

**MINUTES OF THE REGULAR MEETING  
OF THE AVON LAKE MUNICIPAL COUNCIL  
FEBRUARY 8, 2016**

The regular meeting of the Avon Lake Municipal Council was called to order on February 8, 2016 at 7:30 P.M. in the Council Chamber with Council President O'Donnell presiding.

Mr. Bucci 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. Mayor Zilka, Law Director Abe Lieberman, Finance Director Presley, Public Works Director Joseph Reitz, Clerk of Council Barbara Dopp.

There being no objections, Mr. Shondel was excused from attendance at the meeting.

**APPROVAL OF MINUTES**

The minutes of the January 25, 2016 Regular Council Meeting were approved as prepared and published.

**CORRESPONDENCE**

George Conn and Mike Maloof requested suspension of the rule requiring three readings and emergency passage of the conditional use/change of use for property located at 294 Avondale Avenue.

**MAYOR'S REPORT**

Lake Road will be closed east of Lear Road beginning February 22<sup>nd</sup> through February 26<sup>th</sup> for work on the Mull/Norman sewer separation project.

Susan Poole, Director of Community Resource Services, will attend a Work Session on March 7<sup>th</sup> to give their annual report.

The Recreation Department is sponsoring the program, "Dark Skies, Bright Kids" on February 12<sup>th</sup>.

The Recreation Department has been awarded a \$7000 grant from the Department of Wildlife to fund a fishing program for children 15 years of age and under.

Postcards were sent to residents inviting them to an informational meeting on the future of health services in Avon Lake. The meeting will be held February 29, 2016 at 7:00 P.M. at Learwood Middle School. The City of Lorain will no longer be able to provide health services to Avon Lake. Options for the City will be discussed at the meeting.

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The combined Ward 3 and Ward 4 meeting will be held February 24, 2016 at 7:00 P.M. at Learwood Middle School.

### **COUNCIL PRESIDENT'S REPORT**

In observance of Presidents Day, no meeting will be held on February 15<sup>th</sup>. A Work Session and a rescheduled Collective Committee meeting will be held on February 16<sup>th</sup>. Todd Danielson, Avon Lake Regional Water Chief Executive, will explain sewer rate increases.

The Avon Lake Community Council is sponsoring the Project of the Year and Citizen of the Year awards. The deadline for nominations is March 17<sup>th</sup>. Forms are available on the City website and at City Hall.

### **PUBLIC WORKS DIRECTOR'S REPORT**

The Public Works Department weekly update was distributed.

### **LAW DIRECTOR'S REPORT**

The Law Department litigation update was distributed.

### **FINANCE DIRECTOR'S REPORT**

Go2IT is currently working to identify all faulty internet lines and connections.

The new Finance Department software will be up and running by November 1, 2016.

### **PUBLIC UTILITIES REPORT**

First Energy has an app available with information on power restoration updates, notification of expected power interruptions, weather updates, billing reminders, and meter reading dates. Any power outage should be reported to First Energy. Information is available at [www.firstenergycorp.com](http://www.firstenergycorp.com).

### **SEWER COMMITTEE REPORT**

The next Sewer Committee meeting is scheduled for February 11, 2016.

### **ECONOMIC DEVELOPMENT COMMITTEE REPORT**

Mr. Bucci reported on the joint meeting of the Economic Development Committee and the Human Resources Committee.

### **PLANNING COMMISSION REPORT**

At the February meeting, Planning Commission approved and recommended a conditional use/change of use for property at 294 Avondale, the old Napa store, from retail to storage. The Zoning Board of Appeals approved a variance for the size of the storage area. The area is zoned B-2, general business. Mrs. Fenderbosch explained that Planning Commission members voted in favor of the change of use because the property has been for sale and vacant for some time and there is a viable buyer. The single vote against the change was based on best use of property according to the plan developed by the West End Redevelopment Commission; a storage unit in that location is not part of the plan. Mrs. Fenderbosch stated that the potential buyer wishes to use the space to store his personal car collection. This is similar to a personal residential garage. The property is zoned B-2, a General Business District. Mrs. Fenderbosch stated that she does not see a personal garage in a Business Zoned District. It is one storage garage and not multiple garages.

At the February meeting, Planning Commission approved and recommended an amendment to the Planning & Zoning Code with the addition of Section 1260.10 regarding farmers markets. Mrs. Fenderbosch reviewed the definition and regulations of farmers markets.

