

**MINUTES OF THE WORK SESSION OF THE COUNCIL OF THE
CITY OF AVON, OHIO HELD MONDAY, MAY 1, 2023
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING
AT 7:30 P.M.**

PRESENT: Council Members: 1st Ward – Jennifer Demaline; Council-at-Large – Tammy Holtzmeier; 2nd Ward - Dennis McBride; 3rd Ward -Tony 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/Economic Development Coordinator – Pam Fechter; Law Director – John Gasior; Finance Director– Steve Presley; Safety/Public Service Director – Duane Streator; Clerk of Council – Barbara Brooks

1. [ORDINANCE NO. 55-23](#) – AMENDING SECTIONS 1262.03, 1264.03, 1270.03, 1274.03 AND 1278.03 OF THE AVON CODIFIED ORDINANCES AS THEY PERTAIN TO FARMS AND LIVESTOCK IN THE CITY OF AVON Planning Referral/Mr. Gasior
The Second of Three Readings of Ordinance No. 55-23 will be held on Monday, May 8, 2023
A Public Hearing will be held on Monday, May 22, 2023 at 7:05 p.m.

Mr. Gasior advised they were still working on these livestock Ordinances, and everything was status quo right now.

2. [ORDINANCE NO. 56-23](#) – AMENDING SECTION 1280.04 OF THE AVON CODIFIED ORDINANCES DEALING WITH LOT AND YARD REGULATIONS FOR SPECIAL USES IN RESIDENTIAL DISTRICTS AS APPLIED TO FARMS AND LIVESTOCK Planning Referral/Mr. Gasior
The Second of Three Readings of Ordinance No. 56-23 will be held on Monday, May 8, 2023
A Public Hearing will be held on Monday, May 22, 2023 at 7:10 p.m.

Mr. Gasior advised nothing new to add.

3. [ORDINANCE NO. 57-23](#) – AMENDING SECTION 1280.05 OF THE AVON CODIFIED ORDINANCES DEALING WITH LOT AND YARD REGULATIONS FOR SPECIAL USES IN NONRESIDENTIAL DISTRICTS Planning Referral/Mr. Gasior
The Second of Three Readings of Ordinance No. 57-23 will be held on Monday, May 8, 2023
A Public Hearing will be held on Monday, May 22, 2023 at 7:15 p.m.

Mr. Gasior advised nothing further at this time.

4. [ORDINANCE NO. 58-23](#) – AMENDING SECTION 1280.06 OF THE AVON CODIFIED ORDINANCES DEALING WITH SUPPLEMENTAL REGULATIONS FOR CERTAIN USES AS APPLIED TO FARMS AND LIVESTOCK Planning Referral/Mr. Gasior
The Second of Three Readings of Ordinance No. 58-23 will be held on Monday, May 8 2023
A Public Hearing will be held on Monday, May 22, 2023 at 7:20 p.m.

Mr. Gasior advised nothing to add at this time.

5. [ORDINANCE NO. 59-23](#) – AMENDING SECTION 1222.02 OF THE AVON CODIFIED ORDINANCES TO DEFINE TERMS RELATED TO FARMING AND LIVESTOCK Planning Referral/Mr. Gasior
The Second of Three Readings of Ordinance No. 59-23 will be held on Monday, May 8, 2023
A Public Hearing will be held on Monday, May 22, 2023 at 7:25 p.m.

Mr. Gasior advised nothing further at this time.

6. [ORDINANCE NO. 60-23](#) – TO ACCEPT IMPROVEMENTS IN FIELDSTONE LANDING SUBDIVISION NO. 1 Mr. Streator
The Second of Three Readings of Ordinance No. 60-23 will be held on Monday, May 8, 2023

Mr. Streator advised they were still working with the developer to finish up a few items on the punch list. He said he and Mr. Cummins have a meeting with the developer on the site tomorrow so hopefully they can wrap up some of these items and have a timeline soon to update Council.

Mr. Gasior asked Mr. Presley if all the financial deposits have been received.

Mr. Presley confirmed that all that is required has been received.

Mr. Gasior advised the only thing really holding up this approval would be whatever punch list items have to be addressed in the field. He said if that is all taken care of this week then Council will be able to act on this legislation.

