

**MINUTES OF THE REGULAR MEETING  
OF THE AVON LAKE MUNICIPAL COUNCIL  
September 9, 2024**

The regular meeting of the Avon Lake Municipal Council was called to order on September 9, 2024, at 7 p.m. in the Council Chamber with Acting Council President Fenderbosch presiding.

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

Present: Councilmembers Jennifer Fenderbosch, Amy Gentry, David Kos, Rob Shahmir, and K. C. Zuber; Law Director Gary Ebert; Public Works Director Jon Liskovec; and Clerk of Council Valerie Rosmarin.

Absent: Councilmember Zach Arnold and Mayor Mark Spaetzel.

**APPROVAL OF MINUTES**

The minutes of the regular Council Meeting on July 8, 2024, were approved as prepared and published.

**ACTING COUNCIL PRESIDENT'S REPORT**

Acting Council President Fenderbosch reported that the Collective Committee Meeting will be held on Monday, September 16, 2024, at 7 p.m. The next regular Council Meeting will be held on Monday, September 23, 2024, at 7 p.m.

Council will accept the resignation of Council President Martin E. O'Donnell later tonight, and the process to fill the Council At-Large vacancy has begun. Interested City electorates must submit a letter of interest and resume by noon on September 18, 2024, to the Clerk of Council at [vrosmarin@avonlake.org](mailto:vrosmarin@avonlake.org), or in person at 150 Avon Belden Road, Monday through Friday between 8:00 a.m. and 4:30 p.m. Interviews will be scheduled on Thursday, September 19, 2024, and if needed, Friday, September 20, 2024, in the Council Chamber. Council will vote to nominate and appoint a resident to fill the vacancy on Monday, September 23, 2024.

**PUBLIC WORKS DIRECTOR'S REPORT**

Public Works Director Liskovec informed Council that Jeff Robertson, a recent retiree of the Public Works Department, lost his battle with cancer this morning. He was well-liked, and his service to the residents of Avon Lake was appreciated. Our thoughts are with his family as they grieve.

Acting Council President Fenderbosch stated that his wife, Diane Robertson, was a former employee in the Avon Lake Municipal Court and now works for the City of Avon.

Their adult daughter, Rebecca Robertson, works in customer service at Avon Lake Regional Water (ALRW). Our sympathy goes to the family.

A moment of silence was held in remembrance of Jeff Robertson.

Public Works Director Liskovec reported on the following:

City Hall Update

He has been working with the insurance adjuster, Law Director Ebert, and Servpro on reconstructing the areas affected. A meeting has been scheduled with Servpro's Project Manager this Wednesday to review the project, and it is their intention to begin the reconstruction in the next two to three weeks.

Crack Seal Program

A pre-construction meeting with Scodeller Construction is scheduled tomorrow, and they will provide a timeline for the project. It will be a moving work zone, and they will set up traffic control. Once started, it should roll through the City quickly.

Stormwater Outfall Restoration at 31922 Lake Road

The stormwater outfall is under construction. The contractor, Cole Excavating, LLC, has mobilized, cleared the site, is working on the cliff side toward the water's edge.

Roads Program

Residents impacted by road construction have been contacted directly by Columbia Gas to coordinate moving any gas infrastructure before the road work can be done. Columbia Gas is working well with the City to expedite that work.

Wetland Permit

The City received a wetland permit from Ohio EPA last Friday and final payment will be due within 30 days. This item pertains to the expansion of the Walker Road Park retention basin.

Lorain County, Solid Waste District

On Saturday, September 7, 2024, Lorain County Solid Waste District sponsored the City's Shredding Event, and nearly 800 pounds of material were collected. Habitat for Humanity was also present and collected gently used items that they will repurpose.

**BUILDING AND UTILITIES COMMITTEE REPORT**

The next meeting of the Building and Utilities Committee will be held on Wednesday, September 9, 2024, at 6 p.m. in the Council Chamber.

