

**MINUTES OF THE REGULAR MEETING  
OF THE AVON LAKE MUNICIPAL COUNCIL  
SEPTEMBER 12, 2022**

The regular meeting of the Avon Lake Municipal Council was called to order on September 12, 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, Mark Spaetzel, and K. C. Zuber; Mayor Zilka; Law Director Ebert; Finance Director Presley; City Engineer Fulton; and Clerk of Council Valerie Rosmarin.

**APPROVAL OF MINUTES**

The minutes of the June 21, 2022 Special Council Meeting and August 22, 2022 Council Meeting were approved as prepared and published.

**MAYOR'S REPORT**

Ohio Citizen Action sent two large envelopes to Mayor Zilka filled with letters from City residents. This organization has been collecting signatures about carbon emissions and is campaigning throughout the State regarding carbon emissions. They have asked the City to support their efforts by reducing carbon emissions by 30% by 2030. These letters will be forwarded to the Communications, Environmental & Recreational Programming Committee of Council to review and respond accordingly.

The following events are scheduled this month:

September 17<sup>th</sup> Big Trucks from 10 a.m. until 2 p.m. at the Safety Center.

September 24<sup>th</sup> Shred Day from 9 a.m. until noon at Bleser Park; Homecoming Parade at the high school at 10:30 a.m.; and the Run for SEWA at Weiss Field at 9 a.m.

The SOUPer Bowl competition between Avon High School and Avon Lake High School was held on September 9<sup>th</sup>. This annual event supports Community Resource Services, which services Avon and Avon Lake communities. Avon High School won this year's competition tying the standings between the two communities at 4 to 4. The award ceremony was followed by an exciting football game between the two schools. The game was tied 21-21 at halftime. Then Avon scored three touchdowns in the second half and won the game. The final score was Avon 42 and Avon Lake 21.

## **COUNCIL PRESIDENT'S REPORT**

The next Collective Committee Meeting will be held on Monday, September 19<sup>th</sup> at 7:00 p.m. in the Council Chamber.

The next Council Meeting will be held on Monday, September 26<sup>th</sup> at 7:00 p.m. in the Council Chamber.

## **BUILDING & UTILITIES COMMITTEE REPORT**

The next meeting of the Building & Utilities Committee will be held on Thursday, September 15<sup>th</sup> at 6:30 p.m. in the Council Chamber.

## **COMMUNICATIONS, ENVIRONMENTAL & RECREATIONAL PROGRAMMING COMMITTEE REPORT**

The next meeting of the Communications, Environmental, and Recreational Programming Committee will be held on Monday, September 26<sup>th</sup> at 6:00 p.m. in the Council Chamber. At that meeting, the Committee will discuss the results of the summer Recreational Programming and the Deer Management Plan for 2022/23.

## **ECONOMIC DEVELOPMENT COMMITTEE REPORT**

The next meeting of the Economic Development Committee will be held on Monday, October 3<sup>rd</sup> at 6:00 p.m. in the Council Chamber.

## **HUMAN RESOURCES COMMITTEE REPORT**

Mr. Zuber reported on the meeting of the Human Resources Committee held earlier. The following items were discussed: 1) a new employee handbook that will replace the handbook from 2010; 2) a Classification/Compensation Study; 3) job descriptions for the Human Resource Director, part-time Building Inspector, Assistant Fire Chief, and Fire Captain; 4) hiring of a part-time Building Inspector and Firefighter/Paramedic; 5) wage increase for the Administrative Assistant of the Mayor; 6) wage increase for part-time Mayoral hires from \$16.32/hour to \$18/hour.

## **PUBLIC SERVICE COMMITTEE REPORT**

The next meeting of the Public Service Committee will be held on Wednesday, September 14<sup>th</sup> at 6:00 p.m. in the Council Chamber.

## **PLANNING COMMISSION REPORT**

The next meeting of the Planning Commission will be held on Tuesday, October 4<sup>th</sup> at 7:00 p.m. in the Council Chamber.

Mrs. Fenderbosch reported on Planning Commission cases, as follows:

Towne Center - Rezoning

The City's Comprehensive Land Use Plan identified three focus areas in the City, and Towne Center is one of the three. In Towne Center, the plan includes a walkable community consisting of a mixture of townhomes in medium to high-density residential units that line the back edge of the focus area. The following proposal to rezone vacant parcels in Towne Center will provide the type of housing that is missing in the City.

Kopf Properties, as the owner of vacant parcels in Towne Center, wants to rezone the parcels from a B-1 Limited Business to an R-3 Multi-Family Residence. High-density development is outlined in the Comprehensive Land Use Plan. The parcels are 04-00-018-128-232 and 04-00-018-128-224 and are located on the north side of Walker Road between Community Drive and SR 83 in a B-1 Limited Business Zoning District. This rezoning application was reviewed by Planning Commission, and they unanimously approved the request since it fits into the Comprehensive Land Use Plan.

The new Planning & Zoning Code requires a public hearing before Council. The former code required a minimum of 30 days for a public hearing, and the new code only requires 10 days. Therefore, the Public Hearing will be held on September 26<sup>th</sup>.

South Port Subdivision No. 2 - Final Plat

Before the Planning Commission approves a Final Plat, the Clerk in the Engineering Department verifies that all grading fees, the opening of the street, the Street Tree Program, and the Avon Lake Regional Water tap-in-fees are paid; and that all inspections have been completed. With the former Planning & Zoning Code, Mrs. Fenderbosch would present the Final Plat at the Collective Committee Meeting followed by passage at the next Council Meeting. The new Planning & Zoning Code, however, allows the Final Plat to be presented at the next meeting of Council. Therefore, Council could be asked to vote at this meeting, but the applicant has agreed to postpone the vote for two weeks since this is Council's first time considering approving a Final Plat under the new code.

The Final Plat of South Port Subdivision No. 2 consisting of 29 single-family lots located between Walker Road and Lear Road on 17.8149 acres was approved unanimously by Planning Commission. The plat followed the guidelines of the former code because the subdivision began when it was in effect. Section 1252.04(f) of that code requires the minimum front yard setback to be 25' but the developer has established the setback as 40'.

Miscellaneous Planning Commission Item

If a public hearing is required at a Council Meeting, the Council Representative, who is a member of the Planning Commission, will present the project to Council before it votes. If that Council Representative is not available or is not able to, the Planning Commission

Chair has been designed as the backup since he or she will be able to provide an accurate representation of the Planning Commission's actions.

### **ZONING BOARD OF APPEALS REPORT**

The next meeting of the Zoning Board of Appeals will be held on Wednesday, September 28<sup>th</sup> at 7 p.m. in the Council Chamber.

### **PARKS & RECREATION COMMISSION REPORT**

The next meeting of the Parks and Recreation Commission will be held on Wednesday, September 28<sup>th</sup> at 5:30 p.m. at the Lake House.

### **CITIZENS TREE COMMISSION REPORT**

A special meeting of the Citizens Tree Commission will be held on Tuesday, September 13<sup>th</sup> at 6:30 p.m. at the Old Firehouse & Community Center. At that meeting, the Commission will decide the primary and secondary tree selections for Park Place.

### **AUDIENCE PARTICIPATION**

The following individuals addressed Council:

Jim Saylor of Reitz Engineering, 4214 Rocky River Drive, Cleveland, and representing Kopf Properties in the rezone request and future development of the vacant parcels in Towne Center. Mr. Saylor stated that Planning Commission recommended if Council approves the rezone request, then the developer should apply to the Zoning Board of Appeals for a variance for the density. The density of an R-3 Multi-Family Residence District provides enough units per acre to satisfy the conditions of the Comprehensive Land Use Plan, but the developer would like to obtain more density in that area to help boost the struggling commercial businesses and provide a walkable community.

