

**MINUTES OF THE REGULAR MEETING
OF THE AVON LAKE MUNICIPAL COUNCIL
MAY 9, 2016**

The regular meeting of the Avon Lake Municipal Council was called to order on May 9, 2016 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, Clerk of Council Barbara Dopp.

APPROVAL OF MINUTES

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

CORRESPONDENCE

Kopf Builders sent a letter in opposition to the penalty clause in the emergency gate access proposed ordinance.

A letter was received from Joseph Coleman requesting the conditional use permit approval for Coleman Gardens be placed on the May 23, 2016 Council agenda with suspension of the rule requiring three readings.

MAYOR'S REPORT

A moment of silence was held for Wade Mertz, former Avon Lake City Engineer.

On May 15, 2016 at 1:00 P.M. the Avon Lake Police Department and the American Legion Post 211 will hold a ceremony at the Safety Center honoring fallen police officers.

Members of American Legion Post 214 and its affiliates from Willoughby will be "Rocking the Walk" to support heroic veterans. The walk will begin May 19th in Willoughby and should pass through Avon Lake on May 20th.

COUNCIL PRESIDENT'S REPORT

The next Collective Committee meeting is scheduled for May 16th and the next regular Council meeting is scheduled for May 23rd.

Gerry Vogel and Ray Frank were chosen for the Citizen of the Year Award, and the "Hay Day" project of the Avon Lake Saddle Club received the Project of the Year

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award sponsored by the Avon Lake Community Council. They will be honored at a dinner on May 12, 2016 at 6:00 P.M. at the Avon Lake Public Library.

PUBLIC WORKS DIRECTOR'S REPORT

The Public Works Department weekly update was distributed.

On May 20, 2016 at 10:00 A.M. there will be a Purple Heart parking spot dedication at the City Hall parking lot.

The construction on Krebs Road should be completed in approximately one week.

LAW DIRECTOR'S REPORT

The Law Department litigation update was distributed.

FINANCE DIRECTOR'S REPORT

In addition to working on a new network system, the Finance Department is looking at the possibility of running the City's own fiber connection between City Hall and the Safety Center and City Hall and the service garage which would eliminate the monthly expenses to lease those lines.

ENVIRONMENTAL COMMITTEE REPORT

The Environmental Committee will meet on May 11, 2016 at 6:00 P.M. in the Council Conference Room.

SEWER COMMITTEE REPORT

The Sewer Committee will meet May 12th at 6:30 P.M. in the Public Works Conference Room.

ECONOMIC DEVELOPMENT COMMITTEE

Mr. Bucci reported on the May 9, 2016 Economic Development Committee meeting.

PLANNING COMMISSION REPORT

Mrs. Fenderbosch reported on the results of the May 2, 2016 Planning Commission meeting.

ZONING BOARD OF APPEALS REPORT

Mayor Zilka reported on the results of the April 27, 2016 Zoning Board of Appeals meeting.

AUDIENCE PARTICIPATION

Gerald Phillips, 461 Windward Drive, Avon Lake, had questions regarding the changes to Temporary Legislation 10645R, authorizing an agreement with Lorain County General Health District. He also asked about the terms of the agreement. He expressed his opposition to having the Mayor negotiate the final agreement without Council approval. He is opposed to a perceived unconstitutional delegation of legislation authority to the Mayor and the passage of the ordinance in its current form. He expressed his concern with Section 3, the Sunshine Law clause.

Mayor Zilka stated that conversations with the General Health District resulted in a list of services marked Exhibit A which include all mandatory services required by Ohio Revised Code as well as additional services that they deem important to prevent disease and promote health. In the past for example, the General Health District has aided Avon Lake with the frazzle ice situation, with Hurricane Sandy, and Ebola exposure without any additional cost. Mayor Zilka stated that he is confident that the General Health District will provide quality services to Avon Lake with levels of service substantially better than what is being provided by the City of Lorain. By joining the General Health District, Avon Lake Schools will be eligible to receive grants from private health institutions and charitable organizations for projects that lead to good health. The Mayor stated that he and the Finance Director attended meetings during 2015 and it became apparent that the Cities of Lorain and Elyria could not viably deal with the accreditation mandated by the State Legislature.

Mrs. Fenderbosch asked the Mayor why Avon Lake doesn't join August 1, 2016 when the contract with the City of Lorain expires. By doing so, Avon Lake residents would be able to vote on the levy in November to reduce the costs from 1 mill to whatever is determined.