Mr. Streator agreed and said they would know more tomorrow.

7. [ORDINANCE NO. 64-23 – TO AMEND A SPECIAL USE PERMIT GRANTED TO THE CITY OF AVON FOR A PUBLIC PARK LOCATED ON EATON DRIVE AND KNOWN AS NORTHGATE COMMUNITY PARK TO INCLUDE ADDITIONAL IMPROVEMENTS](#) Planning Referral

Ms. Fechter advised as Council knows the City plans to install bathroom facilities in the parks beginning with Northgate Park. She said this is a Special Use Permit to add the bathrooms. Ms. Fechter indicated they were starting to gather supplies and once the approval is given by this legislation, the work should begin soon.

Mr. Gasior clarified Northgate Park already has a Special Use Permit and Council is being asked to Amend the Special Use Permit.

8. [ORDINANCE NO. 65-23 – AMENDING ‘256.04 OF THE CODIFIED ORDINANCES OF THE CITY OF AVON TO ELIMINATE THE POSITION OF COMMUNICATIONS MANAGER – POLICE DEPARTMENT](#) Mr. Streator

Mr. Streator advised this position was established a number of years ago and was never filled. He said as they are going through and updating the job descriptions it was determined this position is no longer needed and they are proposing the elimination of this position.

Mr. Gasior advised subsequently the Public Information Officer position was created, which has been filled and he anticipates that going forward that the PIO position would be the one maintained in the Police Department instead of the Communications Manager position that was created around 2010 or 2011.

9. [ORDINANCE NO. 66-23 - TO AMEND SECTION 1072.03 OF THE CODIFIED ORDINANCES OF THE CITY OF AVON TO INCREASE FEES FOR THE USE OF AVON-LIONS COMMUNITY CENTER](#) Ms. Harasimchuk

Ms. Harasimchuk, Recreation Coordinator, advised one of the things they do at Parks & Rec is take the reservations for the Community Center and the Avon Isle. She said they looked at the current fee schedule to see where they are and how long it has been since the rates were increased and that was back in 2012. Ms. Harasimchuk stated there was an Ordinance in 2019 where some restructuring of the rental hours was done, but no increase in the fees charged at either facility, it was more of going from a 2-hour rental to a 4-hour rental. She advised they are looking to slightly increase the fees for both facilities since it has been since 2012. Ms. Harasimchuk said they were looking to increase the fee for the Community Center \$20 for the 4-hour rental making it \$120 and then adding a Friday, Saturday, Sunday rental with the option for a 6-hour rental or an all-day rental. She stated they were finding that people either want to rent the facility for 5-6 hours or they want it all day on the weekends. Ms. Harasimchuk clarified they do not do double bookings because they have someone who cleans the facility after every rental to make sure it is just as nice for the next renter.

10. [ORDINANCE NO. 67-23 - TO AMEND SECTION 1073.03\(b\) OF THE CODIFIED ORDINANCES OF THE CITY OF AVON TO INCREASE FEES FOR THE USE OF AVON ISLE](#) Ms. Harasimchuk

Ms. Harasimchuk advised they were looking to increase the fee for the Avon Isle \$25 for the 4-hour rental and \$100 increase for the all-day rental. She said currently it is \$500 for all day and they were looking to increase it to \$600 for all day. Ms. Harasimchuk stated they looked at surrounding communities and what they charge for facility rentals and Avon is still one of the cheaper options. She advised they were also trying to add a Friday, Saturday, Sunday rental at the Avon Isle as well with either a 6-hour rental or an all-day rental to help with facilitating the scheduling etc.

Ms. Harasimchuk advised they hoped to offer the option of an online reservation system over the next couple of months. She said the renter can reserve the facility online and pay their deposit and then pay the hourly fees after that. Ms. Harasimchuk stated in order to accomplish that they need this proposed structure so that the software system can handle it. She advised the deposit was changed to just one deposit amount for either a resident or a non-resident. Ms. Harasimchuk said in the past there was a resident deposit amount and a non-resident deposit amount and that did not really make sense and the software system cannot handle all those variables.

