

**MINUTES OF THE REGULAR MEETING OF THE COUNCIL
OF THE CITY OF AVON, OHIO, HELD MONDAY, JUNE 27, 2016
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING
AT 7:30 P.M.**

The Chairman, Council President Craig Witherspoon, called the meeting to order and led the Pledge of Allegiance.

PRESENT

Council Members: 3rd Ward – Mary Berges; 1st Ward – Bob Butkowski; Council-at-Large – Brian Fischer; 2nd Ward – Dennis McBride; 4th Ward – Scott Radcliffe; Council-at-Large – Craig Witherspoon; Mayor – Bryan Jensen; Parks Director – Diane Corrao; City Engineer – Ryan Cummins; Service Director – Michael Farmer; Planning and Economic Development Coordinator - Pam Fechter; Law Director – John Gasior; Finance Director – William Logan; Clerk of Council – Barbara Brooks

ABSENT

Council-at-Large – Tammy Holtzmeier

CORRESPONDENCE

Ms. Brooks read a notice from the Division of Liquor Control for a request of transfer of ownership (TRFO) by Riser Foods Co. to Tamarkin Co. doing business as (DBA) GetGo #3015 located at 33501 Just Imagine Drive, Avon. There were no objections heard and no request for a hearing.

ADDITIONS AND DELETIONS TO THE AGENDA – None at this time.

MINUTES OF THE REGULAR MEETING OF COUNCIL HELD MONDAY, JUNE 13, 2016

A motion was made by Mr. McBride and seconded by Mr. Butkowski to dispense with the reading of the minutes of the Regular Meeting of Council held Monday, June 13, 2016, and to approve said minutes as published, and the vote was: Ms. Berges, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

ORDINANCE NO. 74-16 – TO REZONE THE FRONT PORTION OF A PARCEL OF LAND AT 36460 CHESTER ROAD FROM C-1 TO C-1/R-3 OVERLAY

The Clerk read Ordinance No. 74-16 by title only, entitled:

**AN ORDINANCE TO AMEND ORDINANCE NO. 413-68, PASSED JANUARY 15, 1969
COMMONLY KNOWN AS THE ZONING ORDINANCE OF THE CITY OF AVON,**

**OHIO, AS AMENDED, REZONING THE FRONT PORTION OF A PARCEL OF LAND
CONSISTING OF APPROXIMATELY 2.2466 ACRES LOCATED AT 36460 CHESTER
ROAD, PERMANENT PARCEL NO. 10-04-00-016-101-127 FROM
C-1 NEIGHBORHOOD BUSINESS DISTRICT TO C-1 NEIGHBORHOOD
BUSINESS/R-3 MULTIFAMILY DISTRICT**

The Chairman declared this to be the second of three readings of Ordinance No. 74-16. A Public Hearing will be held on Monday, July 11, 2016 at 7:15 pm

ORDINANCE NO. 76-16 – TO AMEND PART 12 OF THE CODIFIED ORDINANCES
(PLANNING AND ZONING CODE) PERTAINING TO GRANTING OF SPECIAL USE
PERMITS AND REQUIREMENTS FOR CONGREGATE CARE FACILITIES AND SENIOR
LIVING

The Clerk read Ordinance No. 76-16 by title only, entitled:

**AN ORDINANCE AMENDING PART TWELVE OF THE CODIFIED ORDINANCES
OF THE CITY OF AVON (THE PLANNING AND ZONING CODE)
SPECIFICALLY CHAPTERS 1222, 1228, 1230, 1264, 1270 AND 1280,
AS THEY PERTAIN TO ADMINISTRATIVE PROCEDURES FOR
THE GRANTING OF SPECIAL USE PERMITS AND REQUIREMENTS FOR
CONGREGATE CARE FACILITIES AND SENIOR LIVING**

The Chairman declared this to be the second of three readings of Ordinance No. 76-16. A Public Hearing will be held on Monday, July 11, 2016 at 7:25 pm

ORDINANCE NO. 80-16 – REAPPROPRIATIONS

The Clerk read Ordinance No. 80-16 by title only, entitled:

**AN ORDINANCE TO AMEND AND SUPPLEMENT APPROPRIATIONS
ORDINANCE NO. 150-15 AND DECLARING AN EMERGENCY**

A motion was made by Mr. Radcliffe seconded by Ms. Berges to suspend the rules and act on Ordinance No. 80-16, and the vote was: Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Radcliffe, “yes”; Ms. Berges, “yes”; Mr. Witherspoon, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Mr. Butkowski to adopt Ordinance No. 80-16, and the vote was: Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Radcliffe, “yes”; Ms. Berges, “yes”; Mr. Butkowski, “yes”; Mr. Witherspoon, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

