

**PUBLIC HEARING
MONDAY, APRIL 11, 2022**

7:29 P.M. – Council President Fischer opened the Public Hearing for Resolution No. R-15-22.

RESOLUTION NO. R-15-22 – A RESOLUTION TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY SCHOBER MUSIAL LAND HOLDINGS, LLC (fka PARTNERSHIP EDWARD J. SCHOBER, JR. AND MUSIAL LAND HOLDINGS, LLC) TO HAVE CERTAIN LAND OWNED BY THEM LOCATED AT 34402 CHESTER ROAD, PERMANENT PARCEL NOS. 10-04-00-021-000-023 AND 10-04-00-021-000-024 DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT, CONSISTING OF 48.72 ACRES AND DECLARING AN EMERGENCY

There being no comments, the Public Hearing for Resolution No. R-15-22 was closed at 7:30 p.m.

**MINUTES OF THE REGULAR MEETING OF THE COUNCIL
OF THE CITY OF AVON, OHIO, HELD MONDAY, APRIL 11, 2022
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 - William Logan; Safety/Public Service Director – Duane Streater; Clerk of Council – Barbara Brooks

MINUTES OF THE MEETING OF THE SERVICE/FINANCE COMMITTEES OF COUNCIL HELD MONDAY, MARCH 21, 2022

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to dispense with the reading of the minutes of the Meeting of the Service/Finance Committees of Council held Monday, March 21, 2022, 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 WORK SESSION OF COUNCIL HELD MONDAY, MARCH 21, 2022

A motion was made by Mr. Radcliffe and seconded by Mrs. Demaline to dispense with the reading of the minutes of the Work Session of Council held Monday, March 21, 2022, 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.

MINUTES OF THE REGULAR MEETING OF COUNCIL HELD MONDAY, MARCH 28, 2022

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, March 28, 2022, and to approve said minutes as published, 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.

ORDINANCE NO. 42-22 – 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 A PORTION OF LAND (7.89 ACRE PARCEL) LOCATED ON THE NORTH SIDE OF CHESTER ROAD, PERMANENT PARCEL NO. 10-04-00-009-000-181 FROM M-1 GENERAL INDUSTRIAL DISTRICT TO R-3 MULTI-FAMILY RESIDENTIAL DISTRICT AND SUBJECT TO THE TERMS OF THE PARTIES DEVELOPMENT AGREEMENT

The Clerk read Ordinance No. 42-22 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 A PORTION OF LAND (7.89 ACRE PARCEL) LOCATED ON THE NORTH SIDE OF CHESTER ROAD, PERMANENT PARCEL NO. 10-04-00-009-000-181 FROM M-1 GENERAL INDUSTRIAL DISTRICT TO R-3 MULTI-FAMILY RESIDENTIAL DISTRICT AND SUBJECT TO THE TERMS OF THE PARTIES DEVELOPMENT AGREEMENT

The Chairman declared this to be the second of three readings of Ordinance No. 42-22.

A Public Hearing will be held on Monday, April 25, 2022 at 7:25 p.m.

ORDINANCE NO. 44-22 – SUBMITTING TO THE ELECTORS OF THE CITY OF AVON THE QUESTION OF REZONING A PARCEL OF LAND CURRENTLY OWNED BY LIG LAND, LLC, AND CONSISTING OF APPROXIMATELY 8.58 ACRES LOCATED ON THE SOUTHWEST CORNER OF MIDDLETON ROAD AND NAGEL ROAD, PERMANENT PARCEL NO. 04-00-022-102-150 FROM R-1 SINGLE FAMILY RESIDENTIAL DISTRICT TO C-4 GENERAL BUSINESS DISTRICT PURSUANT TO ARTICLE VII, SECTION 2, SUBSECTION (e) OF THE CHARTER OF THE CITY OF AVON

The Clerk read Ordinance No. 44-22 by title only, entitled:

AN ORDINANCE SUBMITTING TO THE ELECTORS OF THE CITY OF AVON THE QUESTION OF REZONING A PARCEL OF LAND CURRENTLY OWNED BY LIG LAND, LLC, AND CONSISTING OF APPROXIMATELY 8.58 ACRES LOCATED ON THE SOUTHWEST CORNER OF MIDDLETON ROAD AND NAGEL ROAD, PERMANENT PARCEL NO. 04-00-022-102-150 FROM R-1 SINGLE FAMILY RESIDENTIAL DISTRICT TO C-4 GENERAL BUSINESS DISTRICT PURSUANT TO ARTICLE VII, SECTION 2, SUBSECTION (e) OF THE CHARTER OF THE CITY OF AVON 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. 44-22, 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.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 44-22, 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.

ORDINANCE NO. 45-22 – AUTHORIZING THE MAYOR TO ENTER INTO AN AMENDED MEMORANDUM OF UNDERSTANDING WITH BROWNING-FERRIS INDUSTRIES OF OHIO, INC. CONCERNING THE COLLECTION OF YARD WASTE AND BULK MATERIAL

The Clerk read Ordinance No. 45-22 by title only, entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AMENDED MEMORANDUM OF UNDERSTANDING WITH BROWNING-FERRIS INDUSTRIES OF OHIO, INC. CONCERNING THE COLLECTION OF YARD WASTE AND BULK MATERIAL AND DECLARING AN EMERGENCY

A motion was made by Mr. Radcliffe and seconded by Mr. Witherspoon to suspend the rules and act on Ordinance No. 45-22, and the discussion was:

Mr. Moore advised they were being asked to vote on an amendment to the MOU with the trash collector to allow for weekly bulk collection.

Mr. Gasior confirmed that to be the case.

Mr. Moore inquired why did they not have any type of committee meeting to discuss this further as opposed to jumping right into a vote. He said residents have told him that they were not really interested in seeing bulk collected weekly. Mr. Moore suggested that Mr. Kidder could be invited to a meeting to consider another option opposed to having weekly bulk collection. He stated he is on the record opposing this because he does not want to see pickers driving through the streets of Avon on a weekly basis versus a monthly basis and he does not want to see bulk items on the tree lawns weekly. Mr. Moore advised it was mentioned that the number of bulk items that a residence could set curbside was going to be at a set limit, but asked who was going to police that and who was going to take those calls? He said these are questions that he feels need to be answered before they vote.

Mrs. Demaline advised she agreed with Mr. Moore that there should be further discussion specifically about the proposed limitation on the number of bulk items that can be set curbside. She said if a household was cleaning out their garage or doing a project or a basement, she felt that four items was not a lot. Mrs. Demaline inquired as to what they were going to do when someone puts more than four items on the curb and Republic Services does not pick it up. She felt that could be a problem that the City was now going to encounter.

Mayor Jensen advised he told Mr. Kidder when they talked that the City is not going to police the number of bulk items set curbside on any given week. He said Mr. Kidder understands that it will not be policed by Avon, and Mr. Kidder also indicated to him that the limit is a suggested recommendation. Mayor Jensen stated Republic Services hopes that because the bulk collection would be weekly that there would be less items to collect on a given week. He advised he personally would forget what week was bulk and

in talking with the Clerk she receives questions asking when bulk day is, and this will make it easier for everyone to know that it is every week. Mayor Jensen said the decision is up to City Council, but the City will not police the bulk items in any manner as that will be up to the hauler.

Mr. Fischer advised to him; it was a no-brainer. He said he thinks the residents would love to have bulk pickup available every week; he knows that he would. Mr. Fischer stated it is one of the most talked about topics on the local Facebook page with residents asking, "When is bulk week?". He advised he does not think that the City will have a major amount of bulk from residents on the tree lawns on a given week. Mr. Fischer asked Mr. Gasior to explain the MOU with Republic Services.