Ms. Harasimchuk advised they have done quite a few updates at the Avon Isle and the Community Center over the past couple of years to make sure the facilities keep up with what people are looking for in a rental and keeping them looking nice.

Mr. Fischer advised he felt those were modest increases compared to demand and the use that the residents are getting out of these facilities, plus the upkeep to keeping them maintained.

Mr. McBride asked how they were ensuring that the residents have first option at certain times of the year when there is high demand for use of these facilities. He said he is assuming that they schedule the rental by first come first served, but he does not want our residents bumped out of prime rental times because non-residents are booking the facility.

Ms. Harasimchuk advised they do first come first served and they book a year in advance, but the rates for the non-resident are higher than for the residents and they could decide to look in the community where they live for a better rate. She said she has the numbers for usage of the facilities of residents versus non-residents from last year and at the Avon Isle 114 residents rented the facility and 24 non-residents rented the facility. At the Community Center they had 110 residents rent the facility last year and they had 25 non-residents rent the facility. Ms. Harasimchuk stated resident usage is strong and that only includes private parties and does not include Girl Scouts, the recreation programs that utilize these facilities or the French Creek Foundation or any of those Avon groups. She said she understands what Mr. McBride was saying and she is all for making sure the residents receive priority before it is opened to non-residents, but it would be really difficult to do that, and she has not figured out a way.

Mr. McBride advised from what he is hearing, it is not a big issue.

Ms. Harasimchuk answered it is not and she believes it is because the rates are significant for a non-resident as that is being proposed to be increased to \$800 for the day and \$600 for residents so that \$200 makes an impact. She said the renter still has to get their own food and do all their own décor and a lot of non-residents may not find it cost effective. Ms. Harasimchuk advised they are lucky that they have been able to serve residents for the majority of the rentals.

Mr. McBride asked when the balance was due after the reservation is made and the deposit paid.

Ms. Harasimchuk advised the balance is due 60 days prior to the event.

Mayor Jensen advised most people who rent the Avon Isle are local people. He said some of the local caterers are willing to come to the Avon Isle for an event where typically you have to rent their facility to have them cater your event. Mayor Jensen stated most people would rather rent a facility in their own community and if it does become an issue they could come back before Council to see if there was a way to correct that, but there has not been a need.

11. [ORDINANCE NO. 68-23 – TO GRANT A SPECIAL USE PERMIT TO DeVILLE DEVELOPMENTS, LLC TO CONSTRUCT AN OUTDOOR PATIO SEATING AREA FOR THEIR 2,554 SQ. FT. BUILDING TO BE LOCATED AT 1443 NAGEL ROAD SAID BUILDING TO BE LEASED TO THEIR TENANT, STARBUCKS](#)
Planning Referral

Ms. Fechter advised she would speak to the next three agenda items Ordinance Nos. 68-23, 69-23 and 70-23. The DeVille Development group who built City Centre in Avon is proposing a development called Nagel Crossing on the corner of Just Imagine Drive and Nagel Road. She said this is the last Special Use Permit for outdoor seating that does not include the drive-thru since Council passed Ordinance No. 38-23 to make drive-thrus a Special Use in the C-4 district. Ms. Fechter advised this application came in prior to that Ordinance becoming effective so this Special Use Permit is only for the outdoor seating. She added that the Special Use for Starbucks has a drive-thru and Chipotle and Noodles have a drive up carry-out window.

Robert Brown of DeVille Developments, LLC, located at 3951 Convenience Circle, Canton, Ohio advised there are three outdoor patio areas in this development. Starbucks will be a freestanding building on the north side of the property, and it will have a small patio on the front and he showed the architectural rendering of what the building will look like. The patio typically has 3 or 4 tables and there would be fencing around the patio with concrete bollards every 5 feet in line with the fence posts for safety.

The Council President referred Ordinance No. 68-23 back to the Planning Commission. See also item nos. 12 and 13.

