

**MINUTES OF THE REGULAR MEETING  
OF THE AVON LAKE MUNICIPAL COUNCIL  
October 28, 2024**

The regular meeting of the Avon Lake Municipal Council was called to order on October 28, 2024, at 7 p.m. in the Council Chamber with Council President Fenderbosch presiding.

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

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

Absent: Mayor Mark Spaetzel and Finance Director Ed Widman.

**APPROVAL OF MINUTES**

The minutes of the special Council Meetings on July 29, 2024; September 19, 2024; and September 20, 2024, were approved as prepared and published.

**CORRESPONDENCE**

Ms. Gentry received communications from residents concerned about the noise from the new pickleball court at Avon Lake High School and about the impending implosion of the former Power Plant structures.

**COUNCIL PRESIDENT'S REPORT**

Council President Fenderbosch reported that the next Collective Committee Meeting will be held on Monday, November 4, 2024, at 7 p.m. The next regular Council Meeting will be held on Monday, November 12, 2024, at 7 p.m.

**PUBLIC WORKS DIRECTOR'S REPORT**

Public Works Director Liskovec reported on the following:

Concrete Roads Program

The contractor is completing work on Mariner's Court today and will begin work on Stoney Brook Drive tomorrow.

Asphalt Roads Program

The contractor will complete Redwood Boulevard this week and begin work on Vineyard Road.

### Pavement Marking and Striping

Last week, Aero-Mark Company, LLC, began marking and striping roads in the City. Their projected completion date is November 15, 2024.

### Leaf Collection

Crews collect leaves from east to west in the City, and they have begun their second passage. Their current location and progress are available on the City's website.

## **BUILDING AND UTILITIES COMMITTEE REPORT**

Ms. Gentry reported that FirstEnergy began their two-year improvement project that will enhance the reliability of the power in Wards 3 and 4.

Representatives from Northeast Ohio Public Energy Council (NOPEC) will attend a future Collective Committee Meeting to describe their Gas Opt-in Program and other programs and grant opportunities they offer that will help the City address power service disruption and increase infrastructure reliability.

The next meeting of the Building and Utilities Committee will be held on Monday, November 13, 2024, at 7 p.m. in the Council Chamber.

## **ECONOMIC DEVELOPMENT COMMITTEE REPORT**

Mr. Arnold reported that the Economic Development Committee discussed ongoing legal expenses of Attorney Todd Davis and Berns, Ockner & Greenberger at their meeting on October 21, 2024.

## **FINANCE COMMITTEE REPORT**

Mr. Zuber reported that the City's comprehensive insurance policy was negotiated with Carly Knapp of Jackson, Dieken & Associates of Westlake, Ohio.

Mr. Arnold provided Council with the following details of the City's past coverage and the negotiated coverage that will go into effect on November 1, 2024:

The City's current insurance provider, Zurich American Insurance Company, chose not to renew the City's policy. Solicited quotes were received from Jackson, Dieken & Associates of Westlake, Ohio, and Britton Gallagher of Beachwood, Ohio. Through Jackson, Dieken & Associates' due diligence, the City discovered that many of its buildings were underinsured. The quote submitted by Jackson, Dieken & Associates, underwritten by Travelers Indemnity Company, was higher but will insure the City's property to appraised market value. Previously, the City had blanket insurance, which mitigates any underinsured buildings. Therefore, Mr. Arnold recommended Jackson, Dieken & Associates, a local agency on the west side. Recently, the City experienced numerous problems with claims to its current provider when a pipe burst in City Hall last March. The City offices have not been fully restored.

Law Director Ebert stated that an extensive meeting was held last week with Jackson, Deiken & Associates. As reported, Zurich American Insurance Company will not be insuring municipalities, and there are only a select number of underwriters who will because of the economy and issues municipalities are experiencing with their police departments. The property values that were unvalued pertain to Avon Lake Regional Water (ALRW), and an updated appraisal of all properties will be conducted. If the actual appraisal is lower than estimated by Jackson, Deiken & Associates, then the premium will be reduced proportionally.

