

**MINUTES OF THE REGULAR MEETING
OF THE AVON LAKE MUNICIPAL COUNCIL
MAY 23, 2022**

The regular meeting of the Avon Lake Municipal Council was called to order on May 23, 2022, at 7:00 P.M. in the Council Chamber with Council President O'Donnell presiding.

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

Present: Council Members Zach Arnold, Billie Jo David, Jennifer Fenderbosch, David Kos, Marty O'Donnell, and Mark Spaetzel; Mayor Zilka; Law Director Ebert; Finance Director Steve Presley; City Engineer Beth Fulton; and Clerk of Council Valerie Rosmarin.

Absent: K. C. Zuber.

APPROVAL OF MINUTES

The minutes of the April 25, 2022 Council Meeting and May 2, 2022 Special Council Meeting were approved as prepared and published.

MAYOR'S REPORT

The contractor paving Webber Road was delayed this morning and will be staying on the job until 8 p.m. An intermediate surface will be applied, and residents are asked to avoid driving on it because it affects the other layers. The contractor anticipates completing the project by the end of this week.

Clean up Avon Lake Day, as part of the annual Lorain County Beautiful Day, occurred Saturday, May 21st. Many groups volunteered, and Brie Davala at the Public Works Department has received a few reports from some of the groups on their activities. Shred Day was on the same day at the City pool. There was some confusion as to the location since it has been offered at the Public Works Department building in the past. It may be possible to have one location designated for future shredding events to avoid residents from missing this event.

The annual Wellness Competition between the cities of Avon and Avon Lake will be again offered by University Hospitals. This community challenge is a great opportunity for residents, 15 years of age or older, to get fit while competing against their rival city. The cost is \$20 per person and will begin June 7th and end August 11th. Points will be earned by participating in health assessments, seminars, exercising weekly, and a variety of other activities, such as races and food drives. Every participant can use the University Hospitals Fitness Center in Avon one day per

week, either Tuesday or Thursday. For the past six years, Avon Lake has competed against Avon and the standings between the two cities are tied (3 to 3).

COUNCIL PRESIDENT'S REPORT

The next Collective Committee Meeting will be held on Monday, June 6th at 7:00 p.m. in the Council Chamber.

The next regular Council Meeting will be held Monday, June 13th at 7:00 p.m. in the Council Chamber.

CITY ENGINEER'S REPORT

Engineer Beth Fulton of Chagrin Valley Engineering distributed a summary of the current projects earlier. She stated her appreciation to the Administration and City Council for their patience as she learns about each project.

BUILDING AND UTILITIES COMMITTEE REPORT

The Building and Utilities Committee meeting scheduled for Thursday, June 9th is canceled and will be rescheduled if needed.

COMMUNICATIONS, ENVIRONMENTAL, AND RECREATIONAL PROGRAMMING COMMITTEE REPORT

Mrs. David reported on the Communications, Environmental, and Recreational Programming Committee meeting held May 16th. The following topics were discussed: 1) an update on the current migration to Office 365, and the timeline for its completion; and 2) the dark fiber project.

ECONOMIC DEVELOPMENT COMMITTEE REPORT

Mr. Arnold reported on the results of the Economic Development Committee meeting held May 2nd. The Job Growth Incentive Program was discussed, and the Committee recommended amending the language in the ordinance to clarify the terms of the program and approved the 2021 awards totaling approximately \$149,000 to be distributed to 130 businesses.

The next meeting of the Economic Development Committee will be held Monday, June 6th at 6:00 p.m. in the Council Chamber.

FINANCE COMMITTEE

Council President O'Donnell reported on the results of the Finance Committee meeting held earlier. The Committee approved ballot language for the Municipal Income Tax and credits up to \$56,310 to Kopf Builders for closing 52.5 feet of the

Gable Ditch located on an adjacent property, which will be reimbursed by the property owner, Gamellia Builders.

PUBLIC SAFETY AND HEALTH COMMITTEE REPORT

The next meeting of the Public Safety and Health Committee will be held Wednesday, June 15th at 6:00 p.m. in the Council Chamber.

PUBLIC SERVICE COMMITTEE REPORT

The next meeting of the Public Service Committee will be held Thursday, May 26th at 6:00 p.m. in the Council Chamber.

PLANNING COMMISSION REPORT

The next meeting of the Planning Commission will be held Tuesday, June 7th at 7:00 p.m. in the Council Chamber.

ZONING BOARD OF APPEALS REPORT

The next meeting of the Zoning Board of Appeals will be held Wednesday, May 25th at 7:00 p.m. in the Council Chamber.

PARKS AND RECREATION COMMISSION REPORT

The next meeting of the Parks and Recreation Commission will be held Wednesday, May 25th at 5:30 p.m. at the Lake House.

