

**MINUTES OF THE REGULAR MEETING OF THE COUNCIL  
OF THE CITY OF AVON, OHIO, HELD MONDAY, NOVEMBER 13, 2023  
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING  
AT 7:30 P.M.**

The Chairman, Council President Brian Fischer, called the meeting to order and Girl Scouts, Daisy Troop #51134 and Cadette Troop #50085, led in the Pledge of Allegiance.

Pictures were taken of the troops with Mayor Jensen and all of City Council. President Fischer thanked the girls for coming in this evening and leading the meeting in the pledge.

**PRESENT:**

Council Members: 1<sup>st</sup> Ward – Jennifer Demaline; Council-at-Large – Tammy Holtzmeier; 2<sup>nd</sup> Ward – Dennis McBride; 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 Streator; Clerk of Council – Barbara Brooks

**ABSENT:** 3<sup>rd</sup> Ward – Anthony Moore

**MINUTES OF THE WORK SESSION OF COUNCIL HELD MONDAY, OCTOBER 16, 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, October 16, 2023, and to approve said minutes as published, and the vote was: Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

**MINUTES OF THE REGULAR MEETING OF COUNCIL HELD MONDAY, OCTOBER 23, 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, October 23, 2023, and to approve said minutes as published, and the vote was: Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

**MINUTES OF THE MEETING OF THE SAFETY COMMITTEE OF COUNCIL HELD MONDAY, NOVEMBER 6, 2023**

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to dispense with the reading of the minutes of the Meeting of the Safety Committee of Council held Monday, November 6, 2023, and to approve said minutes as published, and the vote was: Mr. McBride, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

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

The Clerk read Ordinance No. 112-23 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 first of three readings of Ordinance No. 112-23.

A Public Hearing will be held for Ordinance No. 112-23 on Monday, December 11, 2023 at 7:25 p.m.

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

The Clerk read Ordinance No. 113-23 by title only, entitled:

**AN ORDINANCE 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 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. 113-23, and the vote was: Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Fischer, “yes”.

The vote was 6 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. 113-23, and the vote was: Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Radcliffe, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

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

The Clerk read Ordinance No. 114-23 by title only, entitled:

**AN ORDINANCE 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**

The Chairman declared this to be the first of three readings of Ordinance No. 114-23.

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

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

The Clerk read Ordinance No. 115-23 by title only, entitled:

**AN ORDINANCE 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 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. 115-23, and the vote was: Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

The vote was 6 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. 115-23, and the vote was: Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

ORDINANCE NO. 116-23 – REAPPROPRIATIONS

The Clerk read Ordinance No. 116-23 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. 116-23, and the vote was: Mr. McBride, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. Fischer, “yes”.

The vote was 6 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. 116-23, and the discussion was:

Mrs. Demaline advised there is an appropriation for an increase in wages and benefits by \$15,000 in the Aquatic Fund No. 255. She inquired if it would be possible to get a report on how the Aquatic Facility did this year with attendance and sales and all those types of items. Mrs. Demaline asked if that was something Council would be able to see. She said she was not sure if that was a request for Finance or for the Recreation Department to provide.

Mr. Presley advised he could certainly work with the Pool Manager, Mr. Fattlar to get the information as far as the number of passes sold, the hours open; all of the vitals that would make up the pool report.

Mayor Jensen advised he is meeting with Mr. Fattlar on Wednesday as they need to look at setting prices for next year. He said they could get that report to Mrs. Demaline and Council by Monday of next week.

Mrs. Demaline thanked them.

Mr. Fischer asked if there were any other updates to the appropriation Ordinance.

Mr. Presley updated Council that there was no appropriation necessary for the payment of the fines related to the school bus violations, if that was what Council would like to do. He said there is \$3,250.00 in fines that could be paid over to the schools as reimbursement for the cameras if that is Council’s desire.

And the vote was: Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

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

The Clerk read Ordinance No. 117-23 by title only, entitled:

**AN ORDINANCE TO AUTHORIZE THE FINAL PLAT AND SUBDIVIDER’S AGREEMENT FOR STONEY ACRES SUBDIVISION 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. 117-23, and the vote was: Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Radcliffe, “yes”; Mr. Fischer, “yes”.

