

**MINUTES OF THE WORK SESSION OF THE COUNCIL OF THE
CITY OF AVON, OHIO HELD TUESDAY, SEPTEMBER 5, 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. OVERVIEW OF THE FLOODING THAT OCCURRED ON AUGUST 23, 2023

Mr. Cummins

Mr. Cummins advised as everyone knows on August 23rd, they had a substantial storm come through in the evening. He said it has been recorded that it was upwards of 6.3” and there were consistent reports of 5” or more throughout the City with reports of potentially 7” of rainfall and Westlake’s gauge through the Northeast Ohio Regional Sewer District recorded 2.6” of rainfall; even with that, it was a substantial storm that went beyond the 100-year event, and it seemed to have hit the entire City. Mr. Cummins stated there were pockets of flooding, some of that power related and others sanitary sewer related that they have identified previously and have continuously been working on to improve over the last couple of years. He said some other areas he had not been informed about any persistent flooding there previously, but they will definitely be looking into those. Mr. Cummins advised since the storm occurred, he and the Service Department, the Utilities Department and other members of the Administration have worked diligently to talk with residents who called seeking information or guidance. He said the City has investigated numerous areas around the City as far as causes and making sure there was not something that exacerbated the condition. Mr. Cummins added that quite frankly none of the drainage systems within the City and certainly the main infrastructure is designed for that level of storm. He stated the creeks were flowing full if not out of their banks in certain locations adding that French Creek was out of its banks just south of Riegelsberger Road and at Riegelsberger Road the water in French Creek was right at the top of the bridge. Mr. Cummins advised in other areas around town it seemed like everything was staying just at the bank elevation but that is still a full flow. He said the Administration will continue to look at areas that have been brought to the City’s attention and will continue to investigate the Northgate Sanitary Sewer conditions for example and they previously identified a path of action there and will continue along that path of making sure the City infrastructure’s condition is in as good a shape as it can be before any step is made to start checking into or requiring work on the residents side. Mr. Cummins stated connections within the right of way up to the right of way line are generally considered City infrastructure and beyond that it is the individual residents. He advised before they get into testing those areas beyond the right of way and potentially requiring infrastructure improvements beyond the right of way of connections, cross connections, pipe conditions etc. they want to make sure that what the City has in place is as good as it can be. Mr. Cummins said they will certainly continue to do that and investigate any other areas that have been brought to the City’s attention.

Mr. Fischer said he knows we were cleaning out ditches on a regular basis with our crews; dredging them and keeping them up to par and he asked if that was something that was still being done regularly. He inquired if there was a schedule for cleaning out the ditches. Mr. Fischer asked if not cleaning out the ditches may have contributed to the flooding of basements during that recent storm.

Mr. Cummins advised he has not heard of a situation recently where the condition of the ditch was a cause of the flooding. He said the crews have quite regularly in the past cleaned out the ditches and in speaking with the Roadway Superintendent today he confirmed that basically everything has been touched within the last five years.

Mr. Streator advised the crews inspect the ditches on a regular schedule and there are a lot of variables that go into that such as debris and the size of the different ditches. He said the only problem they had with this storm was that there was debris that was causing a problem on Chester Road by Petiti’s Garden Center. Mr. Streator

stated that area by Petiti's was just cleaned out and for some reason a lot of debris gets clogged there. He advised the configuration of the ditch does not help that situation, so they are looking at long term remedies for that ditch such as making a bigger culvert under the roadway. Mr. Streater said there were no failures in the rest of the ditches although there were a lot of areas that became fuller than they usually do with rains that are not as substantial.

Mr. Cummins advised they previously identified the culvert by Petiti's Garden Center as a pinch point that was susceptible to collection of debris. He said they are seeking some grant funding to alleviate that problem and it is on tonight's agenda for consideration with Resolution No. R-29-23. Mr. Cummins stated they have submitted an Ohio Public Works Commission funding application to replace that culvert so that is something that has been identified and they would like to continue pursuing.

Mr. Fischer advised it was an unprecedented rain and he just wanted to make sure that our main ditches are being kept clear on a regular basis and/or being dredged when they need to be.

Mr. McBride advised he spoke with some Ward 2 residents in the Northgate Subdivision. He said one resident stated he had never had a backup into his basement before this event. Mr. McBride advised another resident he was emailing back and forth said they flooded two years ago and during this recent storm, but as far as he knows they have not installed a check valve in the basement. He said another resident whose basement flooded was obviously not happy that the basement took in sanitary sewage again. Mr. McBride stated there seems to be some issue in Northgate where the sanitary sewer was getting surcharged. He advised the resident with sanitary sewer in his basement pointed out three things: the creek behind his house was running well below the top of the bank as well as the lateral storm lines that go into the ditch; he installed a device that is not a true check valve and the water he sustained was before that device floated up and sealed everything off. Mr. McBride said one of the things he felt they needed to do was tell these residents that they need to install check valves as that is the one thing that protects them and protects their investment.

Mayor Jensen advised for Council's information there was an adjustment made on the reappropriations. He said some of it is for Storm Water Utility and there is an increased amount for Sanitary Sewer. Mayor Jensen stated they wanted to be sure that Mr. Cummins has the funds he needs to continue to investigate some of these areas that flooded. He advised in Ward One they wanted to be able to look at elevations and some other issues that occurred. Mayor Jensen said they got some calls from residents who said they have never flooded before. He stated from where Hawthorne Drive is located on the other side of French Creek, that water all flows to the same area and underneath I-90 was completely filled. Mayor Jensen advised they are also going to send some of the City crews to go individually to look at some of these properties because not everyone flooded, but a portion of the one area did. He said one resident had his property flood four times now and that should not have happened, and some other properties have never been flooded before this storm. Mayor Jensen stated they want to walk through and look at these areas individually to see if there is something more that could be done and he knows and understands there was frustration on the part of the affected property owners.

