

**MINUTES OF THE REGULAR MEETING  
OF THE AVON LAKE MUNICIPAL COUNCIL  
MARCH 27, 2023**

The regular meeting of the Avon Lake Municipal Council was called to order on March 27, 2023, at 7:00 P.M. in the Council Chamber with Council President O'Donnell presiding.

Mr. Zuber 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 Widman; City Engineer Fulton; and Clerk of Council Valerie Rosmarin.

**APPROVAL OF MINUTES**

The minutes of the special Council Meeting on February 21, 2023 were approved as prepared and published.

**MAYOR'S REPORT**

An article in *The Plain Dealer* reported on the relief NOPEC will be offering to electricity customers. For the past six months, NOPEC has been navigating the increase in rates and the difficulty of buying quantities of electricity. Consequently, First Energy rates will double in June. NOPEC allowed customers to opt out of the default supplier, First Energy. Then they will automatically enroll customers when the rates increase in June unless customers choose to opt-out. NOPEC will guarantee an electricity rate of 6.5 cents per kilowatt hour for six months, well below the default price from First Energy at 10.2 cents per kilowatt hour. To help facilitate this transition, NOPEC will have a public meeting on Thursday, April 27<sup>th</sup> in the Council Chamber at 7 p.m. In the year 2000, 80% of residents voted for Avon Lake to become a NOPEC community. Residents can opt out of NOPEC. Overall, it has been a favorable opportunity for the residents.

The *Chronicle Telegram* reported that Shawn Fain was elected leader of the United Auto Workers union at Ford Motor Company, and the article stated, "new leadership will have to move quickly to gear up for what is expected to be contentious contract talks coming up this summer with Detroit's three automakers, Ford, General Motors, and Stellantis." They expect these negotiations to be very difficult, and it will potentially impact Avon Lake's income tax.

A forum will be held in preparation for the new trash contract at Avon Lake High School Commons on Wednesday, April 26<sup>th</sup> at 7 p.m. Residents will be allowed to decide on the important aspects of a future trash contract. The City's contract with Kimble will expire on April 1, 2024.

## **COUNCIL PRESIDENT'S REPORT**

The next Collective Committee Meeting will be held Monday, April 3<sup>rd</sup> at 7:00 p.m.

The next Council Meeting will be held Monday, April 10<sup>th</sup> at 7:00 p.m.

Applications to nominate the Citizen of the Year and the Project of the Year for 2022 are available on the City's website and at City Hall. The deadline is March 31<sup>st</sup>.

## **BUILDING AND UTILITIES COMMITTEE REPORT**

The next meeting of the Building and Utilities Committee will be held on Thursday, April 13<sup>th</sup> at 6:30 p.m. in the Council Chamber.

## **ECONOMIC DEVELOPMENT COMMITTEE REPORT**

The next meeting of the Economic Development Committee will be held on Monday, April 17<sup>th</sup> at 6:00 p.m. in the Council Chamber.

## **HUMAN RESOURCES COMMITTEE REPORT**

The next meeting of the Human Resources Committee will be held on Monday, April 10<sup>th</sup> at 6:00 p.m. in the Council Chamber.

## **PUBLIC SAFETY AND HEALTH COMMITTEE REPORT**

Mr. Kos reported on the meeting of the Public Safety and Health Committee on March 22<sup>nd</sup>. The following topics were discussed: 1) Resident Rudy Breglia addressed the Committee on the School Bus Seat Belt Pilot Program with the hope that the program implemented in 2019 will be revived. The Committee will invite the Avon Lake School Board and the Superintendent to a future meeting to discuss that project; 2) the new Distracted Driving Law, or Senate Bill 288 or the non-texting state law that passed on January 6, 2023, that will be in effect April 1<sup>st</sup>; and 3) the train resolution.