## **PARKS & RECREATION COMMISSION**

Mr. James reported on the January meeting of the Parks & Recreation Commission.

## **AUDIENCE PARTICIPATION**

George Conn, 1322 Patty Park Drive, Westlake, expressed his desire to sell his property at 294 Avondale, the old Napa Store, to a prospective buyer and asked Council to consider the change of use/conditional use.

John Horvath, 36213 South Park Drive, Avon, represented Mr. Maloof the prospective buyer of the Avondale property. He outlined the buyer's plans for the property.

## **MOTIONS**

Mr. Bucci moved to reappoint Tom Harmon to the Affirmative Action Committee effective February 9, 2016 for a term expiring December 31, 2017.

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

No: None

Absent: Shondel

Motion carried.

Mr. Bucci moved to appoint Marty Patton to the Environmental Affairs Advisory Board effective February 9, 2016.

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

No: None

Absent: Shondel

Motion carried.

Mr. James moved to assign the Folger Home lease to Heritage Avon Lake. The Avon Lake Landmark Preservation Society, the organization that leases the Folger Home, merged with another local organization and it is necessary to change the name on the lease.

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

No: None

Absent: Shondel

Motion carried.

Mr. James moved to approve an amendment to the contractors' insurance provision in the lease for the Folger Home. Heritage Avon Lake requested an amendment to the lease of the Folger Home to allow for the contractors insurance requirement to be reduced to \$1 million per occurrence and \$3 million in the aggregate.

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

No: None

Absent: Shondel

Motion carried.

Mr. James moved to authorize the advertisement of bids for the Lear Road/Krebs Road Intersection Project.

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

No: None

Absent: Shondel

Motion carried.

Mr. James moved to authorize the advertisement of bids for the Miller Road Sand Dredging Project.

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

No: None

Absent: Shondel

Motion carried.

Mr. James moved to authorize the advertisement of bids for the 2016 Park Fertilization Project.

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

No: None

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Absent: Shondel  
Motion carried.

Mr. James moved to authorize the advertisement of bids for the 2016 Street Program.

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

Mr. James moved to authorize the advertisement of bids for the 2016 Street Tree Planting Program.

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

Mr. O'Donnell moved to add an Executive Session to the agenda to discuss the purchase of property.

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

### **LEGISLATION**

#### Second Readings:

Temporary Legislation #10619, AN ORDINANCE AUTHORIZING A PERSONAL SERVICES AGREEMENT WITH CDM ENGINEERING, AND DECLARING AN EMERGENCY, was read by title.

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

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

Mrs. Fenderbosch moved for passage of Temporary Legislation #10619. The Public Works Director requested approval of a contract with CDM Engineering in the amount of \$250,000 for Phases 2A and 2B of the Stormwater Master Plan update. CDM will conduct stormwater modeling of the Gable Creek and the Heider Creek

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drainage areas. The computer models are needed to identify the drainage systems in these two areas.

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

No: None

Absent: Shondel

Motion carried.

**Ordinance No. 11-2016 adopted.**

Temporary Legislation #10620, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF FIRE INSPECTOR FOR THE AVON LAKE FIRE DEPARTMENT, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Absent: Shondel

Motion carried.

Mr. Bucci moved for passage of Temporary Legislation #10620. The Human Resources Committee reviewed the proposed job description and recommended it to Council.

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

No: None

Absent: Shondel

Motion carried.

**Ordinance No. 12-2016 adopted.**

Temporary Legislation #10621, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF CITY PROSECUTOR FOR THE AVON LAKE MUNICIPAL COURT, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND DECLARING AN EMERGENCY, was read by title only.

The Human Resources Committee reviewed the proposed job description and recommended it to Council. There is ongoing discussion regarding to whom the Prosecutor should report, which will be discussed further by the HR Committee.

Temporary Legislation #10623, AN ORDINANCE AUTHORIZING THE PURCHASE OF A FORD EXPLORER FOR THE FIRE DEPARTMENT, AND DECLARING AN EMERGENCY, was read by title only.

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

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

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No: None  
Absent: Shondel  
Motion carried.

Mr. Kos moved for passage of Temporary Legislation #10623. A Ford Explorer will be purchased through the State Purchasing Program in an amount not to exceed \$36,638.00. The Safety Committee approved the purchase and recommended it to Council.

