

**MINUTES OF THE REGULAR MEETING OF THE COUNCIL
OF THE CITY OF AVON, OHIO, HELD MONDAY, FEBRUARY 13, 2023
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING
AT 7:30 P.M.**

The Chairman, Council President Brian Fischer, called the meeting to order and led in the Pledge of Allegiance.

PRESENT:

Council Members: 1st Ward – Jennifer Demaline; Council-at-Large – Tammy Holtzmeier; 2nd Ward – Dennis McBride; 3rd Ward – Anthony Moore; 4th Ward – Scott Radcliffe; Council-at-Large – Craig Witherspoon; Council-at-Large and Council President – Brian Fischer; Mayor - Bryan Jensen; City Engineer – Ryan Cummins; Planning and Economic Development Coordinator – Pam Fechter; Law Director – John Gasior; Finance Director – Steve Presley; Safety/Public Service Director – Duane Streater; Clerk of Council – Barbara Brooks

CORRESPONDENCE

Mayor Jensen reported that there were 277 EMS calls and 41 Fire calls in January. He said in comparison, this time last year there were 306 EMS calls and 66 Fire calls. Mayor Jensen advised he was hopeful that was a good sign that the numbers were down from this time last year in terms of some of the nursing homes but also with COVID so we will see if the trend keeps going on but he will give Council those numbers each month.

MINUTES OF THE WORK SESSION OF COUNCIL HELD TUESDAY, JANUARY 17, 2023

A motion was made by Mr. McBride and seconded by Mr. Moore to dispense with the reading of the minutes of the Work Session of Council held Tuesday, January 17, 2023, and to approve said minutes as published, and the vote was: Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

MINUTES OF THE REGULAR MEETING OF COUNCIL HELD MONDAY, JANUARY 23, 2023

A motion was made by Mr. McBride and seconded by Mr. Moore to dispense with the reading of the minutes of the Regular Meeting of Council held Monday, January 23, 2023, and to approve said minutes as published, and the vote was: Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

ORDINANCE NO. 6-23 – TO AMEND SECTION 210.01(e)(6A)(A)(1) & (2) OF THE CODIFIED ORDINANCES OF THE CITY OF AVON TO ESTABLISH RATES FOR THE USE OF THE CITY’S AQUATIC CENTER IN THE YEAR 2023

The Clerk read Ordinance No. 6-23 by title only, entitled:

**AN ORDINANCE TO AMEND SECTION 210.01(e)(6A)(A)(1) & (2) OF THE CODIFIED
ORDINANCES OF THE CITY OF AVON TO ESTABLISH RATES FOR
THE USE OF THE CITY’S AQUATIC CENTER IN THE YEAR 2023
AND DECLARING AN EMERGENCY**

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Ordinance No. 6-23, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Ordinance No. 6-23, and the vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

ORDINANCE NO. 7-23 – AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING FOR THE TACTICAL EMERGENCY MEDICAL SERVICES (“TEMS”) AND RELATED TRAINING TO THE EASTERN LORAIN COUNTY EMERGENCY RESPONSE TEAM (“ELCERT”) COMPRISED OF THE CITY OF AVON, CITY OF AVON LAKE, AND CITY OF NORTH RIDGEVILLE, (“CITIES”) AND THE METROHEALTH SYSTEM (“METROHEALTH”)

The Clerk read Ordinance No. 7-23 by title only, entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING FOR THE TACTICAL EMERGENCY MEDICAL SERVICES (“TEMS”) AND RELATED TRAINING TO THE EASTERN LORAIN COUNTY EMERGENCY RESPONSE TEAM (“ELCERT”) COMPRISED OF THE CITY OF AVON, CITY OF AVON LAKE, AND CITY OF NORTH RIDGEVILLE, (“CITIES”) AND THE METROHEALTH SYSTEM (“METROHEALTH”) AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Ordinance No. 7-23, and the vote was: Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Ordinance No. 7-23, and the vote was: Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

