

**MINUTES OF THE REGULAR MEETING OF THE COUNCIL  
OF THE CITY OF AVON, OHIO, HELD MONDAY, AUGUST 14, 2023  
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING  
AT 7:35 P.M.**

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

**PRESENT:**

Council Members: 1<sup>st</sup> Ward – Jennifer Demaline; Council-at-Large – Tammy Holtzmeier; 2<sup>nd</sup> Ward – Dennis McBride; 3<sup>rd</sup> Ward – Anthony Moore; 4<sup>th</sup> 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

**MINUTES OF THE WORK SESSION OF COUNCIL HELD MONDAY, JULY 10, 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, July 10, 2023, and to approve said minutes as published, and the vote was: Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

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

**MINUTES OF THE REGULAR MEETING OF COUNCIL HELD MONDAY, JULY 10, 2023**

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to dispense with the reading of the minutes of the Regular Meeting of Council held Monday, July 10, 2023, and to approve said minutes as published, and the vote was: Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes” Mr. Fischer, “yes”.

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

**ORDINANCE NO. 84-23 – TO ACCEPT IMPROVEMENTS IN RED TAIL SUBDIVISION NO. 17**

The Clerk read Ordinance No. 84-23 by title only, entitled:

**AN ORDINANCE TO ACCEPT IMPROVEMENTS  
IN RED TAIL SUBDIVISION NO. 17  
AND DECLARING AN EMERGENCY**

The Chairman declared this to be the third of three readings of Ordinance No. 84-23.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 84-23, 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.

ORDINANCE NO. 88-23 – APPROVING MODIFICATIONS TO THE SANITARY SEWER MASTER PLAN AND ADOPTING SAID MODIFICATIONS AS REVISIONS TO THE OFFICIAL SANITARY SEWER MASTER PLAN FOR THE CITY OF AVON

The Clerk read Ordinance No. 88-23 by title only, entitled:

**AN ORDINANCE APPROVING MODIFICATIONS TO THE SANITARY SEWER MASTER PLAN AND ADOPTING SAID MODIFICATIONS AS REVISIONS TO THE OFFICIAL SANITARY SEWER MASTER PLAN FOR THE CITY OF AVON**

The Chairman declared this to be the second of three readings of Ordinance No. 88-23. A Public Hearing will be held for Ordinance No. 88-23 on Monday, September 11, 2023, at 7:25 p.m.

ORDINANCE NO. 92-23 – AMENDING A SPECIAL USE PERMIT GRANTED TO CHRISTIAN HERITAGE ASSEMBLY OF GOD (aka CHRISTIAN HERITAGE CHURCH), TO INSTALL A 40’ X 64’ OUTDOOR PATIO AND PAVILION LOCATED AT 36465 CHESTER ROAD

The Clerk read Ordinance No. 92-23 by title only, entitled:

**AN ORDINANCE AMENDING A SPECIAL USE PERMIT GRANTED TO THE CHRISTIAN HERITAGE ASSEMBLY OF GOD (aka CHRISTIAN HERITAGE CHURCH), TO INSTALL A 40’ X 64’ OUTDOOR PATIO AND PAVILION LOCATED AT 36465 CHESTER ROAD 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. 92-23, 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. 92-23, 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.

ORDINANCE NO. 93-23 – AMENDING THE PERSONNEL POLICY MANUAL FOR THE CITY OF AVON, SECTION 7.3 (TOOLS, SUPPLIES, EQUIPMENT, TELEPHONES, AND CELL PHONES)

The Clerk read Ordinance No. 93-23 by title only, entitled:

**AN ORDINANCE AMENDING THE PERSONNEL POLICY MANUAL FOR THE CITY OF AVON, SECTION 7.3 (TOOLS, SUPPLIES, EQUIPMENT, TELEPHONES, AND CELL PHONES) 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. 93-23, 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. Moore to adopt Ordinance No. 93-23, 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.

