

**MINUTES OF THE WORK SESSION OF THE COUNCIL OF THE
CITY OF AVON, OHIO HELD MONDAY, JANUARY 3, 2022
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING
AT 7:42 P.M.**

PRESENT: Council Members: 1st Ward – Jennifer Demaline; Council-at-Large – Tammy Holtzmeier, 2nd Ward - Dennis McBride; 3rd Ward – Anthony 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 and Economic Development Coordinator – Pam Fechter; Law Director – John Gasior; Finance Director – William Logan; Safety/Public Service Director – Duane Streater; Clerk of Council – Barbara Brooks

1. [ORDINANCE NO. 95-21](#) – APPROVING MODIFICATIONS TO THE SANITARY SEWER MASTER PLAN AND ADOPTING SAID MODIFICATIONS AS REVISIONS TO THE OFFICIAL SANITARY SEWER MASTER PLAN Planning Referral
A Public Hearing will be held on Monday, January 10, 2022, at 7:25 p.m.
Third of Three Readings will be held at the Regular Meeting on Monday, January 10, 2022

2. [ORDINANCE NO. 107-21](#) – AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH CHAGRIN VALLEY ENGINEERING, LTD AND ESTABLISH COMPENSATION FOR THE CITY ENGINEER IN 2022 Mayor Jensen
Second of Three Readings at a Special Meeting Immediately Following this Work Session

Mayor Jensen reminded Council that this is a 3% increase and that there was no increase in 2021.

3. [ORDINANCE NO. 1-22](#) – GRANTING A SPECIAL USE PERMIT TO YMLM REAL ESTATE, LLC TO DEVELOP 7.23 ACRES OF LAND INTO A MEMORY SUPPORT ASSISTED LIVING FACILITY TO BE LOCATED ON THE NORTH SIDE OF CHESTER ROAD, WEST OF CHESTER INDUSTRIAL PARKWAY Planning Referral

Ms. Fechter advised the company by the name of Beehive Homes is being operated by Michael Bruno. She said it is a congregate care/memory care facility that is going to be located on Chester Road across the street the from Harley Davidson dealer. Ms. Fechter stated in total, there are going to be 5 homes and these homes are all set up identically to house 24 patients per house. She advised at the Planning Commission meeting there was some conversation about some of the protocols that have been discussed regarding the ambulance runs and some of the overuse that is going on with our Safety Departments. Ms. Fechter said that Mr. Bruno and his group have been very open to having conversations and they have met with the Safety Director as well as the Fire Chief to discuss how to remedy the problem of people calling for an ambulance when it may not necessarily be an emergency, but when they are wanting a transport. She stated that all the parties understand that this is a problem and will continue to work with the City to fix that issue. Ms. Fechter advised there have been more conversations in Planning Commission meetings where some concerns were voiced about moving forward with this type of project. She said what has been discussed in Planning is setting up the Special Use Permit for the congregate care facility to start with the first home and then after that each home that they would want to construct would have to come back before Planning Commission to make sure things are still going well as they move forward. Ms. Fechter stated the owner of the franchise, Mr. Bruno, is present tonight if there were any questions from Council.

Mr. McBride advised his concern is not so much that they work with the City, but that they must agree that they are not going to use the Fire Department for non-emergency transportation services.

Ms. Fechter advised they did state that.

Mr. McBride inquired if that was in writing and what was the penalty if they use the City ambulance for a non-emergency transport.

Mayor Jensen advised that is the reason the City is approving this one building at a time. He said they want them to come back each time to Council for them to be able to say they have followed through as it is always difficult to know what could happen after, but that is why the approval is for one home and then evaluate how it is going before approving the second home and so on.

Mr. McBride advised he is not taking it out on the owner of this facility, but there are already three entities in the City which are basically abusing the Fire Department. He said it is easier to call the Fire Department when there are no private ambulance services available. Mr. McBride stated that is not really the City's problem to transport these non-emergency patients to a medical office appointment for routine care and that is not really what the City Fire Department is to be used for. He advised he was not trying to single out Mr. Bruno and the City is discussing this situation with those three other facilities that are using the City ambulance service for non-emergency transports and they could end up losing their Special Use Permit.

Michael Bruno of 9687 Brook Road, Olmsted Falls, Ohio advised he appreciates the concern. He said he addressed the Planning Commission back in September or October and this investment for this purpose is personal for his wife and himself as unfortunately his father passed away two weeks ago at Avon Place, and he had a four-year battle with dementia. Mr. Bruno stated he has been in the franchising industry for thirty years and this investment and what they want to do in Avon is personal to him and his wife. He advised they want to be in the City to provide this service for the residents of Avon. Mr. Bruno said the difference with the model that he is building is that it is a franchising system, so it not a one-off mom and pop building, but a memory care facility and trying to figure out how to operate it. He stated the franchising system, of which there are over 150 homes, has safety protocols and standards of operations around emergency transportation. Mr. Bruno advised there is not one of the 150 homes that is calling any fire station in any community where they operate for non-emergency situations. He said he has provided the research and analytics to the City on the protocols and the number of non-emergency calls that have been made to the city fire departments in the 150 of the suburbs where these homes are located. Mr. Bruno stated they realize that is an issue in Avon from his many conversations with Ms. Fechter and some of the other members of the City. He advised they are going to do their best to alleviate that, and he will make the promise that they will not be calling City Services for any non-emergency transport; they have the protocols in place. Mr. Bruno said there are protocols in place where they are purchasing a van if a resident needs a non-emergency transport. He stated he will make the promise that they are not going to do that as a system from the first home they build to the fifth home that they build. Mr. Bruno advised his concern as he stands before them today is that he needs to understand the legislation as it is written because the Special Use application that was submitted in October was a Special Use application for the entire 7.23 acres, the four parcels. He said it was his understanding that Special Use Permit for the entire project was approved. Mr. Bruno stated when he reads the legislation that was drafted, the third Whereas clause that states, "YMLM has applied for this Special Use Permit to facilitate the construction of Phase 1..." that is not accurate. He said the Special Use application was submitted for the 7.23 acres in the total project. Mr. Bruno advised he needs to understand where these conditions came from and now he is being asked to come to Council and Planning Commission after each home is built to apply for another Special Use Permit for each of those four subsequent homes. He stated that is different than the application that was submitted and approved and he is needing a better understanding of how this legislation was written.

Mr. Gasior advised he must admit that the initial draft of the legislation was probably not written exactly the way Mr. Bruno just stated because it was his understanding that they were going to go phase one, phase two, phase three. He said he rewrote it and all of Council has a copy with revised 12/31/21 in the top right corner and that is the one they should all be looking at. Mr. Gasior stated in Whereas clause three it still talks about moving forward with the construction of phase one, a 13,500-sf single-story memory support assisted living facility, but in Section One of the Ordinance it states that Council accepts the recommendation of the Planning Commission and grants a Special Use to YMLM Real Estate over 7.23 acres of C-4 property it owns on the north side of Chester Road per the attached Exhibit A, which is five phases. Phase One of the development will proceed pursuant to plans that were submitted to Planning Commission, as he believes that phase one was the only phase submitted to Planning Commission.

Ms. Fechter clarified that Mr. Bruno has not submitted those plans yet. She advised Mr. Bruno submitted the basics of it.

Mr. Gasior advised from the Planning Commission meeting, the gist of what he got was that Mr. Bruno was going forward with one building, phase one. He said in Section Two – Conditions from his understanding at Planning Commission and he could check the minutes when they are available. “In addition, the Special Use Permit will require the operator of the memory care facility (Beehive Homes of NR Ohio, LLC) to follow its non-emergency transportation protocols as set forth in attached Exhibit B...” Mr. Gasior continued reading, “any expansion, i.e., the construction of future Phases, development, enlargement improvement, change in tenancy, change in transport protocols, use or the like, other than maintenance of the property in its current condition, will require additional amendments to the Special Use Permit, with a recommendation of Planning Commission and approval by Council.” Mr. Gasior mentioned this language is in all the Special Use Permits, but said the key is *the construction of future Phases* and he inserted that language in Section Two specifically because that is what he recalls the Planning Commission saying that they wanted done and he thought Mr. Bruno agreed to do that. He stated if Mr. Bruno did not agree to do that then that can be removed, as this is a Work Session of Council, but he would like to first go back and listen to those Planning Commission meeting minutes because he really thought that the City was going to grant the Special Use over the entire property, but as each phase was completed that he would come back in front of the Planning Commission for expansion of the Special Use to include the next phase. Mr. Gasior said he recalls the Mayor at the Planning Commission meeting saying specifically that would give the City a chance to see if the promises are being met that were made in Exhibit B.