ORDINANCE NO. 81-16 – TO AMEND A SPECIAL USE PERMIT GRANTED TO THE AVON LOCAL SCHOOL DISTRICT TO INCLUDE A SCOREBOARD AT AVON HIGH SCHOOL, 37545 DETROIT ROAD

The Clerk read Ordinance No. 81-16 by title only, entitled:

AN ORDINANCE TO AMEND A SPECIAL USE PERMIT GRANTED TO THE AVON LOCAL SCHOOL DISTRICT TO INCLUDE A SCOREBOARD TO BE LOCATED AT THE AVON HIGH SCHOOL, 37545 DETROIT ROAD AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride seconded by Mr. Radcliffe to suspend the rules and act on Ordinance No. 81-16, and the vote was: Mr. McBride, “yes”; Mr. Radcliffe, “yes”; Ms. Berges, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. Witherspoon, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Mr. Butkowski to adopt Ordinance No. 81-16, and the vote was: Mr. Radcliffe, “yes”; Ms. Berges, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Witherspoon, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

ORDINANCE NO. 82-16 – TO AMEND A SPECIAL USE PERMIT GRANTED TO THE AVON LOCAL SCHOOL DISTRICT TO INCLUDE A SCOREBOARD AT AVON EARLY LEARNING CENTER, 3075 STONEY RIDGE ROAD

The Clerk read Ordinance No. 82-16 by title only, entitled:

AN ORDINANCE TO AMEND A SPECIAL USE PERMIT GRANTED TO THE AVON LOCAL SCHOOL DISTRICT TO INCLUDE A NEW SCOREBOARD AT THE EARLY LEARNING CENTER LOCATED AT 3075 STONEY RIDGE ROAD AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride seconded by Mr. Radcliffe to suspend the rules and act on Ordinance No. 82-16, and the vote was: Ms. Berges, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 82-16, and the vote was: Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Radcliffe, “yes”; Ms. Berges, “yes”; Mr. Witherspoon, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

RESOLUTION NO. R-17-16 - .5 MILL RENEWAL LEVY FOR THE POLICE DEPARTMENT

The Clerk read Resolution No. R-17-16 by title only, entitled:

A RESOLUTION SUBMITTING THE QUESTION OF A ONE-HALF (.5) MILL RENEWAL TAX WHICH IS IN EXCESS OF THE TEN MILL LIMITATION FOR THE PURPOSE OF PROVIDING AND MAINTAINING BUILDINGS AND EQUIPMENT USED DIRECTLY IN THE OPERATION OF THE AVON POLICE DEPARTMENT AND FOR OTHER PURPOSES SET FORTH IN OHIO REVISED CODE SECTION 5705.19(J) AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride seconded by Ms. Berges to suspend the rules and act on Resolution No. R-17-16, and the vote was: Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Radcliffe, “yes”; Ms. Berges, “yes”; Mr. Butkowski, “yes”; Mr. Witherspoon, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Mr. Butkowski to adopt Resolution No. R-17-16, and the vote was: Mr. McBride, “yes”; Mr. Radcliffe, “yes”; Ms. Berges, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. Witherspoon, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

RESOLUTION NO. R-18-16 - .5 MILL REPLACEMENT LEVY FOR THE FIRE DEPARTMENT

The Clerk read Resolution No. R-18-16 by title only, entitled:

A RESOLUTION SUMITTING THE QUESTION OF THE REPLACEMENT OF AN EXISTING .50 MILLS LEVY FOR THE PURPOSE OF PROVIDING AND MAINTAINING FIRE APPARATUS, APPLIANCES, BUILDINGS, OR SITES THEREFOR AND FOR OTHER PURPOSES SET FORTH IN OHIO REVISED CODE SECTION 5705.19(I) AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride seconded by Mr. Radcliffe to suspend the rules and act on Resolution No. R-18-16, and the vote was: Mr. Radcliffe, “yes”; Ms. Berges, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Witherspoon, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Ms. Berges to adopt Resolution No. R-18-16, and the discussion was: Fire Chief Root distributed a spreadsheet which listed the Fire Departments vehicles and their age, which he felt was the main purpose of the levy. He stated the Fire Department is in fantastic shape and he thanked the citizens of Avon for their support over the years. Mr. Root noted the departments biggest concerns right now are the 1991 rescue truck