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

**Ordinance No. 13-2016 adopted.**

First Readings:

Temporary Legislation #10626, AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE CITY OF AVON FOR THE RESURFACING OF STATE ROUTE 83 FROM DETROIT ROAD TO LAKE ROAD, AND DECLARING AN EMERGENCY, was read by title only.

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

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

Mr. James moved for passage of Temporary Legislation #10626. ODOT is planning to resurface Avon Belden Road (SR 83) from Detroit Road to Lake Road. They have developed the cooperative agreement between the City of Avon and the City of Avon Lake, which has been reviewed by the Law Directors of each city. The \$2 million project will be 80% funded through NOACA. Avon Lake's portion is \$174,272, and Avon's portion is \$259,672.

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

**Ordinance No. 14-2016 adopted.**

Temporary Legislation #10627, AN ORDINANCE CONFIRMING THE APPOINTMENT BY THE MAYOR OF TIMOTHY PINCHEK TO THE POSITION OF RECREATION DIRECTOR, ESTABLISHING THE COMPENSATION FOR SAID POSITION, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Absent: Shondel

Motion carried.

Mr. Bucci moved for passage of Temporary Legislation #10627. The HR Director, the Council President, the Mayor, and a member of the Parks & Recreation Commission took part in the final interviews of the qualified candidates and determined Mr. Pinchek is the best candidate for the position.

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

No: None

Absent: Shondel

Motion carried.

**Ordinance No. 15-2016 adopted.**

Temporary Legislation #10628, AN ORDINANCE CONFIRMING THE APPOINTMENT OF STEPHANIE BIGGERS AS PRODUCTION COORDINATOR FOR THE CITY OF AVON LAKE, ESTABLISHING THE RATE OF COMPENSATION FOR SAID POSITION, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Absent: Shondel

Motion carried.

Mr. Bucci moved for passage of Temporary Legislation #10628. The Human Resources Committee recommended the hiring of Stephanie Biggers as the full-time Cable Production Coordinator at a salary of \$14.01/hr.

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

No: None

Absent: Shondel

Motion carried.

**Ordinance No. 16-2016 adopted.**

Temporary Legislation #10629, AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 274.04, ENTITLED MEMBERSHIP, TERMS OF OFFICE, COMPENSATION, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Absent: Shondel

Motion carried.

Mr. Bucci moved for passage of Temporary Legislation #10629. The Environmental Committee recommended an amendment to Codified Ordinance Section 274.02 (b) regarding membership of the EAAB. The amendment will permit EAAB members to serve on other appointive positions on boards and commissions. EAAB members will not be permitted to hold elective positions.

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

No: None

Absent: Shondel

Motion carried.

**Ordinance No. 17-2016 adopted.**

Temporary Legislation #10630, AN ORDINANCE AMENDING ORDINANCE NO. 104-2015, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Absent: Shondel

Motion carried.

Mr. Bucci moved for passage of Temporary Legislation #10630. Ordinance No. 104-2015 granted salary increases to full-time non-bargaining unit employees. The Mayor's Secretary was not included since the Mayor did not have a full-time secretary at the time of passage. The ordinance will be amended to include the Mayor's Secretary.

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

No: None

Absent: Shondel

Motion carried.

**Ordinance No. 18-2016 adopted.**

Temporary Legislation #10631, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF ECONOMIC DEVELOPMENT DIRECTOR FOR THE CITY OF AVON LAKE, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, AND DECLARING AN EMERGENCY, was read by title only.

The Economic Development Committee recommended the creation of a full-time Economic Development Director position which was approved by Council. The

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Economic Development Director will be appointed by the Mayor and will report directly to the Mayor. The job description for the position was reviewed and recommended to Council at a joint meeting between the Human Resources Committee and the Economic Development Committee.

Temporary Legislation #10632, 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.

This ordinance will authorize the Mayor to sign an agreement with HzW Environmental LLC in the amount of \$53,000 for the post closure monitoring of the closed landfill. This is an ongoing requirement from the EPA.

Temporary Legislation #10633, AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 840.04 (d), AND DECLARING AN EMERGENCY, was read by title only.

The amendment will modify the definition of sunset to mean the time provided by the Astronomical Applications Department of the U.S. Naval Observatory.