Carly Knapp of Jackson, Deiken & Associates addressed Council and stated they have been insuring public entities for over 25 years and are working with Travelers Indemnity Company, which is unique because they have a lost-control approach when they underwrite. Before a quote was submitted, a lost-control meeting with all City Departments was held to obtain a full understanding of the City's exposures. They realized that the values provided with the renewal were undervalued and used algorithms to determine new values. The Wastewater Treatment Plant was the most undervalued location.

ALRW Chief Utilities Executive Rob Munro stated that in 2018 over \$35 million of improvements were made to the Wastewater Treatment Plant, and the schedule of values provided by Jackson, Deiken & Associates now represents the true replacement cost.

The next meeting of the Finance Committee will be held on Monday, November 4, 2024, at 6 p.m. in the Council Chamber.

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

The next meeting of the Human Resources Committee will be held on Tuesday, November 12, 2024, at 6 p.m. in the Council Chamber.

#### **PUBLIC SERVICE COMMITTEE REPORT**

The next meeting of the Public Service Committee will be held on Wednesday, November 6, 2024, at 5:30 p.m. in the Council Chamber.

#### **PLANNING COMMISSION REPORT**

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

#### **TREE COMMISSION REPORT**

The next meeting of the Tree Commission will be held on Wednesday, November 13, 2024, at 6 p.m. at the Old Firehouse.

## **CITIZENS REVIEW AD HOC COMMITTEE REPORT**

Mr. Zuber reported that the Citizens Review Ad Hoc Committee reviewed the salaries of the Mayor and Council and will attend the Collective Committee Meeting on November 4, 2024, to present their recommendations.

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

The next meeting of the Walker Road Park Ad Hoc Committee will be held on Thursday, November 14, 2024, at 6 p.m. at the Bay Village City Hall, 350 Dover Center Road, Bay Village.

## **AUDIENCE PARTICIPATION**

William Zimmerman, 241 Moorewood Avenue, Avon Lake, addressed Council regarding Ordinance Nos. 24-161 and 24-162 and requested copies of the billings from the City's attorneys.

Mary Schneider, 143 Avon Belden Road, Avon Lake, addressed Council regarding Ordinance No. 24-143, the Interim Development Agreement. She assumed that the former Power Plant site would be developed into parkland and didn't realize that there were plans to build high-density housing. She voiced her concern about increasing the City's population, the effects it will have on traffic, and the risks to cyclists. She voiced her opposition to giving tax abatements to recipients of future development and asked Council to vote no on Ordinance No. 24-143.

## **MOTION**

Mr. Kos moved to authorize the donation of unclaimed bicycles identified on the Avon Lake Police Department Bike Log dated September 18, 2024, to the Elyria Bicycle and Education Center. 49 bicycles have been unclaimed and held by the Avon Lake Police Department for over 90 days. These bicycles will be refurbished by the Elyria Bicycle and Education Center, a registered non-profit organization, and given to underprivileged youth in Lorain County.

Yes: Kos, Shahmir, Zuber, Arnold, Smith, Fenderbosch, Gentry

No: None

Motion carried.

## **LEGISLATION**

Third Reading:

**Ordinance No. 24-139, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF COMMUNICATIONS AND TECHNOLOGY DIRECTOR, ESTABLISHING THE QUALIFICATIONS**

AND DUTIES FOR SAID POSITION, AND REPEALING ORDINANCE NO. 23-6, was read by title only.

Mr. Zuber moved for passage of Ordinance No. 24-139. This legislation will adopt the job description for the position of Communications and Technology Director and repeal Ordinance No. 23-6. The Administration recommended combining two part-time positions into this full-time position which will oversee the Public Access Studio, the City's technology, and communications.

Ms. Gentry stated that the job description presented lists two different skill sets, and she was concerned that the City may not find someone with both.

