MINUTES OF THE REGULAR MEETING OF THE AVON LAKE MUNICIPAL COUNCIL NOVEMBER 28, 2022

The regular meeting of the Avon Lake Municipal Council was called to order on November 28, 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; and Clerk of Council Valerie Rosmarin.

Absent: Finance Director Presley.

APPROVAL OF MINUTES

The minutes of the October 24, 2022 Council Meeting were approved as prepared and published.

CORRESPONDENCE

Mrs. Fenderbosch received communications from several residents asking for the leaf pickup protocol.

MAYOR'S REPORT

The Lorain County Office of Aging notified the City that the Neighborhood Alliance organization will manage the home delivery meals program, also known as Meals On Wheels. The meals will be prepared in Elyria at a new state-of-the-art kitchen, and the meals will be delivered heated or cooled. In the summer, the meals will be delivered cool; in the winter, the meals will be warm. The volunteers at the Sheffield location were unaware of the change, which created a concern for the participants. The Mayors from Sheffield, Sheffield Lake, Avon, and Mayor Zilka discussed the issue with representatives from the Neighborhood Alliance to help facilitate a smooth transition and will work toward making this a good replacement. Avon Lake will now pay Neighborhood Alliance instead of the Office on Aging to participate in the program.

Columbia Gas informed the City that they have submitted a request to the Public Utilities Commission to recover certain infrastructure and investments made during 2021 in the amount of \$2.04/month per house. The Public Utilities Commission will consider this request in February.

Mayor Zilka expressed his surprise that a motion was placed on the agenda that the salary of Council and the Mayor would remain the same. These salaries were discussed at the

Human Resources Committee but not every Council member was present. He asked Mr. Zuber, Chair of the Human Resources Committee, if the salaries of other mayors in surrounding communities with comparable responsibilities and population were surveyed before the issue was presented to the Human Resources Committee.

Mr. Zuber stated he did not gather any data and stated that he was also surprised that this motion was on the agenda since the issues were not moved out of committee. There was, however, a consensus from the Committee and other Council members at that meeting that there would be no increase for either the Mayor or the Council.

Mayor Zilka stated that he believed that the Council salary was changed approximately four years ago, and the Mayor's salary (\$98,000) was not [sic]. Mayor's salary was last established by Ordinance 1-2015 and Council's salary was last established by Ordinance 53-2015. In the past, the Human Resources Committee compiled data before any decision was made. By comparison, Council will consider tonight contracting Arthur J. Gallagher & Company to conduct a salary study based on collecting data of similar positions to establish a salary range for various positions, and the position of Mayor should be considered. Increasing the Mayor's salary will not affect Mayor Zilka financially, as next year will be the last year of his term and he will not seek re-election. Whoever is appointed Mayor in 2024 will receive the same salary (from 2016) until December 31, 2027. Therefore, the Mayor's salary will not have had an increase for 12 years. He voiced a concern that Council did not have a full appreciation for this position, and he recommended Council reconsider an increase. In 2021, Mayor Zilka was listed as the 21st highest-paid City employee. In four years, that number will be substantially lower. He respects the work of City employees to keep the City safe, the roads cleared, and the parks maintained. They work hard and deserve decent pay. Many residents earn less than Mayor Zilka's salary, and he respects their struggle and hard work to live within their means. The salary of a mayor in a nearby community is \$148,000, and the salary of another mayor in a smaller city is \$115,000. These are two points of reference, and if Council followed the concept of Gallagher's salary study, the salaries of mayors in the surrounding communities could be compiled and reviewed.

In 2023, a Charter Review Commission will study the City Charter. If they recommend any changes to the Mayor's salary, it will not go into effect until after the four-year term expires. Therefore, any increase should be done before January 1, 2023. There is still time to move this back to Committee to review comparable salaries and make an adjustment. The Mayor of Avon Lake must be paid a salary commensurate with the responsibilities. Over the years, Mayor Zilka has arranged family events and vacations to serve the City and he works overtime. It was suggested that the Mayor's salary be kept low to reduce competition. This is not in the best interest of the City. Since the salary has not increased for the past seven years and will not in 2023, the percentage increase needed to make the position competitive will be a shock to the average person when it does occur. It does not benefit the City to keep the Mayor's salary low, for whatever reason.

Law Director Ebert stated that based on the City Charter, the time to increase the Mayor's salary is now. He reiterated that Mayor Zilka is not running for re-election. If Council takes no action, then the Mayor's position will have 12 years without an increase. Therefore, it behooves Council to gather information and discuss it at the next Collective Committee Meeting and the Human Resources Committee meeting. The City Charter requires that any increase occurs not less than 120 days preceding the next municipal election for Mayor.