Mr. Bruno advised he recalls that conversation and Mayor Jensen mentioning that potentially the City could look at these phases. He stated he never agreed to coming back to the Planning Commission for every phase. Mr. Bruno said he agreed to the protocols and to the concern that the Council Members have mentioned tonight, he agreed to those protocols, and they will stand by those protocols, and they will not call City services in the Fire Department for non-emergency situations for the residents of the memory support assisted living facility. He advised he never agreed to come to Planning Commission for each phase. Mr. Bruno stated he cannot risk buying 7.2 acres and then the Planning Commission a year or two or three or four years from now tell him that he cannot build another home. Mr. Bruno said that is not a risk he can take.

Mr. Gasior advised the City could do that for other reasons.

Mr. Bruno said they could, but he would not be forced to come to the Planning Commission to get approval for each building.

Mayor Jensen asked Mr. Gasior if Mr. Bruno could come back in front of City Council without first going to Planning Commission.

Mr. Gasior advised no, it is a Special Use Permit, and it starts at Planning. He said as Mr. Bruno comes through with each building, he asked Ms. Fechter if Mr. Bruno would need to come to Planning Commission with each building.

Ms. Fechter advised yes. She said as each building is constructed those construction drawings need to come before the Planning Commission for approval. Ms. Fechter confirmed that Mr. Bruno would need to come back before the Planning Commission for each construction phase.

Mr. Bruno said but he would not have to request a Special Use Permit for each building.

Mr. Gasior advised Mr. Bruno would be requesting, according to the Ordinance, an amendment to the Special Use Permit if only to add the second phase building and now there would be two buildings under the Special Use Permit. He stated this grants a Special Use Permit over the entire parcel. Mr. Gasior said it would be an abuse of discretion on the part of the City Council to not grant an amendment to the Special Use Permit unless there was something egregious in what was happening at the facility regarding City services or the like. He added that would not strip him of phase one as he would still be operating phase one, but there would be other conditions that would have to be met in phase two, what they would be he does not know, and maybe there would not be any if everything is going smoothly because all they are really talking about with the Special Use Permit are conditions and they are not talking about anything else. Mr. Gasior advised the conditions must be reasonable and prima facie is saying that what has already been proposed for phase one is reasonable. He said something would have to happen that would cause the Planning Commission or City Council to back off or

require some additional onerous condition to be met for him to go forward in phase two otherwise there would be abuse of their discretion not to grant the amendment.

Mr. Bruno advised where he is confused is why does he have to come back and request an amendment for the Special Use Permit for each phase if the Special Use Permit has been approved for the four parcels, 7.23 acres.

Mr. Gasior advised Mr. Bruno has an opportunity tonight to ask Council to direct him to rewrite the legislation, but that is the way he wrote it because that is the way he heard it and understood it at the Planning Commission meeting. Mr. Gasior stated to Mr. Bruno that this is his opportunity to ask Council to remove that and he would be happy to do it.

Mr. McBride advised it is akin to a developer's agreement where the City agrees to the developer's agreement and then that developer comes in for every phase for approval if engineering, road layout, or if they are going to create a separate private street and then each house is built. He asked if Mr. Bruno was engineering the entire site now or was it going to be engineered in phases. Mr. McBride stated how Mr. Bruno formally submits to engineering is going to dictate a lot of that and he asked if Mr. Cummins and Ms. Fechter had any comments regarding that issue.

Ms. Fechter advised she did have a conversation with Mr. Bruno's engineer, Mike Bramhall, and they were possibly looking to do the building on Chester Road first. She added they were still uncertain because they have got to do some more engineering to determine the best building to start with, but she said she believes they plan on coming in with a building or two at a time with the engineering for it, getting that done and then coming in for the next building and the next building.

Mr. McBride advised so he would need to come back anyway even if Council approved everything tonight.

Ms. Fechter confirmed that Mr. Bruno would still need to come in with the engineering drawings and come before the Planning Commission.

Mr. McBride advised the Planning Commission is doing a lot of the heavy lifting for City Council and the Administration prior to Council's approval.

Mr. Gasior advised the standard language in the Special Use Permits are for any expansion and that always requires an amendment to the Special Use Permit. He said when the City wanted to add the pool to the park on Detroit Road, they had to have a Special Use Permit and if they added to the park Every Child's Playground then they amend the Special Use Permit to include Every Child's Playground. Mr. Gasior stated if Mr. Bruno planned on building all five phases at one time, then City Council would probably be granting a Special Use Permit for all five phases on the 7.2 acres. He advised Mr. Bruno indicated he was going to build one building at a time and it was suggested at Planning Commission that would give the City an opportunity to see how things are going regarding the protocol, Exhibit B, and if some changes needed to be made in phase two it would give the City an opportunity to do that in the amended Special Use Permit. Mr. Gasior said again, the City is not going to be able to simply revoke the Special Use Permit because it is just a Conditional Permit and the conditions must be reasonable and related to health, safety, welfare. He stated that Mr. Bruno is protected, although he perhaps does not feel he is protected, but again the City wanted to see how these non-emergency call protocols are going to be working and perhaps if they were not working as well as the Safety Forces felt they should be then phase two would present an opportunity to discuss what changes or amendments could be made to non-life threatening protocols and adopt them and incorporate them in an amended Special Use Permit. Mr. Gasior reiterated that was what he thought was the reason for the way he wrote the legislation.

Ms. Fechter clarified that Mr. Bruno was not able to be at the last Planning Commission meeting and Mr. Bramhall stood in his stead and perhaps Mr. Bruno did not receive all the additional information needed.

Mr. Gasior advised again, he wanted to emphasize that the City does not pull the rug out from underneath someone in phase two, or three, or four, or five. He said they simply talk about how things are going and what could be done to make them better if that is even necessary.

Mr. Radcliffe advised to Mr. Gasior's point about the Special Use Permit, that it can be reviewed at any time by the Planning Commission and City Council if there are issues that are discovered from the ambulance runs. He said he felt there are really two separate issues to discuss and that is that Mr. Bruno can be asked at any time to come back and for his Special Use Permit to be reviewed and he does not see that as a problem if he is true to his word. Mr. Radcliffe stated as far as these phases go, he thinks that is the typical process as has been mentioned. He advised the whole property is there and then he will be building A, B, C, D, E, and he would come back each time with a plan for the construction and the City must review them and make sure they are being built to the proper specifications. Mr. Radcliffe said at that same time, it is just a matter of Planning Commission reviewing that the Special Use Permit is still in compliance and that it is now updated to building number 2, 3, and so forth. He stated as far as timing for building 1 and then moving on to 2 and 3 and 4 and 5 he asked if they were going to be a tight timeframe consecutively. Will one building be almost finished before he starts building number two or will one be completed, and residents housed for several months and then begin working on the second building? Mr. Radcliffe advised knowing that timeline helps the City and as things keep rolling along it helps that process for Mr. Bruno to move forward.

Mr. Bruno advised the overall project is going to be a \$25-\$30 million project when all five homes are built. He stated he has no problem, and he understands the process of coming back to Planning Commission to review plans for any building that is going to be constructed. Mr. Bruno advised his concern and where he is not comfortable is coming back to amend the Special Use Permit every time following each phase with the risk of someone on the Planning Commission saying they were not going to approve the amendment for any of the future phases. He said the development plan is to construct building one and two at the same time or building one first and then once building one would be at 100% occupancy, he would then put the shovel in the ground for building number two and then the same for building three and so forth.

Mr. Radcliffe advised the site plans including the final approval does show all five buildings.

Mr. Bruno answered it does.

