

**MINUTES OF THE WORK SESSION OF THE COUNCIL OF THE
CITY OF AVON, OHIO HELD MONDAY, NOVEMBER 6, 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 Streater; Clerk of Council – Barbara Brooks

1. [ORDINANCE NO. 112-23](#) – 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

The First of Three Readings of Ordinance No. 112-23 will be Monday, November 13, 2023
A Public Hearing will be held for Ordinance No. 112-23 on Monday December 11, 2023 at 7:25 p.m.

Ms. Fechter advised the Rak family currently has 9.3642 acres, and they are asking to split 6.6590 acres with access to Split Rail Lane to construct one single-family home and the parcel would be deed restricted to one single-family home, leaving the Rak family with 2.7052 acres fronting on Long Road. She said the applicant is requesting that Council approve modifying the Sanitary Sewer District to add this one newly created parcel. Ms. Fechter indicated a similar action was approved in 2021 for the parcel that abuts the Rak parcel to the east.

2. [ORDINANCE NO. 113-23](#) – GRANTING A SPECIAL USE PERMIT TO MARK & AMY LADEGAARD TO ALLOW FOR THE DEVELOPMENT OF AN EXISTING FLAG LOT LOCATED ON KINZEL ROAD, PERMANENT PARCEL NO. 04-00-014-105-068 INTO TWO SEPARATE PARCELS TO FACILITATE THE CONSTRUCTION OF TWO SINGLE-FAMILY HOMES IN THE R-1 SINGLE-FAMILY ZONING DISTRICT Planning Referral

Ms. Fechter pointed out the parcel that is the current home for Mark and Amy Ladegaard on Kinzel Road. She said the abutting parcel to the east is also owned by the Ladegaards and is the topic for tonight’s discussion. Ms. Fechter stated it is an existing flag lot with 7.36 acres and the applicant is asking for the flag lot to be developed into two single-family parcels. She stated the applicant would like to divide the lot for their children by giving one 4.26 acres and one 3.1 acres and would use the 60’ of frontage on Kinzel Road as a shared driveway to both parcels to access the properties. She explained there would be a recorded easement for that shared driveway. Ms. Fechter advised this was a positive referral from the Planning Commission and a Public Hearing was also held on October 18, 2023.

Mr. Radcliffe advised regarding the driveway, he wanted to confirm that the easement would always allow access to both parcels.

Mr. Gasior advised it would be a perpetual driveway access easement.

3. [ORDINANCE NO. 114-23](#) –TO AMEND ORDINANCE NO. 413-68, PASSED JANUARY 15, 1969 COMMONLY KNOWN AS THE ZONING ORDINANCE OF THE CITY OF AVON, OHIO, AS AMENDED, REZONING APPROXIMATELY 10.7364 ACRES OF LAND CONSISTING OF A 10.6661 ACRE PORTION OF PERMANENT PARCEL NO. 04-00-022-102-072 AND A 0.0703 ACRE PORTION OF PERMANENT PARCEL NO. 04-00-022-102-006 BOTH OF WHICH ARE LOCATED JUST WEST OF THE MIDDLETON ROAD TERMINUS FROM R-1 SINGLE FAMILY RESIDENTIAL DISTRICT TO C-4 GENERAL BUSINESS DISTRICT Planning Referral

The First of Three Readings of Ordinance No. 114-23 will be Monday, November 13, 2023

A Public Hearing will be held for Ordinance No. 114-23 on Monday, December 11, 2023 at 7:20 p.m.