Mrs. Demaline advised she and Mayor Jensen spoke last week and she has a handful of concerned residents who are looking for some specific answers. She said she knows that the flooding took place on August 23rd and since then Mayor Jensen indicated that those storm sewer lines were camera'd by our Streets Department crews. Mrs. Demaline asked if the date was known that those storm sewers were inspected with the camera.

Mayor Jensen speculated that it was either the 24th or 25th of August. He said he spoke with the Superintendent of Streets who said that the Streets Department can video the lines. Mayor Jensen stated when the Streets Department crews checked the lines, they did not see any blockages and some residents asked to see the video and they are looking into if that video can be made available. He said if necessary, the Utilities Department has a better video system and they can look into that if needed. Mayor Jensen advised the next thing he thought they have to do is look at the sewer laterals and the Utilities Department has that ability, and they would be going out to look at some of those affected properties. He said the City has since increased the size of the minimum sump pump horsepower required but they are not sure if the older developments affected had those increased requirements in place. Mayor Jensen stated the City also suggests in some areas that a second sump pump on the outside of the foundation be installed to keep up when these larger storms happen. He said in looking at

some of the video, the backyards were filled with water and this external sump pump would keep the water away from the houses which is the main purpose during a storm.

Mrs. Demaline asked when a camera was used through those lines if there was an official report generated from that activity that says exactly which lines were inspected and what was found.

Mayor Jensen replied yes, that was done on Stonefield Drive where flooding occurred. He said the runoff water from that section of the development does not flow into a retention pond. Mayor Jensen stated that is what makes it a unique situation for the City to try to figure out as to why that area would have more issues than those areas that flow into a retention pond. He advised in the initial look they did not see anything that showed why it would have surcharged back into the basements and they are trying to find that out and some houses on that street still did not flood.

Mrs. Demaline asked Mayor Jensen when he would know if the video was taken and would be available from the inspection of those lines.

Mayor Jensen advised the Assistant Superintendent of Streets should be back either at work tomorrow or Thursday of this week so he should be able to see when that report was if it was recorded. He said if it was not recorded then they will go back out and record it, but he could find out.

Mrs. Demaline said that the residents living in the area of the Kline Ditch, including herself, believe that is being maintained by the City. She asked when that was last looked at and maintained.

Mayor Jensen advised one of the homeowners who emailed him said that they noticed that ditch was cleaned of vegetation in the last couple of years, but not dredged. He said typically that is not one of those areas that are dredged unless some kind of blockage is found. Mayor Jensen stated he would be more concerned with elevations, and they want to have the funds available for Mr. Cummins if elevations need to be determined. He advised Mr. Cummins is also looking to see if backyard drains were overflowing and if that was part of the problem as well.

Mr. Cummins advised he pulled the topography and the final grade sheets from those homes in that area. He said very few of those have backyard drains as most have where the water just drains over into the ditch area. Mr. Cummins stated the connection itself really should just have the roof house and whatever water gets to the footer and comes up through the sump pump. He advised there are a number of things that could be the cause as maybe there has been some regrading and an area of water gets pushed and graded back toward the house. He suggested that possibly the connection has come apart and there is now a spot where a flow of water can get to it. Mr. Cummins said as the Mayor noted this area does not go to a retention/detention basin and probably the most obvious impact is that the homes are roughly one to two feet lower than the surrounding neighborhoods where those do flow into a detention basin so these homes are more susceptible in that area to the rise and fall of the elevation of the water within the creek. He advised with that being said, they absolutely should video and make sure the storm sewer systems are free and clear and they should make sure that the ditch is flowing and the like and that it has been or will be done as they go forward.

Mrs. Demaline advised in addition to the flooding in the basements, the road at Stonefield Drive and Deerfield Drive had significant flooding and backup and so did the road in front of her house on Lorreto Court. She asked if they could tell her the last time that Kline Ditch was maintained.

Mr. Streater advised according to Mr. Loeser, Superintendent of Streets, it was within the last couple of years. He said Mr. Loeser recalled that after the ditch was maintained the neighbors were upset because it created a path for people to walk behind their house, but he did not have the exact date.

Mrs. Demaline asked if maintenance records are kept of dates those ditches are maintained.

Mr. Streater advised he was sure they do, but he does not have those records.

Mrs. Demaline asked if that is something that is going to be scheduled in the near future for Kline Ditch to be looked at and maintained.

Mr. Streator advised they were going to look at that area that flooded including the ditch and storm sewer and the area that flows to the pipe that goes under I-90.

Mrs. Demaline asked what kind of preventative maintenance the City is doing routinely to make sure the catch basins are in clean working order. She inquired if that was being done on a regular basis.

Mr. Streator advised obviously they cannot go to every catch basin in the City on a regular basis, but they do go around after a rain if there was an area with a problem and the residents are encouraged to report it to the City if they see something that is or could cause an issue. He said the residents should keep their backyard drains clear of debris, but also help keep the drains at the roadway clear and not to put anything into those drains as part of the City's stormwater prevention program.

Mrs. Demaline said so, the City does not have a regular plan where they go throughout the City and check the catch basins and make sure everything is flowing properly.

Mr. Streator advised they address it if it is a problem. He said in this last year that he has been involved in the few times that happens it is addressed right away.

Mayor Jensen advised they also sweep the streets once a year.

Mrs. Demaline asked if the entire City is covered once a year in a street sweeping program.

Mayor Jensen clarified it was most of the developments. He said he would not say the entire City such as those streets that do not have catch basins such as Elizabeth, Puth and Joseph. He said they use KMU for that service and if they notice a street that is dirtier than others then they try to make sure to make a special effort.

Mrs. Demaline asked if there is a record of that and what streets are swept and when.

Mr. Streator advised yes; they do have that.

Mrs. Demaline asked for that information to be sent to her of when the development where Stonefield Drive was swept.

Mr. Streator answered yes.