Council President O'Donnell stated that he placed the motion on the agenda because Council was not interested in moving a salary increase forward this year. Law Director Ebert recommended that a motion was needed to acknowledge. He offered an apology for not discussing this motion with Mr. Zuber or the Mayor before publishing the agenda but Council needs to take some type of action. If a Council member wants to have a study, then they can vote in opposition.

Mayor Zilka encouraged Council to take advantage of the remaining three weeks before the final Council Meeting on December 19th to gather data from other communities, which is what the Gallagher study will accomplish; and if Council believes the Gallagher study is a wise decision, then Council should consider studying the salary for the position of Mayor in Avon Lake.

COUNCIL PRESIDENT'S REPORT

The next Collective Committee Meeting will be held on Monday, December 5th at 7:00 p.m. in the Council Chamber.

The next Council Meeting will be held on Monday, December 12th at 7:00 p.m. in the Council Chamber.

The next 2023 Budget Meeting will be held on Saturday, December 10th at 8:00 a.m. in the Council Chamber.

LAW DIRECTOR'S REPORT

Law Director Ebert reported on the issue of ward redistricting discussed at the last Collective Committee Meeting and stated that Avon Lake City Charter Section 3A gives Council the authority to "authorize and provide for conducting a census of the population on the Municipality any time to carry out the powers granted by this section." Also, it stipulates that the "wards so formed as nearly as equal in population as practically possible and shall be composed of contiguous and compact territory and bounded by natural boundaries or street lines."

Council discussed using the recent voting data of registered voters who cast a ballot and their ward locations as a basis to determine ward divisions. This method is not a census, and the City Charter specifically refers to the use of census data for ward boundaries. Currently, the census data has been challenged by both the Republican and Democrat

parties in Ohio before this last general election. Because of this, a true census of Avon Lake has not been determined. Cleveland State University calculated the census data for the last ward redistricting. It is best to use the population instead of the election data because it is about the population and not who voted. Therefore, Law Director Ebert recommended that Council not take any action to redistrict the ward boundaries until there has been a true census completed by the State or through an organization contracted by the City.

Council President O'Donnell stated that 700 to 1,000 new homes will be constructed in Avon Lake over the next two years, and any current data will change after these homes are completed. He recommended that Council postpone action until 2024. Then if a true census has not been determined by the State, Council would contract a firm to provide a census of the City's population.

In response to Mrs. Fenderbosch, Council President O'Donnell stated that he will not make a motion tonight to take any action to give Council time to consider the Law Director's recommendation.

Mr. Zuber voiced his disagreement with the comment that the wards are balanced and noted that Ward 3 has 20% fewer people or 1,000 fewer registered voters. At a previous meeting, the Mayor recommended that the Ward 2E precinct move to Ward 3, and Mr. Zuber believed this to be the best solution.

Mayor Zilka responded that if Council acts before the end of the year to move the precinct over, residents will know what ward they are in and have an opportunity to file a petition to run for their ward seat before the filing deadline of February 1st.

Mr. Kos asked if the 2023 Charter Review Commission should review Section 3A regarding the redistricting process. Law Director Ebert responded that they could review and recommend some changes, but any change would not take effect until January 1, 2024.

BUILDING AND UTILITIES COMMITTEE REPORT

The next meeting of the Building and Utilities Committee will be held on Thursday, December 8th at 6:30 p.m. in the Council Chamber.

COMMUNICATIONS, ENVIRONMENTAL, AND RECREATIONAL PROGRAMMING COMMITTEE REPORT

Mrs. David reported on the meeting of the Communications, Environmental, and Recreational Programming Committee held earlier. The following items were discussed:

1) increases to pool fees and rental fees for the Folger Home and Lake House as recommended by the Parks and Recreation Commission; and

2) Avon Lake Veterans Never Forgotten Banner Program. This new program will honor veterans of all branches of the military with banners displayed in Avon Lake. Recreation Director Fach will facilitate the program and publish its details to the community with a plan for its implementation on Memorial Day 2023.

ECONOMIC DEVELOPMENT COMMITTEE REPORT

The next meeting of the Economic Development Committee will be held on Monday, December 5th at 6:00 p.m. in the Council Chamber.