Resident Rob Shahmir, 31705 Driftwood Drive, Avon Lake, as a member of the Environmental Affairs Advisory Board (EAAB), informed Council that the EAAB has requested Charah Solutions, who recently purchased the Power Plant, for data regarding the Phase 2 Environmental Assessment and asked how the \$300,000 grant awarded to Deigan & Associates will be utilized and implemented. The cost breakdown of Phase 1 and Phase 2 for the asbestos abatement delineation has not been outlined. Also, there is a conflict of interest between Deigan & Associates and Richard Shields of Avison Young, in addition to Charah Solutions, regarding the delineation work. The property owner and its agents will not scrutinize contamination as they want the property to be cleaned as soon as possible.

Law Director Ebert stated that three companies were interested in the Request For Qualifications (RFQ), but only Deigan & Associates submitted an RFQ. He spoke with the City's legal consultant, Todd Davis. Mr. Davis indicated that the Ohio EPA is very

involved in this project. Since this is a private enterprise, the owner, Charah Solutions, is handling its remediation and Deigan & Associates is the contactor for the project. The City's recourse has been to the Ohio EPA. Based on Mr. Shahmir's statements, Law Director Ebert will contact Mr. Davis to obtain information regarding the itemization of the phases.

Mr. Spaetzel stated that the Ohio Brownfield Remediation Program is the funding source. He has received many questions from the community about the City ensuring that all regulations are being followed in this project. The Ohio EPA is the authority for the City. The oversight and acknowledgment of the grant are separate issues. The City must accept the grant. The next phases will have oversight requirements. The EAAB has conducted some investigation and is monitoring the project according to their mandate from Council.

Mr. Shahmir stated that this project will impact the community, and the Ohio EPA does not have the same level of concern as the community has.

Mayor Zilka noted that Mr. Shahmir has worked in this field and has worked in various parts of the world dealing with the mitigation of hazardous materials. He speaks with knowledge and authority. We are fortunate to have him offer his expertise. He is a resident and wants a safe and clean environment for everyone in the future, as Council and the Administration desire too.

In response to Mrs. Fenderbosch, Mr. Shahmir stated that the grant of \$500,000 is for Phase 2. Phase 1 and Phase 2 are delineated as asbestos assessments, and the funding is aligned with asbestos material work. However, Phase 1 is a small package. The proper Phase 2 delineation would be to conduct groundwater and soil testing.

Chair Fenderbosch confirmed that Phase 1 identifies ownership, what activities were conducted at the location, and when they occurred. Then the Ohio EPA recommends the phases for mitigation based on the activities and the duration they occurred. For this project, however, Phase 2 began before Phase 1 had been completed, which is unusual. Charah Solutions and its agents have applied to the Ohio EPA and the Federal EPA for funding up to \$10 million for Phase 2. She asked Mr. Shahmir if the second grant (up to \$10 million) will delineate what will occur.

Mr. Shahmir responded that the EAAB, on behalf of the City, asked for a breakdown of the project's phased approach, and that has not been provided. Charah Solutions stated that they would attend the EAAB meeting in September, but the EAAB has not heard from them. Phase 1 and the phase delineation work are needed before remediation can occur. An ERN Phase 1 Assessment was completed by the former owner, GenOn in 2020. If the data from Phase 1 is available, the EAAB would like to review it to understand what issues exist. Then the data collected can be utilized to help develop the planning of Phase 2. He has learned that some Phase 2 work, such as wind locations, collection of sampling, and layouts are being done. The EAAB would like to know what the basis for that layout is along with the data quality objectives, i.e., why are they collecting the

data and how will it be utilized. That utilization and collection program should be presented to the City. A developer will want the site to be clean so that it can be sold and re-developed. The community wants to be assured that the site is clean to the proper level for its intended use. This is an unknown area and the EAAB, and City, need to have clarification. The City can use the \$300,000 funding as leverage to obtain compliance.

