

**DRAFT MINUTES OF THE REGULAR MEETING
OF THE AVON LAKE MUNICIPAL COUNCIL
HELD JUNE 28, 2010**

The Regular Meeting of the Avon Lake Municipal Council was called to order on June 28, 2010 at 7:30 P.M. in the Council Chamber with Council President Zilka presiding.

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

Present: Council Members Dan Bucci, Jennifer Fenderbosch, David Kos, Larry Meiners, Martin O'Donnell, Timothy Rush, Gregory Zilka, Mayor Zuber, Law Director William Kerner, Finance Director Tom DiLellio, Engineering Department Manager Joseph Reitz, Clerk of Council Barbara Dopp.

APPROVAL OF MINUTES

The minutes of the June 14, 2010 Regular Council Meeting were approved as prepared and published.

APPOINTMENT OF A FIREFIGHTER/PARAMEDIC

Temporary Legislation #9720, AN ORDINANCE CONFIRMING THE APPOINTMENT OF A FIREFIGHTER/PARAMEDIC IN THE FIRE DEPARTMENT, AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

Mr. Rush moved for passage of Temporary Legislation #9720. Jeremy Betsa will fill a vacancy in the Fire Department starting at a Step 1 rate effective June 29, 2010.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

Ordinance No. 81-2010 adopted.

Law Director Kerner administered the Oath of Office to Mr. Betsa.

PUBLIC HEARING

A Public Hearing upon the 2011 Tax Budget was called to order at 7:36 P.M.

State law requires municipalities to establish a tax budget and file it with the County Auditor by July 20, 2010. Finance Director DiLellio stated that the primary purpose of

the tax budget is to justify the continued collection of property taxes. This is the first step in the 2011 budgetary process and establishes an estimate of revenues and expenditures for all funds. The general fund derives approximately \$3.4 million from property taxes; the police and fire pension fund derive about \$221,000. The paramedic levy brings in approximately \$1.1 million, and the debt service for the pool brings approximately \$327,000. As a percentage of total property taxes paid, 11.7% comes to the City; the library receives approximately 2%; the County receives approximately 19%; the Joint Vocational School receives approximately 3%; and the Avon Lake schools receive approximately 62%. The revenue estimate for the 2011 general fund is approximately \$13.3 million.

The Public Hearing was closed at 7:40 P.M.

MAYOR'S REPORT

On June 23, 2010, Mayor Zuber attended the Team NEO Award Ceremony. Avon Lake was nominated for a job retention award, but did not win the award.

On June 24, 2010, the Mayor attended the Mayor's Conference in Columbus.

The new aquatic center opened on June 25, 2010.

COUNCIL PRESIDENT'S REPORT

Mr. Zilka made the following announcements.

July 4th falls on a Sunday, and therefore, City Hall will be closed on Monday, July 5th. The Collective Committee meeting has been rescheduled to Wednesday, July 7th at 7:30 P.M. Planning Commission will hold its regularly scheduled meeting on Tuesday, July 6th. The next regular Council Meeting is scheduled for July 12th. This will be the last meeting before Council recess. Council will be on recess from July 13 – August 15th. Council members are asked not to schedule committee meetings during recess.

Under third readings, Temporary Legislation 9703R was listed on the agenda in error. The ordinance was passed at the second reading. A motion will be made to remove it from the agenda.

ENGINEERING DEPARTMENT REPORT

The Engineering Department Update was distributed.

Mr. Reitz reported on the Jaycox Road Sewer Project. The sewer on Electric Boulevard was installed between Beck and Jaycox. The temporary asphalt repairs are completed.

LAW DIRECTOR'S REPORT

The Law Department Update was distributed.

ENVIRONMENTAL COMMITTEE REPORT

An Environmental Committee Meeting is scheduled for July 1, 2010.

Mrs. Fenderbosch reported that the EAAB distributed lip balm and sun screen at the opening celebration of the pool as part of the melanoma prevention education program.