Mr. Zuber responded that those skills were discussed at the Human Resources Committee meeting. The City is looking for a unique individual, and the description represents the skills needed for the Department. The person selected for the position could have a little bit of both skill sets, or a lot of one and could learn the other. He agreed that it will be hard to find someone, and the job description may need to be revised in the future.

Yes: Kos, Shahmir, Zuber, Arnold, Smith, Fenderbosch, Gentry

No: None

Motion carried.

**Ordinance No. 24-139 adopted.**

Second Readings:

**Ordinance No. 24-143, AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN INTERIM DEVELOPMENT AGREEMENT WITH AVON LAKE ENVIRONMENTAL REDEVELOPMENT GROUP AND DECLARING AN EMERGENCY, was read by title only.**

This legislation will authorize the Mayor to enter into an Interim Development Agreement (IDA) between the City and Avon Lake Environmental Redevelopment Group (ALERG) in collaboration with the Ohio Environmental Protection Agency (EPA), the Lorain County Port Authority, Lorain County Metroparks, and the City's environmental consultants and attorneys on the former Power Plant site consisting of 43 acres. The entire property will be remediated to Ohio VAP standards, and the IDA includes Tax Incremental Financing (TIF) for the City's acquisition of the property for \$15 million and park improvements for up to \$15 million. The TIF will be subject to Council approval and contingent on an agreement with the Avon Lake City Schools. The IDA stipulates that the developer will pay the City's costs for outside consultants and attorneys.

Attorney Jordan Berns of Berns, Ockner & Greenberger, LLC, who attended via Zoom, was asked to respond to statements regarding tax abatement and TIF by Mary Schneider during Audience Participation earlier in the meeting.

Attorney Berns stated that tax abatements are taxes that are not paid when they are due on property or the improvement to property. A TIF replaces taxes that are due. The property owner is required to pay Payments In Lieu of Taxes (PILOTs), and those PILOTs are equal to the sum that would be due in the form of taxes. The difference is that PILOTs are distributed pursuant to the terms of the agreement between the City and the property owner. The agreement includes a bond issuer, i.e. Lorain County Port Authority, to monetize the stream of PILOTs that are paid over the life of the TIF. Based on the anticipated stream of PILOTs, bonds will be issued, and the stream of income from those PILOTs will be used to pay on those bonds. In addition, the PILOTs will reimburse the school district for the money they would receive for the TIF. If the TIF exceeds the date maximums of 75% in 10 years, which is anticipated by the developer, then those maximums cannot be exceeded without an agreement with the school district. The agreement requires the school district to be made whole, or what the school district would have received without the TIF. There could be an agreement that allows for other organizations, such as, the library, to receive a portion of the real estate tax proceeds. The City will not be subsidizing or lending its credit to any development activities related to the development of former Power Plant property by the TIF.

Council President Fenderbosch asked if vertical developers will be paying taxes, and if taxes will increase for residents in Avon Lake by the TIF.

Attorney Berns stated that the property owner/developer will continue to pay real estate taxes of the pre-development value of the real estate, and they will pay PILOTs that will equal the taxes that are due and payable.

Council President Fenderbosch explained that the property is listed as an industrial use, and the City is considering rezoning it B3, Special Commercial District with a Mixed-Use Overlay. This new zoning would allow a combination of uses that include offices, administrative, businesses, professional, medical, cultural facilities, residential, community centers, etc., and not only a block of apartments.

Mr. Shahmir asked why the TIF District includes the 43-acre area, north of Lake Road, plus the area south of Lake Road.

Community Development Director Ted Esborn explained there were different types of property to consider placing in the TIF district. It could be as small as the former Power Plant property or the entire west side of the City. The former Power Plant property, north side of Lake Road, all parcels owned by ALERG, the Avondale area, the eastern end of Lake Road will be the TIF District, which is the focus area of the Comprehensive Land Use Plan. The coal area that will be purchased by the City on behalf of ALRW will be exempt from taxes because it will be owned by a public entity. Therefore, that parcel will not be included in the TIF district.

Attorney Todd Davis stated that the uses of the TIF funding have been identified in the IDA, which includes the \$15 million acquisition of 23.288 acres and \$15 million for

improvements for future parkland for the City. There is the potential for up \$30 million for other types of uses and improvements as defined through underwriting with the developer and Lorain County Port Authority. The final amounts of bonds and TIF will be subject to the future underwriting and discussions.

Don Lyden of ALERG, stated a TIF has no effect on the property until the property is developed and the TIF is accessed. It does not abate anyone's taxes or make the property worth less. It will make it more valuable. It allows someone to come forward and create a new development on ALERG's site. The TIF could be accessed while sources of funding are found. The size of the District does not have any effect on the properties within the area.

**Ordinance No. 24-148, AN ORDINANCE AMENDING PLANNING AND ZONING CODE SECTION 1224.01, ACCESSORY USE AND TEMPORARY USE REGULATIONS FOR BACKYARD CHICKENS, COOPS-RUNS**, was read by title only.

This legislation will amend Planning and Zoning Code Section 1224.01 to include an accessory use and temporary regulations for backyard chickens, coops/runs. The standards for accessory use will only permit hens and egg production in the following Zoning Districts: R-1A, R-1B, R-1C, R-2, R-3, PI, PUD, and RPUD. The permit will require an applicant to provide the City with the proposed coop/run specifications, which will be evaluated by the Building Department and Community Development Department. Residents will be required to complete a backyard chicken training course from a City-approved backyard hen-keeping trainer, such as The Ohio State University. City personnel will be required access to the property to inspect the coop/run and to respond to complaints or other violations. The number of chickens permitted is six. Once issued, permits will be renewed automatically unless there is a change in property ownership or citations issued.

**Ordinance No. 24-154, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF ASSISTANT FINANCE DIRECTOR AND ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION**, was read by title only.

This legislation will adopt a job description for the new position of Assistant Finance Director in the Finance Department as recommended by the Human Resources Director and Human Resources Committee

**Ordinance No. 24-155, AN ORDINANCE ADOPTING A JOB DESCRIPTION FOR THE POSITION OF SENIOR PROGRAM MANAGER AND ESTABLISHING THE QUALIFICATIONS AND DUTIES FOR SAID POSITION**, was read by title only.

This legislation will adopt a job description for the new position of Senior Program Manager in the Recreation Department as recommended by the Human Resources Director and Human Resources Committee. After the Recreation Facility Manager announced he will be retiring in 2025, his position description was re-evaluated and revised to reflect a change in duties and responsibilities, and a new title was created.

First Readings:

**Ordinance No. 24-160**, AN ORDINANCE AWARDED A CONTRACT FOR NEW WORLD FINANCIAL SOFTWARE TO TYLER TECHNOLOGIES, INC., AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Kos, Shahmir, Zuber, Arnold, Smith, Fenderbosch, Gentry

No: None

Motion carried.

Mr. Shahmir moved for passage of Ordinance No. 24-160. This legislation will award a contract for the City's New World financial software licenses, on-site and self-hosted Cloud storage, and maintenance services with Tyler Technologies, Inc., of Dallas, Texas, for an amount not to exceed \$64,458.

Yes: Kos, Shahmir, Zuber, Arnold, Smith, Fenderbosch, Gentry

No: None

Motion carried.

**Ordinance No. 24-160 adopted.**

**Ordinance No. 24-161**, AN ORDINANCE AUTHORIZING FUNDS FOR CONTINUED LEGAL SERVICES TO TODD DAVIS, ESQ., AND DECLARING AN EMERGENCY, was read by title only.

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

Yes: Kos, Shahmir, Zuber, Arnold, Smith, Fenderbosch, Gentry

No: None

Motion carried.

Mr. Arnold moved for passage of Ordinance No. 24-161. This legislation will authorize funds for continued legal services to Todd Davis, Esq. for an amount not to exceed \$50,000.

Yes: Kos, Shahmir, Zuber, Arnold, Smith, Fenderbosch. Gentry

No: None

Motion carried.

**Ordinance No. 24-161 adopted.**

**Ordinance No. 24-162**, AN ORDINANCE PROVIDING CONTINUED LEGAL COUNSEL REGARDING ZONING MATTERS PURSUANT TO THE REDEVELOPMENT OF THE AVON LAKE POWER PLANT AND DECLARING AN EMERGENCY, was read by title only.

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

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

Mr. Arnold moved for passage of Ordinance No. 24-162. This legislation will provide continued legal counsel regarding zoning matters pursuant to the redevelopment of the former Power Plant property by Berns, Ockner & Greenberger for an amount not to exceed \$20,000.

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

**Ordinance No. 24-162 adopted.**

**Ordinance No. 24-163, AN ORDINANCE AWARDING A CONTRACT FOR COMPREHENSIVE INSURANCE COVERAGE FOR THE CITY OF AVON LAKE AND DECLARING AN EMERGENCY,** was read by title only.

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

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

Mr. Arnold moved for passage of Ordinance No. 24-163. This legislation will award of a contract for comprehensive insurance coverage for one year to Jackson, Deiken & Associates of Westlake, Ohio, in the amount of \$352,902 effective November 1, 2024.

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

**Ordinance No. 24-163 adopted.**

**Ordinance No. 24-164, AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH VERDANTAS, LLC, FOR AIR DISPERSION MODELING AT THE PROPERTY FORMERLY KNOWN AS THE NRG POWER PLANT AND DECLARING AN EMERGENCY,** was read by title only.

Ms. Gentry moved for suspension of the rule requiring three readings.

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

Ms. Gentry moved for passage of Ordinance No. 24-164. This legislation will authorize the Mayor to enter into an agreement with Verdantas, LLC, of Dublin, Ohio, for amount not to exceed \$30,000. Verdantas, LLC, will develop air dispersion modeling

utilizing computational fluid dynamics analysis for modeling the potential air/particle transportation and distribution associated with the planned controlled implosion of the former Power Plant scheduled for the week of December 16, 2024.

Yes: Kos, Shahmir, Zuber, Arnold, Smith, Fenderbosch, Gentry

No: None

Motion carried.

**Ordinance No. 24-164 adopted.**

**Ordinance No. 24-165**, AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH AVON LAKE ENVIRONMENTAL REDEVELOPMENT GROUP, LLC, AND DECLARING AN EMERGENCY, was read by title only.

Ms. Gentry moved for suspension of the rule requiring three readings.

Yes: Kos, Shahmir, Zuber, Arnold, Smith, Fenderbosch. Gentry

No: None

Motion carried.

Ms. Gentry moved for passage of Ordinance No. 24-165. This legislation will authorize the Mayor to enter into a Memorandum of Understanding (MOU) with ALERG to equally share in the cost of the air dispersion modeling developed by Verdantas, LLC.

Yes: Kos, Shahmir, Zuber, Arnold, Smith, Fenderbosch. Gentry

No: None

Motion carried.

**Ordinance No. 24-165 adopted.**

## **PUBLIC INPUT**

William Zimmerman, 241 Moorewood Avenue, Avon Lake, asked if the community was polled on their desire for more parkland and does not understand why the City wants to purchase the property. He asked if there is an appraisal on the property, and if dredging will occur.

In response, Attorney Davis stated that an appraisal is required to substantiate the value of the property and will be completed with the IDA. At this time, he does not know whether dredging is necessary in the lake. However, the sediment will be investigated. Dredging is a common occurrence in Lake Erie to keep navigation operable.

Cathy Fox, 32822 Rebecca Lane, Avon Lake, read a statement about an incident that occurred at the Lorain County Board of Elections during early voting. A volunteer for a candidate was reported to have harassed some voters. She felt compelled to share this store since this volunteer is a member of Council.

Mr. Kos moved for adjournment.

Yes: Kos, Shahmir, Zuber, Arnold, Smith, Fenderbosch, Gentry

No: None

Motion carried.

Adjournment: 8:24 p.m.

Approved: /s/ Jennifer Fenderbosch  
Council President

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