Mr. Radcliffe advised the intent is there with the submitted drawing in Exhibit A and he felt that is proof as well. He said it was then just a matter of amending that Special Use to show that they will be operating with five buildings.

Mr. Gasior advised in looking at the Exhibit A he felt that possibly as a compromise they could allow Mr. Bruno to go forward with buildings one and two because they are on the south side of Avins Ditch and then an amendment to the Special Use Permit would be necessary when Mr. Bruno comes in with the last three buildings on the north side of Avins Ditch. He noted that the traffic pattern may be different and there may be other issues there that the Planning Commission and City Council might want to address as part of the Special Use as opposed to having Mr. Bruno coming in on every single building. Mr. Gasior said that is just a suggestion that there would be two amendments made since Mr. Bruno is not building on the north side of Avins Ditch until phases one and two are complete on the south side and then maybe Mr. Bruno could agree to come in and have the Special Use amended when he should go forward with phases three, four and five.

Mr. McBride advised he hopes that puts Mr. Bruno at ease. He said Mr. Bramhall was the City Engineer for Avon for several years and he has been in front of Council and Planning Commission many times and Mr. Bramhall will confirm that once that initial Special Use is approved that in very rare instances does Planning Commission deny an amendment to the Special Use Permit. Mr. McBride stated even when the Planning Commission has not recommended an amendment to a Special Use, there have been instances where City Council has overridden a negative referral by the Planning Commission. Mr. McBride explained that the Special Use Permits were relatively perfunctory and if the applicant has completed A, B and C then you get D and, in some cases, it reads more like a Conditional Use Permit and he recommended Mr. Bruno look at other Special Use Permits the Planning Commission and City Council have approved. Mr. McBride advised even if City Council were to approve all five phases tonight, and for whatever reason this facility calls the Fire Department too many times for non-emergency transports the City has yet to revoke the Special Use Permits of the other three facilities that have been egregious as the City is continuing to bargain with them. He added there are three or four drive-thru facilities that are hindering the traffic flow and Council probably makes more noise about revoking those Special Use Permits than any other Special Uses in the City. Mr. McBride explained there was a particular entertainment

venue that was making an exceeding amount of noise and that venue took some additional steps to mitigate the sound. He said he does not know how much his comments are putting Mr. Bruno at ease and if it is a verbiage clause that is hindering his financing, the City can look at that issue and see what can be done to help. Mr. McBride said this may not be a great explanation, but he felt it is akin to a developer coming in with multiple phases. He stated let's say that Mr. Bruno completes the first two buildings that front on Chester Road, and he does not have enough parking spaces. Mr. McBride advised Mr. Bruno would have to come before the Planning Commission to amend that parking plan so, a lot of it is give and take and they try to be reasonable. He encouraged Mr. Bruno to talk to Mr. Bramhall as he felt that would ease his concerns.

Mr. Bruno advised it does not have anything to do with the financing, but it was the risk of having to come back before the Planning Commission for each phase and that the Planning Commission could shoot down, for whatever reason, the construction of his next building.

Mr. McBride advised he felt that risk is nil but agreed it could occur. He said potentially they could all be out of office in a couple of years with an entirely new Council, but he does not see any of that happening.

Mr. Witherspoon advised he can understand Mr. Bruno's trepidation because he is embarking on a major project. He asked Mr. Gasior when this project initially came in if it was under a Special Use Permit.

Mr. Gasior answered yes.

Mr. Witherspoon advised under the Special Use Permit, Council can revoke that at any time.

Mr. Gasior advised they could, but they would want to make sure that they have good grounds to do so.

Mr. Witherspoon agreed and said that the Special Use Permit is the City's tool that they can use if something should go terribly wrong. He stated Mr. Bruno is already there with his Special Use Permit and Council can say they are all going to be here when amendments are made, and he can see where Mr. Bruno is a little gun shy about the way the legislation is written and he asked Mr. Gasior if it can be re-written.

Mr. Gasior advised absolutely. He suggested allowing Mr. Bruno to go forward with phase one and two and then amend the Special Use Permit when he is ready to start phase three for phases three, four and five. Mr. Gasior stated everything Mr. Witherspoon said is correct but permitted uses in a district are uses that are in the Code and are desirable and part of that zoning district and are not required to get a Special Use Permit. For instance, a restaurant in a C-4 district is a permitted use. He said when they start getting into these Special Uses, they are no longer in the realm of a permitted use, but they are in a special area and so there is something unique about the use and the use could have a bearing on the other permitted uses in that district; it could have a bearing on some of the services that the City might need to support that Special Use, which is what they are talking about here. Mr. Gasior advised by definition and in some communities is called Conditional Use, they are allowed to have that use in the district with conditions and that is what Avon's Special Use Permit is all about are the conditions and as long as the conditions are reasonable, the City can impose them. He said when the conditions become unreasonable then the City is outside the scope of their authority. Mr. Gasior stated he does not believe that Planning Commission or City Council has asked for anything that is unreasonable here by simply saying that when Mr. Bruno comes in for subsequent phases that he will request an amendment to the Special Use so that the City can see what that impact might be on the surrounding area and on the City's safety forces. As he pointed out, they can compromise on that and instead of coming back for an amendment five times for a Special Use it could be reduced to twice or they can just eliminate it altogether. He said that is not his decision, it is Council's.

Mayor Jensen advised at the Planning Commission meeting the conditions for the Special Use Permit were agreed upon so he asked if any changes made would have to go back before the Planning Commission.

Mr. Gasior said that is a good point and if Council believes this should be referred to the Planning Commission to get a clearer statement of what those conditions are because he thought the conditions were as he wrote in the legislation that the applicant would come back and amend the Special Use for each phase. He advised he does not think it is unfair to Planning Commission for Council to amend that slightly. Mr. Gasior stated as he

suggested earlier, they could issue one Special Use for phase one and two and then a second Special Use for phases three, four and five, but that is just a suggestion, and he does not even know if that is acceptable to the applicant. He said certainly if the applicant does not want to do phase one, two, three, four and five with an amendment to the Special Use for each phase, the Council President could certainly refer it back to the Planning Commission to get some clarification.

Mr. Fischer advised where he is confused and what troubles him is that there are people present tonight who were at the Planning Commission meeting that clearly have a different understanding of what the applicant understood happened at the Planning Commission meeting. He said what Mr. Bruno is asking Council to do is to blanket give him the Special Use for all five phases with only building phase one right now, which could be revoked at any time if he does not follow through with what was agreed upon anyway.

Mr. Bruno advised he understood and clarified that the application he submitted was for all 7.23 acres and that is what he thought he was applying for with the Special Use Permit. He said he gets that it can be revoked at any time.

Mr. Gasior advised that is what he is getting; it says that in the Ordinance that he is getting a Special Use Permit over 7.23 acres.

Mr. Bruno advised but it also says that he needs to come back to apply for an amendment for each phase.

Mr. Gasior clarified for each building because that is what was stated.

Mr. Radcliffe inquired if a compromise would work.

Mr. Gasior advised the applicant was not there at the last Planning Commission meeting so...

Mr. Fischer advised the applicant would need to go back to Planning Commission for each phase anyway, right? He said Planning Commission would basically be agreeing that all the conditions have been met and the Special Use would be amended to follow along to include the next phase. Mr. Fischer stated he has never seen where an amendment was denied unless something egregious was committed, which provides protection for the City to revoke a Special Use Permit if he does not follow the conditions that are agreed upon. He felt the applicant is asking Council to give him a blanket approval of the Ordinance.

Mr. McBride advised as a compromise, they could approve all five, which he does not have an issue doing provided they change the agreement that there is an affirmation signed that the applicant understands that if he abuses the privilege that it could be revoked by Council at any time. He said even if that is done and everyone agrees, if the plans only come in to engineering for the first two buildings, the applicant will be back in front of Planning Commission for engineering review anyway. Mr. McBride stated he is not quite sure what the difference is and maybe the Law Director or the City Engineer could clarify that. He reiterated that he was okay with approving all five if that condition is there and if there is an affirmation, they can work out a number between the applicant and the Safety Director. Mr. McBride advised when this facility first opens there will be some hiccups as someone will call for a squad when it is a non-emergency situation like when a new business opens and they have temporary signs in the right of way, but the City has historically let them alone when the business is newly opened.

