

**PUBLIC HEARINGS
MONDAY, MAY 22, 2023**

7:05 P.M. – Council President Fischer opened the Public Hearing for Ordinance No. 55-23

ORDINANCE NO. 55-23 – AN ORDINANCE 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

There being no comments, the Public Hearing for Ordinance No. 55-23 was closed at 7:06 p.m.

7:10 P.M. – Council President Fischer opened the Public Hearing for Ordinance No. 56-23

ORDINANCE NO. 56-23 – AN ORDINANCE 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

There being no comments, the Public Hearing for Ordinance No. 56-23 was closed at 7:11 p.m.

7:15 P.M. – Council President Fischer opened the Public Hearing for Ordinance No. 57-23

ORDINANCE NO. 57-23 – AN ORDINANCE AMENDING SECTION 1280.05 OF THE AVON CODIFIED ORDINANCES DEALING WITH LOT AND YARD REGULATIONS FOR SPECIAL USES IN NONRESIDENTIAL DISTRICTS AS APPLIED TO FARMS AND LIVESTOCK

There being no comments, the Public Hearing for Ordinance No. 57-23 was closed at 7:16 p.m.

7:20 P.M. – Council President Fischer opened the Public Hearing for Ordinance No. 58-23

ORDINANCE NO. 58-23 – AN ORDINANCE AMENDING SECTION 1280.06 OF THE AVON CODIFIED ORDINANCES DEALING WITH SUPPLEMENTAL REGULATIONS FOR CERTAIN SPECIAL USES APPLICABLE TO FARMS AND LIVESTOCK

There being no comments, the Public Hearing for Ordinance No. 58-23 was closed at 7:21 p.m.

7:25 P.M. – Council President Fischer opened the Public Hearing for Ordinance No. 59-23

ORDINANCE NO. 59-23 – AN ORDINANCE AMENDING SECTION 1222.02 OF THE AVON CODIFIED ORDINANCES TO DEFINE TERMS RELATED TO FARMING AND LIVESTOCK

There being no comments, the Public Hearing for Ordinance No. 59-23 was closed at 7:26 p.m.

**MINUTES OF THE REGULAR MEETING OF THE COUNCIL
OF THE CITY OF AVON, OHIO, HELD MONDAY, MAY 22, 2023
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING
AT 7:30 P.M.**

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

PRESENT:

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

ADDITIONS AND DELETIONS

A motion was made by Mr. McBride and seconded by Mr. Moore to amend the agenda by adding an Executive Session for the purposes of discussing the purchase of real estate and the threat of imminent litigation as Item 20A and adding Reconvene to the Regular Meeting of Council as Item 20B, and the vote was: Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to accept the agenda as amended, 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.

PRESENTATION FROM NOPEC

Jose Delgado, Relationship Manager with NOPEC, stated that he was there to provide an update on aggregation and where they are at this moment. He then presented an informational video to Council which can also be viewed on YouTube at the following link:

<https://www.youtube.com/watch?v=9la4AXOviCk&t=3s>

Mr. Delgado said that the video mentioned that right now we are looking at aggregation. It mentioned that if you are eligible and received an enrollment letter and you took no action, you are automatically enrolled in our standard program rate. That rate is 6.45 cents per kilowatt hour and will be effective from the June meter read up until the December meter read of 2023, a six month period. At that point then that rate is subject to change. The video mentioned fixed rates, one is a 12 month rate and one is a 24 month rate and if you wanted to have one of those options, you would call NOPEC’s Customer Care and they will adjust your account to whatever you wish. Those rates are: 6.875 cents per kilowatt hour for 12 months and 6.85 cents per kilowatt hour for 24 months. So relative to the market, today for Ohio Edison, if you have not heard already, the utility is going to go from where it is right now, about 6 cents per kilowatt hour to 12.4 cents per kilowatt hour. The average right now through other retail suppliers according to Energy Choice Ohio, otherwise known as Apples to Apples, is 7.43 cents per kilowatt hour. So the options are to stay with NOPEC or shop for another retailer on Apples to Apples. What a customer

should be aware of is that if you are using Apples to Apples, just be mindful of not only the rate but also the terms and conditions that go along with that agreement with the supplier.

Mr. Delgado said that Avon is also a natural gas aggregation and as mentioned on the video, if you did nothing you are going to be automatically enrolled in the standard program rate. Again, you have two fixed options and for both electric and gas, you also have a third option and that is a discount off the utility rate. The electric is not as attractive given where the utility is going to be but that option also exists for natural gas. So if you took no action and you receive an enrollment letter for our natural gas aggregation, the rate for our standard program price is .599 cents per ccf with Columbia Gas and our two fixed rates are .599 for the 12 month and .609 for the 24 month.

Mr. Delgado said if you look at the gas on Apples to Apples, right now the utility is offering a .39 cent per ccf credit rate and if you were to opt into our monthly rate with NOPEC to get a discount for utility you can do that. But the average offer on Apples to Apples right now is .681 cents per ccf. So to give you some context of NOPEC's offer compared to the market, all of the rates are available on Apples to Apples, Energy Choice Ohio. Also, for NOPEC's rate you can go on our website and see those rates.

At this point, Mr. Delgado said he would be happy to answer any questions.

Mr. Moore stated that he had received a couple calls from one of his residents and he told her that he would make sure that he passed along the information of how unhappy she was with NOPEC. She tried to opt out but was getting disconnected from her fax in trying to do that. She just thinks it should be a little easier to opt out and maybe understand and not seem so deceptive. Also, she was not given a return envelope to mail in the opt out form and there was no address in the letter of where she could send it so she just assumed it was the return address and sent it and hoped that she was opted out.

Mr. Delgado stated that he readily fields questions from elected officials or residents regarding their accounts with NOPEC, and tries to help them along the way and to understand what their options are. Mr. Moore's caller can opt out at any time with NOPEC and there is no fee or penalty to do that. Mr. Delgado said that he could send Mr. Moore an email and share his contact information and he would be happy to meet with Mr. Moore's resident or talk to her on the phone to address her issues.

Mayor Jensen asked Mr. Delgado what are the things that NOPEC has put in place so what happened this last year does not happen again? He said that he has talked with Mr. Delgado numerous times and has always had a positive experience, but he thought that lack of communication on NOPEC's part really did a disservice to the company and it is going to take awhile to recover from that. He knows that toward the end, the company opted everybody out which was the right thing to do but they waited so long to do it. What can we tell our residents that shows that it is not going to happen again, that NOPEC learned lessons from what happened and that we will not see that again.

Mr. Delgado said that his role as Relationship Manager is to try to insure that the communities that he manages have the best possible NOPEC experience. Part of that is being here, but also part of that is getting feedback from the community of what we do well and what gaps we have and then to address those. So one of those efforts about increased communication is that we have had several of these informational meetings and have made the effort to be more available to our communities, whether it be as an individual Relationship Manager or as the organization as a whole. As far as what steps we have taken to mitigate what happened last summer, the first is to realize that what happened last summer was kind of a perfect storm of a lot of different factors, local, federal, and global from the market standpoint. We have learned from that and we have implemented a third party auditor so this group or person is going to be working along with us as we move forward and look at the market and make decisions when it

comes to procurement. You mentioned how this can be confusing so he tries to ensure that whenever he is communicating with someone, he provides as much information as possible to let them know what the options are. He said that he makes himself as available as possible so if you do have a question you can call, email or text him and he would be happy to address your issues.

Mayor Jensen said that Mr. Delgado talked about that perfect storm. There is a perfect storm going on within the industry right now but NOPEC is kind of away from that because they locked in for all the residents so we are not experiencing that same storm but it is still out there. Mr. Delgado said, yes, the market is still volatile. When it came to procuring the energy last summer, it had to do with timing as much as anything else so what we have done now is, we have had the third party auditor come in to support us in our efforts and, in addition, our supplier, Next Era Energy, is aware of the issues that occurred last summer and is making sure that we are communicating with our communities as we move forward.

Mayor Jensen stated that the one thing that he felt was positive about NOPEC was that they stayed away from variables; they locked in everybody's rate at the time of year that it would have been the lowest. He thought that with the electric they stayed with the variable and they have learned their lesson not to do that. They are not going to be everything to everybody but what made most of our seniors feel comfortable was that NOPEC's rate might be slightly higher than what they could have found on their own, but by not having to worry about it, NOPEC was always competitive and the work that it would take to try to get a better rate was not worth the effort. But again, once it was variable, anything could happen in the market.

Mr. Delgado said, yes, and just to make sure that we are clear, the standard program price that we are going to announce in June is fixed for a 6-month period. Anybody who wants to have a fixed rate, can call in before the June date and have that changed to one of our fixed rate options – the 12-month or the 24-month. During the 6-month period from now until December, 2023, they are in the 6.45 rate, and as we get closer to that December meter read, they can always call NOPEC knowing that at the December, 2023 meter read it will be subject to change. They can call our Customer Care and ask for a fixed option and there is no fee to do that. Mayor Jensen asked if, once we get into December, they will lock in another rate and Mr. Delgado said that the standard program price will be subject to change so it will be variable after December, 2023, but we do have our two fixed options. So as we get closer to the December, 2023, meter read, people can call in and opt for one of the two fixed options and those two fixed options are always going to be there. And again, there is no fee to do that.

Mr. Radcliffe noted that Avon has been part of NOPEC for quite a few years, he believed going back to the 1990s. Mr. Delgado said for electric, Avon joined in 2000 and for natural gas, in 2002. Avon is one of the first communities that joined NOPEC right when deregulation was taking place in Ohio. Mr. Radcliffe said, and going forward after this December reading, he knows that the residents can go out to that Apples to Apples site and plan ahead for that, but do you have plans to help residents make that choice after the December reading? Are you planning to put out some more information later this fall that will help residents choose, the educational information for the residents to help them understand how you are going to be priced after December vs others?

Mr. Delgado stated that they are working on their communication to make sure they are informing their customers about the market and what that means and different terminology and the options they have. Their rates are posted on their website 30 days before any change so the residents can make an assessment for themselves of whether they want to stay within a different program within NOPEC or they want to prepare for the market. So we encourage customers to be knowledgeable and to understand what they are reading and the options that are available to them.

Mr. Radcliffe said, so in summary, you have your rate now until the December reading and 30 days prior to that reading, you will post your rate going forward but you also have your two fixed rates right now for 12 and 24 months and those stay fixed until the end of December. So when that 30 day period opens up in December, residents are going to have the option to still do the 12 and 24 month period at that rate or will those 12 and 24 month rates change over the next 6 months? Mr. Delgado stated that those 12 and 24 month rates are subject to change from now until then so what you see this billing period this month may not be the same as what you see next month. But once you choose say 24 months and it is 2 months into that term that you picked and you see a more attractive option, you can call Customer Care and ask to be switched regardless of how far you are into one of our terms.

Mayor Jensen asked what if a community wants to change that? The difficult thing he sees is that making each person call would make it more difficult than saying we want a locked-in rate as a community and if they want to opt for a variable, they could call and do that. His fear too is that we forget, somewhere along the line, that we are on a variable and if we do want to change it we have to call. That kind of makes it a little more difficult for us as a City to protect all of our residents as they could get caught in the same thing that happened last year; their rates are going up because they did not call in. Mr. Delgado said, so we have the four options right now for our communities. Mayor Jensen said, but you have to call for those options; you have one option that you are automatically in. Mr. Delgado, yes, right now one option is the default option, which again we look to be somewhere between the top 3% to 5% in the market and that has been the case traditionally over the last 20 or so years. Mayor Jensen said but the frustration that Council gets is when it happened last year, no one was prepared for it so that is the part where he thinks we are going to get grief again if something happens and we did not change or someone did not call you, you are locked into the default which is only until December. After December it is anybody's guess of what could happen and now we are back to the same thing again. Mr. Delgado said, again, he makes himself available. As we are moving through this period, NOPEC is committing to our communities that we are going to be communicating with them to make sure that they are informed with what is happening.

Mayor Jensen said that they appreciated Mr. Delgado coming tonight and we will have some more discussion.

Mr. Fischer said that when Mr. Delgado stated that he was available to talk to people, how would they get hold of him and Mr. Delgado said that they could call his cell phone number, 330-573-9216.

Mr. McBride stated, so at the end of December, your experts should know where the electric market is and instead of letting people float free, why isn't NOPEC just locking everyone in to a new fixed rate and then people can call and opt out. That was kind of the purpose of NOPEC; it was supposed to be just hit the easy button and not have to worry because you were always going to get the best rate whether it is fixed or variable or what it is called, but that is some of the frustration that is going on.

Mr. Delgado said, as far as the best rate, NOPEC has always committed to providing a very competitive rate and when he mentioned earlier, Apples to Apples, rate is definitely a factor but be mindful of the terms and conditions. One of the terms and conditions that we feel is a value to our communities is that we do allow the flexibility to switch products within NOPEC with no fees.

Mr. McBride stated that the bottom line is maybe it is not the best rate but it is the smart thing to do rather than letting everyone float free in the variable rate. Why isn't NOPEC just locking that in for everybody if it is going to be the better long-term deal? It should be mindless. NOPEC has the rate experts and the people watching the market. Mr. Delgado stated that the fixed rate at any one time can be a good deal

but as months go by that fixed rate which was attractive at one point in time, may not be as attractive so within NOPEC if you have chosen that fixed rate and 6,12, or 18 months later, it is not as attractive anymore, you have the power to switch. Mr. McBride said it should not be on the consumer to do that. That is NOPEC's job. NOPEC should be moving everybody en masse to lock in a fixed rate and if all of a sudden there is a better deal out there, they should transfer everyone over to the better deal; that is what he is saying. Why do the residents have to do the work? That is the reason that the residents voted NOPEC in to do the aggregation, so it was basically hit the easy button and be done.

Mr. Delgado said that he understood Mr. McBride's point but he just wanted to reiterate that by having the different options, the terms and conditions, and the flexibility, NOPEC hopes that they are providing the best possible value overall.

Mr. Fischer thanked Mr. Delgado and said that we appreciate him coming tonight.

MINUTES OF THE WORK SESSION OF COUNCIL HELD MONDAY, MAY 1, 2023

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to dispense with the reading of the minutes of the Work Session of Council held Monday, May 1, 2023, 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.

MINUTES OF THE MEETING OF THE FINANCE AND LEGAL COMMITTEES OF COUNCIL HELD MONDAY, MAY 8, 2023

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 Finance and Legal Committees of Council held Monday, May 8, 2023, and to approve said minutes as published, 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.

MINUTES OF THE REGULAR MEETING OF COUNCIL HELD MONDAY, MAY 8, 2023

A motion was made by Mr. McBride and seconded by Mr. Moore to dispense with the reading of the minutes of the Regular Meeting of Council held Monday, May 8, 2023, and to approve said minutes as published, 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. 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

The Clerk read Ordinance No. 55-23 by title only, entitled:

AN ORDINANCE 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

The Chairman declared this to be the third of three readings of Ordinance No. 55-23.

Mr. Gasior said that he just wanted to point out on their agenda that each one of the next five Ordinances are going to require a motion to amend. The reason for that is that as Council recalls, he gave them the original drafts of the Ordinances back in April and obviously since that first reading, they have been tweaked a number of times. What they saw last Monday at the Work Session is 99.9% what they have in front of them tonight. There is one exception and that is in Ordinance No. 58-23. We made a small change today and increased the number of times that waste would have to be removed from a property over 10 acres to once every 3 months instead of once every 6 months. But outside of that, everything is the way it was on Monday. So for each Ordinance, there is going to be a motion to amend. What they are doing is adopting the changes that have occurred since these were first read back in April.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to amend Ordinance No. 55-23, 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.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 55-23 as amended.

Mr. Fischer said that they have these next 5 items dealing with farms and livestock and he asked if there was anybody in the audience who wants to be heard on any of these as we go.

