

**ORDINANCE NO. 89-23**

**AN ORDINANCE AUTHORIZING THE HIRING OF THE LAW FIRM OF DOOLEY, GEMBALA, MCLAUGHLIN, & PECORA AS SPECIAL COUNSEL TO THE CITY OF AVON FOR ALL MATTERS PERTINENT TO THE CASE OF STATE EX REL AVON, OHIO, PETER RESTIVO vs. CITY OF AVON, et al AND DECLARING AN EMERGENCY**

**WHEREAS**, the City of Avon and all of City Council has been named as Defendants in a lawsuit filed on June 26, 2023 by Peter Restivo, Brandon Veverka, Hilliard Partnership, LLC and Stop Avon Flooding Everywhere, LLC, captioned as State ex rel Avon, Ohio Peter Restivo vs. City of Avon, et al, Case No. 23-CV-209370, Lorain County Court of Common Pleas; and

**WHEREAS**, to fully protect the interests of the City and City Council as named defendants in these proceedings and to achieve the best possible resolution, the Law Director recommends the hiring of outside counsel who specializes in the area of Zoning and Land Use litigation to review, prepare and represent their interests in this action; and

**WHEREAS**, Council deems it to be in the best interest of the health, safety and welfare of the citizens of Avon that outside special counsel be retained as quickly as possible to assist the Law Director in representing the interests of the city and City Council in these matters.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:**

Section 1 - Effective upon the passage of this Ordinance and retroactive to June 27<sup>th</sup>, 2023, Council hereby authorizes the administration to retain the services of Dooley, Gembala, McLaughlin, & Pecora, (hereinafter referred to as Dooley, et al.), as special counsel to assist the Law Director in the conduct of the city’s defense and the defense of each City Council member in State ex rel Avon, Ohio Peter Restivo vs. City of Avon, et al, Case No. 23-CV-209370, Lorain County Court of Common Pleas.

Section 2 - That the proposal for these services submitted by Dooley, et al. is hereby accepted and marked as [Exhibit A](#) and made a part of this Ordinance by reference. Further, Dooley, et al. as special counsel, shall be compensated at the rate stated therein. Council approves and ratifies the actions taken by Dooley, et al. commencing with June 27, 2023 and payment for said services rendered commencing on said date and going forward shall be approved by the Law Director and issued pursuant to the directives of the Finance Director.

Section 3 - That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4 - That this Ordinance is hereby declared to be an emergency measure necessary

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for the preservation of the public peace, health, safety and welfare of the citizens of the City of Avon, the immediate emergency being the necessity to retain special counsel without delay and retroactive to June 27<sup>th</sup>, 2023 in *State ex rel Avon, Ohio Peter Restivo vs. City of Avon, et al.*; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: \_\_\_\_\_

DATE SIGNED: \_\_\_\_\_

By: \_\_\_\_\_  
Brian Fischer, Council President

DATE APPROVED BY THE MAYOR \_\_\_\_\_

\_\_\_\_\_  
Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
John A. Gasior, Law Director  
City of Avon, Ohio

ATTEST:

\_\_\_\_\_  
Barbara Brooks, Clerk of Council

POSTED \_\_\_\_\_  
Electronically and at City Hall as  
Provided by Council

Prepared by:  
John A. Gasior, Esq.  
Law Director