Mr. Bruno advised he would be supportive of what Mr. McBride just mentioned and he would be 100% behind that affirmation whatever it may be and as they work those numbers out. But he would prefer and be more comfortable coming into this project knowing that the Special Use Permit is granted for the entire parcel realizing that he must come back to Planning Commission and engineering for each building. He said he gets that, and he is fine with that, and he understands that process and he is certainly going to work closely with Safety Services and the Fire Chief to make sure that he is doing the best he can to manage that process.

Mr. McBride advised and when going back to Planning Commission for engineering approval, the Planning Commission will not approve that until the engineer is satisfied and those issues are worked out. He said he does not know if Mayor Jensen is onboard with that and in listening to the Safety Director talk about the impact on the squad calls.

Mr. Streator advised he does not have an issue with that, and they work with facilities such as this one. He said the applicant is the one who wanted to do the phases with each building coming in as a phase rather than presenting all five to the City. Mr. Streator said he believes at the Planning Commission meeting and in his discussions as well with Mr. Bramhall that was the reason, they requested one building be approved to see how it would go. He said that is his recollection from the Planning Commission meeting and that is how the conversation went also along with that to do a Special Use Permit. Mr. Streator advised he agrees that is going to be reviewed each time that an application is made for the next building. He stated in working with the applicant he does not have a problem because it is very clear that they have established what is expected of their operation.

Mr. McBride advised if Mr. Bruno wants to do this as one phase, then he will need to have all the engineering completed for the entire project, unless he was going to try to phase the engineering.

Mayor Jensen advised Mr. Streator explained very clearly that the operation will be reviewed each time the applicant comes back for approvals and if the conditions are not being followed then the City would address the issues. He said for him, it sounds like a misunderstanding as to what was agreed to at the Planning Commission meeting. Mayor Jensen stated at the Planning Commission meeting there was no disagreement and now there seems to be, but it is still going to be reviewed when the applicant comes back for approvals of the next building and Mr. Streator will be looking at the safety aspect.

Mrs. Holtzmeier gave her condolences to Mr. Bruno's family for their loss. She said it is a noble cause to get into this business for something so personal. Mrs. Holtzmeier asked if it was fair to say that the population that Mr. Bruno is looking to serve by general nature is low use for emergency services as compared to a general congregate care facility.

Mr. Bruno said absolutely.

Mrs. Holtzmeier added that the census was lower as well compared to what is average for this community. She advised clearly Mr. Bruno could understand the concern the City has as they are experiencing a heavy use of services that has the City scratching their heads about what best to do about it and he is in the middle of that timeline and that is why the extended conversation. Mrs. Holtzmeier said she agrees with Mr. Fischer's hesitancy to not have all our t's crossed and i's dotted on this project. She stated she is concerned that they are here in Council discussing something where there is not a congruence of thought; that Mr. Bruno's understanding is something that is different than what the representatives from Planning Commission understood and there is still not a meeting of the minds. Mrs. Holtzmeier advised however the applicant chooses to move forward, in a way that is best financially for their interest and timeline, she would prefer to have that meeting of the minds happen at the Planning Commission level and then come to Council so that everyone is on the same page as to how this project can go forward. She felt that would be best for the future of this project and for the applicant's understanding of the project and best for the City as to how this is going to work. Mrs. Holtzmeier stated she would recommend and support referring it back to Planning Commission to have those things worked out and perhaps with the most expediency possible.

Mr. Bruno inquired as to the way the legislation is currently written that he is to come back to Planning Commission to apply for the amendment, how does that come into play with the moratorium established regarding congregate care and assisted living facilities.

It was noted that the moratorium (Ordinance No. 103-21) does not apply in this instance as Mr. Bruno's project would be grandfathered.

Mr. Bruno asked for clarification that even if the legislation stays as written then any amendments to the Special Use Permit would not be subject to the moratorium.

Mayor Jensen advised this project was in the approval process for a Special Use Permit before that moratorium was established and the acreage is covered for the entire project.

Mr. McBride advised since Mr. Bruno applied prior to the moratorium being established it did not apply to this project.

Mayor Jensen advised tonight is a Work Session of Council and if Mr. Bruno wanted to take this week to think it over and decide and consult with Mr. Bramhall who can further explain this process that he will still need to come back before the Planning Commission with each phase. He felt that sending it back to the Planning Commission would not make a difference unless Mr. Bruno decides to build all five buildings at the same time as he would still need to come back before Planning Commission with each building.

Mr. McBride commented that he is confident that Mr. Bruno will be building in Avon and that this is a good place to operate a business.

Dave Sylvester advised he is the property owner for this project. He said overall his daughter, Dr. Lisa Sylvester, runs the ER at the Cleveland Clinic Avon. He said he has spoken to her about the concerns the City has regarding these non-emergency transport calls, and he indicated his daughter is willing to meet with City Officials and discuss working together to devise a workable plan as the hospital ER is currently overwhelmed with both emergency and non-emergency issues. He stated he does not know what the legal aspect of this is, but his daughter is willing to work with the City one day a month to help. Mr. Sylvester advised with the Covid issue his daughter keeps telling him that it is overwhelming with that the other ER's in the City have closed. He said his daughter tells him all the time of the great work that the City of Avon Fire Department is doing.

Mayor Jensen advised they are more than happy to work with his daughter. He said Dr. Starck, President of the Cleveland Clinic Avon Hospital, is trying to keep everyone in their current positions, but with Covid and everything else that is going on, it is crazy. Mayor Jensen stated the City would welcome Dr. Sylvester's input.

Mr. Sylvester indicated he would ask his daughter to contact Mr. Streator to schedule a meeting. He said his daughter talks about the large number of patients that are coming into the ER that do not need to be there. Mr. Sylvester advised his daughter is working 20 shifts a month.

Mayor Jensen advised the City appreciates her service.

4. [ORDINANCE NO. 2-22 – GRANTING A SPECIAL USE PERMIT TO KATHLEEN R. AND JOHN T. GORBACH TO ALLOW FOR A LOT SPLIT AND THE CREATION OF A FLAG LOT ON THE SOUTH SIDE OF 34625 DETROIT ROAD, PERMANENT PARCEL NO. 04-00-022-105-014](#) Planning Referral

Ms. Fechter advised Mr. Gorbach and his wife have recently acquired some property on Detroit Road that was previously owned by Mrs. Gorbach's mother. She said what they would like to do is clean it up and create a flag lot on the parcel. Ms. Fechter stated the Gorbach's were at Planning Commission in December 2021, and it was voted unanimously to refer it to City Council contingent upon them receiving some variances from the Avon Board of Zoning and Building Appeals. She advised with the way the lot split is being requested, there will be a shed remaining on the property that will require a variance as it will be considered an accessory structure on a lot without a primary residence. Ms. Fechter said the Gorbach's plan to build a home and the variance from the BZA will be time sensitive and there are a few things left to clean up on the existing parcel with the detached garage and the existing shed.

Mr. McBride inquired as to the cross street near this property.

Mr. Radcliffe advised the lot in question is located between Elizabeth, Puth, and Joseph.

5. [ORDINANCE NO. 3-22 – 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 THE 8.58 ACRE PARCEL OF LAND LOCATED ON THE SOUTHWEST CORNER OF MIDDLETON ROAD AND NAGLE ROAD, PERMANENT PARCEL NO. 10-04-00-022-102-150 FROM R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT TO C-4 GENERAL BUSINESS/GENERAL BUSINESS DISTRICT OVERLAY](#) Planning Referral

First of Three Readings will be held at the Regular Meeting of Council on Monday, January 10, 2022

A Public Hearing will be Held on Monday, February 14, 2022, at 7:25 p.m.