Mr. Fischer thanked the Administration and Mayor Jensen for the update and said it is an ongoing issue and even though some of these rains are unprecedented, they still have to keep an eye on them and he appreciates the update.

2. [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 Planning Referral

A Public Hearing will be held on Monday, September 11, 2023 at 7:25 p.m.

The Third of Three Readings will be held at the Regular Meeting on Monday, September 11, 2023

Ms. Fechter advised she had nothing new to add for this item.

3. [ORDINANCE NO. 98-23](#) – GRANTING A SPECIAL USE PERMIT TO LIG LAND, LLC TO ALLOW THEIR TENANT, SHEETZ, INC., TO CONSTRUCT A 6,139 SQ. FT. GAS STATION AND CONVENIENT STORE WITH AN OUTDOOR PATIO TO BE LOCATED AT THE SOUTHWEST CORNER OF MIDDLETON & NAGEL ROADS Planning Referral

Ms. Fechter advised at the August Planning Commission Meeting the Commission approved the Middleton Crossing Subdivision. She said it is a commercial subdivision that will be located at the southwest corner of Middleton & Nagel Roads. Ms. Fechter stated further down on the agenda the developer is also here for a Developer's Agreement, but as part of that commercial subdivision, they are proposing a Sheetz. She advised Sheetz was approved by the Planning Commission in August 5-0 and they are before Council seeking approval for a Special Use Permit for their drive-thru as well as their outdoor seating. Ms. Fechter said Ms. Selle, PE, from Sheetz was present to talk more about the project.

Ellen Selle of 8295 Broadview Road, Broadview Heights advised Council could see on the screen the patio layout that shows a number of seats outside with umbrellas and a few different options of seating with fencing and bollards around it. She said on the site plan they could see where that outdoor seating is located as well as the drive-thru. Ms. Selle noted the drive-thru would be located on the south side of the building. She mentioned that the appropriate drive-thru stacking is along the west side of the building.

Ms. Fechter suggested that Ms. Selle mention the peak hours for the drive-thru and what they expect to see with the car stacking.

Ms. Selle advised Sheetz does not typically have a 10-car stack in their drive-thru's, but that is required by Avon's Code, so they have added it. She said their typical drive-thru peak hour is noon and they might see about 10 cars in the drive-thru on average during that peak hour. Ms. Selle stated their top five stores might get 18 cars during the peak hour, so they were not running a high-volume drive-thru by any means, but they wanted to make sure to accommodate per the requirements for the City.

Ms. Fechter advised she would also like to add that the proposed drive-thru was not a typical ordering board, but it is a touchscreen and there is a live person if you need help, but it is not a traditional drive-thru experience.

Ms. Selle advised that touchscreen menu is the same menu that you would see inside and customers can order from the app as well like you do when going inside to pickup an app order.

Mr. McBride inquired how he would get out of the drive-thru line if the business is backed up and slow.

Ms. Selle stated there is a bypass near the pickup window, but they do not foresee it stacking 10-cars. She said they talked about that internally if a bypass lane should be added, but they do not ever see the line getting that deep or see the cars stacked with that many. Ms. Selle advised the drive thru lane is only at the length shown because that is what Avon's Code requires because they would typically only design for a 4-5 car stack.

Mr. McBride advised his guess was that if this is installed in Avon that they will have the maximum number of cars in the drive-thru line. He said that has been the experience with probably everyone on City Council and the City Administration. Mr. McBride stated his personal pet peeve is that there needs to be an escape route.

Ms. Selle advised that is not required per your Code and they looked at it internally.

Mr. McBride advised City Council has to approve the Special Use and they do not have to approve this. He wants an escape lane on the entire drive-thru lane.

Ms. Selle advised if they would stack those 10 cars plus the 7 cars against the building, that is 17 cars stacked in the drive-thru. She said that would mean that this drive-thru would perform at the top five stores of their 700 plus stores and they really are not projecting that.

Mr. McBride advised he is talking about the first 5 or 6 six cars against the building. He said if he is waiting and they are inefficient and he does not want to wait even though he has ordered, he wants to be able to drive away. How does he drive away?

Ms. Selle explained it will take maybe 2 minutes.

Mr. McBride felt Ms. Selle was giving best case scenario. He said if this store is messed up, he wants to be able to drive away and they were not leaving him that option. Mr. McBride stated this should never have come from the Planning Commission looking like this.

Ms. Fechter pointed out on the site plan the location of the order board and that there would be 10 stacking spaces behind that and the drive-thru is curved. She said after you order then there would be 6 spaces ahead to get to the window to pick up your order and the bypass lane was right by the window to drive around if necessary. Ms. Fechter stated if someone is waiting in those 10 spaces before ordering, cars in line are not blocked in and there is only a small distance after ordering. She said Planning Commission did not require them to add a full bypass lane.

Mr. McBride asked how they get out of the line. He said there needs to be an escape route. Mr. McBride stated all they have to do is widen it out. He felt it was called bad customer service and even if the order has been placed customers should have the ability to just drive away.

Mayor Jensen advised in that case, Council needs to legislate that as a requirement. He said it has not been legislated and the Planning Commission cannot legislate. Mayor Jensen stated the Planning Commission can request something, but they do not legislate. He said also with the drive-thru he does not believe the City wants to encourage someone to place an order and drive away. Mayor Jensen advised if Council wants to legislate this they can, but the Planning Commission cannot do that from their position. He said the applicant has abided by what our Code requires. Mayor Jensen reminded Council that if it is not working for them the business will lose customers and they would need to adjust their practices. He advised they have discussed this numerous times as far as what the City can legislate, but legislating is not what Planning Commission does. Mayor Jensen said it is Mr. McBride's right to vote against it if he chooses, but the Special Use Permit is for the outside patio. He said Mr. Radcliffe serves on the Planning Commission as the Council Representative and the Planning Commission reviews the plans and as long as the applicant follows the Code or above and beyond what is required, there was not a whole lot more that Planning Commission can do.