12. [ORDINANCE NO. 69-23 – GRANTING A SPECIAL USE PERMIT TO DeVILLE DEVELOPMENTS, LLC TO CONSTRUCT AN OUTDOOR PATIO SEATING AREA FOR THEIR 7,180 SQ. FT. BUILDING TO BE LOCATED AT 1485 NAGEL ROAD SAID BUILDING TO BE LEASED TO THEIR TENANT, CHIPOTLE](#)
Planning Referral

Mr. Brown advised the site plan shows Chipotle on the northwest corner of the property and the building would face Nagel Road. He said there was also a small patio proposed for Chipotle with approximately 10 tables and again there would be the same type of fencing around the patio and pedestrians can still walk around it without being hindered by the pavement.

The Council President referred Ordinance No. 69-23 back to the Planning Commission. See also item nos. 11 and 13.

13. [ORDINANCE NO. 70-23 – TO GRANT A SPECIAL USE PERMIT TO DeVILLE DEVELOPMENTS, LLC TO CONSTRUCT AN OUTDOOR PATIO SEATING AREA FOR THEIR 6,800 SQ. FT. BUILDING TO BE LOCATED AT 33420 JUST IMAGINE DRIVE SAID BUILDING TO BE LEASED TO THEIR TENANT, NOODLES,](#)
Planning Referral

Mr. Brown advised the third building on this property is a Noodles & Company restaurant and it will have the Just Imagine Drive address and would be closest to the Residence Inn. It is a very similar design to the Chipotle building so they all look cohesive. He said the Noodles & Company patio would have approximately 4 or 5 tables with the same design fencing and the security bollards were all in line with the fence posts.

Mr. Fischer advised it is his understanding that Noodles and Choptle will not have a drive-thru.

Mr. Brown advised that is correct; it is not a drive-thru, but it is a pickup window. He said the customer orders online and prepays and you drive up and pickup your order at the window. Mr. Brown stated it is designed as a drive-thru with 10 stacking spaces just like the Code requires, but it is only a pickup window. There is no menu board or order box. He anticipated the most cars in line at any given time would only be 2 or 3 from their experience with other locations in northeast Ohio that have the same set up.

Ms. Fechter advised they do have the 10 car stacking for both Chipotle and Noodles and they have also provided 2 parking spaces in case someone needs to park and leave, even though there is no ordering or paying in the pickup line.

Mr. Fischer advised he understands that Starbucks received conditional approval from the Planning Commission. He asked if those issues have been cleared up as far as engineering.

Mr. Cummins advised no, those have not been cleared up yet. He said part of that was making sure that there is agreement on the layout of the Starbucks drive-thru line and then that will result in the final plans being able to be prepared and then approved.

Mr. Fischer inquired as to when they expect those corrections to be made.

Mr. Cummins advised he would expect those to come any day now.

Mr. Brown advised they have stacking for 18 cars for the Starbucks line before it gets into the parking lot. He said they calculated there could be over 30 cars in line before it would ever get into the street. Mr. Brown stated they have 14 Starbucks in northeast Ohio and one of them is the top 5 in the State and the most he has ever seen are 18 cars at that Starbucks and that is one of the busiest and without another Starbucks within 30 miles.

Mr. Gasior advised he wanted to clarify that the Planning Commission has approved the Final Development Plan, which does not come to Council, but it was contingent upon some of these engineering issues being resolved. He said what Council has in front of them tonight are 3 Special Use Permits for outdoor patios at these restaurants. Mr. Gasior stated whether Council wanted to act on these is up to them, but it is conceivable that the final engineering plan and the final development plan could impact the layout of the development and change the configuration. However small that percentage may be for an outdoor seating area he did not know. He advised he believes the idea here was to hold off on approving the Special Use Permits for the outdoor seating areas until the Final Development Plan is final, meaning that those engineering contingencies have been resolved. Mr. Gasior said as Mr. Cummins pointed out, they are trying to get those issues resolved every day, but they do not know when that is actually going to happen.

Mr. Fischer asked what the issues are they were looking at.

Mr. Cummins advised at the Planning Commission meeting there was a significant amount of discussion about the Starbucks drive-thru and the layout and whether to have one order station or two order stations. He said what Council sees before them tonight is different than what was presented at the Planning Commission meeting. Mr. Cummins stated this was submitted after the Planning Commission meeting and there were some discussions with Starbucks about having a dual ordering line or not, but this is what they came back with. He advised he would need this layout or a layout to be approved in order to in theory have the final engineering plans as that will rely on having the final site layout. Mr. Cummins said there were some separate issues with the general development plan that they have since made revisions and submitted and there will be more discussions about that as well, but that is not a part of the City Council process.