Law Director Ebert stated that the Ohio Municipal League provided communities with a standard resolution that he expanded upon. Back in 1998, the cities of Bay Village, Rocky River, and Lakewood entered into an agreement with Norfolk and Southern that limited the number of trains that traveled through their community that was adopted by the federal government. The agreement provided training to the safety forces on hazardous materials events, identified key routes that would be used, required maintenance of the railroad infrastructure and equipment, system-wide safety measures, emergency action plans for hazardous materials traveling in the communities, and included quiet zones at night. If such an agreement occurred in 1998 and with today's technology, notifying communities of hazardous materials traveling within their borders could be accomplished now. After Council passes the proposed resolution, a copy will be sent to the Governor and State Senators.

In response to Mrs. Fenderbosch, Law Director Ebert stated that the agreement required advance notification from Norfolk and Southern as to when they would travel within the communities, what hazardous materials would be in the railcars, and the number of railcars. If Norfolk and Southern violated the agreement, then there was a penalty of \$1 million.

### **PUBLIC SERVICE COMMITTEE REPORT**

The next meeting of the Public Service Committee will be held on Tuesday, April 18<sup>th</sup> at 7:00 p.m. in the Council Chamber. A representative from GT Environmental, the consultants for the Trash Consortium, will attend the meeting via Zoom to discuss the future trash, recycling, and yard waste contract and compare Avon Lake's current contract with other communities.

On Wednesday, April 26<sup>th</sup> "Talk Trash", will be held at Avon Lake High School Commons from 7 p.m. to 9 p.m. Residents will break into small groups, voice their suggestions, and learn about the industry from representatives from the Lorain County Solid Waste Management District.

### **PLANNING COMMISSION REPORT**

The next meeting of the Planning Commission will be held on Tuesday, April 4<sup>th</sup> 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 on Wednesday, March 29<sup>th</sup> at 5:30 p.m. at the Lake House.

### **CITIZENS TREE COMMISSION REPORT**

The next meeting of the Citizens Tree Commission will be held on Wednesday, April 12<sup>th</sup> at 7:00 p.m. at the Old Firehouse and Community Center.

On Wednesday, March 29<sup>th</sup>, and Thursday, March 30<sup>th</sup>, the Commission will attend Freshman Year classes for the Tree Commission Academy by the Ohio Division of Forestry. Also, some employees in the Public Works Department attended hands-on training and passed testing by the ISA (International Society of Arboriculture).

For Arbor Day (April 28<sup>th</sup>) the Commission has partnered with Lubrizol, who has purchased seedling trees for every 5<sup>th</sup> grader in Avon Lake. Last year, the Commission planted a tree on Arbor Day at Troy Intermediate School. This year, a tree will be planted at St. Joseph's School, and the Mayor will present a proclamation. The Commission needs volunteers to help assemble the tree seedlings. If anyone is interested, please go to the Public Works

Garage at 750 Avon Belden Road on Thursday, April 27<sup>th</sup>. This year's tree has been donated by Petitti Garden Center.

### **WALKER ROAD AD HOC COMMITTEE REPORT**

A joint meeting between the cities of Avon Lake and Bay Village of the Walker Road Ad Hoc Committee will be held on Tuesday, March 28<sup>th</sup> at 6:00 p.m. in the Council Chamber.

### **LEGISLATION**

#### Third Readings:

Ordinance No 23-40, AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 452.03, ENTITLED PROHIBITED STANDING OR PARKING PLACES, was read by title only.

Mr. Kos moved for passage of Ordinance No. 23-40. This legislation will amend Codified Ordinance Section 452.03 by adding Webber Road and Krebs Road to the list of streets in the City that prohibit parking. Parking is prohibited on Lake Road, Electric Boulevard, Walker Road, Miller Road, Moore Road, Avon Belden Road, Jaycox Road, and Lear Road.

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

No: None

Motion carried.

**Ordinance No. 23-40 adopted.**

Resolution No. 23-44, A RESOLUTION AUTHORIZING THE POLICE DEPARTMENT OF THE CITY OF AVON LAKE TO SELL USED SHOTGUNS AT FAIR MARKET VALUE AND DECLARING AN EMERGENCY, was read by title only.

