

**MINUTES OF THE REGULAR MEETING
OF THE AVON LAKE MUNICIPAL COUNCIL
HELD FEBRUARY 23, 2015**

The regular meeting of the Avon Lake Municipal Council was called to order on February 23, 2015 at 7:30 P.M. in the Council Chamber with Council President O'Donnell presiding.

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

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

APPROVAL OF MINUTES

The minutes of the February 9, 2015 Regular Council Meeting were approved as prepared and published.

PUBLIC HEARING

A Public Hearing upon proposed amendments to Planning & Zoning Code Section 1218.02, 1218.03, 1218.04, and 1218.05, and the addition of Section 1218.06 was called to order at 7:36 P.M.

These amendments were recommended when it was recognized that there are conflicts within the Planning & Zoning Code regarding rezoning. The Code is very clear on how to change the zoning map, but not on the procedures. The new language was developed by the Law Director to clarify the procedure for rezoning.

The Public Hearing was closed at 7:38 P.M.

CORRESPONDENCE

Correspondence was received from First Energy notifying the City of Avon Lake that American Transmission Systems is proposing to replace approximately 960 feet of the Avon Crestwood transmission line.

MAYOR'S REPORT

Mayor Zilka made the following announcements.

The Ward III meeting will be held February 25th at 7:00 P.M. at Troy Intermediate School.

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According to Avon Lake Codified Ordinances, trash cans are not to be placed at the curb before 5:00 P.M. the day before the scheduled pick-up day. Trash cans are to be removed from the tree lawns within a reasonable period of time.

Environmental Committee Chair Shondel, Police Chief Streator, and the Mayor will attend an Urban Deer Management Meeting on February 26, 2015 at the West Creek Reservation of Cleveland Metro Parks in Parma. The meeting was scheduled to address the growing concern of deer management across the State.

There are 23.5 million Americans living in long term recovery facilities. "Assist Avon Lake" will sponsor a showing of the film, *The Anonymous People* at 6:30 P.M. on March 24, 2015 at the Avon Lake Public Library. The film will focus on the emerging public recovery movement and steps that need to be taken to remove the stigma associated with addiction by breaking the silence and celebrating the new life that recovery has given many people.

COUNCIL PRESIDENT'S REPORT

The next Collective Committee meeting is scheduled for March 2nd and the next regular Council meeting is scheduled for March 9th.

Elected officials are required to submit Financial Disclosure Statements to the Ohio Ethics Commission by April 15th. Forms are available on the Ohio Ethics Commission website.

PUBLIC WORKS DIRECTOR REPORT

The Public Works Department update was distributed.

LAW DIRECTOR REPORT

The Law Department update was distributed.

FINANCE DIRECTOR REPORT

The January 2015 financial statements are posted on the Avon Lake website. Financial statements will be posted monthly.

ENVIRONMENTAL COMMITTEE REPORT

The Environmental Committee held a joint meeting with the Safety Committee on February 19th to discuss the deer management sharp shooter proposal. Legislation is on tonight's agenda.

PUBLIC SERVICE COMMITTEE REPORT

The Public Service Committee met on February 23, 2015 and discussed the following items: Recreation Department grants; swimming pool reservations; the Zoning Administrator's annual report; a nuisance ordinance; a rental occupancy ordinance; applications for agricultural designation; the Miller Road sand dredging contract; the asphalt street program contract; an agreement for a drainage ditch license; and revisions to the proposed subpoena ordinance.

PUBLIC UTILITIES COMMITTEE REPORT

American Transmission Systems, Inc., a First Energy company, is proposing to replace approximately 960 feet of the Avon-Crestwood Q-3 135kV Transmission Line. The project will be located in the City of Avon Lake. As part of the project, the existing 795 kcmil 36/1 ACSR conductor is being replaced with A 795 kcmil 26/7 ACSS high temperature conductor from Avon Substation to Structure 4043A. The project will begin on the south side of Lake Road, east of Avondale. The project should begin by March 9th and should be completed by June 1st.

SAFETY COMMITTEE REPORT

Mr. Kos reported the Safety Committee met on February 19th and discussed the following items: the purchase of cardiac monitors and turn out gear for the Fire Department; renewal of software for the Police Department; a liquor license for the wine festival; City Hall safety; and a memorandum of understanding to join with Lorain County to install updated systems for the 911 service.

