

**MINUTES OF THE RESCHEDULED MEETING
OF THE AVON LAKE MUNICIPAL COUNCIL
HELD OCTOBER 13, 2015**

The rescheduled meeting of the Avon Lake Municipal Council was called to order on October 13, 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, Public Works Director Joseph Reitz, Clerk of Council Barbara Dopp.

Finance Director Presley was excused from attendance at the meeting.

APPROVAL OF MINUTES

The Council Meeting minutes of September 14, 2015, September 21, 2015, and September 28, 2015 were approved as prepared and published.

CORRESPONDENCE

A letter was received from Avon Lake resident Julie Marlin in support of local farmers' markets and suggested revision to the two month local vendor rule.

MAYOR'S REPORT

The Alcohol and Drug Addiction Services Board of Lorain County is sponsoring a town hall meeting on October 21, 2015 at 7:00 P.M. in the New Russia Town Hall. The topic is marijuana legislation and the impact on communities.

A link to the Ohio Secretary of State website will be posted on the Avon Lake website. The link will provide the official ballot language and explanation of each issue and arguments for and against each issue.

October is Fire Safety Month and Firefighters are visiting schools to present programs related to fire safety. Residents can call 933-8305 to have a member of the Fire Department come to help with smoke detector inspection and installation. A limited number of smoke detectors are available free of charge.

Trick or Treat will held on October 31st from 6:00 – 7:30 P.M.

COUNCIL PRESIDENT'S REPORT

The next Collective Committee meeting is scheduled for October 19th and the next regular Council meeting is scheduled for October 26th. The following budget

meetings will be held: October 31st, November 7th, and December 5th. All budget meetings will begin at 8:15 A.M. in the Public Works Conference Room.

PUBLIC WORKS DIRECTOR REPORT

The Public Works Department weekly update was distributed.

Pavement is still being installed as part of the Moorewood Sewer Separation Project. The project should be completed by the end of November at the latest. The next sewer separation project will be divided into phases with only two streets being disrupted at one time.

LAW DIRECTOR'S REPORT

The Law Department litigation update was distributed.

ENVIRONMENTAL COMMITTEE REPORT

The Environmental Committee is scheduled to meet October 14, 2015 at 6:00 P.M. in the Council Conference Room.

Residents who have deer damage on their property should contact the Lorain County Game Warden, Randy White, at 330-245-3032. There are currently two open permits in the northeast quadrant of the City, and one each in the southeast and southwest quadrants.

The Environmental Affairs Advisory Board is sponsoring a poster contest for all Avon Lake school children in first through fourth grades. The theme is "Why is it Important to Keep Lake Erie Clean". Posters are due in City Hall by October 30th at 4:30 P.M.

FINANCE COMMITTEE REPORT

A Finance Committee meeting is scheduled for October 19, 2015 at 6:15 P.M. A sewer separation project on four streets is scheduled for 2016 and will cost the City of Avon Lake approximately \$5 million. The Avon Lake Regional Water portion will cost approximately \$12 million.

PUBLIC UTILITIES COMMITTEE REPORT

The Public Utilities Committee is scheduled to meet November 5, 2015 and expects to present a City-wide social media policy at the November 16th Collective Committee meeting.

ALCTV is airing a program featuring the two mayoral candidates being interviewed by Ron Jantz. The Board of Municipal Utilities candidates will be interviewed at a future program.

SEWER COMMITTEE REPORT

Mrs. Fenderbosch reported on the items discussed at the November 8, 2015 Sewer Committee meeting.

ECONOMIC DEVELOPMENT COMMITTEE

Mr. Bucci stated that he is recommending Steve Luca to fill one of the vacancies on the Community Improvement Corporation.

SAFETY COMMITTEE REPORT

Mrs. Fenderbosch reviewed amendments to the vicious dog ordinances. The amendments were suggested by the Zoning Administrator to be in compliance with the Planning & Zoning Code.

In Temporary Legislation #10551R2, 618.20 (b) (3) the following language will be added. "All signs in residential areas must be setback from the front property line a minimum of five feet. All signs are to be purchased from the City. In section (c) (1) (ii), the following change noted in bold will be added: in a locked fenced yard, which fence is **located in the rear yard with self-closing/self-latching gates on any opening of the fenced yard.**

In Temporary Legislation #10570R, section 618.01, (c) (1), the following change noted in bold will be added: in a locked fenced yard, which fence is **located in the rear yard with self-closing/self-latching gates on any opening of the fenced yard.** In section 618.22, (a) (1) (iii) the following change noted in bold will be added: in a locked fenced yard, which fence is **located in the rear yard with self-closing/self-latching gates on any opening of the fenced yard.** In section 3 the following language will be added: All signs in residential areas must be setback from the front property line a minimum of five feet. All signs are to be purchased from the City.

