

**PUBLIC HEARING  
MONDAY, MARCH 11, 2019**

**7:25 P.M. – RESOLUTION NO. R-5-19 – A RESOLUTION 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 DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT, CONSISTING OF 42.36 ACRES AND DECLARING AN EMERGENCY**

Mr. Witherspoon opened the Public Hearing for Resolution No. R-5-19 at 7:26 p.m.

There being no comments the Public Hearing for Resolution No. R-5-19 was closed at 7:28 p.m.

**MINUTES OF THE REGULAR MEETING OF THE COUNCIL  
OF THE CITY OF AVON, OHIO, HELD MONDAY, MARCH 11, 2019  
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING  
AT 7:30 P.M.**

The Chairman, Council President Craig Witherspoon, called the meeting to order and led the Pledge of Allegiance.

**PRESENT**

Council Members: 1<sup>st</sup> Ward – Bob Butkowski; Council-at-Large – Brian Fischer; 2<sup>nd</sup> Ward – Dennis McBride; 3<sup>rd</sup> Ward – Anthony Moore; 4<sup>th</sup> Ward – Scott Radcliffe; Council-at-Large – Craig Witherspoon, Council President; Mayor – Bryan Jensen; Service Director – Michael Farmer; Planning and Economic Development Coordinator – Pam Fechter; Law Director – John Gasior; Finance Director – William Logan; Clerk of Council – Barbara Brooks

**ABSENT**

Council-at-Large – Tammy Holtzmeier; City Engineer – Ryan Cummins

**CORRESPONDENCE**

Mayor Jensen advised calls for rescue service last month were 201 and there were 51 fire calls. He noted the report was in his office if anyone wished to see it.

**MINUTES OF THE MEETING OF THE ECONOMIC DEVELOPMENT COMMITTEE OF COUNCIL HELD MONDAY, FEBRUARY 18, 2019**

A motion was made by Mr. McBride and seconded by Mr. Fischer to dispense with the reading of the minutes of the Meeting of the Economic Development Committee of Council held Monday, February 18, 2019, and to approve said minutes as published, and the vote was: Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”.

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

**MINUTES OF THE WORK SESSION OF COUNCIL HELD MONDAY, FEBRUARY 18, 2019**

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to dispense with the reading of the minutes of the Work Session of Council held Monday, February 18, 2019, and to approve

said minutes as published, and the vote was: Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Butkowski, “yes”; Mr. Witherspoon, “yes”.

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

MINUTES OF THE REGULAR MEETING OF COUNCIL HELD MONDAY, FEBRUARY 25, 2019

A motion was made by Mr. McBride and seconded by Mr. Fischer to dispense with the reading of the minutes of the Regular Meeting of Council held Monday, February 25, 2019, and to approve said minutes as published, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. Witherspoon, “yes”.

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

ORDINANCE NO. 24-19 – REZONING A 3.0 ACRE PORTION OF A 6.1419 ACRE PARCEL OF LAND LOCATED AT 35765 CHESTER ROAD, PERMANENT PARCEL NO. 10-04-00-016-104-047 FROM O-2 PLANNED RESEARCH OFFICE PARK TO O-2/C-4 PLANNED RESEARCH OFFICE PARK/GENERAL BUSINESS DISTRICT OVERLAY

The Clerk read Ordinance No. 24-19 by title only, entitled:

**AN ORDINANCE TO AMEND ORDINANCE NO. 413-68, PASSED JANUARY 15, 1969 COMMONLY KNOWN AS THE ZONING ORDINANCE OF THE CITY OF AVON, OHIO, AS AMENDED, REZONING A 3.0 ACRE PORTION OF A 6.1419 ACRE PARCEL OF LAND LOCATED AT 35765 CHESTER ROAD, PERMANENT PARCEL NO. 10-04-00-016-104-047 FROM O-2 PLANNED RESEARCH OFFICE PARK TO O-2/C-4 PLANNED RESEARCH OFFICE PARK/ GENERAL BUSINESS DISTRICT OVERLAY**

The Chairman declared this to be the first of three readings of Ordinance No. 24-19. He announced a Public Hearing would be held on Monday, April 8, 2019 at 7:25 p.m.

ORDINANCE NO. 25-19 – GRANTING A SPECIAL USE PERMIT TO THE RUFF CARLTON, LLC TO AUTHORIZE THE USE OF ANIMAL BOARDING FOR THE PROPOSED LUXURY DOG HOTEL AND DAY CARE TO BE LOCATED AT 1290 CENTER ROAD

The Clerk read Ordinance No. 25-19 by title only, entitled:

**AN ORDINANCE AUTHORIZING A SPECIAL USE PERMIT FOR PROPERTY OWNED BY EXCHANGERIGHT NET LEASED PORTFOLIO 9 DST, AND THEIR LESSEE, (THE RUFF CARLTON, LLC), LOCATED AT 1290 CENTER ROAD TO ALLOW CONSTRUCTION AND OPERATION OF A LUXURY DOG HOTEL AND DAY CARE AND DECLARING AN EMERGENCY**

The Chairman declared this to be the first of three readings of Ordinance No. 25-19.

ORDINANCE NO. 26-19 – TO AMEND THE SPECIAL USE PERMIT FOR THE CITY OF AVON/AVON FIRE DEPARTMENT FOR CONSTRUCTION AND INSTALLATION OF A

1280 SQ. FT., THREE-STORY TRAINING FACILITY LOCATED AT 36185 DETROIT ROAD

The Clerk read Ordinance No. 26-19 by title only, entitled:

**AN ORDINANCE TO AMEND THE SPECIAL USE PERMIT GRANTED TO THE CITY OF AVON/AVON FIRE DEPARTMENT FOR CONSTRUCTION AND INSTALLATION OF A 1280 SQ. FT., THREE-STORY TRAINING FACILITY LOCATED AT 36185 DETROIT ROAD AND DECLARING AN EMERGENCY**

The Chairman declared this to be the first of three readings of Ordinance No. 26-19.

ORDINANCE NO. 27-19 – TO CREATE THE PART-TIME AND UNCLASSIFIED POSITION OF SENIOR CENTER TRANSIT DRIVER/CDL AND TO ADOPT THE CLASSIFICATION SPECIFICATION FOR SAME

The Clerk read Ordinance No. 27-19 by title only, entitled:

**AN ORDINANCE AMENDING §256.04 AND §256.98 OF THE CODIFIED ORDINANCES OF THE CITY OF AVON TO CREATE THE PART-TIME AND UNCLASSIFIED POSITION OF SENIOR CENTER TRANSIT DRIVER/CDL AND TO ADOPT THE CLASSIFICATION SPECIFICATION FOR SAME AND DECLARING AN EMERGENCY**

A motion was made by Mr. McBride and seconded by Mr. Butkowski to suspend the rules and act on Ordinance No. 27-19, and the vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Witherspoon, “yes”.

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

A motion was made by Mr. Fischer and seconded by Mr. Radcliffe to adopt Ordinance No. 27-19, and the vote was: Mr. Radcliffe, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Witherspoon, “yes”.

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

ORDINANCE NO. 28-19 – TO ESTABLISH COMPENSATION FOR THE PERMANENT, PART-TIME, UNCLASSIFIED POSITION OF SENIOR CENTER TRANSIT DRIVER/CDL

The Clerk read Ordinance No. 28-19 by title only, entitled:

**AN ORDINANCE TO ESTABLISH COMPENSATION FOR THE PERMANENT, PART-TIME, UNCLASSIFIED POSITION OF SENIOR CENTER TRANSIT DRIVER/CDL IN THE CITY OF AVON AND DECLARING AN EMERGENCY**

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Ordinance No. 28-19, and the vote was: Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Ordinance No. 28-19, and the vote was: Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Butkowski, “yes”; Mr. Witherspoon, “yes”.

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

**ORDINANCE NO. 29-19 – TO ESTABLISH COMPENSATION FOR THE PERMANENT, PART-TIME, UNCLASSIFIED POSITION OF GENERAL CLERK (PARKS)**

The Clerk read Ordinance No. 29-19 by title only, entitled:

**AN ORDINANCE TO ESTABLISH COMPENSATION FOR THE PERMANENT, PART-TIME, UNCLASSIFIED POSITION OF GENERAL CLERK (PARKS) IN THE CITY OF AVON AND DECLARING AN EMERGENCY**

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Ordinance No. 29-19, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. Witherspoon, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Fischer to adopt Ordinance No. 29-19, and the vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Witherspoon, “yes”.

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

**RESOLUTION NO. R-5-19 – TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION FOR PLACEMENT OF FARMLAND IN AN AGRICULTURAL DISTRICT (RUTH ANN KELLER, TRUSTEE)**

The Clerk read Resolution No. R-5-19 by title only, entitled:

**A RESOLUTION 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 DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT, CONSISTING OF 42.36 ACRES AND DECLARING AN EMERGENCY**

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Resolution No. R-5-19, and the vote was: Mr. Radcliffe, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Witherspoon, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Resolution No. R-5-19, and the vote was: Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”.

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

RESOLUTION NO. R-6-19 – TO ADVERTISE FOR BIDS FOR THE KINZEL ROAD PAVEMENT RESURFACING PROJECT

The Clerk read Resolution No. R-6-19 by title only, entitled:

**A RESOLUTION TO ADVERTISE FOR BIDS FOR THE KINZEL ROAD PAVEMENT RESURFACING PROJECT AND DECLARING AN EMERGENCY**

A motion was made by Mr. McBride and seconded by Mr. Fischer to suspend the rules and act on Resolution No. R-6-19, and the vote was: Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Butkowski, “yes”; Mr. Witherspoon, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Fischer to adopt Resolution No. R-6-19, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. Witherspoon, “yes”.

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

RESOLUTION NO. R-7-19 – TO ADVERTISE FOR BIDS FOR THE PARKVIEW DRIVE PAVEMENT RESURFACING PROJECT

The Clerk read Resolution No. R-7-19 by title only, entitled:

**A RESOLUTION TO ADVERTISE FOR BIDS FOR THE PARKVIEW DRIVE PAVEMENT RESURFACING PROJECT AND DECLARING AN EMERGENCY**

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Resolution No. R-7-19, and the vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Witherspoon, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Butkowski to adopt Resolution No. R-7-19, and the vote was: Mr. Radcliffe, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Witherspoon, “yes”.

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

RESOLUTION NO. R-8-19 – DECLARING THE NECESSITY TO IMPROVE (I) FRENCH CREEK ROAD BY THE CONSTRUCTION OF AN APPROXIMATELY 2,400-FOOT SANITARY SEWER FROM 38151 FRENCH CREEK ROAD TO 37556 FRENCH CREEK

ROAD, AND (II) CENTURY LANE BY THE CONSTRUCTION OF AN APPROXIMATELY 230-FOOT SANITARY SEWER, EACH TOGETHER WITH ALL NECESSARY APPURTENANCES AND RELATED IMPROVEMENTS THERETO;

The Clerk read Resolution No. R-8-19 by title only, entitled:

**A RESOLUTION DECLARING IT NECESSARY TO IMPROVE (I) FRENCH CREEK ROAD BY THE CONSTRUCTION OF AN APPROXIMATELY 2,400-FOOT SANITARY SEWER FROM 38151 FRENCH CREEK ROAD TO 37556 FRENCH CREEK ROAD, AND (II) CENTURY LANE BY THE CONSTRUCTION OF AN APPROXIMATELY 230-FOOT SANITARY SEWER, EACH TOGETHER WITH ALL NECESSARY APPURTENANCES AND RELATED IMPROVEMENTS THERETO; AND DECLARING AN EMERGENCY**

The Chairman declared this to be the first of three readings of Resolution No. R-8-19.

REPORTS AND COMMENTS

Mayor Jensen recognized Fireman Jimmy Fischer and Captain Barrett who he assumed were present in support of the fire training tower and he invited them to come forward and speak regarding their opinion on the subject. He noted the legislation regarding the training tower would be on the Work Session next week and he has asked Chief Root and Assistant Chief Emling to provide the overtime for off-site training.

Captain Tim Barrett advised he felt it is essential that we have the training tower centrally located at the Avon Fire Station due to the fact they are really busy and if it is located somewhere else they have to leave the station for the training and if there is a call it would increase their response time. He said he understands the concerns about the smoke, but that is not all that they would be doing. Captain Barrett said they would train on rappelling, rescue and many other things. He advised he was curious as to what the opposition was to the tower.

Mayor Jensen stated on social media the opposition had been that all this smoke will pour into their homes or throughout the area. He said in talking with the Chief and Assistant Chief and looking at video that they would only burn pallets and straw. He asked Captain Barrett if he could see any issue where they would get the kind of smoke from training that would be troubling to anyone.

Captain Barrett advised no, and they would also use strict guidelines as to what days they would perform live fire training. He said obviously they would not choose a day where it is windy where the smoke would travel into a neighborhood, but they would choose optimal atmospheric conditions so that the smoke would go straight up. Captain Barrett stated they are professionals and they know what they are doing and how to burn material as well as put it out.

Mayor Jensen said that some of the fear that is out there is not realistic and they would never burn tires or similar material that would cause black smoke.

Firefighter Jimmy Fischer advised there are strict guidelines now at the State and Federal level with the EPA regarding what can and cannot be burned and when you can and cannot burn. He said sometimes without the correct information people will go to the worst case scenario saying there would be plumes of black smoke over the pool area, which obviously would not be the case. Mr. Fischer stated he would like to see if there was a way to get information out from the City to those individuals to put their minds at ease.

Mayor Jensen reminded everyone next week the Work Session of Council would be another opportunity to get information out. He said tonight he wanted to get these two statements

on the record in case they were not available to attend next week. Mayor Jensen stated they have been saying all along that it is not about the fear of smoke ruining neighborhoods.

Mr. Fischer advised the importance of being near the station is that you do not have to splinter up crews and take certain pieces of equipment off-site for training when you would need them at the centrally located station. He said unlike the Police who can drive around with all their equipment with them, the Fire Department has to stay at the Fire Station in case they need that equipment and he felt that is the most important reason to have the training tower at the station.

**COUNCIL MEMBERS:**

Mr. Butkowski, Ward 1, had no comments.

Mr. Fischer, At Large, had no comments.

Mrs. Holtzmeier, At Large, was absent.

Mr. McBride, Ward 2, had no comments.

Mr. Moore, Ward 3, had no comments.

Mr. Radcliffe, Ward 4, had no comments.

Mr. Witherspoon, Council President, had no comments.

**DIRECTORS/ADMINISTRATION:**

Mr. Cummins, City Engineer, was absent.

Mr. Farmer, Service Director, had no comments.

Ms. Fechter, Economic Development/Planning Coordinator, had no comments.

Mr. Gasior, Law Director, pointed out that Council was provided a copy of the Public Law statement from Walter Haverfield regarding Sunshine Law Violations. He advised all of Council to read it and that it is an interesting Public Records case and it does have application to a body like City Council and there are serious implications for violations.

Mr. Logan, Finance Director, had no comments.

**AUDIENCE:** There were no comments from the audience.

**ADJOURN:** 7:46 p.m.

A motion was made by Mr. Butkowski and seconded by Mr. Radcliffe to adjourn the Regular Meeting of Council, and the vote was: Mr. Butkowski, "yes"; Mr. Fischer, "yes"; Mr. McBride, "yes"; Mr. Moore, "yes"; Mr. Radcliffe, "yes"; Mr. Witherspoon, "yes".

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