SEWER COMMITTEE REPORT

The Sewer Committee met on February 12, 2015 and discussed the following items: an update on the slush event of January 10, 2015; the Moorewood Sewer Lateral Program; update on the inventory of private structures near stream banks; update on education programs with EAAB and Avon Lake Cable Television; the Avon Lake storm water plan; and flooding issues at 7555 Firestone Circle.

The next meeting of the Sewer Committee is scheduled for March 12, 2015.

Mrs. Fenderbosch announced that the financial report of LORCO, Water lines 1 and 2, along with the waste treatment, is available from Avon Lake Regional Water.

PARKS & RECREATION COMMISSION REPORT

The Parks and Recreation Commission is scheduled to meet February 25th at 6:00 P.M. at the Lake House. The Commission voted to change the start time of its meetings to 6:00 P.M.

AVON LAKE HISTORICAL PRESERVATION COMMISSION

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The Commission is scheduled to meet February 25th at 7:00 P.M. at the Avon Lake Public Library.

COMMUNITY COUNCIL

Nominations for Citizen of the Year and Project of the Year will be accepted until March 17th. Forms are available on the Avon Lake website, at City Hall, and at the Avon Lake Public Library.

AUDIENCE PARTICIPATION

Dan Haude, 316 West Creek Court, Avon Lake, expressed his objections to Temporary Legislation #10454R, granting City Council, City Boards, Commission, and Committees the authority to subpoena witnesses and documents. He stated that Council does not have the power to issue subpoenas or to delegate such authority to Boards, Commissions, and Committees. Council's power is derived solely from the Ohio Constitution which gives no authority of subpoena power to City Council. Ohio statutes and the City Charter also give no such power.

MOTIONS

Mr. Kos moved to remove from the agenda the motion authorizing the purchase of turn out gear for the Fire Department in the amount of \$13,000. The actual dollar amount of this purchase is higher than \$13,000 and requires an ordinance according to the Avon Lake purchasing policy.

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

No: None

Motion carried.

Mr. Meiners moved to add a motion to the agenda to authorize the Finance Director to advertise for bids for the 2015 City Hall server project. The project will upgrade the server to accommodate the new software for the Finance Department.

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

No: None

Motion carried.

Mr. Kos moved to authorize the purchase of Lifepak ECG monitors in the amount of \$11,913 for the Fire Department. The monitors will be purchased from Physio Control and will be funded from the Paramedic levy account.

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

No: None

Motion carried.

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Mr. Kos moved to authorize the Mayor to enter into a Memorandum of Understanding with New World Systems for the installation of updated software and hardware for the County 911 system. The new system will begin in 2016 and the cost is approximately \$14,031. The Police Chief highly recommended this updated system because the majority of Lorain County communities will be on the same system.

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

No: None

Motion carried.

Mr. Kos moved to authorize a service agreement with TAC Computers in the amount of \$11,614.80. TAC Computers services the software and hardware for the Police Department.

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

No: None

Motion carried.

Mr. Shondel moved to confirm the Mayor's appointment of Ron Jantz to the Cable Advisory Commission effective February 24, 2015 for a term expiring December 31, 2017. Mr. Jantz has vast experience in broadcasting and communications.

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

No: None

Motion carried.

Mr. Bucci moved to accept the resignation of Tim Maloney from the West End Redevelopment Commission effective February 24, 2015. Mr. Maloney resigned in order to serve on the Civil Service Commission.

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

No: None

Motion carried.

Mr. Bucci moved to confirm the Mayor's appointment of Tim Maloney to the Civil Service Commission effective February 24, 2015 for a term expiring December 31, 2015. Mr. Maloney will fill a vacancy on the Commission and will serve for the remainder of the term.

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

No: None

Motion carried.

Mr. Kos moved to accept the resignation of Don Cruse from the Avon Lake Historical Preservation Commission effective February 24, 2015. Other commitments prevent Mr. Cruse from serving on the Commission.

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

No: None

Motion carried.

Mr. Meiners moved to authorize the Finance Director to advertise for bids for the City Hall computerization project. Currently there are five or six individual servers serving the various departments. The Finance Director recommends replacing the antiquated system with a virtual server system which is more efficient and can better serve the departments. The project budget is \$70,000.