ORDINANCE NO. 94-23 – PLACING A TEMPORARY MORATORIUM ON THE FUTURE DEVELOPMENT OR CONSTRUCTION OF ANY HOTEL, MOTEL, EXTENDED STAYS, BOARDING HOUSES OR THE LIKE WITHIN THE CITY OF AVON THROUGH JANUARY 9, 2024

The Clerk read Ordinance No. 94-23 by title only, entitled:

**AN ORDINANCE PLACING A TEMPORARY MORATORIUM ON THE FUTURE DEVELOPMENT OR CONSTRUCTION OF ANY HOTEL, MOTEL, EXTENDED STAYS, BOARDING HOUSES OR THE LIKE WITHIN THE CITY OF AVON THROUGH JANUARY 9, 2024 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. 94-23, 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. Moore to adopt Ordinance No. 94-23, 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.

ORDINANCE NO. 95-23 – REAPPROPRIATIONS

The Clerk read Ordinance No. 95-23 by title only, entitled:

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

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Ordinance No. 95-23, 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. Moore to adopt Ordinance No. 95-23, 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.

ORDINANCE NO. 96-23 – AUTHORIZING THE DISPOSAL OF MUNICIPAL PROPERTY

The Clerk read Ordinance No. 96-23 by title only, entitled:

**AN ORDINANCE AUTHORIZING THE  
DISPOSAL OF MUNICIPAL PROPERTY  
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. 96-23, 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. Moore to adopt Ordinance No. 96-23, 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.

ORDINANCE NO. 97-23 – TO CANCEL THE SPECIAL ASSESSMENTS THAT WERE INCORRECTLY APPLIED TO THE TAX DUPLICATES ON TWO PARCELS OF LAND ABUTTING THE FRENCH CREEK ROAD SANITARY SEWER PROJECT, (PPN#04-00-010-113-039 AND #04-00-010-113-037 AND TO ISSUE A REFUND FOR THE AMOUNTS THAT HAVE BEEN PAID

The Clerk read Ordinance No. 97-23 by title only, entitled:

**AN ORDINANCE TO CANCEL THE SPECIAL ASSESSMENTS THAT  
WERE INCORRECTLY APPLIED TO THE TAX DUPLICATES ON TWO  
PARCELS OF LAND ABUTTING THE FRENCH CREEK ROAD SANITARY  
SEWER PROJECT, (PPN#04-00-010-113-039 AND #04-00-010-113-037 AND TO  
ISSUE A REFUND FOR THE AMOUNTS THAT HAVE BEEN PAID  
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. 97-23, 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. Moore to adopt Ordinance No. 97-23, 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.

REPORTS AND COMMENTS

MAYOR JENSEN advised now that Council held the Service Committee Meeting for sidewalks he would like to see if Council would schedule a joint committee meeting in October or November of the Finance and Service Committees to go over the different areas slated for sidewalk improvement. He said

this would ensure they were on the same page as they move forward in determining how much money was going to be spent on the Sidewalk Program and exactly which projects to do.

Mayor Jensen invited Council to attend a ribbon cutting for the newly built bathrooms at Northgate Park on Friday, August 18, 2023, at 10:30 am.

Mayor Jensen also invited Council to dedicate Eagle Point Park as the dedication plaque has been installed. He said there is a new pier installed at the park and they will go there directly after the ribbon cutting at Northgate. Mayor Jensen indicated he would send out invites or if there was a better time to meet to let him know as the date and time were flexible.

#### COUNCIL MEMBERS:

MRS. DEMALINE, WARD 1, thanked the Service Committee that met earlier this evening for making it clear that Council is interested in the connectivity of the City with the Sidewalk Improvement Program.

Mrs. Demaline also reported that she spoke with an ODOT representative, and it was confirmed that they have received the appropriate number of responses in favor of adding a sound barrier wall along I-90. She said that project would be moving forward with the widening of I-90 and the sound barrier wall would most likely happen in the 2026-2027 project year. Mrs. Demaline stated she was happy to hear that news as it was important for our community to have that sound barrier wall installed.