The Lorain County Hazardous Waste Collection Site is open every Monday, Wednesday, and Saturday; the site is located at 540 South Abbey Road.

FINANCE COMMITTEE REPORT

Mr. Zilka reported on the following items discussed at the June 21, 2010 Finance Committee meeting: the 2011 tax budget; and the sale of City assets via the internet. The Committee also approved the May financial statements. The Finance Committee met on June 28, 2010 and discussed the following items: the sale of City assets; Ford Motor revenues; and the Jaycox Road repair financing.

PUBLIC UTILITIES COMMITTEE REPORT

By June 28th, electricity should be restored to most homes that lost power due to the June 27th storm. Hospitals, prisons, police and fire departments, federal emergency facilities, water and sewer pump stations, media, and airports receive first priority for power restoration, followed by the largest area of individual customers.

SAFETY COMMITTEE REPORT

Mr. Rush announced a Safety Committee meeting is scheduled for June 30, 2010 at the Safety Center at 6:00 P.M.

ECONOMIC DEVELOPMENT COMMITTEE REPORT

Mr. Bucci reported on the Economic Development Committee meeting held June 22, 2010. The Committee met with Neil Weinberger, President of J & D Properties, regarding the future of Learwood Square.

RENEWABLE ENERGY TASK FORCE REPORT

The Task Force is on summer hiatus. A solar array is being installed at Water Edge on Miller Road.

AUDIENCE PARTICIPATION

The following individuals expressed their support for the purchase of parkland adjacent to the Wildberry Subdivision through the Clean Ohio Fund.

Deanna Scripture, 767 Wildberry, Avon Lake
Jan Sixt, 644 Linsberry Court, Avon Lake
Pat O'Boyle, 705 Cranberry Court, Avon Lake
Robert Keenan, 713 Waterbury Court, Avon Lake
Greg Romes, 32674 Lake Road, Avon Lake
Judy Chevrolet, 697 Cranberry Court, Avon Lake
Marjorie Dambrosia, 699 Cranberry Court, Avon Lake
Barb Brady, 637 Linsberry Court, Avon Lake
Paul Fletter, 756 Wildberry Circle, Avon Lake

The following individuals addressed Council regarding the Folger Home renovations and also questioned the authority of the Historical Preservation Commission. They expressed their frustration at the process involved in having the renovations approved. The Public Service Committee voted to refer three proposed renovations to Planning Commission, but the Historical Preservation Commission voted to refer only the west porch renovation to Planning Commission.

Pat Fellure, 32617 Belle Road, Avon Lake
Pam Hoffman, 72 Landings Way, Avon Lake

Geoffrey Smith, 33834 Lake Road, Avon Lake, referred to Temporary Legislation #9706, which approves the preliminary plan for Avon Center Estates Resubdivision. He said the legislation should be referred back to Planning Commission for discussion of green space in relation to the development of Belmont Drive.

Mr. Smith further expressed his opposition to the purchase of parkland adjacent to the Wildberry Subdivision.

MOTIONS

Mr. O'Donnell moved to refer renovation plans of the Folger Home to Planning Commission.

Mr. O'Donnell made the following comments. The renovation being referred deals with the west porch of the building. The Public Service Committee originally voted to refer the proposed renovations of the west porch, stairwell, and the ADA approved restroom to Planning Commission. The newly formed Historical Preservation Commission reviewed the proposed renovations and had some concerns since they want to preserve the historical value of the building and have it designated as a historical landmark. The Historical Preservation Commission only approved the restoration of the west porch.