Mrs. Fenderbosch asked Council President O'Donnell if the legislation to accept the funding should be postponed until the City's expert has been consulted. Law Director Ebert responded that the funding could be jeopardized if Council does not act, and he recommended Council accept the award and can hold transferring the funds until additional information is obtained.

### **MOTION**

Mr. Spaetzel moved to advertise for Statement of Qualifications for engineering services at City outfalls. The City has many outfalls, which are storm sewers that dump into the ditches, or the lake, and by obtaining qualifications, a long-term plan for its maintenance can be established.

City Engineer Fulton stated that she recommended the City obtain qualifications for coastal engineers, who specialize in outfall designs. The design work requires a lot of permitting from various agencies and cost estimates range from \$30,000 to \$40,000. If the City selects from the qualifications submitted by the two highest ranking firms, then a program can begin whereby every year two outfalls are designed and two outfalls are constructed. A maintenance program will help solve the current conditions of an outfall emergencies and offer an efficient mechanism to achieve this goal.

Yes: Spaetzel, Zuber, Arnold, David, Fenderbosch, Kos, Spaetzel  
No: None  
Motion carried.

Mr. O'Donnell moved to authorize the donation of \$34,500, the net proceeds from the sale of City property on Pin Oak Parkway, to the Community Improvement Corporation. The Community Improvement Corporation deals with the businesses in Avon Lake and the Power Plant changes and the businesses within that area. Since they do not have a revenue source, this donation will fund their activities.

Yes: Spaetzel, Zuber, Arnold, David, Fenderbosch, Kos, Spaetzel  
No: None  
Motion carried.

## LEGISLATION

### Second Reading:

Ordinance No. 22-121, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH SIXMO, INC. AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Spaetzel, Zuber, Arnold, David, Fenderbosch, Kos, Spaetzel

No: None

Motion carried.

Mrs. David moved for passage of Ordinance No. 22-121. This legislation will authorize the Mayor to execute a professional services agreement with Sixmo, Inc. of Cleveland, Ohio to prepare the technical criteria and oversee the design-build. To move the Avon Lake Play Space (ALPS) forward, the City returned to the design-build process and advertised for Requests for Qualifications. An internal committee reviewed all RFQs submitted and selected Sixmo, Inc. as the criteria architect for this project.

Yes: Spaetzel, Zuber, Arnold, David, Fenderbosch, Kos, Spaetzel

No: None

Motion carried.

Ordinance No. 22-121 adopted.

### First Readings:

Ordinance No. 22-124, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL SERVICES AGREEMENT WITH SIMVAY SYSTEMS LLC FOR THE PROCUREMENT, CONFIGURATION, AND INSTALLATION OF SECURITY CAMERAS AT THE BLESER PARK BASKETBALL COURT, CITY HALL, THE PUBLIC WORKS SERVICE GARAGE, AND WALKER ROAD PARK AND DECLARING AN EMERGENCY, was read by title only.

This legislation will authorize the Mayor to execute an agreement with Simvay Systems LLC in the amount of \$48,682.21 for enhanced security cameras at Bleser Road Park basketball court, City Hall, the Public Works service garage, and Walker Road Park. Simvay's fees include the purchase, installation, and service fees for the equipment. After the installation, the City will pay annual service fees of \$11,500. All camera footage will be saved in a Cloud Storage System, and only the Police Department will be permitted to review footage in these areas for investigation purposes.

Law Director Ebert stated that the City of Bay Village will share equally, or contribute \$6,742.35, toward the camera costs at Walker Road Park since this park is jointly owned by Avon Lake and Bay Village.

Ordinance No. 22-125, AN ORDINANCE ACCEPTING AN ASSESSMENT GRANT OF \$300,000 FROM THE OHIO DEPARTMENT OF DEVELOPMENT (ODOD) FOR ENVIRONMENTAL WORK AT THE LAKE ROAD POWER PLANT SITE AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Spaetzel, Zuber, Arnold, David, Fenderbosch, Kos, Spaetzel

No: None

Motion carried.