ORDINANCE NO. 8-23 – AUTHORIZING THE MAYOR TO ENGAGE THE SERVICES OF THE LAW FIRM ROETZEL & ANDRESS TO ASSIST THE CITY IN NEGOTIATING A CONTRACT WITH LIT COMMUNITIES (OR SIMILAR ENTITY) TO EXPLORE THE INSTALLATION/OPERATION OF A FIBER OPTIC NETWORK WITHIN THE CITY

The Clerk read Ordinance No. 8-23 by title only, entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENGAGE THE SERVICES OF THE LAW FIRM OF ROETZEL & ANDRESS TO ASSIST THE CITY IN NEGOTIATING A CONTRACT WITH LIT COMMUNITIES (OR SIMILAR ENTITY) TO EXPLORE THE INSTALLATION/OPERATION OF A FIBER OPTIC NETWORK WITHIN THE CITY

AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Ordinance No. 8-23, and the vote was: Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

The vote was 7 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. 8-23, and the discussion was:

Mr. Gasior thanked Council for taking the time last week to talk to him about this Ordinance as there was some confusion after last Monday night’s meeting. He said he believes the consensus among Council was that if the outward not to exceed number was lowered to \$5,000 that it would be acceptable to Council and that is what they did, and Council has a new copy of the agreement in front of them tonight. Mr. Gasior advised he does not believe that they will be negotiating a contract at this stage, but the law firm will just be analyzing the data and bringing it before Council in a concise form.

Mrs. Demaline inquired if there was a timeline identified on when Council will receive an update from this engagement.

Mr. Gasior advised he did not identify a formal timeline; unfortunately Attorney Hanna has meetings on the first and third Mondays of the month. He said the plan is to have Mr. Hanna at some point come to Council perhaps in a Committee Meeting held before a Regular Meeting on the second or fourth Monday and they are looking at some time in March. Mr. Gasior stated he is hoping that they have a good grasp of what is going on by the middle of April. He advised with Mr. Hanna’s schedule and trying to coordinate with Lit Communities, he was hoping they could get started before the end of this month, but he is using an outside day of April 15th or so.

Mayor Jensen advised when speaking with Mr. Jenkins, our IT Coordinator, the plan was for the 13th of March to have Lit Communities come in, or talk to Council by video, and give some form of presentation, and try to have Attorney Hanna there as well. The Mayor said that Mr. Jenkins is anxious to come in after some of the discussion that went on last week so he would definitely like to get Lit Communities before Council and Attorney Hanna can answer some other questions. But the plan is to have some kind of a presentation on March 13th unless Council has an objection. We would probably ask to have it at 7:00 P.M. so that way we can go right into the Regular Meeting at 7:30 P.M. as usual.

The vote was: Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

ORDINANCE NO. 9-23 – TO AWARD THE PUBLIC BID FOR THE PURCHASE AND INSTALLATION OF TWO NEW HVAC SYSTEMS AT 2009 BASEBALL BOULEVARD, (MERCY HEALTH STADIUM)

The Clerk read Ordinance No. 9-23 by title only, entitled:

AN ORDINANCE TO AWARD THE PUBLIC BID FOR THE PURCHASE AND INSTALLATION OF TWO NEW HVAC SYSTEMS

**AT 2009 BASEBALL BOULEVARD, (MERCY HEALTH STADIUM)
AND DECLARING AN EMERGENCY**

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Ordinance No. 9-23, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. Fischer, “yes”.

The vote was 7 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. 9-23, and the discussion was:

Mr. Streator said that, first of all, he would like to thank Council for allowing them to bring this Ordinance before them in an expedited manner such as this. We did have three bids for this project, the lowest one being \$255,000 with Westland and it was the recommendation of our engineer that we hired for this project to go with that bid after his review of it.