Mr. Kos moved for passage of Resolution No. 23-44. This legislation will authorize the Police Department to sell 11 of its Remington 870 shotguns at fair market value. The staff in the Police Department will have the first opportunity to purchase the shotguns at fair market value. The remaining shotguns will be sold at auction and following normal procedures for the sale of surplus or no longer-needed items.

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

No: None

Motion carried.

**Resolution No. 23-44 adopted.**

#### First Readings:

Ordinance No. 23-41, AN ORDINANCE TO DESIGNATE WEBBER ROAD AS NOT A THROUGH HIGHWAY PURSUANT TO CODIFIED ORDINANCE 414.02(B) AND REDUCING THE SPEED LIMIT ON WEBBER ROAD TO TWENTY-FIVE MILES PER HOUR AND DECLARING AN EMERGENCY, was read by title only.

This legislation will reduce the speed on Webber Road from 35 mph to 25 mph for the entire length. Currently, the western section of Webber Road is 25 mph, and the remaining road is 35 mph. The number of developments has grown, increasing the traffic, and Webber Road is only 18 feet wide. There have been many complaints from residents in the area, and the Public Safety and Health Committee reviewed their concerns and recommended a reduction in the speed limit.

Ordinance No. 23-56, AN ORDINANCE AUTHORIZING THE PURCHASE OF A LADDER TRUCK FOR THE FIRE DEPARTMENT AND DECLARING AN EMERGENCY, was read by title only.

This legislation will authorize the purchase of a ladder truck for the Fire Department from Atlantic Emergency Solutions Inc. in Manassas, Virginia in the amount of \$2,254,288 less the pre-paid amount of \$74,154 for a net total of \$2,180,134 through the Sourcewell Cooperative Program of the State of Minnesota.

Finance Director Widman stated that he has been researching the City's financing options and has consulted with the City's financial advisor. The former Finance Director, Steve Presley, originally recommended that the purchase of the ladder truck would be financed through a bond sale. Director Widman's recommendation will be presented at the next Finance Committee meeting to be held on Monday, April 3<sup>rd</sup>.

Ordinance No. 23-57, AN ORDINANCE AUTHORIZING THE PURCHASE OF A MENART TOW-BEHIND WINDROW TURNER MODEL SP 50 FOR THE PUBLIC WORKS DEPARTMENT AND DECLARING AN EMERGENCY, was read by title only.

This legislation will authorize the purchase of a compost turner from Alto Equipment Company of Bedford, Ohio in the amount of \$187,000 through the State Cooperative Purchasing Program of Ohio.

Ordinance No. 23-58, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A LEASE AGREEMENT TO ACQUIRE A JOHN DEERE 6R 195 TRACTOR WITH ATTACHMENTS FOR THE PUBLIC WORKS DEPARTMENT AND DECLARING AN EMERGENCY, was read by title only.

This legislation will authorize the Mayor to execute a lease agreement with Huntington Bank to purchase a tractor plus attachments from Polen Implement, Inc. of Elyria, Ohio in the amount of \$254,617.50 through the State Cooperative Purchasing Program of Ohio. The annual lease payment will be approximately \$57,405 for five years, and the attachments included will be determined by the Public Works Director and may include a snow plow, a tow, or an arm to mow ditches. The City has applied for a grant from the State of Ohio for up to \$200,000 for the composter and tractor.

Ordinance No. 23-59, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL SERVICES AGREEMENT FOR PROFESSIONAL ENVIRONMENTAL CONSULTING SERVICES AND DECLARING AN EMERGENCY, was read by title only.

Mrs. Fenderbosch moved to suspend the rule requiring three readings.

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

Mrs. Fenderbosch moved for passage of Ordinance No. 23-59. This legislation will authorize the Mayor to execute a personal services agreement with HzW Environmental Consultants, LLC of Mentor, Ohio to monitor the closed landfill in an amount not to exceed \$77,200 and to authorize the payment of additional landfill services rendered in 2022 in the amount of \$23,300.81.