Mr. Gasior advised this was discussed back in August of 2021, just exactly what the nature of the MOU is and to be clear every individual residential household in the City contracts directly with Republic Services or Browning-Ferris Industries of Ohio. He said what the MOU simply does is give the City a sense that they have negotiated the best terms possible for the residents. Mr. Gasior reiterated that the City does not contract with that entity. He said the City of North Ridgeville contracts with the entity and other communities surrounding Avon also contract with the entity, meaning the said municipality bills the residents for their trash service as a line item on the water and sewer bills and that municipality then pays the trash hauler and that is not the case in Avon. Mr. Gasior stated in Avon the residents pay the trash hauler directly, the resident is not even obligated to contract for the service. He advised Avon's ability to dictate those terms is somewhat limited. Mr. Gasior said he believes if Republic Services decides that they do not want to leave the bulk collection at once a month because of their business model and their cost and their efficiencies dictate that then what are the ramifications? He advised there would be a breach of the MOU and what are the damages? Mr. Gasior said the City would just tear up the MOU as it is basically a feel-good relationship with Republic Services. He stated the City negotiated a great price for the residents back in 2019 and that was in the MOU. Mr. Gasior said if the City decides to tear up the MOU because Republic Services will not back off the weekly bulk collection, they probably would be in a position where they could raise the rates; he does not know what they would do. He advised that he felt that Council should be careful how they approach this as the City does not have a contract with the hauler, they have an MOU, and that MOU simply says this is what the hauler is going to do for your residents. Mr. Gasior said what the hauler has decided to do is change the bulk pickup and if Council wants to challenge them on that and tear up the MOU then nothing would really change at the City level, but things may change for the residents, and he suggested they be careful.

Mr. Witherspoon advised experience tells him that there are three things you do not mess with and those are snowplowing, leaf pickup and garbage collection. He said he agrees that with the garbage collection, they should go to committee and discuss it. Mr. Witherspoon stated not that he wants to sit through more committee meetings, but he felt it was important that they all be on the same page with this issue because whatever they decide to do is going to be a very important thing for the majority of the people. He felt they should at least talk about it and make sure they are doing the right thing.

Mr. McBride advised on one hand he agrees with Mr. Moore as he saw a picker truck driving down the street going about 40 mph with an overloaded pickup truck with mostly scrap metal. He said but it would be nice to put bulk items out every week. Mr. McBride stated he does not know what the local social media people were going to talk about when there is not a couch on the curb for several weeks. He advised his gut tells him that it is better to go with the weekly bulk collection, but if they start having issues with the trash hauler, he does not know what could be done. Mr. McBride said his gut feeling is to go with the weekly bulk collection and he indicated that while Republic Services might see heavy amounts on the curb for a few weeks, he felt that after a while it would thin out unless someone is moving in or moving out and this is where he stands on this issue.

Mrs. Holtzmeier advised this comes at a good time because it is usually in May and June that they find the residents are doing some spring cleaning and that is where a lot of bulk shows up on the curb that one time a month. She said when she heard about this change the thing that attracted her to it was that there was no change in price for a more repetitive service with bulk collection every week. Mrs. Holtzmeier stated in reading the MOU she is looking for something that tells her there is a limit to the amount that residents can put out and there is not, but the language says, "Try to limit bulk items to four per week".

Mr. Gasior advised that is correct. He said that is the language that Republic Services requested as opposed to a hard and fast limit of four items. Mr. Gasior stated the trash hauler is going to pick up if there are five or six items, but with the suggestion that they keep it at four items the vast majority of people will abide by that four-item suggested limit. He reiterated that Republic Services did not want to put in that hard and fast rule and as the Mayor pointed out Avon is not going to police it and they chose to leave it vague as far as the rule, but they do want to limit it to four items.

Mrs. Holtzmeier said but they will take more.

Mr. Gasior said they will take more because they do not want to leave it on the curb. He advised obviously if people start to place 10-12 items curbside it is probably going to take more than one day to collect it all so they could have bulk refuse on the curb for 24-36 hours. Mr. Gasior stated the yard waste is going to be picked up 52 weeks of the year as well as that is no longer going to be limited to April through November.