FINANCE COMMITTEE REPORT

Council President O'Donnell reported on the Finance Committee meeting held on November 21st. The following items were discussed:

- 1) the 2023 Fireworks Display contract is for July 4^{th} with a rain-out date of July 5^{th} .
- 2) the purchase of five additional police cameras in the amount of \$12,500.
- 3) the EMS soft billing funds. Starting on January 1, 2023, EMS soft billing will be moved to Fund 417, which is identified as the Fire, Police, and Court facility fund and used only for capital improvements. Due to this transfer, an income tax transfer will be necessary to cover the fees generated by the soft billing into the general budget. This action arose from Issue 20 wherein residents voiced their concerns that the soft billing funds should be appropriated to meet the needs of the Safety Center.
- 4) the purchase of a tarp for the salt barn in the amount of \$26,000 which will be placed in the 2023 budget.
- 5) the new fund for tree donations. This new fund will help the City apply for grant funding. Mrs. Fenderbosch stated that the current street tree program line item which generates funding from developers will remain, and a new fund or line item will place donations collected from various sources.
- 6) the replenishment of the street construction fund. The proposal to place \$250,000 per year in the street construction fund will be discussed further at the 2023 Budget Meeting.
- 7) the Fleet Management proposal from Finance Director Presley and the Public Works Department.
- 8) the recent audit was completed, and the City received a qualified opinion from the State Auditor of a high rating of excellence in financial reporting. There were two general items about the separation of duties that were corrected. The other

recommendation submitted dealt with the disaster plan to back up the City's data. The City has implemented some disaster programs for data.

9) the ladder truck for the Fire Department. The new ladder truck will cost approximately \$2 million. Finance Director Presley proposed the City finance it through the issuance of a \$2 million bond paid over 10 years at 4% interest with annual payments of \$200,000. The ladder truck should be ordered by the summer of 2023, and the City will receive it in 36 to 38 months. The current ladder truck is 30 years old, and it could be sold through gov sales or possibly traded in by the company awarded the bid.

10) the ward redistricting.

HUMAN RESOURCES COMMITTEE REPORT

The next meeting of the Human Resources Committee will be held on Monday, December 12th at 6:00 p.m. in the Council Chamber.

PUBLIC SAFETY AND HEALTH COMMITTEE REPORT

The next meeting of the Public Safety and Health Committee will be held on Wednesday, December 14th at 6:00 p.m. in the Council Chamber.

PUBLIC SERVICE COMMITTEE REPORT

The next meeting of the Public Service Committee will be held on Wednesday, November 30th at 7:00 p.m. in the Council Chamber.

PLANNING COMMISSION REPORT

The next meeting of the Planning Commission will be held on Tuesday, December 6th 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 on Wednesday, December 7th at 7:00 p.m. in the Council Chamber.

PARKS AND RECREATION COMMISSION REPORT

Mrs. David reported on the Parks and Recreation Commission meeting held on November 16th. The following items were discussed: 1) pool fees; and 2) rental fees for the Lake House and Folger Home.

The Recreation Department will offer Light Up the Park at Veterans Memorial Park on December 2nd at 6:00 p.m., Deck the House runs through December 12th, and the Holiday

Lights Bus Tour on December 14th. For more details, residents can go to the City's website (www.avonlake.org).

CITIZENS TREE COMMISSION REPORT

The next meeting of the Citizens Tree Commission will be held on Wednesday, December 14th at 7:00 p.m. at the Old Firehouse and Community Center.

MOTIONS

Mrs. David moved to add a motion to the agenda to advertise Request for Proposals (RFPs) for the Community Development and Public Works Enterprise Software.

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

No: None Motion carried.

Motion Inquiry

Mr. Spaetzel asked for the protocol regarding the addition or deletion of motions based on Mayor Zilka's comments regarding the motion to reaffirm the Mayor's salary.

Council President O'Donnell recommended that the motion remains on the agenda for Council's vote. If the motion fails and Council desires to review the issue, then it can return at a later date.

Mr. Zuber asked if the Council President still intends to call a vote on the motion reaffirming the salaries.

Council President O'Donnell responded that the motion would remain on the agenda because the Human Resources Committee did not forward any recommendation. Therefore, if any Council member wants to study the salaries further, they should vote against the motion.

Mrs. Fenderbosch moved to re-appoint Christine Raymond to the Planning Commission for a five-year term commencing January 1, 2023 and expiring December 31, 2028. Mrs. Raymond is a Principal Architect at Kaczmar Architects, and her knowledge and expertise offer a great perspective to the Planning Commission.

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

No: None Motion carried.