Yes: Zuber, Arnold, David, Fenderbosch, Kos, O'Donnell, Spaetzel  
No: None  
Motion carried.  
**Ordinance No. 23-59 adopted.**

Ordinance No. 23-60, AN ORDINANCE TO MAKE SUPPLEMENTAL APPROPRIATIONS FOR THE CURRENT YEAR AND OTHER EXPENDITURES OF THE CITY OF AVON LAKE FOR THE FISCAL YEAR 2023 AND DECLARING AN EMERGENCY, was read by title only.

Council President O'Donnell moved to suspend the rule requiring three readings.

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

Council President O'Donnell moved for passage of Ordinance No. 23-60. This legislation will authorize the Finance Director to make supplemental appropriations, as follows: 1) to increase the Economic Development Fund by \$20,000 for Brownfield funding application assistance from Verdantis; and 2) to adjust the General Fund by moving funds from the Civil Service Fund to the Human Resources Fund for the Compensation and Classification Study.

Yes: Zuber, Arnold, David, Fenderbosch, Kos, O'Donnell, Spaetzel  
No: None  
Motion carried.  
**Ordinance No. 23-60 adopted.**

Resolution No. 23-61, A RESOLUTION URGING THE LEGISLATIVE BRANCHES OF THE FEDERAL GOVERNMENT AND THE STATE OF OHIO TO ENACT LEGISLATION TO PROTECT OUR CITIZENS FROM THE INHERENT DANGERS OF THE PRESENCE OF THE OPERATION OF TRAINS WITHIN AND NEAR THE JURISDICTIONAL LIMITS OF THE CITY OF AVON LAKE BY INCREASING FEDERAL SAFETY STANDARDS, FEDERAL MAINTENANCE STANDARDS, AND FEDERAL THRESHOLDS FOR TRAINS TO INITIATE REACTIVE MEASURES BASED ON SENSORS OR OTHER SOURCES AND BY REQUIRING RAILROAD COMPANIES TO NOTIFY ALL CITIES, VILLAGES, AND TOWNSHIPS OF ANY HAZARDOUS MATERIALS WHICH ARE SCHEDULED TO BE TRANSPORTED THROUGH THEIR JURISDICTIONS, INCLUDING THE EXPECTED TRANSPORTATION DATE, TYPE OF HAZARDOUS

MATERIALS TRANSPORTED, AND RESTRICT THE LENGTH OF RAILCARS WHEN CARRYING HAZARDOUS MATERIALS, was read by title only.

Mr. Kos moved to suspend the rule requiring three readings.

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

No: None

Motion carried.

Mr. Kos moved for passage of Resolution No. 23-61. This legislation will urge the federal government and state officials to implement train regulations when carrying hazardous materials. There are 12 railroad crossings in the City plus one freight station. From the year 2019 to 2022, 290 train incidents were reported including a derailment of 20 cars carrying molten paraffin wax in Sandusky, Ohio on the same lines that travel through the City. On February 23, 2023, 38 cars of a 150-car freight train carrying hazardous materials derailed in East Palestine. Then on March 4, 2023, 28 cars of a 212-car train derailed in Springfield, Ohio. These incidents are occurring more frequently. There are over 5,000 miles of train tracks in the State of Ohio, and many trains pass through the City carrying hazardous materials. This legislation will urge federal and state representatives to improve safety, require notification, and provide training in preparation for these types of incidents.

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

No: None

Motion carried.

**Resolution No. 23-61 adopted.**

Resolution No. 23-62, A RESOLUTION RATIFYING THE DISPOSAL OF AN INOPERABLE VEHICLE AND AUTHORIZING THE DIRECTOR OF FINANCE TO SCRAP AN INOPERABLE VEHICLE AND TRANSFER THE VEHICLE TITLES TO REED'S SALVAGE AND DECLARING AN EMERGENCY, was read by title only.

Council President O'Donnell moved to suspend the rule requiring three readings.

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

No: None

Motion carried.