Mayor Zilka stated that the General Health District needs transition time to absorb the additional cities and is not ready to absorb Avon Lake until January 1st due to staffing. He further stated that Council was elected by the residents and has the right and responsibility to make the best decisions for the residents. He acknowledged the concern that the electorate will not be voting on the property tax increase. He pointed out that only a few residents have expressed their opposition. Avon Lake will share a General Health District Board position with the City of Avon and the City of Sheffield Lake; both cities agreed that Avon Lake could choose the shared representative. He said the General Health District will not allow Avon Lake to have its own Board member.

Mrs. Fenderbosch stated that she has always been in favor of joining the General Health District, and feels Avon Lake should join effective August 1st.

Mr. Meiners stated that has full confidence in the Mayor to make the proper decision after attending various meetings.

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Mr. Kos pointed out that Mr. Covell made it clear that joining the General Health District August 1st is not an option.

Curtis Weems, 350 Greenbriar Drive, Avon Lake, expressed his opposition to joining the General Health District. He urged Council to put the issue on the ballot.

Gerald Phillips, 461 Windward Way, Avon Lake, expressed his opposition to the conditions imposed by Planning Commission for a storage unit complex on Pin Oak Parkway because it hinders economic development.

Jean Sekulic, 68 North Point Drive, Avon Lake, expressed her confidence in Council to make the right decision approve joining the General Health District.

MOTIONS

Mr. James moved to approve a porch addition to the Old Firehouse Community Center and to refer the item to Planning Commission. The porch addition was recommended by the Public Service Committee and the Parks & Recreation Commission. The porch will be constructed from recycled lumber purchased with recycling grant funds.

Mr. Shondel moved to accept the retirement of John Reulbach, City Prosecutor, on a date to be determined and to approve the rehiring of him also on a date to be determined at the same rate of compensation. Mr. Reulbach requested this proposal in order to be eligible to receive health insurance through the Ohio Employees Retirement System. Mr. Reulbach is highly regarded by Judge Bilancini and his colleagues.

Mrs. Fenderbosch stated that his action is not looked upon favorably by the public sector. She stated that she will vote against the motion.

Mr. Kos stated that he will vote in favor of the proposal since there is no policy against it and it was decided previously that the practice would be judged on a case by case basis based on the merits of the individual. Mr. Reulbach is highly respected by Judge Bilancini and other prosecutors in the area.

Yes: Kos, Meiners, O'Donnell, Shondel

No: Fenderbosch, James, Bucci

Motion carried.

Mr. Shondel moved to accept the Deer Management Plan for the City of Avon Lake 2015 as approved by the Division of Wildlife. The plan was distributed to Council members for review.

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

No: None

Motion carried.

LEGISLATION

Third Readings:

Temporary Legislation #10645R2, AN ORDINANCE AUTHORIZING AN AGREEMENT WITH LORAIN COUNTY GENERAL HEALTH DISTRICT TO PROVIDE HEALTH SERVICES TO THE CITY OF AVON LAKE, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Meiners moved for passage of Temporary Legislation #10645R2. This issue has been discussed for several months in open meetings. Mr. Meiners stated that the \$100,000 that has been budgeted for health services with the City of Lorain will be a property tax allocation for membership in the County Health District. State law prohibits City's to fund membership in a General Health District from the general fund; funding will be through a property tax levy.

Mr. Shondel stated that he will support the legislation as the most certain method of moving forward for the City of Avon Lake to continuously provide State mandated public health services.

Mr. Bucci stated that the City should join the General Health District, but the voters should have the right to vote on the tax.

Mr. James stated that he has questions regarding the cost estimates and the plausibility of certain alternatives and has concerns about the fairness of the proposed agreement with the General Health District. He read a statement regarding his concerns. Mr. James stated that he feels the issue should be placed on the ballot since it involves a property tax increase.

Mr. O'Donnell stated that he investigated other options and decided that joining the General Health District is the best option.

Mrs. Fenderbosch stated that she will introduce a substitute ordinance that would propose an August 1st date for joining the General Health District. On August 1st, there would be a 1 mill tax levy, but in November there will be a choice for the voters to reduce the millage.

Yes: Kos, Meiners, O'Donnell, Shondel

No: Fenderbosch, James, Bucci

Motion carried.

Ordinance No. 50-2016 adopted.

Temporary Legislation #10647, AN ORDINANCE AMENDING PLANNING & ZONING CODE SECTION 1240.06 (d) (8), ACCESSORY USE REGULATIONS, was read by title only.

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Mrs. Fenderbosch moved for passage of Temporary Legislation #10647. Planning Commission approved and recommended an amendment to the Planning & Zoning Code regarding fence regulations. The following exception to the fence code will be added. (E). "Where the side yard property line of one residential property is also the rear yard property line of another property, that portion of the fence in the side yard that abuts the adjoining property's rear yard and that is installed at such property line shall be permitted rear yard regulations". This will allow abutting fences to be the same height.