Mr. Cummins advised that Mr. Gasior is correct in that it is conceivable in some manner that if there is this approval of the outdoor seating in some area that it would change the site plan and that in a sense would have to change the final engineering plans. He said as it sits right now, there is some amount of uncertainty with the drive-thru and once that is resolved then they can proceed with getting the final engineering plan approved.

Mr. Fischer advised his one concern is when they receive a recommendation from the Planning Commission that has contingencies and then asking Council to vote on something that may or may not change. He said he is hearing that the Final Development Plan may change and Council is voting on the outdoor seating that may or may not change.

Mr. Brown advised the outdoor seating plan and the buildings configurations are not going to change. He said they cannot change those configurations and they have tried every which way and have tried to listen to everyone's input and interpretations. Mr. Brown stated the Starbucks drive-thru has 18 stacking spaces within it and the City Code only requires 10 so they have far exceeded the City Code requirement. He advised he was a little confused on if there is a City Code how that does not seem to matter. Mr. Brown said to address the Starbucks issue with the double ordering drive-thru, this site plan is very similar to the one they had at the

Planning Commission with the only difference being the one at the Planning Commission meeting, the island was not on the site plan. He stated Starbucks added the island to try to help ease the merging of the two lanes. Mr. Brown advised Mayor Jensen brought up the issue with the double order drive-thru at the Planning Commission meeting that he had not seen before with Starbucks, so he contacted Starbucks company and he was told that Starbucks does not do the double order drive-thru's anymore because they are a problem and they create more hassles than they are worth. He said he took what they could get Starbucks to agree to knowing that the Code said there had to be at least 10 stacking spaces and they are proposing 18 stacking spaces before it even comes out into the parking area, and they feel that they have done everything that the City has asked them to do and then some. Mr. Brown stated they have looked at many different ways to try to reconfigure it and he felt there was nothing else they could do to this site to make it exceed the Code even more than it already does.

Mr. McBride advised he does not care if they approve the outdoor seating or not. He said the issue he has is that this site is jammed in here. Mr. McBride asked how wide that drive-thru lane is at Starbucks.

Mr. Brown advised it is a standard drive-thru lane width.

Mr. McBride said but there is no escape lane.

Mr. Brown advised there is no escape lane required in the Code.

Mr. McBride stated there was no place for anyone to get out of the line. He felt that was bad planning. Mr. McBride said even though the other two locations are pick up only he felt people would be shoehorned in. He advised if there is an emergency, and someone needs to pull out of line and leave or pull around and walk up to the door and do the pickup. Mr. McBride said people cannot always wait in the car and he does not mean to insult the developer, but he would rather give up some acquired frontage on Nagel Road and Just Imagine Drive so that there is that additional width so that an escape lane can be added at each of those buildings. He stated there was no way to drive out; the motorist was trapped. He indicated there is a coffee shop drive-thru across the street from City Hall where you cannot get out of line and they are slow and the coffee shop drive-thru line at City Centre backs up into the traffic lane inside the shopping plaza and creates havoc on the weekends and some weekday mornings as well. Mr. McBride advised he was taking out his frustrations on the developer and he did not mean to be, but he felt it is a very short-sighted layout and the Planning Commission should have done a better job and that was the bottom line.

Mr. Moore asked the number of feet from car #1 to car #17.

Mr. Brown said they figure about 20' per car on average so for 17 cars it would be roughly 340'.

Mr. Radcliffe advised there was some good conversation at the Planning Commission meeting about all of this and letting Mr. Brown and Mr. Cummins work through all this yet. He said from the conversation that was happening earlier in Council tonight with all the things that were changed being mentioned, it does not seem like that has gotten through the engineering process yet. Mr. Radcliffe stated Council was not voting on these three Special Use Permits tonight and the earliest would be next Monday for a vote and Mr. Cummins mentioned that he expected the engineering to be finalized any day. He suggested they could make this a first reading next week and then in another two weeks they would hopefully have worked through all the issues and then he does not believe Council would have an issue with the outdoor seating. Mr. Radcliffe advised the issue was that they were trying to pass something for a Special Use Permit where a final plan has not been approved yet.