Ms. Fechter reminded Council that back in June 2021 this request was in front of the Planning Commission and was given a unanimous positive recommendation to City Council to have Council consider rezoning this parcel to C-4 which would then be required to go to the vote of the residents. She advised when Mr. Jaram came to the City previously for this request there was not enough time to get it through Planning Commission and City Council and placed on the ballot. Ms. Fechter stated Mr. Jaram is here now to formalize that process in time to get it on the ballot in May. She said looking back through the minutes that were provided to Council as part of the Planning Referral in their packet, there was some conversation about some adjoining property owners. Ms. Fechter advised also provided in the packet was a landscape plan showing the proposed fencing and landscaping. She said with this being so premature, Mr. Jaram does not have an end user and it will be going to a vote of the people in November 2022 and that Mr. and Mrs. Ken Lee of 2225 Pendleton Court, abutting property owners, were good with it when it was discussed with them. Ms. Fechter stated that Mr. Jaram indicated that once it got to the point of the property being rezoned and they had the end user that they would work closely with Mr. and Mrs. Lee. She advised there were two couples that came to the Planning Commission meeting back in June of 2021 that were the most impacted by this request and Mr. Jaram is more than willing to work with both property owners and bring it to Council for consideration.

Mr. McBride inquired as to the location of those abutting property owners.

Ms. Fechter advised they are both located on Pendleton Court. She said the owners of those two properties that abut this property are the only ones that came to the Planning Commission meeting back in June.

It should be noted that the other abutting property owner was Muhanad Kassim of 2239 Pendleton Court according to the Planning Commission minutes of June 16, 2021.

Frank Jaram of Avon Lake advised primarily the questions that were asked last year in the Planning Commission meeting were from two property owners that were somewhat concerned. He said he emailed these property owners some different plans and explanations and they came back with some suggestions and those suggestions were accepted and they seemed fine with it. Mr. Jaram indicated they explained to the Lees where a mound with a fence would be located. He indicated the City has a maximum height requirement of six feet and he is seeking to install fencing at eight feet high with approval. He stated that will probably be better as far as the City traffic to help them and the Lees agreed and that is where it was left last year.

Mr. Fischer believed there was not enough time to get the issue on the ballot the last time.

Mr. Jaram advised Mr. Gasior pointed out there was some 30-day periods that were required to wait after passage and that pushed them past the deadline to submit to the Lorain County Board of Elections.

Mr. Gasior pointed out that the first step in the process for rezoning this property, is the passage of this Ordinance by City Council. He advised if Council were to vote this Ordinance down, it would not go to the ballot. Mr. Gasior reiterated that the issue will only go to the ballot if Council passes this Ordinance because of its location. Secondly, he stated assuming Council passes this Ordinance there will be another piece of legislation he would be preparing sometime in March, April or May and it will be to place this issue on the ballot in November 2022. Mr. Gasior said he does not want to pass the second Ordinance too close to the May primary as he does not want to confuse the issue at the Board of Elections because this will be something that goes on the ballot in November for the voters to decide.

6. [ORDINANCE NO. 4-22 – DECLARING THE INTENTION OF THE CITY OF AVON TO CONSENT TO PAVEMENT RESURFACING AND ASSOCIATED IMPROVEMENTS ALONG CERTAIN SECTIONS OF STATE ROUTE 83 \(CENTER ROAD\) BY THE OHIO DEPARTMENT OF TRANSPORTATION \(ODOT\)](#)
Mr. Cummins

Mr. Cummins advised this project would be an urban paving project that would be managed by the Ohio Department of Transportation. He said it will be a mill and fill, plane off the existing asphalt surface and put down

new pavement. Mr. Cummins stated this will occur likely in the second half of 2022 and the costs are divided up 80% ODOT and 20% Avon and the estimated cost of the City's portion is a little over \$400,000.

Mr. McBride inquired as to the location of the project.

Mr. Cummins advised this project will extend from the north side of the roundabout at Mills Road to basically the Winking Lizard area, which is the southern extense of the intersection project that is currently under design for the intersection of SR 83 and SR 254.

Mr. McBride advised there are areas where it is soft at the shoulder, and he asked if there are any plans to do any improvement there.

Mr. Cummins advised yes, anywhere within the existing pavement surface that has a soft area there would be base repairs undertaken to correct those.

Mr. McBride inquired if there was any opportunity to add extra asphalt for mail delivery trucks to somewhat pull off the roadway.

Mr. Cummins advised yes, and there was some of that in the Detroit Road project and this will be very similar to that. He said it is not a general widening of the road, but at those mailbox locations they may see some of that.

Mr. McBride advised SR 83 is getting busier and busier and, in most cases, he does not feel that a center turn lane is warranted, but he asked if there was any opportunity to piggyback onto that and create a larger area near the mailbox where UPS, FED EX and Prime trucks can pull off, so they are out of the way of the traffic.

Mr. Cummins advised he does not think that ODOT would be adding something of that nature to this type of project.

Mayor Jensen advised the City requested that ODOT look at what North Ridgeville received. He said in looking at North Ridgeville the lane is wider, and Avon's never was and ODOT disregarded that request. Mayor Jensen stated that the City was willing to partner with ODOT to come up with a workable solution and that was denied. He advised the City is still in discussions with trying to get some of that as he felt a third lane would make a big difference in certain areas, but the infrastructure that needs to go in is not cost effective.

Mr. Radcliffe asked for clarification that the section of roadway between Riegelsberger Road and Kinzel Road because at one point was there was some discussions about that area being improved.

Mr. Cummins advised the City has prepared plans to widen that section to three lanes and improve both of those intersections, adding traffic signals and a turn lane at Riegelsberger Road. He said the cost of that ended up being more than what was initially estimated, and the City does not have a plan to construct that at this time for financial reasons. Mr. Cummins stated they have sought a couple of different ways of getting grant funding for that; the most recent was they applied for an earmark through Senator Sherrod Brown's office that he believes is part of the Bill that is still before Congress, so they do not have a firm way forward at this time.

Mayor Jensen advised they want to be careful because once the scope of work is mentioned, ODOT will not get involved. He said the reason that Detroit Road from Healthway Drive to the Avon Commons entrance is not resurfaced is because the City mentioned they were looking into improving that area and as soon as that was said, ODOT said they will wait for that improvement to get done first. Mayor Jensen stated that is why some projects have been put on hold and the price came in so high that the City is not entertaining the idea right now because if they do then ODOT will not repave that whole section of road.

7. [ORDINANCE NO. 5-22](#) – ESTABLISHING COMPENSATION FOR THE DIRECTOR OF LAW OF THE CITY OF AVON

Mayor Jensen

To be Addressed at the Special Meeting Immediately Following this Work Session

Mayor Jensen advised Mr. Gasior's compensation Ordinance is different from others in the City as it includes a 3% increase on his wages, but there is not a 3% increase on the hourly rate. He said that has been done in the past and is a benefit to the City.

8. [ORDINANCE NO. 6-22 – REAPPROPRIATIONS](#)

Mr. Logan

Mr. Logan explained the reappropriations as follows:

Special Revenue Funds

Fire Department Equipment Fund No. 106

Increase appropriations \$360,000.00 for the purchase of a new ambulance.

Mr. Logan advised this is for the purchase of the ambulance that was discussed a few weeks ago. He said the City had to back off appropriating this item for 2021 so it is being added with Council's approval to the budget for 2022 and he is asking for that increase in appropriations.

Total Special Revenue Fund Re-appropriations \$360,000.00

Total Re-appropriations All Funds \$360,000.00

9. [RESOLUTION NO. R-32-21 – TO ADVERTISE FOR BIDS FOR AVON PARKS MOWING CONTRACT NO. 1 \(THE BOARD OF EDUCATION SOCCER FIELD COMPLEX, AQUATIC FACILITY GROUNDS, FIRE STATION SITE, POLICE STATION SITE, AND THE AVON POST OFFICE SITE\)](#) Mr. Cummins

Second of Three Readings at a Special Meeting Immediately Following this Work Session

Mr. Cummins advised this applies to item #'s 9, 10, 11, 12, and 13. He said he has been working in conjunction with the Service Department to identify areas for mowing contracts to formalize that process. Mr. Cummins stated they will go out for public bid. He advised those documents are being prepared as we speak and will come back before Council once the bids have been obtained for Council to consider entering into contracts for the work.