David Kos made the following comments. At the Public Service Committee meeting, it was mentioned that the renovation proposals would be added to the agenda of the Historical Preservation Commission meeting, which was the day after the Public Service Commission meeting. At the Collective Committee meeting following the Public Service

Committee meeting, it was also mentioned. The duties and authority of the Historical Preservation Commission were established by Avon Lake ordinance. They are to be consulted for recommendations and opinions. The Folger Home is a City owned building, and therefore, renovations should be reviewed by the Public Service Commission and the Historical Preservation Commission. It was within the Commission's authority to recommend that two of the proposed renovations should not be referred to Planning Commission. The ultimate goal is to have the building registered with the Ohio Historical Society and possibly with the National Register. Once the Folger Home receives the historical designation, there will be opportunities to apply for grants and tax credits to help pay for the proposed renovations.

Mrs. Fenderbosch explained that the members of Planning Commission do not receive any plans or department head reviews until they receive their packets on the Thursday before the Planning Commission meeting.

Mr. Meiners questioned the legality of a motion passed by the Public Service Committee being negated by the Historical Preservation Commission, which is not an elected body.

Law Director Kerner stated that he was not at the meetings and recognizes that there is confusion surrounding the issue. He made the following comments. The Public Service Committee acted and made a recommendation to Council. Mr. Kerner stated that he does not think the Historical Preservation Commission has a right, other than as a petitioner, to ask for action from the Public Service Committee.

Mr. Kos stated that the Historical Preservation Commission was asked to take a look at the renovation proposals, and they made a recommendation. There are two choices; the three proposed renovations can be referred to Planning Commission, or Council can wait to take action until the historical designation is received and funding is pursued to pay for the renovations.

Mr. O'Donnell stated that the proposed renovations probably should have gone to the Historical Preservation Commission before they were considered by the Public Service Commission. This issue got confused since this is a new Commission and the review process is just being developed.

Mr. O'Donnell stated that his motion is for the referral of only the west porch renovations to Planning Commission. His main concern is to protect the historic value of the Folger Home.

Mr. Zilka referred to the minutes of the Public Service Committee meeting which reflected the Committee's concern regarding the historic integrity of the Folger Home.

Mr. Meiners stated that a representative from the Historical Preservation Commission should have appeared before the Public Service Committee to explain their recommendations.

Mr. Rush pointed out that the item went back to the Public Service Committee after the recommendation of the Historical Preservation Commission. He further pointed out that, as a non-profit organization, the Folger Home Board can request the waiving of Planning Commission fees.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, O'Donnell

No: Meiners

Motion carried.

Mr. Rush moved to instruct the Clerk of Council to return the form to the Division of Liquor Control in the matter of a stock transfer stating that the City of Avon Lake does not request a hearing. El Corral Restaurants, dba, Las Casuelas Mexican Restaurant, requested the redistribution of stock among three shareholders. The Police Chief indicated there is no reason to request a hearing.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

Mr. O'Donnell moved to accept a donation in the amount of \$300 for entertainment at the grand opening of the municipal pool. Jeff Riddell of Consumer Building Supplies made the donation.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

LEGISLATION

Mr. Bucci moved to remove Temporary Legislation #9703R from the agenda. It was placed on the agenda in error.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

Third Readings:

Temporary Legislation #9699, A RESOLUTION PROVIDING FOR THE SUBMISSION OF A PROPOSED CHARTER AMENDMENT RELATING TO THE SOLICITATION OF COMPETITIVE QUOTATIONS TO A VOTE OF THE ELECTORS OF THE CITY OF AVON LAKE AT THE NEXT GENERAL ELECTION, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Zilka moved for passage of Temporary Legislation #9699. Charter Section 59A currently requires open competitive quotations for the purchase of supplies, materials,

and equipment when the estimated amount does not exceed \$10,000. This is in conflict with Charter Section 59 as a result of a Charter amendment passed by the voters which raised the requirement for competitive bidding to expenditures in excess of \$25,000. The Law Director recommended amending Charter Section 59A to raise the amount to \$25,000 to be in agreement with Charter Section 59.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

Ordinance No. 72-2010 adopted.

Temporary Legislation #9700, AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 252.02, ENTITLED PURCHASES UNDER \$5000, was read by title only.