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

No: None

Motion carried.

LEGISLATION

Mr. Kos moved to add Temporary Legislation #10466 to the agenda.

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

No: None

Motion carried.

Third Reading:

Temporary Legislation #10452, AN ORDINANCE AUTHORIZING THE DONATION OF UNCLAIMED PROPERTY IN THE POLICE DEPARTMENT, was read by title only.

Mr. Kos moved for passage of Temporary Legislation #10452. The Police Department submitted a list of unclaimed confiscated bicycles and wishes to donate them to Community Resources Services, a 501 (c) 3 organization. Unclaimed bicycles are kept at the Police Station for 90 days before they are donated.

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

No: None

Motion carried.

Ordinance No. 22-2015 adopted.

Second Readings:

Temporary Legislation #10446, AN ORDINANCE AMENDING SECTION 1218.02, 1218.03, 1218.03, 1218.04, and 1218.05 OF THE CODIFIED ORDINANCES, AND ADDING SECTION 1218.06 TO THE CODIFIED ORDINANCES TO CLARIFY THE ZONING AMENDMENTS PROCEDURE, was read by title only.

This item was discussed at the Public Hearing held earlier in the meeting.

Temporary Legislation #10454R, AN ORDINANCE ENACTING SECTION 220.26 AND CHAPTER 298 OF THE CODIFIED ORDINANCES AND AMENDING SECTION 260.22, 278.04, 1468.05, AND 1476.36 OF THE CODIFIED ORDINANCES TO GRANT CITY COUNCIL AND THE BOARDS, COMMISSIONS, AND COMMITTEES THE POWER TO SUBPOENA WITNESSES AND RECORDS, AND DECLARING AN EMERGENCY, was read by title only.

This ordinance will grant City Council, Boards, Commissions, and Committees the authority to subpoena witnesses to appear before them and require them to submit requested documents. The ordinance has been revised since the first reading to add limitations on the issuance of subpoenas.

Temporary Legislation #10455, 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: Fenderbosch, James, Kos, Meiners, O'Donnell, Shondel, Bucci

No: None

Motion carried.

Mr. James moved for passage of Temporary Legislation #10455. The property owners at 33850 Lake Road requested a Resolution of No Interest in order to obtain a submerged land lease from the Ohio Department of Natural Resources to construct a breakwall in Lake Erie. The City has no interest in the property.

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

No: None

Motion carried.

Ordinance No. 23-2015 adopted.

Temporary Legislation #10456R, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL SERVICES AGREEMENT FOR PROFESSIONAL ENVIRONMENTAL CONSULTING SERVICES, 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 #10456R. It is required to have the closed landfill monitored annually. HzW Environmental Consultants will perform the service. They have been monitoring the landfill for many years. The contract amount is \$65,100.

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

No: None

Motion carried.

Ordinance No. 21-2015 adopted.

Temporary Legislation #10459, AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 260.06 (e) (2), was read by title only.

Section 260.06 (e) (2) grants the Mayor two personal holidays in addition to the three personal holidays provided in the section. However, the section had been amended to give all full-time employees four personal holidays. 260.06 (e) (2) will be amended to grant the Mayor two personal holidays in addition to the four personal holidays provided to all full-time employees to be consistent with sections of the Codified Ordinances.

First Readings:

Temporary Legislation #10461, AN ORDINANCE PROVIDING FOR THE 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: Fenderbosch, James, Kos, Meiners, O'Donnell, Shondel, Bucci

No: None

Motion carried.

Mr. Meiners moved for passage of Temporary Legislation #10461. The Law Director requested an amount of \$10,000 to prepare the documents and defend the City in an action filed relative to a public records request and the Skate Park.

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

No: None

Motion carried.

Ordinance No. 24-2015 adopted.

Temporary Legislation #10462, 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: Fenderbosch, James, Kos, Meiners, O'Donnell, Shondel, Bucci

No: None

Motion carried.

Mr. Meiners moved for passage of Temporary Legislation #10462. The Finance Director determined certain transfers of funds are necessary for the immediate expenses of the City.

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

No: None

Motion carried.

Ordinance No. 25-2015 adopted.