## COMMUNICATIONS, ENVIRONMENTAL, AND RECREATIONAL PROGRAMMING COMMITTEE REPORT

Mr. Shahmir reported that the Environmental Affairs Advisory Board (EAAB) assisted in drafting ordinances regarding demolitions by implosion and a demolition moratorium. The City issued an implosion permit to Avon Lake Environmental Redevelopment Group (ALERG) for the Power Plant implosion project and received a legal opinion from Berns, Ockner & Greenberger that a moratorium on implosions would not affect future Power Plant implosions because ALERG would be grandfathered to the City's current laws and cannot be subjected to a new ordinance.

Mr. Shahmir stated that the implosion requires engineering and risk assessments, and the first implosion occurred against the will of the City. Berns, Ockner & Greenberger represent the City in the Development Agreement with ALERG, and their fees are being paid by ALERG.

Regarding the purchase of the coal yard by ALRW, the City received the Phase 2 study from Verdantas, the City's environmental consultant. The assessment found PCBs and some heavy metals in soils, which will be addressed by ALRW and their environmental consultants. He wanted to know what the coal yard property will be used for and how it will be protected.

Law Director Ebert stated that the consultants will be asked to schedule a meeting to discuss this further.

Acting Council President Fenderbosch said scheduling a meeting will address one of Mr. Shahmir's concerns, and the other has to do with the comments that ALERG is paying for the City's consultants. It was her understanding that the City pays Berns, Ockner & Greenberger, and the City is reimbursed by ALERG.

In response, Law Director Ebert stated that the reimbursement agreement with ALERG pertains to the Development Agreement, and it does not include legal fees for the legal opinion from Berns, Ockner & Greenberger.

In response to Ms. Gentry, Law Director Ebert stated that he chose not to give his legal opinion to avoid a conflict of interest, and Berns, Ockner & Greenberger was selected based on their expertise and knowledge of the Power Plant and there was a short deadline to obtain one.

Mr. Zuber disagreed with Mr. Shahmir's comments that the implosion occurred against the will of the City and asked Mr. Shahmir for his definition of "city" since it was a broad statement.

Mr. Shahmir stated that he was referring to the residents who voiced their concerns at the July 31, 2024, Special Council Meeting, along with Council President O'Donnell's request of ALERG to postpone the implosion until a proper risk assessment is done.

Acting Council President Fenderbosch, who was absent from the July 31, 2024, meeting but watched it, stated that the Mayor reported at a subsequent meeting that he contacted ALERG and asked that the implosion be postponed. However, the structure was already cut, and charges were in place. Therefore, it could not be postponed because it posed a risk to the people working at the site.

Since the building was imploded, Mr. Shahmir opined that this is not a continuous process, and grandfathering should not apply. He further stated that after implosions, a project is evaluated, and engineering is redone. An implosion ordinance would help manage issues and allow for proper modeling, sample planning, risk assessment, and ensure that the implosion is handled properly. No one wants to stop the Power Plant from being redeveloped, but the EAAB has asked for a few concessions.

Mr. Kos also reported that he was also absent from the July 29, 2024, Special Council Meeting and agreed with Mr. Zuber's comments about the will of the City. Council President O'Donnell asked for a postponement, and the Mayor followed up. However, no formal vote of Council occurred at that meeting.

#### **ECONOMIC DEVELOPMENT COMMITTEE REPORT**

Mr. Shahmir stated that he would like to be involved in the Economic Recovery and Resiliency Plan project team and attend the initial kickoff meeting with Kleinfelder. Mr. Zuber voiced his interest in joining the team as well.

#### **FINANCE COMMITTEE REPORT**

The next meeting of the Finance Committee will be held on Tuesday, September 17, 2024, at 6 p.m.