Aaron Appell, Engineer with Bramhall Engineering stated this plan would almost be a carbon copy of the GetGo site at Just Imagine Drive and Nagel Road. He said there is a curved drive-thru and no bypass lane and they have 10 waiting spaces as well.

Mr. McBride advised he missed that and did not raise that issue with GetGo. He said as far as he is concerned, they do not need an outdoor patio. Mr. McBride felt it was an easy fix to widen the pavement as the site was more than large enough and they should just do it and be done with it and then he would vote in favor of the patio. He said hopefully there will be enough members on this Council that would vote no on the Special Use that they would have to redo their proposal and come back.

Mrs. Demaline voiced her concern for where the order board is located in relation to an ingress and egress area just ahead of that order board. She felt that was a safety concern for someone to drive forward after placing their order as a motorist could be coming in and out in front of them at that point in the drive-thru lane.

Ms. Selle advised that is not uncommon as this is their typical layout at all of their Sheetz stores. She said as Mr. Appell mentioned it is exactly like the GetGo just down the road. Ms. Selle confirmed that is an access driveway and stated this is their typical setup to have that gap in between. She advised usually the board is not that close to the access drive but is there to accommodate the 10 spaces required by Avon's Code.

Mrs. Demaline asked where the ordering board would be located.

Ms. Selle advised it probably would have been located the next space back, which is further away from that access drive.

Mrs. Demaline advised when she has been in a drive-thru and placed her order, she was not immediately thinking to watch for cross traffic entering and exiting the parking lot. She said that is her concern.

Ms. Selle reminded them it is not a typical ordering menu board, but a touchscreen and it is a little different.

Mr. Radcliffe advised he understands Mrs. Demaline's concern but added that there are plenty of other drive-thru's where merging is necessary immediately after ordering and he felt this was not much different. He said he personally does not see that as an issue and anytime they are in a parking lot, they need to be paying attention especially when driving a vehicle. Mr. Radcliffe stated this layout is very similar to the layout at GetGo where an order is placed behind the access drive and then cross over the two-lane traffic similar to the two gas stations nearby where you come from behind the building. He advised from that standpoint he felt the layout was fine. Mr. Radcliffe said regarding Mr. McBride's comments about widening the 6-car stack area from the order board to the pickup window, to him that seems a little excessive. He stated if it could be done so that there was not the possibility of cars that were not in the proper drive-thru line coming through the two-lane road that Mr. McBride is proposing next to the pickup window then he supposed that might work. Mr. Radcliffe advised otherwise he does not see in the Sheetz gas station the need for a bypass lane. He said he has been through the same type of layout at the GetGo for a couple of years now and it works well. Mr. Radcliffe stated that is why he was in support of this layout and is still in support of this layout. He advised he knows that moving the ordering board back one space in the drive-thru on the west side would take down the double stacking and they would have to make allowances for that, but if that would make other people feel better then he would support that as well, but otherwise he felt the proposed layout is a good one.

Mr. Fischer asked what street was labeled as "Property Access Road B" on the site plan.

Frank Jaram of LIG Land, LLC advised that is an interior access lane, a private driveway; it is not a road. It was explained the location of Nagel and Middleton Roads in relation to this proposed site, which were the main proposed entrances. The Middleton access was a right in and right out only. Mr. Jaram explained that from Middleton motorists would choose access road A or access road B and that there were two different entrances to get into the Sheetz site. He said those entering from Nagel Road are shown on the far right of the site plan and they would more than likely turn into Sheetz at that first entrance point as it is the closest to Nagel Road.

Mrs. Demaline advised it looks to her that if they are traveling southbound on Nagel Road that they could just turn right into the parking lot of Sheetz from Nagel Road. She said for those traveling northbound on Nagel Road they would not have an entryway.

Mr. Jaram advised they can turn left from Nagel Road into the site.

Mrs. Demaline inquired if driving northbound on Nagel Road motorists could turn left and enter proposed access road B to which Mr. Jaram confirmed they could.

Mr. Jaram said most motorists would use the light at Middleton Road to access the site and what the traffic study suggested.

Mr. Moore inquired about exiting to Nagel Road from access road B if that was an island so no one could turn left.

Mr. Jaram stated that was a right turn only to head south on Nagel Road per ODOT standards and there would be an island.

4. [ORDINANCE NO. 99-23](#) – AMENDING SECTION 672.10 OF THE CODIFIED ORDINANCES OF THE CITY OF AVON ENTITLED "FIREWORKS" TO REVISE REGULATIONS REGARDING THE SALE AND POSSESSION OF FIREWORKS

Mr. Gasior

Mr. Gasior advised this Ordinance simply bans the manufacture, wholesale, and retail sale of fireworks in the City. He said it does not affect some of the smaller fireworks called fountain devices that they will sometimes see at places such as at a Menards or a Lowes, but this is for the big stuff. Mr. Gasior stated the issue came up recently and the Planning Coordinator brought it to his attention, and this is how they would like to address the

issue. He advised it does not change anything about the setting off fireworks or the like. Mr. Gasior said they were not doing anything here but eliminating manufacture, wholesale, and retail of fireworks.

5. ORDINANCE NO. 100-23 – TO AUTHORIZE THE MAYOR TO ENTER INTO AN OPTION TO PURCHASE PROPERTY Mayor Jensen
To Be Addressed at a Special Meeting Immediately Following this Work Session

Mayor Jensen advised this is a property he has discussed with Council previously and he would be discussing it further in executive session.

6. ORDINANCE NO. 101-23 – TO AUTHORIZE A DEVELOPER’S AGREEMENT AND PERFORMANCE BOND WITH LIG LAND, LLC, FOR THE CONSTRUCTION OF PUBLIC IMPROVEMENTS AT THE MIDDLETON CROSSING SITE LOCATED ON THE SOUTHWEST CORNER OF MIDDLETON & NAGEL ROADS Planning Referral

Ms. Fechter advised Middleton Crossing was approved by the Planning Commission 5 to 0 at the last Planning Commission meeting. She said this is to authorize the developer’s agreement for the public infrastructure they are going to be installing.