Mr. Zilka moved for passage of Temporary Legislation #9700. Under the current Code Section, requisitions are required for purchases in excess of \$250. This proposed amendment will raise the requirement to purchases in excess of \$1000, providing the purchases are within the budget. This will streamline the purchasing process and will be consistent with the Charter.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

Ordinance No. 73-2010 adopted.

Temporary Legislation #9701, AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 252.03, ENTITLED PURCHASES BETWEEN \$5000 AND \$15,000, was read by title only.

Mr. Zilka moved for passage of Temporary Legislation #9701. This amendment will allow department heads to initiate purchases which cost \$5000 to \$25,000 if appropriations have been provided and if the unencumbered balance of the account is sufficient. This is necessary to be consistent with the Charter. Mr. O'Donnell requested that a committee be formed to oversee the bidding process and the awarding of contracts.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

Ordinance No. 74-2010 adopted.

Temporary Legislation #9702, AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 252.04, ENTITLED PURCHASES OVER \$15,000, was read by title only.

Mr. Zilka moved for passage of Temporary Legislation #9702. Under the current Code Section, all purchases exceeding \$15,000 shall be made only after advertisement and

public bidding. The amendment will raise the amount to \$25,000 to be consistent with the Charter.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

Ordinance No. 75-2010 adopted.

Temporary Legislation #9705, AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A GROUND SITE LEASE AGREEMENT WITH CLEAR WIRELESS, LLC, A NEVADA LIMITED LIABILITY COMPANY, was read by title only.

Mr. O'Donnell moved for passage of Temporary Legislation #9705. Clear Wireless requested authority to lease space on the monopole located behind City Hall. The City will receive \$1500 per month as a rental fee.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

Ordinance No. 76-2010 adopted.

Temporary Legislation #9706, AN ORDINANCE APPROVING THE RESUBDIVISION PRELIMINARY PLAN FOR AVON CENTER ESTATES SUBDIVISION, AND DECLARING AN EMERGENCY, was read by title only.

Mrs. Fenderbosch moved for passage of Temporary Legislation #9706. The re-subdivision will create a new Preliminary Plan for a portion of Avon Center Estates along Belmont Drive. The plan will widen the existing 50 foot wide right-of way to 60 feet and will consolidate the existing properties to create frontages ranging in size from 60 to 75 feet in width. The re-subdivision will create 28 new single family parcels in two construction phases. The developer requested the following waivers: minimum lot areas under 10,000 square feet (25 lots); minimum lot width at building line less than 80 feet (25 lots); setbacks of 15 feet from right-of-way for corner lots 17, 18, and 29; and corner lot widths less than 100 feet for lots 17, 18, and 29.

Mr. Rush made the following comments. Reconfiguration of the subdivision could solve some of the issues with the Wildberry residents. He referred to comments made by the Law Director regarding Code Sections 1210.02 and 1214.04. Section 1210.02 (1) states that the purpose of the Planning & Zoning Code is to protect the character and values of the residential, business, industrial, and recreational areas and to assure their orderly and beneficial development. This shows that Planning Commission had the responsibility of looking at the entire City and not just the area being developed. Section 1216.02 (b) states that the proposed subdivision is designed to be harmonious with existing immediate or surrounding areas or in keeping with the intended character of such area. Mr. Rush stated that he will not support the approval of the preliminary plan for Avon Center Estates since he believes some issues are related to the Wildberry

Subdivision, and keeping the entire area congruent, could be handled by Planning Commission and should be referred back to Planning Commission.

Mrs. Fenderbosch made the following comments. It was explained at the Planning Commission meeting that the area being considered by the Commission was Belmont Drive, the center part of Avon Center Estates. It is a transition area relative to the size of the properties being developed at Legacy Pointe which will be north of the area, and the multi-family Wildberry Subdivision, south of the area. There is talk of interconnectivity of streets in the area. Instead of following the 1923 platted 33-39 properties, there will only be 29 properties.