#### **HUMAN RESOURCES COMMITTEE REPORT**

Mr. Zuber reported on the Human Resources Committee meeting held earlier. The following items were discussed: 1) Finance Director search; 2) Citizen Review Ad Hoc Committee, who will review Council and Mayor salaries; 3) Community Relations Board, who will meet by the end of the year; 4) Building Department Administrative Assistant and Finance Clerk-Accounts Receivable vacancies and job descriptions; 5) Communications & Technology Director search; 6) Amendments to Civil Service Rules 14, 15, and 16; 6) P/T Police Officer appointment; and 7) Gallagher Study review.

The next meeting of the Human Resources Committee will be held on Tuesday, October 15, 2024, at 6 p.m.

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

Mr. Kos reported that the City, Lorain County Board of Health, and other Lorain County municipalities were approved for a grant from the Ohio Department of Transportation (ODOT). The grant will be used to purchase flashing stop signs, audible crosswalks, and other safety improvements. The City will work through the process to acquire these funds.

The next meeting of the Public Safety and Health Committee will be held on Wednesday, September 18, 2024, at 6 p.m.

## **PUBLIC SERVICE COMMITTEE REPORT**

The next meeting of the Public Service Committee will be held on Tuesday, September 10, 2024, at 6 p.m. in the Council Chamber.

## **PLANNING COMMISSION REPORT**

The next meeting of the Planning Commission will be held on Tuesday, October 1, 2024, at 7 p.m. in the Council Chamber.

## **TREE COMMISSION REPORT**

The next meeting of the Tree Commission will be held on Wednesday, September 11, 2024, at 6 p.m. at the Old Firehouse.

## **AUDIENCE PARTICIPATION**

1. Gerald Phillips, 461 Windward Way, Avon Lake, addressed Council on the resignation of Marty O'Donnell. He stated there were times that they were adversaries but as a Council President, he ran a good meeting, was objective, and applied the law correctly.
2. William Zimmerman, 241 Moorewood Avenue, Avon Lake, agreed with Mr. Phillips' statements regarding Council President O'Donnell. However, he felt that his civil rights were violated by Mr. O'Donnell on many occasions. Mr. Zimmerman thought it was time for the senior members of Council to resign, and he is a proponent of term limits.

## **MOTIONS**

Acting Council President Fenderbosch moved to accept the resignation of Martin E. O'Donnell as Avon Lake City Council At-Large Representative effective September 3, 2024.

Yes: Shahmir, Zuber, Fenderbosch, Gentry, Kos

No: None  
Absent: Arnold  
Motion carried.

Acting Council President Fenderbosch moved to refer the recommendation of text amendments to Codified Ordinance Section 1224.01, Accessory Use and Temporary Use Regulations, to the Planning Commission regarding backyard chickens.

Many residents brought the issue of allowing residents to have backyard chickens in the City to Council over 18 months ago, and Acting Council President Fenderbosch was assigned by former Council President O'Donnell to research this matter as the Council Representative on Planning Commission. She worked with Planning Commission and City Departments on a draft ordinance that provided the necessary provisions. After considerable research, it is ready to forward to Planning Commission for further review.

In response to Mr. Kos regarding the process, Acting Council President Fenderbosch stated that Planning Commission will review the draft ordinance, and they can accept it, revise it, or reject it.

Yes: Shahmir, Zuber, Fenderbosch, Gentry, Kos  
No: None  
Absent: Arnold  
Motion carried.

Mr. Kos moved to decommission a police vehicle and transfer its use to the Avon Lake Municipal Court.

A vehicle in the Police Department is being phased out and transferred to the Avon Lake Municipal Court for its use by Court personnel. All costs for maintenance and insurance of this vehicle will be assumed by the Municipal Court.

Yes: Shahmir, Zuber, Fenderbosch, Gentry, Kos  
No: None  
Absent: Arnold  
Motion carried.

## **LEGISLATION**

### Third Reading:

**Ordinance No. 24-104**, AN ORDINANCE AUTHORIZING THE MAYOR TO ESTABLISH COMPENSATION FOR CERTAIN PART-TIME EMPLOYEES, REPEALING ORDINANCE NO. 22-145, AND DECLARING AN EMERGENCY, was read by title only.

