

**MINUTES OF THE REGULAR MEETING OF THE COUNCIL
OF THE CITY OF AVON, OHIO, HELD MONDAY, MARCH 27, 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; Planning and Economic Development Coordinator – Pam Fechter; Law Director – John Gasior; Finance Director – Steve Presley; Safety/Public Service Director – Duane Streator; Clerk of Council – Barbara Brooks

ABSENT: City Engineer – Ryan Cummins

CORRESPONDENCE:

The Clerk reported that she received a request from the Ohio Division of Liquor Control for a Change of Corporate Stock Ownership for Jay Rob Inc, DBA Cork & Barrell Wine Bar located at 35800 Detroit Road & Patio for a D1, D2, D3 permit class.

There were no questions or a request for a hearing.

MINUTES OF THE WORK SESSION OF COUNCIL HELD MONDAY, MARCH 6, 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 Monday, March 6, 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, MARCH 13, 2023

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to dispense with the reading of the minutes of the Regular Meeting of Council held Monday, March 13, 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. 38-23 – TO AMEND THE PLANNING AND ZONING CODE SECTION 1270.03 SCHEDULE OF PERMITTED USES AND SECTION 1280.05 MINIMUM LOT AND YARD REGULATIONS FOR SPECIAL USES IN NON-RESIDENTIAL DISTRICTS TO REQUIRE A SPECIAL USE PERMIT FOR DRIVE-THRU IN THE C-4 DISTRICT

The Clerk read Ordinance No. 38-23 by title only, entitled:

**AN ORDINANCE TO AMEND THE PLANNING AND ZONING CODE SECTION 1270.03
SCHEDULE OF PERMITTED USES AND SECTION 1280.05 MINIMUM LOT AND YARD
REGULATIONS FOR SPECIAL USES IN NON-RESIDENTIAL DISTRICTS TO REQUIRE A
SPECIAL USE PERMIT FOR DRIVE-THRU IN THE C-4 DISTRICT**

The Chairman declared this to be the second of three readings of Ordinance No. 38-23 and a Public Hearing will be held on Monday, April 10, 2023 at 7:20 p.m.

ORDINANCE NO. 39-23 – TO AMEND THE PLANNING AND ZONING CODE SECTIONS 1228.04, 1230.02 AND 1244.06 TO MAKE PRE-APPLICATION MEETINGS WITH STAFF MANDATORY FOR ALL PROJECTS

The Clerk read Ordinance No. 39-23 by title only, entitled:

AN ORDINANCE TO AMEND THE PLANNING AND ZONING CODE SECTIONS 1228.04, 1230.02 AND 1244.06 TO MAKE PRE-APPLICATION MEETINGS WITH STAFF MANDATORY FOR ALL PROJECTS

The Chairman declared this to be the second of three readings of Ordinance No. 39-23 and a Public Hearing will be held on Monday, April 10, 2023 at 7:25 p.m.

ORDINANCE NO. 43-23 – AMENDING SECTION 210.01(g) AND CHAPTER 1442 OF THE CODIFIED ORDINANCES OF THE CITY OF AVON REGARDING BUILDING PERMITS AND FEES

The Clerk read Ordinance No. 43-23 by title only, entitled:

AN ORDINANCE AMENDING SECTION 210.01(g) AND CHAPTER 1442 OF THE CODIFIED ORDINANCES OF THE CITY OF AVON REGARDING BUILDING PERMITS AND FEES 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. 43-23, 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. 43-23, 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. 44-23 – AMENDING SECTION 210.01(e)(7)(B) OF THE CODIFIED ORDINANCES OF THE CITY OF AVON REGARDING PARK DEVELOPMENT AND MAINTENANCE FEES

The Clerk read Ordinance No. 44-23 by title only, entitled:

AN ORDINANCE AMENDING SECTION 210.01(e)(7)(B) OF THE CODIFIED ORDINANCES OF THE CITY OF AVON REGARDING PARK DEVELOPMENT AND MAINTENANCE FEES 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. 44-23, 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. 44-23, 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. 45-23 – AMENDING SECTION 210.01(f)(4)(C) OF THE CODIFIED ORDINANCES OF THE CITY OF AVON DEALING WITH STORM WATER FEES AND DEPOSITS

The Clerk read Ordinance No. 45-23 by title only, entitled:

**AN ORDINANCE AMENDING SECTION 210.01(f)(4)(C)
OF THE CODIFIED ORDINANCES OF THE CITY OF AVON
DEALING WITH STORM WATER FEES AND DEPOSITS
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. 45-23, 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. Moore to adopt Ordinance No. 45-23, 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.

ORDINANCE NO. 46-23 – REAPPROPRIATIONS

The Clerk read Ordinance No. 46-23 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. 46-23, 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. 46-23, and the discussion was:

Mr. Presley advised this Ordinance will allow the City to reimburse the Avon Board of Education up to the \$9,665.00 for the purpose of purchasing cameras to be mounted on the school buses. He said so that vehicles can be identified for passing a school bus when the bus flashers are on, and the offender can be pursued through the court system for their illegal action. Mr. Presley stated it is his understanding that back in 2017 Council considered setting up a special fund and it was brought to his attention through the Law Director. He advised they decided to bring this in front of Council tonight to take the total penalties collected for this offense less the court costs and make them available to the Board of Education.

Mr. Gasior advised back in March-April of 2017, the School came to the City, and he believed it was around the time that the old Village School was being considered as a possible site for a new City Hall. He said the issue came up about bus cameras and the City thought they could help with the bus camera costs by possibly setting up a Special Revenue Fund. Mr. Gasior stated that he and Mr. Logan worked on the legislation and were ready to bring it to Council and possibly were sidetracked by the discussion of seatbelts in school buses and things of that sort and it fell through the cracks. He advised Mr. Fishleigh, Director of Operations, Avon Schools, brought up the school bus camera issue again recently asking if that fund had ever been set up as it would be of use especially since the State Legislature no longer requires a front license plate. Mr. Gasior said the current school bus cameras were mounted on the front of the bus and they would need to mount some on the rear of the bus to capture the rear plate. He stated in 2017 he believes there was some indication that there were approximately 40 buses and they checked with the Mayor's Court Clerk, Susan Pintz, and they were able to calculate what the fines and court costs were for the period April 2017 to March 1, 2023, and that amount is in the reappropriation. Mr. Gasior advised Mr. Fishleigh could fill Council on what the needs of the Avon School District might be.

Mr. Fishleigh placed a photo on the table for the overhead camera depicting a vehicle passing the bus using the front mounted camera. He advised the camera view they were looking at is what they have on most of their buses. Mr. Fishleigh said it is often very frustrating because as a motorist drives by at 20-25 mph and the School bus driver is engaged in a multitude of tasks and of course the Police want to be able to know a description of the person driving, the car, the license plate number etc. He stated these cameras are obviously an aid for us to help. Mr. Fishleigh advised the School purchased two used buses this past fall and they were outfitted completely. He said what they have in most of the buses are two interior cameras and one exterior camera that points forward. Mr. Fishleigh placed another photo on the table for the overhead camera depicting a vehicle passing the bus. He stated they could all now see that the rear license plate was visible. Mr. Fishleigh advised in April 2017 the School installed cameras in every bus and it was something already on the newer buses, which amounted to approximately 12 of the 40 buses and the School outfitted the other 28 buses with the three camera system and as they get new buses, they outfit them with the latest and greatest. He said the cost he believes would be around \$400 to \$600 to add that extra camera in the system. Mr. Fishleigh stated he would like to see this set up as a fund as he would like the City and the School to each have their part in paying for this upgrade to the buses. He advised when they discussed it back in 2017, it was a way to take fine money and use it for good by reinvesting back into how they can cite violators and make sure our kids are safe. Mr. Fishleigh said they just purchased two new buses and outfitted them completely and it is \$3,600 a bus to outfit them with those four cameras and he is not asking the City to pay for them in their entirety, but he felt the School and the City could work together as money is collected through that fund.

