

**MINUTES OF THE REGULAR MEETING
OF THE AVON LAKE MUNICIPAL COUNCIL
DECEMBER 11, 2023**

The regular meeting of the Avon Lake Municipal Council was called to order on December 11, 2023, at 7 p.m. in the Council Chamber with Council President O'Donnell presiding.

Mrs. David 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 Greg Zilka; Law Director Gary Ebert; Finance Director Ed Widman; and Clerk of Council Valerie Rosmarin.

Absent: City Engineer Chris Howard.

LEGISLATION

Ordinance No. 23-197, AN ORDINANCE CONFIRMING THE APPOINTMENT OF CUTTER BRIGG, AS FIREFIGHTER/PARAMEDIC IN THE FIRE DEPARTMENT, AND DECLARING AN EMERGENCY, was read by title only.

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

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

Mr. Zuber moved for passage of Ordinance No. 23-197. This legislation will confirm the appointment of Cutter Briggs, as Firefighter/Paramedic in the Fire Department, at the Step 1 salary of \$2,525.73, payable biweekly, effective December 12, 2023. Mr. Briggs was certified to the payroll by the Civil Service Commission on December 4, 2023.

Yes: David, Fenderbosch, Kos, O'Donnell, Spaetzel, Zuber, Arnold
No: None
Motion carried.
Ordinance No. 23-197 adopted.

Law Director Ebert administered the Oath of Office to Cutter Briggs.

APPROVAL OF MINUTES

The minutes of the special Council Meeting on November 13, 2023, were approved as prepared and published.

MAYOR'S REPORT

Mayor Zilka reported that the Northeast Ohio Public Energy Council (NOPEC) has announced that a new price for electricity, at 6.6 cents per kilowatt hour (KWh), has been locked until May 2024, and Northeast NOPEC members will have stability during this time. This price is slightly higher than the 6.45 cents per KWh customers currently pay but cheaper than the 9.69 cents per KWh customers pay if they have opted out of NOPEC. NOPEC serves about 487,000 electricity customers and buys power in bulk on behalf of the residents and many communities around Greater Cleveland. Eighty-five percent of its customers are on the standard program price, unless they have chosen another option. NOPEC offers 12- and 24-month fixed-priced contracts at a monthly variable rate.

Judge Darrel Bilancini will be retiring on December 31, 2023, after 18 years of service, and Prosecutor John Reulbach will be retiring on December 31, 2023, after 28 years of service. A farewell reception will be held on Thursday, December 14, at the Avon Lake Municipal Court from 11 a.m. to 1 p.m.

COUNCIL PRESIDENT'S REPORT

The next Collective Committee Meeting will be held on Monday, December 18, 2023, at 7 p.m., followed by the rescheduled Council Meeting.

The Council Organizational Meeting will be held on Tuesday, January 2, 2024, at 7:30 p.m.

BUILDING AND UTILITIES COMMITTEE REPORT

The next meeting of the Building and Utilities Committee will be held on Thursday, December 14, 2023, at 6:30 p.m. in the Council Chamber.

HUMAN RESOURCES COMMITTEE REPORT

Mr. Zuber reported on the Human Resources Committee meeting held earlier. The following topics were discussed:

- 1) The appointments of a Firefighter/Paramedic and a Police Officer; and
- 2) An update on the hiring of a Public Works Director, HR Director, City Engineer, Building Inspector, and City Prosecutor from Mayor-elect Spaetzel.

The next meeting of the Human Resources Committee will be held on Monday, January 8, 2024, at 6 p.m. in the Council Chamber.

PUBLIC SAFETY & HEALTH COMMITTEE REPORT

The next meeting of the Public Safety & Health Committee will be held on Thursday, December 14, 2023, at 5:30 p.m. in the Council Chamber.

PUBLIC SERVICE COMMITTEE REPORT

The next meeting of the Public Service Committee will be held on Tuesday, January 9, 2024, at 6 p.m. in the Council Chamber.