Mr. Zuber moved for passage of Ordinance No. 24-104. This legislation will authorize the Mayor to establish compensation for certain part-time employees and repeal Ordinance No. 22-145. Currently, the Mayor can hire a part-time employee at a rate up to \$21.22 per hour. Union contracts have changed their effective date from July 1 to January 1, and it is necessary to align all pay increases to January 1.

Yes: Shahmir, Zuber, Fenderbosch, Gentry, Kos

No: None

Absent: Arnold

Motion carried.

**Ordinance No. 24-104 adopted.**

Second Reading:

**Ordinance No. 24-128, AN ORDINANCE AUTHORIZING THE PURCHASE OF THREE FORD INTERCEPTOR VEHICLES FOR THE POLICE DEPARTMENT AND DECLARING AN EMERGENCY,** was read by title only.

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

Yes: Shahmir, Zuber, Fenderbosch, Gentry, Kos

No: None

Absent: Arnold

Motion carried.

Mr. Kos moved for passage of Ordinance No. 24-128. This legislation will authorize the purchase of three Ford Interceptor vehicles for the Police Department from Liberty Ford of Maple Heights, Ohio, in the amount of \$133,200. The Police Department annually budgets the replacement of two to three vehicles per year for their fleet, and the cost for this purchase is under budget.

Yes: Shahmir, Zuber, Fenderbosch, Gentry, Kos

No: None

Absent: Arnold

Motion carried.

**Ordinance No. 24-128 adopted.**

First Readings:

**Resolution No. 24-130, A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE BOARD OF EDUCATION OF AVON LAKE CITY SCHOOL DISTRICT TO SHARE IN THE USE OF TENNIS COURTS AND PICKLEBALL COURTS AT AVON LAKE HIGH SCHOOL AND DECLARING AN EMERGENCY,** was read by title only.

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

Yes: Shahmir, Zuber, Fenderbosch, Gentry, Kos  
No: None  
Absent: Arnold  
Motion carried.

Mr. Shahmir moved for passage of Resolution No. 24-130. This legislation will authorize the Mayor to enter into a MOU with the Avon Lake High School to use their new tennis courts and pickleball courts during the year at a cost of \$109,363, payable at a rate of \$21,872.60 per year for five years.

Law Director Ebert reported that the Board of Education is scheduled to vote on the MOU at their next meeting.

Yes: Shahmir, Zuber, Fenderbosch, Gentry, Kos  
No: None  
Absent: Arnold  
Motion carried.

**Resolution No. 24-130 adopted.**

**Ordinance No. 24-131, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF BUILDING DEPARTMENT ADMINISTRATIVE ASSISTANT, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, REPEALING ORDINANCE NO. 64-2018, AND DECLARING AN EMERGENCY, was read by title only.**

This legislation will update the job description for the position of Building Department Administrative Assistant and repeal Ordinance No. 64-2018. The person in this position is preparing to retire, and it is customary that the Administration reviews and updates a job description, if necessary, to prepare for this impending vacancy.

**Ordinance No. 24-132, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF FINANCE CLERK - ACCOUNTS PAYABLE, ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION, REPEALING ORDINANCE NO. 56-2012, AND DECLARING AN EMERGENCY, was read by title only.**

This legislation will update the job description for the position of Finance Clerk-Account Payable and repeal Ordinance No. 56-2012. The person in this position is preparing to retire, and it is customary that the Administration reviews and updates a job description, if necessary, to prepare for this impending vacancy.