Temporary Legislation #10463, AN ORDINANCE AMENDING ORDINANCE NO. 19-2015 CONFIRMING THE APPOINTMENT OF MARY KRUPAR TO THE POSITION OF SECRETARY TO THE MAYOR, AND DECLARING AN EMERGENCY, was read by title only.

Mrs. Krupar's appointment was recently approved. During the hiring process, it was agreed that Mrs. Krupar would receive two weeks paid vacation to be prorated from her date of hire and two personal days; these benefits were not included in the hiring ordinance. The amendment is necessary to authorize the vacation and personal days.

Temporary Legislation #10464, AN ORDINANCE AMENDING SECTION 618.12 OF THE CODIFIED ORDINANCES TO ALLOW THE CULLING OF DEER ON PROPERTY OWNED OR MANAGED BY THE CITY OF AVON LAKE THROUGH THE USE OF SHARP SHOOTERS AND PROHIBIT INTERFERENCE WITH SUCH CULLING, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Shondel made the following comments. The amendment to Section 618.12 will allow the use of sharp shooters that are Federal or State agency employees. Section (h) has various provisions that prohibit activities that might hinder the sharp shooters or scare away the deer.

Temporary Legislation #10465, AN ORDINANCE AUTHORIZING A COOPERATIVE SERVICE AGREEMENT BETWEEN THE CITY OF AVON LAKE AND THE UNITED STATES DEPARTMENT OF AGRICULTURE, ANIMAL AND PLANT HEALTH INSPECTION SERVICE, RELATED TO THE DEER MANAGEMENT PLAN, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Shondel stated that the cooperative service agreement with the Department of Agriculture outlines their duties and responsibilities to carry out the actions of the sharp shooters. The agreement will further carry out the request for deer damage control permits for 15 deer to be culled at Weiss Field. The agreement stated that the cost of the culling shall not exceed \$15,960.

Temporary Legislation #10466, AN ORDINANCE AUTHORIZING THE PURCHASE OF TURN OUT GEAR FOR THE FIRE DEPARTMENT, AND DECLARING AN EMERGENCY, was read by title only.

Six sets of turn out gear will be purchased in the amount of \$19,746. The items will be purchased from Warren Fire Equipment through the State Purchasing Program.

PUBLIC INPUT

Dan Haude, 316 West Creek Court, expressed his opposition to the legislation authorizing subpoena power to Council, Boards, Commissions, and Committees and questioned the emergency nature of the ordinance. He stated that in his opinion, the legislation is a First Amendment violation and is unlawful.

Law Director Lieberman disagreed with Mr. Haude and stated that, under Avon Lake Home Rule authority, Council, Boards, Commissions, and Committees do have subpoena power. He asked Mr. Haude to furnish a case that backs his position that Council has no authority to issue subpoenas. He further stated that there are a number of Boards that have to determine facts and render serious decisions and if they cannot issue subpoenas, there would be a serious problem.

Mr. Haude stated that he has no problem with the Zoning Board or Planning Commission because they are quasi-judicial bodies which make factual determinations that affect people.

Mr. Lieberman stated that he does believe Council has the authority to grant Boards and Commissions the authority without going to a Charter amendment.

Mr. James read the following provision from Avon Lake Charter Section 19B.

“For the purpose of investigating charges against an officer or employee, Council may issue subpoenas or compulsory processes to compel the attendance of persons and the production of books and papers before Council, and may provide by ordinance for exercising and enforcing this provision. In all cases in which the attendance of witnesses may be compelled for such investigation, any member of Council may administer the requisite oaths...”

Mr. James asked Mr. Lieberman if it is true that City Council already has subpoena power as to itself. Mr. James further pointed out that the proposed ordinance is the effectuating ordinance providing more detail as to how Council would exercise the authority already granted by Charter

Mr. Lieberman agreed with Mr. James.

EXECUTIVE SESSION

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

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

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No: None
Motion carried.

Adjournment: 8:40 P.M.

RECONVENING OF OPEN COUNCIL MEETING

The open Council meeting was reconvened at 9:24 P.M.

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

Mr. Meiners moved for adjournment.

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

Adjournment: 9:25 P.M.

Approved: _____
Council President

Attest: _____
Clerk of Council