Mr. Presley confirmed that all deposits have been made for this development.

Mr. Gasior advised the approval is contingent on legal approval of a property owners’ agreement and a reciprocal easement agreement with the property owner to the south. He said he spoke to the developer’s legal counsel last week and they are working on the REA (reciprocal easement agreement) and until that is resolved this is probably not going to go past first reading next week. He indicated it is paragraph 29 in the Developer’s Agreement. Mr. Gasior stated this is what we are concerned about and want to make sure that the City obtains the documentation to support paragraph 29.

7. ORDINANCE NO. 102-23 – REAPPROPRIATIONS Mr. Presley

Mr. Presley advised tonight they are looking to reappropriate a total of \$200,000 from the General Fund, \$50,000 of it being for Miscellaneous Contract Services for the Planning Department primarily for reviews of upcoming planning development. He said they have \$50,000 available for the purchase of the land and then a transfer over to the Fund No. 409, the 2024 Road Improvement Fund. Mr. Presley stated they are looking for some seed money so they can begin the engineering on those road programs to be included in the budget meetings in October or November. He advised the Recreation Income Tax Fund No. 240, they are looking to transfer \$500,000 to the Recreation Fund for the payment to the Board of Education for Middle School Turf Project. Mr. Presley said they will be paying for that out of the Recreation Fund. He stated as mentioned earlier in the Sanitary Sewer Fund and the Storm Water Utility Fund they are looking to appropriate \$75,000 out of the Sanitary Sewer Fund and \$20,000 out of the Storm Water Utility Fund for a total of all Funds of \$1,295,000.00.

Mr. Fischer asked if he is reading correctly that Fund No. 240 and 249 should read \$500,000.

Mr. Presley answered yes; they are transferring \$500,000 out of Fund No. 240 and into Fund No. 249 and paying the Board of Education out of Fund No. 249. He said the history is that they do not record the expenses other than transfers out of that Fund and he was trying to maintain the same historical perspective for that Fund.

Mrs. Demaline asked what exactly would be done with the \$75,000 for sanitary sewer and \$20,000 for storm sewer. She said it was mentioned that they would be used in relation to the flooding that just occurred, but asked what does that look like?

Mayor Jensen advised regarding the sanitary sewer issue, that is the ongoing issue in the Northgate Subdivision. He said there are also issues in Northgate related to the storm sewer. Mayor Jensen stated also the issue in the Deerfield Drive area would be investigated as well as the issues along Stoney Ridge Road that they want to look

into to see if a replacement or an upgrade to that area is needed. He indicated there were some discretionary funds in case something that they are not aware of needs to be addressed to have a buffer instead of coming back to Council every time they see an area that needs looked into further. Mayor Jensen advised most of it is for engineering to determine what is needed. He said they would come back to Council if they need to appropriate money to do those improvements.

8. RESOLUTION NO. R-27-23 – SUPPORTING THE SUBMISSION OF A CLEAN OHIO GREEN SPACE CONSERVATION PROGRAM FUNDING APPLICATION FOR THE PURCHASE OF LAND FOR THE PRESERVATION OF OPEN SPACE AND SENSITIVE ECOLOGICAL AREAS Mr. Cummins
To Be Addressed at a Special Meeting Immediately Following this Work Session

Mr. Cummins advised this item will also be discussed in Executive Session as it relates to the purchase of property.

Mr. Gasior confirmed Mr. Cummins statement and advised that Council has received all of these documents over the weekend and they would be reviewing them in more detail in the Executive Session.

9. RESOLUTION NO. R-28-23 – SUPPORTING THE SUBMISSION OF AN OHIO PUBLIC WORKS COMMISSION (OPWC) STATE ISSUE ONE FUNDING APPLICATION FOR THE LONG ROAD RESURFACING PROJECT Mr. Cummins

Mr. Cummins advised the resurfacing of Long Road has been identified as a pavement program project for next year. He said they thought they would take the opportunity to apply for funding through the Ohio Public Works Commission to help offset a substantial portion of that cost. Mr. Cummins stated the applications are due at the beginning of September. He advised they will know whether they are successful in securing that funding in early December. Mr. Cummins said if they are not successful, they will be prepared to proceed to bidding and the project would occur likely in the early part of 2024. He stated if they are successful in securing the funding, they would not be able to enter into a contract for construction to do any of the work until after July 1, 2024, which means the project would occur late 2024; probably starting at the beginning of August and proceed into the fall.

10. RESOLUTION NO. R-29-23 – SUPPORTING THE SUBMISSION OF AN OHIO PUBLIC WORKS COMMISSION (OPWC) STATE ISSUE ONE FUNDING APPLICATION FOR THE CHESTER ROAD HEIDER DITCH CULVERT REPLACEMENT PROJECT Mr. Cummins

Mr. Cummins advised as he noted earlier, this is a project replacing the culverts adjacent to Petitis Garden Center site. He said it is currently a 2-barrel culvert installation so it collects debris easily and it has been in place a good number of years and they would like to replace that with a single span structure with much less maintenance and more efficient flow characteristics. Mr. Cummins stated again, they are seeking some funding from Ohio Public Works Commission, and it would be on the same type of timeframe with submitting in September and the applications went in last week and he is able to follow up with the legislation in the month after. He advised the applications are considered in the fall and they will know in early December if the funding application was successful for this project.

11. REPORTS AND COMMENTS

MAYOR JENSEN advised Lit Communities has let us know that they will be getting started on doing some private work without the City. He said there still may be conversations between the City and Lit Communities, but they feel like there is enough value to get started without the City financial support at this time. Mayor Jensen stated there is nothing to stop Lit Communities from moving forward on their own and the Administration will continue to have conversations with them, but they are anxious to get started and the City is not going to stand in their way.