and the 1999 fire engine. He stated when looking at the equipment they were lucky to get five years out of the squads before they go to the reserve list. Mr. Root said they like to get ten years use out of the fire engines before they go into reserves and they get fifteen to twenty years out of a ladder truck. He continued by saying that replacement of the 1999 engine was getting close because after 15 years you start looking at liability issues. Chief Root said the replacement of the rescue vehicle has been put off for quite some time and it is used mostly for dive and water rescue situations in conjunction with other specialty rescue units. He stated the process the department was working toward now with their ambulances is reusing the box and placing it on a new chassis until the chassis' wear out and he hoped to take one of the ambulance chassis' and convert it into a rescue truck in the near future. He advised the price of doing business keeps getting higher and higher and a rescue squad costs roughly \$250,000-\$300,000. Mr. Root stated a fire engine costs between \$500,000-\$600,000 and a ladder truck cost anywhere from \$750,000 to over \$1 million. He said with the remounting of squads they are looking at a savings of \$100,000-\$150,000 every time they get a "new" squad and they have been very happy with that process and their hope is to be good stewards of the citizen's money by so doing. Chief Root discussed other equipment such as turnout gear, computers, life packs, Lucas devices as some of the things they hope to maintain with this levy. He stated they hope they have the reputation that they do not spend things frivolously and they hope to do the same with a replacement levy.

Mr. Logan stated it has been more than ten years since the Fire Department has asked for a replacement levy in answer to Mayor Jensen's question. Mayor Jensen credited the Fire Department in terms of being good stewards of the funds. He stated that he and the Fire Chief talk every morning in terms of the equipment they may or may not need. Mayor Jensen said when the question of a replacement or a renewal levy was posed they found it does not really cost the taxpayer much more money for a replacement. Mr. Logan indicated the current homeowner pays \$11.58 per \$100,000 of valuation. Mayor Jensen advised he and the Fire Chief are both in agreement with the replacement levy as it would be calculated at the current valuation and hopefully the City would not have to come back for another 15 years to do a replacement levy, if they need to at all.

Mr. Butkowski inquired if they anticipate any large expenditure over the next three years. Chief Root stated in the next three years is when they would like to start the process of taking one of the ambulances and remounting a rescue body on to it. Mr. Butkowski clarified the idea was to turn it into a rescue vehicle and purchase another ambulance to fill that spot to which Chief Root concurred. Mr. Root added the 1999 engine should probably be replaced within five years. Mr. Radcliffe said the rescue squad costs \$250,000 to \$300,000 and he inquired if that included the savings of \$100,000 by remounting it on one of those chassis'. Chief Root said there are two squads converted like that now and the new one they plan to purchase this year when it's put into service then we will put the Ford Econoline style ambulance out of service so, all of our rescue squads will have that capability. Chief Root explained that where we paid \$250,000 to \$300,000 for these squads over the replacement schedule they were looking to save \$100,000 to \$150,000 on the ambulances we buy from here on out. Mr. Radcliffe confirmed the 2008 and 2011 squads were able to be remodeled, but stated the 2004 vehicle is the one that was converted to the new rescue rig to which Chief Root agreed.

Ms. Berges asked for the difference in cost for the taxpayer for a replacement levy versus a renewal levy. Mr. Logan advised the State of Ohio phased out Personal Property Tax, although Commercial Activity Tax (CAT) came on around 2005 or 2006 and businesses are paying that tax. He continued by saying Avon, like all the other municipalities and entities in Ohio, were still being reimbursed for current levies. Mr. Logan stated with current levies the City still receives funds from the State like the Homestead Rollback and the 2.5% reduction if they file with the County. He added with a replacement levy or any kind of new levy, the political subdivisions will not receive those reimbursements. Mr. Logan further clarified when we do a replacement levy the City will not get reimbursed although the taxpayers will still be paying those so, instead of the property owner paying \$11.58 per \$100,000 of valuation they will pay approximately \$17.50 on a .5 mill replacement levy. Mr. Logan continued that is still a very minute piece of all the property tax that the residents or businesses pay. Ms. Berges inquired if that amount would go down over time. Mr. Logan stated the amount that each taxpayer pays will go down as the valuations increase and as more homes are added, the tax base is spread among more taxpayers. He added that whether a renewal or a replacement levy the collections do not begin until 2018 and in 2017 the existing levy will still be in place and even those should go down somewhat with higher valuations.