Mr. Cummins advised it takes clarity on all aspects of the site design in order to finalize the site design. He said if this is the final layout that is deemed acceptable to all bodies that would potentially be approving it then absolutely, they can proceed with getting the final engineering plans set and working out all of the details such as grading and drainage and all of those things. Mr. Cummins stated that is what he needs in order to advance that forward.

Mr. Radcliffe said it just does not sound like we are there yet so he is just questioning why they are pushing this forward just yet.

Mr. Fischer agreed and said until the engineer and the Administration and most importantly Council is onboard with the plan, there is no reason to be voting on this next week.

Mayor Jensen indicated City Council has to decide whether they want to make the decision that this layout is okay and then Mr. Cummins would have something to use to complete the engineering review. He said from his perspective serving on the Planning Commission, Mr. Cummins does not have the ability to make that call to decide the final layout as the City Engineer. Mayor Jensen advised in hindsight the Planning Commission should not have given conditional approval, but Mr. Brown wanted to have conditional approval to move it forward only to find out that the final review cannot be completed so that does not make any sense to give conditional approval. He said they should not be putting the burden on Mr. Cummins to make a decision that City Council could make.

Mr. McBride advised looking at the renderings he felt the fencing was all great. He said they have a similar black wrought iron fence with the cables on the business at SR 611 and Detroit, the Alten House (Nemo's Grille), and it is a very nice look. Mr. McBride stated it was the overall layout as he felt there needed to be a way to get that space in there. He said City Centre is a mess and that was the bottom line and while he knows there were some unique issues with that plaza, Council turned down taking parking spaces away from an ice cream store in that area because it is not a great layout and Starbucks and a couple other stores at City Centre make it a bigger mess and that is where he is coming from. Mr. McBride felt that frankly the City had been burdened by coffee shops in this town. He thanked the developers of Nagel Crossing for adding a lot of stacking spaces for this site as that is a great job. Mr. McBride felt there should be a way to tweak this drawing and get the available space. He advised he knows what is going to happen, three years down the line and then they were going to want an order window and then they would have to figure out how to get it in there. Mr. McBride said he knows that is not the matter at hand right now and he is good with the outdoor seating.

Mr. Gasior advised it is a procedural issue that he thinks he is hearing here and that is that the Planning Commission in April granted a contingent approval, but they put that contingent approval on the City Engineer and yet it really should not fall on the City Engineer. He said he feels it should fall squarely with the Planning Commission and he would recommend that this matter be referred back to the Planning Commission that will meet next on May 17th. Mr. Gasior stated that would give everyone a chance administratively to try to find out which plan is going to go in front of Planning Commission on May 17th and be finalized. That Final Development Plan has to be done and voted on by Planning Commission on May 17th. He advised the President of Council could then bring these three Special Use Permits back to City Council for the May 22nd Regular Meeting at which time there can be a vote. Mr. Gasior said this is a Council Work Session where the items were thoroughly discussed and on the 22nd before the vote, if there is anything else that needs to be added to the discussion it can be had at that time. He stated he felt it will solve the problem of having this final decision on the layout falling into the City Engineer's lap and at the same time get the approval of the Special Use Permits by the 22nd of May. Mr. Gasior advised because what he is hearing is that there is a possibility that there would be the first of three readings on May 8th which would end up falling into the second of three readings on the 22nd of May. He suggested Council may decide to vote by suspension of rules on the 22nd if everything is in order. Mr. Gasior said Council could refer the matter back to the Planning Commission to reconsider their contingent approval and reconsider the final development plan.

Mr. Fischer advised if it is referred back to the Planning Commission, he felt the project would probably be approved sooner as opposed to doing the full three readings in Council as that would go into June. He said this way Planning Commission could make a final decision and remove any contingencies on May 17th and Council could consider it again on May 22nd. Mr. Fischer stated he would be more comfortable with that.

Mr. McBride advised he agrees this should not fall on the City Engineer. He said he felt if they work together, they could get this fixed. He did not see why they could not vote on it next Monday, May 8th. Mr. McBride asked if it could happen that quick.