Mayor Jensen advised if anyone knows of any blockages in the culverts or storm sewers due to the recent storm to please report that to the Administration immediately. He said Mr. Fischer reached out to him regarding one of the ditches that something fell across it and Mr. Streater was aware of a blockage that fell across the

French Creek. Mayor Jensen stated they will investigate any reports as fast as they can and Mr. Fitch also calls the City when something falls across French Creek.

Mayor Jensen cautioned Council about regulating private businesses too strictly. He advised he understands there are preferences that people would like to see certain things, but they do not want to get into the development business. Mayor Jensen said he knows there have been issues with Starbucks, Dunkin Donuts and their drive-thrus but for the most part the Planning Commission has tried to correct some of those issues and put restrictions where they were needed. He advised but to get into the business of directing companies by telling them what they have to do he felt they want to be careful as it is private property, and the City does not want to get into the business of being responsible for all of the things that could go wrong. Mayor Jensen said that most businesses do a good job in mediating issues because if it is not functioning properly, it is their responsibility and they will lose business if it is not working. He stated they also have talked about blacktopping too much area as they do like to have some green space areas because when they are busy it is great to have all that parking, but for the most part it is empty space that is not green space.

COUNCIL MEMBERS:

MRS. DEMALINE, WARD 1 advised Lorain County put out a message that they were urging residents affected by the storm to report damages and flooding. She asked Mayor Jensen if he knew anything more about that.

Mayor Jensen advised they looked into it, and he knows that Mr. Cummins has been monitoring it. He said it is usually for catastrophes where the area could be declared a state of emergency. Mayor Jensen stated the flooding that took place in Avon was sporadic throughout, but they were still watching to see of other areas that are unknown. He yielded the floor to Mr. Cummins suggesting that he could address this question better.

Mr. Cummins advised it is beyond the City Administration or Council's power to determine if this storm is going to be labeled as any type of disaster area or anything of that nature. He said there are other areas around the Country that are experiencing problems and sometimes those disaster areas will start at one location and will be expanded to encompass other areas so it is possible that something like that may occur. Mr. Cummins stated they have utilized those designations in the past to purchase property and demolish homes that were at risk of flooding, and they well may have been impacted by the storm that we just had if they had not been razed. He advised because of that, those people were out of harm's way and one less thing for emergency services to worry about. Mr. Cummins said they certainly will keep an eye on that and if it presents itself, they will look at ways to utilize such a designation if it comes to be.

Mrs. Demaline asked how they were tracking the properties that were impacted by that storm.

Mr. Cummins advised he believes that the Service Department Clerk/Secretary and the Service Department as well as the staff in the Utilities Department were keeping track. He said he keeps a list of phone calls and emails that he receives and responds to so he believes it has just been keeping those lists. Mr. Cummins stated the Utilities Department has a software program to track requests for work or the like for their crews and he was sure it was kept in that software database as well.

Mayor Jensen asked for clarification that type of action was typically for a total loss of property and not necessarily a flooded basement.

Mr. Cummins advised that is correct.

MRS. HOLTZMEIER, AT LARGE thanked the Service Department for all the extra work and angst and sweat that has gone on over the last couple of weeks. She said hopefully Mother Nature will cooperate further and they can get onto some other work, but it is appreciated.

Mrs. Holtzmeier advised as a member of the Safety Committee she would like to request that a Committee Meeting be called over the next couple of weeks for the purpose of looking at our current fines for those that pass schools buses when the bus lights are on. She said last year in March, Council appropriated about \$9,700 for the installation of additional cameras within the school buses so that they would be equipped with those cameras to be able to see who has infractions. Mrs. Holtzmeier stated she would like the Safety Committee to look at what Avon's fines are compared to our surrounding communities and communities of our size. She advised in our Codified Ordinances right now they have a current maximum fine of not to exceed \$500 with a mandate to appear in person for that infraction. Mrs. Holtzmeier said she would like to see if that current maximum is appropriate or if it should be increased. She stated additionally, do they have a current minimum fine and what in the Codified Ordinance should that amount be to be able to provide some range of what those

finer are? Mrs. Holtzmeier felt it was also a good time to look at the history of the last couple of years especially in these last few weeks since school has started. Have we seen an uptick in specific areas? She said she is mentioning it now because they are in September and the daylight is getting shorter and they are getting to a place where the children are getting on the school bus in the dark soon. Mrs. Holtzmeier stated she would like us to have that discussion and determine if and how they want to act on it and then through that process continue to build more public awareness because the children are worth it. She advised she would like to ask that a Committee meeting be set and Mr. Radcliffe is the Chair of the Safety Committee and Mr. Fischer and herself are members as well.

Mayor Jensen advised there has been an uptick and a substantial number of motorists that are passing the bus. He said it is a lot of our youth that are the offenders and to keep that in mind when trying to figure out how to administer the fine as well as make them aware of the dangers of their actions as he felt that was the challenge as some do not have a lot of experience behind the wheel. Mayor Jensen felt there was a fine line between not over punishing and also making sure they understand the importance. He stated he would get the figures from the Magistrate and how it is determined who pays the maximum fine as well as trying to educate the youth that they have to slow down. Mayor Jensen advised the bus drivers have been increasingly frustrated when they witness these actions and he has two grandchildren that ride the bus and it is scary for him to think about as well as there often is no rhyme or reason for their actions.

Mrs. Holtzmeier advised she does not want to wait until it is too late.

Mrs. Holtzmeier said they are also in that time of year where Finance Committee is going to be having their 2024 annual budget meeting. She stated she will be sending Council and members of the Administration that are impacted an email with some potential dates for a Saturday meeting. Mrs. Holtzmeier asked they reply back after looking at their calendars as to their first and second choice for a meeting time and date and then get that meeting scheduled.