Mr. Fischer asked how many buses the School has currently to which Mr. Fishleigh answered they have 40 buses. Mr. Fishleigh stated right now, they have three cameras: one on the exterior and two on the interior so they would add one more camera that points to the rear of the bus so when the offending vehicle passes by it will capture that rear view. Mr. Fishleigh said the majority of the time the motorists are passing from the opposite direction as most Avon roads are two lanes.

Mr. Fischer advised he is all for reappropriating the money that was collected from fines to improve our school buses with the addition of cameras. He said he felt like it was a question of how they were going to do that. Did they want to create a Fund? Or did they just want to collect fines and give it to the School at the end of the year for the purchase of bus cameras?

Mr. McBride advised he is all for paying the money to the School upfront and upgrading the buses whether with the installation of a new camera or the upgrade of an existing camera and then the fines collected would pay everyone back for the upfront costs. He said he would also be in favor of raising the fine for passing a school bus to \$500 or \$1,000 as he felt they needed to make a strong statement that you do not pass a school bus when the lights are on.

Mayor Jensen advised in talking with Mr. Presley they would like to set up a Fund, if Council agrees, and then as the school needs the money the City would just keep funneling the money to the Schools for more cameras and the money can be transferred any time it is needed. He said the Administration is 100% behind anything that makes our children safer.

Mr. Fischer advised he believes that the original idea in 2017 was to set up a fund.

Mayor Jensen advised as Mr. Fishleigh suggested they were able to put cameras on at that time and that was enough, but now because the front plate is no longer required it has raised a new need. He said then it was realized that nothing was passed by Council, but it is now time for the City to get involved. Mayor Jensen clarified the funds would be minus the court costs.

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.

RESOLUTION NO. R-20-23 – TO ADVERTISE FOR BIDS FOR THE 2023 PAVEMENT MARKING PROGRAM

The Clerk read Resolution No. R-20-23 by title only, entitled:

**A RESOLUTION TO ADVERTISE FOR BIDS FOR THE
2023 PAVEMENT MARKING PROGRAM
AND DECLARING AN EMERGENCY**

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Resolution No. R-20-23, 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 Resolution No. R-20-23, 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.

REPORTS AND COMMENTS

MAYOR JENSEN had no comments.

COUNCIL MEMBERS:

MRS. DEMALINE, WARD 1, had no comments.

MRS. HOLTZMEIER, AT LARGE, had no comments.

MR. MCBRIDE, WARD 2, had no comments.

MR. MOORE, WARD 3, had no comments.

MR. RADCLIFFE, WARD 4, inquired if there were any big issues in Avon as a result of the windstorm on Saturday.

Mr. Streator advised that Avon faired well. He said there were a few branches down, but nothing big that caused any major power outages.

MR. WITHERSPOON, AT LARGE, had no comments.

MR. FISCHER, AT LARGE, had no comments.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER, was absent.

MS. FECHTER, ECONOMIC DEVELOPMENT/PLANNING COORDINATOR, had no comments.

MR. GASIOR, LAW DIRECTOR, had no comments.

MR. PRESLEY, FINANCE DIRECTOR, had no comments.

MR. STREATOR, SAFETY/PUBLIC SERVICE DIRECTOR, advised to let Council know, they hope to get started in a couple of weeks on the restroom project. He said they have done some preliminary site work getting the sewer line located and the work should be getting started in a couple of weeks weather dependent.

Mr. Streator advised the quarterly City newsletter was very effective as the Service Department received numerous calls regarding the chipping service that was announced that it would now be by adding your address to a list by either calling in or by filling out a form online.