PLANNING COMMISSION REPORT

The next meeting of the Planning Commission will be held on Wednesday, January 3, 2024, at 7 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, January 24, 2024, at 7 p.m. in the Council Chamber.

SOLAR ECLIPSE SUPPORT AD HOC COMMITTEE REPORT

The next meeting of the Solar Eclipse Support Ad Hoc Committee will be held on Tuesday, December 12, 2023, at 5:30 p.m. in the Council Chamber.

TREE COMMISSION REPORT

The next meeting of the Tree Commission will be held on Wednesday, January 10, 2024, at 7 p.m. at the Old Firehouse.

AUDIENCE PARTICIPATION

William Zimmerman, 241 Moorewood Avenue, Avon Lake, addressed Council in opposition to Ordinance No. 23-181.

MOTIONS

Mrs. Fenderbosch moved to authorize the City Engineer to advertise for bids for the Miller Road Park Sand Dredging Project. Every year the City must dredge the sand from the Miller Road Park boat launch to give boats access into Lake Erie.

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

No: None

Motion carried.

Mrs. Fenderbosch moved to authorize the City Engineer to advertise for bids for the Walker Road Phase 3 Paving Project, from Avon Point Avenue to Jaycox Road. Since this project qualifies as an Ohio Public Works Commission (OPWC) project, the City will receive an OPWC grant in the amount of \$350,000 for the construction, administrative, and inspection costs plus receive an OPWC loan in the amount of \$50,000.

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

No: None

Motion carried.

Mrs. Fenderbosch moved to authorize the City Engineer to advertise for bids for the Walker Road Phase 4 Paving Project, from Moore Road to Ambleside Drive. This project also qualifies for an OPWC grant and loan to pay for the construction, administration, and inspection costs.

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

No: None

Motion carried.

Mrs. Fenderbosch moved to authorize the City Engineer to advertise for Requests for Qualifications (RFQs) for Geotechnical Services for City projects. City Engineer Howard recommended the City investigate why streets are not lasting as long as they should. Therefore, when a street is placed on the repaving list, or Street Program, a geotechnical firm is needed to drill core samples to determine its specifications for the project.

In response to Mr. Zuber, Mrs. Fenderbosch stated that City Engineer Howard will develop a list of streets for the Street Program throughout the year. The City has never had a firm available to gather the geological data, and if data had been collected before the greenhouse at the Old Firehouse was constructed, it would have prevented it from moving away from the building.

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

No: None

Motion carried.

Mrs. Fenderbosch moved to authorize the City Engineer to advertise for Requests for Qualifications (RFQs) for Design Services for the LOR-US 6-15.87 (PID 119923), Lake Road Sidewalks, west of SR 83 Project. An engineering firm is needed to provide design services for this Ohio Department of Transportation (ODOT) project.

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

No: None

Motion carried.

Mrs. Fenderbosch moved to authorize the City Engineer to advertise for Requests for Qualifications (RFQs) for Design Services for the Bridge Rehabilitation/Replacement Project for the structure at Electric Boulevard, over the Heider Ditch. Last year, all bridges in the City were evaluated, which resulted in a list of bridges that needed to be repaired or replaced. The bridge at Electric Boulevard, over the Heider Ditch, is the first one on the list in need of replacement, and an engineering firm is needed to provide design services for this project.

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

No: None

Motion carried.

Mrs. Fenderbosch moved to recommend the Planning Commission amend Planning and Zoning Code, Section 1237.07(i)(2), Street Trees and Street Tree Fund that the fee assessed for the installation of trees in the public rights-of-way be calculated by the City Engineer instead of the Code Administrator.

Whenever a change is necessary to the Planning and Zoning Code, it can either be recommended by Council or Planning Commission. Council recommends this change that will be forwarded to Planning Commission for consideration. Regardless of the vote of Planning Commission, Council has the final say. This change refers to a typographical error. The Code Administrator, who is the Director of Community Development, does not calculate the developer's fees for the Street Tree Fund, the City Engineer does those calculations.