MR. MCBRIDE, WARD 2 thanked Mayor Jensen, Mr. Cummins, Mr. Streater and Ms. Fechter for handling a few issues. He thanked the employees in the Service Department for their work during and after the rain event. Mr. McBride advised also, the Utilities Department and the Mayor's Office did a great job in handling calls and helping people make decisions with preventing further basement sanitary infiltration. He said those calls are not fun to receive, but the City always goes out of their way to help people. He gave kudos to the Utilities Staff for opening up the manhole cover to the intersector as that was a gutsy move when it was basically at 100% capacity. Mr. McBride stated he would not want to do that, but they do it and they opened up some of the branch lines as well. A big thank you goes out to all of the staff that handled those situations.

Mr. McBride advised he would support an increase in the maximum fine for those who violate the law regarding buses. He said stated they should also take into account Mayor Jensen's comment about new drivers and what is the appropriate punishment as it may not be the right way to go to fine them the maximum amount of essentially their parents' money. Mr. McBride advised perhaps taking away driving privileges might be more appropriate, but then the parents pay that price as well.

Mr. McBride said the other issue he wanted to bring up was that he could not tell them how many adult drivers he saw this past weekend who are on their cell phone as soon as they are stopped at a light. He stated the patrol officers on duty could write at least a half a dozen tickets every day per shift. Mr. McBride advised he does not know what the average has been, but it would be nice to see the number of tickets go up and probably should be without warnings. He said he would like to see the size of the signage warning of this action be increased as motorists come off the freeway and enter Avon. Mr. McBride stated it holds up traffic when the light turns green, and cars begin to move and there is more than a car's length between vehicles and the driver has their head down and is clearly looking at their cell phone. He advised we are going to spend millions between the City of Avon and the State of Ohio to improve the Detroit Road and SR 83 intersection and there would still be issues because drivers are not paying attention to what they are supposed to be doing when driving.

MR. MOORE, WARD 3 invited everyone to Save the Date of Saturday, October 7, 2023 for the Second Annual Arbor Day Celebration at Every Child's Playground from 11:30 am to 2:00 pm.

MR. RADCLIFFE, WARD 4 advised with the rain event on August 23rd and the response from the Administration and the work crews was all a positive one and he is in support of that. He said the residents that he spoke with were mostly hopeful that some of the changes that have been made in the past have helped

alleviate some of the issues when there was a rain event such as the one we had. Mr. Radcliffe stated it was good to see that some of the residents were being positive about those changes.

Mr. Radcliffe advised to Mrs. Holtzmeier's point about having a Safety Committee Meeting to discuss the fines for violators of passing a school bus, he would like to have the data and Chief Fischbach come in front of Council to have that discussion. He said he does not necessarily know if we need to have other City data at this point in order to have that conversation because he agrees that while raising the fine is a possibility and probably not a bad idea, but trying to help provide better education resources or a combination of something that we hear from the Police Department about what their experience has been that maybe there is another way to help that process and provide better educational resources.

Mayor Jensen advised he would get a date from the Police Chief. He said he will also have a discussion with our Magistrate to see if he should come before Council so that his perspective can be heard as well. Mayor Jensen stated he agreed that an educational piece to this problem would be helpful and possibly in cooperation with the Schools they can work through that and let the kids know the seriousness of this offense.

Mr. Radcliffe stated the two upcoming meetings that he will not be available to attend are September 11th and October 2nd. He said he would wait to hear back from the Mayor about the Police Chief's schedule and then a meeting can be set for some time in the near future.

MR. WITHERSPOON, AT LARGE advised the Safety Fair was this Saturday, September 9th from 10 am to 2 pm. and Superhero Day would be Saturday, September 16th and both of those events will be located at the Aquatic Facility. He said these are two great events to attend and they are a lot of fun. Mr. Witherspoon clarified that he will not be dressing up as a Superhero this year.

MR. FISCHER, AT LARGE advised there was a lot of talk about safety tonight in the meeting and he too wanted to remind everyone that the Safety Fair is this Saturday and he hoped to see everyone there.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER had no comments.

MS. FECHTER, PLANNING/ECONOMIC DEVELOPMENT COORDINATOR advised as already mentioned, Saturday, September 16th is Superhero Day and the public is welcome from 12:30 to 3:30. She said as they have done for several years, they will again have these beautiful children come and save the City of Avon from the villains. Ms. Fechter stated they have over 40 non-profits and business vendors scheduled to be there and it should be a great day and she hoped they could attend.

MR. GASIOR, LAW DIRECTOR advised the last time Council met back in August, it was brought to their attention that an 8-foot asphalt path should have been constructed along the west side of Nagel Road near the Red Tail golf course south to Mills Road. He said they looked into claim and found that there was legislation passed 24 years ago that would have required that path to be installed. Mr. Gasior noted that was before his time as Law Director and said he could not explain why that path did not get installed, but it is certainly something that the next time that the Service Committee of Council meets that they may want to take that into consideration and perhaps request, if necessary, that Carnegie Development install that asphalt path. He advised many things have changed there and as the situation exists today there is a 4-foot concrete sidewalk that extends all the way south to Mills Road on the east side of the street from what he will call the tunnel that goes under Nagel Road. Mr. Gasior said the 8-foot asphalt path as Mr. McBride knows, as he has raised that issue numerous times, extends north from the tunnel to the northern property line of the Red Tail Subdivision. He stated he was bringing that up in case the Service Committee, when addressing the 2024 sidewalk program, may want to look into that situation.

MR. PRESLEY, FINANCE DIRECTOR had no comments.

MR. STREATOR, SAFETY DIRECTOR/PUBLIC SERVICE DIRECTOR advised in addition to the Safety Fair this Saturday, next Monday, September 11th the City will be holding its Patriot Day service at 7:30 am at the Veterans Memorial behind the Fire Station and Post Office as they have done each year to remember that attack on American soil.

Mr. Streator reported that there were 271 rescue/ambulance calls and 71 fire calls for the month of August. The rescue calls from last year were up by about 40 calls and the fire calls were about the same this time last year.