Mrs. Holtzmeier advised personally she is in favor of having this change every week, but if the majority want to discuss it further or give time to hear from the residents as they are the ultimate north star on this topic and they will tell us if they need it or if they want it. She said she has lived in communities that have bulk every week and it is a practice that residents in that community loved and it diminished the number of pickers because the bonanza of items were not out on a single day a month, but it was divided by four so there was less of an attraction to come in and drive up and down the streets. Mrs. Holtzmeier stated she felt the residents would tell them what their desires are if they give them a bit of time.

Mr. Fischer added that Council should not overthink this. He advised this is trash and he feels that people would love to have bulk collected every week. Mr. Fischer said he believes this came about because Republic Services was finding it difficult to collect all the bulk items in a single day when they were set out monthly. He stated there was always a neighborhood that could not be picked up because the bulk was once a month, and everyone was putting large amounts on the curb. Mr. Fischer advised he believes that if residents can put bulk items out on any given week that the residents are going to love it. He said he really believes it is a no-brainer and to not overthink it.

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.

A motion was made by Mr. McBride and seconded by Mrs. Holtzmeier to adopt Ordinance No. 45-22, and the vote was: Mrs. Demaline, "no"; Mrs. Holtzmeier, "yes"; Mr. McBride, "yes"; Mr. Moore, "no"; Mr. Radcliffe, "yes"; Mr. Witherspoon, "no"; Mr. Fischer, "yes".

The vote was 4 for and 3 against and the Chairman declared the motion passed.

RESOLUTION NO. R-15-22 – TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY SCHOBER MUSIAL LAND HOLDINGS, LLC (fka PARTNERSHIP EDWARD J. SCHOBER, JR. AND MUSIAL LAND HOLDINGS, LLC) TO HAVE CERTAIN LAND OWNED BY THEM LOCATED AT 34402 CHESTER ROAD, PERMANENT PARCEL NOS. 10-04-00-021-000-023 AND 10-04-00-021-000-024 DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT, CONSISTING OF 48.72 ACRES

The Clerk read Resolution No. R-15-22 by title only, entitled:

A RESOLUTION TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY SCHOBER MUSIAL LAND HOLDINGS, LLC (fka PARTNERSHIP EDWARD J. SCHOBER, JR. AND MUSIAL LAND HOLDINGS, LLC) TO HAVE CERTAIN LAND OWNED BY THEM LOCATED AT 34402 CHESTER ROAD, PERMANENT PARCEL NOS. 10-04-00-021-000-023 AND 10-04-00-021-000-024 DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT, CONSISTING OF 48.72 ACRES 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-15-22, 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.

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Resolution No. R-15-22, and the discussion was:

Mayor Jensen inquired if there was a response back from the property owners regarding all the equipment sitting on the property.

Ms. Fechter advised she did not hear anything back yet.

Mayor Jensen advised he does not know if Council wanted to declare this a first reading until they have more answers as Mr. McBride had some questions last week.

Mr. McBride advised Mr. Gasior did some checking with the County.

Mr. Gasior advised Mr. McBride asked at the last meeting about the equipment being parked on the property, but also whether they met the requirements for the agricultural district. He said what he heard back from the County Auditor’s office was that the applicant was last inspected in 2018 and that they were in compliance meaning that at least ten acres on each of those parcels was being farmed. Mr. Gasior stated the applicant is scheduled to be inspected again this June probably because of the renewal application. He advised in looking at the 2021 map on overhead it looks like they are farming the vast majority of the property. Mr. Gasior noted there is the area to the front of the property on the one parcel where they are storing a lot of vehicles, but he felt that was more of a zoning issue and perhaps the Zoning Enforcement Officer can go out and talk to the property owners to see if something could be done about storing those vehicles elsewhere.