Mr. Fischer inquired as to the bid opening date.

Mr. Cummins advised the bid opening will not occur until the end of January. He said he is looking to be back before Council in February to potentially award the contracts.

10. [RESOLUTION NO. R-33-21 – TO ADVERTISE FOR BIDS FOR AVON PARKS MOWING CONTRACT NO. 2 \(THE AVON ISLE, THE COMMUNITY CENTER, AVON CEMETERY, STATE ROUTE \(SR\) 83 RIGHT-OF-WAY IN NORTHWEST QUADRANT OF THE SR 83 & SR 254 INTERSECTION, STONEY RIDGE ROAD GAZEBO SITE, OLD VILLAGE HALL, AND THE SENIOR CENTER & LITTLE LEAGUE PARK COMPLEX\)](#) Mr. Cummins

Second of Three Readings at a Special Meeting Immediately Following this Work Session

See comments above under item # 9.

11. [RESOLUTION NO. R-34-21 – TO ADVERTISE FOR BIDS FOR AVON PARKS MOWING CONTRACT NO. 3 \(SCHWARTZ ROAD PARK\)](#) Mr. Cummins

Second of Three Readings at a Special Meeting Immediately Following this Work Session

See comments above under item # 9.

12. [RESOLUTION NO. R-35-21](#) – TO ADVERTISE FOR BIDS FOR AVON PARKS MOWING CONTRACT NO. 4 (VETERAN'S MEMORIAL PARK AND ITS ENTRANCE WAY UP TO DETROIT ROAD)

Mr. Cummins

Second of Three Readings at a Special Meeting Immediately Following this Work Session

See comments above under item # 9.

13. [RESOLUTION NO. R-36-21](#) – TO ADVERTISE FOR BIDS FOR AVON PARKS MOWING CONTRACT NO. 5 (THE AVON CITY HALL COMPLEX INCLUDING THE AREA ADJACENT TO THE MIDDLE ROAD RIGHT-OF-WAY, THE NORTHGATE COMMUNITY CENTER SITE, NORTHGATE PARK, THE OLD COLORADO RIGHT-OF-WAY AT EATON DRIVE, AND THE CRUSHER STADIUM COMPLEX INCLUDING THE RECREATION LANE ENTRANCE UP TO STATE ROUTE 611 (COLORADO AVE.)

Mr. Cummins

Second of Three Readings at a Special Meeting Immediately Following this Work Session

See comments above under item # 9.

14. [RESOLUTION NO. R-37-21](#) – AUTHORIZING THE MAYOR OF THE CITY OF AVON TO ENTER INTO A PARTICIPATION AGREEMENT AND ACCEPT THE MATERIAL TERMS OF THE ONE OHIO SUBDIVISION SETTLEMENT WITH JANSSEN/JOHNSON&JOHNSON PURSUANT TO THE ONE OHIO MEMORANDUM OF UNDERSTANDING AND CONSISTENT WITH THE TERMS OF THE JULY 21, 2021, NATIONAL OPIOID SETTLEMENT AGREEMENT

Mr. Logan

Second of Three Readings at a Special Meeting Immediately Following this Work Session

Mr. Logan advised he knows that Mr. Gasior looked into this with the Ohio Municipal League and confirmed that there was not a set deadline date. He said OML would like to receive Resolutions from the participating municipalities as soon as possible shortly after the first of the year, which is now. Mr. Logan stated that is why they are asking Council to act on this Resolution at the Special Meeting following this Work Session. He advised the more communities that pass a Resolution and join this lawsuit, the higher the settlement can be similar to the one that passed a few months back, but this is a different drug manufacturer.

15. [RESOLUTION NO. R-1-22](#) – SUBMITTING TO THE ELECTORS OF THE CITY, PURSUANT TO ARTICLE IV, SECTION 17 OF THE AVON CITY CHARTER AND CHAPTER 718 OF THE OHIO REVISED CODE, THE QUESTION OF AMENDING SECTIONS 881.01, 881.03, AND 881.04 OF THE CODIFIED ORDINANCES OF THE CITY TO INCREASE THE CITY'S MUNICIPAL INCOME TAX RATE FROM 1.75% TO 1.90% FOR A PERIOD OF TEN (10) YEARS FOR THE PURPOSES OF PROVIDING FUNDS FOR THE ACQUISITION OF PARKLAND IN THE CITY AND RELATED ACQUISITION COSTS, AND TO AMEND SECTION 881.06 OF THE CODIFIED ORDINANCES OF THE CITY TO INCREASE THE CREDIT FOR MUNICIPAL INCOME TAXES PAID BY RESIDENTS OF THE CITY TO ANOTHER MUNICIPALITY FROM 1.50% TO 1.60% FOR A PERIOD OF TEN (10) YEARS

Mr. Logan

Mr. Logan advised the Finance Committee met on December 27th and discussed this proposed income tax increase although a couple of Council Members were not able to make that committee meeting. He said Mr. Blake Beachler from Calfee, Halter & Griswold, LLP, is the City's bond counsel and has helped put together this Resolution and the accompanying Ordinance. Mr. Logan stated Mr. Gasior rewrote the Resolution to specifically address the purchase of parkland property and that is the only intent of this increased income tax. He advised if the City income tax increases from 1.75% to 1.90% and the Avon resident credit increase from 1.50% to 1.60% everyone will share in the revenue generated. Mr. Logan said they are estimating the revenue to be about \$1,950,000 per year, not factoring any kind of increases for a period of ten years. He stated the City would conceivably raise \$20 million over the term of this levy.

Mayor Jensen advised this proposal is still in the discussion stages and they were not going to rush its passage next week. He indicated that there could be further revisions to the Resolution as the discussion continues.

Mr. Gasior advised he does not believe there is anything in the Charter that requires the full three readings on this Resolution so it can be passed by emergency. He said clearly if they want to get it on the May 2022 ballot, they will have to pass it by emergency because the deadline to submit it to the Lorain County Board of Elections is February 2, 2022. Mr. Gasior stated as was pointed out earlier, Mr. Beachler is an attorney with Calfee, Halter & Griswold, LLC, and that firm has done bond work for the City for many years and Mr. Beachler is also a resident of Avon. He advised originally Mr. Beachler prepared the legislation and then the Administration wanted to place the focus on the proceeds of the tax going solely to purchasing parkland. Mr. Gasior stated one of the concerns that came out of that Finance Committee meeting was simply defining parkland and they may want to further nail it down before acting on the legislation. He said they are also going to want to say parkland or land adjacent to parkland to provide ingress or egress to that parkland because there may be instances where the City may want to acquire a strip of land to give another access to Schwartz Road Park or Veterans Memorial Park for instance and the City would not want to tie their hands because that ingress/egress would be just as important as the parkland. Mr. Gasior advised the other thing that was talked about in that Finance Committee meeting was the Parks & Recreation property tax levy, which he did not know if that could be inserted in this legislation, but to let the residents know that if the voters were to pass this income tax increase for the purchase of parkland that City Council would move forward to repeal that property tax levy. He said additionally, if the City purchases land with these funds and say, 40 years from now a piece of that land may be useful for a Fire Station or a Police Station that the City did not want to preclude themselves from ever being able to use that land for something that involves safety forces. Mr. Gasior stated he was not certain that would be a problem, but there might need to be a time limit stated that for at least 25 years these funds would be used exclusively for parkland and then with the approval of Council for any additional purpose. He advised the current Resolution probably does not address those additional items he just mentioned, and he would like Mr. Beachler to try incorporating those ideas into the legislation.

Mr. Logan advised the other thing he mentioned to Mr. Beachler was the idea of the City not overpaying for a piece of property. He said the City would be limited or capped at 10% above fair market value or appraised market value.

Mr. Gasior agreed they should consider something like that, and he knows the list of items was getting longer and they did not want to confuse the issue, but he was glad that Mr. Beachler was present to hear these concerns. He said these concerns could probably be dealt with if Council has the authority to utilize the funds in any way they felt appropriate. Mr. Gasior advised there may be a parcel of land that appraises at \$500,000 and the offer is \$750,000, which is over 10%, but the property is so important that the City cannot let it go. He stated there has to be a mechanism built in to at least let Council by a three-fourths majority be able to take that money and spend it. Mr. Gasior said but again, maybe the best way to sell it to the voters is to have no strings attached that it is for parkland and parkland only.

Mr. McBride advised he thought they also discussed including related legal and engineering fees/services as an allowable use for the funds when buying parkland.

Mr. Gasior advised he believes that is included.

Mr. Fischer inquired as to what effect would this have on the Parks & Recreation Department budget if this should pass at the ballot, and they take away the recreation property tax. He asked if most of the parks budget comes from the parks and recreation property tax.

Mr. Logan advised that generates a little over \$300,000 a year and that would be removed from the Parks & Recreation operating budget. He said the City's income tax revenues, absent of this new proposal, are increasing and the rental fees and park fees support the recreation and parks budget and he felt within a couple of years the City will more than make up for that \$300,000 loss that would go away from the property tax revenue.

Mr. Fischer asked when that property tax levy was set to expire if it is not repealed sooner.

Mr. Logan advised it has two more years of collection, this year and next.

Mayor Jensen advised they want to do something to help the seniors. He said the City has used that property tax revenue to purchase property and that would be offset with the money received from this income tax increase if it passes by the voters with the collection of \$1.9 million a year. Mayor Jensen stated that those with no earned income will not be affected by this income tax increase, and this is one way to benefit our senior residents.

Mayor Jensen suggested a separate Resolution could be drafted that will allow the City, once the levy passes, to do away with the property tax levy for the parks and recreation.

Mr. Logan advised if the voters pass the income tax levy it would not become effective until January 1, 2023. He said the City is already going to collect the money on that recreation property tax this year because that tax duplicate is basically in place right now. Mr. Logan stated it is only next year, 2023, if this income tax is passed and Council repeals that property tax, that it would really only effect one year of collections.

Mayor Jensen advised they would not seek a renewal as would typically happen.

Mr. McBride advised rather than having a separate Ordinance or Resolution to repeal the property tax levy he felt they should put that in this legislation. He said then if the income tax passes at the ballot, that the property tax would terminate on the effective date of the income tax levy and that the City would not seek renewal of that designated property tax to raise the park revenue. Mr. McBride stated it needs to be clear that if residents vote for this income tax increase that they will repeal the property tax levy. He felt that would be good for the seniors, so they know.

Mr. Fischer inquired if that is legal to put in the ballot language.

Mr. Beachler advised probably not the repeal of the property tax itself, but some kind of indication that separately there will be a Resolution that says the City is not going to seek further collection or renewal of that tax or an automatic repeal.

Mr. Gasior advised following up on the Mayor's comments, similar to what was done for the stadium that the City agreed to replace the turf at a future date, come April Council could pass a Resolution that the property tax would be repealed in the event that the income tax levy passes on the May ballot. He said that Resolution commits Council to doing something at a future date and possibly that is the way to present it just before the election and they could get the word out to the voters unless they felt that is too overt.

Mr. Logan felt the marketing aspect of it is good. He said he would not want to put it all together in one piece of legislation, but maybe what Mr. Gasior suggests could work.

Mr. Gasior advised the Resolution would be that Council will repeal the park and recreation property tax levy effective January 2023.

Mr. Beachler advised essentially that would be a promise to the electors of the City. He said if Council does not in fact repeal or seeks a renewal of that levy then the voters would be upset at Council and decide other ways to correct that.

Mr. Gasior agreed and said they did not want to make a promise they cannot keep.

Mrs. Holtzmeier advised she was not able to be a part of the discussion last week, so she wanted to briefly make some comments and ask some questions. She said the underlying idea of this is to have it as a vehicle to slow residential growth in the City by buying residential property that could have been used for homes and instead the City would purchase it for use as parkland.

Mayor Jensen confirmed that to be correct.

Mrs. Holtzmeier stated she would suggest that they restrict this to only purchasing residentially zoned land; no C or M zoning district property so they can demonstrate that promise and make good on it.

Mayor Jensen advised he believed that was brought up and he agreed that should be in there.

Mr. McBride advised he thought there was an exception to that.

Mayor Jensen clarified by saying that if there was a commercial piece of property the City was interested in purchasing that it would not be a park. He stated the only commercial pieces of property they have considered are properties that would help expand the Streets or Utilities Department and that would be a different funding mechanism.

Mrs. Holtzmeier said they should specify or at least know internally that we have a minimum number of contiguous acres that the City is looking to purchase. She stated whether that number be 10 or 20 acres, but that the City is not looking to buy just an acre here or an acre there as that would not necessarily be a park.

Mayor Jensen advised he believed Mr. Gasior mentioned that if there was an addition to a piece of park land that the City could consider it for access.

Mr. Gasior advised to Mrs. Holtzmeier's last point that Council will have to approve the purchase of the property. He said if the Mayor presents a 1.5-acre piece of property and asks Council to buy it, he will have to have a pretty good reason to want to buy a small parcel of land like that. Mr. Gasior stated Council does not want to tie anyone's hands with a minimum contiguous acre requirement because a circumstance could come up where the City may need to buy a 2-acre piece because it fits in with a future purchase of 25 acres. He advised Council can always act as the final decider of how the money is spent; it is just a matter of whether the City would spend it on parkland or not. Mr. Gasior said that is his counter argument to the proposal to set a minimum contiguous acre requirement in the tax itself.

Mr. Beachler advised Mr. Gasior's point dovetails into the statute as it specifically provides that the use of the proceeds of the tax levy may only be used for the specified purpose in the approval by the voters itself. He said there is a little push pull for Council to consider as to how stringent they want to be with those uses or is there value to make it broader to provide flexibility in the future to use those funds.

Mr. Gasior clarified that flexibility would be with Council.

Mr. Beachler advised yes, and in this situation with purchase. He said in other situations like was mentioned earlier as to how broad do they want to define a term such as parkland. Mr. Beachler asked if they wanted to include playgrounds or other things or do, they just want it to be fallow land with beautiful trees. He said there is a little push pull with the limitations in the Ohio Revised Code versus future flexibility with this.

Mrs. Holtzmeier said that both sides of the argument are good ones and what they are really talking about is from what General Ledger account are the monies coming from to spend and for other purposes that acre here or there perhaps may come from some other GL to get those funds.

Mr. Logan advised which they have done historically. He said when the City buys parkland in particular the City can use Park Funds, TIF funds, General Funds, and the like. Mr. Logan stated he foresees this if it passes with the voters in May that he would come to Council sometime before the end of the year to establish a new Special Revenue Fund solely for this purpose. He said it does not mean that the City still cannot use other funds to purchase parkland, but this revenue would go into its own Special Revenue Fund.

Mrs. Holtzmeier said she was thinking in the future what is the overall promise and how do they help make people understand that a little clearer and not muddy it. She stated in our City's Master Plan, the City currently has a lot of R-1 zoned property that is undeveloped that shows a major thoroughfare going through it, an arterial street. Mrs. Holtzmeier advised the idea was that there would be a neighborhood located there eventually and that street would be necessary, but they are in some good connecting locations. She asked if those locations within the Master Plan show a potential road and the City were to purchase it for parkland, what is the feeling about continuing to place a road there.

Mayor Jensen advised he does not think that would take away from a road. He said they have roadways through parks, and it is already in the Master Plan so it would go along with that plan as long as the City did not do anything outside of that plan.

Mr. Beachler advised yes, it would be considered a means of access through the parkland, and he likened it to the Cleveland Metroparks that have roads going through into the parks and throughout. He said that might be something they would want to be a little more specific in the language, if that is the will of Council, to be a little clearer with that.

Mayor Jensen felt they would want to be clear on that. He advised when the Willoway Nursery property develops at some point, there are roadways that need to go through there. Mayor Jensen clarified whether it was a subdivision or a park, it would still need to have those roadways through them.

Mr. McBride advised Valley Parkway that goes through the Cleveland Metroparks, is a two-lane road with a speed limit that is faster than 25 mph or it is a three or four lane boulevard to help move the traffic through to the other side of town, similar to Hilliard Boulevard. He said he does not feel they need to install roads through all the parkland purchased, but they should be careful about how they do it.

Mr. Gasior advised as Mr. Beachler points out, does Council want the ballot language to be broad and then Council would have some authority to make those decisions. He said if it is only a one-acre piece of property, it would not be as expensive a purchase, and they could choose to use another fund to buy the property. Mr. Gasior said he has more concerns with setting the purchase minimum at ten-acres and then having to buy the 9.5-acre piece of property. He said they see that with the minimum lot sizes and that is in the Charter now and there are times when a work around would be nice, but they are bound by the Charter and the language in the Charter and there is no room for Council to step up and make any exceptions. Mr. Gasior stated he would like to see a more general purpose of the money and give Council the authority to deal with exceptions when they arise and that makes for much smarter planning and much smarter use of the money. He advised regarding any proposed roads, Council may want to use the money to buy the land and have a road go through there to connect to other areas as he could see that happening. He could see a couple of places in town where the City and Council might have wanted to have a road connect and if they bought the land as parkland then they would be precluded from doing that and that is a good point.

Mayor Jensen clarified that they have in the language of no infrastructure so that would have to come out of a different funding source to pay for the cost of that road through parkland.

Mr. Beachler advised that is right.

Mr. Gasior asked if they could use the land for that purpose, because a road is not parkland.

Mr. Logan advised the new levy would not pay for the road. He said he believes what Mr. Gasior is asking is if that would be a permissible improvement.

Mr. Gasior stated it would be like a fire station; the levy would not pay for a new fire station, but the land it sits on was bought with this parkland levy. He inquired if they are never going to be able to put a fire station on the property because they are to only use that money for parkland. Mr. Gasior asked or will they be able to reimburse the fund for the value of the land. He said it gets kind of sticky.

Mrs. Demaline advised she agrees they should have some definition of parkland and adjacent properties. She said she agrees with Mr. Gasior that the general language might serve the City better to make the proper decisions going forward as this is a ten-year levy and things can change and discretion is good to have for Council. Mrs. Demaline stated she hopes the City has a well-developed plan to communicate this ballot issue to the residents as it can be a challenging time when property values have increased significantly, and income taxes are above what has been forecasted to then go to the voters that have recently supported our safety services and our library and our schools and ask for an increase in taxes. She said the messaging is very important here to make sure as they put all this time and effort into wordsmithing the proper ways to do this, that they communicate it so that the residents truly understand. Mrs. Demaline stated the average resident probably

does not have a good understanding of how much land is out there that is still available and undeveloped, so a strong communication plan is necessary.

Mayor Jensen advised that is why he thinks it is important that they establish the wording for the ballot with Mr. Beachler. He said the City can put it out on all different media forms and somehow it still will not reach everyone. Mayor Jensen felt it was imperative for the Administration to try to put as much information out as possible. He stated they still want to look at getting some small groups to help get the word out similar to the library committee when they were seeking approval for their levy. Mayor Jensen felt the first step was to make this Resolution as clear as they can for the voter to read and get the same message out of it. He said they wanted to make it as concise as possible and still include as much information as possible. Mayor Jensen stated that the more wording added the more confusing it could become and the reason they are trying to keep it simple. He advised it will be very important for the Administration to get the word out and they do not have a lot of time to get it on the May 3rd ballot. Mayor Jensen indicated often the City will get the word out through many different avenues on a number of topics and someone will say that no one called them.

Mrs. Demaline advised that is her concern as they are looking at four months to get a communication plan out there and the City needs to get ahead of it because sometimes once social media gets ahold of these types of things it can get taken out of context. She said she is looking forward to that communication plan from the City as she felt it would help drive positive results.

Mr. Gasior advised the Mayor said this would not be on next week's agenda for a reading, because they are going to continue to tweak this Resolution, but he suggested another Finance Committee meeting be called as they would not be able to discuss it that much at the Regular Meeting.

Mrs. Holtzmeier, Finance Committee Chair, asked the Clerk to schedule a Finance Committee Meeting for 6:30 p.m. on Monday, January 10, 2022, to further discuss the proposed income tax increase for the purchase of parkland after the other committee members indicated they would be available on that date and time.

Mr. Gasior advised that would give them a little more time for further discussion and revisions to the Resolution.

Mr. Beachler advised from a logistical perspective they have to submit the Resolution to the Lorain County Board of Elections by February 2, 2022, but it is always preferable to get it in a little early in case the Board of Elections has their own comments or required tweaks.

Mr. Gasior advised they are hoping the legislation will be passed on the 24th of January and get it to the Board of Elections on January 25th or 26th.

16. REPORTS AND COMMENTS

MAYOR JENSEN welcomed Mrs. Demaline to City Council and advised if there is anything that she needs from the Administration to feel free to give him a call.

COUNCIL MEMBERS:

MRS. DEMALINE, WARD 1 advised she is pleased to be seated with each of her colleagues and she looks forward to working with the other Members of Council and the Administration and they have a lot of exciting meetings ahead.

MRS. HOLTZMEIER, AT LARGE congratulated the newly sworn in members and returning members and she advised it is always good to start fresh in the new year.

Mrs. Holtzmeier asked for an update as to how many of the City's home occupation businesses have registered their business with the City.

Mr. Logan advised he would have to check as he was not sure that any have registered yet. He said he thinks they were going to get some kind of communication out to the residents, which they can do any time, but he was not sure that any have registered.

Ms. Fechter advised due to the transition of the retirement of the former Zoning Enforcement Officer and the newly appointed Zoning Enforcement Officer that has yet to be implemented. She said the new Zoning Enforcement Officer, Jill Clements, will start in her new role on January 10, 2022, and at that point in time, they will work closely with Mr. Streator to get that notice out and start getting those businesses registered.

Mrs. Holtzmeier said that is good to know and she congratulated Ms. Clements and she thanked Ms. Fechter for the update.

MR. MCBRIDE, WARD 2 had no further comments.

MR. MOORE, WARD 3 welcomed Mrs. Demaline to this long meeting for her first night on Council.

MR. RADCLIFFE, WARD 4 had no further comments.

MR. WITHERSPOON, AT LARGE had no further comments.

MR. FISCHER, AT LARGE wished everyone a happy new year and he congratulated Mrs. Demaline in her new role as Ward One Council Member and he congratulated the other Ward Council Members: Mr. McBride, Mr. Moore and Mr. Radcliffe on their re-election. Mr. Fischer also congratulated Mayor Jensen on his re-election. He congratulated those who were either re-appointed or newly appointed at the Organizational Meeting of Council held prior to this Work Session.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER had no additional comments.

MS. FECHTER, ECONOMIC DEVELOPMENT/PLANNING COORDINATOR wished everyone a happy new year.

MR. GASIOR, LAW DIRECTOR wished everyone a happy new year. He congratulated everyone that won their election and he welcomed Mrs. Demaline and said he is looking forward to working with her.

MR. LOGAN, FINANCE DIRECTOR had no further comments.

MR. STREATOR, SAFETY/PUBLIC SERVICE DIRECTOR advised with the Internet service that was discussed earlier this year and now that there are new committees of Council, he would respectfully request that a Legal/Finance Committee meeting be called possibly prior to the February 7th Work Session. He said it took some time to get the representatives lined up to meet and present to Council. Mr. Streator advised it was not time sensitive, but they wanted to get the conversation started as Council has expressed interest in finding ways to improve the Internet service in Avon and this is a possibility to consider. He said when he talked to this company previously, he let them know it would be after the first of the year, but because of the income tax levy discussions, he felt they could push this to the beginning of February.

After some discussion regarding the availability of the committee members, the Clerk was directed to schedule a Legal/Finance Committee Meeting for Monday, February 7, 2022, at 6:30 p.m.

Mrs. Holtzmeier asked Mr. Streator if he could provide some materials for the meeting representing those presentations no later than February 1st so they have time to read the information and prepare for the committee meeting.

Mr. Streator advised he would do that and he congratulated Mrs. Demaline and the other Members of Council and said he looks forward to working with them.

AUDIENCE:

There were no comments made from the audience members.

17. ADJOURN: 9:33 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