Mr. Fischer advised he did not want to put that burden on Mr. Cummins this week and the attorneys trying to figure this out and there was no reason they cannot put this off a couple weeks. He said he would give others a chance to comment, but that is what he is inclined to do at this point. Mr. Fischer stated he does not believe that Council has a problem with Chipotle or Noodles, it is just that he does not want Council to vote on something

next week that has contingencies that have not been worked out and it is something that might or might not change and it would need to be amended a month from now.

Mr. Brown advised he knows there is concern about there not being an escape lane for someone who gets in a drive-thru line and orders and then changes their mind and of course that is not the right thing to do to the business. He said if someone has an emergency of some sort, and they need to get out of the line and there are six vehicles in front of them and six vehicles behind them he suggested they could make a low profile rolled curb and they could just turn the wheel and get out.

Mr. McBride said that works for Chipotle and Noodles.

Mr. Brown said in theory it could work for all three establishments.

Mr. McBride advised with Starbucks, they would in theory be going into the oncoming lane of traffic.

Mr. Brown said it would be similar to turning out of a driveway as you could go either way.

Mr. Radcliffe said they have experience showing that things back up at a number of the coffee locations throughout the City and that is the biggest issue. He said the order board is at car number 8 leaving 10 which is to Code, but they are working on trying to update that and this is the last one before those new regulations take effect. Mr. Radcliffe stated he was sure there would be changes coming for this type of request, but these things take time and they are just trying to do the best job they can so that two years down the road they do not have traffic stacked onto the main right of ways like they do in two other locations when these places are busy. He said the Police are at these locations all the time due to traffic issues when things back up and the City is aware it is a problem and they just do not want to deal with it again. Mr. Radcliffe advised there is a lot of proposed stacking inside the proposed parking lot, which is good as that creates smaller issues than having the traffic flow out onto a main road like Nagel Road or Just Imagine Drive and that is appreciated from his standpoint.

Council President Fischer referred Ordinance Nos. 68-23, 69-23 and 70-23 back to the Planning Commission to remove any contingencies and take the burden off the City Engineer and sort everything out before it comes back in front of Council. See also item nos. 11 and 12.

Ms. Fechter advised they would take item nos. 11, 12 and 13 back to the Planning Commission and bring them back to Council once all the contingencies have been removed.

Mr. Gasior advised once the final development plan is approved by the Planning Commission everything would be brought back and hopefully, they would be on the Council agenda May 22nd.

14. [ORDINANCE NO. 71-23 – AUTHORIZING AN EXTENSION OF TIME WITHIN WHICH TO COMPLETE IMPROVEMENTS IN CONCORD VILLAGE SUBDIVISION NO. 3](#) Mr. Gasior

Mr. Gasior advised the developer of Concord Village has requested a one-year extension on installing the improvement, which consists of a waterline. He said the letter indicates why they need the extension of time and he incorporated the letter as Exhibit A to the Ordinance. Mr. Gasior stated Council has granted extensions in the past and he did not see anything earth shattering and if there are any questions or concerns, he could talk to the developer, but he felt the letter was self-explanatory about some of the difficulties the developer has had with certain agencies to get permits.

15. [RESOLUTION NO. R-23-23 – IN SUPPORT OF SUBMISSION OF AN APPLICATION TO THE OHIO ASSOCIATION OF REGIONAL COUNCILS \(OARC\) THROUGH THE NORTHEAST OHIO AREAWIDE COORDINATING AGENCY \(NOACA\) FOR FEDERAL CONGESTION MITIGATION AND AIR QUALITY \(CMAQ\) FUNDING](#) Mr. Cummins

Mr. Cummins advised they are looking to submit an application to fund an improvement project at the intersection of Detroit Road and Jaycox Road. He said in total, this would be a \$7.6 million project and the City is seeking funding of just under \$4.6 million of the \$7.6 million leaving approximately \$3 million local funds. Mr. Cummins

stated the project included widening of Detroit Road, having a right turn lane in each direction and having the turn lanes both left, right on all legs be an appropriate length. He advised the project would minimize the slope that comes up Jaycox Road as they head southbound and approach the intersection and improve the sight lines associated with that and improve the safety. Mr. Cummins said this is through a grant program dealing with congestion mitigation and air quality with the thought being that if cars are stuck in traffic, they are contributing to poor air quality and there is a set pool of money available for projects that minimize that. He stated this is a Resolution authorizing the submission and supporting the submission of that application.

