

## VOTING ORDER

G. Smith  
K. Zuber  
Z. Arnold  
J. Fenderbosch  
A. Gentry  
D. Kos  
R. Shahmir



### **CITY OF AVON LAKE**

150 Avon Belden Road  
Avon Lake, Ohio 44012

The following business is to be considered at the special meeting of the Avon Lake City Council on March 3, 2025, following the Collective Committee Meeting in the Council Chamber.

### Pledge of Allegiance

Roll Call: Mr. Arnold, Mrs. Fenderbosch, Ms. Gentry, Mr. Kos, Mr. Shahmir, Mr. Smith, Mr. Zuber, Mayor Spaetzel, Law Director Ebert, Finance Director Krosse, Public Works Director Liskovec.

### Legislation

#### First Readings:

**Ordinance No. 25-49**, AN ORDINANCE PROVIDING FOR LEGAL REPRESENTATION OF THE CITY OF AVON LAKE AND SPECIFIED OFFICIALS OF THE CITY IN ACTIONS FILED BY THE STATE OF OHIO, EX REL. WILLIAM ZIMMERMAN, ET AL., CASE NO. 2024-1711; STATE OF OHIO, EX REL. WILLIAM ZIMMERMAN, ET AL., CASE NO. 24-CV-214755; AND GERALD W. PHILLIPS, ET AL., CASE NO. 25-PC-00002, AND DECLARING AN EMERGENCY.

→*Sponsor: J. Fenderbosch*

**Ordinance No. 25-50**, ORDINANCE PROVIDING LEGAL REPRESENTATION FOR THE MAYOR OF THE CITY OF AVON LAKE IN THE MATTER OF *IN RE: REMOVAL OF MARK SPAETZEL MAYOR OF AVON LAKE, OHIO, EX REL. GERALD W. PHILLIPS, ET AL., V. MARK SPAETZEL, MAYOR-AVON LAKE*, LORAIN COUNTY COURT OF COMMON PLEAS, PROBATE DIVISION, CASE NO. 25-PC-00002 AND THE CITY OF AVON LAKE IN IMMINENT FUTURE LITIGATION AND DECLARING AN EMERGENCY. →*Sponsor: J. Fenderbosch*

### Adjournment

---

→ Suspension of the rule requiring three readings

AN ORDINANCE PROVIDING FOR LEGAL REPRESENTATION OF THE CITY OF AVON LAKE AND SPECIFIED OFFICIALS OF THE CITY IN ACTIONS FILED BY THE STATE OF OHIO, EX REL. WILLIAM ZIMMERMAN, ET AL., CASE NO. 2024-1711; STATE OF OHIO, EX REL. WILLIAM ZIMMERMAN, ET AL., CASE NO. 24-CV-214755; AND GERALD W. PHILLIPS, ET AL., CASE NO. 25-PC-00002, AND DECLARING AN EMERGENCY.

WHEREAS, on December 12, 2024, a complaint was filed by individuals against the City of Avon Lake (“City”) and various elected and/or appointed officials of the City in the matter of *State of Ohio, City of Avon Lake ex rel. William Zimmerman, et al., v. City of Avon Lake, et al.*, Supreme Court Case No. 2024-1711 (“OSC Case”); and

WHEREAS, on December 20, 2024, a second complaint was filed by the same individuals against the City and various elected and/or appointed officials of the City in the matter of *State of Ohio, ex rel. William Zimmerman, et al., v. City of Avon Lake, et al.*, Lorain County Court of Common Pleas Case No. 24-CV-214755 (“LCC Case”); and

WHEREAS, on February 25, 2025, a third complaint was filed by some of the same individuals as filed the OSC Case and the LCC Case in the matter of *In Re: Removal of Mark Spaetzel Mayor of Avon Lake, Ohio, ex rel. Gerald W. Phillips, et al., v. Mark Spaetzel, Mayor-Avon Lake*, Lorain County Court of Common Pleas, Probate Division, Case No. 25-PC-00002 (“Probate Case”); and

WHEREAS, the City reasonably anticipates that further complaints may be filed by the individuals who filed each of the aforementioned cases; and

WHEREAS, Codified Ordinance § 234.02 authorizes the City to employ outside legal counsel “if the Law Director determines that specialized expertise is necessary or if the legal matter requires additional support, such as, but not limited to, litigation”; and

WHEREAS, the Law Director has determined that outside legal counsel is warranted for each of the aforementioned actions as well as future actions filed by the same individuals identified as plaintiffs therein; and

WHEREAS, the Council of the City of Avon Lake has instructed Seeley, Savidge, Ebert & Gourash Co., LPA, to represent the City and the individual defendants named therein in the OSC Case and the LCC Case; and

WHEREAS, the Council of the City of Avon Lake has instructed Seeley, Savidge, Ebert & Gourash Co., LPA, to represent the City in the Probate Case, but is unable to

represent the Mayor therein, who shall be represented by separate outside counsel pursuant to a separately enacted ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF  
THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That Seeley, Savidge, Ebert & Gourash Co., LPA, be and is hereby authorized and directed to represent and prepare on behalf of the City of Avon Lake, Mayor Mark Spaetzel, and its departments and employees all legal proceedings necessary in connection with actions filed by William Zimmerman, et al., and Gerald W. Phillips, et al. in the OSC Case and the LCC Case, and such other cases filed by these same individuals and entities in the Law Director’s discretion.