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

No: None

Motion carried.

Ordinance No. 51-2016 adopted.

Temporary Legislation #10657, AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT TO ACQUIRE TWO FORD F750 PLOW TRUCKS, AND DECLARING AN EMERGENCY, was read by title only.

Mr. James moved for passage of Temporary Legislation #10657. The Public Works Director recommends leasing two Ford F750 plow trucks in accordance with ODOT State Term Bid No. 023-15. The term of the lease is six years with an annual payment of \$59,463.80.

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

No: None

Motion carried.

Ordinance No. 52-2016 adopted.

Temporary Legislation #10658, AN ORDINANCE AUTHORIZING THE PURCHASE OF A FUELMaster SYSTEM FOR THE PUBLIC WORKS DEPARTMENT, AND DECLARING AN EMERGENCY, was read by title only.

Mr. James moved for passage of Temporary Legislation #10658. The fueling station at the Public Works Department is outdated and can no longer be supported by the City's outside systems management. The Public Works Director recommends the purchase of a new Fuelmaster System and software from Service Station Equipment Co. in the amount of \$18,600. The system will allow for departmental and individual fuel tracking for the diesel, unleaded, and propane systems.

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

No: None

Motion carried.

Ordinance No. 53-2016 adopted.

Second Readings:

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Temporary Legislation #10661, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF LAW DIRECTOR FOR THE CITY OF AVON LAKE, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID, POSITION, was read by title only.

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

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

Mr. Shondel moved for passage of Temporary Legislation #10661. The Human Resources Committee recommended the job description. The City Prosecutor will be added to the employees who report to the Law Director.

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

Ordinance No. 54-2016 adopted.

Temporary Legislation #10663, AN ORDINANCE AMENDING CODIFIED ORDINANCE CHAPTER 290, AFFIRMATIVE ACTION COMMITTEE, was read by title only.

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

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

Mr. Shondel moved for passage of Temporary Legislation #10663. The Affirmative Action Committee is a group composed of a resident, the HR Director, and the Finance Director. All other groups that are composed of non-elective individuals are referred to as commissions or boards. The word "committee" has been used to indicate a group composed of elected Council members. The amendment will change the title of the Affirmative Action Committee to the Affirmative Action Commission.

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

Ordinance No. 55-2016 adopted.

Temporary Legislation #10664, AN ORDINANCE APPROVING A CONDITIONAL USE SITE PLAN FOR STORAGE UNITS ON PIN OAK PARKWAY, was read by title only.

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Planning Commission recommended a request for a conditional use site plan for a new storage unit complex on Pin Oak Parkway. The single story buildings are within a secured fenced complex with an additional gate for emergency access.

Temporary Legislation #10668R, AN ORDINANCE FIXING COMPENSATION RANGES FOR AVON LAKE REGIONAL WATER POSITIONS, AND REPEALING ORDINANCE NO. 133-87, was read by title only.

This ordinance will adjust the pay of non-bargaining unit employees of Avon Lake Regional Water to compensate for elimination of the PERS pick-up benefit with an additional 2% increase. The PERS pick-up benefit will no longer be paid by the City for any employee.

First Readings:

Temporary Legislation #10669, AN ORDINANCE APPROVING A CHANGE ORDER TO THE CONTRACT WITH CONCRETE & MORE, AND DECLARING AN EMERGENCY, was read by title.

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 #10669. The change order amount is \$3,027.20. While doing foundation work at the Folger Home, the contractor discovered additional footers need to be installed to stabilize the foundation.

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

No: None

Motion carried.

Ordinance No. 56-2016 adopted.

Temporary Legislation #10670, AN ORDINANCE ALLOWING WINE TO BE SOLD, SERVED, DISPENSED, AND CONSUMED AT A ONE-DAY FESTIVAL TO BE HELD AT VETERANS MEMORIAL PARK ON JUNE 25, 2016, AND DECLARING AN EMERGENCY, was read by title only.

The annual Wine Festival will be held on June 25th. A one day liquor license permit is required to permit the sale and consumption of wine on that day. The event is sponsored by the Avon Lake Waterfront Corporation.

Temporary Legislation #10671, AN ORDINANCE ADOPTING A RECOMMENDATION OF THE HUMAN RESOURCES COMMITTEE ADJUSTING

THE WAGE RATE OF THE LAW DIRECTOR, AND DECLARING AN EMERGENCY, was read by title only.

The Human Resources Committee approved a 3% salary increase for the Law Director for assuming additional duties of supervising the City Prosecutor.

Temporary Legislation #10672, AN ORDINANCE AMENDING THE CODIFIED ORDINANCES WITH THE ADDITION OF SECTION 1024, EMERGENCY ACCESS GATES, AND DECLARING AN EMERGENCY, was read by title only.

The Safety Committee recommended this amendment with the approval of the Fire Chief and Police Chief. The recommendation is based on research of nineteen gated communities. Gated communities will be required to obtain a permit from the Fire Chief. The following will be required: the contact information of all officers of each HOA, contact information of any management company retained by the HOA, contact information of all owners of gated community lots not governed by any association, written consent of each association governing any of the gated community lots, written consent of owners of all gated lots not governed by any association, a site plan of the area, plans and specifications of the gate, contact information of the contractor installing the gate. Gates must be electronically operated. Gates must fail to the open position and remain open when power is off. The Fire Chief has the authority to have any gate removed that is not in compliance.

Temporary Legislation #10673, 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 #10673. The Finance Director determined transfers are needed for the immediate expenses of the City.

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

No: None

Motion carried.

Ordinance No. 57-2016 adopted.

Temporary Legislation #10674, AN ORDINANCE OF THE CITY OF AVON LAKE AUTHORIZING THE ISSUANCE OF A BOND OF THE CITY IN A PRINCIPAL AMOUNT NOT TO EXCEED THIRTY-NINE MILLION DOLLARS (\$39,000,000) FOR SALE TO THE WATER POLLUTION CONTROL LOAN FUND OF THE STATE OF OHIO TO FINANCE THE COSTS OF IMPROVEMENTS TO THE CITY'S WASTEWATER SYSTEM; PLEDGING CERTAIN REVENUES FROM THE CITY'S WASTEWATER SYSTEM ON A SUBORDINATED BASIS TO SECURE THE

PAYMENT OF THE PRINCIPAL OF THE INTEREST ON THE BOND; AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE BOND AND THE TRUST AGREEMENT AND OTHER DOCUMENTS AND THE TAKING OF OTHER ACTIONS RELATED TO THE ISSUANCE AND SALE OF THE BONDS, 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 #10674. This ordinance pledges the revenues of the wastewater system and does not involve any general obligations of the City and will have no impact on the City's bond rating or the ability of the City to borrow money. The term of the agreement is 30 years.

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

No: None

Motion carried.

Ordinance No. 58-2016 adopted.

Substitute Temporary Legislation #10645R2, AN ORDINANCE AUTHORIZING AN AGREEMENT WITH THE LORAIN COUNTY GENERAL HEALTH DISTRICT TO PROVIDE HEALTH SERVICES TO THE CITY OF AVON LAKE, AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Fenderbosch, James, Bucci

No: Kos, Meiners, O'Donnell, Shondel

Motion failed.

This substitute ordinance is being proposed to answer questions regarding joining the General Health District. Ohio Revised Code 3709.07 speaks about how to join a general health district. This proposed substitute ordinance protects the residents' right to vote on a special tax levy for the Lorain County General Health District as referenced in Ohio Revised Code Section 3709.29. This ordinance authorizes the Mayor to negotiate membership in the General Health District with a starting date of August 1, 2016, which would allow residents to vote on the reduction of the levy in November. On or before June 30, 2016, the General Health District Advisory Board must declare whether or not they will accept the Avon Lake proposal. In the event that membership in the Lorain County General Health District is anything different than August 1, 2016, the issue will be able to go before the public at the general election according to Charter Section 9A.

MISCELLANEOUS BUSINESS AND ANNOUNCEMENTS

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In honor of Peace Officer Memorial Day on May 15, 2016, all flags should fly at half-staff from sunrise to sunset.

Mr. Kos and Mr. Krugman gave their Civil War presentation at Learwood Middle School for the twelfth year.

Anyone interested in participating in the Memorial Day parade should contact Mrs. Fenderbosch, Mr. Meiners, or Mr. Shondel. Blue Star and Gold Star mothers will be honored at the ceremonies.

PUBLIC INPUT

Gerald Phillips, 461 Windward Way, expressed his disappointment in the four Council members who authorized the agreement with the Lorain County General Health District without knowing the terms and conditions of the agreement.

Curtis Weems, 353 Greenbriar Drive, Avon Lake, expressed his opposition to the salary increase for the Mayor. He expressed his opposition to joining the General Health District.

ADJOURNMENT

Mr. Meiners moved for adjournment.

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

No: None

Motion carried.

Adjournment: 9:25 P.M.

Approved: _____
Council President

Attest: _____
Clerk of Council