Mr. James stated that Council members have not received the written opinions they requested from the law firm Holland & Muirden regarding the dog legislation, and therefore, Council has not had the opportunity to deliberate on the issues and suggestions. Council also has not had the opportunity to study the amendments brought forward by Mrs. Fenderbosch. He suggested that passage of the ordinances be postponed to the next Council meeting.

Mr. Bucci also suggested tabling the legislation to give Council the opportunity to analyze the opinions of Holland and Muirden and research the issue of banning vicious dogs from Avon Lake.

Law Director Lieberman stated that Ms. Pannella's opinion is that anything permitted by the State cannot be prohibited by the City, and whatever is prohibited by the State cannot be permitted by the City. Ms. Pannella felt Avon Lake would be at risk

of having its law struck down by the Courts if Avon Lake outlaws vicious dogs. According to Ms. Pannella, there is a greater rationale for not allowing an owner to have more than one vicious dog because of the pack mentality of dogs. Based on applicable case law, Mr. Lieberman stated that Ms. Pannella's position is defensible.

Mr. Shondel stated that he would like to have written legal opinions before voting on the legislation.

Mr. O'Donnell recommended tabling the legislation to allow for further consideration of the amendments.

Mr. Kos stated that he will present the legislation for passage since there have been many meetings and lengthy discussions, and the Law Director concurred with the opinions of Holland & Muirden. The legislation can be amended in the future. The idea of banning a dangerous or vicious dog would prohibit what the State essentially allows.

Mrs. Fenderbosch pointed out that the amendments suggested by the Zoning Administrator were previously sent to Council members for review. She further stated that the Law Director has agreed with the opinion of Holland and Muirden regarding the banning of vicious or dangerous dogs.

SEWER COMMITTEE REPORT

Mrs. Fenderbosch reported on the items discussed at the October 8, 2015 Sewer Committee meeting.

ZONING BOARD OF APPEALS REPORT

Mayor Zilka reported on the results of the September 23, 2015 Zoning Board of Appeals meeting.

AUDIENCE PARTICIPATION

Melinda Rutledge Golas, 576 Arborside Lane, discussed her analysis of dog related incidents registered with the Police Department that were not cited. She asked how the City is going to enforce current and new ordinances equally, consistently, and without discrimination.

Mrs. Fenderbosch stated that she forwarded Ms. Golas' analysis to the Law Director for his review.

Joe Kokinda, 32961 Pin Oak Parkway, expressed his concern with the self-service storage facilities legislation.

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George Gorman, expressed his concerns with the self-service storage facility legislation and how it will affect the type of ownership and how the new restrictions will limit the use.

Law Director Lieberman stated that the legislation does not address the type of ownership so it can still be condominium form. The legislation addresses the type of use of the facility.

Mrs. Fenderbosch stated that there is nothing in the legislation that states that only one unit can be purchased.

Steve Vass, 648 Bridgeside, discussed his suggestion for “good dog, bad dog” legislation.

Johnna Lyman, 32379 Orchard Park, expressed her support for passage of the vicious dog ordinances.

Patricia Parker, 32272 Plumbrook Court, expressed her opposition to the proposed dog ordinances.

MOTIONS

Mr. Shondel moved to appoint Randy Bowling to the Environmental Affairs Advisory Board effective October 14, 2015 for a term expiring February 28, 2016. Mr. Shondel reviewed Mr. Bowling’s resume.

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

Mr. James moved to accept the resignation of Steve Luca from the Parks & Recreation Commission effective October 13, 2015.

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

Mr. Bucci moved to appoint Steve Luca to the Community Improvement Corporation effective October 13, 2015 for a term expiring August 1, 2018. Mr. Bucci reviewed Mr. Luca’s qualifications.

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

Mr. James moved to authorize the advertisement of bids for a cleaning service contract for City buildings.

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

No: None

Motion carried.

LEGISLATION

Mr. Bucci moved to remove Temporary Legislation #10573, appointing a Firefighter/Paramedic, from the agenda. The candidate reconsidered the appointment and declined the offer.

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

No: None

Motion carried.

Third Readings:

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.

Mrs. Fenderbosch moved for passage of Temporary Legislation #10547. The proposed amendment was recommended by Planning Commission and reads as follows. Any lawfully existing use that at the time the use was established, was not classified as a conditional use, but which now, because of the passage of this Planning and Zoning Code, or amendment thereto, is listed as a conditional use in the district in which it is located, shall be deemed without further action to have been granted a conditional use permit. Any change, modification, enlargement or alteration of such use, site development conditions, or change in operations shall only be permitted upon review and approval by the Planning Commission according to the procedures for conditional uses set forth in this Code. This will include schools, churches, and parks.

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

No: None

Motion carried.

Ordinance No. 124-2015 adopted.