The vote was 6 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. 117-23, and the discussion was:

Mr. Fischer asked if all the deposits/fees were paid to which Mr. Presley answered, “yes”.

And the vote was: Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

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

The Clerk read Ordinance No. 118-23 by title only, entitled:

**AN ORDINANCE 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 AND DECLARING AN EMERGENCY**

The Chair declared this to be the first of three readings of Ordinance No. 118-23.

Mr. McBride inquired as to the reason this legislation was only on first reading for tonight.

Mr. Gasior advised the only reason was because they wanted to give the schools fourteen days’ notice.

ORDINANCE NO. 119-23 – AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT TO PURCHASE REAL ESTATE LOCATED AT 37570 FRENCH CREEK ROAD IN THE CITY OF AVON, PERMANENT PARCEL NO. 04-00-010-113-080, FROM OROSZ FAMILY LTD.

The Clerk read Ordinance No. 119-23 by title only, entitled:

**AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT TO PURCHASE REAL ESTATE LOCATED AT 37570 FRENCH CREEK ROAD IN THE CITY OF AVON, PERMANENT PARCEL NO. 04-00-010-113-080, FROM OROSZ FAMILY LTD. AND DECLARING AN EMERGENCY**

The Chair declared this to be the first of three readings of Ordinance No. 119-23.

Mayor Jensen advised as requested he spoke with the abutting property owner(s) to the east of the access road for this parcel, and they were very pleased that the City would be buying this property and cleaning it up. He advised them that the City would be maintaining the access road and adding a gate farther back and they had no issues whatsoever. Mayor Jensen stated he spoke with the abutting property owner(s) to the west of the access road for this parcel previously and they also had no issues with the City purchasing this property and were glad that someone was going to be maintaining it and he received no pushback from either property owner. Mayor Jensen said these neighbors were made aware that the legislation would still be on next Monday's Work Session agenda (11/20) if they wanted to bring anything up to Council before it was voted on at the Regular Meeting of Council on November 27<sup>th</sup>.

### REPORTS AND COMMENTS

MAYOR JENSEN inquired of Mr. Gasior if legislation or other paperwork would be necessary to move those funds to the Schools for bus fines to authorize it or were they good just to write the check to the Schools.

Mr. Gasior advised he thought it would be in the reappropriation Ordinance.

Mr. Presley advised he does not necessarily need an appropriation as far as expending the funds. He said the purpose of it would be Council either making a motion to approve that as it is temporary in nature, or...

Mr. Gasior advised he could prepare a simple Ordinance as he believes he has done something similar in the past and Mr. Presley could give him the exact amount that would be transferred from whatever Fund and then they would have Council's authorization and vote on it for the 27<sup>th</sup>.

Mr. Fischer agreed it should be a line item showing what Council approved.

Mr. Presley advised he would work with the Law Director on this, but it may be easier in the future to establish a fund to accumulate those monies and put into the Ordinance that the funds should be afforded to use by Board of Education and reimbursing for cameras and the like. He said that way they do not need to come back before Council every year and address it.

Mr. Gasior advised they can work both of those up over the next week and get that in front of Council. He said he believes five or six years ago they were going to try to do that and set up a separate fund and that must have died on the vine. Mr. Gasior stated they can revisit that and get the fund set up.

Mayor Jensen advised they need to make sure that they write in the legislation that the funds go toward reimbursement for the cameras. He said in that way they can be assured that it is moving forward in that way.

COUNCIL MEMBERS:

MRS. DEMALINE, WARD 1, advised she was pleased to see some progress on the updated signage being installed for City buildings. She said that is going to look really good very soon and she thanked the Administration for that project moving forward.