Mr. Streator advised he would pass along Council's appreciation to the Utilities and Streets Department employees. He said those employees worked tirelessly throughout the night Thursday night and then Friday and Saturday when some big trees came down. Mr. Streator noted the Service crews were able to clear the road after the power company was there.

AUDIENCE:

Gerald W. Phillips of 461 Windward Way, Avon Lake advised Mr. Gasior touched on the point in the Developer's Agreement with Carnegie Management and Development Corporation in paragraph 17 that they have to be current in all their obligations, which Mr. Gasior indicated that Carnegie has not complied. He said the Engineer is supposed to, if they do not complete it by the completion date which was when they received an occupancy permit for the clubhouse on the golf course, which was June of 2000. Mr. Phillips stated if it is not done, Carnegie is supposed to deposit 150% of the estimate for that sidewalk and they have not. He advised it is his opinion that Carnegie has not complied with paragraph 17, and they did not have that last meeting, so Council will have it on September 11th and Council can file a motion for reconsideration and undo the acceptance of those improvements in Ordinance No. 84-23.

Mr. Phillips said to speak to what Mrs. Holtzmeier brought up regarding school bus fines, the City of Avon Lake dealt with that same issue a few years ago. He said what Avon Lake found was that it was not the penalty, but it was more of an enforcement issue in the sense that the police were not enforcing it. Mr. Phillips stated when Council deals with that issue, he suggested they contact the police to see how many citations that they issue. He advised if they put a minimum fine, it would take away from the magistrate or the judge the ability to tailor make the punishment to fit the situation, like Mayor Jensen indicated with young adults versus older adults. Mr. Phillips said plus Mr. Gasior can advise Council concerning the difference between State law and Local law and whether they have the authority to increase the penalty and the fine beyond a certain limit. He stated what he felt they needed to do was to have the cameras on the bus and make sure the bus drivers use those cameras and then they would have the information to enforce. Mr. Phillips advised it seems as if it is not a dollar amount, but more of an enforcement issue.

John Rumancik of 37968 Egg Harbor as well as 32150 Detroit Road where he owns a business, Parkview Landscaping advised for years he has been calling as his place gets flooded and nothing has been done. He said Mr. Cummins called him today and they are going to look into it and every year he hears the same thing that they are going to look into it while he is paying for it. Mr. Rumancik stated when his place gets flooded, he has to contact his insurance and make claims and it is getting old. He said there is no sanitary sewer and no storm sewers as his business is on the east end of the City. He advised he has video of the water running off the property across the street and down his property into his building. Mr. Rumancik said water is not supposed to enter from neighboring properties onto someone else's property. He stated another issue is that the water goes into a drain and under the road and comes out on his side of the road and floods out the Avon Oaks Golf Course, which he abuts, and both his property and Avon Oaks are flooded with water. Mr. Rumancik advised he hears they are going to make improvements to something that already has improvements to make it bigger and better and yet he has nothing. He asked who the Council Member is that for that area to which it was noted that his business is located in Ward 2, Dennis McBride.

Mr. McBride advised this is the first time he is hearing that Mr. Rumancik has flooding issues.

Mr. Rumancik said the City should have records of it as he talks to the City every year. He said he feels it is uncalled for as there is a lot of work being done in the City and the east end was being neglected.

Mayor Jensen advised typically the City does not install sanitary sewer unless the property owner is assessed. He said as development moves that direction then sanitary sewer would be installed by whoever develops the property around his property at that time. Mayor Jensen stated they have had no one ask to put sanitary sewer in and assess them as it is expensive. He advised this is the first time he is hearing about storm sewer issues with flooding. Mayor Jensen said he could look back through his emails, but he does not remember seeing an email from him.

Mr. Rumancik stated he has called the City and they should have records of his call. He said Mr. Cummins could tell you as he just talked to him.

Mayor Jensen said he understands that Mr. Rumancik talked to Mr. Cummins today, but as far as past years he was not aware.

Mr. Rumancik advised the City has come out to his property and looked at it and commented about leaves being over the drain and he told them that does not matter. He said the drain is there and the water still goes under the road and then comes out on his side, and he felt it should not be entering his property. Mr. Rumancik stated the City put up "High Water" signs, and the water was probably 6-8" deep and motorists drive across it and it splashes and runs more onto his property. He said so he added stone all along his property and the mailman says he will not deliver the mail to his address until he moves all the stone. Mr. Rumancik advised that leaves him with the choice of getting flooded and everything being ruined or does he put up stone. He said the stone is still there and it is going to sit there until this is taken care of. He said he is tired of this and every rain he is paying for it. Mr. Rumancik stated he has had his business at this location in Avon for 22 years. He advised it was stated that there is a Master Plan, and it did not look like sanitary sewer was on the master plan for his area.

Mayor Jensen answered not at this point as typically it is the developer who would put that in.

Mr. Rumancik advised regarding the proposed Sheetz, Inc. that the right turn only was going to be a problem as motorists would go around that island. He asked if the road was being widened in that area for Sheetz.

Mayor Jensen advised they will widen it for the right turn lane area. He said Discount Drug Mart owns the other property at some point, when neighboring property is presented for development, it will need to be widened.

Mr. Rumancik commented that all the roads need to be widened in this City. He said look at how much they have generated in people and businesses since 1950. Mr. Rumancik stated that North Ridgeville has better streets than Avon and wide areas. He advised Detroit Road, Nagel Road, SR 83 all need to be widened; if there is one accident the road fills up as he sees that all the time. Mr. Rumancik said a few years ago, the residents were asked if they wanted to see Detroit Road widened and they said no, they did not want to see Detroit Road widened. He was unsure how that question got on the paperwork, but he does not think that should be there. He was referring to Article XIII, Section 9 of the Charter.

Mr. Rumancik stated he would wait to hear from City Officials as to what would be done with his situation and the neighboring situations.

Mr. McBride advised he would speak with him directly after the meeting.

12. ADJOURN: 8:54 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