Council President O'Donnell moved to re-appoint David Updegraff to the Zoning Board of Appeals for a five-year term commencing January 1, 2023 and expiring December 31,

2028. Mr. Updegraff has agreed to continue to serve on the Zoning Board of Appeals and has been a dedicated member of the Board.

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

No: None Motion carried.

Mrs. Fenderbosch moved to authorize the Public Works Department to advertise for bids for the Miller Road Park Sand Dredging Project. Since the City contracts sand dredging yearly at the boat launch at Miller Road Park, the Public Works Department has requested authorization to advertise for bids.

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

No: None Motion carried.

Mr. Zuber moved to reaffirm that the salary of Council as per City Charter Section 7 and the salary of the Mayor as per City Charter Section 20 shall remain the same for the next terms of office.

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

No: None Motion carried.

Mrs. David moved to authorize the Digital Media Department to advertise for Request for Proposals for the Community Development and Public Works Enterprise software. The Business Navigation Ad Hoc Committee recommended the City obtain software to merge the building, planning, and zoning processes for efficiency. To achieve this goal, Digital Media Director Cagley was tasked with analyzing the needs of these departments and has written a Request for Proposals to be advertised based on those needs.

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

No: None Motion carried.

LEGISLATION

Third Readings:

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.

Mr. Zuber moved for passage of Ordinance No. 22-126. This legislation will authorize the Mayor to execute a personal services agreement with Arthur J. Gallagher & Co. of Minneapolis, Minnesota for a classification and compensation study for an amount not to

exceed \$160,000. At the request of the Mayor and the Administration, this legislation was removed from the agenda in October, and they are ready to move forward with it.

Mr. Spaetzel stated that he supports a classification and salary structure but will not support the Gallagher study due to its cost. Since Avon Lake Regional Water will not participate in the study, Mr. Spaetzel recommended that the City re-advertise the Request for Proposals that do not include Avon Lake Regional Water.

Council President O'Donnell voiced his opposition. He stated that only one bid was received at a cost of \$160,000. Since Avon Lake Regional Water is no longer part of the study, the City may obtain a better price because fewer positions will be involved. It was his opinion that the scope of the proposal has changed, and he recommended Council members vote in opposition to the legislation.

Law Director Ebert stated that he has had discussions with Avon Lake Regional Water and has drafted an opinion concerning their request to eliminate classifications. His opinion will be submitted to the State Personnel Board of Review. Since there are many unanswered questions from the original proposal, he recommended the City wait until a definitive answer has been received from the State.

Mrs. Fenderbosch stated that a copy of Gallagher's proposal is not attached to the legislation, and the proposal lists their fee per position or employee. The legislation before Council authorizes the Mayor to execute an agreement not to exceed \$160,000. Therefore, the cost for the study is not fixed at \$160,000. The City will decide which positions are analyzed and will be assessed based on that number. She will support the study because it has been needed for a long time. She spoke with a resident who retired from human resources and was informed that Gallagher is the largest and most widely used company in the country for this particular type of study.

Mr. Arnold stated that he will not support this study because of the cost and agreed with Mr. Spaetzel's suggestion to re-advertise for RFPs. He is not opposed to the study itself but is mindful of the cost of one.

Yes: David, Fenderbosch, Kos, Zuber No: Spaetzel, Arnold, O'Donnell

Motion carried.

Ordinance No. 22-126 adopted.

Ordinance No. 22-163, AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF AVON LAKE TO ENTER AN AGREEMENT FOR EASTERN LORAIN COUNTY EMERGENCY RESPONSE TEAM AND DECLARING AN EMERGENCY, was read by title only.

Mr. Kos moved for passage of Ordinance No. 22-163. This legislation will authorize the Mayor to enter an agreement on behalf of the City to participate in the Eastern Lorain County Emergency Response Team (ELCERT). This is a multi-jurisdictional agreement

with the cities of Avon and North Ridgeville. After the ELCERT is fully formed and operational, the City will withdraw from the Lorain County SWAT team.

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

No: None Motion carried.

Ordinance No. 22-163 adopted.

Second Readings:

Ordinance No. 22-169, AN ORDINANCE AMENDING CODIFIED ORDINANCE CHAPTER 840, CANVASSING AND DOOR-TO-DOOR SOLICITATION, was read by title only.

This legislation will amend Chapter 840 on canvassing, solicitation, and peddling. The Police Chief recommended these amendments to remove redundancies and provide clarification with the terminology to help City staff, the Police Department, and the public have a better understanding of the code.