Section No. 2: That Seeley, Savidge, Ebert & Gourash Co., LPA, be and is hereby authorized and directed to represent and prepare on behalf of the City of Avon Lake and the Law Director all legal proceedings necessary in connection with the Probate Case.

Section No. 3: That the necessary expenses for said representation, not covered under the City’s current property and casualty insurance, be paid upon approval voucher submitted therefore in an amount not to exceed \$35,000.

Section No. 4: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 5: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity of preparing and filing the necessary legal proceedings in a timely manner to represent the City and uphold the laws and regulations of the City, thus for the health, safety, and welfare of the public. Therefore, this Ordinance shall go into immediate force and effect from and after its passage and approval by the Mayor.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
President of Council

POSTED: \_\_\_\_\_

\_\_\_\_\_  
Approved

ATTEST: \_\_\_\_\_

Clerk of Council

\_\_\_\_\_  
Mayor

AN ORDINANCE PROVIDING LEGAL REPRESENTATION FOR THE MAYOR OF THE CITY OF AVON LAKE IN THE MATTER OF *IN RE: REMOVAL OF MARK SPAETZEL MAYOR OF AVON LAKE, OHIO, EX REL. GERALD W. PHILLIPS, ET AL., V. MARK SPAETZEL, MAYOR-AVON LAKE*, LORAIN COUNTY COURT OF COMMON PLEAS, PROBATE DIVISION, CASE NO. 25-PC-00002 AND THE CITY OF AVON LAKE IN IMMINENT FUTURE LITIGATION AND DECLARING AN EMERGENCY.

WHEREAS, since December 12, 2024, complaints have been filed against the City of Avon Lake (“City”) and various elected and/or appointed officials of the City in the matter of *State of Ohio, City of Avon Lake ex rel. William Zimmerman, et al., v. City of Avon Lake, et al.*, Supreme Court Case No. 2024-1711 and in the matter of *State of Ohio, ex rel. William Zimmerman, et al., v. City of Avon Lake, et al.*, Lorain County Court of Common Pleas Case No. 24-CV-214755 (“LCC Case”); and

WHEREAS, on February 25, 2025, a third complaint was filed by some of the same individuals as filed the OSC Case and the LCC Case in the matter of *In Re: Removal of Mark Spaetzel Mayor of Avon Lake, Ohio, ex rel. Gerald W. Phillips, et al., v. Mark Spaetzel, Mayor-Avon Lake*, Lorain County Court of Common Pleas, Probate Division, Case No. 25-PC-00002 (“Probate Case”); and

WHEREAS, Codified Ordinance § 234.02 provides that outside counsel may be employed to act on behalf of the city or any officer, employee, department, board or commission of the city if one or more of the circumstances set forth in § 234.07(b) arise;” and

WHEREAS, Codified Ordinance § 234.07 provides that if the Law Director and the Assistant Law Director have conflicts of interest and cannot represent an officer of the City, outside counsel may be employed to represent such officer, subject to the approval of Council; and

WHEREAS, the Law Director has determined that a conflict of interest exists in representing Mayor Mark Spaetzel (“Mayor”) in the Probate Case such that outside legal counsel is needed to represent the Mayor as the removal action was prompted by and/or arose from actions taken by the Mayor in performing his official duties and responsibilities; and

WHEREAS, additional future litigation related to the OSC Case, the LCC Case, and the Probate Case is reasonably anticipated to be imminent; and

WHEREAS, Codified Ordinance § 234.02 authorizes the City to employ outside legal counsel “if the Law Director determines that specialized expertise is necessary or if the legal matter requires additional support, such as, but not limited to, litigation”; and

WHEREAS, the Council of the City of Avon Lake has instructed McDonald Hopkins, LLC, to represent the Mayor in the Probate Case; and

WHEREAS, the Council of the City of Avon Lake has instructed McDonald Hopkins, LLC, to represent the City in such other reasonably anticipated, imminent litigation.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That McDonald Hopkins, LLC, be and is hereby authorized and directed to represent Mark Spaetzel, Mayor of the City of Avon Lake in in the matter of *In Re: Removal of Mark Spaetzel Mayor of Avon Lake, Ohio, ex rel. Gerald W. Phillips, et al., v. Mark Spaetzel, Mayor-Avon Lake*, Lorain County Court of Common Pleas, Probate Division, Case No. 25-PC-00002.

Section No. 2: That McDonald Hopkins, LLC, be and is hereby authorized and directed to represent the City in such further imminent future litigation.

Section No. 3: That the necessary expenses for said representation shall be paid upon approval voucher submitted, therefore, in an amount not to exceed \$25,000.

Section No. 4: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 5: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity of preparing and filing the necessary legal proceedings in a timely manner to represent the Mayor of the City in Case No. 25-PC-00002, and the City in future imminent proceedings, and uphold the laws and regulations of the City, thus for the health, safety, and welfare of the public. Therefore, this Ordinance shall go into immediate force and effect from and after its passage and approval by the Mayor.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
President of Council

POSTED: \_\_\_\_\_

\_\_\_\_\_  
Approved

ATTEST: \_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor