

**MINUTES OF THE WORK SESSION OF THE COUNCIL OF THE
CITY OF AVON, OHIO HELD MONDAY, FEBRUARY 5, 2024
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING
AT 7:30 P.M.**

PRESENT: Council Members: Council-at-Large – Mary Berges; 1st Ward – Jennifer Demaline; 2nd Ward - Dennis McBride; 3rd Ward - Tony Moore; Council-at-Large – Michelle Patton; 4th Ward - Scott Radcliffe; Council-at-Large and Council President – Brian Fischer; Mayor – Bryan Jensen; City Engineer – Ryan Cummins; Planning/Economic Development Coordinator – Pam Fechter; Law Director – John Gasior; Finance Director– Steve Presley; Safety/Public Service Director – Duane Streator; Clerk of Council – Barbara Brooks

1. **ORDINANCE NO. 4-24 – 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 TWO PARCELS OF LAND CONSISTING OF APPROXIMATELY 16.93 ACRES OF LAND LOCATED AT 34925 CHESTER ROAD, PERMANENT PARCEL NOS. 04-00-021-000-255 & 04-00-021-000-266 FROM C-4/O-2 GENERAL BUSINESS/PLANNED OFFICE RESEARCH OFFICE PARK TO C-4/O-2/M-1 GENERAL BUSINESS/PLANNED OFFICE RESEARCH OFFICE PARK/GENERAL INDUSTRIAL OVERLAY** Planning Referral

A Public Hearing will be held for Ordinance No. 4-24 on Monday, February 12, 2024 at 7:25 p.m.

The Third of Three Readings of Ordinance No. 4-24 will be held on Monday, February 12, 2024

Ms. Fechter advised she had nothing new to add.

2. **ORDINANCE NO. 5-24 – 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 LAND CONSISTING OF AN 0.02300 ACRE PORTION OF PERMANENT PARCEL NO. 04-00-015-108-043 FROM C-2 FRENCH CREEK/CENTRAL BUSINESS DISTRICT TO R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT** Planning Referral

A Public Hearing will be held for Ordinance No. 5-24 on Monday, February 12, 2024 at 7:20 p.m.

The Third of Three Readings of Ordinance No. 5-24 will be held on Monday, February 12, 2024

Ms. Fechter reminded Council this rezoning request was made by Christine and Joseph Misencik, and they were asking for their parcel to be rezoned to R-1 Single Family Residential where their home is located. She said currently half the parcel is zoned C-2 and half is zoned R-1 and they were requesting the entire parcel be rezoned to R-1 Single Family Residential District.

3. **ORDINANCE NO. 14-24 – TO AMEND THE SPECIAL USE PERMIT GRANTED TO AVON LOCAL SCHOOL DISTRICT TO ALLOW FOR THE CONSTRUCTION OF A NEW DRIVEWAY FROM DETROIT ROAD TO AVON HIGH SCHOOL LOCATED AT 37545 DETROIT ROAD** Planning Referral

Ms. Fechter advised the School presented at the Planning Commission Meeting on January 17, 2024 asking for a positive referral to amend their Special Use Permit to add the driveway at the High School. She said the applicant proposes to add a drive along the west portion of their site. Ms. Fechter mentioned there was a representative present if Council has any questions.

Mrs. Demaline advised she loves this, and she is glad they are working on this project. She said she understands this request is for a driveway right now and she asked if there were plans for a traffic light at the new drive on Detroit Road.

Mayor Jensen advised the Schools, and the City and City Council will be working together on trying to come up with a plan as to what the Schools and the City would like to see for the future. He said they are trying to work out an agreement with the Schools that would be coming before Council. Mayor Jensen stated in the past there has been a question from the Schools as to what they are responsible for

maintaining and the City would like to enter into an agreement with the Schools and outline what needs to be done so that when the project is complete that it looks as good as possible. He advised he and Superintendent Hodge have worked well together and want to continue to do so. Mayor Jensen said the hope is that future projects are more of a collaboration with the Schools than they ever have been in the past. He advised the City is looking at installing a traffic light and they want to secure financing for that, but they want to take it one step further and have an agreement in place and do the work in stages. Mayor Jensen said they have talked before that if the Schools were to add another building on Long Road that with an agreement, they feel they can do those things and still save the taxpayers money by doing the project through the City in cooperation with the Schools. He stated soon, the Administration will be bringing something before Council outlining the agreement and what the City would like to see as far as improvements in that area. Mayor Jensen advised the Schools felt it was necessary to get the access road installed right away and the City is not against that as long as the Schools are willing to work with the City on additional improvements. He said the City will be seeking funding to try to do the road improvement with the traffic light. Mayor Jensen stated they will also be working with the Avon Methodist Church as this new driveway for the Schools will be close to the existing one with the church and they are all working together to come up with the best solutions and he felt they were in a really good place. He said the Schools want to install this driveway right away and the City does not have any objection to that part of it, but full improvements are still needed in that area.

Mrs. Demaline said she is pleased to hear that. She asked the timeframe for this driveway to be installed.

Ben Hodge, Superintendent of Avon School District, located at 36600 Detroit Road, indicated an August 1, 2024, completion date. He advised they will hopefully go out to bid in the next month and begin the construction work in April and the driveway should not take too long to complete. Mr. Hodge said the house that sits on the property and is owned by the School District will be coming down and the driveway will go right down the middle of where that house is currently located. He stated they will make an access area and apron for the church if they need to use the driveway. Mr. Hodge advised they have had great meetings with the church and the church can use the School parking lot when the School is not using it as that is being a good neighbor. He said there would be lights installed down the driveway and the sidewalk. Mr. Hodge stated they are planning as Mayor Jensen indicated and they will continue to talk about what that looks like on Detroit Road.

Mrs. Demaline advised this is much needed and she thanked them for addressing this issue.

Mr. Fischer advised any additional exit out of that location is welcome. He asked if there were any traffic studies done or what is their objective for this driveway just because it is so close to the existing one. Mr. Fischer inquired if the traffic for the new driveway further west would be required to turn left and those using the drive further east would be required to turn right.

Mr. Hodge advised Mayor Jensen shared some studies with him and the studies state there is not much improvement without the traffic light, so they are aware of that. He said when heading east from Sheffield Village into Avon, the plan is for motorists going to the High School to turn right into the first driveway and they feel that will take away the issue of drivers who are heading west trying to turn left into the school driveway. Mr. Hodge stated there will be some rules that might have to change once the traffic light is installed. He advised he knows from school traffic even back when he was an elementary school principal that if they can get motorists to drive in a circle and not cross traffic that is safest. Mr. Hodge said they would want the new driveway to be a left turn only lane coming out onto Detroit Road heading west. He stated drivers will be able to see a lot farther than they can coming out of the main driveway now. Mr. Hodge said the current driveway only allows for 7 or 8 stacking and the new drive will be much wider to allow for more stacking in the left turn lane exiting the driveway. He advised there are only about 5 residents/students who would need to turn right for those houses on Detroit Road between the driveways and the School officials have spoken with those residents and they know this change is coming and there was a good meeting with them as well.

Mr. McBride asked if the spur that is on the west along this proposed driveway is for future connection to the church property.

Mr. Hodge replied yes. He advised they have discussed what that will look like whether it is a gate with a push button or a permanent gate that will require a key to unlock is to be determined, but it would be for the church if they want to use the school parking lot for big events. Mr. Hodge said they know that if they do not install some kind of gate that student drivers will cut right through that church parking lot to get to school.

No further questions or comments.

4. [ORDINANCE NO. 15-24 – GRANTING A SPECIAL USE PERMIT TO NWQ JAYCOX I-90, LLC TO ALLOW FOR THE CONSTRUCTION OF AN OUTDOOR RECREATION AND ENTERTAINMENT FACILITY THAT INCLUDES OUTDOOR SEATING TO BE LOCATED ON CHESTER ROAD PPN 04-00-021-000-306](#) Planning Referral

Ms. Fechter advised the Jacobs Group has presented to the Planning Commission with an outdoor entertainment and recreation type venue. She said that currently the Jacobs Group is still working with the end user and is not ready to announce who that is, but they hope to announce it in the coming weeks. Ms. Fechter stated the applicant is asking for a Special Use Permit to allow an outdoor recreation with outdoor seating. She advised there were representatives from the Jacobs Group present if Council has any questions.

No questions were asked.

5. [ORDINANCE NO. 16-24 – GRANTING A SPECIAL USE PERMIT TO THE ISOMER GROUP, INC, TO ALLOW FOR THE CONSTRUCTION OF A McDONALD'S RESTAURANT BY GEOFFREY LEDWIDGE, FRANCHISE OWNER, TO INCLUDE A DRIVE-THRU TO BE LOCATED AT 2295 NAGEL ROAD, PPN 04-00-027-101-196](#) Planning Referral

Ms. Fechter advised as Council knows, the Code was changed so any proposed drive-thru to be in the C-4 zoning district has to come before Council to get a Special Use Permit. She said in the past, there have been some issues with businesses that have drive-thru's that would back up onto some of our major arteries in the City. Ms. Fechter stated to help alleviate that issue and give the City a little more control over that a Special Use Permit is now required for drive-thru's. She advised McDonald's anticipates being located on Nagel Road on the east side of the recently redeveloped Drug Mart parcels and it will be the second parcel south of Middleton Road. Ms. Fechter said currently McDonald's shows 2 order points with a total of 18 stacking spaces. She stated the City learned at the last Planning Commission meeting that Mr. Ledwidge is an Avon resident and this is his sixth McDonald's, and he is very excited to be building this one in the City in which he lives. Ms. Fechter advised there was representation present if Council had any questions.

No questions were asked.

6. [ORDINANCE NO. 17-24 – REAPPROPRIATIONS](#) Mr. Presley

Mr. Presley reviewed the proposed appropriation amendments as follows:

General Fund No. 101

Increase Planning- Misc Contracted Services by \$150,000 as the original budget is insufficient for the remainder of the year.

Mr. Presley advised this is a change in the methodology of tracking engineering expenses relative to companies that are coming into the City as a business, but they were not at the point of adopting a Developers Agreement. He said this is something that Ms. Fechter has been working on and his predecessor would expense it as a General Fund expense, and it would then be difficult to go after these businesses to recoup some of the expenses the City incurred with them. Mr. Presley stated they would not be putting these expenses under the Planning Department.

Increase City Hall- Purchase of Land by \$365,000 as it was not included in the original budget.

It was noted this is for the property on French Creek Road that has a warehouse located on it.

Increase Transfers from General Fund by \$150,000 allocated as follows:

-to Chester Road Widening Phase 3 \$100,000.00

-to City Wide Bike Trails \$ 50,000.00

Mr. Presley advised this is for engineering only.

Total Increase in Fund 101	\$665,000.00
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Sanitary Sewer Replacement Fund No. 406

Increase Capital Outlay by \$140,000 as it was not included in the original budget.

Mr. Presley advised this money was originally in the 2023 budget and Council awarded that contract, but the contract was not executed until January 2024. So, the Purchase Order was not done last year therefore the funds need to be appropriated in 2024.

Total Increase in Fund 406	\$140,000.00
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2023 Road Program Fund No. 421

Increase Engineering by \$35,000 as the original budget is insufficient for the remainder of the year.

Mr. Presley advised this amount is for construction oversight.

Total Increase in Fund 421	\$35,000.00
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Chester Road Widening Phase 3 No. 477

Increase Engineering by \$100,000 as it was not included in the original budget.

Total Increase in Fund 477	\$100,000.00
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City Wide Bike Trails Fund No. 488

Increase Engineering by \$50,000 as it was not included in the original budget.

Total Increase in Fund 488	\$ 50,000.00
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Grand Total of All Re-Appropriations	\$990,000.00
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Mr. Presley advised there is one item that he would like to yield the floor to Mr. Streator and Police Chief Fischbach to discuss an item that is currently not included for Council's consideration but will be included before the vote next week. He said the funds would be used for a specialty vehicle for the Police Department.

Mr. Streator advised in August of 2022 a tactical response team was formed with Avon, Avon Lake and North Ridgeville and they signed an MOU with those cities, and it has been in operation since that time. He said Police Chief Fischbach is looking along with those other cities to purchase a piece of equipment and Chief Fischbach can explain the details.

Chief Fischbach advised as Safety Director Streator indicated, back in August of 2022 he made the decision as Chief to pull out of the Lorain County Sheriff's SWAT team that Avon was a member of due to some concerns they had as far as staffing and training of the team and they did not feel like that was the best response the City could get for a tactical emergency team in the City should they need one. He said they since partnered with the City of Avon Lake and North Ridgeville and discussed what options they had, and they felt a smaller, more regional team that is geographically located closer to the City of Avon would be a better fit for the three eastern cities of Lorain County and that emergency response team was formed with a Memorandum of Understanding by Ordinance. Since then, the team, Eastern Lorain County Emergency Response Team (ELCERT), has been in use and trains regularly. They are well equipped, and they are very efficient and proficient in what they do. One big item the team does not have is an armored rescue vehicle. That is essentially a vehicle that can withstand any type of gunfire that would potentially be directed toward them in any type of situation they might be called on to assist in. The emergency response team is made of up of lead officers and if a general patrol officer should find themselves in a situation that he cannot handle, that is the team they call. They are highly trained and highly equipped except for lacking an armored rescue vehicle that would be used any time that they are potentially going up against an armed suspect. The only vehicle currently available to them would be through mutual aid and those are MRAPs (Mine Resistant Ambush Protected) that are excess military vehicles used by Lorain County Sheriff's Department SWAT team and the City of Lorain Police Department SWAT team, but it is not very practical for a City such as Avon as it is big and slow and the response time is not good should it be needed in an emergency.

Chief Fischbach advised the three chiefs from the three cities per the MOU agreed that a Lenco BearCat would be the best option available to the three cities to put their SWAT operators in a situation where they could handle just about anything that could be asked of them. The Lenco BearCat is the gold standard in the United States for emergency response teams such as the FBI, Cleveland, Ohio State Highway Patrol and the western Cuyahoga County Agencies have a similar regional team called WEB (Westshore Enforcement Bureau) made up of Bay Village, North Olmsted, Westlake, Lakewood, Fairview Park and they have a Lenco BearCat so it is not something that is uncommon. He said they feel having the three-team regional approach to it is the best both financially for the three cities and it puts them in a situation where they are regionally located. The vehicle would be stored in Avon because they are centrally located, and it would be immediately available in an emergency. He felt time was of the essence if they would have to go up against an armed confrontation. Chief Fischbach added that he felt this piece of equipment was needed for the team to be able to do what may be asked of them to do should they ever be put into a situation where they have to go up against an armed confrontation.

Mayor Jensen advised the funding would come out of the Police Equipment Fund and it may be over the course of three or four years. He said the warehouse that is located on the property the City recently purchased on French Creek Road has the potential to be a storage location if there is not enough room in some of the City's other buildings, so it does not take up excess space. Mayor Jensen indicated that he is supportive of what the Police Department needs are as long as the City can finance their requests within the City's realm. He said he believes the need is there and they have a plan for where it will be stored and that it will not impede on the regular equipment being used and the financing would pay back the General Fund over time from the Police Equipment Fund.

Chief Fischbach advised the total quoted cost of the vehicle is \$358,387.00 shared among the three cities. He said each city will put \$125,000 into a Fund that will be established through the Avon Finance Department. Chief Fischbach stated that will be enough to purchase the vehicle and have some funds left over for maintenance and equipment for the vehicle. Having a three city joint team with any sort of capital expenditure would be taken care of from that budget line item that will be created so all three cities are equally sharing in the cost for any potential future maintenance equipping of the vehicle.

Mr. Streator advised this request is also in front of the other two City Councils tonight as well for those cities to approve the same purchase.

Mr. Radcliffe asked Chief Fischbach what he anticipates the additional costs to equip that vehicle to be going forward.

Chief Fischbach answered minimal, it would come as needed. He advised smaller items such as radios for our Police radios would come from the factory and they have the majority of the equipment that they would want to put into it as far as shields and tactical equipment that the team needs. Chief Fischbach said the thought was to get an account up and running so there would be funds available if they were needed. Those funds would only be expended by a unanimous approval by the three Chiefs that additional equipment or maintenance were needed. The thought process was to get the funds established now should something come up and they would not have to wait to have something equipped or fixed.

Mr. Radcliffe said the WEB vehicle was mentioned on the west side of Cuyahoga County; he asked what type of expenditures that they have seen and done regarding use and maintenance. He asked how much use the vehicles were getting and how much does it cost to maintain and use it.

Chief Fischbach advised as part of their research they reached out and most agencies that have a tactical team have decided to go with Lenco as their provider for an armored rescue vehicle. He said there are eight agencies currently in service going back as far as 2004. Chief Fischbach stated what they have seen is that they could expect fifteen plus years of service minimum out of these vehicles. In speaking with these agencies, the largest maintenance cost they received were replacement tires and that was not until ten plus years later. The tires are specialty run tires and being an armored vehicle, they do not want a flat tire if it should be shot at so the tires seem to be the largest maintenance in research and Sylvester Tire in Avon is able to source and maintain the tires on this vehicle. The only other maintenance that the agencies reported to him were ones that were shot up in tactical situations such as the laminate on the windshield. He clarified that the windshield held up as it should, but the laminate needed replaced/repaired if it affects the visibility. Aside from the tires, they found no major mechanical issues reported by the agencies that have these vehicles in service. His hope as a Chief is that the vehicle never has to be used in a real-life tactical situation, but he knows that is not realistic. Chief Fischbach said they are seeing more and more violent crime throughout the United States and in this area, they are taking more firearms off suspects than they ever have in the past. He stated he knows it is not a matter of if they were going to need it but a matter of when. The vehicle will be used regularly in training to make sure his officers are ready to respond and as a Chief he hopes he never has to put them in that situation.

Mr. Moore said the three cities put in the \$125,000 and a fund account is created, and he asked the process once that fund was depleted. He asked if they would go to each city and ask for another \$10,000 or \$20,000.

Chief Fischbach advised the team was just established in August of 2022 and they were still navigating some of this, but in talking with the Commander of the team, the thought was to establish an annual budget for the team. He said currently the team basically comes together with each agency putting in what they have already and not really making joint expenses because it was items they already had or it was smaller expenses that each entity was comfortable with spending. Chief Fischbach stated the thought was to come up with an annual budget whether it is \$10,000 or \$5,000 that each agency would contribute annually to the fund to carry out the annual expenses of the team.

Mr. Moore asked of the three cities who would oversee that.

Chief Fischbach advised it would be run through the Avon Finance Department and the Fund would be established by the Avon Finance Director. He said any expenditures would have to be unanimously agreed to by the three chiefs that are a party to the team: Avon, Avon Lake and North Ridgeville.

Mr. Presley advised he was previously the Fiscal Officer for the WEB unit and there were actually six divisions of that, so he will be meeting with the chiefs and will be helping them establish an annual procedure to get budgets approved and put into this Fund. He said as part of Avon's appropriations, they would be appropriating the total that has been decided upon through the three cities through Avon's budget and handle it that way. Mr. Presley stated those funds would remain for the Eastern Lorain County Emergency Response Team (ELCERT), which is what they have elected to name this group.

Mr. Fischbach added that he is very mindful of the cost and the ask and he would be okay with never having to put his officers in a position where they are being shot at. He advised a lot of what they do is an insurance policy as they prepare for the worst and hope for the best.

Mayor Jensen advised as long as he has been Mayor, he can only think of two instances where this vehicle would have been deployed and he referenced an incident on Sandy Lane as one instance.

Mr. Presley advised he would amend this reappropriation for next week's meeting to include the \$125,000.

No further discussion.

7. [ORDINANCE NO. 18-24 – AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH O.R. COLAN ASSOCIATES, LLC TO PERFORM RIGHT-OF-WAY ACQUISITION SERVICES FOR THE STATE ROUTE 254 & STATE ROUTE 83 INTERSECTION IMPROVEMENT PROJECT \(LOR 254 – 05.66\)](#) Mr. Cummins

Mr. Cummins advised the State Route 83 and State Route 254 intersection project is moving forward. He said they are at the point where they have defined areas of additional property rights that are needed whether that be temporary easements or the acquisition of expanded right of way. As part of that project, they have entered a quality-based selection process and have had several teams apply to perform these services. They interviewed each of those teams and scored them and selected O.R. Colan Associates, LLC as the most qualified firm to do these services. O.R. Colan Associates, LLC has done several projects in the City for this type of work with the City of Avon including the Elizabeth, Puth and Joseph Sanitary Sewer Project and the State Route 611 and Chester Road Relocation Intersection Project. Mr. Cummins stated once O.R. Colan was selected as the most qualified they entered a negotiation process with them that complies with ODOT standards and cost guidance and the proposal O.R. Colan submitted to the City was found to be acceptable and within those guidelines and it was his recommendation that City Council proceed with entering into a contract with O.R. Colan Associates, LLC for right-of-way acquisition services.

8. [RESOLUTION NO. R-13-24 – TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY RUTH ANN KELLER, TRUSTEE, TO HAVE CERTAIN LAND OWNED BY HER LOCATED AT 32135 DETROIT ROAD, PERMANENT PARCEL NO. 10-04-00-027-102-025, CONSISTING OF 42.36 ACRES DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT](#) Mr. Gasior
A Public Hearing will be held on Monday, February 12, 2024 at 7:15 p.m.

Mr. Gasior advised this is another application for this year for the applicant to renew their agricultural designation for the next five years. He said the Ordinance spells out exactly what that means, and he would recommend Council give their approval.

9. REPORTS AND COMMENTS

MAYOR JENSEN advised after talking with Mr. Cummins and Ms. Clements regarding the 2024 Sidewalk Program they would like to send out the proposed list to Council to review the list that was discussed in the Service Committee Meeting and if possible, to have the Resolution to move forward on an upcoming Council agenda for discussion and subsequent approval. He said if they wait until the Committee Meeting scheduled for March 11th, and then legislation would need passed before they could get started. Mayor Jensen stated that could take them into summer before they could get started on the program. He felt they were all in agreement that the sooner they can get started on that program, the better. He reiterated they would send out the proposed areas to be improved based on the discussions at the previous Committee Meeting and see if any further changes need to be made. Mayor Jensen advised things went well last year in getting the program moving and getting a lot of sidewalks installed and he would rather not delay the process. He asked Council to let him know if there was an area in their Ward where they would like to see an adjustment to the proposed improvement areas.

COUNCIL MEMBERS:

MS. BERGES, AT LARGE advised the Tree Commission applied for another grant and it is with the Lorain County Public Health Department, and they are eligible to receive up to \$10,000. She said the project that they have identified would be walking paths on the Traxler property leading from the parking lot to the bridge. Ms. Berges stated they have a partnership with the Avon Board of Education and the Avon Senior Center. She thanked Mr. Streater and Mr. Loeser, the Superintendent of Streets, and Ms. Seighman, the Administrative Assistant to the Mayor, for their assistance in putting this grant application together. Ms. Berges advised the deadline to submit the grant application is February 19, 2024, but she felt they were in a very good position to have it ready ahead of time. She said they should be notified on March 4, 2024, if they will be awarded the funding. Ms. Berges explained there is a chance that they will not be awarded funding because they have applied for this grant in the past and were awarded funding and they would not be given the same priority as an organization that has never applied for this same funding source. She said they were still hopeful and optimistic that the Lorain County Public Health Department was going to really like their grant application.

MRS. DEMALINE, WARD 1 had no comments.

MR. MCBRIDE, WARD 2 advised regarding the Fire Station emergency signal that is located on Detroit Road, he was under the impression that would be an active traffic signal. He said obviously if there is an emergency that the traffic signal would become an emergency signal and be a red light in the other directions to allow an ambulance or fire truck to exit the station. Mr. McBride asked if there was a possibility that they can get that traffic light to be an active traffic signal. He explained that motorists often sit at that light waiting to turn left and the light is a flashing red light.

Mr. Cummins advised he was happy to look into that situation. He said his recollection was that it was intended to remain an emergency signal when Taco Bell and the Chase Bank development came in. Mr. Cummins stated he could check into whether that makes sense with the corridor improvements that will be happening there and what impact that would have on those improvements and the timing of the other adjacent signals.

Mr. McBride advised just from living in that area and driving it every day, the light on Detroit Road at Healthway Drive will go red and traffic just backs up right through that Fire Station intersection. He felt those traffic lights should be timed the same so that it stops traffic so that if a fire truck is pulling out, they can get out. Mr. McBride said right now there are many times that it is full. He said it is something he has noticed and if it can be improved, he feels they should try.

MR. MOORE, WARD 3 had no comments.

MS. PATTON, AT LARGE had no comments.

MR. RADCLIFFE, WARD 4 had no comments.

MR. FISCHER, AT LARGE had no comments.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER advised to follow up on what Mayor Jensen said regarding the 2024 sidewalk program. He presented the listing of sidewalks at the end of November 2023, and he believes there was one Council Member who made some comments about that listing. Mr. Cummins said if there is general agreement with what has been presented then they would like to get going sooner rather than later. He advised he will be addressing the one comment that came in and then resend the list and he is happy to get started as soon as possible.

MS. FECHTER, PLANNING/ECONOMIC DEVELOPMENT COORDINATOR advised as a follow-up to Mr. Presley's review of the re-appropriations she would like to come back over the next couple of weeks to a month to ask for some increases in the Planning fees. She said she has been with the City ten years in May, and they have never increased those fees. Ms. Fechter stated the City needs to keep up with the cost of inflation and in analyzing all the billing through the Planning Department over the past ten years and comparing what other communities charge for these same services. She said in working with the Administration she hoped to have something in front of Council in the near future.

MR. GASIOR, LAW DIRECTOR had no comments.

MR. PRESLEY, FINANCE DIRECTOR had no comments.

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

AUDIENCE:

Bill Greaney of 3511 Long Road and owner/operator of Misencik Funeral Home located at 36363 Detroit Road said he and his wife, Lucy, were present to speak about agenda item no. 2, Ordinance No. 5-24. He advised changing the zoning of a parcel owned by Joe and Christine Misencik on Holly Lane will affect him (Greaney) and his property from investments that he has made recently on the purchase of a parcel adjacent to their business. Mr. Greaney stated it will change the setback requirements on his property should the property at 2209 Holly Lane be rezoned to residential from commercial. He said he feels they would lose some of the rights on some of their land and he felt his property was in essence being taken by eminent domain. Mr. Greaney felt this was all for no good reason and he said he did not know how a person could do this where they could change the zoning without going through the Zoning Board of Appeals and then without him being notified by a certified letter to just pick out a piece of property and rezone it. He stated there were a lot of things that came before the Planning Commission and when it was first proposed the reason given for this change was that if there was a fire at the home on Holly Lane that they could not rebuild it because a portion of the property is zoned commercial. Mr. Greaney advised he understands that, but the Planning Commission did not realize the history of the Holly Lane parcel. Mr. Greaney said he and his wife purchased the Funeral Home on December 16, 2005, and when they purchased it, the parcel that abuts the Funeral Home to the rear where the house was built is zoned half residential and half commercial. The reason behind that is that the City changed the zoning to residential for this house to be built and Mr. Greaney and his wife are not disputing that fact. But it was presented that when the house was built it would face Holly Lane. After the initial parcel was approved to be rezoned, his father-in-law and mother-in-law sold an additional parcel of land to Joe and Christine Misencik, the owners of the Holly Lane parcel, but that added parcel was never rezoned to residential. Mr. Greaney advised all they can go by are the City records and all the records show that the parcels on which 2209 Holly Lane was built are half residentially and half commercially zoned. He said no one would want Joe and Christine Misencik to not be able to rebuild their home and he had no issue there.

Mr. Greaney stated that Mayor Jensen proposed a plan to allow a 20' commercial piece of the Joe Misencik property so that Mr. Greaney would not have to deal with the more restrictive setbacks of his commercial property abutting a residential district and he thought that was a great idea. He advised he left that meeting thinking they would be negotiating a compromise, and he was fine with that. Mr. Greaney said at a subsequent Planning Commission meeting he was told that it was because of tax reasons, but he contacted the Lorain County Tax Office and they confirmed to him that the parcel has always been taxed at a residential rate. He stated that

at the third meeting with the Planning Commission it was finally stated that they (Holly Lane property owners) do not want a crematory in their front yard, and he believes that is the true reason. Mr. Greaney advised the actual zoning stopped at the retention basin when the developer Erwin & Schaefer. The commercial line was at the retention basin and the City changed it and produced a parcel for Joe Misencik to build his home. He said after it was approved, they wanted to build the home and they wanted it to face the back of the empty lot that was previously the Garden Center to the west rather than face Holly Lane because at the last minute the drawing was changed so that the garage was on the opposite side of the home. It has not always been zoned residential like some might think.

Mr. Greaney stated the original property pins are still there that show the original rezoning of from commercial to residential for a portion of 2209 Holly Lane. It all comes back to they intended to do it. Webster's dictionary says intended means to stretch out or aim at. Maybe they aimed to do, but they never did it. Mr. Greaney said this whole situation put him in a confrontation with the City Law Director that he has had the utmost respect for, and they have worked very well on another committee and this whole thing is tearing him up. He stated he is a member of the Avon Civil Service Commission, and he enjoys serving in that capacity and he loves this City. Mr. Greaney advised item no. 7, Ordinance No. 18-24, includes the taking of his property in the front along Detroit Road that he received a letter about and he agreed the traffic needs to be fixed, but now they will also be taking some feet in the front of his property too for the additional lane, but he would give the City all the frontage if they needed it because the traffic is horrendous. The Funeral Home has calling hours from 4-8 pm and he tells his clients that no one will be there between 5:00 to 5:45 because they cannot get to his building because the traffic is so backed up.

Mr. Greaney said he is asking that Council not approve the rezoning request or to add language that the lot would be rezoned residential, but his property does not have to conform to the required setbacks. Mr. Greaney stated the reason is that he plans on future development for his property, but he does not know what it is going to be yet. He advised the lot to the west of the Funeral Home is for sale and they have been approached about that lot. Mr. Greaney felt that the required setbacks between a commercial zone and a residential zone would be like taking part of his land in the back. He said they are not trying to say that the applicant cannot change their lot to a residential zone as it is his wife's brother and sister-in-law, which makes the situation difficult. Mr. Greaney stated he understands that everyone intended to do it, but it was never done. The facts are the facts. He said he would gladly cook a bunch of steaks and invite everyone over just to show them what he is talking about. Mr. Greaney stated it is not fair and he loves this City and they do not want to sue the City, but he felt they have broken a lot of procedural things. He advised what really bothers him and his wife is that the Planning Commission did not ask them even one question about it. Mr. Greaney said he does not understand. He suggested there were meetings without him present. Mr. Greaney stated that is all, they were just trying to save their land in the back and if it was land owned by any of them, they would not like it either. He suggested approving rezoning the lot to residential but leave it as commercial to commercial setbacks or allow a 20-foot leeway. Mr. Greaney said they feel as if they are being unjustly served. He advised he did not enjoy being pitted against the City Law Director and his opinion is that he does not see Mr. Gasior's reasoning behind this issue, but he understands that Council has to have their confidence in their Law Director, but he was asking Council to decide for themselves and make their own decision and not be persuaded and he was available if they have any questions.

Lucy Greaney of 3511 Long Road said it is a lot of money for the real estate that is now going to be useless to their business. She said she is not so wealthy and generous to say that 30 feet x 186 feet or 30 feet x 271 feet is wasted; she cannot pave it or do anything with it. Mrs. Greaney advised she is not so wealthy that she can just own useless land that they still have to pay taxes on and that is why she does not feel it is fair and it is a lot of wasted money. She said they are taking land from the back and taking land from the front and squeezing out all the taxes from them.

Mayor Jensen advised just so Council is aware that he has talked with Mr. Greaney about changing some of the setbacks, but the realization is that because the Funeral Home has a Special Use Permit that at any point they could come before Council and ask for relief of those setback requirements because of these circumstances. He said many times, the Planning Commission will look at the hardship that may be imposed that they would talk about recommending some kind of relief from those setbacks. Mayor Jensen stated as far as Mr. Greaney feeling like he was going to be harmed, the Planning Commission would take that into consideration and look at that and he felt a 20-foot setback would be reasonable as far as adding more parking lot and there is a fence up now as a buffer on the one side that went through the Planning Commission process and received approval from Council. He advised the Planning Commission is a recommending body and ultimately the decision is made by City Council, but to say that the City would harm him was an unfair statement. Mayor Jensen said he does not believe

that anyone on the Planning Commission or City Council would harm them if they came in with a plan to leave that 20-foot buffer. He stated putting a big building right up against the property line would probably be an issue, but he does not believe anyone would have an issue if they wanted to blacktop the property.

Mr. Greaney said that was good and they would certainly have to do that if it come to that.

Mayor Jensen advised any amendment to a Special Use Permit would require them to come before the Planning Commission. He said it has been mentioned about a crematorium and that is not a permitted use, and he was not sure of the outcome if Mr. Greaney were to present something of that nature to the Planning Commission. Mayor Jensen stated the Planning Commission would look at the practical difficulty when they review a request and he felt that the Planning Commission would be willing to reasonably adjust the setbacks since they bought the business with that abutting property being zoned commercial.

Mr. Greaney advised he totally understands but that puts him at the wrong end of the gun. He suggested that possibly some notes could be added to this approval or something that says that for future use it should be looked at closely by the Planning Commission for the commercial-to-commercial setbacks versus the residential to commercial setbacks.

Mayor Jensen said he believes that what Mr. Greaney would bring before the Planning Commission is to show the hardship in the change in the zoning district. He stated asking for a reasonable accommodation would be considered by the Planning Commission.

Mr. McBride advised the rumor is that the Funeral Home bought part of the property that abuts to the west formerly owned by the nursery. He said if the Funeral Home needs additional parking, he felt that was great and half of the time the overflow is on that adjacent property already and there never seems to be enough parking for a lot of funerals. Mr. McBride stated the property was purchased when the parcel to the south was zoned commercial and whether it was correct or incorrect at the time, he personally does not believe that Mr. Greaney should have to ask for an accommodation. He advised he does not know why the Ordinance could not mention that there is a specific setback from the property line. Mr. McBride indicated that a two-story building was not acceptable, but suggested a one-story building with a gabled roof, why not? He said to him that was all reasonable. Mr. McBride advised it was not for him to say whether a variance should be granted to allow a crematorium, but he felt a one-story building that matches the character of the neighborhood would be acceptable and he felt that should have been taken into consideration when this all moved forward.

Mr. Cummins advised he had nothing to add on the rezoning issue but wanted to make one point of information as Mr. Greaney made mention of the acquisition of property along the frontage of the Funeral Home. He said one of the items on tonight's agenda, Ordinance No. 18-24, is the City starting the process to hire the right-of-way acquisition firm that will be getting in touch with Mr. Greaney and doing the appraisals and such. All that is being asked along Mr. Greaney's frontage is a temporary easement as his property is at the very west end of the project. The expansion of the right-of-way begins at the bank parcel to the east of the funeral home and gets wider from there. So, it is a temporary easement and only goes about halfway across Mr. Greaney's total frontage and Mr. Greaney will be getting contacted about that work as they move forward.

Mr. Greaney advised he received a couple letters already.

Mr. Cummins advised he just wanted to make that clarification about the project coming up. He said he is happy to meet with Mr. Greaney and show him the specifics after the meeting tonight or at a later date. Mr. Cummins stated it is not a taking of the property, it is a temporary easement so they can do some grading and have some room to work while the project is ongoing.

Mr. Greaney asked if that is also the case for the yellow house next to the funeral home that he and his wife also own.

Mr. Cummins answered that is correct.

Mr. Greaney asked for clarification that no part of that parcel where the yellow house is located will go away.

Mr. Cummins answered that is correct and he could show Mr. Greaney that after the meeting, if he would like.

Mr. Greaney thanked Mr. Cummins.

Mr. Gasior advised for clarification the parking setback in a C-2 district against residential is ten feet. The parking setback against non-residential is five feet so there is a five-foot differential. Then the building setback is thirty-five feet against residential and it is zero feet up against non-residential, which means a building could be constructed right on the property line.

Mr. Greaney advised they understand they would have to get approval for a crematorium.

Mr. Gasior advised no one is trying to make this personal and he knows that Mr. Greaney did a great job advocating for his property rights and that is his right. He said no one here is trying to operate in a way that is detrimental to him, but what they are trying to do is give both sides their fair shake. Mr. Gasior asked that a document be placed on the overhead screen ([and is attached here to these minutes](#)). He said this is a document created by the engineer that was doing all the rezoning back in 1995 or 1996 when the property was rezoned from residential to C-2 so that the Funeral Home would be in compliance with the zoning at the time. Mr. Gasior advised for the house, J.A.R. Engineering comes in and clearly marks the commercial and residential line incorrectly according to Mr. Greaney and probably according to the Zoning Map today. He said he wanted to add that is what they are all looking at.

Mr. Greaney advised at that time; the Funeral Home did not own that land where the house would be built.

Mr. Gasior advised a plat of a house is shown on the parcel to build a home and that is what the engineering is for that home. He said the engineer who did all the rezoning in 1995, four years before this document, is showing a lot line as the zoning line and again it is not consistent with anything in the legislation. In 2005, an amended Special Use was requested for the parking lot and the same lot line was identified and the same commercial/residential zone was indicated. In 2009, another amended Special Use was requested for the barn and again that lot line was identified residential to the south and commercial to the north. There was discussion in the minutes of those meetings that took place that there had to be a buffer and they were going to use a live buffer between the parking lot and the property line and that was agreed to, everyone agreed to that.

Mr. Greaney stated he did not purchase the Funeral Home until 2006.

Mr. Gasior advised that is why some of the things that Joe Misencik (Bud) has said about how the zoning has always been treated as the lot line had some semblance of correctness to it.

Mr. Greaney said it does but...

Mr. Gasior said Mr. Greaney's point is well taken and agreed there was nothing in the law. He said that is why this body, City Council, has to decide whether or not to rezone the balance of that property because clearly it is not rezoned. Mr. Gasior stated that Mr. Cummins, who is an engineer, and can read a legal description and can identify exactly where that line is on the property; that line is about sixty feet in, and it bisects part of the house. He advised Avon's Building Department would not have granted a building permit for someone to build a single-family home on C-2 property so clearly what was submitted to the Building Department by the engineer who is behind all of this, indicated that the zoning line was there. That is the situation.

Mr. Greaney advised he does not dispute that, and he is right.

Mr. Gasior said that is the situation that Joe Misencik is in, to a point that if his house were to be destroyed, he may not be able to reconstruct it given that part of the property is now C-2. He stated this is what started everyone down this road. Mr. Gasior felt that hopefully there was some compromise that could be reached where they can come up with a reasonable setback opposed to zero and maybe over the next week they could sit down and come to an agreement on what that property setback should be. He advised maybe thirty-five feet was too much but maybe they could come to some agreement as to what it should be, and it could be written into the Ordinance.

Mr. Greaney said that is great and that is why they were here. He stated the one thing that throws this whole thing out of sorts is that the lot pins are still there from where they changed it and approved for the home to be built on Holly Lane. Mr. Greaney advised he is not disputing that, but they approved it with the smaller lot and the home to face Holly Lane and they got it approved. He stated just like when you are in a Planning Commission meeting now by suspending the rules. Mr. Greaney felt that when those rules are suspended in zoning, they could build a three-family home on stilts above the Post Office, if they wanted to. He said he gets it that it was zoned for that home, but after that was approved then they asked for more land from their mother and father and the pins were moved and all of that happened after the initial approval. Mr. Greaney stated they lived it, and they understand it.

Mr. Gasior advised all those things are part of the discussions that took place when the mother and father Misencik were still around and Mrs. Greaney and her brother Mr. Joe Misencik. He said a certain amount of land from Detroit Road south, but not all the way to Holly Lane, but some point south was rezoned to C-2 and Joe Misencik was given some land and he was going to build a home on it. Mr. Gasior continued by saying that when Joe Misencik looked at his property and decided he needed more land, he went back to his parents and asked for more land and the parents apparently granted him more land and J.A.R. Engineering was involved in all of this. He said it appears like the engineers mistakenly forgot to tell Joe that he needed to rezone that additional 60 feet because they moved the property line to include the additional parcel and that is where they are at with this issue.

Mrs. Greaney advised it is compounded by her belief that Joe and Christine Misencik shifted the footprint of the house from the original site plan.

Mr. Gasior advised maybe some sort of agreement on setbacks could be reached.

Mr. Greaney advised that is all they are asking for, and he apologized for getting emotionally heated with Mr. Gasior in a previous Planning Commission meeting. He said he did not mean for that to happen, but they are fighting for the use of their land.

Mr. Gasior said he understood, and he appreciated that.

Mr. Greaney stated anything they could do to adjust it, they surely would appreciate it.

10. ADJOURN: 8:42 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