING AND RESTRAINING DANGEROUS, AND VICIOUS DOGS, SECTION 618.21, INSURANCE FOR VICIOUS AN DANGEROUS DOGS, was read by title only.

Section 618.17 contains the definitions of nuisance, dangerous, and vicious dogs matching the definitions in State law to avoid conflicts.

Section 618.18 regarding the designation of nuisance, dangerous, and vicious dogs makes the language more user friendly. The language clearly defines the terms and clearly defines the actions that would be taken against such dogs. Appropriate penalties are assigned based on specific crimes. Mr. James pointed out that there is confusion with Section (f) which stipulates that all violations of the Chapter are unclassified misdemeanors, but Sections (g) through (k) classify violations; there seems to be inconsistencies with Section (f). Law Director Lieberman suggested that Section (f) be modified to indicate that all violations of the Chapter that otherwise do not have penalties shall be classified as unclassified misdemeanors. Mr. Kos agreed with Mr. Lieberman and stated that the changes will be made throughout all penalty sections of the document.

Mr. Bucci asked if there are provisions for repeat offenses. Mr. Kos stated that if there is a repeat offense it will be classified as a first or second degree misdemeanor for all offenses. Mr. Bucci stated that he would support increasing the penalties per offense.

Section 618.19, Seizure of a Dog for Public Safety, deals with action after an offense has occurred. There has been concern with dogs being able to stay at their residences after an incident per the current law. Pursuant to the proposed ordinance, the Police shall remove a dog from its home after it has killed or seriously injured another dog or person. The dog shall only be returned after the first Court hearing and a ruling by the Judge.

Mr. Meiners asked if the Police Department is equipped to house a dog versus a kennel. Mr. Kos stated that the Police already have the authority to transport a dog to a kennel or other location for any extended period of time. Depending on the severity of the attack, the Police could place the dog in a shelter such as Love-a-Stray or a foster home in lieu of a kennel. There are several options and it was the intent of the Safety Committee to not be too specific about placement. The Police Department already has locations where they take dogs. Mr. Meiners stated that he would like to see specific language. He further stated that if a dog is taken because

it has killed or seriously injured a dog or person, he would like the law to say the Police Department shall take the animal to a kennel. He stated that the public needs to know legally what is going to happen to the offending dog and not have it up to the discretion of the Police Department.

Section 618.20, Confining and Restraining Vicious and Dangerous Dogs, this would apply after a dog has been determined to be vicious or dangerous. The dog would have to be kept securely inside the home or transport vehicle of the owner, keeper, or handler. When the dog is outside, it would have to be in a locked enclosure at least 5 x 10 feet which has a secure top and sides. If the enclosure has no bottom securely attached to the sides, the sides must be embedded into the ground no less than two feet, or must have a concrete base with the fencing securely attached or anchored to the concrete perimeter to a depth of six inches and all fencing and caging must conform to Avon Lake building codes. While off the premises of the owner, keeper, harborer, or handler, the dog must be fitted with a proper collar that will prevent the dog from slipping out of it or breaking it and shall have a substantial chain link leash or tether attached to the collar that conforms to the dog's weight, size, and strength. The leash shall not be more than six feet in length and shall be controlled by a person who is at least 18 years old and of suitable size and discretion to control the dog. Intentionally, there is no mention of fencing in the proposed ordinance; if a dog is dangerous or vicious, the dog must be either in the house, car, or cage or on a leash and not running around in a yard. This will cut down the opportunities for a dog to escape. Any owner that has a vicious or dangerous dog shall be deemed to have given consent to an inspection of the property by any police officer or animal control officer.

Section 618.21 Insurance for Vicious or Dangerous Dogs. This section requires insurance policies of \$100,000 for vicious dogs and \$50,000 for dangerous dogs.

Section 618.22 Registration of Vicious or Dangerous Dogs. Upon being designated a vicious or dangerous dog, the owner shall register the dog with the County Auditor's office. The owner would then receive a vicious or dangerous certificate and would be required to pay any applicable fees. The owner would have to provide the following: address, phone number, means for the Auditor to contact the owner, satisfactory evidence of the dog's current rabies vaccination or statement from a licensed veterinarian that the vaccination is medically contraindicated for the dog, evidence of the fact that the dog is neutered or spayed or a statement from a licensed veterinarian that neutering or spaying of the dog is medically contraindicated, evidence that the person has posted and will continue to post clearly visible signs at the person's residence warning people of the presence of a vicious or dangerous dog, and evidence that the dog has been permanently identified by means of a microchip with the dog's microchip number. This information shall also be filed with the Avon Lake Police Department.

Mr. Bucci stated that he developed language on the preventive side that will be discussed by the Safety Committee. The City of Euclid has an ordinance that broadens the definition of nuisance dogs which includes dogs that have a known

propensity or tendency to attack, and dogs that have been caught off a leash at least twice within a year.

Mr. James stated that he advocates the determination of a nuisance or vicious dog be through an administrative review rather than a lengthy judicial review in order to get a decision quickly. It will allow individuals who feel they have been aggrieved to have a hearing outside the criminal system.

Temporary Legislation #10552, AN ORDINANCE PROVIDING FOR THE CONTINUED DEFENSE OF THE CITY OF AVON LAKE IN AN ACTION FILED BY JAMES E. PIETRANGELO II, AND DECLARING AN EMERGENCY, was read by title only.

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

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

Mr. Meiners moved for passage of Temporary Legislation #10552.

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

Mr. Meiners moved for passage of Temporary Legislation #10552. An additional \$50,000 was requested to continue to defend the City in an ongoing lawsuit regarding the skate park.

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

**Ordinance No. 109-2015 adopted.**

#### PUBLIC INPUT

Kyle Nowlin, 411 Greenbriar, lives next door to the residence where the Corgi-Beagle was killed by a pit bull. He read a statement expressing his concern about the safety of his family. He asked City Council to protect the community.

Loretta Vass, 748 Bridgeside, suggested that the proposed ordinance require a dog that has been removed by the Police Department to be evaluated by a professional dog trainer, along with its owner, before it is permitted back in its home.

August 24, 2015 Council Meeting Minutes

Johnna Lyman, 32379 Orchard Park Drive, asked what happens if a second incident occurs in Avon Lake or another community. Mr. Bucci stated that the Avon Lake ordinances will apply to Avon Lake only. Mr. Kos stated that the Ohio Revised Code requires owners of a dangerous or vicious dog to be registered with the County Auditor whenever they move to another community.

Gabriele Fenik, 510 Bridgeside, asked if the owner will have to show proof of insurance to the Auditor. Mr. Kos stated that the owner will be required to show proof to the City. 618.22 does not require proof of insurance to be submitted to the County Auditor since it is not required by Ohio Revised Code. He stated that it could be added to the ordinance. Ms. Fenik suggested a \$100,000 policy be required for both vicious and dangerous dogs. Ms. Fenik asked for clarification regarding permission for a dangerous dog versus a vicious dog to remain in the home. Mr. Kos stated that the Court would have the ultimate decision. The main difference between dangerous and vicious is when an attack involves the injury or killing of a person. Ms. Fenik stated that she believes it should be clearly stated where the dog would be taken after an attack. It would be of concern if a dog were taken from one neighborhood and put into another neighborhood.

**ADJOURNMENT**

Mr. Meiners moved for adjournment.

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

No: None

Absent: Fenderbosch, Shondel

Motion carried.

Adjournment: 9:05 P.M.

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

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