MRS. HOLTZMEIER, AT LARGE, advised in anticipation of the joint meeting that the Mayor mentioned, she felt they would want some deliverables in advance of that meeting to be able to talk about money attached to it and walk them through what those steps might look like and then they will know when to schedule it.

Mrs. Holtzmeier stated it is mid-August already and budget season is right around the corner so she felt they should start putting out those feelers on the 2024 fiscal year budgeting session for Council.

MR. MCBRIDE, WARD 2, advised every time it rains, several properties including his, get the muddy water streams flowing through their backyards on Lake Pointe Drive from the Thomas English Development on Detroit Road. He stated he knows the Mayor, City Engineer and Planning Coordinator were all aware and he believes the developer was aware as well and obviously they need to do more to control that water runoff issue. Mr. McBride said he wanted to make that comment on the record and Council may have to look at revoking the Special Use Permit granted to the developer.

MR. MOORE, WARD 3, reported that the Tree Commission voted to ask that \$5,000 be appropriated for Arbor Day expenses and he noted that was well within the allotted budget for the Tree Commission for this year.

Mr. Moore advised he would like to call an Economic Development Committee Meeting for Tuesday, September 5, 2023, at 7:00 p.m. to discuss tax abatement for a local business.

After the other Committee Members confirmed their availability, the Clerk indicated she would schedule the meeting.

MR. RADCLIFFE, WARD 4, had no comments.

MR. WITHERSPOON, AT LARGE, had no comments.

MR. FISCHER, AT LARGE, reminded Council that the next meeting would be after Labor Day on Tuesday, September 5, 2023.

#### DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER, had no comments.

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

MR. GASIOR, LAW DIRECTOR, had no comments.

MR. PRESLEY, FINANCE DIRECTOR, had no comments.

MR. STREATOR, SAFETY/PUBLIC SERVICE DIRECTOR, reminded Council that the Safety Fair is scheduled for Saturday, September 9, 2023 from 10 am to 2 pm at the Aquatic Facility.

**AUDIENCE:**

Gerald W. Phillips of 461 Windward Way, Avon Lake asked about the location of the property discussed in the Service Committee Meeting earlier this evening related to the barn on the property being in the right of way.

Mayor Jensen answered that property is located on the corner of Detroit Road and Moon Road.

Mr. Phillips asked if they know who the owner of that property is.

Mayor Jensen advised he was not certain, but Ms. Clements, the Zoning Enforcement Officer, has that information, but he believed it is a company out of state.

Mr. Phillips indicated he would ask Ms. Clements.

Mr. Phillips advised Council voted on Ordinance No. 84-23 and he is hopeful that before they voted that they looked at the Developer's Agreement; particularly Section 19 that says, "payment or satisfaction of delinquent or outstanding obligations". He said he is also hopeful that the City Law Director shared with Council a letter that indicated that Carnegie Residential Development for 22 years has not put in sidewalks as required in their Special Use Permit. Mr. Phillips stated if the Law Director did not disclose that to Council, then he would be concerned as the Law Director had that information before this meeting. And if Mr. Gasior did not notify Council that Carnegie Residential Development has been delinquent for 22 years. Mr. Phillips advised Council spent an hour talking about sidewalks at the Service Committee Meeting prior to this meeting. He pointed out that Red Tail is located in Mr. Radcliffe's Ward. Mr. Phillips said he remembers Mr. Kilroy, past Ward 4 Council Member, bringing that topic up many years ago. He stated hopefully Mr. Gasior advised Council; if not, maybe they should get a new Law Director.

**EXECUTIVE SESSION:** 7:51 p.m.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to Enter Into Executive Session for the Purpose of Discussing a Personnel Matter and to Invite Mr. Streator in Addition to Mr. Gasior and Mayor Jensen, 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:** 8:27 p.m.

A motion was made by Mr. McBride and seconded by Mrs. Holtzmeier 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: 8:28 p.m.

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