Ordinance No. 22-171, AN ORDINANCE DECLARING A MORATORIUM ON NEW CONDITIONAL USE PERMITS IN THE LAKE ROAD FOCUS AREA PURSUANT TO CODIFIED ORDINANCE SECTION 1214.03 AND DECLARING AN EMERGENCY, was read by title only.

This legislation will declare a one-year moratorium on new conditional-use permits in the Lake Road focus area. If approved, it will be the third time a moratorium has been enacted in this location according to the Comprehensive Land Use Plan. Businesses in this area that have an existing conditional use will not be affected by this moratorium.

Ordinance No. 22-172, AN ORDINANCE ESTABLISHING THE COMMUNITY DEVELOPMENT DEPARTMENT PURSUANT TO AVON LAKE CITY CHARTER SECTION 36 AND DECLARING AN EMERGENCY, was read by title only.

This legislation will establish a new department entitled, Community Development Department. The Administration has recommended that the Economic Development Department merge with the Planning and Zoning Departments, and codify this new department. Upon its codification, the HR Director and the Human Resources Committee will work to develop other aspects of the department, such as job descriptions.

First Readings:

Ordinance No. 22-184, AN ORDINANCE AUTHORIZING THE PURCHASE OF SELF-CONTAINED BREATHING APPARATUS 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, O'Donnell

No: None Motion carried.

Mr. Kos moved for passage of Ordinance No. 22-184. This legislation will authorize the purchase of self-contained breathing apparatus for the Fire Department from Municipal Emergency Services of Warren, Ohio in the amount of \$306,231 through the Cooperative Purchasing Program. This item was placed in the 2022 budget, and the bid amount was below the budgeted amount.

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

No: None Motion carried.

Ordinance No. 22-184 adopted.

Ordinance No. 22-185, A RESOLUTION APPROVING THE USE OF SUBMERGED LANDS, 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, O'Donnell

No: None Motion carried.

Mrs. Fenderbosch moved for passage of Ordinance No. 22-185. This legislation will approve the request of the property owners at 31874 Lake Road to construct the proposed shore structure to prevent shoreline erosion. The City has determined that the submerged lands for the project are not necessary or required for the construction, maintenance, or operation by the City of breakwaters, piers, docks, wharves, bulkheads, connecting ways, water terminal facilities and improvements and marginal highways or any kind of utility.

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

No: None Motion carried.

Ordinance No. 22-185 adopted.

Ordinance No. 22-186, AN ORDINANCE CONFIRMING THE APPOINTMENT OF JEREMY LEONARD AS POLICE OFFICER IN THE POLICE DEPARTMENT AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None Motion carried.

Mr. Zuber moved for passage of Ordinance No. 22-186. This legislation will confirm the appointment of Jeremy Leonard to the position of Police Officer in the Police Department effective December 19th. Mr. Leonard will attend the Lorain County Community College Police Academy in January 2023. While he is attending the Police Academy, his salary will be 90% of the Step 1 salary of \$29.98/hour. After he graduates and obtains OPOTA certification, he will receive the full Step 1 hourly rate.

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

No: None Motion carried.

Ordinance No. 22-186 adopted.

Ordinance No. 22-187, AN ORDINANCE AWARDING A CONTRACT FOR THE 2023 FOURTH OF JULY FIREWORKS AND DECLARING AN EMERGENCY, was read by title only.

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

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

No: None Motion carried.

Council President O'Donnell moved for passage of Ordinance No. 22-187. This legislation will award a contract to Zambelli Fireworks of New Castle, Pennsylvania for the 2023 Fourth of July Fireworks in the amount of \$20,000. The fireworks display will be held on July 4th, and the rain-out date will be held on July 5th.

Mayor Zilka informed Council that another company was initially interested in providing a quote, but after several calls, they failed to submit one. The quote submitted by Zambelli Fireworks was the same price they charged for the last fireworks display.

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

No: None Motion carried.

Ordinance No. 22-187 adopted.

MISCELLANEOUS BUSINESS AND ANNOUNCEMENTS

Mr. Kos announced that the annual Toys for Tots campaign has begun. Residents can drop off new, unopened, and unwrapped toys to City Hall, the Fire Department, and the Avon Lake Public Library through the weekend of December 9th. Also, checks are accepted and should be made payable to the Lorain County Toys for Tots.

Mrs. Fenderbosch moved for adjournment.

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

No: None

Motion carried.

Adjournment: 8:05 P.M.

Approved: /s/ Martin E. O'Donnell Council President Attest: /s/Valerie E. Rosmarin
Clerk of Council