Mrs. Demaline stated that she was pleased to see that bid come in \$95,000 less than the engineer’s estimate. She then asked what timeline we are looking at for this project? Mr. Streator responded that they are going to get started right away and they will be able to do the loges first to have those done before the season opens and if the equipment comes in for the other part, then we can get that done before the season starts as well. If not, they will have it done by October.

Mr. Radcliffe asked for the reason why the bid was so much lower than the estimate. It is almost 30% different. He said that he was happy for it but is everything going to be done the way we want it? Mr. Streator said, yes. Mr. McMillan, the engineer that bid it out, had said that he was hoping that that was going to be the case. He was not sure how the bids would come back because of the supply, if there was going to be a surcharge in getting the product here for us. Mr. Radcliffe asked, so this appears to be more that the cost savings would be on the equipment side vs the labor side of it? Mr. Streator said, yes, that is the case in his review of the bids.

Mayor Jensen stated that sometimes we look at the fact that if a project comes in overbid, we would not be able to move the process forward. So because, as Mr. Streator said, of the uncertainty of things, we wanted to make sure that we incorporated some of the costs in there to stay under so we could get that bid out. If it were a different year, a different time, we might have had the engineer’s cost estimates lower but we did want to take into consideration the uncertainty of things and make sure we added a little bit of room there. Also, the Westland owners are Avon residents but they have their business in Westlake so they are a local company which sometimes will help us out, too, if the local company sees the value in helping out the community they live in and he thought they did. So we are pleased that the prices came in that way.

The vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

ORDINANCE NO. 10-23 – REAPPROPRIATIONS

The Clerk read Ordinance No. 10-23 by title only, entitled:

**AN ORDINANCE TO AMEND AND SUPPLEMENT
APPROPRIATIONS ORDINANCE NO. 132-22
AND DECLARING AN EMERGENCY**

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Ordinance No. 10-23, and the vote was: Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Fischer, “yes”.

The vote was 7 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. 10-23, and the discussion was:

Mr. Presley pointed out that the two items on the Reappropriations Ordinance were both in the General Fund. One was to increase the Planning-Contract Services by \$50,000 for the plans and engineering reviews that are presented to Planning Commission. The second item is to increase the City Hall-Stadium Maintenance by \$270,000 for the replacement of the HVAC that Council just approved.

Mr. McBride asked if the \$270,000 for the Stadium was being capitalized and Mr. Presley said, yes, that will be a capital item.

The vote was: Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

**RESOLUTION NO. R-12-23 – IN SUPPORT OF AND AUTHORIZING THE MAYOR TO SUBMIT
A MARKET DEVELOPMENT GRANT APPLICATION THROUGH THE OHIO
ENVIRONMENTAL PROTECTION AGENCY TO ENABLE CANVUS, LLC TO OBTAIN
FUNDING FOR THE PURCHASE OF RECYCLING EQUIPMENT FOR THEIR START-UP
FACILITY AT 1350 MOORE ROAD**

The Clerk read Resolution No. R-12-23 by title only, entitled:

**A RESOLUTION IN SUPPORT OF AND AUTHORIZING THE MAYOR TO SUBMIT
A MARKET DEVELOPMENT GRANT APPLICATION THROUGH
THE OHIO ENVIRONMENTAL PROTECTION AGENCY TO ENABLE
CANVUS, LLC TO OBTAIN FUNDING FOR THE PURCHASE OF RECYCLING
EQUIPMENT FOR THEIR START-UP FACILITY AT 1350 MOORE ROAD
AND DECLARING AN EMERGENCY**

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Resolution No. R-12-23, and the vote was: Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

The vote was 7 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 Resolution No. R-12-23, and the vote was: Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

REPORTS AND COMMENTS

MAYOR JENSEN reported that we went to bid on basically four road paving contracts: Middle Road; Just Image Drive; Willo, Pear, Cherry, and Jennie; and Williams Court. Three of those came in below the cost estimates and so within the next couple weeks, we will be asking Council to award those contracts. Williams Court was the only one that did not. We are not sure of the certainty of the development of those houses along Williams Court; there have been no houses that have been started along there so we are a little nervous that if they do not get started until the middle of summer we will be repaving the road before the houses are built. So the three projects will be going forward and Mr. Cummins will address those in his comments.