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

Mrs. Fenderbosch moved for passage of Temporary Legislation #10548. At the July 7, 2015 meeting, Planning Commission recommended the following amendments. A self-service storage facility means, real property, contain multiple individual spaces utilized for dead storage of personal property and the users of which control access to their spaces. A self-service storage facility does not include a garage or other

storage area in a private residence. No occupant may use a self-service storage facility for residential purposes. Storage unit means an individual, compartmentalized, and controlled room, space, access space, stall, or locker. A self-service storage facility will be considered a conditional use in special business areas, and will become a conditional use versus a permitted use in light industrial and industrial areas. The regulations will be contained under general business, light business, or industrial business according to Codified Ordinance 1250.04. The users may use the storage space only for the purpose of storing personal property. The size of each storage unit shall not exceed 500 square feet. Radioactive material, explosives, flammable or hazardous chemicals shall not be permitted. The outdoor storage of inventory materials, vehicle, or merchandise is prohibited, unless specifically approved by Planning Commission during the application process for the requested conditional use. Sale, repair, fabrication, or servicing of goods, motor vehicles, appliances, equipment, or materials or similar activity may not be conducted in or from self-service storage facilities. Self-service storage facilities may not be used for residential purposes. Except for sinks or restroom facilities provided solely for use by managers or security personnel of the storage facilities containing more than ten individual storage units, neither sinks nor restroom facilities shall be permitted within self-service storage facilities. The Fire Department shall have access to the individual storage units for the purpose of inspection to determine compliance with this section and with the Ohio Fire Code. Owners, lessees, and users of storage units shall allow access to the units for inspection up to three times a year or at any time in response to a concern or complaint. The Fire Chief is authorized to draft regulations establishing procedures for inspections. No storage unit door opening shall face a residential zoning district. Owners of leased self-service storage facilities must include language within the lease for individual storage units advising the lessees of the regulations.

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

No: None

Motion carried.

Ordinance No. 125-2015 adopted.

Temporary Legislation #10551R2, AN ORDINANCE AMENDING THE CODIFIED ORDINANCES WITH THE ADDITIONS OF SECTION 618.17 – NUISANCE, DANGEROUS, AND VICIOUS DOGS – DEFINITIONS AND TRANSFER OF OWNERSHIP, SECTION 618.18 – DESIGNATION OF NUISANCE, DANGEROUS, AND VICIOUS DOGS, SECTION 618.19 – IMPOUNDMENT OF A DOG FOR PUBLIC SAFETY, SECTION 618.20 – CONFINING, RESTRAINING, DEBARKING NUISANCE, DANGEROUS, AND VICIOUS DOGS, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Kos moved for passage of Temporary Legislation #10551R2.

Mrs. Fenderbosch moved to amend Temporary Legislation #10551R2 with the addition of the following language.

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618.20 (b) (3) and (4). All signs in residential areas must be set back from the front property line a minimum of five feet. All signs are to be purchased from the City. Mr. James stated that he does not support the requirement that signs shall be purchased from the City.

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

No: James

Motion carried.

Mrs. Fenderbosch moved to amend Section 618.20 (c) (1) (ii) and (2) (ii). After the language, "in a locked fenced yard, which fence is," the following language will be added, located in the rear yard with self-closing/self-latching gates on any openings of the fenced yard.

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

No: None

Motion carried.

Mr. Kos reviewed each section of the proposed ordinance.

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

No: Shondel

Motion carried.

Ordinance No. 126-2015 adopted.

Temporary Legislation #10560, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF SECRETARY IN THE FIRE DEPARTMENT, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND REPEALING ORDINANCE NO. 2-2003, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #10560. The Fire Chief recommended an amended job description for the Secretary in the Fire Department to clearly define the expanded duties of the position.

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

No: None

Motion carried.

Ordinance No. 127-2015 adopted.

Temporary Legislation #10561, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF SECRETARY IN THE POLICE DEPARTMENT, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND REPEALING ORDINANCE NO. 58-2002, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #10561. The Police Chief recommended an amended job description for the Police Department Secretary to clearly define the expanded duties of the position.

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

No: None

Motion carried.

Ordinance No. 128-2015 adopted.

Temporary Legislation #10562, AN ORDINANCE ADOPTING A RECOMMENDATION OF THE HUMAN RESOURCES COMMITTEE ADJUSTING THE WAGE RATE OF SUZANNE BLISS, FIRE DEPARTMENT SECRETARY, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #10562. The Fire Chief recommended a salary adjustment for the Fire Department Secretary commensurate with the new job description. The new rate of pay will be \$22.50 per hour.

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

No: None

Motion carried.

Ordinance No. 129-2015 adopted.

Temporary Legislation #10563, AN ORDINANCE ADOPTING A RECOMMENDATION OF THE HUMAN RESOURCES COMMITTEE ADJUSTING THE WAGE RATE OF RACHEL BURSON, POLICE DEPARTMENT SECRETARY, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #10563. The Police Chief recommended a salary adjustment for the Police Department Secretary commensurate with the new job description. The new rate of pay will be \$20.60 per hour.

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

No: None

Motion carried.

Ordinance No. 130-2015 adopted.

Temporary Legislation #10565, AN ORDINANCE ADOPTING A FIXED GUIDELINE FOR HIRING NEW FIREFIGHTER/PARAMEDICS, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Bucci moved for passage of Temporary Legislation #10565. Currently there is no policy for establishing pay rates for new Firefighters who are hired with previous experience in a Fire Department. Chief Huerner has developed the following policy for establishing pay steps for new hires: No experience to 1 year – Step I; more than 1 year to 5 years – Step II; more than 5 years – Step III.

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

No: None

Motion carried.

Ordinance No. 131-2015 adopted.

Second Readings:

Temporary Legislation #10570R, AN ORDINANCE AMENDING THE CODIFIED ORDINANCES BY AMENDING 618.01 – DOGS AND OTHER ANIMALS RUNNING AT LARGE, AND WITH THE ADDITION OF SECTION 618.21 – POTENTIAL NUISANCE DOG CLASSIFICATIONS, SECTION 618.22 – CONTROL OF POTENTIAL NUISANCE DOGS, SECTION 618.23 – DECLASSIFICATION OF DOGS, SECTION 618.24 – DOGS CLASSIFIED BY ANOTHER JURISDICTION, SECTION 618.25 – DANGEROUS AND VICIOUS DOG OWNERSHIP RESTRICTIONS, AND SECTION 618.26 – EXEMPTIONS, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: Shondel

Motion carried.

Mr. Kos moved for passage of Temporary Legislation #10570R. This ordinance deals with the identification of potentially dangerous or nuisance dogs. Mr. Kos reviewed each section.

Mrs. Fenderbosch moved to amend Section 618.01 (c) (1) and Section 618.22 (a) (1) (iii). After the language, "in a locked fenced yard, which fence is," add the following language: located in the rear yard with self-closing/self-latching gates on any openings of the fenced yard.

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

No: None

Motion carried.

Mrs. Fenderbosch moved to add the following language to Section 618.22 (3). All signs in residential areas must be setback from the front property line a minimum of five feet. All signs are to be purchased from the City.

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

No: James

Motion carried.

The roll was called on passage of Temporary Legislation #10570R.

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

No: Shondel

Motion carried.

Ordinance No. 132-2015 adopted.

First Readings:

Temporary Legislation #10571, A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR, 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 #10571. As part of the 2016 budget process, it is necessary to accept the amounts and rates as determined by the Budget Commission and authorize the necessary tax levies and certifying them to the County Auditor.

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

No: None

Motion carried.

Temporary Legislation #10572, AN ORDINANCE CONFIRMING THE APPOINTMENT OF AN ENGINEERING TECHNICAL AIDE 1 IN THE PUBLIC WORKS DEPARTMENT, AND DECLARING AN EMERGENCY, was read by title only.

The Public Works Director has recommended a candidate for the position of Tech Aide 1. She has completed all Civil Service requirements.

Temporary Legislation #10574, AN ORDINANCE CONFIRMING THE APPOINTMENT OF A RECREATION PROGRAMMER IN THE RECREATION DEPARTMENT, AND DECLARING AN EMERGENCY, was read by title only.

The Recreation Director recommended Nicole Haas for the position of Recreation Programmer. She has completed all Civil Service requirements.

Temporary Legislation #10575, AN ORDINANCE ADOPTING A PUBLIC RECORDS POLICY, was read by title only.

Law Director Lieberman recommended adopting a new Public Records Policy which follows Ohio Revised Code. Law Director Lieberman stated that the Public Records Policy would also govern the actions of Avon Lake Regional Water.

MISCELLANEOUS BUSINESS AND ANNOUNCEMENTS

The Trail of Haunted Tales will take place at the Kopf Reservation on October 17, 2015.

Tours of the Avon Lake Cemetery will be conducted October 22nd, 23rd, and 24th. Tickets are available from the Avon Lake Historical Society.

PUBLIC INPUT

Joe Kokinda, 32961 Pin Oak Parkway, commented on the ordinance regarding self-service storage facilities and expressed his opinion that it will limit future development in Avon Lake.

Mark Rohn, 162 Moore Road, expressed his opposition to the self-service storage facility ordinance in that it restricts the use and does not permit owners to detail or wash vehicles in the storage units.

ADJOURNMENT

Mr. Meiners moved for adjournment.

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

No: None

Motion carried.

Adjournment: 10:15 P.M.

Approved: _____
Council President

Attest: _____
Clerk of Council