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

No: None

Motion carried.

LEGISLATION

Third Readings:

Ordinance No. 23-177, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A PERSONAL SERVICES AGREEMENT WITH ZUPKA & ASSOCIATES AND DECLARING AN EMERGENCY, was read by title only.

Council President O'Donnell moved for passage of Ordinance No. 23-177. This legislation will authorize the Mayor to enter into a personal services agreement with Zupka & Associates of Seven Hills, Ohio, for the preparation of the 2023, 2024, and 2025 financial statements for an amount not to exceed \$73,130.

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

No: None

Motion carried.

Ordinance No. 23-177 adopted.

Ordinance No. 23-181, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A FIVE-YEAR PERSONAL SERVICES AGREEMENT WITH FLOCK, INC. FOR THE FLOCK SAFETY PLATFORM AND FLOCK SAFETY LPR PRODUCTS AND DECLARING AN EMERGENCY, was read by title only.

Mr. Kos moved for passage of Ordinance No. 23-181. This legislation will authorize the Mayor to execute a five-year personal services agreement with Flock, Inc., of Atlanta, Georgia, for the Flock Safety Platform and Flock Safety LPR Products, for an amount not to

exceed \$142,650. License Plate Reader (LPR) cameras have been installed at nine of the entrances of the City. This agreement will also authorize the installation of a camera on Krebs Road, the last entrance, and assign a mobile camera to the Police Department.

This third reading accounts for six weeks of review and discussion, a minimum of five public meetings, which began at the Public Safety & Health Committee meeting on October 18, 2023, and represents a thorough discussion of the contract and the benefits of Flock cameras. The cost for the first year of the five-year contract is \$28,650, which includes the installation of the tenth camera, and the remaining four years will be \$28,500 per year. Initially, the contract was intended to move to a Collective Committee Meeting and then presented for passage, with suspension of the rule requiring three readings, at the first reading. However, Mr. Kos decided to have three readings on the contract to ensure that all questions had been answered. The Flock Safety Platform is found in 6 communities in Lorain County, 70 in the Cleveland area, 225 in the State of Ohio, 3,500 nationwide, and more communities are being added all the time.

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

No: None

Motion carried.

Ordinance No. 23-181 adopted.

First Readings:

Ordinance No. 23-198, AN ORDINANCE AUTHORIZING THE CITY TO SOLICIT REQUESTS FOR QUALIFICATIONS FROM DESIGN PROFESSIONAL SERVICES TO DESIGN THE PLAYGROUND AT BLESER PARK, KNOWN AS THE AVON LAKE PLAY SPACE, AND DECLARING AN EMERGENCY, was read by title only.

This legislation will authorize the City to solicit Requests for Qualifications (RFQs) from design professionals for the design of Avon Lake Play Space (ALPS). In November of 2022, the City entered an agreement with Sixmo, Inc., an architectural firm, to implement a design-build process for the construction of ALPS. RFQs were issued for the design-build, but an insufficient number of qualified statements were received. Now, the City will solicit RFQs from design professionals to design the project based on community input. This path will allow the project to be built as soon as possible. After the design is completed, bids will be advertised to construct the design.

Law Director Ebert stated that after the Ohio Supreme Court rejected the jurisdictional appeal of ParkPlay Solutions, LLC, from the Ninth District Court of Appeals, the deadline for the plaintiff-appellant to file a Motion for Reconsideration with the Supreme Court was Friday, December 8, 2023. Since no motion was filed, the City's entry was submitted, and no further appeals are available to the plaintiff. Therefore, the City can move forward with the project.

Council President O'Donnell stated that Council has dedicated \$1 million for the project in the 2024 Temporary Budget.

Ordinance No. 23-199, AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 208.01, ENTITLED GENERAL FEE SCHEDULE.

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

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

No: None

Motion carried.

Mrs. Fenderbosch moved for passage of Ordinance No. 23-199. This legislation will amend Codified Ordinance Section 208.01(f)(19), regarding the Street Tree Program by stating that the calculations for the developers' fees will be \$6/linear foot of right-of-way on both sides of the street.

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

No: None

Motion carried.

Ordinance No. 23-199 adopted.

Ordinance No. 23-200, AN ORDINANCE AMENDING CODIFIED ORDINANCE CHAPTER 294, TREE COMMISSION, AND DECLARING AN EMERGENCY.

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

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

No: Zuber

Motion carried.

Mrs. Fenderbosch moved for passage of Ordinance No. 23-200. This legislation will amend Codified Ordinance Chapter 294, Tree Commission, by increasing the membership of the Tree Commission by two.

Motion to Amend Ordinance No. 23-200.

Mrs. Fenderbosch moved to add to Section 294.02(a) to replace five voting members with seven members, and three residential members with five.

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

No: None

Motion carried.

Motion for Passage of Ordinance No. 23-200.

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

No: None

Motion carried.

Ordinance No. 23-200 adopted.

MISCELLANEOUS BUSINESS AND ANNOUNCEMENTS

Mr. Kos announced that the annual Toys for Tots campaign has concluded. The communities of Avon Lake and Avon were very generous with their donations, and a large box truck was filled with toys and delivered to LaGrange for distribution. Also, \$3,500 was collected. Every toy and dollar collected in Lorain County will go to underprivileged kids in Lorain County.

Mrs. Fenderbosch announced that the Lorain County Commissioners will consider eliminating trash waivers, and she wrote a letter to the Commissioners and Lorain County Administrator Armbruster urging them to retain trash waivers.

PUBLIC INPUT

- Rob Shahmir, 31705 Driftwood Court, Avon Lake, as resident and member of the Environmental Affairs Advisory Board (EAAB), addressed Council and stated that Director Esborn told him that Mr. Deegan of Deegan & Associates, on behalf of Avon Lake Environmental Redevelopment Group (ALERG), explained to Director Esborn that the Clean Water Act violation of mercury was a single, low-level mercury exceedance. Scott Cameron of Charah reported to the EAAB that there were high readings last May, two normal readings, and three low readings, and that eight readings or samples were taken to reduce the level. The average for May was based on eight samples, not one to reduce the level to a safe point. It was not the typical single sample. The typical limit is 2.6 nanograms per liter, and the violation was 4.88 nanograms per liter.

Mr. Shahmir asked Council why the violation had not been reported to the City by ALERG and if the CIC was informed about the violation. Mr. Shahmir learned that the City issued the permit, and he attended an Avon Lake Board of Utilities meeting to inquire about the permit. Whereupon he learned that a permit is issued to monitor what goes into the lake from the retention pond. Previously, the retention pond discharged to permit points, which are on the northeast side of the property. He questioned how the retention pond is monitored because surface runoff will include containments. The ALMU Board reasoned that a high level of mercury occurs whenever there is a storm event.

Mr. Arnold stated that he did not recall any discussion regarding the mercury violation at any CIC meeting.

Council President O'Donnell asked Mayor Zilka to find out from Director Esborn if any permit was issued.

- William Zimmerman, 241 Moorewood Avenue, Avon Lake, addressed Council regarding the 25-mph speed limit on Lake Road. He stated that he filed a public records request to obtain records regarding the reduction in speed limit from 35 to 25 and was informed that no record exists that the Police Chief met with ODOT regarding the speed limit. The City Engineer, however, met with ODOT on the Lake Road Paving Project. He called ODOT, and they confirmed that no record of a meeting with Chief Molnar exists. ODOT has journalized the speed limit as 35 mph, and there were no records explaining how, when, or why the speed limit was changed.

Mrs. Fenderbosch moved for adjournment.

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

No: None

Motion carried.

Adjournment: 7:56 p.m.

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

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