16. REPORTS AND COMMENTS

MAYOR JENSEN apologized to Council for the debacle with the coffee shop earlier in the meeting. He said when Planning Commission discussed it, it was thought that the applicant could come up with a resolution that all parties would be satisfied with and that it would not come down to Mr. Cummins making that decision. Mayor Jensen stated it was brought forward that there were time constraints, and the Planning Commission and the Administration tried to work through that and obviously that did not work out. He appreciated Council sending it back to the Planning Commission and hopefully they will come up with a resolution that Council can live with, but there will probably still be some engineering that will be strictly engineering contingencies because they will still be rushing it forward, but hopefully everything else will be worked out. Mayor Jensen advised as Council heard from Mr. Brown that Starbucks was not willing to budge too much farther from the plan presented tonight although they will be looking at rolled curbs to give traffic an emergency exit access. He said our Code states there has to be 10 stacking spaces and they are proposing 18 stacking spaces. Mayor Jensen stated they would try to come back to Council with something that hopefully was not a strictly engineering decision. He advised they thought based on the comments at the Planning Commission that they would be able to work something out. Mayor Jensen believed that the applicant emailed Ms. Fechter saying that Starbucks was not willing to make concessions, but that was not the impression that Mr. Brown gave to the Planning Commission. He said they would try to make sure they do a better job going forward.

MRS. DEMALINE, WARD 1 had no comments.

MRS. HOLTZMEIER, AT LARGE had no comments.

MR. MCBRIDE, WARD 2 advised he spoke with Mr. Eppley of the Jacobs Group, selling the property to DeVille Developments, before the start of tonight's meeting and he indicated that Starbucks was not willing to change anything. He said the developer is probably not the issue as much as it is Starbucks as they do not want to budge and it is what it is.

MR. MOORE, WARD 3 asked Mr. Presley if he could contact a representative from NOPEC to see if they were available to come to a Council Meeting to have a discussion as he has had some residents ask him about the emails from NOPEC and their dissatisfaction with them. He said many are still confused about the program and he felt it would be good to have them come to Council and have a conversation.

Mr. Presley advised he would give them a call tomorrow and see if they can set something up, if not for this coming Monday then the following one at a Work Session.

MR. RADCLIFFE, WARD 4 had no comments.

MR. WITHERSPOON, AT LARGE had no comments.

MR. FISCHER, AT LARGE had no comments.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER had no comments.

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

MR. GASIOR, LAW DIRECTOR requested an Executive Session to discuss a matter of pending litigation and it is very important and he would like Council to invite Mr. Presley and Mr. Streator into the Executive Session.

MR. PRESLEY, FINANCE DIRECTOR had no comments.

MR. STREATOR, SAFETY DIRECTOR/PUBLIC SERVICE DIRECTOR reported that the Fire Department totals for April were 259 EMS calls and 66 Fire calls for a total of 325, which is up a little from last year in each category.

Mr. Streator advised that the road closure at Main Street and Middle Road has gone very well so far. He said they were ahead of schedule on that because the weather was good, but the weather this week will not be helping so the other paving projects are on hold until it gets a little warmer, hopefully by the end of the week they would start seeing some progress.

AUDIENCE:

There were no comments from the audience members.

16a. EXECUTIVE SESSION: 8:33 p.m.

A motion was made by Mr. McBride and seconded by Mr. Moore to Enter Into Executive Session for the Purpose of Imminent Litigation and to invite Finance Director Presley and Safety/Service Director Streator, 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.

16b. RECONVENE: 8:50 p.m.

A motion was made by Mr. McBride and seconded by Mr. Witherspoon to Reconvene the Work Session of Council, 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.

17. ADJOURN: 8:51 p.m.

There being no further business, the Work Session of Council was adjourned.

PASSED: _____

SIGNED BY: _____
Brian Fischer, Council President

ATTEST: _____
Barbara Brooks, Clerk of Council