**Ordinance No. 24-133, AN ORDINANCE AMENDING THE RULES OF THE CIVIL SERVICE COMMISSION AND DECLARING AN EMERGENCY, was read by title only.**

This legislation will amend the rules of the Civil Service Commission by changing the minimum age required to take the Firefighter/Paramedic exam from 21 years to 18 years. Candidates must be certified as an Ohio Paramedic and Ohio Firefighter Level II before they can be hired. The Civil Service Commission recommended this rule change



to permit Fire Academy students to take part in the examination process and to provide the City with a larger pool of candidates. Also, included in the amendments is setting the maximum time allotted to pass the Firefighter/Paramedic physical agility exam at 4 minutes 30 seconds and clarify the age requirement rule in the Police Department.

## **PUBLIC INPUT**

1. Melissa Clifford, 194 Beck Road, Avon Lake, asked about the City's emergency preparedness measures and if there an evacuation plan in the event of derailment; she wanted to know the amount of the ODOT grant the City will receive; and what assurances can the City provide the residents that the people involved in the Power Plant redevelopment, who are benefitting from it financially, are also working toward the same goal as the City and its residents.

Mr. Kos responded that the City has a disaster plan, and it has been several years since it was updated. The Public Safety and Health Committee met recently and discussed updating the plan with the Administration, Mayor/Safety Director, Police Chief, and Fire Chief, and the Committee anticipates the update will be ready for their meeting in November. When it is approved, it will be available to the public.

In regard to the ODOT grant, Mr. Kos explained that the City applied for the grant with Lorain County. He didn't have the amount the City will be receiving, but he would obtain that information and announce it at a future meeting.

Law Director Ebert responded to the inquiry about the Power Plant, and he was not aware of any conflicts of interest with its redevelopment. He noted that ALRW is purchasing a portion of the Power Plant's property to expand its facility for redundancy purposes, and the City has been working with their environmental consultants regarding the purchase.

2. Gerald Phillips, 461 Windward Way, Avon Lake, addressed Council regarding the moratorium he proposed and his belief that no one supports it. He requested a copy of the legal opinion from Berns, Ockner & Greenberger and opined that the City retained this firm to receive their desired opinion. He referenced a case in Fairview Park dealing with building permits and stated that vacant land within a master subdivision isn't grandfathered until a permit is issued. He disagreed with the legal opinion of Berns, Ockner & Greenberger because of their involvement with the Development Agreement. He referenced the Phase 2 study he received from ALRW Chief Utilities Executive Rob Munro and the \$15 million insurance policy addendum. He believed that ALERG is not obligated to continue the insurance policy on behalf of the City after they sell the Power Plant property, and the City will be exposed. A moratorium gives the City time to draft a demolition code, which can be rescinded when that code is approved.

Mr. Shahmir confirmed receipt of the Phase 2 study and asked for a copy of the risk assessment completed by HZW Environmental Consultants.

Law Director Ebert stated that he was unsure if that risk assessment was finished, and he will make an inquiry tomorrow.

3. William Zimmerman, 241 Moorewood Avenue, Avon Lake, informed Council that he attended the Planning Commission meeting where they discussed the issue of speed within a subdivision and the location of an island. He thought intermittent speed bumps would slow traffic down. He referenced a previous case with the Animal Clinic wanted to build a parking lot and their neighbors were against it. It was his belief that Planning Commission votes in opposition to what residents want and that people on the Planning Commission should resign.

In response to Mr. Zimmerman, Acting Council President Fenderbosch stated that Planning Commission follows the Planning and Zoning Code, and members vote based on it and not on their opinion, which is what occurred in the Animal Clinic case.

#### MISCELLANEOUS BUSINESS AND ANNOUNCEMENTS

Mr. Kos reported that tickets go on sale for the 11<sup>th</sup> Annual Boo by the Woods Halloween Festival on Monday, September 16, 2024.

Mrs. Fenderbosch moved for adjournment.

Yes: Shahmir, Zuber, Fenderbosch, Gentry, Kos

No: None

Absent: Arnold

Motion carried.

Adjournment: 8:20 p.m.

Approved: /s/ Jennifer Fenderbosch  
Acting Council President

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