Liz Damstra, 4054 Jaycox Road, said that she did not know which Ordinance it was but she thought that she read in one where it said "commercial farm" was changed from 2 acres to 10 acres but then she did not see anything that would fit her scenario which would be just a homeowner. That changed, but then there was 150 ft. setback requirement but that only said for commercial farms. She asked if there was a regulation for just a regular homeowner. Also she did not see anything about poultry in there; it just said "livestock."

Mr. Gasior said that most of this dealt with properties over 10 acres, commercial or industrial, or it could be residential. The other category was the 2-acre to 10-acre farm. Mrs. Damstra asked, so are you calling her a farm because she would have poultry on the property? Mr. Gasior said, no, she is probably in the under 2-acre category. Mrs. Damstra said that they have more than 2 acres and Mr. Gasior responded then she is in the 2 to 10 acres so she is a farm if she is in residential. That was the reason for the definition of "farm" vs "commercial farm". What they visualized for a farm in residential was between 2 and 10 acres, and was a family operation growing tomatoes or corn etc., and putting a stand out front to sell the produce. Mrs. Damstra asked but if you are not selling anything, you are still considered a farm and Mr. Gasior said, yes, and he wanted to point out that if you are just growing a crop, you are permitted to do that regardless; it was just for the livestock. Mrs. Damstra said, yes, she knew, but on this it said "farm with livestock" or something like that so then she wondered if she was considered a farm. Mr. Gasior said that poultry, rabbits and that type of thing are a Special Use regardless of the size, so we were trying to accommodate people with less than 2 acres who may have wanted to have a chicken coop. So we have a regulation and it will have to be met. It will be a Special Use Permit to put that chicken coop in under 2 acres, but you can still do it.

Mrs. Damstra then asked about the 150 ft. setback requirement and Mr. Gasior said that he would have to look specifically at that. He thought that the 150 ft. had always been in the Code and that they did not make any changes to that requirement. It was either in Ordinance No. 72-23 or Ordinance No. 73-23 and it dealt with stables and kennels. There was a chart there and that 150 ft. was never changed

from what was in the Code. Mrs. Damstra said she thought that it was all bolded like the whole thing was changed. Mr. Gasior said that could be because we carried over some of those provisions that already existed in the Code in 668 or 618.12 but it never existed in the 1222 Planning and Zoning Code. So it is not that we wanted to change any of that, it is just that we wanted it to come into the Planning and Zoning Code so that it would be clear when we identify a Special Use and what the requirements are going to be.

Mr. Fischer asked Mrs. Damstra what she was doing with her property that she was looking for an answer for and Mrs. Damstra said, nothing, she would still fall under all of the changes. Mr. Fischer then said to Mrs. Damstra, so you are not looking to have animals, you are not looking to do farming, you just want to know what your property is? Mrs. Damstra said, yes, she would just like to know. She has like 3 acres, so she still falls into whatever changes there are. Mr. Gasior stated that she is good with whatever she is doing there right now; she is not impacted by this legislation. Mrs. Damstra said, no, but she would just like to know and it was hard to follow all the papers. Mr. Gasior said that if she wanted to call him he could go over it with her. Mrs. Damstra said, no, she thought she was ok. She would not consider herself a farm but she thought in this writing, that is what she would be called. Mr. Gasior said primarily it is because of the livestock. Mrs. Damstra said they do not have livestock; they only have poultry. Mr. Gasior noted that there are regulations covering poultry if you are over 2 acres. Mrs. Damstra said, yes, she saw that and their coop is big enough.

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.

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

The Clerk read Ordinance No. 56-23 by title only, entitled:

AN ORDINANCE 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

The Chairman declared this to be the third of three readings of Ordinance No. 56-23.

Mr. Gasior said once again, because this Ordinance has been amended several times between April’s first reading and today, we are having to make a motion to amend it and then adopt as amended. The same applies all the way through until we get to Item No. 18 and 19 because those were never read so there will not be a motion to amend them.

A motion was made by Mr. McBride and seconded by Mr. Moore to amend Ordinance No. 56-23, 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.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 56-23 as amended, 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. 57-23 – AMENDING SECTION 1280.05 OF THE AVON CODIFIED ORDINANCES DEALING WITH LOT AND YARD REGULATIONS FOR SPECIAL USES IN NONRESIDENTIAL DISTRICTS AS APPLIED TO FARMS AND LIVESTOCK

The Clerk read Ordinance No. 57-23 by title only, entitled:

AN ORDINANCE AMENDING SECTION 1280.05 OF THE AVON CODIFIED ORDINANCES DEALING WITH LOT AND YARD REGULATIONS FOR SPECIAL USES IN NONRESIDENTIAL DISTRICTS AS APPLIED TO FARMS AND LIVESTOCK

The Chairman declared this to be the third of three readings of Ordinance No. 57-23.

A motion was made by Mr. McBride and seconded by Mr. Moore to amend Ordinance No. 57-23, 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.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 57-23 as amended, 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. 58-23 – AMENDING SECTION 1280.06 OF THE AVON CODIFIED ORDINANCES DEALING WITH SUPPLEMENTAL REGULATIONS FOR CERTAIN SPECIAL USES APPLICABLE TO FARMS AND LIVESTOCK

The Clerk read Ordinance No. 58-23 by title only, entitled:

AN ORDINANCE AMENDING SECTION 1280.06 OF THE AVON CODIFIED ORDINANCES DEALING WITH SUPPLEMENTAL REGULATIONS FOR CERTAIN SPECIAL USES APPLICABLE TO FARMS AND LIVESTOCK

The Chairman declared this to be the third of three readings of Ordinance No. 58-23.

A motion was made by Mr. Radcliffe and seconded by Mr. McBride to amend Ordinance No. 58-23, 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.

A motion was made by Mr. Radcliffe and seconded by Mr. McBride to adopt Ordinance No. 58-23 as amended, 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.

ORDINANCE NO. 59-23 – AMENDING SECTION 1222.02 OF THE AVON CODIFIED ORDINANCES TO DEFINE TERMS RELATED TO FARMING AND LIVESTOCK

The Clerk read Ordinance No. 59-23 by title only, entitled:

AN ORDINANCE AMENDING SECTION 1222.02 OF THE AVON CODIFIED ORDINANCES TO DEFINE TERMS RELATED TO FARMING AND LIVESTOCK

The Chairman declared this to be the third of three readings of Ordinance No. 59-23.

A motion was made by Mr. Radcliffe and seconded by Mr. McBride to amend Ordinance No. 59-23, 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.

A motion was made by Mr. Radcliffe and seconded by Mr. McBride to adopt Ordinance No. 59-23 as amended, 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. 60-23 – TO ACCEPT IMPROVEMENTS IN FIELDSTONE LANDING SUBDIVISION NO. 1

The Clerk read Ordinance No. 60-23 by title only, entitled:

AN ORDINANCE TO ACCEPT IMPROVEMENTS IN FIELDSTONE LANDING SUBDIVISION NO. 1 AND DECLARING AN EMERGENCY

The Chairman declared this to be the third of three readings of Ordinance No. 60-23.

Mr. Streator stated that all of the items have been addressed with the developer and the routing sheet has been distributed and signed.

A motion was made by Mr. McBride and seconded by Mr. Witherspoon to adopt Ordinance No. 60-23, 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. 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

The Clerk read Ordinance No. 68-23 by title only, entitled:

AN ORDINANCE GRANTING 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

AND DECLARING AN EMERGENCY

A motion was made by Mr. Radcliffe and seconded by Mr. McBride to suspend the rules and act on Ordinance No. 68-23, 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. Witherspoon to adopt Ordinance No. 68-23, 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. 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

The Clerk read Ordinance No. 69-23 by title only, entitled:

AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO DeVILLE DEVELOPMENTS, LLC TO CONTSTRUCT 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 AND DECLARING AN EMERGENCY

A motion was made by Mr. Radcliffe and seconded by Mr. McBride to suspend the rules and act on Ordinance No. 69-23, 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. Radcliffe and seconded by Mr. McBride to adopt Ordinance No. 69-23, 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. 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

The Clerk read Ordinance No. 70-23 by title only, entitled:

AN ORDINANCE GRANTING 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 AND DECLARING AN EMERGENCY

A motion was made by Mr. Moore and seconded by Mr. Witherspoon to suspend the rules and act on Ordinance No. 70-23, 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. 70-23, 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. 72-23 – AMENDING SECTION 618.12 OF THE CODIFIED ORDINANCES OF THE CITY OF AVON TO REGULATE LIVESTOCK, POULTRY AND RABBITS

The Clerk read Ordinance No. 72-23 by title only, entitled:

AN ORDINANCE AMENDING SECTION 618.12 OF THE CODIFIED ORDINANCES OF THE CITY OF AVON TO REGULATE LIVESTOCK, POULTRY AND RABBITS 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. 72-23, 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. 72-23, 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. 73-23 – AMENDING CHAPTER 668 OF THE CODIFIED ORDINANCES OF THE CITY OF AVON REGULATING STABLES AND KENNELS

The Clerk read Ordinance No. 73-23 by title only, entitled:

AN ORDINANCE AMENDING CHAPTER 668 OF THE CODIFIED ORDINANCES OF THE CITY OF AVON REGULATING STABLES AND KENNELS 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. 73-23, and the vote was: Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 73-23, and the vote was: Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. Fischer, “yes”.

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

REPORTS AND COMMENTS

MAYOR JENSEN 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, wished everyone an enjoyable holiday.

MR. WITHERSPOON, AT LARGE, stated that he would like to congratulate Clerk of Council Barb Brooks for another beautification of the City of Avon. The City looks a lot brighter with her efforts and he knows it took a lot to do. He thanked Ms. Brooks for doing that.

MR. FISCHER, AT LARGE, said he would like to reiterate that. He thanked Ms. Brooks and all the volunteers who were involved with the spring clean-up and beautifying Avon. The City looks great and he thanked them again for all their efforts.

Mr. Fischer reminded everyone that next Monday is a fifth Monday and said to enjoy the Monday off.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER, had no comments.

MS. FECHTER, ECONOMIC DEVELOPMENT/PLANNING COORDINATOR, wished everyone a Happy Memorial Day

MR. GASIOR, LAW DIRECTOR, wished everyone a happy 5th Monday.

MR. PRESLEY, FINANCE DIRECTOR, reported that at the May 8th meeting of Finance and Legal Committees, there was a question about the amount spent to date on the broadband assessment cost. He said that total figure is \$52,456. which represents \$47,456 for the assessment and \$5,000 for legal costs.

MR. STREATOR, SAFETY/PUBLIC SERVICE DIRECTOR, stated the he had some updates on the road projects. He said that the Main and Middle project is going well. We hope to open it up as early as Wednesday. On the Just Imagine Drive project, they hope to start grinding the surface next week. Also, starting next week they will move the road closure over to Chester Road so that Chester Road going westbound past American Way will be open but the eastbound will be closed probably for most of the summer. They did finish up all of the Willo and Jennie paving project. Mr. Streator said, also as a reminder, the Memorial Day parade is on Monday at 9:00 A.M. from the Senior Center down to the Aquatic Center to the Veterans Memorial there where there will be a service after the parade.

Mr. Fischer asked Mr. Streator how the bathroom project at Northgate Park was going and Mr. Streator said that it was going quite well. They were installing the electrical and plumbing today.

Mr. McBride asked if they were replacing any drinking fountains as part of those restroom installations and Mr. Streator said they had a drinking fountain installed on the side of the building. Mr. McBride said that he received a call from a resident and they were wondering about a drinking fountain with something installed on it where animals can drink out of it, like a bowl or something. We must have them at one or two other locations. Mr. Streator said that we have one of those at the dog park. Mr. McBride stated that there was some interest from some Northgate residents on that but he does not have any idea of what it would take to do that. Mr. Streator said that he would look into it. Mayor Jensen said that those are expensive but he would get the figures to them and see if that is something they want to do.

AUDIENCE:

There were no comments made from the audience members.

EXECUTIVE SESSION: 8:29 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 for the Purpose of Discussing the Threat of Imminent Litigation, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. Fischer, “yes”.

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

RECONVENE: 8:57 p.m.

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

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

ADJOURN: 8:58 P.M.

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

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