Mrs. Demaline said in anticipation of the Service Committee Meeting on November 27<sup>th</sup> she was hoping that the Administration would be able to provide Council some updated numbers from the 2023 Sidewalk Program. She stated she is looking for something that would show what was accomplished in 2023 and how it was done. Mrs. Demaline inquired if the property owners had their sidewalks installed themselves or did the City complete the work and where do they stand on the financial aspect of that. She asked if the City had to do the install did those homeowners, then pay the City or was it being placed on their tax duplicate. Mrs. Demaline advised if they could get a little bit more information on how that 2023 program looks that would be great. She said she would also like an update on where we are at with the couple outstanding properties. There is one property on SR 611 that she and Mr. McBride have talked about and there is still an outstanding property at 39016 Detroit Road. Mrs. Demaline stated she is looking for an update at the Service Committee Meeting of where the City stands on those properties. She advised she is looking forward to that meeting.

MRS. HOLTZMEIER, AT LARGE, advised she was looking over the Treasurer's Report provided to Council. She said in looking at the outstanding check list for October 31<sup>st</sup> there are three checks that are still outstanding that are greater than two years old and seven that are greater than a year old. Mrs. Holtzmeier asked Mr. Presley to please review those outstanding checks to see what their status is whether they need to be re-issued or if they are still valid. She said just to clear them from the books and have their payables be more recent.

Mr. Presley advised they just talked about those three checks cited and he believes they are older than a year and they will be moved into unclaimed funds pursuant to ORC and the other one will stay on the books until such time as it then goes over the unclaimed funds. He said there are certain requirements they must follow relative to those stale dated checks before they can be returned to the City.

Mrs. Holtzmeier advised she was not asking for them to be returned to the City, as they were clearly paid because they were monies that the City owed; they just were not cashed. She said she does not know if their status is because they were lost or never received. Mrs. Holtzmeier stated without reverting to unclaimed by doing nothing, she wanted to have an outreach to clear those payables. She thanked Mr. Presley for looking into that.

MR. MCBRIDE, WARD 2, had no comments.

MR. MOORE, WARD 3, was absent.

MR. RADCLIFFE, WARD 4, had no comments.

MR. WITHERSPOON, AT LARGE, had no comments.

MR. FISCHER, AT LARGE, congratulated the new Council Members, Ms. Patton and Ms. Berges and said he was looking forward to working with them. He gave his condolences to Mr. Witherspoon. Mr. Fischer advised they all want the best for Avon.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER, had no comments.

MS. FECHTER, PLANNING/ECONOMIC DEVELOPMENT COORDINATOR, had no comments.

MR. GASIOR, LAW DIRECTOR, congratulated the new Council Members and said he looks forward to working with them.

MR. PRESLEY, FINANCE DIRECTOR, advised an item from this past Saturday's Finance Meeting that ties into the Sidewalk Program is that the actual dollars spent, and he did not have a breakdown as to whether it was construction, engineering, or reestablishment of the grade, but it was \$290,549.00 to date in expenditures.

Mr. Presley advised regarding the fleet for the Police Department, there are 58 total vehicles under insurance, 39 of them are the Chevy Tahoe's.

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

AUDIENCE

There were no comments from the audience members.

EXECUTIVE SESSION: 7:55 p.m.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to Enter Into Executive Session for the Purpose of Discussing the Purchase of Real Estate, and to Invite Mr. Streator and Mr. Presley, Council Member Elect Ms. Berges and Council Member Elect Ms. Patton and the vote was: Mrs. Holtzmeier, "yes"; Mr. McBride, "yes"; Mr. Radcliffe, "yes"; Mr. Witherspoon, "yes"; Mrs. Demaline, "yes"; Mr. Fischer, "yes".

The vote was 6 for and 0 against and the Chairman declared the motion passed.

RECONVENE: 8:35 p.m.

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

The vote was 6 for and 0 against and the Chairman declared the motion passed.

ADJOURN: 8:36 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. Radcliffe, "yes"; Mr. Witherspoon, "yes"; Mrs. Demaline, "yes"; Mrs. Holtzmeier, "yes"; Mr. McBride, "yes"; Mr. Fischer, "yes".

The vote was 6 for and 0 against and the Chairman declared the motion passed.