Mr. Streater advised he spoke with Ms. Clements, the Zoning Enforcement Officer, and he also talked to Mr. Schneider, the former Zoning Enforcement Officer, a while ago about this property. He said because

that property is zoned commercial it allows for the vehicles to be stored there. Mr. Streater stated Ms. Clements and he talked, and they are going to try to make contact with the property owners again, but it does fit within that zoning district.

Mr. McBride advised it is commercial property so they could store the vehicles, but it is not an approved lot as it is just raw dirt. He said he believes to have that type of storage they have to have pavement and drainage and if they are leaking hydraulic fluid or oil, it was not going into an interceptor. Mr. McBride suggested between Zoning and Stormwater Departments they could encourage the property owners to store equipment in that manner.

Mr. Streater advised they will look into that part of it.

Mr. Gasior pointed out the property that was displayed on the overhead map and said they could see most of the property is being used agriculturally on the back portions of the parcels. He also pointed out the area that is a problem is the front portion and that area is zoned industrial because it is the rear lots of Lear Industrial Parkway.

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.

REPORTS AND COMMENTS

MAYOR JENSEN thanked the Garden Club that organized and hosted the adult Easter Egg Hunt this year. He thanked the French Creek Foundation that held the children’s Easter Egg Hunt this year. Mayor Jensen thanked Ms. Seroka and Ms. Fechter for the Open House at the Cahoon House this past Saturday, April 9, 2022. He advised all three of those events were well attended and they should all feel proud of the great job everyone did and without our volunteers they would never be as successful as they were this weekend.

COUNCIL MEMBERS:

MRS. DEMALINE, WARD 1, advised she would be absent next week for the Work Session on Monday, April 18, 2022.

MRS. HOLTZMEIER, AT LARGE, advised to continue the discussion of the Finance and Service Committees meeting that was held earlier tonight, she felt it was a good thing that they were moving forward both with this year’s sidewalk program as well as planning for the future. She said she is looking forward to seeing those recommendations for mapping this out following the Ohio Revised Code section 727 assessment procedures and to discuss it as Council as a whole.

Mrs. Holtzmeier advised there is a bit of housekeeping that she would like Council to consider. She pointed out the current practice that the Board of Zoning and Building Appeals has of allowing the occasional variance regarding sidewalk installation with new residential builds. Mrs. Holtzmeier stated in light of the fact that Council seems to have a bent on moving forward to install more sidewalks in the residential neighborhoods and connect them, she would like to ask Mr. Gasior to prepare language for Council to consider that would ask the BZA to reconsider their practice of allowing these variances. Mrs. Holtzmeier advised she would like to ask that the BZA provide Council with some guidance on the discontinuation of that practice.

Mr. Gasior advised that he believes the BZA has done a decent job in granting variances and not granting variances in the past. He said in any case where a variance was granted the BZA does so with the stipulation that the property owner sign and have notarized a document prepared by him that states they will agree to be voluntarily assessed if sidewalks were to be installed in that area, which ties into the ORC 727 discussion about how the process will be accomplished. Mr. Gasior stated the property owner also agrees to install their sidewalk to not be assessed. He said the BZA has never granted a variance and told the property owner that they will never have to install sidewalks. Mr. Gasior advised if a property owner is granted relief, they are required to sign that affidavit and in the majority of cases they do not get the relief and are required to install their sidewalk. He felt that he and Ms. Fechter could reiterate Council's displeasure with some property owners not getting their sidewalks installed. Mr. Gasior clarified that there are some unique situations where there is no reason for a property owner to install sidewalks yet, but they know they are required to install them as soon as the sidewalks come to that area or if they are directed to install sidewalks then they would be required to do so. He said he felt like that procedure works well. Mr. Gasior stated if they see a lot of abuse then by all means he would provide whatever legislation Council would want, but from his vantage point and he believes Ms. Fechter would agree he does not see anyone abusing it, at least not in front of BZA. He advised the BZA knows very well what the law is and the BZA wants that sidewalk to eventually be installed so they grant temporary relief.

Mrs. Holtzmeier asked how many variances have been provided for those residential sidewalks by BZA from year to year.