Mr. Arnold moved for passage of Ordinance No. 22-125. This legislation will accept the \$300,000 grant from the Ohio Department of Development to the City of Avon Lake and the Avon Lake Environmental Redevelopment Group (ALERG) for environmental work at the Power Plant.

Law Director Ebert requested Mr. Arnold amend the legislation by removing the phrase "Round 1" in Section No. 1 by inserting Phase 2.

Mr. Arnold explained that the award is for Round 1. As discussed earlier, phases pertain to project work and rounds to the funding received.

Law Director Ebert agreed with Mr. Arnold's correction and stated that no amendment is needed.

Mr. Kos requested the Administration notify Council and the public when the funds have been released to ALERG.

Mayor Zilka stated that the City is a grant recipient and an accounting of every dollar spent is required. A report will be generated at the appropriate time to show how the funds were expended. Charah Solutions or ALERG have applied for a grant of up to \$10 million for the work. The City supports that application, and he signed it on behalf of the City.

Yes: Spaetzel, Zuber, Arnold, David, Fenderbosch, Kos, Spaetzel

No: None

Motion carried.

Ordinance No. 22-125 adopted.

Ordinance No. 22-126, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL SERVICES AGREEMENT WITH ARTHUR J. GALLAGHER & COMPANY AND DECLARING AN EMERGENCY, was read by title only.

This legislation will authorize the Mayor to execute a personal services agreement with Arthur J. Gallagher & Company at a cost not to exceed \$160,000 for a Classification and Compensation Study. The City advertised for Requests for Qualifications, and Arthur J.



Gallagher & Company submitted the only RFQ. The study will be discussed by the Human Resources Committee at a future meeting.

Ordinance No. 22-127, AN ORDINANCE AUTHORIZING THE PURCHASE OF AN AMBULANCE 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: Spaetzel, Zuber, Arnold, David, Fenderbosch, Kos, Spaetzel  
No: None  
Motion carried.

Mr. Kos moved for passage of Ordinance No. 22-127. This legislation will authorize the purchase of an ambulance for the Fire Department from Horton Emergency Vehicles of Grove City, Ohio in the amount of \$358,627.00 through the State Cooperative Purchasing Program. The City has designated \$350,000 from the American Rescue Plan Act (ARPA) funds, and the balance of \$8,627 will be paid from the Paramedic budget.

Yes: Spaetzel, Zuber, Arnold, David, Fenderbosch, Kos, Spaetzel  
No: None  
Motion carried.  
Ordinance No. 22-127 adopted.

Ordinance No. 22-128, AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 208.01, ENTITLED GENERAL FEE SCHEDULE, was read by title only.

This legislation will amend the General Fee Schedule (Section 208.01) to add the Street Program fee of \$6/per linear foot of the right of way. Developers will be assessed a fee based on the linear feet measurement of each property in a new subdivision. The cost of trees has increased, and that increase was not reflected in the fees assessed. This fee was recommended by the Citizens Tree Commission and the Public Service Committee.

Ordinance No. 22-129, AN ORDINANCE AUTHORIZING THE PURCHASE OF A 60' AERIAL UNIT FOR THE PUBLIC WORKS DEPARTMENT AND DECLARING AN EMERGENCY, was read by title only.

This legislation will authorize the purchase of a 60' aerial unit with an F-750 truck base from Utility Truck Equipment of Circleville, Ohio for the amount of \$295,175 through the State Cooperative Purchasing Program.

Assistant Public Works Director Ward stated that the City's current aerial vehicle is approximately 30 years old. It is used after a storm to gather high branches that pose a safety risk, to trim high trees in the right of way, and to install banners on the poles in the City.