Temporary Legislation #10634, AN ORDINANCE AUTHORIZING AN EXPENDITURE FOR VEHICLE CHANGEOVER FOR THE POLICE DEPARTMENT 2016 FORD EXPLORERS, AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None

Absent: Shondel

Motion carried.

Mr. Kos moved for passage of Temporary Legislation #10634. The Police Chief recommended the quote from Hall Public Safety in the amount of \$15,482.68 for the changeover of two Ford Explorers.

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

No: None

Absent: Shondel

Motion carried.

**Ordinance No. 19-2016 adopted.**

Temporary Legislation #10635, AN ORDINANCE AUTHORIZING THE PURCHASE OF A FORD FOCUS FOR THE ZONING ADMINISTRATOR, AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Kos, Meiners, Bucci, Fenderbosch, James

No: O'Donnell

Absent: Shondel

Motion carried.

Mr. James moved for passage of Temporary Legislation #10635. The Public Service Committee approved an amount not to exceed \$16,500 to purchase a Ford Focus for the Zoning Administrator through the State Purchasing Program.

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

No: None

Absent: Shondel

Motion carried.

**Ordinance No. 20-2016 adopted.**

Temporary Legislation #10636, AN ORDINANCE APPROVING A CONDITIONAL USE/CHANGE OF USE FOR A STORAGE FACILITY AT 294 AVONDALE AVENUE, AND DECLARING AN EMERGENCY, was read by title only.

At their February 2, 2016 meeting, Planning Commission recommended the approval of a conditional use/change of use in a business zoned area from retail to storage. The property in question is the former Napa store. Mayor Zilka stated that the Zoning Board of Appeals granted a variance for storage use. He explained that Mrs. Fenderbosch voted against the change of use at the Planning Commission meeting, the reason being that the proposed use does not comply with the West End Redevelopment Commission plan, which proposes that area to be residential. He further stated the West End Redevelopment Plan was commissioned by the City, but the plan was never formerly adopted by Council. He further stated that in 1995 City adopted the Comprehensive Land Use Plan which was updated in 2004 and 2010. The Comprehensive Land Use Plan shows the Napa store as being located in a B-2 area. Mayor Zilka stated that the West End plan shows the area as being residential, but the West End plan has no status because it was never adopted by Council; the Comprehensive Land Use Plan was adopted by Council. The property owners have applied for a conditional use/change of use based on the City code; they have met the standards and passed the Zoning Board requirements. Mayor Zilka stated he would rather have the building occupied than remain vacant.

Mrs. Fenderbosch stated that the area was never proposed to be residential by the West End Development Plan. She further stated that she voted against the conditional use/change of use because it is in conflict with the West End Plan. The other reason being that the area is a B-2 zone which is a business district; a personal storage facility is not a business use.

Mr. James stated that he has concerns with the issue. The area is zoned as business/commercial, but the proposed use is for storage of private property. The

long term objectives of the City for that area are inconsistent with what is being proposed. Mr. James further stated that he does not see how it could be considered as an emergency action by Council since there are many vacant properties in Avon Lake. It seems as though it would benefit a few non-residents and not the general public.

Mr. Bucci stated that although the West End Redevelopment Commission Plan may not yet have the legal status of the Comprehensive Land Use Plan, it does have value and potential. The Commission worked over a year and a half with members of Council and a private consultant to develop goals for the area.

Mr. Kos asked about the process to have the West End Plan formally adopted. Mrs. Fenderbosch explained that the West End Plan would have to be approved by Council and referred to Planning Commission for consideration. After approval by Planning Commission, it would come back to Council approval. Another option, would be to incorporate the Plan into the Comprehensive Land Use Plan.

Temporary Legislation #10637, AN ORDINANCE AMENDING THE PLANNING & ZONING CODE WITH THE ADDITION OF SECTION 1260.10, AND DECLARING AN EMERGENCY, was read by title only.

Planning Commission approved and recommended the amendment with the addition of Section 1260.10 which defines and establishes the regulations for farmers markets.

## **EXECUTIVE SESSION**

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

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

Adjournment: 8:55 P.M.

## **RECONVENING OF OPEN COUNCIL MEETING**

The Council meeting was reconvened in open session at 9:26 P.M.

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

Mr. Meiners moved for adjournment.

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

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No: None

Absent: Shondel

Motion carried.

Adjournment: 9:27 P.M.

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

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