Mr. Kos made the following comments. This issue is related to Temporary Legislation 9716*R, the ordinance authorizing the purchase agreement for parkland adjacent to the Wildberry Subdivision; if the legislation is defeated, the entire thing should go back to Planning Commission.

Mr. Meiners stated that he agrees with Mr. Rush and Mr. Kos and will not support the legislation.

Mr. O'Donnell agreed with Mr. Meiners and stated that the residents have raised concerns and the whole scope should have been examined.

Mrs. Fenderbosch made the following comments. At the Planning Commission meeting, it was stated by the Chair and Law Director that the only thing Planning Commission could look at was the space in the application which was the Belmont Drive area. Planning Commission members were informed that they could not consider the entire area. It would only be speculative since there are no plans for the surrounding area.

Law Director Kerner made the following comments. The statements Mr. Rush referred to were appropriate, but Planning Commission did look at the issue very carefully. The application was for the resubdivision of a specific portion of the area and did not include the surrounding areas.

Mr. Zilka stated that he agreed with Mr. Kerner's comments and said it is unfair to a developer to bring in surrounding areas that are not relative to his petition.

Mayor Zuber stated that he is concerned that the developer may come back and want to build houses on 40 foot lots, which he has the right to do, but that would not be desirable for Avon Lake. That is the reason Planning Commission granted the variances for 65 foot lots.

Yes: Zilka, Fenderbosch, Bucci

No: Rush, Kos, Meiners, O'Donnell

Motion failed.

Second Readings:

Temporary Legislation #9711, A RESOLUTION APPROVING THE USE OF SUBMERGED LANDS, AND DECLARING AN EMERGENCY, was read by title only.

Mr. O'Donnell moved for suspension of the rule requiring three readings.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

Mr. O'Donnell moved for passage of Temporary Legislation #9711. A property owner at 31980 Lake Road requested permission from the Ohio Department of Natural Resources to construct a breakwall in Lake Erie. The request has been approved by Department Heads and there are no concerns.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

Ordinance No. 77-2010 adopted.

Temporary Legislation #9713, AN ORDINANCE APPROVING THE IMPROVEMENT PLANS FOR AVON CENTER RESUBDIVISION NUMBER ONE, AND DECLARING AN EMERGENCY, was read by title only.

On June 1st, Planning Commission approved the improvement plans and recommended them to Council. The first phase of construction will improve Belmont between Avon Belden Road west to just before Woodstock. This includes 16 sublots in the first phase of the development.

Mr. Zilka asked the Law Director how this proposed legislation should be treated since the preliminary plans for the subdivision failed passage. Mr. Kerner stated that it should be treated as the second reading for possible follow-up at a later date.

Temporary Legislation #9714, A RESOLUTION TO ADOPT AND DECLARE THE TAX BUDGET FOR THE YEAR 2011, AND DECLARING AN EMERGENCY, was read by title only.

The City is required to submit the 2011 tax budget to the County Auditor by July 20th. A Public Hearing was conducted earlier in the meeting.

Temporary Legislation #9716*R, AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF AVON LAKE, OHIO TO ENTER INTO AN AGREEMENT TO PURCHASE APPROXIMATELY 2.87 ACRES OF LAND TO BE USED FOR PARK PURPOSES, AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Zilka, Bucci, Fenderbosch, Kos

No: Rush, Meiners, O'Donnell

Motion Failed.

Law Director Kerner advised Mrs. Fenderbosch to treat the legislation as a second reading even though the deadline for the grant application is June 30th.

Mrs. Fenderbosch made the following comments. This Ordinance would authorize the Mayor to apply for a grant under the Clean Ohio Fund for the purchase of parkland. The application required a purchase agreement and a land appraisal. The Ordinance required an agreement with the Wildberry Homeowners Association (HOA).

Mr. Kos expressed his disappointment that the motion to suspend the rule requiring three readings failed, which did not permit a vote on the passage of the legislation at the second reading.