AUDIENCE PARTICIPATION

Greg Beck, 722 Wildberry Road, Avon Lake addressed Council regarding the motion to advertise for Requests for Qualifications (RFQs) for the Avon Lake Play Space (ALPS) Project. Mr. Beck made a statement and asked a series of questions regarding this process. *It is noted that Mr. Beck, as an owner of Park Play Solutions, LLC filed a lawsuit against the City, and the City is currently appealing the Court's ruling.*

Law Director Ebert was unable to answer questions that pertain to the case under appeal; however, he did state that the RFQ is a process used with design builds and the City will begin the ALPS project again by first selecting an architect.

In response to Mr. Beck, Finance Director Presley stated that the capital budget for the playground is still available since equipment has not been purchased.

MOTIONS

Council President O'Donnell moved to permit Mr. Arnold to abstain from voting on Ordinance No. 22-79 pursuant to Codified Ordinance Section 220.19(b).

Due to a conflict of interest, Mr. Arnold will abstain from voting.

Yes: Spaetzel, Arnold, David, Fenderbosch, Kos, O'Donnell

No: None

Absent: Zuber

Motion carried.

Mrs. David moved to advertise for Requests for Qualifications (RFQ) and to solicit statement of qualifications for criteria architect/engineer services for the Avon Lake Play Space (ALPS) Project.

Law Director Ebert stated that Chagrin Valley Engineering will prepare the specifications for the RFQs.

Yes: Spaetzel, Arnold, David, Fenderbosch, Kos, O'Donnell

No: None

Absent: Zuber

Motion carried.

LEGISLATION

Third Readings:

Ordinance No. 22-67, AN ORDINANCE REPEALING AND REPLACING SECTION 672.10 OF THE CODIFIED ORDINANCES RELATING TO THE DISCHARGE, IGNITION, OR EXPLOSION OF FIREWORKS AND DECLARING AN EMERGENCY, was read by title only.

Mr. Kos moved for passage of Ordinance No. 22-67. This legislation will repeal and replace Codified Section 627.10. Last November, the Governor signed into law the legal use of fireworks throughout the state for up to 17 days per year around designated holidays and other special days effective July 1, 2022. There is a provision in the law that permits municipalities to ban or restrict the use of fireworks.

The Mayor, as Safety Director, Police Chief, Police Department, Fire Department, Fire Marshal, Fire Chief, and the Public Safety and Health Committee determined that it was in the best interests of the City to keep the prohibition in place. Therefore, the replacement of Section 672.10 updates the City's code to retain this prohibition.

Yes: Spaetzel, Arnold, David, Fenderbosch, Kos, O'Donnell

No: None

Absent: Zuber

Motion carried.

Ordinance No. 22-67 adopted.

Ordinance No. 22-68, AN ORDINANCE OPPOSING THE ADOPTION OF HOUSE BILL 563, CURRENTLY BEING CONSIDERED BY A COMMITTEE OF THE OHIO HOUSE OF REPRESENTATIVES, WHICH PROPOSES TO LIMIT LOCAL REGULATION OF SHORT-TERM RENTAL PROPERTY AND DECLARING AN EMERGENCY, was read by title only.

Mr. Kos moved for passage of Ordinance No. 22-68. This legislation will oppose House Bill 563, about short-term rentals or Airbnbs, not because City Council wants to ban or restrict short-term rentals but because the law prohibits a municipality from enacting any laws/restrictions on short-term rentals. Currently, Avon Lake does not have any problems with residents offering short-term rentals of their properties. House Bill 563 infringes upon the Home Rule doctrine and prevents the City from determining its zoning ordinances.

Mr. Kos provided examples of past situations where moratoriums or restrictions were adopted because it was not in the City's best interest. The examples included the dispensing of medical marijuana, internet café, and restrictions on certain types of businesses in the Lake Road redevelopment. While a business may be legal, the City establishes moratoriums or restrictions on certain types of business.

Mr. Arnold stated that he does not support Ordinance No. 22-67. Since House Bill 563 is a property rights issue, and the City does not have any issues with short-term rentals, he supports the property owner's right to offer short-term rentals and the City is hindering this right. He understands the Home Rule ideology but does not agree that it is an issue.

Yes: Spaetzel, David, Fenderbosch, Kos, O'Donnell

No: Arnold

Absent: Zuber

Motion carried.

Ordinance No. 22-67 adopted.

First Readings:

Ordinance No. 22-77, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL SERVICES AGREEMENT WITH SIMVAY SYSTEMS LLC TO ENGINEER AND IMPLEMENT THE DARK FIBER NETWORK AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Spaetzel, Arnold, David, Fenderbosch, Kos, O'Donnell

No: None

Absent: Zuber

Motion carried.

Mrs. David moved for passage of Ordinance No. 22-77. This legislation will authorize the Mayor to execute an agreement with Simvay Systems LLC, which coordinates the City's IT network, for the installation of the dark fiber network system which will run between all City buildings at a cost of \$87,877.75, which will be paid for by the ARPA funding.

Yes: Spaetzel, Arnold, David, Fenderbosch, Kos, O'Donnell

No: None

Absent: Zuber

Motion carried.

Ordinance No. 22-77 adopted.

Ordinance No. 22-78, AN ORDINANCE MODIFYING AND REAUTHORIZING THE JOB GROWTH INCENTIVE PROGRAM, was read by title only.

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

Yes: Spaetzel, Arnold, David, Fenderbosch, Kos, O'Donnell

No: None

Absent: Zuber

Motion carried.

Mr. Arnold moved for passage of Ordinance No. 22-78. This legislation will modify and reauthorize the Job Growth Incentive Program by clarifying the percentage of the payout and will be retroactive.

Yes: Spaetzel, Arnold, David, Fenderbosch, Kos, O'Donnell

No: None

Absent: Zuber

Motion carried.

Ordinance No. 22-78 adopted.

Resolution No. 22-79, A RESOLUTION AUTHORIZING THE FINANCE DIRECTOR TO DISBURSE THE 2021 JOB GROWTH INCENTIVE PROGRAM AWARDS AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Spaetzel, David, Fenderbosch, Kos, O'Donnell

No: None

Abstention: Arnold

Absent: Zuber

Motion carried.

Council President O'Donnell moved for passage of Ordinance No. 22-79. This legislation will authorize the Finance Director to disburse the 2021 Job Growth Incentive awards totaling \$148,672 to 130 Avon Lake businesses.

Yes: Spaetzel, David, Fenderbosch, Kos, O'Donnell

No: None

Abstention: Arnold

Absent: Zuber

Motion carried.

Ordinance No. 22-79 adopted.

Ordinance No. 22-80, AN ORDINANCE AUTHORIZING A DONATION TO COMMUNITY RESOURCE SERVICES AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Spaetzel, Arnold, David, Fenderbosch, Kos, O'Donnell

No: None

Absent: Zuber

Motion carried.

Council President O'Donnell moved for passage of Ordinance No. 22-80. This legislation will authorize the donation of \$25,000 to the Community Resource Services (CRS). CRS provides financial assistance to Avon Lake residents.

Yes: Spaetzel, Arnold, David, Fenderbosch, Kos, O'Donnell

No: None

Absent: Zuber

Motion carried.

Ordinance No. 22-80 adopted.

Resolution No. 22-81, A RESOLUTION DESIGNATING MONIES RECEIVED UNDER THE AMERICAN RESCUE PLAN ACT ("ARPA") IN 2021 AS REVENUE LOSS TO BE USED FOR GOVERNMENT SERVICES UNDER SECTION 603 OF ARPA AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Spaetzel, Arnold, David, Fenderbosch, Kos, O'Donnell

No: None

Absent: Zuber

Motion carried.

Council President O'Donnell moved for passage of Ordinance No. 22-81. This legislation will designate the reporting mechanism of the ARPA funds. The law allows any aggregate under \$10 million to be used as a one-time replacement of lost funds; and, by declaring the \$2.3 million received from ARPA as revenue replacement, the City will meet the federal government requirements and have the greatest flexibility with those funds.

Yes: Spaetzel, Arnold, David, Fenderbosch, Kos, O'Donnell

No: None

Absent: Zuber

Motion carried.

Ordinance No. 22-81 adopted.

Resolution No. 22-82, A RESOLUTION DECLARING THE NECESSITY OF AN ELECTION ON THE QUESTION OF APPROVING THE PASSAGE OF AN ORDINANCE AMENDING SECTIONS 886.01, 886.03, 886.04 AND 886.06 OF THE CITY'S CODIFIED ORDINANCES TO PROVIDE FOR THE LEVY OF AN ADDITIONAL ONE-QUARTER PERCENT (0.25%) INCOME TAX TO PROVIDE FUNDS FOR THE PURPOSE OF PAYING COSTS OF (i) CONSTRUCTING, FURNISHING AND EQUIPPING A NEW FIRE STATION AND CLEARING, IMPROVING AND EQUIPPING ITS SITE, REHABILITATING, REMODELING, RENOVATING, FURNISHING AND EQUIPPING THE EXISTING POLICE STATION AND IMPROVING AND EQUIPPING ITS SITE, AND OTHERWISE CONSTRUCTING, RECONSTRUCTING, REHABILITATING, REMODELING, RENOVATING, ENLARGING, FURNISHING, EQUIPPING AND IMPROVING CITY BUILDINGS AND FACILITIES AND ACQUIRING, CLEARING, IMPROVING AND EQUIPPING THEIR SITES, (ii) MAINTAINING, REPAIRING AND IMPROVING CITY STREETS BY CONSTRUCTING, RECONSTRUCTING, WIDENING, GRADING, DRAINING, CURBING, PAVING AND EXTENDING STREETS AND RELATED BRIDGES, CONSTRUCTING STORM SEWERS AND RELATED DRAINAGE IMPROVEMENTS, INSTALLING TRAFFIC SIGNALS AND SIGNALIZATION, AND ACQUIRING EQUIPMENT REQUIRED FOR SUCH MAINTENANCE, REPAIR AND IMPROVEMENTS AND (iii) DEBT CHARGES ON CITY NOTES, BONDS OR OTHER OBLIGATIONS ISSUED FOR THOSE PURPOSES, AND DECLARING AN EMERGENCY, was read by title only.

This legislation will declare the necessity of submitting to the electorate an additional 0.25% income tax to build a new Fire Station, renovate the Police Station, and improve streets in Avon Lake. The current Fire Station is 48 years old and there are approximately 70 streets rated 4 and 5, with 5 being the worst. If this legislation passes, it will be placed on the ballot in November.

Finance Director Presley stated that the length of the ballot language is necessary to define the purpose of the levy and provide the City with options to either fix a road, build a new Fire Station, or renovate the Police Station.

Mayor Zilka stated that when the Fire Station was built in 1978, 13,000 people lived in Avon Lake. According to the 2020 census, there are 25,204 people. A committee was formed to promote the levy and have toured the facility. It does not have enough room and cannot accommodate female firefighter/paramedics. It is necessary to look to the future and hope that this new addition will handle the future needs of the City for 20-plus years as the community continues to grow. There will be approximately 600 houses approved by Planning Commission, half of which will be completed in five years. The current Fire Station would be retrofitted and remodeled for the Police Department. Residents will be asked on November 8th to approve a 0.25% increase in income tax. Residents working outside the City will not pay a penny toward the Fire

Station. However, if you live in Avon Lake and work in Avon Lake, your tax will increase by \$25/\$10,000 of income. If a person works in Avon Lake but does not live here, they will be affected by the increase. People working in Avon Lake benefit from the police and fire services. A municipal tax increase is in the best interest of the community, and it takes into consideration residents with fixed incomes or without incomes.

Mr. Arnold stated that he will not support any municipal tax increase due to the current labor costs, gas prices, inflation, and housing costs. This not a good time to have a \$20 million project. The projected building costs will be higher. He does not agree with burdening business owners and their employees.

Council President O'Donnell stated that the original projection was \$33 million, and City Council ask the Administration to reduce that number because of the current issues everyone is facing as described by Mr. Arnold. The Fire Station is 48 years old, the Police Station needs more space, and more funding is needed to improve City roads. City Council and the Administration thoroughly considered their options and decided to pursue an income tax increase instead of increasing property taxes.

In response to Mr. Kos, Finance Director Presley stated that none of these funds collected will be used for hiring personnel or increases in salary. Based on the definition of uses, it is for municipal buildings, primarily the new Fire Station, the renovation of the Police Department, and roadways.

Mrs. Fenderbosch offered her support and stated that several studies have been conducted over the years assessing the Fire Department and its needs. A two-year study to determine the location, type of building, and equipment was completed involving many people inside and outside of Avon Lake with the decision to build a new Fire Station. The existing building and its equipment were evaluated. There are mechanical issues and the roofing structure needs to be addressed. The City must protect its equipment by placing it under a roof to avoid exposure to the elements. One of the largest and most frequent discussion items of residents is the condition of the roads. Every year road repairs are placed in the budget but only a portion can be fixed. This method does not address preventative measures, and a funding mechanism is needed. These items were discussed at many committee meetings.

MISCELLANEOUS BUSINESS AND ANNOUNCEMENTS

The Memorial Day Parade will be held Monday, May 30th. The festivities begin with a ceremony at the City cemetery at 9 a.m. followed by the parade. The parade route is Avon Lake High School, west on Electric Boulevard, south on Glenview Drive, and north on SR 83, ending at the Folger Home. A presentation will occur on the porch of the Folger Home with several speakers and concludes with two F16 fighter planes flying over Veterans Memorial Park.

PUBLIC INPUT

Greg Beck, 722 Wildberry Court, Avon Lake continued with his statements and questions regarding ALPS project.

Mrs. Fenderbosch moved for adjournment.

Yes: Spaetzel, Arnold, David, Fenderbosch, Kos, O'Donnell

No: None

Absent: Zuber

Motion carried.

Adjournment: 8:04 P.M.

Approved: */s/ Martin E. O'Donnell*
Council President

Attest: */s/Valerie E. Rosmarin*
Clerk of Council