

**MINUTES OF THE WORK SESSION OF THE COUNCIL OF THE
CITY OF AVON, OHIO HELD MONDAY, OCTOBER 16, 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; Law Director – John Gasior; Finance Director– Steve Presley; Safety/Public Service Director – Duane Streator; Clerk of Council – Barbara Brooks

ABSENT: Planning/Economic Development Coordinator – Pam Fechter

President Fischer called the meeting to order and advised that he was removing Item No. 4 - Executive Session & Item No. 5 - Reconvene from the agenda.

1. [ORDINANCE NO. 108-23](#) – AMENDING SECTION 210.01(g)(2)(A)(1)(a) OF THE CODIFIED ORDINANCES OF THE CITY OF AVON REGARDING BUILDING PERMITS AND FEES Mr. Gasior

Mr. Gasior advised this is a housekeeping matter. He said somehow back when Council passed Ordinance No. 43-23, certain items were not included in the Codification of Section 210.01(g)(2)(A)(1)(a) when the Codifier did the update, and they need to be added back. Mr. Gasior stated when the Chief Building Official and he were going through this section, they noticed the fees were in the old written pages of the Code, but the Codifier had not included them when they received the updates made in Ordinance No. 43-23. He advised he does not believe the City lost any fees because they still had the written version, but they want to make sure they had everything squared away.

2. [ORDINANCE NO. 109-23](#) – AMENDING SECTION 1442.04(a)(1)(A) OF THE CODIFIED ORDINANCES OF THE CITY OF AVON REGARDING BUILDING PERMITS AND FEES Mr. Gasior

Mr. Gasior advised this is almost the same as the previous agenda item except he believes what happened here was they wanted to keep these fees in Section 1442 and somehow, they were removed in the Ordinance. He said again, he believes they were okay in the written Codification pages. Mr. Gasior stated apparently when the Codifier received Ordinance No. 43-23 back in April they were eliminated in this section. He advised he and the Chief Building Official picked up on this and it all started when they were talking about fees for the flood plain. Mr. Gasior said he believes they have everything cleared up and the Codification will match the online version once this gets to the publisher.

3. REPORTS AND COMMENTS

MAYOR JENSEN advised Mr. Presley might elaborate, but they would be asking for a reappropriations for the pool. He said they have enough funds to paint the pool floor and caulk needed areas but they need to be reappropriated. Mayor Jensen stated originally, they planned to do it next year, but since the pool will open a week earlier in 2024 in order to follow the school schedule, they are going to try to get the work done this year if the weather cooperates. He advised it would be on Council's agenda for next week for consideration.

Mayor Jensen advised Mr. Cummins will also be bringing an Ordinance for a change order to the construction contract for the entrance at Eagle Point Park as they were able to repave the drive that heads to the parking lot at a much cheaper price and they went ahead and made that decision.

Mayor Jensen advised Canvas, along with PPG, donated some items to Every Child's Playground made from recycled wind turbines and Council would be invited to attend the formal presentation of the nine donated items at 2:00 p.m. on Thursday, October 19th. He said if they could not attend on Thursday, he suggested they visit the park soon to see these special pieces of park furniture especially along the Storybook Trail. Mayor Jensen said some of these pieces are painted and they are looking into have some art students paint some of the other pieces. He felt that Council would be impressed with these items.

COUNCIL MEMBERS:

MRS. DEMALINE, WARD 1 thanked Mayor Jensen for the comments regarding Eagle Point Park as that paved section of the entrance is really nice.

Mrs. Demaline advised she wanted to follow up on the Service Committee Meeting that was held on August 14th regarding the 2024 Sidewalk Program. She said she knows the City wanted to take a couple of months and review the take aways and to look forward into 2024. Mrs. Demaline stated she wanted to touch base to see when a good time would be to get back together on that topic.

Mr. Cummins suggested they could do that in November.

Mrs. Demaline advised they could look at the calendar and talk about setting a meeting for some time in November.

Mr. Cummins advised he would be out for a few days at the end of October and the beginning of November, and he suggested the second set of meetings in November would be a good time to set another Committee meeting.

Mrs. Demaline thanked Mr. Cummins.

MRS. HOLTZMEIER, AT LARGE had no comments.