AUDIENCE:

Pat Jankowski of 1409 Hollow Wood Lane advised a number of months ago, her Ward 2 Council Member, Dennis McBride, talked about Panera Bread's drive-thru not being wide enough to let another car go through. She said she is confused as to how that happens. Ms. Jankowski stated she is wondering if when Planning Commission sends a recommendation to City Council if they take that as gospel. She asked if the Council people research these issues or was someone else looking at it. Ms. Jankowski advised she does not know how that happens that Council will make these statements after the fact.

Mr. McBride advised it is his personal opinion that Planning Commission and Engineering should be looking at that. He said if service at a drive-thru is slow, he would like for there to be an escape route so a car could decide to pull out of line, so they are not trapped.

Ms. Jankowski said she understands the problems that could arise, but she just does not know how that happens.

Mr. McBride advised he feels it should be Planning Commission and the Engineer looking at that. He said he also has a concern because they have the Ordinance updated allowing drive-thrus in C-4 districts and he felt they may need to codify that. Mr. McBride said his opinion is that this is the rule, and no variance should be granted, and applicants must comply or do not build a drive-thru. He stated that is his personal opinion.

Ms. Jankowski asked if there was no rule right now, but they just say that sensibly it should have enough lanes to which Mr. McBride said yes.

Mr. McBride said they were going to end up with the same issue with the two buildings on Detroit Road near Healthway Drive if it is allowed to go through like that.

Ms. Jankowski said that is what she was trying to say. She asked if that is the responsibility of City Council. Or does Council just say, "Okay" because it is recommended from the Planning Commission?

Mr. Gasior advised he believes the answer is that the Codified Ordinances do not require the extra lane.

Ms. Jankowski asked so it is not a rule?

Mr. Gasior advised correct; it is not a law to have the extra lane. He said it would be nice to ask and he believes they do ask in Planning Commission if the applicant will install the extra lane. Mr. Gasior stated but if space is at a premium and the applicant does not add the extra lane because they cannot, the City/City Council is hard pressed to deny them the right to go forward because there is nothing in the Code that requires it.

Ms. Jankowski said but Council does not get that information.

Mr. Gasior advised if Council deals with it as a Special Use Permit then it comes before Council. He said but what she is talking about is something that is dealt with in the Final Development Plan for the property and that gets approved by the Planning Commission and that is the end of it. Mr. Gasior stated if it was a stacking situation that requires a Special Use Permit, then the Special Use Permit is recommended by the Planning Commission and then it has to come before City Council for actual approval. He advised Council could put conditions on that Special Use.

Ms. Jankowski advised she just does not know how involved Council Members are in regard as to what goes on in their Wards. She said she does not feel that.

Mayor Jensen advised what Mr. McBride is suggesting is an opinion and not what the Code states. He said if someone added another lane for a drive-thru just so that a patron would have the ability to pull out of line so they could go around is not typically how you want people to go through the drive-thru. He stated when companies are drafting a proposal, they are not automatically adding an extra lane so someone can get out of line.

Ms. Jankowski said she understands that, but the good thing would be is if there was a wider exit.

Mayor Jensen advised if that were to be added to the Code and when Planning Commission looks at that, then they would follow the Code. He said currently the applicant could agree to two lanes, but most companies do not want to have two lanes just for the purpose of someone being able to get out of the line.

Ms. Jankowski asked if the Planning Commission has an engineer that reviews plans.

Mayor Jensen advised the City/Planning Commission follow what the Code says. He said the Code only requires one lane and it does not have to be designed in a way that a patron can get out of the drive thru lane.

Ms. Jankowski said she understands now. She stated they can complain about it but it does not have to happen.

Mr. McBride said that is right.

Mayor Jensen advised unless Council were to pass something to change the Code requirements for drive-thrus.

Mr. McBride felt that was something that Council should look at. He said there needs to be a penalty for bad or slow service in a drive thru line and he felt that was the bottom line.

Ms. Jankowski thanked Council for their time.

ADJOURN: 7:57 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: 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.