Mr. Gasior advised there are years where no variances for sidewalk installs are granted. He said in the twenty years he has been Law Director that there were maybe seven variances granted for sidewalk relief.

Ms. Fechter advised in the eight years she has been here, she has seen three maybe four variances for sidewalks granted and they were usually because of topographic issues. She said there was one on SR83 granted knowing the City was not sure what was being considered with sanitary sewer installations. Ms. Fechter stated there was one variance granted where there were no sidewalks for miles on Stoney Ridge Road.

Mr. Gasior advised those were the kinds of areas and situations where they were going to see relief for sidewalk installation granted. He said there was one property on Mills Road granted relief where there were no sidewalks, and a new home was constructed, and they asked if they could wait until sidewalks were planned for that area. Mr. Gasior stated it sounded to him as if that is what Council intends to do so there will be fewer of these instances where variances will be granted for sidewalks. He reiterated that no property owners are granted a variance for relief to install sidewalks that are told they never have to install sidewalks on their property. Mr. Gasior advised the property owners sign a notarized affidavit indicating that while they do not have to install a sidewalk at that time, they will most likely be required to do so eventually.

Mrs. Holtzmeier advised she asked for that language for a couple of reasons because she listened to three different stories of three new builds that were constructed without sidewalks. She said she is hearing that those houses are on some streets that are on tap to be connected. Mrs. Holtzmeier stated there is clearly a rub with new houses going in that do not install sidewalks and if connecting sidewalks on these streets helps to make good on those variances then so be it. She advised as they have talked about with drive-thru's, for example, that they recognized the current stack was too short and BZA was asked to reevaluate that and provide guidance back. Mrs. Holtzmeier said they are recognizing that the City has new residential builds that are being constructed without sidewalks being required and Council's attempt is to connect that sooner versus later. She stated if they are moving that forward with connecting the City with sidewalks, they want some continuity with all aspects of that connectivity. Mrs. Holtzmeier advised this is something that Council can continue to discuss and debate, but she felt first it was something that needed to go on an agenda so that it can be discussed.

Mrs. Holtzmeier advised there is a need to set a Finance Committee meeting to review the City's investment policy, which is something that is done every other year.

Mr. Logan felt a half hour committee meeting would be enough time for that review to take place.

Mrs. Holtzmeier asked the Clerk to set a Finance Committee Meeting for Monday, May 9, 2022 at 7:00 p.m. for the purpose of reviewing the City's Investment Policy.

MR. MCBRIDE, WARD 2, advised there are signs in the public right of way from various candidates for elected office. He suggested when the signs are pulled from the right of way that the City official take a picture and send out a citation to the candidate's campaign treasurer as well as to the candidate. Mr. McBride stated technically this is a criminal offense and they could be cited under organizational liability, and it is a zoning violation.

Mr. McBride asked if there was an update on the developer at Concord Village and when the paving was going to be done.

Mr. Gasior advised he talked to the attorney today and he will be here at the Work Session on April 18th. He said the attorney informed him that they were working on that issue as well as the parking issue and he believes the developer is willing to pave it and pave it again, if necessary, in order to satisfy Council. Mr. Gasior felt there was a lot of movement headed in the right direction, but they would know more next Monday.

Mr. McBride advised he also received an email from the detached condos or cluster homes at Rose Senior Living that apparently there is a cluster box for mail collection where the bottom level of the box is only 18" off the ground. He said the post office is blaming the developer and the developer is blaming the post office. Mr. McBride stated apparently the cluster box was installed and it was too high and it was lowered and now the bottom box is only 18" off the ground.

MR. MOORE, WARD 3, advised he agrees with Mrs. Holtzmeier regarding the BZA and sidewalks. He said he knows there is a form in the property owners file, but the City still has to chase people down and them not being required to install sidewalks when they build their house goes against Council's vision and what they want to see. Mr. Moore stated he does not see a reason to have that ability on the books and he feels it makes a lot of sense for Council to revisit and discuss if that is what they need to do to move forward with this new vision. He advised he knows of a couple of houses in Ward 3 that did not install sidewalks when they constructed the house so, that is two in just the four years that he has been on City Council.