MR. MCBRIDE, WARD 2 advised there are again a lot of signages in the public right-of-way including a number of businesses for goods and services. He said it would be nice to do a sweep of the City this week and throw those signs in the dumpster. Mr. McBride stated he would encourage that tickets be issued to any out-of-town businesses. He felt it was one thing to post a notice in the right-of-way and then it is another to operate a business advertising in the right-of-way.

MR. MOORE, WARD 3 had no comments.

MR. RADCLIFFE, WARD 4 had no comments.

MR. WITHERSPOON, AT LARGE thanked the Clerk for remembering Council on Boss's Day.

MR. FISCHER, AT LARGE inquired about the timeline for the Chester Road widening project being completed.

Mr. Cummins advised they are hoping that the weather remains good enough that the contractors can start some of the paving work, but it is his understanding that they are looking to be done in the next two weeks.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER advised as the Mayor noted, last year they added sanitary sewer along Detroit Road in the vicinity of the entrance to Eagle Point Park. He said as part of the Detroit Road Sanitary Sewer Extension Project they had to replace some of the asphalt path that was in place, and they extended the asphalt path across the frontage of the park with new aprons and the like. Mr. Cummins stated the Roadway Superintendent talked with the contractor and secured a price for them to not only do the work that was in the contract, but also pave all the way to existing parking area within the park. He advised that change order is a little over \$75,000 and is a reasonable cost and is cheaper than some of the bid prices they have received from larger paving projects on a per cubic yard basis. Mr. Cummins said that change order legislation will be for Council's consideration next week.

MS. FECHTER, PLANNING/ECONOMIC DEVELOPMENT COORDINATOR was absent.

MR. GASIOR, LAW DIRECTOR advised there was an Appeal filed by Gerald Phillips on behalf of Mr. Restivo on the action that Council took back in September to accept the improvements for Red Tail No. 17. He said the Clerk received a Praecipe for the documents that related to what would be considered the record on appeal that would consist of all of the meetings that were held, which he believes were three Work Sessions and three Regular Meetings. So the minutes of those meetings would be submitted to the Court of Appeals as

part of the record along with Exhibits that were submitted as well whether by email or otherwise. Mr. Gasior advised the Notice of Appeal is an appeal that gets filed in the lower court, in this case the Common Pleas Court, and it is a Notice of Appeal to the Ninth District Court of Appeals. He said he believes they have forty days to submit the record and then once the record is submitted, all the attorneys on both sides receive notice that the record has been submitted. Mr. Gasior stated then Mr. Restivo's attorney would have twenty days to file a brief to make the argument that the trial court was wrong in dismissing their case. He advised after that then the City would have twenty days to file our response. Mr. Gasior said it usually does not happen that cleanly as parties ask for extensions of time to prepare that brief so he felt what they were looking at is a process that would take them into probably late winter before all the briefs are submitted as there would be reply briefs as well. He stated then it usually takes a Court of Appeals six to eight months to call for oral arguments and then maybe another six months after that to write their opinion. Mr. Gasior advised they were probably looking at a process that could take well into 2024 if not early 2025 before the City receives an opinion from the Court of Appeals.

MR. PRESLEY, FINANCE DIRECTOR advised as Mayor Jensen and Mr. Cummins indicated, he would be bringing an appropriation amendment for Council's consideration at next week's meeting. He said he hoped to get that out as early as possible so they have time to review it and to please contact him with any questions.

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

AUDIENCE:

Mary Berges of 3471 Mass Drive advised this past Saturday afternoon there was the "Not So Spooky Halloween" event in the Storybook Trail that is part of Every Child's Playground. She said she does not know if the Council had the chance to attend, but for most of the afternoon it was raining pretty hard. Ms. Berges stated but she was surprised to see the parking lot full of cars; the whole place was packed. She advised in spite of the rain, kids and adults alike were having fun. Ms. Berges said even the companies and organizations that had tents in the rain seemed to enjoy the participation and were happy to be there as a part of the event. She commended the Parks & Recreation Department for the wonderful job that they did and how they brought the community together for this event.

4. ~~EXECUTIVE SESSION~~ – REMOVED

5. ~~RECONVENE~~ - REMOVED

6. ADJOURN: 7:45 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