Ms. Fechter advised Michael Romanello representing DJMG Properties is requesting to rezone these parcels from R-1 to C-4 and they are located within what is known as the “purple box”. She said a while back a master plan study was completed of the entire City and the parcels within the “purple box” were recommended to be rezoned as commercial rather than remaining residential, allowing through an Ordinance, and to not require it go before the voters to make that zoning change. Ms. Fechter stated Mr. Romanello is not asking for a lot split at this time, but is merely asking that the portion of property located within the “purple box” be rezoned to commercial to allow him to better market the parcel. She advised once the parcel is rezoned and sold then it would come before the City and Council to discuss the right of way for Middleton Road as well as his plans for the remainder of the parcel. Ms. Fechter said this will be approximately 10.6 acres from the larger parcel and 0.0703 acres from a little parcel that it crosses to create the 10.7364 acres to be rezoned to commercial. She stated the property to be rezoned is west of Meijer.

Ms. Fechter advised they would probably see similar requests over the coming years with the Herbst parcel as well as the Conant parcel to the west of this proposed rezoning parcel. She said there was a positive recommendation from the Planning Commission.

4. [ORDINANCE NO. 115-23](#) – GRANTING A SPECIAL USE PERMIT TO COOPER’S HAWK AVON, LLC TO CONSTRUCT A 11,040 SQ. FT. RESTAURANT WITH A 750 SQ. FT. OUTDOOR PATIO SEATING AREA FOR PROPERTY LOCATED AT 35351 CHESTER ROAD Planning Referral

Ms. Fechter advised Cooper’s Hawk Winery & Restaurant has chosen to come to Avon and they will be located on Chester Road just to the east of McAlister’s Deli. She said the patio would have 12 tables with 40 seats and will have streamed music from inside the restaurant. Ms. Fechter stated there would be bollard protection around the patio, but they would not be having other outdoor amenities such as firepits or other outdoor activities seen at some of the other wineries in the area. She advised Cooper’s Hawk has 150 employees per location and most of those are part-time and they would be open Sunday through Friday from 11:00 am to 9:00 pm and Saturday from 11:00 am to 10:00 pm. Ms. Fechter said it is modern casual dining and she suggested they look at their menu online at their convenience and they are making a sizable investment. She stated they have approximately 56 locations throughout the United States and there are 66,000 wine members. Ms. Fechter advised Cooper’s Hawk Avon, LLC is looking for approval of their outdoor seating.

5. [ORDINANCE NO. 116-23](#) – REAPPROPRIATIONS Mr. Presley

Mr. Presley explained that as they get into year end and in trying to make some provisions relative to some budget needs, they needed to supplement the appropriations as follows:

General Fund No. 101

Increase IT/wages and Benefits by \$32,500 as the original budget is insufficient for the remainder of the year with the addition of an IT employee in that Department.

Increase Tree Commission Wages and Benefits by \$1,000 as the original budget is insufficient for the remainder of the year.

Increase Tree Commission Operating Supplies by \$4,500 as the original budget was insufficient for the Arbor Day Festival.

Increase Safety Director Wages and Benefits by \$7,500 as the original budget is insufficient for the remainder of the year. That employee is eligible to convert some vacation time and that was done this year.

Add Transfer to Recreation Fund of \$500,000 to cover the Donation for the Middle School Turf Project.

Add Advance to the Traxler Property Fund of \$400,000 to cover the State of Ohio Grant until it is received by the City. As part of that purchase, the State of Ohio said the City will be receiving \$400,000 Grant funds, but it is anticipated that it will not be received by the end of the year. The Fund cannot end in a deficit so that is the reason for the advance of the funds. When the Grant funds are received it will be paid back to the General Fund.

Add Transfer to 2021 Road Program Fund of \$100,000 to cover Final Improvement Costs.

Add Advance to Chester Road/American Way Improvement Fund of \$750,000 to Cover the Special Assessment and OPWC Grant until they are received by the City. There are some punch list items that may or may not be done by the end of the year and the City will not as yet be receiving the voluntary assessment funds or the remaining OPWC Grant dollars before the end of the year.

Total Increase in Fund 101	\$1,795,500.00
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Aquatic Fund No 255

Increase Wages and Benefits by \$15,000 as the original budget is insufficient for the remainder of the year. This is primarily because the hourly rate set in order to get lifeguards and other staff hired at the pool was set a little bit higher. There was going to be an increase to the minimum wage in 2024 so there is an increase in those additional part-time wages at the pool as well.