MR. RADCLIFFE, WARD 4, thanked everyone for the good discussion in the Service/Finance Committees meeting and for Mr. Cummins putting together all the information on the sidewalk program. He said going back to the maps it is approximately 128,000 lineal feet of sidewalks that are still needed throughout the City. He said this year's sidewalk program of approximately 7,500 lineal feet is almost double what it has been the last few years, which is wonderful, but at that rate it is going to take 17 years to complete the City getting that done. Mr. Radcliffe advised that was the point he was trying to make earlier is the timing for that, but it was a good discussion for everyone.

MR. WITHERSPOON, AT LARGE, had no further comments.

MR. FISCHER, AT LARGE, had no further comments.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER, had no further comments.

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

MR. GASIOR, LAW DIRECTOR, advised he needs some clarification on the BZA guidance being requested. He asked if it was something that possibly should come as a memo from Council to the BZA that simply states that, “based on the sidewalk program that Council is contemplating instituting that Council strongly recommends no more variances for sidewalk installation be granted”. Mr. Gasior inquired or were they wanting to do something legislatively/ He said there is an existing Ordinance that says that you are supposed to put the sidewalk in and the reason that they go to the BZA for a variance. Mr. Gasior felt what Council would want to do perhaps is a memo that he could draft for them suggesting that “in light of Council’s aggressive approach to installing sidewalks in the City over the next five years, they strongly recommend no variances be granted for property owners who seek to avoid having to install a sidewalk”. He said that might have more effect than anything.

Mr. McBride advised he would simply recommend that Council remove the Board of Zoning Appeals authority to grant a variance for relief from installing a sidewalk. He said the only time a sidewalk should not be installed is if there is some type of engineering difficulty such as on Avon Road and there are a couple locations on the north side of Detroit Road and maybe those variances should be administrative recommendation through the City Engineer. Mr. McBride stated as a Council they can choose not to permit the BZA to grant variances for sidewalks. He said he served on the BZA for a while and more times than not the sidewalks were required to be installed and no variance was granted. Mr. McBride stated there were a couple of instances with a corner lot and those were because of financial hardship, which is not a reason to receive a variance, but at that time the sidewalk would lead to nowhere if it was installed and that is the basis that it was granted.

Mr. Radcliffe advised before they get to the point of changing the zoning code since this is the first time going after the BZA that maybe a quick summary of the properties that were granted variances for their sidewalk over the last 10-15 years would be best, so they know how much they are truly dealing with. He said BZA acts under the authority of the City Administration and Council only has certain rights to control some of that and Council should not govern over the Administration before they have all the information to make an informed decision. Mr. Radcliffe said but he is not opposed to reaching out to the BZA and letting them know, as Mr. Gasior said, Council’s stance on trying to move forward with more sidewalks and that Council would like to see that happen. He stated if the BZA has only granted three sidewalk variances over the last three years then it probably is not a big deal, but if they are granting three a month over the last three years then it is probably a bigger deal, and they should discuss it.

Mr. Gasior advised he would try to provide Council a copy of the affidavit that gets executed by the property owner regarding the responsibility to install sidewalks at a future date when they are granted a variance. He said he might have a rough idea of how many have been granted over the years and he would try to have that information for Council by the next packet.

Mr. Gasior wished everyone a Happy Easter.

MR. LOGAN, FINANCE DIRECTOR, had no further comments.

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

AUDIENCE: There were no comments from the audience members.

EXECUTIVE SESSION: 8:16 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. 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.

RECONVENE: 8:32 p.m.

A motion was made by Mr. McBride and seconded by Mrs. Demaline to Reconvene 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.

ADJOURN: 8:33 p.m.

A motion was made by Mr. McBride and seconded by Mr. Moore to adjourn the Regular Meeting of Council, 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.