Council President O'Donnell moved for passage of Resolution No. 23-62. This legislation will authorize the Finance Director to transfer vehicle titles to Reed's Salvage of Grafton to ratify the disposal of an inoperable vehicle that was scrapped in 2022 and to dispose of an inoperable vehicle pursuant to Ohio Revised Code Section 721.15(c). The vehicles are a 2009 Ford Model 2S F250, VIN No. 1FTNF20559EA72307, and a 2008 GMC Model SA2 Savanna G2500, VIN No. 1GTGG25C781124877.

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

No: None

Motion carried.

**Resolution No. 23-62 adopted.**

Resolution No. 23-63, A RESOLUTION AUTHORIZING A DONATION TO LCADA WAY AND DECLARING AN EMERGENCY, was read by title only.

Council President O'Donnell moved to suspend the rule requiring three readings.

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

No: None

Motion carried.

Council President O'Donnell moved for passage of Resolution No. 23-63. This legislation will authorize the Finance Director to issue payment in the amount of \$12,000.00 to LCADA Way of Lorain, Ohio. This donation represents a portion of the 2022 and 2023 settlement between the City and Opioid Pharmaceutical Companies. The terms of the settlement agreement specify that the award allocation must be used on programs that address prevention, treatment, and long-term recovery, criminal justice, and public awareness costs that promote the overall health and well-being of the public to help combat this ever-evolving drug problem, and LCADA Way is an agency in Lorain County that cares for individuals and families dealing with drug addiction through an approach centered around Leadership, Compassion, Awareness, Dedication, and Advocacy (LCADA).

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

No: None

Motion carried.

**Resolution No. 23-63 adopted.**

Ordinance No. 23-64, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE COASTAL PERMITS AND LEASE APPLICATION WITH THE OHIO DEPARTMENT OF NATURAL RESOURCES AND THE U.S. ARMY CORPS OF ENGINEERS AND DECLARING AN EMERGENCY, was read by title only.

Mr. Spaetzel moved to suspend the rule requiring three readings.

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

No: None

Motion carried.

Mr. Spaetzel moved for passage of Ordinance No. 23-64. This legislation will authorize the Mayor to execute coastal permits and lease applications with the ODNR and the U.S. Army Corp of Engineers for outfall restoration and repair located at 80 Edgewood Drive, 31900 Lake Road, and 31922 Lake Road as recommended by K.S. Associates, Inc. of Elyria.

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

No: None



Motion carried.

**Ordinance No. 23-64 adopted.**

Ordinance No. 23-65, AN ORDINANCE PROVIDING FOR ENGINEERING CONSULTANT SERVICES FROM CHAGRIN VALLEY ENGINEERING, LTD. AND DECLARING AN EMERGENCY, was read by title only.

Council President O'Donnell moved to suspend the rule requiring three readings.

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

No: None

Motion carried.

Council President O'Donnell moved for passage of Ordinance No. 23-65. This legislation will authorize engineering consulting services from Chagrin Valley Engineering Ltd. of Bedford, Ohio for plan review fees of \$10,000.00, permit coordination fees of \$5,000.00, sidewalk program implementation fees of \$5,000.00, and surveying fees of \$7,500.00.

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

No: None

Motion carried.

**Ordinance No. 23-65 adopted.**

## **EXECUTIVE SESSION**

In compliance with Ohio Revised Code Section 121.22(G)(1)(2), Mrs. Fenderbosch moved to adjourn to Executive Session to discuss the purchase or sale of a property.

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

No: None

Motion carried.

Adjournment: 7:54 P.M.

## **RECONVENING OF COUNCIL MEETING**

The regular Council Meeting was reconvened at 9:14 P.M.

Present: Council Members Zach Arnold, Billie Jo David, Jennifer Fenderbosch, David Kos, Marty O'Donnell, Mark Spaetzel, and K. C. Zuber.

Mrs. Fenderbosch moved for adjournment.

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

No: None

Motion carried.

Adjournment: 9:15 P.M.

Approved: */s/Valerie E. Rosmarin*  
Council President

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