Total Increase in Fund 255	\$15,000.00
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Economic Development Fund No 285

Increase Contractual Services by \$25,000 as the original budget was insufficient. There is the potential for some companies to come into the City, but some engineering work needed to be done to see what the cost of infrastructure improvements would be.

Total Increase in Fund 285	\$25,000.00
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Traxler Property Fund No 407

Increase Land Purchase by \$5,000 to cover miscellaneous closing costs of the purchase. These costs were the result of the transfer of that property.

Total increase in Fund 407	\$5,000.00
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Grand Total of all Re-Appropriations	\$1,840,500.00
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Mr. Radcliffe asked regarding the Advance of Funds if that was a common action when it is known that those funds are coming but it was a timing issue as he was not remembering it in the past.

Mr. Presley answered yes, it is standard to advance funds to Capital where otherwise grant or reimbursement dollars are coming back to the City. He advised it is inappropriate to have a fund end in a deficit so the way to handle that is an advance from a fund that has the available funds. Then when the money comes in, it would be a repayment of the advance back to the General Fund.

Mayor Jensen advised regarding a previous discussion about the cameras on the school busses, he asked if the City has reimbursed the Schools for that money. He said if that has not happened yet, he asked if a reappropriation would be needed.

Mr. Presley advised he would look tomorrow what the total is that has been collected relative to the 24 citations and subtract out the court costs and then he would have a dollar amount that can be added to this reappropriation if that is the wish of Council for next Monday night's meeting.

Mayor Jensen advised he knows the School contacted Mr. Presley about the reimbursement for that. He said if possible, he would like it added to this one to get the Schools reimbursed.

Mr. Presley advised he could add a new line item to this Exhibit if that is acceptable to Council.

6. ORDINANCE NO. 117-23 – TO AUTHORIZE A FINAL PLAT AND SUBDIVIDER’S AGREEMENT FOR STONEY ACRES SUBDIVISION Planning Referral

Ms. Fechter advised a few months ago Council approved a Sewer District Modification to allow for this subdivision to come forth as well as a flag lot on State Route 83. She said as well as for an additional single-family home and to allow for sewer service just south of the parcel in question. Ms. Fechter stated they are asking for approval of the Subdivider’s Agreement to create 11 single-family homes in the subdivision as well as the one flag lot for the applicant to install all necessary public infrastructure.

Mr. Presley confirmed that a check was received that day for \$51,600 in required fees/deposits.

7. ORDINANCE NO. 118-23 – TO AMEND ORDINANCE NO. 155-07 TO EXTEND THE TERM OF THE TAX INCREMENT FINANCING FOR TIF #5 FOR AN ADDITIONAL 30 YEARS PURSUANT TO OHIO REVISED CODE SECTION 5709.51; AUTHORIZING OTHER RELATED ACTIONS PURSUANT TO OHIO REVISED CODE SECTIONS 5709.40(B), 5709.42, 5709.43, AND RELATED LAWS Mr. Presley

Mr. Presley advised the State is allowing the City the option to extend the TIF for an additional 30 years, but it has to be done before December 31, 2023 if it has or is anticipated to bring in \$1.5 million per annum. He said as a result of that window they wanted to bring it to Council to ask for the authorization to extend that TIF.

Mr. McBride inquired if there would be other TIF’s in a similar situation.

Mr. Presley advised yes, there would be some coming up that they will be looking at pursuant to the same rules here.

Mr. McBride asked if those other TIF’s would have that same December 31, 2023 deadline.

Mr. Presley advised no, this is the first one that has a deadline relative to the window.

Mayor Jensen advised they may come back before Council asking them to approve other TIF extensions as a general blanket that would allow the Administration to do them as they become available instead of doing each one individually. He said but it is important to get this one in before the deadline.

Mr. McBride asked as to the location of this TIF. It was confirmed that the location for TIF #5 is on Chester Road.

8. REPORTS AND COMMENTS

MAYOR JENSEN had no comments.

COUNCIL MEMBERS:

MRS. DEMALINE, WARD 1 had no comments.

MRS. HOLTZMEIER, AT LARGE said tomorrow is Election Day and she wished all the candidates good luck who are running for election or re-election. She advised as they know she is not seeking re-election and she wanted Council and the Administration to know that her last day will be December 11, 2023 as she wanted to give them a sense of where that date is. Mrs. Holtzmeier encouraged the community to get out and vote tomorrow.

MR. MCBRIDE, WARD 2 encouraged the community to vote tomorrow if they have not already voted absentee.

MR. MOORE, WARD 3 wished all the candidates' good luck and he encouraged the community to go vote.

MR. RADCLIFFE, WARD 4 wished good luck to all in the election.

MR. WITHERSPOON, AT LARGE wished good luck to all those who threw their hat in the ring as tomorrow is the big day.

MR. FISCHER, AT LARGE wished all the candidates the best of luck. He said as they have always talked about it is not an easy thing to put yourself out there in the public eye. Mr. Fischer stated they all want what is best for the City of Avon. Good luck to everybody.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER had no comments.

MS. FECHTER, PLANNING/ECONOMIC DEVELOPMENT COORDINATOR wished good luck to everyone who is running. Go vote!

MR. GASIOR, LAW DIRECTOR advised if Issue 2, which is recreational marijuana, passes tomorrow and there is an indication that it is going to pass; he is preparing a 6-month moratorium on the establishment of retail, wholesale, manufacturing and the like in the City of Avon as it is all encompassing. He said he would have that legislation for Council to consider at the meeting on November 13th.

Mr. Gasior advised late today he came across a notice from the National League of Cities that Congress, the House, is steamrolling some legislation through to take away local governments' rights to control the right-of-way. He said he would share the information with Council in an email and the push to get fiber optic broadband into everyone's home is there. Mr. Gasior stated the telecommunications industry does not really care about local governments and what is in the ground in local jurisdictions; they just want to get that fiber and broadband in the ground. He advised this is something they were going to have to keep an eye on because it will obviously impact us at the national, state and local level.

MR. PRESLEY, FINANCE DIRECTOR advised earlier this afternoon he emailed out to all of Council and the Mayor the detailed line item revenue and expenditure budgets for 2024 as well as a summary by Fund of revenues, expenditures, and estimated fund balances. He said he will also be emailing out to them the remaining items for Saturdays Finance Committee Meeting and will have a hard copy at their place when they arrive on Saturday morning. Mr. Presley stated if there were any questions before the meeting on Saturday to please not hesitate to call him.

MR. STREATOR, SAFETY DIRECTOR/PUBLIC SERVICE DIRECTOR reported that in October the Fire Department had 302 rescue/ambulance calls and that number is up about 27 from the previous year and there were 66 fire calls. He advised in looking at the numbers, if the trend continues it would push them to over 4,000 calls for the Fire Department in 2023, which is about 1,000 more than in 2020. Mr. Streator said they have definitely been busier as time goes on.

Mr. Streator advised leaf pickup is going well in the Street Department and they are keeping up and as long as the weather holds out, they will continue to collect the leaves.

AUDIENCE:

There were no comments made from the audience members.

9. EXECUTIVE SESSION: 7:58 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 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.

10. RECONVENE: 8:14 p.m.
A motion was made by Mr. McBride and seconded by Mr. Moore to Reconvene the Work Session of Council, and the vote was: Mrs. Holtzmeier, "yes"; Mr. McBride, "yes"; Mr. Moore, "yes"; Mr. Radcliffe, "yes"; Mr. Witherspoon, "yes"; Mrs. Demaline, "yes"; Mr. Fischer, "yes".

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

11. ADJOURN: 8:15 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