COUNCIL MEMBERS:

MRS. DEMALINE, WARD 1, had no comments.

MRS. HOLTZMEIER, AT LARGE, had no comments.

MR. MCBRIDE, WARD 2, stated that he was glad we are moving forward with the Just Imagine Drive paving and he thanked the Mayor for getting these projects done.

MR. MOORE, WARD 3, asked if a grant application had been made for a project on Rt. 83 and Mr. Cummins responded that, yes, that would have been the sidewalk/safety grant through ODOT. He said that the grant application was completed and submitted to ODOT and we should have an answer from them in the May time frame of whether we were successful or not.

MR. RADCLIFFE, WARD 4, had no comments.

MR. WITHERSPOON, AT LARGE, had no comments.

MR. FISCHER, AT LARGE, wished Pat Jankowski a Happy Valentine's Day.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER, stated that as Mayor Jensen spoke about, we did have three paving projects that came in under the estimates. There was good competition for the bids; there were nine bidders for each one of those. It's a good time of year to bid and prices reflect that. He said that he will be bringing those bids to Council to award in the coming weeks and work would likely begin in the April 15th – May 1st time frame as the paving season gets underway.

MS. FECHTER, ECONOMIC DEVELOPMENT/PLANNING COORDINATOR, advised that last week she mentioned that they would have the revised livestock chapter of the Codified Ordinances in front of everybody for February Planning but it will be March Planning. They started writing it but they really feel another Public Hearing needs to be done in Planning Commission because this is different than what was done before. They have a lot of the chapter written so by the end of March, after the March Planning Commission meeting, she will have that to Council for review and approval.

MR. GASIOR, LAW DIRECTOR, reported that Parks Department has finally put together the RFP for the concessions at the pool and we should be seeing some results sometime around early April.

MR. PRESLEY, FINANCE DIRECTOR, had no comments.

MR. STREATOR, SAFETY/PUBLIC SERVICE DIRECTOR, had no comments.

AUDIENCE:

There were no comments from the audience members.

EXECUTIVE SESSION: 7:52 P.M.

A motion was made by Mr. McBride and seconded by Mr. Moore to Enter Into Executive Session for the Purpose of Discussing the Purchase of Real Estate, and the vote was: Mr. McBride, "yes"; Mr. Moore, "yes"; Mr. Radcliffe, "yes"; Mr. Witherspoon, "yes"; Mrs. Demaline, "yes"; Mrs. Holtzmeier, "yes"; Mr. Fischer, "yes".

The vote was 7 for and 0 against and the Chairman declared the motion passed.

RECONVENE: 8:16 P.M.

A motion was made by Mrs. Holtzmeier and seconded by Mr. Radcliffe to Reconvene the Regular Meeting of Council, and the vote was: Mr. Moore, "yes"; Mr. Radcliffe, "yes"; Mr. Witherspoon, "yes"; Mrs. Demaline, "yes"; Mrs. Holtzmeier, "yes"; Mr. McBride, "yes"; Mr. Fischer, "yes".

The vote was 7 for and 0 against and the Chairman declared the motion passed.

ADJOURN: 8:17 P.M.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adjourn the Regular Meeting of Council, and the vote was: Mr. Radcliffe, "yes"; Mr. Witherspoon, "yes"; Mrs. Demaline, "yes"; Mrs. Holtzmeier, "yes"; Mr. McBride, "yes"; Mr. Moore, "yes"; Mr. Fischer, "yes".

The vote was 7 for and 0 against and the Chairman declared the motion passed.