The vote was: Ms. Berges, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

EXECUTIVE SESSION

A motion was made by Mr. McBride and seconded by Ms. Berges. to enter into Executive Session to discuss the purchase and sale of municipal property, and the vote was: Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Radcliffe, “yes”; Ms. Berges, “yes”; Mr. Witherspoon, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

RECONVENE

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to reconvene the Regular Meeting of Council, and the vote was: Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Radcliffe, “yes”; Ms. Berges, “yes”; Mr. Butkowski, “yes”; Mr. Witherspoon, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

ADDITION TO THE AGENDA

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to amend the agenda to include Ordinance No. 83-16 – To Authorize the Mayor to Enter into an Option to Sell Municipal Property and Development Agreement with T3 Holdings, LLC, and the vote was: Mr.

McBride, “yes”; Mr. Radcliffe, “yes”; Ms. Berges, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. Witherspoon, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Ms. Berges to accept the agenda as amended, and the vote was: Mr. Radcliffe, “yes”; Ms. Berges, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Witherspoon, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

ORDINANCE NO. 83-16 – TO AUTHORIZE THE MAYOR TO ENTER INTO AN OPTION TO SELL MUNICIPAL PROPERTY AND DEVELOPMENT AGREEMENT WITH T3 HOLDINGS, LLC

The Clerk read Ordinance No. 83-16 by title only, entitled:

AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO AN OPTION TO SELL MUNICIPAL PROPERTY AND DEVELOPMENT AGREEMENT WITH T3 HOLDINGS, LLC AND DECLARING AN EMERGENCY

The Chairman declared this to be the first of three readings of Ordinance No. 83-16.

REPORTS AND COMMENTS

Mayor Jensen had no comments.

COUNCIL MEMBERS:

Ms. Berges, Ward 3 had no comments.

Mr. Butkowski, Ward 1 had no comments.

Mr. Fischer, At Large had no comments.

Mrs. Holtzmeier, At Large was absent.

Mr. McBride, Ward 2 had no comments.

Mr. Radcliffe, Ward 4 had no comments.

Mr. Witherspoon, Council President had no comments.

ADMINISTRATION:

Ms. Corrao, Parks and Recreation Director had no comments.

Mr. Cummins, City Engineer had no comments.

Mr. Farmer, Service Director had no comments.

Ms. Fechter, Economic Development/Planning Coordinator had no comments.

Mr. Gasior, Law Director reported that the Ohio State Supreme Court recently ruled regarding group text messages and emails and other such media by public officials. Mr. Gasior noted that with today's technology everyone can be included in an email or text message conversation and those could be considered public meetings. Mr. Gasior cautioned the Council against such group messaging because it could be considered unlawful if decisions are made in that manner and there was no public notice of a meeting. Mr. Gasior advised the Ohio State Supreme Court handed down that decision from a recent case and he would try to get them a copy of the ruling. He stated even 4 of the 7 members in an email/text conversation would constitute a quorum. Mr. McBride inquired as to a housekeeping issue such as asking if they were available for a meeting on a certain date. Mr. Gasior said he would say a housekeeping issue such as that would not be a violation as long as no public business was being discussed besides being notified of a meeting. Mr. Witherspoon inquired regarding correspondence from the Clerk. Mr. Gasior advised the Clerk is notifying of a public meeting and that is not a violation. Mr. Witherspoon inquired as to him sending out an email to all of the Council Members concerning a baseball game. Mr. Gasior said that was no problem as the problem comes in when you decide to take action outside of a meeting. He stated that what happened in this Supreme Court case was all the members of a public body were texting back and forth and made a decision and essentially voted on an issue without being in a public meeting where notification was properly given. Mr. Gasior cautioned when you start to get groups together to gather a consensus, which is basically a vote before the body then you are violating the Sunshine Laws of public meetings and it could render all action void.

Mr. Logan, Finance Director had no comments.

AUDIENCE:

No comments from the audience.

ADJOURN

A motion was made by Mr. McBride and seconded by Mr. Fischer to adjourn the Regular Meeting of Council, and the vote was: Mr. McBride, "yes"; Mr. Radcliffe, "yes"; Ms. Berges, "yes"; Mr. Butkowski, "yes"; Mr. Fischer, "yes"; Mr. Witherspoon, "yes".

The vote was 6 for and 0 against and the Chairman declared the motion passed.