Ordinance No. 22-130, AN ORDINANCE AUTHORIZING THE PURCHASE OF A MINI HYDRAULIC EXCAVATOR FOR THE PUBLIC WORKS DEPARTMENT AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Spaetzel, Zuber, Arnold, David, Fenderbosch, Kos, Spaetzel

No: None

Motion carried.

Mrs. Fenderbosch moved for passage of Ordinance No. 22-130. This legislation will authorize the purchase of a mini hydraulic excavator from Ohio CAT of Broadview Heights, Ohio in the amount of \$94,240.80 from the State Cooperative Purchasing Program.

Assistant Public Works Director Ward stated that this equipment will be used daily for catch basin repairs, ditch digging along the creeks, grading in the parks, and general cleanup after storms.

Yes: Spaetzel, Zuber, Arnold, David, Fenderbosch, Kos, Spaetzel

No: None

Motion carried.

Ordinance No. 22-130 adopted.

Ordinance No. 22-131, AN ORDINANCE TO REZONE PERMANENT PARCEL NUMBER 04-00-018-128-232 AND PERMANENT PARCEL NUMBER 04-00-018-128-224 FROM A B-1 LIMITED BUSINESS DISTRICT TO AN R-3 MULTI-FAMILY RESIDENCE DISTRICT AND DECLARING AN EMERGENCY, was read by title only.

This legislation will rezone PPN 04-00-018-128-232 and PPN 04-00-018-128-224 from a B-1 Limited Business District to an R-3 Multi-Family Residence District as approved by the Planning Commission on September 7<sup>th</sup>. This rezoning request follows the City's Comprehensive Land Use Plan.

Sustainable Development Coordinator Austin Page stated that the Comprehensive Land Use Plan has a specific section about the Towne Center's focus area. The rezoning of these two vacant parcels in the focus area will achieve the plan's objective by promoting the adjacent uses in the shopping center.

Ordinance No. 22-132, AN ORDINANCE APPROVING THE FINAL PLAT FOR SOUTH PORT SUBDIVISION NO. 2 AND DECLARING AN EMERGENCY, was read by title only.

This legislation will approve the Final Plat for South Port Subdivision No. 2 consisting of 29 residential lots on 17.6149 acres located south of Walker Road between Lear Road and Treeside Lane in an R-1 Single-Family Residence as approved by the Planning Commission on September 7<sup>th</sup>.

## MISCELLANEOUS BUSINESS AND ANNOUNCEMENTS

Tickets for “Boo by the Woods and Trail of Haunted Tales” to be held outdoors at the Avon Lake Public Library and the Kopf Family Reservation on Saturday, October 8<sup>th</sup> went on sale last Wednesday. By noon, all tickets for this event were sold. A second night was added this year, and is titled, “Basement of Terror and the Haunted Gallery”. It will be held indoors at the Avon Lake Public Library on Friday, October 7<sup>th</sup> and is geared toward older kids. Tickets are still available for this event.

## PUBLIC INPUT

Chris Quinlan, 73 Community Drive, Avon Lake asked when the culvert project on SR 83 will be open. City Engineer Fulton responded that ODOT has experienced material delays. The City was informed today that materials will be delivered by September 20<sup>th</sup> which will then be installed. ODOT has not provided a revised end of construction or a date when the road will be opened.

Rob Shahmir, 31705 Driftwood Court, Avon Lake, offered additional information regarding the grant award of \$300,000. The grant application states that the City of Avon Lake will ensure that a Phase 1 assessment is conducted by its professional services provider which complies with the Ohio Voluntary Action Program. Therefore, any action will be managed by the City of Avon Lake and not by Charah Solutions or their designee. Also, the \$300,000 is probably considered the assessment fund and the \$10 million grant is the remediation fund.

Mrs. Fenderbosch moved for adjournment.

Yes: Spaetzel, Zuber, Arnold, David, Fenderbosch, Kos, Spaetzel

No: None

Motion carried.

Adjournment: 8:09 P.M.

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

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