Mr. Bucci stated that he voted for suspension of the rule requiring three readings because the issue has been thoroughly debated and the issue deserved a vote for approval or denial. Mr. Bucci made the following comments. If the legislation had gone to a vote for passage, he would have voted against it. He originally wanted to support the legislation since it was an opportunity to purchase parkland at no expense to the taxpayers. However, issues with the land appraisals concerned him. Responses he received from the appraiser did not ease his concerns and caused him to have no confidence in the appraisals.

Mrs. Fenderbosch stated that she wished the concerns with the appraisals had been brought to her attention because there could have been an opportunity for another appraisal.

Mr. Zilka pointed out that Council members did not receive the appraisals until last Thursday or Friday, and there wouldn't have been time for another appraisal. Mr. Zilka stated that he also has concerns about the appraisals and referred to Page 59 and the "in conclusion" statement. He also referred to Pages 62, 63, and 54 regarding the land value calculations. Mr. Zilka stated that he believes the land value should be \$6000 per plot and not \$9126 per plot. It would be unfair to the Wildberry residents who agreed to pay for the land that would not be covered by the grant. He said he cannot support the legislation until there is an explanation regarding the appraisals. Mr. Zilka further stated that he has concerns with Spruce Street. If the legislation had gone to a vote for passage, he would have voted against it.

Mr. Zilka referred to comments made by Mr. Romes at the last Collective Committee Meeting. Mr. Romes had stated that the Utilities Department made him change the improvements for Wildberry at the last stage of the approval process. Mr. Zilka referred to the following passages from a document supplied by the Utilities Department: (1) Mr.

Romes states that "Utilities at the last minute in the approval, required the improvements to the platted streets of Courtland and Spruce." In fact, City Engineer Mertz commented with the first submittal of the preliminary plan (4/13/99) that these platted streets needed to be addressed by the developer. (2) Mr. Romes stated that he "vehemently fought" but had "no choice" to agree to put future Courtland and Spruce improvements on the Homeowners Association. On August 5, 1999 in response to Engineer Mertz's 4/13/99 comment to Mr. Romes through his engineer stated, "In the unlikely event that the paper streets would have to be improved at some time after the development of the Wildberry Subdivision, the owner of the common land within Wildberry Development would have the same obligations and rights in relation to assessments for improvements that the property owners on the opposite side of the street have." (3) Utilities first comment (9/9/99) was John Kniepper's comment to Planning Commission "that this subdivision would be responsible for one-half of the development costs of the street when it occurs and this should be in their deeds and recorded for future reference unless improvements are installed with this subdivision". Mr. Zilka stated there is further evidence in the document that the issue was brought up early in the approval process. He further stated that the City was doing its due diligence to make sure the residents of Avon Lake were not responsible for putting in a street for a developer rather than the abutting property owners which follows City Code. Mr. Zilka further stated that he was involved in the writing and revision of the Land Use Plan and has been an advocate of parkland, but under these circumstances the residents are not getting a deal by the recommendation to move ahead with the grant. They would be paying too much for the property as would the State of Ohio through the grant. The City has a fiduciary responsibility to the residents of the State of Ohio to make sure their funds are properly spent.

Mr. O'Donnell made the following comments. There are concerns regarding Woodstock and the costs related to the park. The legislation states that 25% of the purchase price not covered by the grant may be reimbursed by the Wildberry HOA depending on the issue of Spruce Drive. The Spruce Drive issue has not been resolved which brings up questions and concerns. The issue with Avon Center Estates needs to go back to Planning Commission. There will be grants in the future.

Mr. Rush stated that he had several people, including an accountant, look at the appraisals for the proposed parkland purchase. They had the same issues raised by Mr. Bucci. Mr. Rush made the following comments. The legislation has changed three times which is of concern. The minutes from the Wildberry HOA meeting addressed their reimbursement to the City. Temporary Legislation #9716*R talks specifically about Spruce relative to vacation; this was removed from the contract. The June 19th Wildberry HOA meeting minutes state, "For the Wildberry HOA substantial payment of 25% of the cost of said land, the City of Avon Lake shall vacate the Wildberry portion of Courtland and Spruce right-of-way and/or release Wildberry HOA from appropriating funds or land as described in the Wildberry HOA Declaration, Section 22, Article VII." Basically, unless these conditions are met, not a penny will come to the City from the HOA. Without agreement from other property owners, the City cannot vacate its portion as there may be a need for the street to be installed. Therefore, it would not be prudent

to move forward at this time. There are too many questions to be answered including the title of the legislation. Council kept hearing that this issue is about applying for a grant. The title of the legislation doesn't even mention the grant application, but talks about a purchase agreement. Ohio Revised Code Section 731.19, states that no ordinance, resolution, or by-law shall contain more than one subject, which shall clearly be expressed in its title. There are three issues mentioned in the legislation; one is relative to the purchase agreement; one is relative to the grant application; and one is relative to the Wildberry Homeowners Association.

Mayor Zuber pointed out that Section 4. of the legislation states that the Mayor is hereby authorized to make a grant application through the Ohio Public Works Commission under the Clean Ohio Conservation Fund. Mayor Zuber made the following comments. The Wildberry issue was addressed last week. The Wildberry HOA agreed to come up with more than the 25% matching funds based on the grant. There would be an agreement between the City of Avon Lake, Wildberry, and Mr. Kopf regarding Spruce Drive. The reason this issue was rushed is due to the grant application deadline of June 30th.

Mr. Rush referred to the appraisal. On page 70, it states that "someone other than the appraiser has checked mathematical calculations in an attempt to eliminate errors." Mr. Rush questioned whether that step had been taken.

Mr. Bucci stated that he did not have that discussion with the appraiser. From his discussions with the appraiser, Mr. Bucci stated he believes the math was correct, but that the appraiser applied the wrong math, which is an inherent flaw with the appraisal.

First Readings:

Temporary Legislation #9717, AN ORDINANCE AWARDDING A CONTRACT FOR THE 2010 CONCRETE STREET PROGRAM, AND DECLARING AN EMERGENCY, was read by title only.

Mr. O'Donnell moved for suspension of the rule requiring three readings.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

Mr. O'Donnell moved for passage of Temporary Legislation #9717. The best bid was submitted by Denes Concrete in the amount of \$516,227.50. The estimate was approximately \$700,000. The streets included are Woodstock north and south of Redwood, Carriage Lane, Greenwood Drive and Court, Herrmann Drive at Surrey, Lewis south of Greenwood, Redwood east of Avon Belden, the east end of Surrey, and the Crestwood/Moorewood intersection. The optional streets include Woodstock north of Spinnaker, Bexley Circle, Marbrook Lane south end, and Spinnaker.

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Law Director Kerner pointed out that a lower bid was received, but he recommended that the bid not be accepted because the contractor is under investigation by the State Auditor's Office, and has been removed from other concrete projects. Under the specifications, the City has the right to reject bids.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

Ordinance 78-2010 adopted.

Temporary Legislation #9718, AN ORDINANCE AWARDED A CONTRACT FOR THE JAYCOX ROAD REPAIR PROJECT, AND DECLARING AN EMERGENCY, was read by title only.

Mr. O'Donnell moved for suspension of the rule requiring three readings.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

Mr. O'Donnell moved for passage of Temporary Legislation #9718. Kokosing Construction submitted the lowest and best bid in the amount of \$610,433.19. The estimate was approximately \$700,000.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

Ordinance No. 79-2010 adopted.

Temporary Legislation #9719, AN ORDINANCE AWARDED A CONTRACT FOR CLEANING SERVICES AT THE SAFETY CENTER, SERVICE BUILDING, AND CITY HALL, AND DECLARING AN EMERGENCY, was read by title only.

Mr. O'Donnell moved for suspension of the rule requiring three readings.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

Mr. O'Donnell moved for passage of Temporary Legislation #9719. Milano Cleaning Services submitted the lowest bid in the amount of \$34,188; it is a one year contract.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

Ordinance No. 80-2010 adopted.

Temporary Legislation #9721, AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A LICENSE AGREEMENT WITH NOEL ILG AND ILG ENTERPRISES, was read by title only.

The City purchased the Ilg property for parkland. This License Agreement will allow Mr. Ilg to continue to operate his business on the property as he requested at the time the land was sold to the City.

Temporary Legislation #9722, AN ORDINANCE APPROVING WAGE INCREASES FOR CERTAIN PART-TIME EMPLOYEES, AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

Mr. Zilka moved for passage of Temporary Legislation #9722. The following part-time employees will receive 2% wage increases effective July 1, 2010: Lisa Goodwin, Jason Forbes, Jeff Prokop, Jeremy Zimmer, Carl Lowe, and Scott Herrick. Mr. Bucci, Mrs. Fenderbosch, and Mr. O'Donnell stated they will not support the raises for the same reason they did not support raises for the full-time non-bargaining unit employees.

Yes: Rush, Zilka, Kos, Meiners,

No: Bucci, Fenderbosch, O'Donnell

Motion carried.

Ordinance No. 81-2010 adopted.

Temporary Legislation #9723, A RESOLUTION AUTHORIZING THE DIRECTOR OF FINANCE TO DISPOSE OF CERTAIN SURPLUS CITY PROPERTY NO LONGER NEEDED FOR PUBLIC USE BY INTERNET AUCTION FOR THE PERIOD OF AUGUST 1, 2010 THROUGH DECEMBER 31, 2010, AND DECLARING AN EMERGENCY, was read by title only.

This legislation will allow the City to use four different websites to auction certain City assets that are no longer of use. This is a means by which the City can realize greater revenue than by local advertising.

PUBLIC INPUT

The following individuals expressed their disappointment in the failure of Temporary Legislation #9716*R, authorizing the purchase of parkland.

Marjorie Dambrosia, 699 Cranberry Court, Avon Lake

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Beth Hackett, 725 Cranberry Court, Avon Lake
Judy Chevrolet, 696 Cranberry Court, Avon Lake

Pat Fellure, 32617 Belle Road, Avon Lake, commented on the proposed renovations of the Folger Home and requested information regarding the approval process.

John Early, 117 Highland Avenue, Avon Lake, commented on the restoration of the Folger Home in relation to the Folger Home Board and the Historical Preservation Commission.

Denny Potonik, 32708 Lake Road, Avon Lake, expressed his disappointment that only one Folger Home renovation was referred to Planning Commission.

Pat O'Boyle, 705 Cranberry Court, Avon Lake, asked for an explanation of the Folger Home discussion. Mr. O'Donnell explained the issue.

Chris Quinlan, 73 Community Drive, Avon Lake, asked for support of the Folger Home renovations.

EXECUTIVE SESSION

In compliance with Ohio Revised Code Section 121.22, Mr. O'Donnell moved to adjourn to Executive Session to discuss the employment of a public employee.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

Adjournment: 10:15 P.M

RECONVENING OF THE OPEN COUNCIL MEETING

The open Council Meeting reconvened at 11:05 P.M.

In attendance: Mr. Bucci, Mrs. Fenderbosch, Mr. Kos, Mr. Meiners, Mr. O'Donnell, Mr. Rush, Mr. Zilka, Mayor Zuber, Law Director Kerner.

Mr. O'Donnell moved to adjourn.

Yes: Rush, Zilka, Bucci, Fenderbosch, Kos, Meiners, O'Donnell

No: None

Motion carried.

Adjournment: 11:06

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Approved: _____
Council President

Attest: _____
Clerk of Council